



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: March 29, 2021

COUNCIL DISTRICT: 4

SUBJECT: FILE NO. C18-030, H18-051, & T18-048: CONVENTIONAL REZONING FROM THE AGRICULTURAL ZONING DISTRICT TO THE MULTIPLE RESIDENCE ZONING DISTRICT, A SITE DEVELOPMENT PERMIT TO ALLOW THE DEMOLITION OF AN EXISTING SINGLE-FAMILY RESIDENCE AND ACCESSORY BUILDING, AND THE REMOVAL OF THREE ORDINANCE-SIZE TREES FOR THE CONSTRUCTION OF SIX MULTIFAMILY UNITS, AND A VESTING TENTATIVE SUBDIVISION MAP TO SUBDIVIDE ONE PARCEL INTO SIX RESIDENTIAL CONDOMINIUM UNITS AND ONE COMMON AREA PARCEL ON A 0.3-GROSS ACRE SITE LOCATED AT WEST SIDE OF NORTH CAPITOL AVENUE, APPROXIMATELY 300 FEET SOUTHERLY OF BERRYESSA ROAD (967 NORTH CAPITOL AVENUE).

RECOMMENDATION

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

1. Consider the exemption in accordance with California Environmental Quality Act (CEQA) Guidelines Section 15303(b) for New Construction or Conversion of Small Structures;
2. Approve an ordinance of the City of San José rezoning certain real property located at the west side of North Capitol Avenue approximately 300 feet easterly of Berryessa Road (967 North Capitol Avenue) from the A Agricultural Zoning District to the R-M Multiple Residence Zoning District on an approximately 0.3-gross acre site.
3. Adopt a resolution approving the Vesting Tentative Subdivision Map, subject to conditions, to subdivide one parcel into six residential condominium units and one common area parcel.
4. Adopt a resolution approving a Site Development Permit, subject to conditions, for the demolition of an existing single-family residence, accessory building, and the removal of three ordinance-size trees for the construction of six multifamily units on an approximately 0.3-gross acre site.

OUTCOME

Should the City Council approve the Planning Commission's recommendation as outlined above, the R-M Multiple Residence Zoning District would apply to the site and a six multifamily condominium unit project would be permitted to obtain permits for construction on the subject site.

Should the City Council deny the proposed project as outlined above, the existing Agricultural Zoning District development standards would apply, and the Site Development Permit and Vesting Tentative Map would not be approved.

BACKGROUND

On March 10, 2021, the Planning Commission held a public hearing to consider the proposed Conventional Rezoning, Vesting Tentative Map, and Site Development Permit. The item was on the consent calendar of the agenda, and no members of the public spoke on the proposed project.

The Planning Commission voted 6-0-1 (Commissioner Oliverio absent), to recommend approval of all of the actions recommended above, as recommended by staff, to the City Council as part of the consent calendar with no separate discussion.

ANALYSIS

A complete analysis of the issues regarding the proposed Conventional Rezoning, Site Development Permit, and Vesting Tentative Map, including General Plan conformance is contained in the attached Planning Commission Staff Report.

CONCLUSION

In summary, the project was heard at the March 10, 2021 Planning Commission Meeting. The motion to recommend Council approval of the project passed unanimously (6-0-1, Oliverio absent). As discussed in the attached staff report, the project is consistent with the Envision San José 2040 General Plan, the Zoning Code, applicable City Council Policies for Public Outreach, Residential Design Guidelines, and the requirements of CEQA. Should the City Council consider the exemption, approve the Conventional Rezoning, and adopt the Vesting Tentative Map and Site Development Permit, the project would be approved to allow the demolition of an existing single-family residence, accessory building, and the removal of three ordinance-size trees for the construction of six multifamily units on an approximately 0.3-gross acre site. The applicant could proceed with an application for building permits.

EVALUATION AND FOLLOW-UP

If the rezoning is approved, the R-M Multiple Residence Zoning District development standards would apply to the site and the Site Development Permit and Vesting Tentative Map would be approved.

CLIMATE SMART SAN JOSE

The recommendation in this memorandum aligns with one or more Climate Smart San José energy and water goals. The existing site currently has one single-family residence. The project would increase the density of new development in persons per acre as it would redevelop a single-family residence with six multifamily units. The project would result in a density of approximately 20 dwelling units per acre (DU/AC).

PUBLIC OUTREACH/INTEREST

Staff followed Council Policy 6-30: Public Outreach Policy. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City's website. The Rezoning and Vesting Tentative Map were also published in a local newspaper, the Post Record. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

COORDINATION

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

CEQA

Under the provisions of Section 15303(b) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), the Rezoning, Site Development Permit, and Vesting Tentative Map are found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. CEQA Guidelines Section 15303(b) New Construction or Conversion of Small Structures, Class 3, consists of construction and location of limited numbers of new, small facilities or structures; installation of small equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. Examples of the exemption include, but are not limited to a duplex or similar multi-family residential structure totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes, and similar structures designed for not more than six dwelling units.

The project site is within an urbanized area with existing conditions to sewer, water, and electricity service. The project site is not within close proximity to any rivers, waterways or located in biological sensitive habitats. The project would not result in significant impact to applicable resources such as air quality, biological resources, cultural resources, hazards and hazardous materials, and noise. Furthermore, the project would not result in significant impacts during construction or operation. Since the project would result in the construction of a multi-family development with a maximum of six dwelling units, the project qualifies for Section 15303(b) of the CEQA Guidelines.

Pursuant to Section 15300.2(f) of the CEQA Guidelines, a categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource. The existing residence is more than 50 years old (built in 1935). The City's Historic Preservation staff reviewed and determined that the residence does not qualify as eligible for listing in the California Register of Historic Resources because its historic integrity would be based on the character of the surrounding area. Since the other surrounding buildings have been demolished, the individual structure does not qualify as a cultural resource.

/s/

ROSALYNN HUGHEY, Secretary
Planning Commission

For questions please contact Planning Official, Robert Manford at
robert.manford@sanjoseca.gov.

Attachment: Planning Commission Staff Report



Memorandum

TO: PLANNING COMMISSION
SUBJECT: C18-030, H18-051, T18-048

FROM: Rosalynn Hughey
DATE: 03/10/2021

COUNCIL DISTRICT: 4

Type of Application and Permit	Rezoning, Site Development Permit, and Tentative Map
Demolition	Single-family residence, garage, and three ordinance-size trees
Proposed Land Uses	Multifamily residence
New Residential Units	6
New Square Footage	10,196 square feet
Additional Policy Review Items	None
Tree Removals	Three ordinance-size trees
Project Planner	Michelle Flores
CEQA Clearance	Exempt per CEQA Guidelines Section 15303(b) for New Construction
CEQA Planner	Bethelhem Telahun

RECOMMENDATION

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

1. Approve an exemption in accordance with California Environmental Quality Act Guidelines Section 15303(b) for New Construction or Conversion of Small Structures;
2. Approve an ordinance of the City of San José rezoning certain real property located at the west side of North Capitol Avenue approximately 300 feet easterly of Berryessa Road (967 North Capitol Avenue) from the A Agricultural Zoning District to the R-M Multiple Residence Zoning District on an approximately 0.3-gross acre site.
3. Adopt a resolution approving the Vesting Tentative Subdivision Map, subject to conditions, to subdivide one parcel into six residential condominium units and one common area parcel.
4. Adopt a resolution approving a Site Development Permit, subject to conditions, for the demolition of an existing single-family residence, accessory building, and the removal of

three ordinance-size trees for the construction of six multifamily units on an approximately 0.3-gross acre site.

PROPERTY INFORMATION

Location	West side of North Capitol Avenue, approximately 300 feet south of Berryessa Road (967 North Capitol Avenue)
Assessor Parcel No.	254-29-019
General Plan	Mixed Use Neighborhood
Growth Area	None
Existing Zoning	A Agricultural
Proposed Zoning	R-M Multiple Residence
Historic Resource	No
Annexation Date	October 27, 1980 (McKee No. 101)
Council District	4
Acreage	0.3 gross acres
Proposed Density	20 dwelling units/acre

PROJECT BACKGROUND

As shown on the attached [vicinity map](#), the project site is located on the west side of North Capitol Avenue, approximately 300 feet easterly of Berryessa Road. The site is currently developed with a single-family residence. The site has a driveway off North Capitol Avenue. The subject site is surrounded by multifamily residences to the south and east, commercial uses to the north and west (see Figure 1 below).

Figure 1: Surrounding Uses			
	General Plan	Zoning District	Existing Use
North	Neighborhood/Community Commercial	Commercial Pedestrian	Gas Station
South	Mixed Use Neighborhood	A(PD) Planned Development Zoning (File No. PDC85-023)	Residential (Multifamily)
East	Mixed Use Neighborhood	R-M(PD) Planned Development Zoning (File No. PDC76-053)	Residential (Multifamily)
West	Mixed Use Neighborhood	Agricultural	Commercial (shopping strip)

On September 17, 2018, the applicant, Martin Quintana, submitted a Rezoning application (File No. C18-030) to rezone the subject property from the Agricultural Zoning District to the R-M Multiple Residence Zoning District. On October 30, 2018, the applicant submitted a Site Development Permit application (File No. H18-051) to allow the demolition of an existing single-family residence, accessory building, and the removal of three ordinance-size trees and

eight non-ordinance size trees for the construction of six multifamily units and an application for a Vesting Tentative Subdivision Map (File No. T18-048) to subdivide the parcel into up to six residential condominium units and one common area parcel on an approximately 0.3-gross acre site. All six units would be three-story. The project would be developed at a density of approximately 20 dwelling units per acre.

The project includes two buildings, each with three units. The six new units would be three-story, three-bedroom residences, and each unit would have an attached two-car garage. Two additional parking spaces would also be provided. The project also includes a six-foot high wooden fence around the perimeter of the site and between the residential buildings to create private yards for each unit. Seven 24-inch box trees and six 15-gallon trees would be planted on the site.

ANALYSIS

The proposed Site Development Permit and Vesting Tentative Map were analyzed with respect to conformance with the following:

1. Envision San José 2040 General Plan
2. Zoning Ordinance Conformance
3. Residential Design Guidelines
4. Subdivision Ordinance Conformance
5. California Environmental Quality Act (CEQA)

Envision San José 2040 General Plan Conformance

Land Use Designation

As shown in the attached **General Plan map**, the proposed project site has an Envision San Jose 2040 General Plan land use designation of **Mixed Use Neighborhood**. 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. This designation should be used to establish new neighborhoods with a cohesive urban form, to provide transition between higher-density and lower-density neighborhoods, or to facilitate new infill development within an existing area that does not have an established cohesive urban character. 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 multi-family development.

General Plan Policies

The project conforms to the following key General Plan policies:

Implementation Policy IP-1.1: Use the Envision General Plan Land Use / Transportation Diagram designations to indicate the general intended land use, providing flexibility to allow for a mix of land uses, intensities and development forms compatible with a wide variety of neighborhood contexts and to designate the intended roadway network to be developed over the timeframe of the Envision General Plan. Use the Zoning designation to indicate the appropriate type, form and height of development for particular properties.

Implementation Policy IP-1.3: Ensure that proposals for redevelopment or significant intensification of existing land uses on a property conform to the Land Use / Transportation Diagram.

Analysis: The project consists of a multifamily residence development. The project would be subject to the development standards of the Multiple Residence Zoning District if the rezoning is approved. As described in further detail in the section below, the project conforms to the development standards of the proposed zoning district. The project meets the use and density requirements of the Mixed Use Neighborhood land use designation. The project would have a density of approximately 20 dwelling units per acre in a neighborhood of multifamily residences with a mix of densities. The project complies with development standards of the R-M Multiple Residence Zoning District and the parking requirements for multifamily residences.

Implementation Policy IP-1.6: Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram, and advance Envision General Plan vision, goals and policies.

Analysis: The existing Agricultural Zoning District limits the project site to one dwelling unit. The rezoning would allow the project site to redevelop with a density consistent with the General Plan land use designation. The Mixed Use Neighborhood land use designation allows the project site to go up to 30 dwelling units per acre. The rezoning would allow the project to develop a six-unit multifamily residence with a density of 20 dwelling units per acre. The project would add to the City's housing stock while remaining consistent with the surrounding residential density and site configuration.

Zoning Ordinance Conformance

The subject site's proposed rezoning to a R-M Multiple Residence Zoning District conforms with the General Plan goals, policies, standards, and guidelines.

Use

Multifamily residences are a permitted use in the R-M Multiple Residence Zoning District.

Setbacks

The table below shows the setbacks for the Multiple Residence Zoning District. The project conforms to the following setback requirements.

Setback	Minimum Setback Required	Provided
Front	10 feet	10 feet
Side (northerly side)	5 feet	10 – 12.25 feet
Side (southerly side)	5 feet	11 feet
Rear	25 feet	25 feet

As shown in the table above, the two residential buildings are consistent with the setback requirements. Two open car spaces would be located in the rear setback. An accessory structure (trash enclosure) would be located in the rear setback area. Accessory structures have no side and rear setback requirement in residential zoning districts.

Pursuant to Section 20.30.410, unenclosed porches and stairways may extend into a front setback area not more than five feet if they do not extend more than three feet above surface grade. A six-inch-high porch on the two units along the front property line extends approximately seven inches into the front setback area. Therefore, the porch meets the front setback exception.

Pursuant to Section 20.30.400, sills, eaves, belt courses, cornices, canopies, and other similar architectural features may project horizontally for a distance of not more than two feet into the air space above the surface of the ground in any setback area. The roof eaves on the two units along the front property line extend up to two feet into the front setback area. Unit A would project 19 inches into the setback area and Unit AR would project 22 inches into the front setback area. Therefore, the eaves meet the setback exception.

Height

The allowable height pursuant to the R-M Multiple Residence Zoning District is 45 feet. The height of the proposed building measures approximately 37 feet. Therefore, the project conforms with the height requirement.

Parking

Table 20-210 in the Municipal Code states the parking requirements are as follows:

Living Unit Size	Parking Requirement
0 Bedroom (Studio)	2.2 spaces
1 Bedroom	2.3 spaces
2 Bedroom	2.5 spaces
3 Bedroom	2.6 spaces
4 Bedroom	2.75 spaces

The project includes six three-bedroom units which requires 16 parking spaces. Pursuant to [Section 20.90.220](#), a parking reduction of up to 20% may be granted for projects within 2,000 feet of a light rail station. The project is located on North Capitol Avenue along the light rail line.

The project is located approximately 850 feet from the Berryessa light rail station. Therefore, 13 vehicle spaces would be required. The project includes a two-car garage for each residential unit and two open parking spaces for a total of 14 vehicle parking spaces.

Therefore, the project is in conformance with the development standards and parking requirements of the Zoning Ordinance.

Residential Design Guidelines

The project is a residential use and is therefore, evaluated under the [City of San José Residential Design Guidelines](#).

Per the design guidelines, the residences would utilize materials and colors consistent with the surrounding neighborhood. The new residences would use stucco and be painted to an earth-tone color that is consistent with the surrounding neighborhood and the new units. The project would provide covered parking spaces under the residential buildings enclosed by garage doors. The garages are designed as an integral part of the architecture and maintain the material, colors, and details used throughout the living portion of the residences.

The design guidelines state that enclosed garages that front on parking drives or parking courts should have tree pockets of not less than nine square feet. The project would provide tree pockets along the garage entries that are between 16 – 26 square feet. The project includes Jasmine shrubs in the tree pockets.

The design guidelines state projects should provide a minimum of 400 square feet of private open space for each unit. The six units would each provide between 522 – 577 square feet of private open space.

Subdivision Ordinance Consistency

Subdivision Map Act Findings. In accordance with Section 66474 of the Government Code of the State of California, 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 it makes any of the following findings:

- a. That the proposed map is not consistent with applicable General and Specific Plans as specified in Section 65451.
- b. That the design or improvement of the proposed subdivision is not consistent with applicable General and Specific Plans.
- c. That the site is not physically suitable for the type of development.
- d. That the site is not physically suitable for the proposed density of development.
- e. 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.
- f. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
- g. 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, the Director of Planning of the City of San José does not make any such findings to deny the subject subdivision. The subdivision of one parcel into six residential condominium units and an associated common area parcel is consistent with the General Plan goals, policies, and land use designation. The subject site is physically suitable to accommodate six attached residential units. Furthermore, as discussed below the project site does not contain any historic resources or sensitive habitats or wildlife. The proposed subdivision and subsequent improvements are not likely to cause serious public health problems. The project will be required to improve the sidewalk along North Capitol Avenue and the project will be required to demonstrate that the common area will be retained as common area and maintained.

Subdivision Ordinance Findings. In accordance with San José Municipal Code (SJMC) Section 19.12.130, the Director may approve the Vesting Tentative Subdivision Map if the Director cannot make any of the findings for denial in Government Code section 66474 and the Director has reviewed and considered the information relating to compliance of the project with the California Environmental Quality Act and determines the environmental review to be adequate. Additionally, the Director may approve the project if the Director does not make any of the findings for denial in San Jose Municipal Code Section 19.12.220.

Section 19.12.130 incorporates the findings for denial in Section 66474 of the Government Code specified in Findings Section 1 herein.

Analysis: Based on review of the proposed subdivision as explained above, the Director of Planning of the City of San José does not make any such findings to deny the subject subdivision.

Site Development Permit Findings

Chapter 20.100 of the San José Municipal Code establishes evaluation criteria for the issuance of a Site Development Permit. These criteria are applied to the project based on the above-stated findings related to General Plan, Zoning and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in the proposed permit. In order to make the Site Development Permit findings and recommend approval to the City Council, Planning Commission 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. As described above, the project is consistent with the General Plan; and

Analysis: As discussed in the General Plan conformance section above, the project is consistent with the General Plan land use designation of Mixed Use Neighborhood, as the multifamily residence meets the allowable density and provides new infill development in a neighborhood with commercial and multifamily residence properties.

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; and

Analysis: As discussed in the Zoning Ordinance Consistency section above, if the rezoning

ordinance is approved, the project conforms in all respects to the development standards of the Multiple Residence Zoning District. The attached multi-family residences are consistent with the setback, height, and parking requirements.

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

Analysis: The project is consistent with the [City Council Policy 6-30](#) for Public Outreach. The project installed an on-site sign at the project site. Additionally, the public hearing notices were mailed to property owners and tenants within 500-foot radius of the project site.

4. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious; and

Analysis: The project consists of demolishing all buildings on site for the construction of six residential units. All six units would be three stories. The two buildings (each containing three attached units) are located along the north and south property lines and are of compatible scale with one another. The two buildings would be of similar mass and scale. As discussed above, the elevations of the buildings would be aesthetically harmonious as they contain the same materials, colors, and architectural features. The driveway is located between the two buildings. Parking would be located within the residential units, with each unit having a two-car garage. There are also two additional parking spaces located in the rear setback area. The buildings, parking, and landscaping are compatible with each other and function as one project. The project includes a new six-foot high wood fence along the perimeter of the project site.

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; and

Analysis: As discussed above, the project is compatible and aesthetically harmonious with the surrounding mixed use neighborhood in that there is a mix of commercial, single-family residence, and multifamily residences. The project provides two new three-story multifamily residential buildings that incorporate stucco and earth tone colors readily blends in with what is generally found in the existing surrounding neighborhood.

6. 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; and

Analysis: As discussed above, the project provides a mix of landscaping and irrigation throughout the site. The project would plant 13 trees, shrubs, and groundcover. The trash enclosure is located in the rear setback area away from the public right-of-way and is behind the northly building. The trash enclosure would be surrounded with new trees. The project includes a six-foot high wooden fence along the perimeter of the project site and between the residential units to create private yards for each unit.

7. Traffic access, pedestrian access and parking are adequate; and

Analysis: The project site is accessible from North Capitol Avenue. A driveway would be located between the two new residential buildings. The project provides 14 parking spaces, which meets the parking requirements.

8. 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 would be located on a site designated for residential use and includes of the replacement of a single-family house and accessory structure with six residential units. The development is located in an urbanized area that is adequately served by all required utilities and public services, and the Stormwater Control Plan is in compliance with the City's stormwater policies that require low impact development stormwater treatment measures to minimize stormwater pollutant discharges. The project will implement standard permit conditions in accordance with City standards and regulations for construction and operation. Standard construction conditions and stormwater control measures would apply to this project in order to minimize construction activities that may affect the surrounding area relating to noise, air quality, and water quality. Therefore, the project will not have unacceptable negative effects on adjacent properties.

Evaluation Criteria for Demolition

Chapter 20.80 of the San Jose Municipal Code established 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 compliance and for the reasons stated below, and subject to the conditions set forth in the Resolution.

1. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
2. The failure to approve the permit would jeopardize public health, safety or welfare;
3. The approval of the permit should facilitate a project 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 José;
5. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
6. Rehabilitation or reuse of the existing building would not be feasible; and
7. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

Analysis: The project includes demolition of the existing single-family residence and accessory structure to allow the construction of six new residential units. The approval of the demolition permit would not result in the creation or continued existence of a nuisance, blight or dangerous condition. The failure to approve the permit would not jeopardize public health, safety or

welfare. The project would create a multifamily residence which would be compatible with the surrounding neighborhood. The project would increase the housing stock. The existing residence was built in the Spanish Colonial Revival architectural style in 1935 as part of the Shaw Orchard Tract. The residence is not listed in the City's Historic Resource Inventory,

Since the existing residence is more than 50 years old, the City's Historic Preservation team reviewed and determined that the residence does not qualify as eligible for listing in the California Register of Historic Resources because its historic integrity would be based on the character of the surrounding area. Since the other surrounding buildings have been demolished, the individual structure does not qualify as a cultural resource.

The project site is surrounded by multi-family residences. The rehabilitation or reuse of the existing residence would prevent the addition of the five units. The project would provide replacement buildings and would not have an adverse impact on the surrounding neighborhood.

Tree Removal Findings

Chapter 13.32 of the San Jose Municipal Code established at least one of the 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 the General Plan, Zoning Ordinance, CEQA conformance, and the reasons stated below, and subject to the conditions set forth in the resolution.

1. The tree affected is of a size, type and condition that in such a location in such surrounding, that its removal would not significantly frustrate the purposes of this chapter as set for in Section 13.32.010
2. That the condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal.
3. That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question.

Analysis: The project would remove eight non-ordinance size trees and three ordinance-size trees. The non-ordinance size trees include three orchard trees (Loquat, Meyer Lemon, and Lemon) and five non-native trees (two Italian Cypress, one Irish Yew, one Euonymus, and one Bottle Brush). The three ordinance-size trees consist of two native trees (Incense Cedar and Coast Live Oak) and one orchard tree (Plum). An arborist report was prepared on March 20, 2020 by Nigel Belton, Consulting Arborist. The removal of the trees would allow the two new buildings and a new driveway to access the new units. Six of the trees are located within the project footprint or within five feet of the project structures. The Incense Cedar is located within five feet of the existing residence and would be within the footprint of the new building. The incense cedar has poor foliage and is in declining health. The Coast Live Oak tree would also be within the footprint of the new building and would restrict the addition of residential units. The Oak tree has a fair structural condition having developed four scaffold limb structures, one of which has trapped bark. Thirteen 15-gallon trees would be required for the removal of the three ordinance-size trees. The replacement trees required for the

non-ordinance size trees are seven 15-gallon trees.

Between the non-ordinance size trees and ordinance-size trees removed, a total of twenty (20) 15-gallon replacement trees, or equivalent, would be required. Two 15-gallon trees may be replaced by one 24-inch box tree. The project applicant would plant seven 24-inch box trees and six 15-gallon trees. The replacement trees would be five Flowering Ash trees, two Flowering Plum trees, and six Olive Trees.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Under the provisions of Section 15303(b) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), the Rezoning, Site Development Permit, and Vesting Tentative Map are found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. CEQA Guidelines Section 15303(b) New Construction or Conversion of Small Structures, Class 3, consists of construction and location of limited numbers of new, small facilities or structures; installation of small equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. Examples of the exemption include but are not limited to a duplex or similar multi-family residential structure totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes, and similar structures designed for not more than six dwelling units.

The project site is within an urbanized area with existing conditions to sewer, water, and electricity service. The project site is not within close proximity to any rivers or waterways or is located in biological sensitive habitats. The project would not result in significant impact to applicable resources such as air quality, biological resources, cultural resources, hazards and hazardous materials, and noise. Furthermore, for the reasons mentioned above, the project would not result in significant impacts during construction or operation. As the project would result in the construction of a multi-family development with a maximum 6 dwelling units, the project qualifies for Section 15303(b) of the CEQA Guidelines.

Pursuant to Section 15300.2(f) of the CEQA Guidelines, a categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource. The existing residence is more than 50 years old (built in 1935). The City's Historic Preservation team reviewed and determined that the residence does not qualify as eligible for listing in the California Register of Historic Resources because its historic integrity would be based on the character of the surrounding area. Since the other surrounding buildings have been demolished, the individual structure does not qualify as a cultural resource.

PUBLIC OUTREACH

Staff followed [Council Policy 6-30: Public Outreach Policy](#) in order 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 500 feet of the project site and posted on the City website. The staff report is also posted on the City's website. Staff has not received any public comments on the proposed project.

Project Manager: Michelle Flores

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

ATTACHMENTS:
Exhibit A: Vicinity Map
Exhibit B: General Plan Map
Exhibit C: Zoning Map
Exhibit D: Rezoning Ordinance
Exhibit E: Site Development Permit Resolution
Exhibit F: Vesting Tentative Map Resolution
Exhibit G: Exemption with Appendices
Exhibit H: Legal Description and Plat Map for Rezoning
Exhibit I: Site Development Permit Plan Set
Exhibit J: Vesting Tentative Condominium Map Plan Set
Exhibit K: Legal Description

Owner:	Applicant:	Applicant's Representative:
Martin Quintana 4057 Golf Drive San Jose, CA 95127	Martin Quintana 4057 Golf Drive San Jose, CA 95127	Martin Quintana 4057 Golf Drive San Jose, CA 95127

C18-030, T18-048 & H180-051 List of Attachments

Exhibit A: [Vicinity Map](#)

Exhibit B: [General Plan Map](#)

Exhibit C: [Zoning Map](#)

Exhibit D: [Rezoning Ordinance](#)

Exhibit E: [Site Development Permit Resolution](#)

Exhibit F: [Vesting Tentative Map Resolution](#)

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