

## **HISTORIC LANDMARKS COMMISSION**

February 1, 2023

Action Minutes

### **\* COVID-19 NOTICE \***

Consistent with AB 361 and City of San Jose Resolution Number 80628, 80659, 80685, 80724, 80758, 80809 and 80853, 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 6:30 p.m.*

### **ROLL CALL**

*Present: Commissioners Boehm, Raynsford, Arnold, Ayala, Camuso, Janke and Royer  
Absent: None*

## **1. DEFERRALS**

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**No Items**

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>

## 2. CONSENT CALENDAR

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No Items

## 3. PUBLIC HEARINGS

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- a. [HP21-001](#). Historic Preservation Permit to allow the demolition of the majority of the roof and interior (except for stairway core) of a City Landmark and the construction of a 22-story, 240-foot-high new building within the walls of the City Landmark that would integrate and restore the historic street-facing façade and a portion of the existing roof, on an approximately 0.22-gross acre site located at 19 North 2nd Street (Wendy Warren, Owner). Council District: 3. **CEQA:** Supplemental Environmental Impact Report (SEIR) to the Downtown Strategy 2040 Final EIR for the 19 North Second Street Mixed-Use Project (ER20-249). *Deferred from 12/7/2022.*  
*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 19 NORTH 2<sup>ND</sup> STREET MIXED-USE PROJECT; 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 STRUCTURALLY AND ECONOMICALLY INFEASIBLE AND UNREASONABLE IN LIGHT OF THE FEASIBLE USES OF SUCH PROPERTY.**
3. **THE HISTORIC PRESERVATION PERMIT (FILE NO. HP21-001) BE APPROVED UNDER SECTION 13.48.260 (HARDSHIP) OF THE HISTORIC PRESERVATION ORDINANCE.**

*Chair Boehm introduced the item and Dana Peak Edwards, Historic Preservation Permit Project Manager and Historic Preservation Officer, provided an overview of the staff report. Ms. Peak Edwards introduced the project architect, Kurt Anderson, and City staff associated with the project. Mr. Anderson made a brief presentation of the project.*

*Public comment was received as follows:*

*Paul Soto commented that there are checks and balances in the system, which is the Historic Landmarks Commission (HLC). He asserted that the applicant did not provide an objective representation of the project and the motivation is money. Mr. Soto commented that the downtown would look “fake” (reference to the movie Blazing Saddles) and that is what downtown would look like. He commented that the historical*

*integrity of the city, as the first capital of the state, should be maintained and that it is the job of the HLC to preserve the integrity of the city's historic resources.*

*Lynne Stephenson, Preservation Action Council San José (PACSJ), commented that neither the HLC nor the public has the information they need to make an important decision. She commented the site contains a beautiful building designed by a known architect and what is proposed is heartbreaking. Ms. Stephenson commented that she understood that the language in the Hardship section in the Historic Preservation Ordinance is vague and this works against the City by providing the ability for the HLC to use the provision any way it would like. She commented that a court would look to other sources, like the National Trust for Historic Preservation (National Trust), to determine what is economic hardship because the ordinance does not define that. Ms. Stephenson commented that the HLC has every right to make inquiries and ask for additional information if it wants to follow the guidance of the National Trust. She commented it is still not known what was paid for the building or what is owed, but the most important information that is missing is the analysis that Commissioner Royer requested which is what is the rate of return and usefulness of the building if it were retrofitted and fixed up for use as a pub or restaurant, etc. Ms. Stephenson commented that this is the information the HLC needs and asserted that the HLC should continue its inquiry and get the information it needs to make a decision. She commented that if the building goes, it would be a signal to developers that they could purchase a historic resource, tear it down or leave the façade and do whatever they want.*

*Mike Sodergren (PACSJ) commented that we should listen to the comments and not rush through the process. He commented that it would be nice to talk to the property owner. Mr. Sodergren commented that the property owner is not alone in buying a historic property with the intent to demolish the building. He commented that he did not see how that situation creates an economic hardship, which was self-inflicted. Mr. Sodergren expressed concern about why the economic hardship clause is being recommended and the use of that specific tool. He commented sources are not cited in the financial documents and are presented to be accepted as fact. Mr. Sodergren suggested that experts should be hired to determine when things are infeasible and unreasonable because otherwise the information could be fodder for unnecessary legal challenges. He commented that the pro forma is a spreadsheet with virtually no data and is not adequate to support the claim that it is infeasible and unreasonable to adaptively reuse the property. Mr. Sodergren commented that the National Trust provides a great check list and he thanked the HLC for noting that.*

*Edward Saum commented that prior to his eight years of service on the HLC, he presented as a designer before the landmarks commission of Palm Beach. He commented that clients would go to the architect and say this is a historic property and they want to build on the property, and what could they do before they purchased the property. Mr. Saum asserted that the project architect admitted that the property owner did not do their due diligence and the City is bending over backwards to accommodate that error. He commented that he has prepared more detailed pro formas for single-family residences than what was prepared for the project. Mr. Saum agreed with the comments of Commissioner Royer and Commissioner Camuso and the discussion is about process and not an individual project. He commented that allowing the hardship would set a dangerous precedent. Mr. Saum commented that in his eight years of service on the HLC he did not remember the use of the hardship provision more than once to push through a*

*project from 2013-2021. He commented that it would set a dangerous precedent to approve the project without the level of statutory documentation necessary to back up the claim. Mr. Saum asserted that there needs to be a higher bar because the legislation is deliberately written in a vague way to give the decision makers the leeway to find what is sufficient and what is insufficient. He commented that the City is bending over backwards to say that the minimum is sufficient, and this is a dangerous precedent that would hurt the city moving forward.*

*Gayle Frank (PAC SJ) commented that this is the third project proposing the demolition of a city landmark using the loophole of hardship. She commented that this is a new approach for developers to cash in on destroying historic buildings. Ms. Frank commented that the property owner knew, or should have known, that they were purchasing a city landmark and they could have purchased a different parcel and proposed a high rise somewhere else in the city. She commented that the Realty building should not be changed beyond its original aesthetic design and urged the City to quickly review its vague hardship clause to ensure that we do not lose all of the City's landmarks because a developer claims hardship.*

*Vice Chair Raynsford made a motion to approve the application for the Historic Preservation Permit to permit the partial demolition of the City Landmark while preserving the four walls, façade, interior stair core, and all of the historic resources of the front portion of the building. Vice Chair Raynsford stated in his experience on the HLC, almost every change to a historic resource has an impact and the HLC is deciding whether the impact is detrimental enough that the Historic Preservation Permit would not be recommended for approval by the HLC. He stated that is how he understands it and how he is interpreting the project. Vice Chair Raynsford stated with that understanding, he puts forward a recommendation to approve the permit. The motion was seconded by Commissioner Camuso. Chair Boehm amended the motion to also recommend the retention of the Realty building sign above the central entry, fenestration, doors, existing windows, vestibule vaulted ceiling and bas relief, and 18'-11" setback of the new construction from the original building and including the retention of these elements would result in a project that would not be detrimental to the City Landmark. . The amended motion was seconded by Commissioner Camuso and approved 4-3 (yes - Chair Boehm, Vice Chair Raynsford, Commissioner Royer, and Commissioner Camuso; no - Commissioner Janke, Commissioner Arnold, and Commissioner Ayala).*

- b. [HPA22-002-01](#). Historic Preservation Permit Amendment to amend Condition 3 (Salvage of Historic Bricks), Condition 4 (Storage of Historic Bricks), Condition 5 (Commemoration), Condition 6 (Historic Preservation Permit Adjustment Required), and Condition 7 (Bronze Plaque) of HP22-002 to allow the removal of the remaining brick walls of the Wade Warehouse destroyed by fire on a 0.39-gross acre site located at 1641 El Dorado Street (Pellegrini Properties, LLC, Owner). Council District: 4. **CEQA:** Exempt pursuant to CEQA Guidelines Section 15301 for Existing Facilities (Class 1) and Section 15308 for Actions by Regulatory Agencies for Protection of the Environment.

**PROJECT MANAGER, DANA PEAK EDWARDS**

**STAFF RECOMMENDATION: STAFF RECOMMENDS THAT THE HISTORIC LANDMARKS COMMISSION:**

- 1. FIND THE HISTORIC PRESERVATION PERMIT AMENDMENT WOULD NOT ALTER THE GENERAL CHARACTER, USE, OR INTENSITY OF NOR DEGRADE THE PROTECTIONS OF THE HISTORIC ELEMENTS OF THE CITY LANDMARK PROVIDED THROUGH THE HISTORIC PRESERVATION PERMIT FILE NO. HP22-002; AND**
- 2. RECOMMEND APPROVAL OF THE HISTORIC PRESERVATION PERMIT AMENDMENT FILE NO. HPA22-002-01 TO THE DIRECTOR OF PLANNING, BUILDING AND CODE ENFORCEMENT.**

*Chair Boehm introduced the item and Dana Peak Edwards, provided an overview of the staff report. Ms. Peak Edwards introduced the applicant, Jim Salata (Garden City Construction).*

*Public comment was received as follows:*

*Paul Soto commented that he did not see the source of the bricks in the report (which plant did they come from). He mentioned Sue Cucuzza, (Ashworth-Remillard House) who shared information with him about bricks, Remillard, and Dandini. Mr. Soto commented that from that conversation about bricks, he learned about Judge Archer and the information opened many doors to learning about the history of San José. He commented that as an amateur historian and Chicano in San José, it is important to these spaces and places. Mr. Soto commented on the language on the plaques and commemorations. He noted that Alviso was a port and source of San José's wealth prior to the railroad. Mr. Soto expressed interest in the actual history of Alviso and urged an accurate and balanced view of what happened in this space and giving honor to those that created it. Jim Salata added that Dan Mosier, a brick expert, visited the site. Mr. Salata noted that there were changes to the building over time and there are bricks on the building from different manufacturers. Mosier was unable to identify the maker of the original bricks. Mr. Salata surmised that since Alviso was a port, the bricks could have been manufactured somewhere else. Mr. Salata offered to provide his notes from the meeting with Mosier.*

*Mike Sodergren (PAC SJ) commented that some of the bricks are British bricks. He noted that he spoke with Jim Salata and asked if language could be added to Condition 9 to say the commemoration wall would be located in a prominent location and in clear view for the public. Mr. Sodergren express concern about the neglect of the building and the property owner's responsibility to maintain it. He commented that demolition by neglect provisions are needed in the ordinance and that investigations should occur when buildings are burned.*

*Gayle Frank (PAC SJ) expressed concern about when the commemoration wall would be constructed and fear that the requirement be forgotten in the future. She also expressed concern about the Wade residence and what would happen to that building. Ms. Frank commented that the development of the commemoration wall should include the Wade family descendants which have many ideas to offer, and they are interested in assisting with the project. She asked for clarification where the usable historic bricks would be stored and would they be protected against theft, vandalism, and the weather. Jim Salata responded that the bricks would not deteriorate unless they are inferior (not fired properly) and the bricks would be stored on another property the owner has in Alviso.*

*Jan Jensen commented that she is a fifth generation Wade family descendent. She stated that she was not notified of the meeting until Monday when a member of PACSJ shared the information. Ms. Jensen referred to a November 7, 2022, letter from Jim Salata stating that he conducted extensive research and asserted that the history of the building came from the recollections of a 90-year-old woman. She noted that the woman was born on the property and she was Wade's daughter, so the information should be considered. Ms. Jensen commented that she has offered extensive family history and documents and wanted to attend any site visits. She commented that she has reached out to many interested parties willing to assist with the project including Wells Fargo, the brick layers unions (which offered apprentices), E Clampus Vitas, and the Death Valley 49ers. Ms. Jensen commented that the Wade family offers its support and would like to store the bricks to ensure their preservation. She commented that she supports the conditions to the extent that this be a lesson learned because it would have been better to protect the building, rather than wait for the building to be destroyed. Ms. Jensen commented that preserving a section of the building is better than losing the history completely.*

*Sally Zarnowitz commented that the effort that went into the project is commendable and thorough and she commended Mr. Salata and Garden City Construction. She asked that the HLC approve the Historic Preservation Permit Amendment as requested given the good faith effort that has gone into the project for a building that has been lost.*

*Vice Chair Raynsford made a motion to approve the staff recommendation with the amendments to the draft conditions presented that the interpretive sign be visible and accessible by the public from El Dorado Street and include information about the Wade family and its connection to the site, and any new development on site include a substantial and permanent marking of the original footprint of the building, including at least one corner. The motion was seconded by Commissioner Camuso. Vice Chair Raynsford further amended the motion that the GPS coordinates for the four corners of the building be recorded and documented on civil drawings for permanent record (instead of marked with survey markers). The amended motion was seconded by Commissioner Camuso and approved 7-0 by the HLC.*

#### **4. PLANNING REFERRALS**

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**No Items**

#### **5. GENERAL BUSINESS**

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- a. [Additions to the Historic Resource Inventory.](#)  
*PROJECT MANAGER, DANA PEAK EDWARDS*

**STAFF RECOMMENDATION: STAFF RECOMMENDS THAT THE HISTORIC LANDMARKS COMMISSION ADD THE FOLLOWING PROPERTIES TO THE**

**CITY OF SAN JOSÉ HISTORIC RESOURCES INVENTORY AS CONTRIBUTING STRUCTURES (CS) TO AN ELIGIBLE NATIONAL REGISTER DISTRICT (ENRD):**

- 1. 510 NORTH 5<sup>TH</sup> STREET (APN 249-38-018)**
- 2. 520 NORTH 5<sup>TH</sup> STREET (APN 249-38-019)**
- 3. 545 NORTH 5<sup>TH</sup> STREET (APN 249-40-008)**
- 4. 548 NORTH 5<sup>TH</sup> STREET (APN 249-38-023)**
- 5. 573 NORTH 5<sup>TH</sup> STREET (APN 249-40-005)**
- 6. 590-592 NORTH 5<sup>TH</sup> STREET (APN 249-38-040)**
- 7. 605-607 NORTH 5<sup>TH</sup> STREET (APN 249-41-014)**
- 8. 639 NORTH 5<sup>TH</sup> STREET (APN 249-41-075)**
- 9. 649 NORTH 5<sup>TH</sup> STREET (APN 249-41-008)**
- 10. 650 NORTH 5<sup>TH</sup> STREET (APN 249-39-032)**
- 11. 655 NORTH 5<sup>TH</sup> STREET (APN 249-41-007)**
- 12. 659 NORTH 5<sup>TH</sup> STREET (APN 249-41-006)**
- 13. 662 NORTH 5<sup>TH</sup> STREET (APN 249-39-033)**
- 14. 665 NORTH 5<sup>TH</sup> STREET (APN 249-41-005)**
- 15. 681 NORTH 5<sup>TH</sup> STREET (APN 249-41-003)**
- 16. 517 NORTH 6<sup>TH</sup> STREET (APN 249-38-011)**
- 17. 529 NORTH 6<sup>TH</sup> STREET (APN 249-38-009)**
- 18. 565 NORTH 6<sup>TH</sup> STREET (APN 249-38-007)**
- 19. 655 NORTH 6<sup>TH</sup> STREET (APN 249-39-015)**
- 20. 657 NORTH 6<sup>TH</sup> STREET (APN 249-39-014)**

*Chair Boehm introduced the item and Dana Peak Edwards, provided an overview of the staff report.*

*Public comment was received as follows:*

*Paul Soto commented that the Norman Mineta house demonstrates the power and importance of historic preservation work. He commented on the proximity of the property to the old City Hall building and a goal to preserve the old City Hall as a civil rights museum. Mr. Soto commented that Mineta grew up in the house and was taken during World War II to San José State University to be processed for transportation to an internment camp for Japanese Americans, brought back to San José and again lived in the house and went on to legislate power from the old City Hall building. He commented that this is why history is so important because when the truth surfaces there is a richer and broader perspective that can be translated by people into political power that can be strong enough to prevent the demolition of the building. Mr. Soto commented on the possibilities to recognize the civil rights of women, Chicanos and Asians.*



*Mike Sodergren (PAC SJ) commented that PAC SJ was historically focused on preserving San José's architectural history, but it has always been the organization's mission to couple the city's cultural history with that. He expressed appreciation of Mr. Soto's comments and stated that the properties are the backdrop for telling San José's story. Mr. Sodergren commented that he would love to see 609 North 4th Street included in the Historic Resources Inventory - Kamamoto String Instruments.*

*Commissioner Ayala made a motion to approve the staff recommendation. The motion was seconded by Vice Chair Raynsford and approved 7-0 by the HLC.*

b. [Annual Workplan Goals.](#)

**STAFF RECOMMENDATIONS:**

**1. SELECT THREE COMMISSIONERS TO SERVE ON THE STANDING COMMITTEE FOR THE RECOGNITION OF CULTURALLY DIVERSE PROPERTIES AND DISCUSS WORK PLAN.**

*Commissioner Arnold reported on the background and status of the four-year work plan which is anchored in the updated San José Historical Context Statement themes and periods. She stated that the standing committee would meet virtually once a month in the evening via Zoom.*

*Public comment was received as follows:*

*Paul Soto commented on equity in the context of historic preservation and noted that he would be forwarding the HLC documents for review and consideration to help expand what equity means. He referenced the Moir building and photographs of a UFW boycott organizing office inside the building. He commented that historic preservation needs to be discussed in a broader sense that includes equity because institutional poverty and redlining occurred, which had a direct impact on the Chicano community's ability to establish itself. Mr. Soto commented that the value of buildings is not in their aesthetics, but in the history of their spaces and he noted the HLC moved that direction in its consideration of the Low Rider office. He commented on the need to institutionalize this approach and to resource this kind of work.*

*Mike Sodergren (PAC SJ) thanked Commissioner Arnold for taking on the work and commented that the work is a tremendous outreach opportunity that has the potential to be create vibrant engagement (he referred to the demonstrated interest in the Low Rider offices).*

*No additional commissioners (besides Commissioner Arnold) volunteered to serve on the Standing Committee for the Recognition of Culturally Diverse Properties.*

**2. REPORT FROM THE HISTORIC PRESERVATION MONTH/PRESERVATION AWARDS NIGHT STANDING COMMITTEE.**

*Chair Boehm reported on the January 20, 2023, advisory group meeting, proposed criteria for Preservation Achievement Award nomination and a future webpage.*

*Public comment was received as follows:*

*Paul Soto commented that it should be discussed what historic preservation means and the rich history of some buildings may be excluded because it only deals with*



*aesthetics. He suggested that the definition be broadened to incorporate a racial equity lens so people are challenged to rethink the traditional approach .*

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

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**No Items**

## **7. OPEN FORUM**

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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.

*Paul Soto reported that the priest at the Sacred Heart Church asked himself and a documentarian to make a 10 to 15 minute presentation that would be filmed, along with all the associated documents, to substantiate the historic significance of the church. He commented that these documents would be forwarded for evaluation to the archdiocese in San Francisco and to the Vatican . Mr. Soto also reported that the Madrid family is interested in having a cruise night that would be in front of Willis Street to honor that legacy. He commented that it is important for the Chicano community to see themselves reflected in the history of the community and the city because it creates a sense of place.*

*Mike Sodergren (PAC SJ) suggested that a discussion of a hardship application be agendaized for a future HLC meeting.*

*Chairman Boehm made an announcement that Kay Gutknecht and Krista Van Laan will be making a presentation on the history of the Schiele Alameda Park neighborhood at a luncheon on March 4, 2023.*

## **8. GOOD AND WELFARE**

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

- i. Initiation of City Landmark District nomination for the Schiele Alameda Park Historic District.

*Ms. Peak Edwards reported that Councilmember Dev Davis started the nomination process for the designation of the Schiele Alameda Park City Landmark District at the Rules Committee and the nomination will be agendaized for consideration at a future City Council meeting.*

- ii. Verbal update on the status of Planning project approvals with a historic resource component by the City Council, Planning Commission and Planning Director.

*Ms. Peak Edwards reported that on December 13, 2022, the City Council approved the Fountain Alley Mixed Use Project (H20-037 and ER20-242) and on December 14, 2022, the Planning Commission recommended approval to City Council of the 1881 West San Carlos Project involving Antiques Row (C20-011, ER20-146 and Burbank 44: Annexation). She reported that the City Council will consider the 1881 West San Carlos Project on February 14, 2022.*

*Ms. Peak Edwards also reported that she had a meeting with the Deputy Director for Code Enforcement to discuss the Vacant and Abandoned Buildings ordinance in relation to the proposed demolition by neglect provisions recommended by the HLC to the City Council. She noted there is already a fairly robust program that is codified and that the primary barrier to the effectiveness of the program is staffing. Ms. Peak Edwards reported that staff would try to fold the two items into a budget request to City Council for additional Code Enforcement staffing and would look at revising the Vacant and Abandoned Buildings ordinance to clarify the language and potentially adding a couple of sentences in the Historic Preservation Ordinance to cross-reference the requirements. She noted that City Councilmembers would want to know how the language differs from what is already codified and how the existing program is work if the proposed demolition by neglect provisions developed by the HLC were forwarded to the City Council*

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

*All communication received was discussed as part of agendized public hearing and general business items.*

**b. Report from Committees**

- i. Design Review Subcommittee: No meeting held on December 15, 2022 or January 19, 2023. Next meeting on Thursday, February 16, 2023 at 11:00 a.m.

*No reports.*

**c. Approval of Action Minutes**

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

*Vice Chair Raynsford made a motion to approve the Action Minutes for the December 7, 2022, HLC meeting. The motion was seconded by Commissioner Camuso and approved 7-0 by the HLC.*

**d. Status of Circulating Environmental Documents**

No items

## **ADJOURNMENT**

*Meeting adjourned at 10:43 p.m.*