



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** February 12, 2021

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**COUNCIL DISTRICT:** CITYWIDE

**SUBJECT: FILE NO. GP20-004, GPT18-009 & PDC17-022: GENERAL PLAN AMENDMENT TO CHANGE THE LAND USE/TRANSPORTATION DIAGRAM LAND USE DESIGNATION FROM MIXED USE NEIGHBORHOOD AND MIXED USE COMMERCIAL TO TRANSIT RESIDENTIAL AND A GENERAL PLAN TEXT AMENDMENT TO MAKE MODIFICATIONS TO THE MARTHA GARDENS SPECIFIC PLAN TO INCREASE THE ALLOWABLE HEIGHT ON THE SUBJECT SITE TO 80 FEET WITH AN ADDITIONAL 10 FEET FOR ARCHITECTURAL PROJECTIONS AND A REDUCTION TO ZERO SETBACK TO ACCOMMODATE THE PROPOSED PROJECT AND A PLANNED DEVELOPMENT REZONING FROM THE CP COMMERCIAL PEDESTRIAN AND CN COMMERCIAL NEIGHBORHOOD ZONING DISTRICT TO THE A(PD) PLANNED DEVELOPMENT ZONING DISTRICT ON AN APPROXIMATELY 1.2-GROSS ACRE SITE LOCATED ON SOUTH E. VIRGINIA STREET BETWEEN SOUTH 2ND STREET AND SOUTH 1ST STREET (802 S. 1ST STREET)**

## **RECOMMENDATION**

The Planning Commission voted unanimously (7-0) to recommend that the City Council take the following actions:

1. Adopt a resolution approving the South 1st Street/East Virginia Street Mixed-Use Development Project Mitigated Negative Declaration and associated mitigation monitoring and reporting plan (MMRP);
2. Adopt a resolution amending the Envision San José 2040 General Plan Land Use/Transportation Diagram land use designation from Mixed Use Neighborhood and Mixed Use Commercial to Transit Residential for 802 S. 1st Street on a 1.2-gross acre site (File No. GP20-004);
3. Adopt a resolution amending the Martha Gardens Specific Plan to increase the allowable height on the subject site to 80 feet with an additional 10 feet for architectural projections and reduction to zero setback to accommodate the proposed project (File No. GPT18-009); and

4. Approve an ordinance rezoning certain real property located on the southeast corner of S. First Street and E. Virginia Street (802 S. 1st Street) from CP Commercial Pedestrian and CN Commercial Neighborhood Zoning District to the A(PD) Planned Development Zoning District for up to 246 residential units on an approximately 1.2 gross acre site.

## **OUTCOME**

Should the City Council adopt a resolution approving the General Plan Amendment, the Envision San José 2040 General Plan Land Use/Transportation Diagram would be amended to reflect the land use designation changes from Mixed Use Commercial and Mixed Use Neighborhood to Transit Residential. If the General Plan Text Amendment resolution is approved, the Martha Gardens Specific Plan would be updated to increase the allowable height on the subject site to 80 feet with an additional 10 feet for architectural projections and reduce the setback required to zero. If the Planned Development rezoning ordinance is approved, the subject 1.2-gross acre site would be rezoned from CP Commercial Pedestrian and CN Commercial Neighborhood Zoning District to A(PD) Planned Development Zoning District to allow 246 residential units and 4,600 square feet of ground floor commercial.

## **BACKGROUND**

The Planning Commission held a public hearing on January 27, 2020, to consider the proposed General Plan Amendment, General Plan Text Amendment, and Planned Development Zoning.

### **Staff Presentation**

Staff presented a summary of the applicant's General Plan Amendment, General Plan Text Amendment and Planned Development Zoning, including a description of the proposed project and details of the public engagement process and community input.

### **Public Testimony**

The applicant representative, Erik Schoennauer, presented the project proposal. He shared the project goal is to revise the Martha Gardens Specific Plan and to establish a new Zoning District that conforms to today's standards for building residential and mixed use buildings with an overarching objective of replacing a vacant and unattractive automotive use with a new urban residential building with ground floor retail. Mr. Schoennauer stated that the Martha Gardens Specific Plan was adopted over 17 years ago in 2003, but that the City's General Plan has called for taller and denser development throughout the city since then. He also mentioned that the Building Code and the construction norms for new residential development have changed over the past 17 years; therefore, the Martha Gardens planned heights are out of date and force inefficient construction types that make development infeasible. Last, the applicant stated that the proposal is to construct the 15 percent required Inclusionary Housing Ordinance affordable units on-site and believed it would benefit the project as well as the overall neighborhood.

Five members of the public provided comments. The first public commenter said that there are too many existing affordable housing projects in the vicinity and the neighborhood is unfairly targeted for affordable housing. She asked for further clarifications on the affordability of the project. The second speaker spoke in support of the project and advocated for mixed-income housing and shared resources for affordable housing studies. The third speaker said that more office commercial and outdoor space should be incorporated in the project. The fourth speaker spoke in opposition to the project stating that there were too many affordable housing projects in the area. In addition, he believed the ground floor commercial space would remain vacant like various other commercial retail store fronts within affordable housing projects in the area. The fifth person stressed the importance of clarity when defining affordability and expressed that the Planning Commission should address historic redlining and inequity.

The applicant's representative responded to the public comments by expressing concern that affordable housing is greatly needed in the area and expressed support for mixed-income housing to provide housing for a range of professions.

Chair Caballero asked Mr. Schoennauer to clarify the affordability requirements of the proposed project. He responded that the applicant has agreed to build on-site affordable housing at the required income levels as required by the Inclusionary Housing Ordinance and that other income levels may be a higher range of affordability outside of the requirement but this would depend on the financing of the project.

#### Planning Commission Discussion

Commissioner Oliverio expressed his enthusiasm for the changes to the Martha Gardens Specific Plan and expressed his support for the mixed income project.

Commissioner Bonilla asked the applicant whether the project would have an affordability cap. The applicant responded that the affordability would depend on the financing of the project and may be at different ranges of the area's median income (AMI) levels; however, the 15 percent on-site affordable units provided would be as required by the Inclusionary Housing Ordinance.

Commissioner Oliverio made a motion to consider the Mitigated Negative Declaration in accordance with CEQA and adopt a recommendation that the City Council approve the General Plan Amendment, General Plan Text Amendment, and Planned Development Zoning request.

Commissioner Lardinois seconded the motion.

#### ANALYSIS

For a complete analysis, please see the Planning Commission staff report (attached).

## **CONCLUSION**

The proposed General Plan Amendment is consistent with the goals and policies of the General Plan. The Planning Commission recommended approval of the proposed General Plan Amendment from Mixed Use Commercial and Mixed Use Neighborhood to Transit Residential, General Plan Text Amendment of the Martha Gardens Specific Plan to increase the allowable height to 80 feet with an additional 10 feet for architectural projections and reduction to zero setback, and Planned Development Zoning to allow up to 246 residential units and 4,600 square feet of commercial on the subject site.

## **EVALUATION AND FOLLOW-UP**

If the application for General Plan Amendment is approved as recommended by the Planning Commission, the Envision San José 2040 General Plan Land Use/Transportation Diagram would be amended to reflect the land use designation change from Mixed Use Commercial and Mixed Use Neighborhood to Transit Residential Neighborhood, the Martha Gardens Specific Plan would be amended to increase the allowable height on the subject site to 80 feet with an additional 10 feet for architectural projections and a reduction to zero setback to accommodate the proposed project, and the CP Commercial Pedestrian and the CN Commercial Neighborhood Zoning District would be changed to an A(PD) Planned Development Zoning District to allow up to 246 residential units and 4,600 square feet of commercial on an approximately 1.2 gross acres.

## **CLIMATE SMART SAN JOSE**

The proposed General Plan Amendment, General Plan Text Amendment and Rezoning align with one or more Climate Smart San José energy, water, or mobility goals by allowing an increase in density of new development within an urbanized area, thereby reducing the impact from expanding any public services or infrastructure. The project is in close proximity to a light rail station, thereby providing transportation options to residents that reduce Vehicle Miles Traveled and thereby Green House Gas emissions.

## **PUBLIC OUTREACH**

To inform the public of the proposed project, staff followed Council Policy 6-30: Public Outreach Policy. The property owners and occupants within a 1,000 feet radius were sent public hearing notices for the Planning Commission and City Council hearing. A notice of the public hearing was published in the San José Post Record and on the City's website. The Planning Commission agenda was posted on the City of San José website, which included a copy of the staff report, and staff has been available to discuss the project with members of the public.

On November 2, 2020 Planning staff hosted a virtual community meeting to provide information and receive input on the proposed General Plan Amendment, General Plan Text Amendment, and Planned Development Rezoning to the subject site (File Nos. GP20-004, GPT18-009 and PDC17-022; 802 S. 1st Street). Approximately 55 community members attended the community meeting. Community members were concerned about the transition of heights and parking for the proposed rezoning. Staff clarified that the proposed project was for a Planned Development Rezoning and a future Planned Development permit would require the project to provide parking spaces consistent with Title 20 of the Municipal Code. Other residents asked questions related to affordable housing and expressed their opinion that the Council District already had far too many affordable housing developments. Staff responded that affordable housing and market-rate housing would be allowed and that residential projects are required to comply with the City's Inclusionary Housing Ordinance which requires a developer to provide an inclusionary housing in-lieu fee or a Housing Compliance Plan that determines how a project will comply with the Ordinance.

### **COORDINATION**

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

### **CEQA**

An Initial Study (IS) and Mitigated Negative Declaration (MND) (IS/MND) was prepared by the Department of Planning, Building and Code Enforcement. The environmental review evaluated the proposed General Plan Amendment, General Plan Text Amendment, and Planned Development Rezoning and conceptually considered a type of project that could occur on the project site, along with the maximum allowable development for the site under the proposed project. The document was circulated for public comments from December 3, 2020 to January 15, 2021.

The proposed project would not result in physical changes to the site and would not result in any new or substantially increased significant impacts beyond those previously identified in the Envision San José 2040 General Plan EIR, as supplemented.

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The IS/MND identifies the potential impacts from the conceptual physical development of the site. The primary issues are air quality, biological resources, cultural resources, and noise. The IS/MND includes mitigation measures that would reduce any potentially significant project impacts to a less-than-significant level. In addition to the mitigation measures, other permit conditions are included as conditions of approval to ensure all potential impacts have been addressed. The entire IS/MND and other related environmental documents are available on the PBCE-Planning website at: [www.sanjoseca.gov/negativedeclarations](http://www.sanjoseca.gov/negativedeclarations)

/s/

ROSALYNN HUGHEY, Secretary  
Planning Commission

For questions please contact Michael Brilliot, Deputy Director, at  
[michael.brilliot@sanjoseca.gov](mailto:michael.brilliot@sanjoseca.gov).

Attachment: Planning Commission Staff Report



# Memorandum

**TO:** PLANNING COMMISSION

**FROM:** Rosalynn Hughey

**SUBJECT:** File No. GP20-004, GPT18-009,  
PDC17-022

**DATE:** January 27, 2021

**COUNCIL DISTRICT: 3**

<b>Type of Permit</b>	General Plan Amendment, General Plan Text Amendment and Planned Development Zoning
<b>Proposed General Plan Land Use Designation</b>	Transit Residential
<b>Proposed Zoning District</b>	A (PD) Planned Development
<b>New Residential Units</b>	Up to 246 units
<b>New Non-Residential</b>	4,600 Commercial Square Feet
<b>Additional Policy Review</b>	N/A
<b>Tree Removals</b>	N/A
<b>Project Planner</b>	Robert Rivera
<b>CEQA Clearance</b>	Initial Study / Mitigated Negative Declaration
<b>CEQA Planner</b>	Thai-Chau Le

## RECOMMENDATION

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

1. Adopt a resolution approving the South 1<sup>st</sup> Street/East Virginia Street Mixed-Use Development Project Mitigated Negative Declaration and associated mitigation monitoring and reporting plan (MMRP);
2. Adopt a resolution amending the Envision San José 2040 General Plan Land Use/Transportation Diagram land use designation from Mixed Use Neighborhood and Mixed Use Commercial to Transit Residential for 802 S. 1<sup>st</sup> Street on a 1.2-gross acre site (File No. GP20-004);
3. Adopt a resolution amending the Martha Gardens Specific Plan to increase the allowable height on the subject site to 80 feet with an addition 10 feet for architectural projections and reduction to zero setback to accommodate the proposed project (File No. GPT18-009); and
4. Approve an ordinance rezoning certain real property located on the south east corner of S. First Street and E. Virginia Street (802 S. 1<sup>st</sup> Street) from CP Commercial Pedestrian and CN Commercial Neighborhood Zoning District to the A(PD) Planned Development Zoning District for up to 246 residential units on an approximately 1.2 gross acres.

**PROPERTY INFORMATION**

<b>Location</b>	South east corner of S. First Street and E. Virginia Street (802 S. 1 <sup>st</sup> Street)
<b>Assessor Parcel No.</b>	472-17-005, -006, -034, -094, -095
<b>General Plan</b>	Mixed Used Neighborhood and Mixed Use Commercial
<b>Growth Area</b>	Martha Gardens Specific Plan Area
<b>Existing Zoning</b>	CN Commercial Neighborhood and CP Commercial Pedestrian
<b>Historic Resource</b>	N/A
<b>Annexation Date</b>	March 27, 1850
<b>Council District</b>	3
<b>Acreage</b>	Approximately 1.2 acres
<b>Proposed Density</b>	205 dwelling units per acre (DU/AC)

**PROJECT BACKGROUND**

As shown on the attached [vicinity map \(Attachment A\)](#), the project site is located on the south east corner of South First Street and East Virginia Street (802 S. 1st Street). The approximately 1.2-gross acre site is currently developed as a single-story auto repair warehouse with garages along South Second Street and a commercial retail building along South First Street. Currently the auto repair warehouse and retail building are unoccupied.

The subject site is bounded by two-story attached single-family residential homes to the east, a gas station and automotive repair business to the west, retail commercial buildings to the north, and, to the south, two-story single-family residential homes along South Second Street and a commercial building along South First Street.

<b>SURROUNDING USES</b>			
	<b>General Plan</b>	<b>Zoning District</b>	<b>Existing Use</b>
<b>North</b>	Mixed-Use Neighborhood & Mixed-Use Commercial	CN Commercial Neighborhood & CP Commercial Pedestrian	Commercial Retail
<b>South</b>	Mixed-Use Neighborhood & Mixed-Use Commercial	CN Commercial Neighborhood & CP Commercial Pedestrian	Single-Family Residential and Commercial Retail
<b>East</b>	Mixed-Use Neighborhood	CN Commercial Neighborhood	Attached Single-Family Residence
<b>West</b>	Mixed-Use Commercial	CP Commercial Pedestrian & PD Planned Development	Gas Station and Automotive Repair

On June 08, 2017, the applicant applied for a Planned Development Rezoning from the CP Commercial Pedestrian and CN Commercial Neighborhood Zoning District to a PD Planned Development Zoning District on an approximately 1.2-gross acre site. The applicant subsequently changed their initial proposal, which necessitated a General Plan Amendment and General Plan Text Amendment. The current proposal includes a General Plan Amendment to change the land use designation from Mixed-Use Commercial and Mixed-Use Neighborhood to Transit Residential, a General Plan Text Amendment to the Martha Gardens Specific Plan



to increase the allowable height on the subject site from a maximum of 35 feet (S. 2<sup>nd</sup>) and 55 feet (S. 1<sup>st</sup>) to 80 feet with an additional 10 feet for architectural projections and zero setback along the subject site, and a Planned Development Zoning to allow up to 246 residential units and 4,600 square feet of ground floor commercial. The current development standards are shown in the zoning section below. If the General Plan Amendments and Rezoning are approved by the City Council, the applicant will be able to pursue a future project that is consistent with the General Plan Land Use/Transportation Diagram designation of Transit Residential and the approved Planned Development Zoning. Currently, there is no Planned Development Permit application on file with the City.

In his September 28, 2017 memo, *Responding to the Housing Crisis*, Mayor Liccardo proposed a goal of creating 25,000 housing units, with at least 10,000 of those units being for affordable housing. This memo identified work items that could be completed by staff to facilitate the construction of these units. The Council approved this memo at its October 17, 2018 Priority Setting Session, and the actions needed towards creating the housing units became part of the Council's Priority List. The Council's approval of this memo was the impetus for staff's development of the Housing Crisis Workplan. This Workplan identifies several strategies to support and accelerate housing production in San Jose.

One policy item identified in the Housing Crisis Workplan was modifying the Martha Gardens Specific Plan. The Martha Gardens Specific Plan predates the current General Plan and needs to be updated to reflect current development standards including height and density. This work item has not yet been initiated by staff, so the applicant has requested site specific modifications to the Martha Gardens Specific Plan to support the proposed development project. Planning staff anticipates beginning work on exploring more comprehensive modifications to the Martha Gardens Specific Plan as part of the Housing Crisis Workplan item in Summer 2021.

## ANALYSIS

The proposed General Plan land use and text amendments, and rezoning application is analyzed with respect to conformance with:

- 1) Envision San José 2040 General Plan
- 2) Martha Gardens Specific Plan
- 3) Title 20 of the Municipal Code (Zoning Ordinance)
- 4) Senate Bill 330
- 5) California Environmental Quality Act (CEQA)

### Envision San José 2040 General Plan Conformance

#### *Existing Land Use Designation*

As shown in the attached **General Plan map (Attachment B)**, the proposed project site has an Envision San José 2040 General Plan designation of Mixed-Use Commercial and Mixed-Use Neighborhood on the Land Use/Transportation Diagram of the Envision San José 2040 General Plan.

**Mixed Use Commercial Density (Existing Designation)**

Density: Up to 50 DU/AC;

Residential/Commercial Mixed-Use FAR 0.5 to 4.5 (1 to 6 stories)

Commercial FAR 0.25 to 4.5 (1 to 6 stories)

This designation is intended to accommodate a mix of commercial and residential uses with an emphasis on commercial activity as the primary use and residential activity allowed in a secondary role. New development of a property with this designation should accordingly include commercial space equivalent to at least a 0.5 FAR for residential/ commercial mixed-use projects and 0.25 FAR for commercial projects with a typically appropriate overall FAR of up to 4.5, allowing for a medium intensity of development. This designation therefore is more commercially focused than the Mixed Use Neighborhood designation and also allows for a greater intensity of use. Appropriate commercial uses include neighborhood retail, mid-rise office, medium scale hospitals or other health care facilities, and medium scale private community gathering facilities. Low impact industrial uses are appropriate if they are compatible and do not pose a hazard to other nearby uses.

**Mixed Use Neighborhood Density (Existing Designation)**

Density: up to 30 DU/AC; FAR 0.25 to 2.0 (1 to 3.5 stories)

This designation is applied to areas intended for development primarily with either townhouse or small lot single-family residences and also to existing neighborhoods that were historically developed with a wide variety of housing types, including a mix of residential densities and forms. This designation supports commercial or mixed-use development integrated within the Mixed Use Neighborhood area. Existing neighborhoods with this designation are typically characterized by a prevalence of atypical lot sizes or shapes and a parcel-by-parcel development pattern where small townhouse development may exist adjacent to more traditional single-family development or more intense multifamily development.

*Proposed Land Use Designation* as shown in the attached [General Plan map \(Attachment C\)](#)

**Transit Residential**

Density: 50-250 DU/AC; FAR 2.0 to 12.0 (5 to 25 stories)

This is the primary designation for new high-density, mixed-use residential development sites that are located in close proximity to transit, jobs, amenities, and services. This designation may also be appropriate for some sites within Urban Village areas as identified through an Urban Village Planning process. This designation also supports intensive commercial employment uses, such as office, retail, hotels, hospitals and private community gathering facilities. To help contribute to “complete communities,” commercial uses should be included with new residential development in an amount consistent with achievement of the planned job growth and Urban Village Plan for the relevant Urban Village area. The allowable density/intensity for mixed-use development will be determined using an FAR 2.0 to 12.0 to better address the urban form and potentially allow fewer units per acre if in combination with other uses such as commercial or office. The allowable density for this designation is further defined within the applicable Zoning Ordinance designation and may also be addressed within an Urban Village Plan or other policy document.

### *General Plan Goals and Policies*

The proposed General Plan Amendment, General Plan Text Amendment to the Martha Gardens Specific Plan, and rezoning are **consistent** with the following key General Plan major strategies, goals, and 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. While the Focused Growth strategy directs and promotes growth within identified Growth Areas, it also strictly limits new residential development through neighborhood infill outside of these Growth Areas to preserve and enhance the quality of established neighborhoods, to reduce environmental and fiscal impacts, and to strengthen the City’s Urban Growth Boundary.
2. Growth Areas Goal LU-2: Focus new growth into identified Growth Areas to preserve and protect the quality of existing neighborhoods, including mobilehome parks, while establishing new mixed use neighborhoods with a compact and dense form that is attractive to the City’s projected demographics i.e., a young and senior population, and that supports walking, provides opportunities to incorporate retail and other services in a mixed-use format, and facilitates transit use.
3. High Quality Living Environments Policy LU-9.8: When changes in residential densities in established neighborhoods are proposed, the City shall consider such factors as neighborhood character and identity; historic preservation; compatibility of land uses and impacts on livability; impacts on services and facilities, including schools, to the extent permitted by law; accessibility to transit facilities; and impacts on traffic levels on both neighborhood streets and major thoroughfares
4. *Analysis: The subject site is located within the Martha Gardens Specific Plan Growth Area. The applicant’s proposed General Plan Amendment from Mixed Use Commercial and Mixed Use Neighborhood to Transit Residential would further the Focused Growth Major Strategy by supporting new development and intensifying residential density within the Specific Plan area. The increased density would promote urban and pedestrian-oriented development which encourages an active, bicycle-friendly environment consistent with the Focused Growth Major Strategy and associated goals and policies.*
5. Social Equity and Diversity - Housing Goal H-1: Provide housing throughout our City in a range of residential densities, especially at higher densities, and product types, including rental and for-sale housing, to address the needs of an economically, demographically, and culturally diverse population.
6. Social Equity and Diversity – Housing Policy H-1.1: Through the development of new housing and the preservation and rehabilitation of existing housing, facilitate the creation of economically, culturally, and demographically diverse and integrated communities.

*Analysis: The proposed project would provide market rate and affordable housing consistent with the submitted Housing Compliance Plan (Attachment L) promoting an economically diverse population consistent with Social Equity and Diversity Goal H-1 and Policy H-1.1. The applicant has elected to satisfy the Inclusionary Housing requirements by providing building on-site affordable housing for 15% of the total residential units.*

<b>Build On-Site 15%</b>	<b>Total Number of Residential Units:</b>	249
	<b>Multiplied by 15%:</b>	<b>15%</b>
	<b>Units Income Restricted:</b>	37
	9% of these units at 80% AMI	22
	6% of these units at 50% AMI	15
	<b>Market Rate Units:</b>	212

7. Form Based Plan Major Strategy: Use the General Plan Land Use / Transportation Diagram designations and Plan Goals and Policies to address the form and character as well as land uses and densities for the future development of San José.

*Analysis: The applicant's proposals to modify the Martha Gardens Specific Plan would incorporate transitional building heights to better address the form and character of the proposed buildings consistent with the Form Based Plan Major Strategy. The increase of allowable building height and reduction of setbacks would allow the project to develop at a greater density than currently allowed. The modifications adjusting building heights, setbacks and redirection of the alley would be needed if the proposed project were approved.*

### **Martha Gardens Specific Plan**

This subject site is located within the boundary of the Martha Gardens Specific Plan Growth Area and subject to the Martha Gardens Specific Plan. The subject site is within the South 1st Street Corridor and the Victorian Neighborhood sub-area within the Martha Gardens Specific Plan. The proposed project is consistent the following goals and objectives of the Martha Gardens Specific Plan.

1. Provide for residential infill and intensification that reinforces a sense of neighborhood.
2. Encourage neighborhood serving commercial services.
3. Preserve enclaves of existing single-family residential development.

*Analysis: The proposed project provides infill development and high density consistent with the proposed Transit Residential land use designation, and the project proposes 4,600 square feet of ground floor commercial to encourage neighborhood serving commercial services uses. The project does not encroach onto the existing single-family residential developments and incorporates step-downs and height transitions to better integrate the development into the existing neighborhood. The proposed project would provide sidewalk dedications consistent with the General Plan to reinforce a sense of walkability and neighborhood.*

The proposed project is inconsistent the following goals and objectives of the Martha Gardens Specific Plan.

1. Reinforce the existing grid system as a network of pedestrian serving streets.
2. Provide one or more significant public open spaces to serve existing and future residents.
3. Provide for residential infill and intensification that reinforces a sense of neighborhood.

*Analysis: Although the project provides a greater density and intensification, the proposed project does not provide any public open space to serve the existing residents. Future residents would have access to common open space on the podium level and private patios. The Martha Gardens Specific Plan predates the existing General Plan and needs to be updated to better reflect current development trends and standards. Planning staff anticipates beginning exploring more comprehensive modifications to the Martha Gardens Specific Plan as part of work through the Housing Crisis Workplan in Summer 2021.*

#### 4. Zoning Ordinance Conformance

The project proposes a rezoning from the CN Commercial Neighborhood and CP Commercial Pedestrian Zoning District to the (A)PD Planned Development Zoning District.

The surrounding residential uses are primarily zoned CN Commercial Neighborhood or CP Commercial Pedestrian. The Zoning Districts are intended for pedestrian oriented commercial development and allow for mixed-use development when allowed by the General Plan land use designation. Below is a comparison of the CN and CP Commercial Zoning Districts, and the project's Planned Development Zoning District development standards. When a Planned Development Permit has been implemented, the provisions of the permit prevail over the regulations of the base district zoning of the property (SJMC sec. 20.60.040.B).

	<b>CP Commercial Pedestrian Zoning District.</b>	<b>CN Commercial Neighborhood Zoning District</b>	<b>A (PD) Planned Development Zoning District</b>
<b>South First Street</b>	No minimum, 10 feet maximum; or as established in approved Urban Village Plan	N/A	No minimum, 10 feet maximum; or as established in the Martha Gardens Specific Plan
<b>Virginia Street</b>	No minimum	12.5 feet minimum	No minimum, 10 feet maximum; or as established in the Martha Gardens Specific Plan
<b>South Second Street</b>	N/A	10 feet minimum	No minimum
<b>Southern Property Line:</b>	None	None	No minimum, 5 feet maximum to building structure, no setback for drive alley and surface parking
<b>Height</b>	50 feet maximum	50 feet maximum	The maximum structural height of any buildings shall not exceed 80 feet. Rooftop elements such as stair and elevator towers, that may need to exceed the maximum building height due to their function, no more than 10 feet beyond the maximum building height. Such rooftop elements shall be integrated into the design of the building. Within 30 feet of the property line on South Second Street, the primary roof height may not exceed 65 feet.

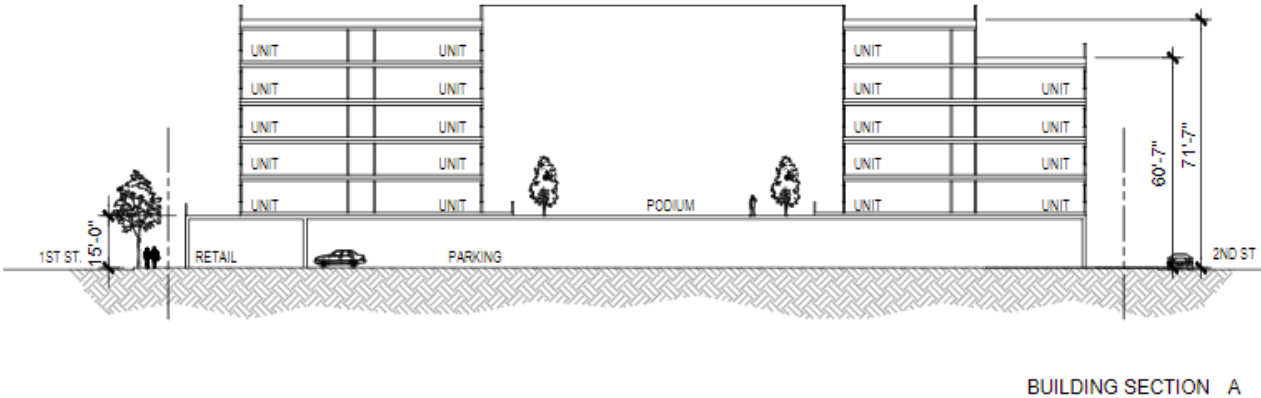
*Analysis: The allowed uses would be the permitted, special uses and conditional uses of the CN Commercial Neighborhood and CP Commercial Pedestrian Zoning District of Title 20 of the San José Municipal Code, and as may be as amended in the future.*

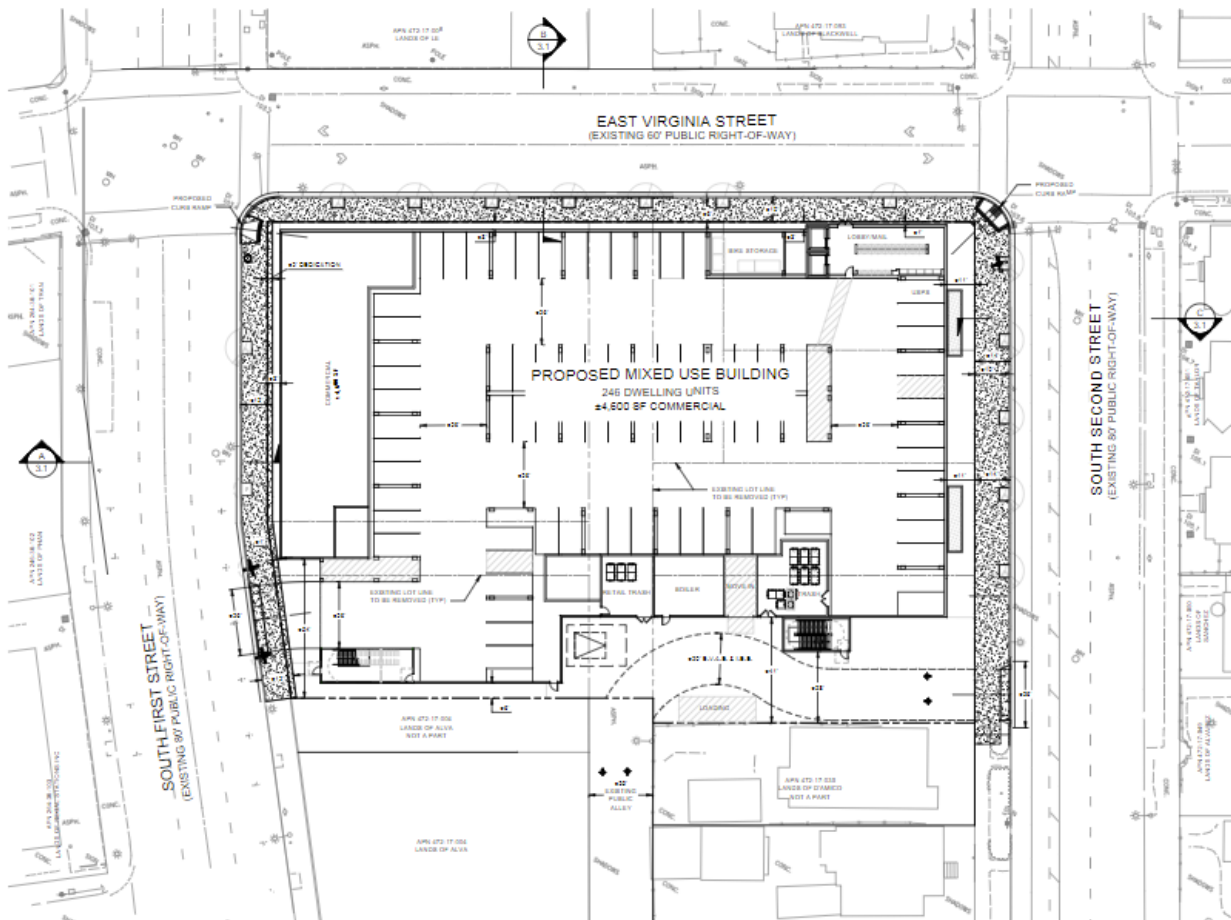
*The existing CN Commercial Neighborhood and CP Commercial Pedestrian Zoning District requires no setback along South First Street, a 10-foot minimum setback along South Second Street and a 12.5-foot minimum setback along Virginia Street. The Planned Development Zoning District proposes a zero setback from South First Street, Virginia Street, South Second, Street, and the southern property line.*

*The existing allowable height is 50 feet for the CN Commercial Neighborhood and CP Commercial Pedestrian Zoning Districts, however the Martha Gardens Specific Plan is more restrictive at 35 feet along South Second Street and 50 feet along South First Street. The proposed Rezoning would increase the allowable height to 80 feet towards the commercial uses on South First Street and away from the residential uses along South Second Street. The proposed rezoning would require a building step back within 30 feet of the property line along South Second Street. The maximum height within the step back would be 65 feet. This would improve the provide a more urban environment but would still breakup up the massing of the building, and this would provide a transition to the lower scale residential neighborhood to the east and south, along South Second Street.*

*The Planned Development Rezoning would allow the site to be developed at a density that is consistent with the proposed General Plan Land Use/Transportation Diagram designation of Transit Residential. Currently, there is no Planned Development Permit application on file with the City, and additional design review would occur through a Planned Development permit application. Figure 1 below is conceptual and is shown to illustrate the South Second Street side step back and Figure 2 below depicts the zero setback.*

**Figure 1**



**Figure 2****Parking**

Parking shall be consistent with [Section 20.90](#) of the City of San Jose Municipal Code. The parking ratio for open vehicle parking spaces for one bedroom is 1.25, two bedrooms is 1.7, and for three bedrooms the parking ratio is 2.0 parking spaces for each unit. The conceptual design does not provide the make-up of residential units, but based on 246 residential units the project would provide a minimum of 308 parking spaces. Based on the parking requirement of one bicycle and one motorcycle parking space for every four units, 62 bicycle and 62 motorcycle parking spaces would be required. No parking reduction has been requested at this time, but the project would be eligible for a reduction in the future based on a future Transportation Demand Management plan.

**Senate Bill 330**

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 limits local agencies from reducing the number of residential units that can be built on properties that allow housing from changing general or specific plan land use designations and/or zoning in a manner that would result in a reduction of housing capacity without taking action to replace that housing capacity elsewhere in the agency's jurisdiction. The local agency is required to amend its general plan land use designations or zoning



elsewhere to ensure no net loss in residential capacity within the jurisdiction whenever it down-designates or down-zones reducing residential capacity.

The proposed General Plan Amendment (GP20-004) does not reduce the intensity of residential uses because the Transit Residential land use designation allows a higher residential density than the existing Mixed Use Neighborhood and Mixed Use Commercial land use designations. GP20-004 would increase the residential capacity by 256 units and the proposed General Plan amendment is therefore not subject to SB 330. Further the proposed Planned Development Zoning (PD17-022) is consistent with the proposed General Plan land use designation and would increase the allowable height and setbacks to facilitate the proposed 246 residential unit development and is therefore in compliance with SB330.

#### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

An Initial Study (IS) and Mitigated Negative Declaration (MND) (IS/MND) was prepared by the Planning, Building and Code Enforcement Department (PBCE) for the project. The environmental review evaluated the proposed General Plan Amendment, General Plan Text Amendment, and Planned Development Rezoning and conceptually considered a type of project that could occur on the project site, along with the maximum allowable development for the site under the proposed project. The document was circulated for public comments from December 3, 2020 to January 15, 2021.

The proposed project would not result in physical changes to the site and would not result in any new or substantially increased significant impacts beyond those previously identified in the Envision San José 2040 General Plan EIR, as supplemented.

The IS/MND identifies the potential impacts from the conceptual physical development of the site. The primary issues are: air quality, biological resources, cultural resources and noise. The IS/MND includes mitigation measures that would reduce any potentially significant project impacts to a less-than-significant level. In addition to the mitigation measures, other permit conditions are included as conditions of approval to ensure all potential impacts have been addressed. The entire IS/MND and other related environmental documents are available on the PBCE- Planning web site at: [www.sanjoseca.gov/negativedeclarations](http://www.sanjoseca.gov/negativedeclarations)

#### **PUBLIC OUTREACH**

Staff followed Council Policy 6-30: Public Outreach Policy to inform the public of the proposed project. 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.



On November 2, 2020 Planning staff hosted a virtual community meeting to provide information and receive input on the proposed General Plan Amendment, General Plan Text Amendment, and Planned Development Rezoning to the subject site (File Nos. GP20-004, GPT18-009 and PDC17-022; 802 S. 1<sup>st</sup> Street).

Approximately 55 community members attended the community meeting. Residents and stakeholders expressed their opinions and concerns. Community members were concerned about the transition of heights and parking for the proposed rezoning. Staff clarified that the proposed project was for a Planned Development Rezoning and a future Planned Development permit would require the project to provide parking spaces consistent with Title 20 of the Municipal Code. Other residents asked questions related to affordable housing and expressed their opinion that the Council District already had far too many affordable housing developments. Staff responded that affordable housing and market-rate housing would be allowed. Furthermore, staff noted all residential projects are required to comply with the City's Inclusionary Housing Ordinance which requires a developer to provide an inclusionary housing in-lieu fee or a Housing Compliance Plan that determines how a project will comply with the Ordinance. See Attachment N for a record of public correspondence.

**Project Manager:** Robert Rivera

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

<b>ATTACHMENTS:</b>	
Attachment A:	Aerial
Attachment B:	Existing General Plan Land Use Designation
Attachment C:	Proposed General Plan Land Use Designation
Attachment D:	Existing Zoning District
Attachment E:	Proposed Zoning District
Attachment F:	Draft Development Standards
Attachment G:	Legal Description & Plat Map
Attachment H:	Draft Ordinance
Attachment I:	Draft General Plan Text Resolution
Attachment J:	Draft General Plan Resolution
Attachment K:	Plan Sets
Attachment L:	Housing Compliance Plan
Attachment M:	Draft Environmental Resolution and MMRP
Attachment N:	Public Correspondence

<b>Owner/Applicant:</b>	<b>Applicant's Representative:</b>
D'Amico Tire Service Company, Inc POBOX 969 San Jose, California, 95108	Erik Schoennauer Schoennauer Co LLC, 90 Hawthorne Wy SAN JOSE CA 95110

## **GP20-004, GPT18-009 & PDC17-022 List of Attachments**

[Exhibit A- 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- Draft Development Standards](#)

[Exhibit G- Legal Description and Plat Map](#)

[Exhibit H- Draft Ordinance](#)

[Exhibit I- Draft General Plan Text Resolution](#)

[Exhibit J- Draft General Plan Resolution](#)

[Exhibit K- Plant Sets](#)

[Exhibit L- Housing Compliance Plan](#)

[Exhibit M- Draft Environmental Resolution and MMRP](#)

[Exhibit N- Public Correspondence](#)