

HISTORIC LANDMARKS COMMISSION

October 5, 2022

Action Minutes

*** COVID-19 NOTICE ***

Consistent with AB 361 and City of San Jose Resolution Number 80628, 80659, and 80685, this meeting will not be physically open to the public and the Historic Landmarks Commission Members will be teleconferencing from remote locations.

WELCOME

Meeting called to order at 6:31 p.m.

ROLL CALL

Present: Commissioners Boehm, Raynsford, Arnold, Janke and Royer

Absent: Commissioners Ayala and Camuso

INTRODUCTION OF NEW COMMISSIONERS

Chairman Boehm welcomed new Historic Landmarks Commission (HLC) member Edward Janke to the commission and stated that the city is fortunate to have Commissioners who have such fine credentials and backgrounds. He thanked all Commissioners, both those who continue to serve and Commissioner Janke who is attending for the first time . Chairman Boehm stated that Commissioners spend as much time preparing for the meetings as they do in the meeting and expressed an interest in ensuring an open communication style. He welcomed all questions--no question is a bad question. Chairman Boehm invited Commissioner Janke to introduce himself. Commissioner Janke summarized his background and experience and Chairman Boehm expressed appreciation for his service.

Access the video, agenda, and related reports for this meeting by visiting the City's website at:
<https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/commissions-and-hearings/historic-landmarks-commission>

1. DEFERRALS

No Items

2. CONSENT CALENDAR

- a. [HPA15-003-01](#): Historic Preservation Permit Amendment to Historic Preservation Permit HP15-003 to extend the expiration date of the permit by two years.

PROJECT MANAGER, ANGELA WANG

Staff Recommendation: Staff recommends the Historic Landmarks Commission recommend that the Director of Planning approve the application for the Historic Preservation Permit Amendment HPA15-003-01 to extend the expiration date of HP15-003 with subsequent adjustments by two years to December 6, 2024.

*Ben Leech, Preservation Action Council San Jose (PAC*SJ) requested that the item be removed from the Consent Calendar to allow PAC*SJ to comment on and ask questions about the proposal.*

*Lynne Stephenson, PAC*SJ, also requested that the item be removed from the Consent Calendar.*

Aaron Barger, applicant representative for the Core Companies, stated that he was in attendance at the meeting to answer any questions and noted support for removing the item from the Consent Calendar.

Commissioner Royer made a motion to remove the item from the Consent Calendar and open discussion under Public Hearings. The motion was seconded by Vice Chairman Raynsford and the motion was approved 5-0-2 (Commissioners Camuso and Ayala absent).

Chairman Boehm introduced the item and Angela Wang, Project Manager, summarized the staff report.

Chairman Boehm called for Commissioner questions.

Commissioner Arnold inquired about the reason for the extension request. Dana Peak Edwards, Historic Preservation Officer (HPO), responded that the request was made to extend the expiration date of the approval. She noted that the Historic Preservation (HP) Permit allows for two one-year extensions through an Adjustment and those extensions were already granted, so the only way to extend the expiration date is through an HP Permit Amendment. Commissioner Arnold inquired if the proposal is in keeping with past practices. Ms. Peak Edwards responded that an Amendment is the standard way to amend conditions of approval and the expiration date of the permit is outlined in the conditions. Commission Arnold inquired whether progress had been made on executing the approved work. Applicant Aaron Barger responded that the project was approved in 2016 as a market-rate tower and in 2020 the developer and the County of Santa Clara (County) reached an agreement to convert the project to a 100% affordable housing residential apartment building. He reported that in late 2021 the developer completed the land acquisition agreement with the County, in April 2022 the loan was completed and

since that time the developer was coordinating additional funding sources. Mr. Barger stated that the developer has a 2-year commitment with the County to start construction by May 2024 and the proposed extension would support the project implementation. He noted that design changes are being proposed to the building to accommodate the affordable housing units. Ms. Peak Edwards noted that the proposed HP Permit Amendment does not cover any changes to the project design. She stated that Planning is in the process of reviewing the project and any design changes would be brought back to the HLC for review at a later date.

Public comment was received as follows:

Ben Leech, PAC*SJ, expressed appreciation of the discussion and noted that this is the type of project that the City is frequently seeing including the substantial demolition of a City Landmark and substantial overbuild. He asserted that if the project were currently proposed that PAC*SJ would have concerns about the treatment of the historic resource. Mr. Leech noted that PAC*SJ is in agreement with the standing approval, but he inquired if there would be a situation where an extension request would not be recommended for approval. He inquired if the applicant could discuss any progress made with the implementation of the commemoration required by the adopted mitigation measures.

Mike Sodergren, PAC*SJ, expressed support of the conversion of the project to affordable housing and also inquired whether an extension would be granted if the project was not for affordable housing. He expressed concern that the majority of the building would be demolished, and the project would not be constructed.

Lynne Stephenson, PAC*SJ, inquired about the authority to extend the permit under an HP Permit amendment. She expressed concern that the project is six years old and questioned the financial viability of the project.

Daniel Zazueta, Senior Deputy City Attorney, responded that the amendment authority is granted under Chapter 13.48, Section 330 of the Municipal Code which talks about any modification to an HP Permit, including an extension of time.

Vice Chairman Raynsford made a motion to approve the staff recommendation. The motion was seconded by Commissioner Royer (5-0-2; Commissioners Ayala and Camuso absent).

3. PUBLIC HEARINGS

- a. [HP21-007](#): Historic Preservation Permit to allow the demolition of three non-contributing buildings and to allow the construction of a 267-foot-high tower (The Echo) consisting of 415 multifamily residential units as part of the Icon-Echo Mixed-Use Project within the St. James Square City Landmark District.

PROJECT MANAGER, DANA PEAK EDWARDS

Staff Recommendation: Staff recommends that the Historic Landmarks Commission recommend to the City Council that:

1. The findings required under Section 13.48.240 of the Historic Preservation Ordinance cannot be made for the proposed design of the Echo residential tower; and

2. The denial of the Historic Preservation permit would cause immediate and substantial hardship on the applicant because the new construction in accordance with Chapter 13.48 would be economically infeasible and unreasonable in light of the feasible uses of such property; and
3. The Historic Preservation Permit (File No. H21-007) be approved under Section 13.48.260 (Hardship) of the Historic Preservation Ordinance.

Chairman Boehm introduced the item.

Dana Peak Edwards, Project Manager and HPO, summarized the staff report. She introduced the applicant representative, Peter Solar, who made a short presentation on the project design and hardship information.

Chairman Boehm called for Commissioner questions.

Commissioner Royer inquired whether the design of the building holistically considered the historic context and took into consideration the San José Commercial Historic District across East Santa Clara Street. Ms. Peak Edwards responded that the HP Permit only covers the portion of the project that is within the boundaries of the St. James Square City Landmark District and the analysis of the project design in relation to the historic context outside the district was included in the overall project review and environmental analysis. Commissioner Royer inquired if there were additional project design alternatives that were studied to reduce the impact on the district. Ms. Peak Edwards responded that the three alternatives presented were those considered in the Draft Environmental Impact Report (DEIR) and no additional alternatives were studied. She noted that the design alternatives analyzed different aspects and degrees of conformance with the design guidelines.

Commissioner Janke noted the assertion that the project is not economically feasible without maximizing the development of the site and inquired whether the construction cost is too high, land cost is too high, and rents and leases are too low. Following on that, he inquired given these factors, would this be the right site for the project and would land be cheaper in another location. Commissioner Janke inquired what else could be done on the site that would allow a similar program to occur without the economic hardship, such as modifying the project so the impact would not occur to the portion of the project within the historic district. He noted it is a large and complex project that involves the unhappy meeting of program costs with return on investment. Peter Solar responded that it is difficult to get projects to pencil out with current economic conditions and commented that the key is to maximize the number of units within the allowable footprints based on the city's general plan and zoning requirements. He commented that the project team tried to break up the massing of the building to the extent possible to mimic that of the surrounding area, but it was difficult to achieve compatibility with a highrise development. Mr. Solar noted that even when the alternative to setback the building 20 feet at the podium level was analyzed it would result in the loss of 70 units and a return on cost. He explained that when a new/existing building is purchased in San José, a capitalization rate of a 4% return or lower than that is paid - a return on the investment so there is no risk. Mr. Solar stated that in order to get an investor and lender interested in the project, there would need to be a spread between the cost of buying the building and what would be invested. He commented that the spread for capital is typically 100-150 basis points, depending on the location, which is a 1-1.5% spread. Mr.

Solar commented that if the building were designed in conformance with the standards and guidelines, the project would not have the capital to proceed.

Vice Chairman Raynsford commented that the HLC reviewed relatively bulky buildings in the historic district in the past and recommended approval of the design because the scale of the parts of the building (façade as seen from St. James Park, setback, etc), and he inquired if there were drawings that illustrate what the building would look like from the street level along St. John Street and from the park and what would be the visual compatibility or incompatibility. Wright Sherman, project architect, responded that the composition of the building was designed with a base, middle and top and a 42 foot-high base with a scale, patterning and texture that responds to the historic context. He noted that the base is has an arrangement of punched openings with more wall than window, the top of the podium steps back and a portion of the top of the tower is lower to create more harmonious proportions. Mr. Sherman commented that the base feels more solid and has some of the materiality, textures and proportions found in the historic district and the tower is distinct from that and designed not to visually compete with the base. Vice Chairman Raynsford commented that the base did not appear to be solid because the material is glass. Mr. Sherman responded that the façade is more solid along North 4th Street. Vice Chairman Raynsford commented that he did not see the compatibility with the historic district and suggested that the scale and massing be revised.

Commissioner Arnold shared the compatibility concerns expressed by Commissioner Raynsford.

Chairman Boehm noted the hardship letter submitted in February 2022 and inquired how the project would pencil out since the interest rates and economy has worsened since that time. Mr. Solar responded that there has been rent growth in downtown but the project has headwinds in front of it. Chairman Boehm inquired about the possibility of decreasing the height of the Echo building and increasing the height of the Icon building. Mr. Solar responded that the height of the project is restricted by the FAA height limit and is already proposed at the maximum height and the Icon building was designed with setbacks and other features to respond to the historic district across East Santa Clara Street.

Public comment was received as follows:

Will Smith commented that he represented about 5,000 San José households that belong to the Silicon Valley Residents for Responsible Development which are electricians, plumbers, sheet metal works and sprinkler fitters that desire the opportunity to find employment building the housing the city needs. He noted the organization advocates for projects that support a sustainable and equitable San José and asserted that the proposed project would not be sustainable and would increase racial inequity. Mr. Smith commented that the organization has submitted comments on the DEIR for the project. He asserted that San José residents should expect firm commitments that would result in the use of the city's local construction work force and employment of apprentices. Mr. Smith asserted that developers gain excessive returns on projects that are supported by some of the highest rents in the country. He asserted that San José deserves projects that are sensitive to the city's historic character.

*Lynne Stephenson, PAC*SJ, commented that there is nothing in San José's city charter that says that developers are entitled to come into San José to make money and compromise historic resources and the values and quality of life of the city's residents. She asserted if the project does not pencil out, it should not go forward and rely on*

increased rent growth because the city needs affordable housing instead of expensive housing. Ms. Stephenson asserted that the location in the historic district is not appropriate for the building and that its design compromises the district. She requested that the HLC not recommend approval of the project.

*Mike Sodergren, PAC*SJ, commented that Urban Catalyst has reached out to PAC*SJ and they have had a collaborative conversation. He expressed concern that the TreanorHL report never addressed why the historic district designation included the parcel in the boundaries of the district and that question needed to be answered. Mr. Sodergren inquired about the city's policy with regard to the level of rates of return that would qualify for hardship. He commented that the California Environmental Quality Act (CEQA) does not consider financial difficulties. Ms. Peak Edwards responded that the question about the historic district designation was addressed in the DEIR and response to comments. She noted that the resolution designating the historic district that was adopted by the City Council discusses in the findings the importance of design review, compatibility and harmony. Ms. Peak Edwards noted that the majority of properties included in the district are noncontributing properties and vacant lots which speaks to the importance of including them within the boundary to allow the review of the design of infill development in the district to ensure its compatibility. She noted that within the process of overriding considerations, CEQA does allow the balancing of goals and policies with economic concerns. Ms. Peak Edwards noted that the HP Permit process does allow for the consideration of financial concerns under the hardship provision of the Historic Preservation Ordinance and the provisions in the ordinance do not set forth any thresholds for consideration or required documentation.*

Chairman Boehm closed the public comment and called for Commissioner comments.

Commissioner Janke commented that he would like to see the visual analysis of the facades of the context buildings along East St. John Street and North 3rd Street. Wright Sherman responded with a contextual relationship analysis that included discussion of the Post Office, Eagles Lodge, Scottish Rite Temple and the Trinity Episcopal Church and stated that the proposed design reflects the scale, rhythm, proportion of these buildings in a modern idiom.

Commissioner Royer inquired if an adjustment of the historic district boundaries to exclude the site from the district was considered instead of economic hardship because the buildings on the site are noncontributing. Ms. Peak Edwards responded that the City Council could consider that in the future, but it would not be consistent with the rationale in the resolution for why the parcel was included in the historic district.

Vice Chairman Raynsford commented that the base does not appear to be solid because of the glass material and it appears more to be floating. He commented that above the base, sharp lines and shadows seem to be emphasized that overwhelm the podium level of the building. Vice Chairman Raynsford commented that he was not persuaded by the hardship information because the alternatives were extreme reductions in massing and there could be other ways that compatibility could be addressed.

Chairman Boehm expressed a concern that the analysis was not prepared by an independent body.

Commissioner Raynsford made a motion to deny the application for the HP Permit based on the analysis that the design of the Echo residential building would be incompatible in scale, massing, proportion and overall design with the St. James Square City Landmark District, and there is insufficient analysis of building design alternatives to demonstrate a persuasive financial hardship argument. The motion was seconded by Commissioner Arnold (5-0-2; Commissioners Ayala and Camuso absent).

4. EARLY REFERRALS UNDER CITY COUNCIL POLICY

No Items

5. GENERAL BUSINESS

a. **[Additions to the Historic Resource Inventory](#)**

PROJECT MANAGER, DANA PEAK EDWARDS

Staff Recommendations:

1. Staff recommends that the Historic Landmarks Commission add the following properties to the City of San José Historic Resources Inventory as Eligible for the National Register of Historic Places (ENR), Eligible for the California Register of Historical Resources (ECR) and a Candidate City Landmark:
 - a. 1710 Moorpark Avenue (282-44-031)
 - b. 802 East Santa Clara Street (467-29-032)

2. Staff recommends that the Historic Landmarks Commission add the following properties to the City of San José Historic Resources Inventory as Identified Structures (IS):
 - a. 1010 South 1st Street (472-16-061)
 - b. 1900 The Alameda (230-42-123)
 - c. 1999 West San Carlos Street (274-17-075)
 - d. 1990 West San Carlos Street (277-05-012)
 - e. 1075 East Santa Clara Street (467-11-025)
 - f. 400 East Santa Clara Street (467-25-001)
 - g. 45 Jackson Street (249-42-051)
 - h. 800 Emory Street/791 Laurel Street (261-10-009)
 - i. 304 North 6th Street (249-48-045)

Chairman Boehm introduced the item.

Dana Peak Edwards, HPO, noted the proposed additions to the Historic Resources Inventory (HRI) advance the San José City Council adopted 2017 Historic Survey Strategy which directed staff to proactively identify historic resources and to update the

*HRI to allow the City to preserve more historic structures. She stated that properties are generally identified through public and private projects analyzed in the environmental review process, publications and historic resources surveys and context statements. Ms. Peak Edwards stated that the properties proposed to be added to the HRI were identified by the HPO and Ben Leech, the Executive Director of Preservation Action Council San José (PAC*SJ). She noted that the table in the staff report outlines the 11 properties proposed for listing in the HRI and Attachment 3 outlines the properties identified by PAC*SJ.*

Public comment was received as follows:

*Ben Leech, PAC*SJ, stated that he was happy to answer any questions about the properties identified by PAC*SJ and noted the bulk of the suggested properties came from a review of the 2009 San José Modernism Historic Context. He noted that certain building types, architects and neighborhoods continue to be underrepresented in the HRI and the work of including underrepresented properties in the HRI should be continued.*

*Mike Sodergren, PAC*SJ, commented that it would be beneficial to figure out how to fund the documentation and evaluation of identified structures so developers can have an understanding of the property prior to proposing development.*

*Edward Saum commented that the item is an example of a collaborative effort between the HLC, PAC*SJ and staff and what can be accomplished by working together. He noted the different building types proposed for listing, like fire stations, and emphasized the importance of this kind of expansion of the HRI.*

Vice Chairman Raynsford made a motion to accept the staff recommendation. The motion was seconded by Commissioner Royer (5-0-2; Commissioners Ayala and Camuso absent).

b. **National Historic Preservation Month/Preservation Awards Night.**

Staff Recommendation: Establish Standing Committee to plan activities to celebrate National Historic Preservation Month and/or recommend recipients for a preservation award at the Santa Clara County Preservation Alliance's Preservation Awards Night.

No action was taken by the HLC. The item was deferred to November 2, 2022.

6. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS, OR OTHER AGENCIES

No Items

7. OPEN FORUM

Members of the public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the Commission. The Commission cannot engage in any substantive discussion or take any formal action in response to the public comment. The Commission can only ask questions or respond to statements to the extent necessary to determine whether to: (1) refer the matter to staff for follow-up; (2) request staff to report back on a matter at a subsequent meeting; or (3) direct staff to place the item on a future agenda. If anyone wishes to speak, please connect to the meeting either by Zoom or by telephone using the instructions on page 2 of this agenda.

*Mike Sodergren, PAC*SJ, expressed appreciation for the filling of all the HLC vacancies and welcomed the new Commissioner.*

8. GOOD AND WELFARE

a. Report from Secretary, Planning Commission, and City Council

- i. Summary of communications received by the Historic Landmarks Commission.

No communication received.

- ii. Verbal reports on Historic Landmarks Commission 2022 Annual Workplan Goals.

Chairman Boehm introduced the item by explaining that during the 2021-2022 term, HLC members volunteered to research four goals the Commission established at the 2022 HLC Annual Retreat. He reported that he researched incentives to promote historic preservation and eliminate demolition by neglect. Chairman Boehm noted that he made a report and proposed some actions, but the proposals were not supported by the HLC. He stated that Commissioner Royer researched financial incentives for historic preservation and she suggested that a fee might be used to fund incentives. Chairman Boehm also noted that Commissioner Royer discussed a program to help repair commercial facades. He reported that Commissioner Nestle researched Community Outreach and he made recommendations on the City of San Jose's historic resources web site and other ways to conduct public outreach. Chairman Boehm reported that Commissioner Arnold researched the recognition of historic properties with a history of diversity. Commissioner Arnold reported that she met with Ms. Peak Edwards to discuss ways to advance the goal and will meet again and then she will report back to the HLC in November. Vice Chairman Raynsford reported that he researched the topic of demolition by neglect and recommended ordinance language to address the issue. He emailed the proposed language to the city attorney who had questions and Vice Chairman Raynsford was preparing a memo to respond to the questions that would be included on the next HLC agenda.

- iii. Next Meeting is November 2, 2022.

No comments.

b. **Annual Retreat to be held on October 14, 2022 from 1:00 p.m. to 5:00 p.m. via Zoom**

Ms. Peak Edwards provided a brief overview of the draft agenda.

c. **Report from Committees**

- i. Design Review Subcommittee: No meeting held on September 22, 2022. Next meeting on Thursday, October 20, 2022 at 11:00 a.m.

No comments.

d. **Approval of Action Minutes**

- i. **Recommendation:** Approval of Action Minutes for the Historic Landmarks Commission Meeting of [September 7, 2022](#).

Commissioner Arnold made a motion to approve the action minutes. The motion was seconded by Commissioner Royer (5-0-2; Commissioners Ayala and Camuso absent).

e. **Status of Circulating Environmental Documents**

No items

ADJOURNMENT

Commissioner Royer made a motion to adjourn the October 5, 2022 HLC meeting. The motion was seconded by Commissioner Arnold and approved (5-0-2; Commissioners Ayala and Camuso absent).

The next HLC meeting is scheduled for November 2, 2022.

Chairman Boehm adjourned the meeting at 9:27 p.m