



## City Council Staff Report

**From: City Manager**

**Report Type: CONSENT CALENDAR**

**Lead Department: Planning and Development Services**

**Meeting Date: October 16, 2023**

Report #:2309-2092

### **TITLE**

340 Portage Avenue and 3201-3225 Ash Street [23PLN-00226]: Denial of Resident's Request for Historic Designation of the Cannery Building located at 200-404 Portage Avenue as well as the Office Building at 3201-3225 Ash Street as Category I or II Resources on the City's Local Historic Inventory. Environmental Assessment: Exempt from the Provisions of the California Environmental Quality Act (CEQA) In Accordance with CEQA Guidelines Section 15061(b)(3).

### **RECOMMENDATION**

Staff recommends that Council:

1. Deny the resident's request for designation of the Cannery Building at 340 Portage and Office Building at 3201-3225 Ash Street on the City's Local Historic Inventory.

### **EXECUTIVE SUMMARY**

On August 23, 2023, a local resident filed an application to designate the cannery building located at 200-404 Portage Avenue as well as the adjacent building at 3201- 3225 Ash Street as Category I or Category II historic resources on the City of Palo Alto's local Historic Inventory pursuant to the procedures set forth in Palo Alto Municipal Code Section 16.49.040. The site was previously evaluated and determined to be eligible for the California Historic Register.

In accordance with the procedures set forth in Chapter 16.49 (Historic Preservation), because there was a pending application on file that affected the exterior of the building at 200-404 Portage, this hearing was scheduled for the first HRB meeting following the receipt of the application, which was held September 14, 2023. The HRB recommended denial of the proposed application. In accordance with the code, the HRB's recommendation on the proposed application is forwarded to the City Council for a decision within 30 days.

On September 5 and September 12, 2023, the Council held a hearing on a proposed redevelopment of the property that includes the buildings the resident seeks listed as a local resource. After deliberating on the matter, the City Council unanimously adopted of a

resolution certifying an Environmental Impact Report (EIR) and making overriding considerations for the significant and unavoidable impact identified on the subject historic resource located at 200-404 Portage Avenue (herein referred to as 340 Portage).

## **PROJECT DESCRIPTION**

The proposed project is a request to designate the former cannery building located at 340 Portage and the adjacent office building at 3201-3225 Ash Street as Category I or Category II historic resources on the City's Local Historic Inventory. Applications for such requests are referred to the HRB for recommendation and then placed on the Council consent agenda for action. A location map is included in Attachment A. The applicant's request letter is included in Attachment B.

## **BACKGROUND**

This background section summarizes the historic resources evaluation prepared for the site, the historic designation process and the hearings and applications that have been filed related to 340 Portage and 3201-3225 Ash Street since 2021.

### Historic Resource Evaluation

The City, in coordination with its consultant, Page & Turnbull, prepared a Historic Resources Evaluation (HRE) in 2019 to evaluate the former cannery site to determine if it would be eligible for listing on the California Register of Historic Resources (CRHR). The evaluation concluded that the cannery site, including 340 Portage and 3201-3225 Ash, is eligible for the CRHR.

The Historic Resources Evaluation for this site included the cannery building (340 Portage) and the 3201-3225 Ash Street building.<sup>1</sup> The HRE evaluated the project for its eligibility for the California Register and does not speak to its eligibility for the local register. It is unclear from the HRE under what category of the local register it may be eligible for. However, given its eligibility for the California Register it would certainly be eligible as a Category 3 or 4 resource.

### Designation Process

In accordance with PAMC Section 16.49.040, any individual or group may propose designation as a historic structure. Such proposals are reviewed by the Historic Resources Board (HRB), which will make its recommendation to the Council. Proposed designations shall be considered within 60 days of the receipt of the proposal. In a case where an application for a planning or building permit affecting the exterior of a building is pending concurrently with a proposal for designation, the recommendation of the HRB is to be made within twenty days of receipt of the proposal. The City Council may approve, disapprove, or modify a recommendation for designation, and their decision is final.

If Council designates a structure Category I or II, and the building is proposed for demolition, Section 16.49.070 would be in effect. This Section states the Chief Building Official may not take

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<sup>1</sup> The Historic Resources Evaluation is available online at the following link:  
<https://www.cityofpaloalto.org/files/assets/public/v/1/planning-amp-development-services/current-planning/uploads-for-website/historic-resources-evaluation-340-portage.pdf>

action on the demolition permit for 60 days following receipt of a complete application. During the 60 days, the CBO shall refer the demolition permit to the Architectural Review Board (ARB). The ARB shall refer the application to the HRB. The ARB, the HRB, or any interested person may recommend that Council extend the 60-day moratorium. Council shall review these recommendations and may extend the 60-day moratorium for a period of up to one year. Outside of the downtown area, however, any recommendations by the HRB are not binding on the property owner.

#### Council Hearings and Redevelopment Applications for the Subject Site

On April 7, 2021, the Sobrato Organization (Sobrato) submitted a formal application to construct 91 townhomes on the site ("200 Portage Townhome Project" or "SB 330 Housing Project"). At approximately the same time, the City and Sobrato were engaged in a dispute regarding permitted commercial uses on the site. The June 14, 2021 and September 13, 2021 staff reports to Council<sup>2</sup> provide a history of zoning of the property and details of the code section that currently governs nonconforming uses at this property.

On September 10, 2021, Sobrato submitted a letter<sup>3</sup> asserting that the City's proposed interpretation regarding the permitted commercial uses on the site would subject the City to significant litigation risk. To facilitate the resolution of the dispute, and in light of the pending housing application, on October 25, 2021, City Council established an ad hoc committee (committee). The purpose of the committee, consisting of then Vice Mayor Kou and former Councilmember DuBois, was to negotiate with Sobrato on potential terms to guide future development at Sobrato's 14.65-acre property located at 200-404 Portage Avenue, 3040-3250 Park Boulevard, 3201-3225 Ash Street & 278 Lambert Avenue.<sup>4</sup> In a closed session on June 20 and 21, 2022 the City Council voted 7-0 to direct staff to prepare a tolling agreement that would suspend the processing of the pending SB 330 housing application. The suspension was to allow Sobrato to pursue a development agreement, based on general terms negotiated with the committee, for the redevelopment of the 14.65-acre property. The City and Sobrato executed a tolling agreement in July 2022.<sup>5</sup>

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<sup>2</sup> September 13, 2021, Council report ID#13411:

<https://www.cityofpaloalto.org/files/assets/public/agendasminutes-reports/agendas-minutes/city-councilagendas-minutes/2021/09-september/20210913/20210913pccsmamended-linked-final-council-qa.pdf>;

June 14, 2021, Council report ID#12271: <https://www.cityofpaloalto.org/files/assets/public/agendas-minutesreports/reports/city-manager-reportscmr/yr-archive/2021/id-12271.pdf>

<sup>3</sup> September 10, 2021 letter from Tamsen Plume to Jonathan Lait:

<https://www.cityofpaloalto.org/files/assets/public/planning-amp-development-services/newdevelopmentprojects/200-portage/letter-to-september-13-2022-city-council.pdf>

<sup>4</sup> Summary Minutes of the October 25, 2021 Council hearing:

<https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/citycouncilagendas-minutes/2021/10-october/20211025/20211025amccs.pdf>

<sup>5</sup> The Tolling Agreement is available online on the project website at:

<https://www.cityofpaloalto.org/Departments/Planning-Development-Services/Current-Planning/Projects/3200-Park-Boulevard>

Council held a study session on August 1, 2022 to allow for public comment as well as Council input on the general terms that resulted from the negotiation.<sup>6</sup> The study session served as the prescreening meeting required for a proposed Development Agreement and legislative changes, including Planned Community rezoning, in accordance with PAMC Chapter 18.79. Following the study session, Sobrato filed project plans associated with the Development Agreement project under the address, 3200 Park Boulevard (File No. 22PLN-00287).

From August 2022 through July 2023 the City held over 15 public hearings and study sessions related to the proposed redevelopment of the site. The Development Agreement included partial demolition of the cannery building at 340 Portage, which had been identified as a CRHR eligible resource. The Development Agreement project included the retention of the 3201-3225 Ash building in its existing condition. Council began proceedings for consideration of the proposed development agreement on September 5th and continued its deliberations to the September 12, 2023 hearing. The staff report for the proposed Development Agreement Project was published on August 24, 2023, the day after the resident filed a request for designation of 340 Portage to the City's local register.<sup>7</sup> On September 12, 2023 Council unanimously approved the proposed redevelopment application, allowing for partial demolition of the proposed cannery. Council held a second reading for the relevant ordinances on October 2, 2023.

#### HRB Recommendation

The HRB held a public hearing to make a recommendation on the resident's request for historic designation on September 14, 2023. At the hearing, the HRB made the following motions:

1. To recommend the central part of the cannery building (with the monitor roof) be placed on the local inventory as a Category 2 resource.
2. To not advance the proposed nomination of either 340 Portage as an entire building or 3225 Ash Street as a Category 1 or Category 2 on the local historic inventory.

The first motion passed 3-1. The second motion, which speaks to the resident's specific request, passed 3-1 to *not recommend* Council designate the buildings as they exist today on the City's Historic Inventory.

The central portion of the cannery building is currently not a standalone building. The HRB had previously recommended a historic evaluation of the building after the completion of the redevelopment project and that the remaining structure be nominated to any register for which it is determined to be eligible, including the local historic inventory.

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<sup>6</sup> August 1, 2022, Council report ID #14548:

<https://www.cityofpaloalto.org/files/assets/public/agendasminutesreports/agendas-minutes/city-councilagendas-minutes/2022/20220801/20220801pccsmlinked.pdf>

<sup>7</sup> September 5, 2023 Council Report ID #2306-1663: <https://www.cityofpaloalto.org/Departments/City-Clerk/CitysMeeting-Agendas/Meeting-Agendas-and-Minutes>

## **ANALYSIS**

Due to the timing of the request, Council had been scheduled to deliberate the proposed Development Agreement prior to the filing of the subject application. The Council deliberated the proposed redevelopment project on September 5 and September 12, 2023.

Because Council unanimously approved the partial demolition of the existing 340 Portage Building on September 12, 2023, staff and HRB do not recommend designating the building, as it exists today in its entirety, on the local historic inventory. Because the 3201-3225 Ash Street building is not identified as individually eligible for any register, staff would also not recommend designating that building on the local historic inventory at this time.

In accordance with the HRB's recommendation for the redevelopment of the site and Council's approval, the record of land use action for the proposed redevelopment includes a condition of approval that requires that the site be evaluate following the completion of work and designated to any of the registers for which it is found to be eligible (including the local historic inventory).

Staff does not recommend that the central part of the cannery building (beneath the monitor rood) be placed as a standalone resource on the City's local historic register because it is not a standalone building currently. Nominations and designations to a register must be based on the condition in which a resource exists, not based on a future condition in which it may exist. Further, the redevelopment of the site does not include approval of demolition such that it would become a standalone building.

## **FISCAL/RESOURCE IMPACT**

There is no significant fiscal or budget-related impact associated with the recommendation in this report.

## **STAKEHOLDER ENGAGEMENT**

Several members of the public provided public comment on the proposed historic designation application at the HRB hearing on September 14, 2023. Public comments generally expressed concern that the proposed redevelopment of the site would render the cannery building ineligible for the California Register of Historic Resources and encouraged designation of the building in its existing condition to the local register in order to preserve the cannery and the associated office building on Ash Street.

## **ENVIRONMENTAL REVIEW**

The project has been assessed in accordance with the Authority and Criteria contained in the California Environmental Quality Act (CEQA). Specifically, the project has been determined to be exempt from CEQA in Accordance with CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that designation of the building as a historic resource would not have an impact on the environment. Note that CEQA also does not apply to projects which are denied. Therefore, if Council chooses to deny the project, CEQA would not apply.

Because 340 Portage is already protected as a historic resource in accordance with CEQA, the City prepared an Environmental Impact Report (EIR) to evaluate the redevelopment project's impacts on a historic resource. The EIR evaluated and publicly disclosed the significant and unavoidable impact to this historic resource (evaluated as Alternative 3 within the 200 Portage Townhome Project EIR). City Council, in order to approve the proposed Development Agreement, certified the EIR and made findings of overriding consideration in accordance with CEQA for impacts to this historic resource at its public hearing on September 12, 2023.

**ATTACHMENTS**

Attachment A: Location Map

Attachment B: Resident's Request for Historic Designation

**APPROVED BY:**

Jonathan Lait, Planning and Development Services Director