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# How a developer plans to bypass San Jose building requirements



by [Joseph Geha](#) July 13, 2023



The San Jose Swim and Racquet Club on Pedro Street may be demolished to make way for housing. Photo by Joseph Geha.

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A Denver-based developer is using a controversial tool to force through plans to demolish a nearly seven-decade-old swim and tennis club in San Jose to make way for housing.

After facing pushback from city staff last year over its initial plans to [raze the San Jose Swim and Racquet Club](#) near Willow Glen to build 75 townhomes, The True Life Companies is taking a different tack.

The developer has submitted a permit application under the state’s “builder’s remedy,” a label referring to a provision in state housing law which lets developers

bypass local planning processes under certain conditions.

Worried residents and patrons started an online petition in hopes of saving the beloved, aging facility located at 1170 Pedro St.

“The (club) has a history that spans generations and districts,” the petition said. “Children and adults learn to swim and play tennis. Seniors rely on the club to stay fit and make new friends. The exercise classes and team competitions strengthen the community and draw residents from other districts.”

Some voiced their concern in the comments section of the petition, including Theresa Dillard, who said there are no other outdoor recreation spaces like the club in Willow Glen with a pool.

“Developers should not be allowed to take away this desperately needed outdoor recreation space,” Dillard wrote.

Bryan Wenter, an attorney for The True Life Companies, said he understands the concerns voiced by residents, but the housing crisis requires that more homes go up as quickly as possible and anywhere they can be built. He added the club might not remain as a recreational facility going forward if it’s being put up for sale.

“There’s a willing seller, and they’re willing to sell for a reason. There’s no guarantee that kind of a use—if the seller doesn’t want to keep it going—will stay there forever, even if people oppose what might replace it,” Wenter told San José Spotlight.

## **Housing Accountability Act**

While the developer’s previous application would have required city approval of a general plan amendment to rezone the land, the remedy option could force the city to expedite approvals of the project regardless of whether it fits into the general plan.

Developers are able to take advantage of the longstanding statute in the state’s Housing Accountability Act because San Jose, like other cities across California, has not yet received approval from the state on its plans to meet housing goals for the coming eight years.

All cities need to adopt such a plan every eight years, known as a “housing element.” The plan lays out how the city will prepare for enough housing to help alleviate a statewide housing shortage, and put goals in place to hit those markers, among other requirements.

The state's deadline for cities to have a housing element in place that complies with state law was Jan. 31. After receiving comments on its draft plan from the state in December, San Jose adopted a final housing element in late June. It is pending certification and city officials expect to receive it by late August.

The True Life Companies submitted a preliminary application for its builder's remedy development plan in early April, and in early July added a formal application, city officials said.

The plans call for 85 four-story townhomes built across seven buildings, and about 21,000 square feet of open space on the nearly 3.3-acre lot, according to the July permit application. To qualify for the builder's remedy provision, state law requires 20% of the development's townhomes to be reserved as affordable for lower-income people.

Wenter said the opposition to this project is common among people who don't want the status quo to change in their neighborhoods. He is confident the state's housing laws will require the city to green light this project.

"Certainly this could end up in court, but I am confident that the project will have a right to be approved by the city council and that a court would be required to reach the same conclusion," Wenter said. "I think approval is what the law requires here."

In a letter to the developer sent last December in response to the prior application, city planning staff said they would not support the request for a general plan amendment, and said there were "substantial issues" that would affect the development proposal.

Alec Atienza, the city's project manager for this site, wrote the initial proposal went against the city's aim to "focus new growth within designated growth areas" and would result in a loss of 15 jobs.

Regulars who use the club to swim, play tennis or work out in the fitness center previously told San José Spotlight they are saddened about the potential redevelopment of the club and the loss of the local landmark.

Vern Ladd, in a comment on the online petition, said the facility has provided a sense of community for decades.

"We certainly need more housing, but as population density increases, we also need more facilities like this, not fewer," he wrote.

Contact Joseph Geha at [joseph@sanjosespotlight.com](mailto:joseph@sanjosespotlight.com) or [@josephgeha16](https://twitter.com/josephgeha16) on Twitter.