



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: January 4, 2021

COUNCIL DISTRICT: 3

SUBJECT: FILE NO. GP19-012, C19-042, CP20-019 & T20-020. GENERAL PLAN AMENDMENT FROM RESIDENTIAL NEIGHBORHOOD TO DOWNTOWN; A CONFORMING REZONE FROM LI LIGHT INDUSTRIAL AND R-2 TWO-FAMILY RESIDENCE TO DC DOWNTOWN PRIMARY COMMERCIAL; A CONDITIONAL USE PERMIT TO ALLOW THE DEMOLITION OF EXISTING STRUCTURES AND THE CONSTRUCTION OF A MIXED-USE SIX-STORY BUILDING INCLUDING A 190-BED COMMERCIAL RESIDENTIAL CARE FACILITY WITH 116 ASSISTED LIVING GUEST ROOMS AND 49 MEMORY CARE GUEST ROOMS, FOUR MULTI-FAMILY RESIDENTIAL UNITS, AND A BACK-UP GENERATOR, INCLUDING A DEVELOPMENT EXCEPTION TO ALLOW A REDUCED 12-FOOT HEIGHT FOR THE REQUIRED ON-SITE LOADING SPACE; AND A VESTING TENTATIVE MAP TO MERGE SEVEN PARCELS INTO ONE PARCEL ON A 0.90-GROSS ACRE SITE LOCATED ON THE SOUTHWEST CORNER OF WEST SAN CARLOS STREET AND GIFFORD AVENUE (470 WEST SAN CARLOS STREET).

RECOMMENDATION

The Planning Commission voted 6-0-1 (Bonilla absent) to recommend that the City Council:

1. Adopt a Resolution adopting the Addendum to the Downtown Strategy 2040 Final Environmental Impact Report adopted by City Council Resolution No. 78942 on December 19, 2018, and addenda thereto, in accordance with CEQA.
2. Adopt a Resolution amending the Envision San José 2040 General Plan Land Use/Transportation Diagram designation (APN's 264-20-086, 264-20-087, and 264-20-088) from Residential Neighborhood to Downtown on approximately 19,200-gross square feet of the total 39,130-square foot Project Site.
3. Approve an Ordinance rezoning the Project Site as follows:

- From the LI Light Industrial Zoning District to the DC Downtown Primary Commercial Zoning District on approximately 13,179-gross square feet (APN's 264-20-082, 264-20-083, and 264-20-084), and
 - From the R-2 Two-Family Residence Zoning District to the DC Downtown Primary Commercial Zoning District over approximately 25,951-gross square feet (APNs 264-20-085, 264-20-086, 264-20-087, and 264-20-088) of the total 39,130-square foot project site.
4. Adopt a resolution approving, subject to conditions, a Vesting Tentative Map to merge the seven parcels on the Project Site into one parcel.
 5. Adopt a resolution approving, subject to conditions, a Conditional Use Permit to allow the demolition of existing structures and the construction of a mixed-use project including a 190-bed commercial residential care facility with 116 assisted living residential care guest rooms and 49 memory care guest rooms, four multi-family residential units, and a back-up generator, including a development exception, on the Project Site.

OUTCOME

Should the City Council adopt the resolution adopting the Addendum to the Downtown Strategy 2040 Final Environmental Impact Report and associated Mitigation Monitoring and Reporting Program for the project, approve the Rezoning Ordinance, and adopt the resolutions approving the Vesting Tentative Map and the Conditional Use Permit, the project applicant may continue with the Public Works clearance and building permit process.

Should the City Council decide to deny the proposed project, the applicant will not be able to continue with the Public Works clearance and building permit process.

BACKGROUND

On December 9, 2020, the Planning Commission held a public hearing to consider the Addendum to the Downtown Strategy 2040 Final Environmental Impact Report and associated Mitigation Monitoring and Reporting Program for the project, Rezoning, Vesting Tentative Map and the Conditional Use Permit. The item was placed on the Public Hearing agenda, as members of the Delmas Park Neighborhood Association had expressed interest in the project during project review.

Staff Presentation

Staff gave an overview of the project description and its conformance to the General Plan Land Use Designation, Diridon Station Area Plan (DSAP), and the development standards within the proposed DC Downtown Primary Commercial Zoning District, and stated that an Addendum to the Downtown Strategy 2040 Final Environmental Impact Report was prepared for the project and that the project is found to be consistent with the Downtown Strategy 2040 FEIR. Staff recommended the Planning Commission recommend to the City Council adoption of the Addendum and approval of the General Plan Amendment, Rezoning, Vesting Tentative Map and Conditional Use Permit.

A letter from the Delmas Park Neighborhood Association was received on December 7, 2020, and staff provided written responses to the Commissioners prior to the December 9th hearing. Staff provided a verbal correction to one of the responses regarding the referenced Environmental Impact Report. Staff clarified that based on recent preliminary analysis by the environmental consultant, the CEQA clearance for the currently proposed DSAP Amendment is an Addendum to the Downtown Strategy 2040 EIR, rather than a new EIR.

Applicant Presentation

Paul Ring, on behalf of Urban Catalyst, began the applicant presentation by describing how the project will fulfill a regional need for quality senior housing in an urban setting with rich amenities. Tim Woloshyn, also with Urban Catalyst, continued with a description and statistics of the need for senior housing. He described how the project has been revised based on the neighborhood concerns, including reducing the height of the building from 85 feet to 65 feet, relocating the proposed loading zone to enter from West San Carlos Street instead of Gifford Avenue, and stepping down the façade on the south side of the project along Gifford Avenue for increased compatibility with the one-story and two-story buildings south of the project site.

Tim Woloshyn then introduced Thang Do, architect at AEDIS and co-owner of the project site. Mr. Do described the design of the site, including special attention to natural lighting, views, and access to the outdoors, while located in the urban area of Downtown. He shared that spaces for residents and visitors are located along West San Carlos Street with transparent glass to connect with pedestrians on the sidewalk. He described the two main entrances, one on the corner and one from the parking garage drop-off zone location. Mr. Do explained that the design emphasizes an indoor/outdoor connection with a central courtyard and transparency between the internal portions of the building into the courtyard, and that there are landscaped decks on every floor to allow the residents to enjoy the outdoors.

Public Comments

Chair Caballero opened the public comment portion of the agenda.

- Bert Weaver, on behalf of the Delmas Park Neighborhood Association, stated in reference to the letter sent on December 7, 2020, that the decision to recommend approval or denial of the project should be deferred until after the DSAP Amendment and the CEQA document are formally adopted. He stated that while the project meets the guidelines of the 2014 DSAP, it fails to meet the spirit of that plan. He emphasized that in the spirit of the DSAP, new development should respect the existing neighborhood following the guidelines defined in the Delmas Park Strong Neighborhoods Initiative (SNI) Plan of 2002. He stated that the project fails to significantly increase jobs or residences. He also shared that the neighborhood has been in active discussion with the Planning Division for over a year regarding the DSAP amendment and that it is counterproductive to approve the project prior to formal approval of the amended DSAP.
- Gabriella Chavez-Lopez, a community leader and resident in the Delmas neighborhood, stated that the project should be allowed to move forward since it is consistent with the existing DSAP. She stated that she has been involved in community meetings from the first meeting. The developer has considered the community's suggestions and made significant

updates to the plans. She encouraged the community to be bolder and push forward to meet the needs of the growing diverse community. She shared she is looking forward to the future of the neighborhood including her son's future in the neighborhood. She said that as an aging society, communities need to dedicate critical resources to allow people to live centrally in a place that can be accessible by transit for their families and for others to visit.

- Jake Lavin, a member of the Delmas Park Neighborhood Association, expressed concern about the interface of this project with the existing neighborhood. He stated that the residences and businesses in the neighborhood are low-scale with no buildings over two stories. He expressed concern with the zero-foot setback line and that street trees will not be able to grow since the sidewalk is only eight feet wide. He also shared that there should be design guidelines addressing proper interface with existing neighborhoods.
- Kathy Sutherland, a member of the Delmas Park Neighborhood Association, stated that the site is almost one acre and will reduce the number of housing units and create only 60 jobs and zero transit riders within the Diridon Station area. She expressed concern about the building height and that approval of the project would add to the housing crisis. She requested that the Planning Commission defer the project, so it can be held against the standards of the amended DSAP and the amendment to the 2018 Downtown EIR.
- Dina Casanova, a Delmas neighborhood resident, requested that the proposed project maintain R-2 Two-Family Residence Zoning District setbacks adjacent to Gifford Avenue properties. She was concerned that the proposed structures would block visibility of oncoming pedestrians from vehicle traffic. She expressed concern that there is inadequate parking to accommodate visitors. She also shared that construction-related traffic and parking should use West San Carlos Street rather than Gifford Avenue, since Gifford is a narrow street.
- Sarah Springer, a member of the Delmas Park Neighborhood Association and resident of Parkside Condominiums, stated that street trees along Gifford Avenue would be nice, but the sidewalk width is insufficient for pedestrians, including those with wheelchairs or baby strollers. She stated that although she appreciates that this is housing for seniors, she is concerned that it is for-profit housing and is not affordable for seniors.
- Lila Gemalos, a resident in the neighborhood, stated that once residents' concerns are met, this is an opportunity for the neighborhood to move forward. She expressed concern about parking and suggested emphasizing public transit for staff members and visitors.

Applicant's Responses

Regarding the building height, the applicant responded that the 65-foot building is within the current DSAP's height limit and that the draft amended DSAP proposes to increase the site's height limit to 110 feet. He shared that the applicant team has worked with the neighbors' concerns by meeting the existing height limits and stated that their original proposal was at 85 feet in height; additionally, the project meets existing setback requirements.

In regard to the adjacency concerns, the applicant responded that the adjacent property to the south is an auto repair and painting facility and that the project is not directly adjacent to single-family homes. The applicant stated that the draft amended DSAP proposes to increase the height of

properties located across the street of the project to over two hundred feet, so the 65-foot building fits very well within the existing community. The applicant team further shared that they have reduced the building's height through building articulation and by setting back the top floor of the south façade along Gifford Avenue to lessen any potential visual impacts on the neighborhood.

Regarding the sidewalk width, the applicant responded that the width is being increased from eight feet to ten feet, consistent with the Department of Public Works requirements, and that the wider sidewalk will provide room for landscaping pursuant to City requirements.

The applicant explained that the loading was moved to West San Carlos Street to address parking and traffic concerns, and that employees and visitors who will drive their cars to the site will be able to park in the garage. Further, the project could be a benefit to the community because senior housing generates low traffic and requires much less parking than a multifamily residential use, office use, or other commercial uses.

Paul Ring shared that the applicant team reached out to the community before submitting the Preliminary Review application in 2019, and that they have considered community comments and concerns, coordinated with City staff, and as a result have made changes to the original project design. Mr. Ring further shared that in the 14 months of project review and community outreach, the Delmas Park Neighborhood Association's December 7, 2020 letter was the first time that the applicant team heard that the City's action on the project should be delayed.

Planning Commission Discussion and Responses

Commissioner Oliverio asked the applicant how many units were lost by lowering the project height by 20 feet from 85 feet to 65 feet. The applicant responded that the original concept was a higher intensity multi-family residential project, which would have required a higher parking ratio and no senior units. Therefore, the units lost would not be a senior unit to senior unit comparison.

Commissioner Lardinois asked the applicant to clarify how the project's height changed over time. The applicant responded that the height limit is 65 feet, but there are tools that can allow a project to exceed those height limits, such as the use of the State's density bonus, which was initially contemplated. Since the community asked that the height of 85 feet be reduced to 65 feet to better integrate with the existing neighborhood, the applicant team decided to revise the project to an assisted living facility, and therefore no further opportunity to utilize the density bonus was available. The stated that they were glad to move forward at the 65-foot height limit based on community input.

Commissioner Lardinois asked the applicant if the project changed in response to community feedback. The applicant confirmed that the project height was reduced from 85 feet to 65 feet due to community feedback. Additionally, the applicant shared that they worked closely with Public Works and Planning staff to move the commercial loading from Gifford Avenue to West San Carlos Street. The applicant stated that they also modified the southernmost portion of the building facade by setting it back on the top floor and articulating the facade architecture to have it blend into the neighborhood.

Commissioner Lardinois stated that this process reminds him of the Tropicana Shopping Center project, where there was some resident frustration about the City policy itself for allowing that scale of development. The Commissioner stated that he was unable to attend the City Council study session on the amended DSAP and Downtown West Mixed-Use development proposal due to a conflict and asked staff if the changes to the DSAP will be considered by the Planning Commission. Planning staff responded that the amended DSAP will be presented to the Planning Commission for its recommendation to City Council in Spring 2021.

Commissioner Oliverio made a motion to approve staff recommendation, and Commissioner Casey seconded the motion. Commissioner Oliverio spoke to his motion indicating that the Planning Commission has considered assisted living projects previously; many of those projects were located in other areas of the City with similar heights or taller than the proposed project which is located in Downtown and near transit. The Commissioner further stated that there is a huge demand for assisted living projects in San José and that the vision for the West San Carlos corridor is to have increased development, given its proximity to transit. Additionally, Commissioner Oliverio shared that delaying action could potentially “kill” a project when there is no fair reason for a delay. The Commission voted 6-0-1 (Bonilla absent) to recommend that the City Council approve the project.

ANALYSIS

A complete analysis of the General Plan Amendment, Rezoning, Vesting Tentative Map and Conditional Use Permit, including conformance with the California Environmental Quality Act, General Plan, DSAP, Municipal Code, City Council Policies, and the Addendum to the Downtown Strategy 2040 Final Environmental Impact Report (Resolution No. 78942) are contained in the attached Planning Commission staff report and attachments.

CONCLUSION

The Planning Commission voted 6-0-1 (Bonilla absent) to recommend that the City Council adopt the resolution adopting the Addendum to the Downtown Strategy 2040 Final Environmental Impact Report and associated Mitigation Monitoring and Reporting Program for the project, and approve the Rezoning, Vesting Tentative Map, and the Conditional Use Permit.

EVALUATION AND FOLLOW UP

If the resolution adopting the Addendum to the Downtown Strategy 2040 Final Environmental Impact Report and associated Mitigation Monitoring and Reporting Program and the ordinances of the City of San José amending the General Plan Land Use/Transportation Diagram designation from Residential Neighborhood to Downtown and rezoning the project site to DC Downtown Primary Commercial are adopted, along with approving the Vesting Tentative Map and Conditional Use Permit, the project may continue with the Public Works clearances and building permit process.

If the resolution adopting the Addendum to the Downtown Strategy 2040 Final Environmental Impact Report and associated Mitigation Monitoring and Reporting Program and the ordinance of the City of San José rezoning the project site to DC Primary Downtown Commercial are not adopted, and the Vesting Tentative Map and Conditional Use Permit are denied, the project will not be able to continue with the Public Works clearances and building permit process.

CLIMATE SMART SAN JOSE

The recommendation in this memorandum aligns with one or more Climate Smart San José energy and water goals. The project increases the density of new development (60 net new jobs and up to 190 beds and four new housing units). The project facilitates energy and water efficiency of the new buildings by complying with the reduced flow water requirements and the installation of solar panels on the roof. The project also facilitates the choice of mobility other than single-occupancy, gas-powered vehicles, since it is nearby to major transit stops along West San Carlos Street and is within 0.6 mile of Diridon Station; employees and visitors are anticipated to use transit to reach the project site.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the proposed project. A sign describing the project was posted on the project site on July 30, 2020. A community meeting was held on October 1, 2020. Both the community meeting notice and notice of the public hearings were distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. Staff have been available to answer questions from the public, and met with community members as requested to discuss their concerns and questions.

COORDINATION

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

HONORABLE MAYOR AND CITY COUNCIL

January 4, 2021

Subject: File No. GP19-012, C19-042, CP20-019 & T20-020

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CEQA

An Addendum to the Downtown Strategy 2040 Final Environmental Impact Report (Resolution No. 78942) and associated Mitigation Monitoring and Reporting Program was prepared for the Delmas Senior Living Project by the Department of Planning, Building, and Code Enforcement.

/s/

ROSALYNN HUGHEY, Secretary
Planning Commission

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

Attachment: [Planning Commission Staff Report](#)



Memorandum

TO: PLANNING COMMISSION

FROM: Rosalynn Hughey

SUBJECT: GP19-012, C19-042, CP20-019 &
T20-020

DATE December 9, 2020

COUNCIL DISTRICT: 6

Type of Permit	General Plan Amendment, Rezoning, Conditional Use Permit, and Vesting Tentative Map
Demolition	Three residential buildings, approximately 5,150 square feet (total nine dwelling units), two residential garages, and two commercial accessory buildings.
Proposed Land Uses	Mixed use project including a 190-bed commercial residential care facility with 116 assisted living guest rooms and 49 memory care guest rooms, four multi-family units, and a back-up generator
New Residential Units	4 units
New Non-Residential Square Footage	149,138 square feet
Additional Policy Review Items	N/A
Tree Removals	Seven ordinance size trees, 14 non-ordinance size trees
Project Planner	Laura Meiners
CEQA Clearance	Addendum to the Downtown Strategy 2040 Final Environmental Impact Report adopted by City Council Resolution No. 78942 on December 19, 2018, and addenda thereto.
CEQA Planner	Bethelhem Telahun

RECOMMENDATION

Staff recommends that the Planning Commission recommend the City Council to take all of the following actions regarding the 39,130 square foot project site on the southwest corner of West San Carlos Street and Gifford Avenue (470 West San Carlos Street) ("Project Site"):

1. Adopt a Resolution adopting the Addendum to the Downtown Strategy 2040 Final Environmental Impact Report adopted by City Council Resolution No. 78942 on December 19, 2018, and addenda thereto, in accordance with CEQA.
2. Adopt a Resolution amending the Envision San José 2040 General Plan Land Use/Transportation Diagram designation (APN's 264-20-086, 264-20-087, and 264-20-088) from Residential Neighborhood to Downtown on approximately 19,200-gross square feet of the total 39,130-square foot Project Site.
3. Approve an Ordinance rezoning the Project Site as follows:
 - o From the LI Light Industrial Zoning District to the DC Downtown Primary Commercial Zoning District on approximately 13,179-gross square feet (APN's 264-20-082, 264-20-083, and 264-20-084), and

- From the R-2 Two-Family Residence Zoning District to the DC Downtown Primary Commercial Zoning District over approximately 25,951-gross square feet (APNs 264-20-085, 264-20-086, 264-20-087, and 264-20-088) of the total 39,130-square foot project site.
4. Adopt a Resolution approving, subject to conditions, a Vesting Tentative Map to merge the seven parcels on the Project Site into one parcel.
 5. Adopt a Resolution approving, subject to conditions, a Conditional Use Permit to allow the demolition of existing structures and the construction of a mixed-use project including a 190-bed commercial residential care facility with 116 assisted living guest rooms and 49 memory care guest rooms, four multi-family residential units, and a back-up generator, including a development exception, on the Project Site.

PROPERTY INFORMATION

Location	Southwest corner of West San Carlos Street and Gifford Avenue (470 West San Carlos Street)
Assessor Parcel Nos.	APNs 264-20-082, 264-20-083, 264-20-084, 264-20-085, 264-20-086, 264-20-087, and 264-20-088
General Plan and DSAP – Existing	Residential Neighborhood and Downtown
General Plan and DSAP – Proposed	Downtown
Growth Area	Diridon Station Area Plan
Zoning – Existing	LI Light Industrial and R-2 Two-Family Residence
Zoning – Proposed	DC Downtown Primary Commercial
Historic Resource	N/A
Annexation Date	March 16, 1911 (Gardner No. 1)
Council District	3
Acreage	0.90-gross acre
Proposed FAR	4.8

PROJECT BACKGROUND

As shown on the attached [Vicinity Map \(Exhibit A\)](#), the Project Site is located at the southwest corner of West San Carlos Street and Gifford Avenue (470 West San Carlos Street). The approximately 0.90-gross acre site is currently developed with three residential buildings, two residential garages, two commercial accessory buildings, and one carport. Existing access to the site is from three driveways along Gifford Avenue. The commercial accessory buildings and carport are associated with a used car sales lot and community garden. The residential buildings include a total of nine units and approximately 5,150 square feet with associated garages. The residential buildings were analyzed by the Housing Department and determined as not subject to the Ellis Act Ordinance, and therefore no relocation assistance or other restrictions are applicable. All buildings and accessory structures are proposed to be demolished.

Adjacent land uses to the northwest are high-density multi-family residential, to the north are commercial uses, to the east are auto-related light industrial uses and single-family residences, to the west is a martial arts school, and to the south are commercial and light industrial uses, including a painting company and a warehouse.

On October 30, 2019, a General Plan Amendment, File No. GP19-012, and a Conforming Rezoning, File No. C19-042, were filed by Tim Woloshyn as representative of Urban Catalyst, on behalf of owner Thang N Do Trustee, et al, to change the General Plan Land Use Designation and the Diridon Station Area Plan (DSAP)

land use designation on three parcels (APNs 264-20-086, 264-20-087, and 264-20-088) from Residential Neighborhood to Downtown on approximately 19,200-gross square feet of the total 39,130 square foot project site, and to change the zoning of three parcels from the LI Light Industrial Zoning District to the DC Downtown Primary Commercial Zoning District on approximately 13,179-gross square feet (APNs 264-20-082, 264-20-083, and 264-20-084), and on four parcels from the R-2 Two-Family Residence Zoning District to the DC Downtown Primary Commercial Zoning District over approximately 25,951-gross square feet (APNs 264-20-085, 264-20-086, 264-20-087, and 264-20-088) of the total 39,130 square foot project site. The changes to the General Plan land use designation and Zoning District over the Project Site are in compliance with Senate Bill 330 as discussed below. Changing the General Plan land use designation from Residential Neighborhood to Downtown would increase the maximum FAR from 0.7 to up to 30, as discussed below.

On June 26, 2020, a Conditional Use Permit, File No. CP20-019 , and Vesting Tentative Map, File No. T20-020, were submitted to the City. The Conditional Use Permit is to allow the demolition of all buildings and structures on site, the removal of seven ordinance-sized trees and 14 non-ordinance trees, and the construction of an approximately 185,000-square foot mixed-use project including a 190-bed commercial residential care facility with 116 assisted living guest rooms and 49 memory care guest rooms, four multi-family residential units, and a back-up generator on an approximately 0.90-gross acre site situated on the southwest corner of West San Carlos Street and Gifford Avenue (470 West San Carlos Street).

Operations of the commercial residential care facility include 24-hour care of up to 190 residents. Services include a shuttle service, meals, programs, activities, and events designed to maximize residents' dignity, autonomy, independence, choice, and safety. For memory care residents, activities are designed to stimulate cognitive abilities, while also enjoying passions and hobbies. There will be up to 60 full-time staff members employed by the facility, with a maximum of 36 employees at any time. This facility will be licensed by Department of Social Services through the State of California. The Operator and Staff must comply with relevant laws and regulations as set forth by the RCFE license needed to operate the community, including pre-employment screening via FBI & DOJ background checks as well as staff continuing education and certifications. The four multi-family residential units will be primarily used as staff housing.

The project also requires a Development Exception for the loading space height to allow the proposed twelve feet clear. The Zoning Code requirement is 15 feet clear. The project is conditioned to restrict delivery trucks to Class 4 through Class 6. The applicants will also apply for an on-street loading space along West San Carlos Street via a separate Public Works permit process. See the Development Exception Findings below.

SURROUNDING USES			
	General Plan	Zoning District	Existing Use
North	Downtown	A(PD) Planned Development and LI Light Industrial	Multi-Family Residential and Commercial Uses
South	Residential Neighborhood	R-2 Two-Family Residence	Painting Company and Warehouse
East	Downtown and Residential Neighborhood	LI Light Industrial and R-2 Two-Family Residence	Auto-Related Uses and Single-Family Residential Uses
West	Downtown	CN Commercial Neighborhood	Martial Arts School

ANALYSIS

The proposed **General Plan Amendment, Rezoning, Conditional Use Permit, and Vesting Tentative Map** have been analyzed with respect to consistency with:

1. Envision San José 2040 General Plan
2. Diridon Station Area Plan
3. Municipal Code – Zoning Ordinance
4. Downtown Design Guidelines
5. Permit Findings
6. City Council Policies
7. California Environmental Quality Act (CEQA)

Envision San José 2040 General Plan Consistency

Existing Land Use Designation

As shown in the attached **Existing General Plan Map (Figure 2)**, the subject site has an Envision San Jose 2040 General Plan designation of ***Residential Neighborhood***.

This designation is intended to apply to established, single-family residential neighborhoods, including both the suburban and traditional residential neighborhood areas which comprise the majority of its developed land. The intent of this designation is to preserve the existing character of these neighborhoods and to strictly limit new development to infill projects which closely conform to the prevailing existing neighborhood character as defined by density, lot size and shape, massing and neighborhood form and pattern.

Proposed General Plan Land Use Designation

As shown in the attached **Proposed General Plan Map (Figure 3)**, the applicant proposes a ***Downtown*** land use designation in the Envision San José 2040 General Plan Land Use/Transportation Diagram Map. The changes to the General Plan land use designation over the Project Site are consistent with Senate Bill 330 as discussed below.

The project site is proposed to be within the Envision San José 2040 General Plan designation of Downtown and is within an Urban Village. The Downtown designation is the primary designation for new high-intensity office, retail, service, residential, and entertainment uses in the Downtown area. All development within this designation should enhance the “complete community” in downtown, support pedestrian and bicycle circulation, and increase transit ridership. The allowable density for this designation is further defined within the Diridon Station Area Plan (DSAP).

The project site is within the boundaries of Diridon Station Area Plan (DSAP), an adopted Urban Village plan, and is therefore subject to the land use and design standards established within the plan. The project is consistent with the DSAP as discussed further below and is therefore consistent with the Downtown General Plan designation.

The project is consistent with the following key General Plan policies:

1. **Major Strategy #3 - Focused Growth:** The Focused Growth Major Strategy plans for new residential and commercial growth capacity in specifically identified “Growth Areas” (Urban Villages, Specific Plan areas, Employment Areas, Downtown) while the majority of the City is not planned for additional growth or intensification. The strategy focuses new growth into areas of San José that will enable the achievement of economic growth, fiscal sustainability, and environmental stewardship goals, while supporting the

development of new, attractive urban neighborhoods.

2. Growth Area Policy LU-2.1: Provide significant job and housing growth capacity within strategically identified "Growth Areas" in order to maximize use of existing or planned infrastructure (including fixed transit facilities), minimize the environmental impacts of new development, provide for more efficient delivery of City services, and foster the development of more vibrant, walkable urban settings.
3. Commercial Lands Policy LU-4.3: Concentrate new commercial development in identified growth areas and other sites designated for commercial uses on the Land Use/Transportation Diagram. Allow new and expansion of existing commercial development within established neighborhoods when such development is appropriately located and designed.
4. Public Transit Goal TR-3: Maximize use of existing and future public transportation services to increase ridership and decrease the use of private automobiles.

Analysis for Major Strategy 3, Policy LU-2.1, Policy LU-4.3, and Goal TR-3: The project is within the DSAP and is approximately 0.6-mile from Diridon Station. The project land use would allow a higher intensity of development on the subject site consistent with General Plan major strategy, and policies supporting focused growth and development near transit. Higher intensity of development near transit maximizes scarce land near transit and encourages the use of public transit while reducing vehicle miles traveled. Furthermore, the project would facilitate a more intense mixed-use development in place of the existing auto-oriented used car lot at the site.

5. Maximize Use of Public Transit Policy TR-3.4: Maintain and improve access to transit stops and stations for mobility-challenged population groups such as youth, the disabled, and seniors.
6. Social Equity and Diversity Policy H-1.4: Encourage the location of housing designed for senior citizens in neighborhoods where health and community facilities and services are within a reasonable walking distance and are accessible by public transportation.

Analysis for Policies TR-3.4 and H-1.4: The project site is located along Bus Route 23 and Rapid Bus Route 523, providing service to Downtown, Blossom Hill, and Mountain View. The site is within 2.5 miles of O'Connor Hospital and Santa Clara Valley Medical Center, and is within four miles of the Santa Clara Senior Center. This development is intended for seniors and would provide close access to transit services, health services, and community facilities.

Diridon Station Area Plan Consistency

The subject site is located within the boundary of the Diridon Station Area Urban Village and subject to the Diridon Station Area Plan (DSAP). On June 14, 2014, City Council certified the DSAP Program Environmental Impact Report (EIR) and adopted the existing DSAP. In December 2018, the City Council certified the Downtown Strategy 2040 EIR which includes the DSAP area. The DSAP analyzes the expansion of the existing Diridon Station and the development of land uses within the 250-acre Area Plan boundary surrounding the station. Development of the subject site would need to be consistent with the goals, objectives, and guidelines of the DSAP.

Within DSAP, the subject site is located in Subarea F of the Southern Zone. The Southern Zone is the urban neighborhoods zone consisting predominantly of residential and mixed uses as well as nonresidential uses including office, retail, service, hotel, medical, and entertainment uses. Per the DSAP Land Use Plan, Figure 2-1-1, the site is partially within the Downtown land use designation and partially within the Residential Neighborhood designation. However, with the General Plan Amendment, the project is proposing to amend the designation to be wholly Downtown as discussed above. The changes to the General Plan land use designation over the Project Site are in compliance with Senate Bill 330 as discussed below.

Diridon Station Area Plan Design Guidelines

The DSAP's Design Guidelines represent a long-term vision for the area. Various design aspects are discussed in detail below. Pedestrian activity and bike access are key to the development of the Diridon Station Area as a vibrant urban destination. High levels of pedestrian activity can be achieved by good overall connectivity and an interesting and varying street environment. Wide sidewalks, safe crossings, slow traffic, street trees, street furniture, and mid-block connections all contribute to a walkable and bikeable environment. Attributes include: high-density, active ground floor uses, broken-up building massing and articulated façades at the ground level that respond to the pedestrian scale, as well as small integrated plazas and seating areas.

Design Guidelines Analysis: The project is conditioned to widen the public sidewalks to fifteen feet along West San Carlos Street and ten feet along Gifford Street, planted with street trees every thirty feet along West San Carlos Street and every twenty feet along Gifford Avenue. The ground floor includes active uses such as a resident coffee shop, activity center, wellness center, and salon, and includes substantial transparency, which will provide an active sidewalk presence, making the pedestrian experience visually interesting. The project would provide the required number of bicycle parking spaces, which will encourage employees to use a multi-modal transportation network.

Floor Area Ratio (FAR)

The project site is proposed to be located entirely within the DSAP Downtown land use designation per the General Plan Amendment. Per the Downtown designation, the project site is allowed up to 15.0 FAR.

Analysis: The FAR for the project site is 4.8 and is consistent with this requirement.

Height

Guidelines are provided on the maximum height of buildings in the Diridon Station Area per Figure 3-2-1, which indicates a height limit of 65 feet for this area plus an additional 10 feet for roof equipment, elevator shafts, stairways, etc. The building height guidelines for the Southern Zone are intended to ensure the compatibility of new development with the surrounding relatively low density residential neighborhoods. Guidelines in the DSAP discourage taller buildings adjacent to existing single-family residential uses.

Analysis: The project is adjacent to commercial and light industrial uses. There are no residential uses directly adjacent to the project site, but there are single-family residences across Gifford Avenue from the project. For neighborhood compatibility, the project is stepped back at the Gifford Avenue street frontage at the southeastern portion of the property to create a common open space balcony facing the street, thereby stepping the building height and massing down at this location by one floor to a height of 55 feet at the street facade.

The project consists of one six-story building, and the maximum height is 65 feet, plus an additional four feet to the parapet, as allowed within the Building Heights section on Page 3-6 of the DSAP. Therefore, the project is consistent with the height requirement.

Retail Requirement

Per the Land Use Plan, Figure 2-1-1, this section of West San Carlos Street is required to have retail frontage. This requirement is further detailed in the Plan on Page 2-11. This requirement is intended to provide restaurants and services to residents and workers in the area to reduce the need for driving.

Analysis: The project is proposing active uses on the ground floor facing the street. The ground floor will provide transparency and will showcase proposed active uses including communal spaces for residents and visitors, a wellness center, and a salon, among other uses, making the pedestrian experience more visually

interesting. The proposed uses will be provided for residents, visitors, and workers within the building. Therefore, the project is consistent with this requirement.

Zoning Ordinance Consistency

The subject site is currently located in the LI Light Industrial and R-2 Two-Family Residence Zoning Districts. However, the project is proposing to rezone to DC Downtown Primary Commercial, for which consistency is analyzed below:

Land Uses

Pursuant to the Zoning Code Section 20.70.100, the DC Downtown Primary Commercial Zoning District is a conforming zoning district to the Downtown General Plan Designation. The purpose of the Downtown Primary Commercial Zoning District is to provide development standards for the property within the designated Downtown Area.

Analysis: The project site is within the stated boundary of Downtown per Section 20.70.100 of the Zoning Code. In the DC Downtown Primary Commercial Zoning District, multi-family residential units and back-up generators are allowed, and residential care facilities can be permitted with a Conditional Use Permit.

Development Regulations

The project conforms to the DC Downtown Primary Commercial Zoning District Development Standards, beginning with Zoning Section 20.70.200, as discussed below. Building height and FAR are regulated by the Diridon Station Area Plan (DSAP) as discussed above. Additionally, per Section 20.70.210 of the Zoning Code, the DC Downtown Primary Commercial District is not subject to setback regulations.

Vehicle Parking:

The required number of vehicle parking spaces for the residential care facility is 0.75 parking space per employee per Section 20.70.100, Table 20-140 of the Zoning Code. With a maximum of 36 employees per shift, this calculates to 27 spaces required. The residential multi-family housing units require one space per unit per Table 20-210, for a total of four spaces. The total required vehicle parking is therefore 31 spaces.

Analysis: The project is providing 32 parking spaces in the at-grade garage accessed by a driveway from Gifford Avenue. The project is consistent with the parking requirement.

Bicycle Parking:

The project is required to provide one bicycle space per ten employees for residential care facility per Table 20-190 of the Zoning Code and one space per four housing units per Table 20-210. For 36 employees, the requirement is four spaces, plus one space for the housing units for a total of five bicycle parking spaces required.

Analysis: The project includes a secure bicycle storage room on the ground floor adjacent to the staff lounge, accessible to the street, and a bike rack for short-term parking along Gifford Avenue, adjacent to the building pedestrian entrance. The long-term storage room has five spaces, and the short-term bike rack has four spaces, for a total of nine spaces provided. The project is therefore consistent with the requirement.

Loading Spaces:

This project requires one loading space per Section 20.70.440 of the Zoning Code. The loading space must be ten feet wide, thirty feet long and fifteen feet high, exclusive of driveways for ingress and egress and maneuvering areas per Section 20.90.420. Alternately, per Section 20.70.450.B, the director may reduce the number of off-street loading spaces based on the available loading space within the public right-of-way.

Analysis: The garage does not meet the 15 feet clear height as required by Section 20.70.420 of the Zoning Code. An exception is requested to allow twelve feet of height for the loading space, which would allow Class

4 thru Class 6 delivery trucks. The applicants will also apply for an on-street loading space along West San Carlos Street via a separate Public Works permit process. See the Development Exception Findings below.

San Jose Downtown Design Guidelines Consistency

In addition to the DSAP Design Guidelines, as discussed above, the project was analyzed for consistency with the 2014 San Jose Downtown Design Guidelines and Standards to achieve an attractive residential environment. The project complies with standards of the Downtown Design Guidelines and Standards, specifically in the following areas:

Urban Form and Massing. The massing of a podium level greater than 100 feet wide facing the sidewalk is required to be visibly articulated into smaller masses using projections and recesses, materials, shadow relief, or other architectural elements (Standard 4.3.1).

Analysis: The facades at both Gifford Avenue and West San Carlos Street are greater than 100 feet wide. The project has provided sufficient articulation in massing along both facades through the use of varying colors, materials, and projections and recessions along the façade. The project is therefore consistent with this requirement.



Figure 1 – Project Rendering

Street Wall/Active Frontage

The base of the building is required to contribute to the vibrancy of the street at the ground level through transparency and durable materials. Further, the Guidelines state that building frontage should appear safe, welcoming, and open to the general public. Active frontage means transparent to the interior of the building. This standard applies to both West San Carlos Street and Gifford Avenue (Standards 4.3.3 and 5.3.1).

Analysis: The project design includes transparent glass at ground level along 60% of Gifford Avenue and 77% along West San Carlos Street. The project provides active uses interior to the site at ground level along both street frontages. The project is therefore consistent with this requirement.

Architecture and Materials

Green roofs, high-quality materials, and a prominent pedestrian entry are required. Specifically, for buildings less than 150 feet in height, a green roof or solar panels must cover at least 20% of the roof area, the project must use high-quality materials at the Pedestrian Level, and pedestrian entries must be emphasized and clearly identifiable. (Standards 4.4.3, 4.4.7, and 5.5.1)

Analysis: The project is providing a combination of solar panels and green roof for a total of 20% of the roof area. The project is providing materials such as glass, aluminum, concrete, cement plaster, and horizontal plank siding. The pedestrian entry is located at the corner of the intersection, and is recessed, framed, and labeled with signage to be clearly identifiable. Therefore, the project complies with these requirements.

PERMIT FINDINGS

Conditional Use Permit Findings

To make the Conditional Use Permit findings pursuant to San José Municipal Code Section 20.100.720 and recommend approval to the Planning Commission, staff must determine that:

1. The conditional use permit, as approved, is consistent with and will further the policies of the general plan and applicable specific plans and area development policies; and

Analysis: As analyzed above, the mixed-use project including a commercial residential care facility and four multi-family housing units is consistent with the Downtown General Plan Land Use Designation and General Plan Policies. The use is allowed within Downtown, the project is providing a FAR of 4.8, a maximum height of 65 feet, and active use frontage along West San Carlos Street, consistent with requirements of the Diridon Station Area Plan (DSAP).

2. The conditional use permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the project; and

Analysis: Residential care facilities are conditionally permitted within the DC Downtown Primary Commercial Zoning District. The project is required to have 31 vehicle parking spaces and five bicycle parking spaces. The project provides 32 vehicle parking spaces and nine bicycle parking spaces to fulfill the parking requirements. The project is also providing one on-site loading space, subject to the development exception contained herein. Therefore, the project conforms with the municipal code development standards.

3. The conditional use permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency; and

Analysis: The project is subject to and conforms to the Public Outreach Policy for Pending Land Use and Development Proposals. The on-site sign has been posted at the site since August 25, 2020 to inform the neighborhood of the project. A community meeting was held to discuss the project on October 1, 2020 via Zoom webinar. Approximately 17 members of the public were in attendance for the meeting. Comments received during the community meeting and project review are discussed below. Public Notices of the community meeting and public hearing were distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

4. The proposed use at the location requested will not:

- a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
- b. Impair the utility or value of property of other persons located in the vicinity of the site; or
- c. Be detrimental to public health, safety, or general welfare; and

Analysis: The project would not negatively affect the utility or value of surrounding properties in the neighborhood, as the project would replace a vacant used car lot and low-density housing. The residential buildings proposed to be demolished were analyzed by the Housing Department and determined as not subject to the Ellis Act Ordinance, and therefore no relocation assistance or other restrictions are applicable. The project operations have been designed to be compatible with the surroundings, including outdoor activities primarily oriented to the interior of the site and minimize negative impacts such as noise and glare. Although the facility will provide 24-hour care to the residents, visiting hours and the outdoor terrace facing the street will be available from 7am to 8pm.

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

Analysis: As identified above, File No. T20-020 was submitted to the City for a Vesting Tentative Map to merge seven parcels into one parcel. The CUP would authorize the development of a mixed-use project including a commercial residential care facility and four multi-family residential units on the approximately 0.90-gross acre subject site. The subject site is physically suitable for the project because all project components are designed within the project site. The site is surrounded by multi-family residential and commercial uses to the north, light industrial and single-family residential uses to the east, a painting company and warehouse to the south, and a martial arts school to the west. The project also provides an internal courtyard with open space terraces.

6. The proposed site is adequately served:

- a. By highways or streets of sufficient width and improve necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
- b. By other public or private service facilities as are required.

Analysis: The subject site is well-served by West San Carlos Street and Gifford Avenue, as well as by bus routes and Diridon Station. The existing streets and utilities are of sufficient capacity to serve the affordable project. All public utilities are adequate as evidenced by the issuance of the Final Public Works Memo dated 11/6/20. The project is required to widen the public sidewalks to include street trees within the public right-of-way.

As identified above, the project is located within the DSAP and is approximately 0.6 mile from Diridon Station. Additionally, bus routes 23 and 523 run along West San Carlos Street, providing local bus services to De Anza College, Downtown, Blossom Hill, and Mountain View.

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

Analysis: The project incorporates measures to address noise, stormwater runoff, drainage and erosion. The project would implement site design measures, such as creating new pervious areas, adding landscaping around walkways, sidewalks, and parking spaces, and source control measures such as use of efficient irrigation systems, covered trash and recycling containers, and providing an interior parking area. Construction noise and any resulting air quality issues will be temporary in nature. All operations of the facility will take place indoors, within the interior courtyard area, and on the outdoor terrace. The back-up generator will be located indoors and would not significantly contribute to noise or air quality impacts.

Site Development Permit Findings

To make the Site Development Permit findings pursuant to San José Municipal Code Section 20.100.630, the City Council must determine that:

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

Analysis: The project is consistent with this finding, as analyzed for Conditional Use Permit finding number 1.

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

Analysis: The project is consistent with this finding, as analyzed for Conditional Use Permit finding number 2.

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

Analysis: The project is consistent with this finding, as analyzed for Conditional Use Permit finding number 3.

4. The interrelationship between the orientation, location, and elevation of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

Analysis: The subject building provides a 190-bed commercial residential care facility with 116 assisted living residential care guest rooms and 49 memory care guest rooms, and four multi-family housing units, and will be the only structure on the site. The project design includes a modern contemporary architecture including aluminum and glass at the ground floor and variations on color, materials, projections, and recessions at the podium level, which contribute to an interesting and varied design. The façade along Gifford Avenue steps down toward the southern property line to better integrate with the adjacent single-story commercial structure.

5. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

Analysis: The project would front West San Carlos Street, a Grand Boulevard which serves as an east-west connector. The existing neighborhood is a mix of residential, commercial, and light industrial uses. The architecture and material of the building are modern and the change in colors and materials provide a variation in design and help break up the massing. The façade along Gifford Avenue steps down toward the southern property line to better integrate with the adjacent single story commercial structure.

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

or properties.

Analysis: The project is consistent with this finding, as analyzed for Conditional Use Permit finding number 7.

7. Landscaping, irrigation systems, walls, and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

Analysis: The landscaping, irrigation systems, all walls and fences, utility, and trash facilities will upgrade the appearance of the neighborhood. The mechanical equipment will be behind screening on the rooftop. Additionally, the transparent glazing at the pedestrian level will enhance the public street by providing activity and adding a vibrant feeling to the neighborhood.

8. Traffic access, pedestrian access and parking are adequate.

Analysis: The project is accessible to vehicles by a driveway off Gifford Avenue and to pedestrians via the main entry on Gifford Avenue at the corner of West San Carlos Street. Thirty-one parking spaces are required, and 32 parking spaces are provided. Therefore, the amount of parking spaces provided is consistent with the requirement and adequate for the project. The project is required to widen the public sidewalks to ten feet wide along Gifford Avenue and 15 feet wide along West San Carlos Street and is required to provide street trees within the public right-of-way.

Development Exception Findings

To make the Development Exception findings pursuant to San José Municipal Code Section 20.100.1320, the Planning Commission and City Council must determine that:

1. The exception, subject to such conditions as may be imposed thereon, will not impair:
 - a. The utility or value of adjacent property or the general welfare of the neighborhood; and
 - b. The integrity and character of the zoning district in which the subject property is situated.

Analysis: The reduced height of the loading space does not affect the exterior of the building or the compatibility to adjacent buildings in the surrounding neighborhood. Therefore, the granting of the exception for the height of the loading space will not affect the health, safety and welfare of adjacent properties or the neighborhood as whole. The project otherwise follows all development standards and requirements of the DC Downtown Primary Commercial Zoning District as referenced above. Therefore, the project will retain and promote the integrity and character of the zoning district in which the subject property is situated.

Evaluation Criteria for Demolition

Section 20.80.460 of the San José Municipal Code establishes evaluation criteria for 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 this Permit.

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 which 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 Jose;

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: As noted above, the project includes the demolition of all buildings and structures on site. As discussed in Site Development Permit Findings 4 and 5, the project is compatible with the surrounding neighborhood, and would not have an adverse impact. The demolition would facilitate a mixed-use project including a 190-bed commercial residential care facility with 116 assisted living guest rooms and 49 memory care guest rooms, four multi-family residential units, and a back-up generator. Re-use of the buildings would not be feasible to implement the goals of the project. Existing supply of housing would be maintained through the provision of four housing units and residential care for a greater number of people than the current housing on the site provides.

The changes to the General Plan land use designation and Zoning District over the Project Site are in compliance with Senate Bill 330 as discussed below. The residential buildings proposed to be demolished were analyzed by the Housing Department and determined as not subject to the Ellis Act Ordinance, and therefore no relocation assistance or other restrictions are applicable.

A Historic Resources Survey and Report was prepared for existing structures within and adjacent to the project site by TreanorHL. The residential buildings were constructed in the first decade of the twentieth century, but according to the report, none of the properties within the project site, nor the adjacent properties within the boundaries of the Area of Potential Effect, appear on any local, state or federal lists of historically or architecturally significant structures and/or sites, landmarks, or points of interest. The City generally identifies a 200-foot radius from the project site as the Area of Potential Effect. None of the nearby properties within the APE appear to be eligible for the National Register of Historic Places. Accordingly, the project will not affect any properties eligible for or listed on any national, state or local historical resources register.

Tree Removal Findings

Chapter 13.32 of the San José Municipal Code establishes at least one of the following required findings must be made for issuance of a Live Tree Removal Permit for ordinance-size trees. Findings are made for the project based on the findings related to General Plan, Zoning Ordinance and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in the resolution.

1. That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question;

Analysis: As identified above, seven existing non-native, ordinance-size trees and 14 non-ordinance trees will be removed. To construct the project, the trees will need to be removed and replaced at the City-required ratio. Based on this reason, and to accommodate the project, the trees proposed for removal cannot be preserved.

Fifty replacement trees at 15-gallon size or 25 replacement trees at 24-inch box size are required to be replanted. Pursuant to the project landscaping plan, the development would plant a total of 26 replacement trees at 24-inch box size, which exceeds the City's Tree Replacement ratios per the table below.

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 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon
<p>x:x = tree replacement to tree loss ratio</p> <p>Note: Trees greater than or equal to 38-inch circumference 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.</p> <p>A 38-inch tree equals 12.1 inches in diameter.</p> <p>A 24-inch box tree = two 15-gallon trees</p>				

The seven ordinance-size trees to be removed are of non-native species, including Glossy Privet, Tree of Heaven, White Mulberry, and Peruvian Pepper. These seven trees are required to be replaced at a ratio of 4:1, calculating to 28 replacement trees.

Of the remaining 14 non-ordinance trees, eight are sized between 19 and 38 inches in circumference, and are of the non-native species Tree of Heaven, Japanese Cheesewood, Olive, London Plane, and Common Fig. These eight trees will be replaced at a ratio of 2:1, calculating to 16 replacement trees.

The final six trees proposed to be removed are less than 19 inches in circumference, and are required to be replaced at a 1:1 ratio regardless if they are native or non-native species. This calculates to six replacement trees. The project is therefore required to provide a total of 50 replacement trees at 15-gallon size or 25 trees at 24-inch box size.

The project will provide 13 replacement trees at 24-inch box size at-grade and an additional 13 trees at 24-inch box size in planters. Planter details and specifications show that the containers have enough soil capacity to prevent stunting growth as the trees mature. Therefore, the project is providing 26 trees at 24-inch box size and is consistent with this requirement.

Vesting Tentative Map Findings

In accordance with San José Municipal Code (SJMC) Sections 19.12.130 and 19.12.220 and California Government Code Section 66474, the Director of Planning 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 the Director 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: Based on review of the proposed subdivision, a Vesting Tentative Map to merge seven parcels into one parcel for the development of a mixed-use project including a commercial residential care facility and four multi-family residential units on an approximately 0.90-gross acre site, the Director of Planning of the City of San José does not make any such findings to deny the subject subdivision. The project is consistent with the General Plan goals, policies, and land use designation. The project complies with the General Plan goals and policies related to Major Strategies, design, and Growth Areas, among others. The General Plan land use designation of Downtown allows for higher-intensity projects. The project site is physically suitable for the project and proposed intensity in that the development is encouraged and envisioned within the DSAP. Furthermore, the project site does not contain historic resources or sensitive habitats or wildlife.

Additionally, the site is not located within a designated Federal Emergency Management Agency (FEMA) 100-year flood plain. 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 proposed subdivision and subsequent improvements are not likely to cause serious public health problems. The project will be required to dedicate a ten-foot wide sidewalk along Gifford Avenue and a 15-foot wide sidewalk along West San Carlos Street, with street trees along both street frontages.

City Council Policy Consistency

City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals

Under City Council Policy 6-30, the project is considered to be a large development. Large development projects are required to provide Early Notification by website, email, postcard mailed to property owners and tenants within a 1,000-foot radius, and by on-site signage. Following City Council Policy 6-30, the required on-site sign has been posted at the site since August 25, 2020, to inform the neighborhood of the project. A community meeting was held to discuss the project on, October 1, 2020 via Zoom webinar. Approximately 17 members of the public were in attendance for the meeting. Comments received during the community meeting and project review are discussed below. Public Notices of the community meeting and public hearing were distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

Senate Bill 330 Compliance

Governor Gavin Newsom signed Senate Bill 330, Housing Crisis Act of 2019, on October 9, 2019 to catalyze housing that would offset the high rents and home ownership costs leading to increasing homelessness. The bill is intended to speed up housing construction in California by decreasing the time it takes to obtain building permits and limiting fee increases on housing applications. The bill also bans local governments from reducing the number of homes that can be built on properties that allow housing, including downzoning, changing general or specific plan land use designations to a less intensive use, reductions in height, density or floor area ratio, or other types of increased requirements. The exception to this is that a property may be allowed to reduce intensity of residential uses if changes in land use designations or zoning elsewhere ensure no net loss in residential capacity within the jurisdiction.

The proposed General Plan Amendment (GP19-012) does not reduce the intensity of residential uses because the proposed Downtown land use designation allows for greater residential density than the existing Residential Neighborhood land use designation. GP19-012 would increase the residential capacity by 353 units. Further, the proposed amendment, if approved concurrently with GP20-001 (net 69 units) and GP20-002 (net 74 units) would offset reduced intensity of residential capacity for proposed project file no. GP20-003 (loss of 248 units) resulting in no net loss of residential capacity.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Director of Planning, Building and Code Enforcement prepared an Initial Study in support of an Addendum to the 2018 Downtown Strategy 2040 FEIR for the Delmas Senior Living Project, which includes a General Plan Amendment to change the land use designation from the *Residential Neighborhood* designation to the *Downtown* designation, a conforming rezoning from the *LI Light Industrial* and *R-2 Two-Family Residence* districts to the *DC Downtown Primary Commercial* district, and a Conditional Use Permit for the development of the proposed project. The Downtown Strategy 2040 FEIR contains sufficient information to provide project-level environmental clearance for certain impacts by including standard measures that apply to all projects in San José. The Initial Study did not identify any new impacts beyond those analyzed in the Downtown Strategy 2040 FEIR. Therefore, the proposed project meets the criteria of an Addendum pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15164 and was completed in compliance with CEQA to reflect the independent judgement of the City.

The Initial Study identified relevant mitigation measures included in the Downtown Strategy 2040 FEIR for potential impacts to air quality during construction, nesting birds, buried and unknown archaeological resources, contamination during and after construction, and construction vibration impacts on adjacent buildings and businesses. In addition, standard permit conditions are made part of the permit approval. These standard permit conditions include best management practices for controlling dust and exhaust during construction, tree replacement, compliance with the Habitat Plan, uncovering buried archaeological or historic resources and human remains during construction activities, preventing impacts from lead-based paint and asbestos during demolition activities, preventing stormwater pollution during construction, managing mechanical equipment noise, and interior noise levels. The mitigation measures are included in the Mitigation Monitoring and Reporting Program (MMRP) and both the mitigation measures and standard permit conditions are made a part of this permit.

The Initial Study concluded that the proposed project would not result in a substantial increase in the magnitude of any significant environmental impact previously identified in the Downtown Strategy 2040 FEIR. Therefore, a supplemental or subsequent EIR is not required, and an Addendum to the Downtown Strategy 2040 FEIR is the appropriate level of CEQA clearance for the project.

The Addendum and supporting Initial Study, associated technical studies (in appendices to the Initial Study) are available on the Planning Division environmental review webpage at:

<https://www.sanjoseca.gov/activeeirs>.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy to inform the public of the proposed project. An on-site sign was posted on the property and a noticed community meeting was held on Thursday, October 1, 2020. Approximately 17 members of the public were in attendance. Concerns raised during the meeting included:

1. Gifford Avenue has single-family residences across the street from the development. Is the proposed height appropriate?
2. Gifford Avenue is a narrow street and difficult to drive through with cars parked on both sides of the street. Can the development restrict parking along Gifford Avenue?
3. The developer should consider additional community improvements including the undergrounding of utilities and providing pedestrian crosswalks at the intersection of West San Carlos Street and Gifford Avenue.
4. Gifford Avenue is within the City's Residential Permit Parking (RPP) program for street parking permits. Will the residents of this development be able to apply for and receive parking permits? If so, this could potentially cause additional street parking issues in the area.

Staff also received emails from two community members and a PDF letter from the Delmas Park Neighborhood Association. One of the emails from a community member had general concerns about the project, but did not mention anything specifically, and the other email was from a community member who was writing as a representative of the Neighborhood Association and was the same community member who issued the PDF letter to staff.

In addition to the concerns raised in the Community Meeting as outlined above, the Neighborhood Association's concerns raised during the review process include the following:

1. The single-family homes in the area reflect the historic nature of the area. The building architecture of the project should be more compatible with the single-family home architecture.
2. Are any parking reductions being applied?
3. What is the existing land use designation and zoning district for all lots? Is the proposed development required to change to the land use designation?
4. What is the existing number of housing units currently on the site?
5. What additional reports is the Planning Department requiring for the environmental review? Is an EIR required? What is the anticipated date reports will be completed?
6. If approved, how many jobs will be created? How many housing units will be created?

In response to the concerns about height, the applicants revised the project to be six stories from the original proposed eight stories. There is no recommendation for number of stories within the DSAP. Per Figure 3-2-1 on page 3-5, the height limit is 65 feet. The project is consistent with this requirement. However, in response to the community concern, the applicants stepped down the façade along Gifford Avenue at the southern boundary to provide a height transition at this location.

In response to the Neighborhood Association's concern about the building architecture, there are no designated historic residences in the area. Further, this project is replacing a vacant car lot – one of a series of auto-related uses along West San Carlos Street. This neighborhood generally contains a mix of commercial and residential uses.

In response to the concern about parking and the RPP street permit parking program, the applicant is providing 100% of the required parking on-site, and since this is an assisted living project, very few residents are expected to own or operate vehicles. No parking reductions are being requested or applied. The remaining concerns have been addressed within this Staff Report, and all email inquiries were answered in a timely manner.

A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

Project Managers: Laura Meiners and Robert Rivera

Approved by: /s/ , Deputy Director for Rosalynn Hughey, Planning Director

ATTACHMENTS:	
Exhibit A:	Vicinity Map, Aerial
Exhibit B:	Existing General Plan Land Use Designation
Exhibit C:	Proposed General Plan Land Use Designation
Exhibit D:	Existing Zoning District
Exhibit E:	Proposed Zoning District
Exhibit F:	Ordinances and Resolutions (General Plan Amendment, Rezoning, Vesting Tentative Map, and Special Use Permit)
Exhibit G:	Environmental Addendum Resolution and Mitigation Monitoring and Reporting Program (MMRP)
Exhibit H:	Plan Sets
Exhibit I:	Operations Plan
Exhibit J:	Public Correspondence

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GP19-012, CP20-019, C19-042 & T20-020 List of Attachments

[Exhibit A- Vicinity Map, Aerial](#)

[Exhibit B- Existing General Plan Land Use Designation](#)

[Exhibit C- Proposed General Plan Land Use Designation](#)

[Exhibit D- Existing Zoning District](#)

[Exhibit E- Proposed Zoning District](#)

[Exhibit F- Ordinances and Resolutions \(General Plan Amendment, Rezoning, Vesting Tentative Map, and Special Use Permit\)](#)

[Exhibit G- Environmental Addendum Resolution and Mitigation Monitoring and Reporting Program \(MMRP\)](#)

[Exhibit H- Plan Sets](#)

[Exhibit I- Operations Plan](#)

[Exhibit J- Public Correspondence](#)

[Correspondence Received After 12/2/20](#)