

## **HISTORIC PRESERVATION PERMIT**

<b>FILE NO.</b>	<b>HP19-008</b>
<b>LOCATION OF PROPERTY</b>	<b>North First Street to the west and North Third Street to the east, and between East St. James Street to the north and East St. John Street to the south in Downtown</b>
<b>ZONING DISTRICT</b>	<b>DC Downtown Commercial</b>
<b>GENERAL PLAN DESIGNATION</b>	<b>Open Space, Parklands and Habitat</b>
<b>PROPOSED DESCRIPTION</b>	<b>A Historic Preservation Permit for the St. James Park Capital Vision and Levitt Pavilion Project, to allow for a comprehensive renovation of St. James Park. The project includes construction of a new performing art pavilion, a central plaza small commercial building, playground, streetscapes improvements, fountain, walk-ways, and other landscape and park amenities. The project would also include vacation of the segment of North 2nd Street that bisects the site (from East St. James Street to East St. John Street), which would prohibit vehicle and bus through-traffic located east on North 1st Street between E St James and E St John Street, bordered by E. St. James St. to the north, E. St. John St., to the south, N. 1st St. to the west, and N. 3rd St. to the east. The physical improvements are to allow for programmatic changes and facilitate a wide range of recreational and commercial uses such as new music and performing arts events at the performing arts pavilion, new commercial uses, street performers, festivals, and temporary events such as potential farmers' market.</b>
<b>ENVIRONMENTAL STATUS</b>	<b>Environmental Impact Report for the St. James Park Capital Vision and Levitt Pavilion</b>
<b>HISTORIC SITE DESIGNATION</b>	<b>City Landmark District</b>
<b>OWNER/ADDRESS</b>	<b>City of San José 200 East Santa Clara Street San Jose, CA 95112</b>

## FACTS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts regarding this proposed project:

1. This Historic Preservation Permit is for the St. James Park Capital Vision and Levitt Pavilion Project to allow a comprehensive renovation of St. James Park including an approximately 4,000-square foot stage for the Performing Arts Pavilion with approximately 1,800-square foot single-story support building; approximately 1,250-square foot café and restroom building; open air picnic pavilion and Naglee Picnic Grove; approximately 1,750-square foot park office building; two dog parks totaling up to approximately 7,000 square feet; McKinley Meadow; Plaza Playground; new fountain; security lighting along the perimeter of the park and pedestrian pathway; perimeter garden fencing; transportation network modifications; pedestrian improvements and Monument Walk; and utility improvements. The project also includes the removal of 96 trees, transplanting of 5 trees and the replacement of 199 24-inch box native and non-native trees.
2. St. James Park is approximately 7.6-gross acres in size and consists of two parcels. The site is bordered by East St. James Street to the north, East St. John Street to the south, North 1st Street to the west, and North 3rd Street to the east, in Downtown San Jose.
3. St. James Park is listed on the National Register of Historic Places as a contributing property (#79000546) to the St. James Square Historic District and is listed on the City's Historic Resources Inventory as a contributing site/structure to the St. James Square City Landmark Historic District (HD84-036, Resolution No. 57147).
4. St. James Park has lost much of its historic integrity and quality that was once associated with the park during most of the years of its period of historic significance from 1867 to 1968. Removal without replacement of significant trees, the elimination of the tree canopy that characterized the park for a century, insertion of North 2nd Street, the light rail and Saint James Station within the park, disruption of the perimeter walkway, haphazard mixture of textures such as paving, removal of the formal center and radial walkways as well as the fountain, loss of most of the perimeter granite curbs, and recent additions such as permanent exercise equipment, children's playground, picnic area, dog park, and a storage structure have all led to a park setting that only partially recalls the role that the park once had as a center of community life in San José.
5. A public project status update for the Saint James Park Capital Vision and Levitt Pavilion Project was provided to the Design Review Committee (three members of the Historic Landmarks Commission) on October 16, 2019.
6. The Historic Preservation Permit was referred to the Historic Landmarks Commission (HLC) for comment on June 3, 2020.
7. The HLC public hearing for the Historic Preservation Permit was held on October 7, 2020. The Historic Landmarks Commission were supportive of the project and collectively agreed to require project to be brought back at 65 percent completion with project design, details and an overall construction timeframe, and unanimously recommended approval to the Director of Planning, Building and Code Enforcement. Their recommendations are made Conditions of Approval No. 12 and 13 of this permit.
8. The City Council certified the EIR for the St. James Park Capital Vision and Levitt Pavilion on 10/27/20 and approved the project unanimously.

## FINDINGS

The Director of Planning, Building, and Code Enforcement concludes and finds, based on the analysis of the above facts, that:

1. The project is consistent with the Envision San José 2040 General Plan Land Use/Transportation Diagram designation of Open Space, Parkland and Habitat in the Downtown growth area because it retains the parklands use and conforms with the envisaged uses.
2. The project is consistent with the General Plan Historic Preservation Land Use policies LU-13.1; LU-13.4; LU-13.7 and LU-13.15 in that St. James Park will continue to represent important patterns of early San José based on its use, location, and interpretive elements and the project preserves the essential form and integrity of the park's history.
3. Subject to conditions, the work will not be detrimental to the significant architectural, cultural, historical and aesthetic interest or value of St. James Park and is consistent with the purposes of Chapter 13.48 of the San Jose Municipal Code because it:
  - a. Preserves the park's location within the St. James Square City Landmark Historic District and the downtown.
  - b. Preserves and continues the historic use as a community park, while some of the individual uses within the park will be new or altered. Restored, altered, or reinterpreted historic uses include the tall shade canopy, border walkways, botanical plantings, and a fountain focal point. Existing non-original uses that will be relocated and altered or altered within their existing settings are the playground, the monuments, and the transit station. New elements include the concert stage and pavilion, two dog parks, and the support buildings. The new uses require some alteration to original fabric. They are generally supportive of the continued and improved use of the square as a public open space in downtown San José. Because the use of the park will continue to preserve the open space and public use of the center focal point of the historic district, the project is compatible with rehabilitation standards for use.
  - c. Preserves most of the significant character-defining features of St. James Park. The historic focal point of the St. James Square City Landmark Historic District is the landscaped character and spatial understanding of the park. The project maintains the park as the focus of the historic district through the diagonal pathways and rich plantings and provides continuity for repetitive plant materials.
  - d. Relates to the historic design intent as a reinterpretation of St. James Park, with a botanically organized understory, many new trees which may restore the tree canopy that has been mostly lost, and diagonal walkways. The proposed design provides large-scale pathways and organizing motifs that are compatible with the bulk and scale of the historic district proportions.
  - e. Differentiates the design from the original design and represents modern materials and designs. There are no proposed new landscaping elements that might be mistaken for original features. The pathway paving, the pavilion, dog parks, playground, fountain, and other park elements, such as site furniture, are all proposed to be differentiated.
  - f. Preserves the essential form and integrity of the property history and the design is reversible.

4. The project will have a significant and unavoidable impact on the **National** significance of St. James Park under the California Environmental Quality Act. The project does not fully comply with the *1989 St. James Square Historic District Guidelines* and the *Secretary of Interior's Standards (SOI) for the Treatment of Historic Properties Rehabilitation Standards*. The City of San José prepared a Draft Environmental Impact Report (DEIR) for the project. While the DEIR concluded that impacts to Cultural Resources are significant and unavoidable, the design of St. James Park has continued to evolve as a center of civic life, and the programming of public events (and their related structures such as the proposed performing arts pavilion) are viewed as evolutionary changes within the cultural landscape of the locally significant historic resource that are consistent with its historic sense of place and with the purposes of the Historic Preservation Ordinance.
5. St. James Park will continue to qualify as a contributing property to the locally designated St. James Square City Landmark District and is also be eligible for designation as a Candidate City Landmark.

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Conformance with Plans.** Construction and development shall conform to the approved Historic Preservation Permit preliminary plans, entitled "St. James Park, Schematic Design, San Jose, CA 95112", dated May 27, 2020, on file with the Department of Planning Building, and Code Enforcement.
2. **Deadline for Commencing Construction.** This Historic Preservation Permit shall automatically expire four years from and after the date of issuance hereof by said Director if within such period construction in accordance with the provisions of this Historic Preservation Permit, has not commenced. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration date of this Permit.
3. **Heritage Tree Assessment.** Prior to the start of construction, a qualified arborist shall undertake a detailed assessment of the row of heritage palm trees (along North 1st Street) and other heritage trees to establish the baseline condition of the trees. The documentation shall take the form of detailed written descriptions and visual illustrations and/or photos, including physical characteristics. The documentation shall be submitted for review and approval by the City of San José's Historic Preservation Officer and the Director of Planning or Director's designee.
4. Conformance Required with **Approved Mitigation, Monitoring and Reporting Program** for the Final Environmental Impact Report (FEIR) for the St. James Park Capital Vision and Levitt Pavilion.
5. **Historic Resource Baseline Conditions.** Prior to the start of construction, the project proponent shall retain a qualified historic architect who meets the Secretary of Interior's Professional Qualifications Standards. The qualified historic architect shall formalize the existing conditions through a visual study of the historic resources on-site, which would include preparation of preconstruction documentation of the historic resources that could be at risk from construction of the project, including the McKinley Statue and Monument, Kennedy Podium, and Naglee Monument. The purpose of the study is to establish the baseline condition of the resources prior to construction. The documentation shall take the form of detailed written descriptions and visual illustrations and/or photos, including physical characteristics of each

resource that convey its historic significance and justify its eligibility as a contributing feature of the site. The documentation shall be reviewed and approved by the City of San José's Historic Preservation Officer prior to issuance of grading permits.

6. **Historic Resources Protection Plan.** The historic architect shall prepare and implement a Historic Resources Protection Plan to protect the historic resources determined to be at risk from direct or indirect impacts during construction activities (i.e. due to damage from operation of construction equipment, staging, and material storage). The City shall ensure the contractor follows the Historic Resources Protection Plan, to be prepared by a consultant, while working near these historic resources. At a minimum, the Historic Resources Protection Plan shall include:
  - a. Guidelines for operation of construction equipment adjacent to historical resources;
  - b. Requirements for monitoring and documenting compliance with the plan; and
  - c. Education/training of construction workers about the significance of the historical resources around which they would be working.

The Historic Resources Protection Plan must be reviewed and approved by the City's Historic Preservation Officer prior to issuance of any permits.

Utilizing the Historic Resource Baseline Conditions, the historic architect shall make periodic site visits to monitor the condition of the historic resources identified in the Historical Resources Protection Plan. The timing of the visits shall be specified in the Historic Resources Protection Plan.

7. **Repairs.** In the event of damage to contributing features during construction, repair work would be completed in full compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties and would restore the character-defining features of the park.
8. **Cultural Resources.** Prior to any ground disturbance, the project shall implement the following measures:
  - a. A qualified archaeologist shall be on-site to monitor the initial excavation. After monitoring the initial excavation, the archaeologist shall make recommendations for further monitoring if it is determined that the site has cultural resources. If the archaeologist determines that no resources are likely to be found on site, no additional monitoring shall be required. If no resources are discovered, the consulting archaeologist shall submit a report to the City's Environmental Principal Planner verifying that the required monitoring occurred and that no further mitigation is necessary.
  - b. If evidence of any archaeological, cultural, and/or historical deposits is found, hand excavation and/or mechanical excavation will proceed to evaluate the deposits for determination of significance as defined by CEQA guidelines. In the event that human remains are found, the project shall comply with the procedures set forth by Health and Safety Code § 7050.5 and Public Resources Code § 5097.94 of the State of California.
  - c. The archaeologist shall submit a report(s) describing the testing program and subsequent results, to the satisfaction of the City's Principal Environmental Planner. The report(s) shall identify any program mitigation that the City shall complete in order to mitigate archaeological impacts (including resource recovery and/or avoidance testing and analysis, removal, reburial, and curation of archaeological resources).
  - d. A final report verifying completion of the mitigation program shall be submitted to the City's Supervising Environmental Planner for review and approval prior to release of the

project acceptance. This report shall contain a description of the mitigation programs and results of the mitigation, including a description of the monitoring and testing program, a list of the resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources.

9. **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
  - a. The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
  - b. The MLD identified fails to make a recommendation; or
  - c. The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.
10. **Noise.** Amplified music events at the performing arts pavilion shall end by 10:00 p.m.
11. **Interpretive Signage.** The City shall install and maintain interpretive signs/markers to inform the public of the history of the St. James Park site, as applicable.
12. **Additional Historic Landmark Commission Review.** At the completion of design development (such as 65% design and details), the project shall be brought back to HLC for review and comments.
13. **Construction Timeframe.** The project shall be constructed in one, consecutive, phase. Any phasing to construction shall be subject to a Historic Preservation Permit/Amendment.
14. **Tree Removals.** No tree larger than 38 inches in circumference, at a height of 54 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning. Existing inventory of trees include a total of 248 trees, of which 147 trees will remain, five trees will be transplanted, 96 trees will be removed, and 199 trees will be added as new replacement trees. The new 24-inch box trees will be a combination of native and non-native trees.
15. **Conformance with Municipal Code.** No part of this approval shall be construed to permit violation of any part of the San José Municipal Code.
16. **Construction Hours.** Construction and grading activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday.

17. **Recycling.** Scrap construction and demolition material shall be recycled and potential historic resources to be demolished shall be salvaged at a nearby salvaging facility (no salvaging of potential are demolished??). Integrated Waste Management staff can aid on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
18. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the project must comply with the California Fire Code.
19. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.
20. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
21. **Property Maintenance.** The property shall be maintained in good visual and functional condition. This shall include, but not be limited to all exterior elements of the park buildings such as paint, roof, paving, signs, lighting and landscaping.
22. **Nuisance.** As required by Title 20 of the San Jose Municipal Code, construction on this property shall be conducted in a manner that does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
23. **Lighting.** All new on-site, exterior, unroofed lighting use fully cut-off and fully shielded, LED fixtures. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.
24. **Public Works.** Prior to the issuance of building permits, the applicant will be required to have satisfied all of the following Public Works conditions. Standard review timelines and submittal instructions for Public Works permits may be found at the following:  
<http://www.sanjoseca.gov/index.aspx?nid=2246>.
25. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
  - a. *Construction Plans.* This permit file number, *HP19-008*, shall be printed on all construction plans submitted to the Building Division, as applicable.

**APPROVED** and issued this **28<sup>th</sup> day of October 2020.**

Rosalynn Hughey, Director  
Planning, Building and Code Enforcement

Deputy