

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT PERMIT TO ALLOW THE CONSTRUCTION OF SEVEN SINGLE-FAMILY DETACHED RESIDENCES ON AN APPROXIMATELY 1.0-GROSS-ACRE SITE LOCATED ON THE EAST SIDE OF CAMDEN AVENUE BETWEEN MALAPAS DRIVE AND CANNA LANE (APN: 567-26-014)

FILE NO. PD21-006

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on June 29, 2021, a concurrent application (File No. PD21-006) was filed by the applicant Dal Properties, on behalf of the owner Kelsey Family Trust, for a Planned Development Permit to allow the construction of seven single-family detached residences on an approximately 1.0-gross-acre site on that certain real property situated in the R-2(PD) Planned Development Zoning District and located on the east side of Camden Avenue between Malpas Drive and Canna Lane (APN: 567-26-014, the “subject property”); and

WHEREAS, the subject property is all that real property more particularly described in Exhibit "A," titled “Legal Description,” and depicted in Exhibit “B,” titled “Parcel Map,” which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Planning Commission conducted a Public Hearing on said concurrent applications on December 7, 2022, notice of which was duly given; and

WHEREAS, at said hearing, the Planning Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing, the Planning Commission made a recommendation to the City Council respecting said matter based on the evidence and testimony; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, this City Council conducted a hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, this City Council gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing, this City Council received and considered the reports and recommendations of the City's Planning Commission and the City's Director of Planning, Building and Code Enforcement; and

WHEREAS, at said hearing, this City Council received in evidence a plan for the subject property entitled "Planned Development Permit for Camden Avenue," dated April 29, 2022, which is on file in the Department of Planning, Building and Code Enforcement and available for inspection by anyone interested herein; said plan is incorporated herein by this reference; and

WHEREAS, this City Council has heard and considered the testimony presented to it at the public hearing and has further considered written materials submitted on behalf of the project applicant, City staff, and other interested parties;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

The foregoing recitals are hereby incorporated into the body of this Resolution, and after considering evidence presented at the public hearing, the City Council finds that the following are the relevant facts and findings regarding this proposed project:

- 1. Site Description and Surrounding Uses.** The subject property is vacant and located on the east side of Camden Avenue, between Malpas Drive and Canna Lane (APN: 567-26-014). The access to the site will be from two private streets from Camden Avenue.

The surrounding land uses include single-family attached residences to the north, Guadalupe Creek riparian corridor to the east and south, and a commercial strip shopping center to the west, across Camden Avenue, with two-family residences (duplexes) beyond.

The approximately one-acre site is within the 300-foot Guadalupe Creek riparian corridor and is, therefore, subject to City Council Riparian Policy, as discussed further below. The property consists of a levelled vacant lot with minimal vegetation cover. The property has a continuous six-foot-high chain link fence along the eastern edge maintained by Valley Water, which creates a physical separation between the riparian corridor and the subject Camden property. The proposed development requires a street dedication for public right-of-way improvements, approximately 27 feet to 31 feet wide, along its western property line fronting Camden Avenue. The total net square footage of the subject parcel after deducting street dedication area would be approximately 0.76 acres.

A conventional rezoning for the subject 1.0-gross-acre site from the A Agricultural Zoning District to the R-2 Two-Family Residence Zoning District was adopted (Resolution No. 30198) by the City Council on December 11, 2018.

- 2. Project Description.** The project consists of a Planned Development Permit to allow the construction of seven single-family detached residences, on an approximately 1.0-gross-acre site.

In conjunction with the Planned Development Permit, the project also includes a Planned Development Rezoning, File No. PDC21-019, and a Vesting Tentative Map, File No. PT21-002. The Planned Development Rezoning to rezone the site from the R-2 Two-Family Residence Zoning District to the R-2(PD) Planned Development Zoning District, and the Vesting Tentative Map subdivides the 1.0-gross-acre site from one lot into 9 lots, including 7 single-family residential lots and two private street lots.

- 3. Envision San José 2040 General Plan and Stevens Creek Boulevard Urban Village Plan Consistency.**

Land Use

The project is within the Residential Neighborhood land use designation in the Envision San José 2040 General Plan Land Use/ Transportation Diagram Map. The land use designation is for established, single-family residential neighborhoods. The Residential Neighborhood designation typically provides for a density of up to 8 dwelling units per acre (DU/AC), but also allows projects to match the existing

neighborhood character if greater than 8 DU/AC.

In order for new infill development to establish a unique character as defined by density, lot size and shape, where 50% or more of the development on the same block (both sides of the street) is developed at a density greater than 8 DU/AC, new development can match the prevailing density. For any new infill project to exceed 8 DU/AC, it is necessary that: (1) other policies in the General Plan are met, (2) applicable design guidelines are met, and (3) the development does not exceed 16 DU/AC.

New infill development within the Residential Neighborhood land use designation should improve and/ or enhance existing neighborhood conditions by completing the existing neighborhood pattern and bringing infill properties into general conformance with the quality and character of the surrounding neighborhood. New infill development should be integrated into the existing neighborhood pattern, continuing and, where applicable, extending or completing the existing street network. The average lot size, orientation, and form of new structures for any new infill development must therefore generally match the typical lot size and building form of any adjacent development, with particular emphasis given to maintaining consistency with other development that fronts onto a public street to be shared by the proposed new project.

Analysis: The subject property abuts a planned residential development (townhomes) to the north at a density of 12 DU/AC. The parcels across Camden Avenue to the west, behind the commercial shopping center (at Malpas Drive and Canna Lane intersection), are developed with two-family homes (duplexes) with an average density of 13.3 DU/AC.

At 0.76 net acres (removing the private street acreage) the project could be developed with up to nine units. The project will create seven units at 9.2 DU/AC, which would be consistent with the prevailing density at 12 DU/AC of the adjacent neighborhood.

The project is consistent with the General Plan policies and Council Policy on Riparian Corridor Protection and Bird-Safe Design. The project is also consistent with applicable Single-Family Design Guidelines discussed below, and the development does not exceed prevailing density at 12 DU/AC. Therefore, the project is consistent with the density requirement of up to maximum 16 DU/AC per the General plan land use designation of Residential Neighborhood.

The project is consistent with the following key General Plan policy:

Implementation Policy IP-8.5: Use the Planned Development zoning process to tailor such regulations as allowed uses, site intensities and development standards to a particular site for which, because of unique circumstances, a Planned Development zoning process will better conform to Envision General Plan goals and policies than may be practical through implementation of a conventional Zoning District.

Analysis: The project includes seven single-family detached homes and is generally

consistent with the surrounding land uses but requires specific development standards to meet the allowed density allowed by the General Plan. Those development standards include reduced lot area, width, and setbacks that would not be possible with the standard R-2 Two-Family Residence Zoning District while also being compatible with the character and appearance of the adjacent residential development. The base zoning of the R-2 (PD) Planned Development Zoning District supports compatibility with the surrounding single-family and two-family residential neighborhoods.

The rezoning would allow infill development at 9.2 DU/AC on the subject property, which would be compatible with the higher density townhome development (12 DU/AC) to the north and higher intensity commercial uses across Camden Avenue with two-family residential development (13.3 DU/AC). The adjacent lands to the east and south are undevelopable due to the Open Space General Plan designation.

4. Zoning Ordinance Consistency.

The project is in the **R-2 Two Family Residence Zoning District**.

The project includes a rezoning from the R-2 Two Family Residence Zoning District to the R-2(PD) Planned Development Zoning District.

Land Use

The rezoning from R-2 to R-2(PD) Planned Development Zoning District would allow for specific development standards that differ from those required by the R-2 Two-Family Residence Zoning District. The proposed rezoning would allow reduced lot sizes and setbacks to support higher density allowed per General Plan, as discussed above, to construct seven detached single-family residences.

Development Regulations

Below is a comparison of the R-2 Two-Family Residence Zoning District per Section 20.30.200 of the Zoning Code, the proposed R-2(PD) Planned Development Zoning District development standards, and project compliance with those standards.

The project includes seven detached single-family homes on seven separate lots.

Standard	R-2 Zoning District Requirements	R-2(PD) Planned Development Zoning District Development Standards	Project Compliance with PD Zoning Standards
Minimum Lot	5,445 square	2,800 square feet	2,850 square feet

Area	feet		minimum
Minimum Front Setback	15 feet	Five feet	Five feet minimum
Minimum Side Setback (interior)	5 feet	Three feet	Three feet minimum
Minimum Side Setback (from private street)	12.5 feet	12 feet	Lot 1:10 feet
Minimum Rear Setback	25 feet	13 feet	12 feet minimum
Maximum Height	35 feet	No change	29 feet maximum
Parking	Two spaces per three family bedrooms	Two covered spaces	Two covered spaces per unit (18 spaces)

Analysis: As shown on the Planned Development Permit Plan Set for File No. PD21-006, the project conforms with the minimum lot sizes and all proposed setbacks, height and parking standards of the R-2(PD) Planned Development Zoning District Development Standards.

Analysis: The project provides parking ratios consistent with the Planned Development Zoning Standards. Single-family residential uses are not required to provide any bicycle or motorcycle spaces.

5. Riparian Corridor Protection and Bird Safe Design Policy.

The Riparian Corridor Policy (Council Policy 6-34, the “Riparian Policy”) is for the protection, preservation and restoration of the riparian habitat. The Riparian Policy provides general guidelines for riparian corridor protection and requires a minimum 100-foot setback from a riparian corridor’s top of bank or riparian vegetative edge to minimize intrusion into the riparian corridor. The Riparian Policy also allows reductions to the 100-foot setback to be made on a case-by-case basis. For example, sites with unique geometric characteristics or disproportionately long riparian frontages; or where the project implements measures that better protect and enhance riparian values than a 100-foot setback would, may be allowed a reduced setback.

The subject property borders the riparian corridor along its east side adjacent to Guadalupe Creek. The Biological Evaluation Technical Report, dated September 15,

2021, by qualified biologists Live Oak Associates Inc., delineates the subject property's full 100-foot riparian setback area to be 0.57 acre. The remaining area would be inadequate to allow the permitted density of seven single-family detached residences on the subject site, particularly given the substantial Camden Avenue right-of-way dedication.

The Planned Development Permit plans show that at the closest point to the development from the riparian top-of-bank, there is a 50-foot setback

The project's Biological Evaluation Technical Report includes analysis of the Riparian Policy and indicates that based on a review of the technical information and observations at the subject property and its vicinity, the reduced setback of 50 feet would not result in a biological impact to the adjacent riparian area. Exceptions to the 100-foot setback requirement are allowed by the Riparian Policy for the various situations. Exceptions applicable to the project include:

- a. Urban infill locations where most properties are developed and are located on parcels that are equal to or less than one (1) acre.

Analysis: The development will be on a parcel equal 0.76 net acre after street dedication.

- b. Sites with unique geometric characteristics and / or disproportionately long riparian frontages in relation to the width of the minimum Riparian Corridor setback.

Analysis: This condition is applicable as the site has an elongated triangular shape, with the longest side adjacent to the riparian corridor. If the full 100-foot riparian setback were applied, approximately 0.18 acre of the net project site after street dedication would be available for development.

- c. The extent to which meeting the required setback would result in demonstrable hardship (i.e., denies an owner any economically viable use of the land or adversely affects recognized real property interest).

Analysis: The subject property is vacant. The new development includes a 50-foot reduced setback from top of bank of Guadalupe Creek. There is no reasonable alternative for the project that avoids or reduces the encroachment into the 100-foot riparian setback area. The granting of the exception will not be detrimental or injurious to adjacent and/or downstream properties. The residential uses are not fundamentally incompatible with the riparian habitats. There is no evidence of stream bank erosion or previous attempts to stabilize the stream banks that could be negatively affected by the development within the setback area.

Additionally, the project cannot be built within the 100-feet of the riparian corridor without a setback exception approval from the City of San José and from the Santa Clara Valley Habitat Agency (SCVHP).

Condition 11 of the SCVHP provides requirements for “Stream and Riparian Setbacks,” which requires that new covered projects adhere to setbacks from creeks, streams, and associated riparian vegetation to minimize and avoid impacts from covered projects on riparian vegetation, as discussed under Sections 3.2.6 and 3.2.7 of the Biological Evaluation Technical Report by Live Oak Associates Inc. As the project site is within the City’s Urban Service Area and the site does not possess a 30% or greater slope, required stream setbacks measured from the top of the stream bank are required to be at least 35 to 100 feet depending on the category of the stream. Setbacks for Category 1 streams are at least 100 feet. The Guadalupe Creek is a Category 1 stream; therefore, development is required to maintain a 100-foot setback, without an exception request.

With the granting of a riparian setback exception, the project could have a stream setback of 35 feet. To obtain a Class 11 Exception for a 35-foot stream setback, the project applicant will need to demonstrate the following:

- 1) The existence of legal uses within the setback;
- 2) The extent to which meeting the required setback would result in a demonstrable hardship (i.e., denies an owner any economically viable use of his land or adversely affects recognized real property interests) for the applicant;
- 3) The extent to which meeting the required setback would require deviation from, exceptions to, or variances from other established policies, ordinances or standards regarding grading, access, water supply, wastewater treatment, disposal systems, geologic hazards, zoning, or other established code standards.
- 4) The stream setback exception does not preclude achieving the biological goals and objectives of the Habitat Plan or conflict with other applicable requirements of the Habitat Plan and local policies.
- 5) *Analysis: The site would be accessed from Camden Avenue via private streets. The proposed development would have a riparian setback of 50 feet from the top of bank of Guadalupe Creek and at least 35 feet from the outer dripline of riparian vegetation. As documented in the analyses provided in the Biological Evaluation Technical Report (attached to staff report), the residential development and associated Habitat Mitigation and Monitoring Plan (HMMP) is a legal use, enforcement of the standard 100-foot stream setback would render the site economically infeasible and would be inconsistent with the intended density under the site’s General Plan land use designation and zoning district and implementation of the HMMP would advance the biological goals and objectives of the Habitat Plan. Therefore, the project would qualify for a Condition 11 Exception request and would be consistent with all applicable conditions on covered activities within the Habitat Plan area. The project*

includes additional riparian landscaping within the 0.25-acre riparian setback area and includes a five-year monitoring plan. This landscaping project will be implemented in conformance with a Habitat Mitigation and Monitoring Plan that has been prepared for the site. The Biological Evaluation Technical Report recommended measures are further discussed and included in the Initial Study / Mitigated Negative Declaration prepared for the project.

6. Single-Family Design Guidelines Consistency.

The project was analyzed for consistency with applicable Single-Family Design Guidelines. Per the California Housing Accountability Act, only objective standards (quantifiable and measurable) can be applied to residential projects. The Single-Family Design Guidelines contain no objective standards; however, the project does comply with the key guidelines below:

Section 1. C.3. Main entries should be prominent and oriented to the street unless another pattern is well established on the block, and in appropriate scale for the block as well as the individual building.

Analysis: The main entrances of the single-family homes are prominent and face Camden Avenue (public street) as well as a private street. None of the single-family home designs have main entryways that are out of scale for the structure. The project is consistent with this section.

Section 2. A.3. Building forms should be varied enough to avoid monotony and to be compatible with surrounding houses but should still be simple and elegant.

Analysis: There are a total of three floor plan options and four different street elevation views of the homes fronting Camden Avenue within the Planned Development Permit Plan Set for the seven single-family homes. This provides a variety in design style, and along with changes in color and materials provides a variety in appearance. The single-family home designs are not overly complex but keep to traditional design features with sloped roofs, wood siding, and stucco materials that result in simple and elegant design.

7. Public Outreach.

To inform the public of the project, staff followed City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the subject property and posted on the City's website. An on-site sign describing the project was posted along the frontage of the subject property. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

8. California Environmental Quality Act.

The City of San José, as the Lead Agency, prepared an Initial Study/Mitigated Negative Declaration (“IS/MND”) (State Clearinghouse No. 2022080655) for the Camden Avenue Residential Project in compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines (California Code of Regulations §15000 et. seq.) and the regulations and policies of the City San José, California. The IS/MND evaluated the environmental impacts that might reasonably be anticipated to result from implementation of the proposed project.

The IS/MND was circulated from July 22, 2022, to August 10, 2022, and three comments were received during the public review period. One of the comment letters was from Valley Water, in which Valley Water requested a clarification to the Initial Study as to where Valley Water property is in relation to the subject property. Valley Water also requested that various policy and guideline information be added to the IS/MND. The Santa Clara Audubon Society provided a comment letter and requested certain clarifications be added for the protection of birds, and that certain General Plan policies be added. Pacific Gas and Electric (“PG&E”) also provided a comment letter to clarify that there are PG&E facilities within the proposed project’s right-of-way, and that coordination with PG&E for any relocation of these facilities must be performed by the applicant. The IS/MND, including responses to comments received during the public review period, can be found at the following link: Camden Avenue Residential Project | City of San Jose (sanjoseca.gov).

The IS/MND identified relevant mitigation measures for potential impacts to air quality during construction, nesting birds and biological resources, hazards and hazardous materials from past agricultural uses on the site, and for construction-related noise and vibration. In addition, standard permit conditions are made part of the permit approval. These standard permit conditions include best management practices for construction related air quality impacts, removal of existing trees on the site, compliance with the Santa Clara Valley Habitat Plan, compliance with the California Building Code for seismic safety of the proposed building, erosion control during construction activities, prehistoric and historic resources, protection of unknown subsurface cultural resources and human remains, protection of construction workers from hazards related to contaminated soils, water quality impacts during construction and operation periods, and best management practices to control noise during construction and achieving an interior noise level of less than 45 dBA DNL after construction. The mitigation measures are included in the Mitigation Monitoring and Reporting Program (“MMRP”), and both the mitigation measures and standard permit conditions are made a part of the resolution of this permit. The Initial Study concluded that the project would not result in any significant and unavoidable environmental impacts with implementation of identified mitigation measures. Therefore, an EIR is not required, and an Initial Study/Mitigated Negative Declaration is the appropriate level of CEQA clearance for the project.

- 9. Planned Development Permit Findings.** Section 20.100.940 of the Zoning Ordinance specifies the required findings for approval of a Planned Development Permit. These findings are made for the project based on the analysis related to

General Plan, Zoning Ordinance, and CEQA conformance and subject to the conditions set forth in the Permit. In order to make the Planned Development Permit findings and recommend approval to the Planning Commission, staff must determine that:

- a. The planned development permit, as issued, is consistent with and furthers the policies of the general plan; and

Analysis: As analyzed above, the single-family residential project with seven detached single-family homes is consistent with the General Plan Residential Neighborhood land use designation, including Implementation Policy IP-8.5. The use is allowed within the Residential Neighborhood designation and the project has a density of 9.2 DU/AC within the maximum allowable prevailing density of 12 DU/AC.

- b. The planned development permit, as issued, conforms in all respects to the planned development zoning of the property; and

Analysis: As analyzed above, the project is consistent with the R-2(PD) Planned Development Zoning District Development Standards. The project is consistent with the parking, setback, and height requirements of the Planned Development Standards and the General Development Plan.

- c. The planned development permit, as approved, is consistent with applicable city council policies, or counterbalancing considerations justify the inconsistency; and

Analysis: The proposed project is consistent with all applicable City Council policies. Staff followed Council Policy 6-30: Public Outreach Policy for Pending Land Use and Development Proposals in order to inform the public of the project. Signs describing the project were posted on the subject property along the project frontage. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the subject property and posted on the City's website.

The project is also within 300 feet of a riparian corridor and subject to the Riparian Corridor and Bird-Safe Design Council Policy 6-34. The approved plans show that there is a 50-foot setback at the closest point to the development from the riparian top-of-bank.

As discussed above, a Biological Evaluation Technical Report for the Camden Avenue site prepared for the project by Live Oak Associates Inc. dated September 15, 2021, includes analyses of the City's development policy as applied to the project and indicates that based on a review of the technical information and observations at the subject property and its vicinity, the applicant's plans for the vacant property and the request for 50-foot reduced setbacks would not result in a biological impact to the adjacent riparian area of the Guadalupe Creek, and an exception should be considered. The project would qualify for a Condition 11 Exception Request and would be consistent with all applicable conditions on

covered activities within the Habitat Plan area, as discussed above. The Biological Evaluation Technical Report recommended measures are further discussed in the attached Mitigated Negative Declaration.

- d. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious; and

Analysis: The subject single-family residential project provides seven new single-family detached homes. The design of the single-family homes includes architecture styles such as Farmhouse with three elevation options that provide variety while being compatible with each other. Materials such as board and batten siding, wood columns and trim, horizontal bands and corbels under wall pop-outs are incorporated into the design. The design also includes variations in color, materials, projections, and recessions, which contribute to an interesting and varied design. The project includes planting of trees and landscaping along the site's street frontage and incorporates private yards. The project would therefore be aesthetically harmonious.

- e. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: As discussed above, the project incorporates measures to address noise, stormwater runoff, drainage and erosion. The project will be required to adhere to all applicable standard permit conditions and mitigation measures related to reducing temporary and operational sources of noise and vibration, dust, and erosion. Noise resulting from the construction of the project is limited to the posted construction hours between 7:00 a.m. and 7:00 p.m., Monday to Friday, and would be temporary in nature. The project will be required to comply with all City permits and policies related to erosion and storm water runoff. The scope of the project is considered to be in-fill development and will be required to comply with the City's Post-Construction Urban Runoff Management Policy, which requires implementation of Best Management Practices including site design measures, source controls and numerically sized Low Impact Development stormwater treatment measures to minimize stormwater pollutant discharges, as per the Public Works Final Memo dated 10/27/22. For these reasons the project is not anticipated to have an unacceptable negative impact on adjacent properties.

In accordance with the findings set forth above, a Planned Development Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **granted**. This City Council expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the

owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per San José Municipal Code Section 20.100.290(B), should the permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the permittee shall be deemed to be constitute all of the following on behalf of the permittee:
 - a. Acceptance of the Permit by the permittee; and
 - b. Agreement by the permittee to be bound by, to comply with, and to do all things required of or by the permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Planned Development Permit shall automatically expire four (4) years from and after the date of issuance hereof by the City Council, if within such time period, the proposed use of the site or the construction of buildings (if a Building Permit is required) has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the City Council. However, the Director of Planning, Building and Code Enforcement may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Permit shall be deemed acceptance of all conditions specified in this Permit and the permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described in the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by permittee shall constitute acknowledgement of receipt of notice by permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José - Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José - Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed

on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager makes a determination that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.

5. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved Planned Development Permit plans entitled, "Planned Development Permit for Camden Avenue" dated April 29, 2022, on file with the Department of Planning, Building and Code Enforcement as may be amended subject to City's approval, and to the San José Building Code (San José Municipal Code, Title 24), as amended. The plans are referred to herein as the "approved plans" or the "Approved Plan Set."
6. **Planned Development District Effectuated.** This Planned Development Permit effectuates the Planned Development Zoning as reflected in the Permit's Approved Plan Set and the corresponding legal description.
7. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, state, and federal laws.
8. **Discretionary Review.** The City maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
9. **Utilities.** All new on-site telephone, electrical, and other service facilities shall be placed underground.
10. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
11. **Housing Conditions of Approval.** The permittee has submitted an Affordable Housing Compliance Plan Application ("Plan").
 - a. The permittee must execute and record their City Affordable Housing Agreement memorializing the IHO obligations against the property and any contiguous property under common ownership and control prior to earliest of: issuance of any building permits, or approval of any final map.
 - b. The permittee must strictly comply with each requirement of the approved Affordable Housing Compliance Plan, the Affordable Housing Agreement, and any other applicable requirements of the IHO.

- c. No building permit may issue until the Affordable Housing Agreement is recorded against the property. No building permit may issue except consistent with the requirements of the IHO and the proposed Plan to fulfill the affordable housing obligations.
 - d. Temporary Certificate of Occupancy, Certificate of Occupancy, and Notice of Completion for any units shall be issued in accordance with all requirements of the IHO and Affordable Housing Agreement.
12. **Construction Disturbance Coordinator.** Rules and regulation pertaining to all construction activities and limitations identified in this Permit, along with the name and telephone number of a permittee-appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.
13. **Stormwater Stenciling.** All storm drain inlets and catch basins shall be stenciled with the “NO DUMPING - FLOWS TO BAY,” applied to the top and/or face of the curb next to the storm drain inlet. The development maintenance entity and/or property owner shall ensure that all storm drain inlet markings located on privately maintained streets within the property are present and maintained.
14. **Landscaping.** Planting and irrigation are to be provided by the permittee, as indicated, on the final Approved Plans.
15. **Irrigation Standards.** Irrigation shall be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping, the City of San José Landscape and Irrigation Guidelines and the Zonal Irrigation Plan in the Approved Plans, as applicable. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
16. **Certification.** Pursuant to San José Municipal Code, Section 15.11.1050 certificates of substantial completion for landscape and irrigation installation shall be completed by a licensed or certified professional and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project, as applicable.
17. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of any Building Permit, the project must comply with the California Fire Code as adopted or updated by the City.
18. **Building Division Clearance for Issuing Permits.** Prior to the issuance of any Building permit, the following requirements shall be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans.* This Permit file number, PD21-006 shall be printed on all construction plans submitted to the Building Division.
 - b. *San José’s Natural Gas Infrastructure Prohibition and Reach Code Ordinances.* The City’s Natural Gas Infrastructure Prohibition and Reach Code Ordinances

apply to this project and all requirements shall be met. For more information, please visit www.sjenvironment.org/reachcode.

- c. *Americans with Disabilities Act.* The permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - d. *Emergency Address Card.* The project permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - e. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any Building Permit issuance, Building Permit plans shall conform to the approved Planning development permits and applicable conditions.
 - f. *Project Addressing Plan.* Prior to issuance of any Building Permit, the following requirements shall be met to the satisfaction of the Chief Building Official: The project permittee shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial). The addressing plan should include proposed street names for the streets (as referenced on an approved tentative map) and the type of addressing (i.e., individual street addresses as compared to unit number off of a primary street).
 - g. *Other.* Such other requirements as may be specified by the Chief Building Official.
19. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
20. **Public Works Clearance for Building Permit(s).** Prior to the approval of the Tract Map by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the permittee will be required to have satisfied all of the following Public Works conditions. The permittee is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at: <http://www.sanjoseca.gov/devresources>.
- a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
 - b. **Grading/Geology:**
 - i. A grading permit is required prior to the issuance of a Public Works Clearance.

- ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the latest California Plumbing Code as adopted under the City of San Jose Municipal Code Section 24.04.100 or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
 - iii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the subject property, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
 - iv. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
 - v. A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit. This report should include, but is not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations.
- c. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
- i. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed for conformance with City Policy 6-29.
 - ii. Final inspection and maintenance information on the post-construction treatment control measures must be included on the final Stormwater Control Plan.
- d. **Flood Zone D:** The subject property is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied

area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.

- e. **Streamside Resource Protection:** A Valley Water Permit may be required for any other proposed work within the Valley Water easement.
- f. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable prior to Public Works clearance.
- g. **Parks.** This residential project is subject to the payment of park fees in-lieu of land dedication under either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code).
- h. **Undergrounding:**
 - i. The In-Lieu Undergrounding Fee shall be paid to the City for all frontage(s) adjacent to Camden Avenue prior to issuance of a Public Works Clearance. 100 percent of the base fee in place at the time of payment will be due. Currently, the 2021 base fee is \$532 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record's City Average Cost Index for the previous year. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued (based on 2021 rate, the fee is approximately \$199,457).
 - ii. The Director of Public Works may, at his discretion, allow the developer to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to Camden Avenue. Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.
- i. **Street Improvements:**
 - i. Construct Camden Avenue half-street along the project frontage to include asphalt pavement, curb, gutter, and 12' detached sidewalk with minimum 4' 6" inch wide parkstrip and minimum 5' pedestrian through zone.
 - ii. Close unused driveway cuts.
 - iii. Provide 26' wide City standard driveways at private street entrances.
 - iv. Construct 15" wide storm drain main from the existing manhole at the intersection of Malpas Drive and Camden Avenue, south along Camden Avenue up to the proposed storm drain laterals. New storm main shall be installed at least 5' horizontally from any existing sanitary mains (minimum 4' between outer walls).

- v. Install empty communications conduit along the Camden Avenue frontage for future City use.
- vi. Provide an in-lieu contribution of \$121 per linear foot of project frontage for a protected bikeway along the Camden Ave frontage per the CSJ 2025 Better Bikeway Plan.
- vii. permittee shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
- j. Dedication and improvement of the public streets shall be to the satisfaction of the Director of Public Works.
- k. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
- l. **Street Trees:**
 - i. The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in park strip. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
 - ii. Show all existing trees by species and diameter that are to be retained or removed. Obtain a street tree removal permit for any street trees that are over 6 feet in height that are proposed to be removed.
- m. **Transportation:** This project would not require a detailed CEQA Transportation Analysis as the project meets the screening criteria of 15 units of Single Family detached or less for Vehicle Miles Traveled under Council Policy 5-1 which results in less-than-significant impacts for transportation. Furthermore, no additional Transportation Analysis is required.
- n. **Private Streets:** Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.
- o. **Referrals:** This project should be referred to Valley Water, San Francisco Bay Regional Water Quality Control Board, and to other applicable regulatory agencies.

21. **Conformance to MMRP.** This project shall conform to all applicable requirements of

the Mitigation Monitoring and Reporting Program (MMRP) approved for this development by City Council Resolution No. [REDACTED].

22. Standard Environmental Conditions. The following measures shall be implemented during all phases of construction to control dust and exhaust at the subject property:

a. Air Quality

- i. Water active construction areas at least twice daily or as often as needed to control dust and emissions.
- ii. All trucks hauling soil, sand, and other loose material shall be covered and all trucks shall maintain at least two feet of freeboard.
- iii. Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- iv. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- v. Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- vi. Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- vii. Replant vegetation in disturbed areas as quickly as possible.
- viii. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- ix. Minimize idling times either by shutting off equipment when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
- x. Maintain and properly tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- xi. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

b. Biological Resources

- i. **Tree Removal and Replacement.** The trees removed by the project shall be replaced according to tree replacement ratios required by the City as provided in Table 3.4 2 below. Three non-native ordinance-size trees onsite would be removed. Three trees shall be replaced at a 4:1 ratio. The total number and size of replacement trees required to be planted is 12 trees, and each

replacement tree shall be a minimum size of 15 gallons.

Table 1: Tree Replacement Requirements						
Diameter of Tree to be Removed ¹	of	Type of Tree to be Removed ²			Minimum Size of Each Replacement Tree	
		Native	Non-Native	Orchard		
12.1 inches or more ³		5:1	4:1	3:1	15-gallon container	
6.1 – 12.1 inches		3:1	2:1	None	15-gallon container	
Less than 6.1 inches		1:1	1:1	None	15-gallon container	
¹ As measured 4.5 feet above ground level ² x:x = tree replacement to tree loss ratio ³ Ordinance-sized trees Notes: Trees greater than or equal to 12.1 inches in diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For multi-family residential, commercial, and industrial properties, a Tree Removal Permit is required for removal of trees of any size. A 38-inch tree is 12.1 inches in diameter. 1 24-inch box tree = 2 15-gallon trees.						

If there is insufficient area on the subject property to accommodate the required replacement trees, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement or Director's designee. Changes to an approved landscape plan requires the issuance of a Permit Adjustment or Permit Amendment.

- 1) The size of a 15-gallon replacement may be increased to 24-inch box and count as two replacement trees to be planted on the subject property, at the development permit stage.
 - 2) Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance with the City Council approved Fee Resolution. The City will use the following off-site tree replacement fee(s) to plant trees at alternative sites.
- ii. **Santa Clara Valley Habitat Plan.** The project is subject to applicable Habitat Plan conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The permittee shall submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building, and Code Enforcement or Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of grading permits.

The Habitat Plan and supporting materials can be viewed at <https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan>.

- c. **Cultural Resources.** 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 permittee 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 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:
- i. 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.
 - ii. The MLD identified fails to make a recommendation; or
 - iii. The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.
- d. **Geology and Soils.**
- i. To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes, as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.
 - ii. All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.

- iii. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
 - iv. Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
 - v. The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.
 - vi. Prior to issuance of any site-specific grading or building permits, a design-level geotechnical investigation shall be prepared and submitted to the City of San José Public Works Department for review and approval. The project shall implement the recommendations in the investigation to minimize impacts from expansive soils. Options to address these conditions may range from removal of the problematic soils and replacement, as needed, with properly conditioned and compacted fill, lime treat soils, and to design and construct improvements to withstand the forces exerted during the expected shrink-swell cycles and settlements.
 - vii. If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The permittee shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee.
- e. **Hydrology and Water Quality.** Measures shall be implemented to prevent stormwater pollution and minimize potential sedimentation during construction, including, but not limited to, the following:
- i. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
 - ii. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
 - iii. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.

- iv. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
 - v. All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.
 - vi. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
 - vii. Vegetation in disturbed areas shall be replanted as quickly as possible.
 - viii. All unpaved entrances to the site shall be filled with rock to remove mud from truck tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
 - ix. The permittee shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.
- f. **Noise.** Pursuant to General Plan Policy EC-1.7, project construction operations shall use best available noise suppression devices and techniques including, but not limited to the following:
- i. Pile Driving is prohibited.
 - ii. Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses if the project's solid sound wall and/or good neighbor fence are not constructed first.
 - iii. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good conditions and appropriate for the equipment.
 - iv. Prohibit unnecessary idling of internal combustion engines.
 - v. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
 - vi. Utilize "quiet" air compressors and other stationary noise sources where technology exists.
 - vii. Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the subject property.
 - viii. Notify all adjacent businesses, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to adjacent land uses and nearby residences.
 - ix. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along

surrounding building facades that face the construction sites.

- x. Designate a “disturbance coordinator” who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
 - g. **Interior Noise.** The permittee shall prepare final design plans that incorporate building design and acoustical treatments to ensure compliance with State Building Codes and City noise standards. A project-specific acoustical analysis shall be prepared to ensure that the design incorporates controls to reduce interior noise levels to 45 dBA DNL or lower within the residential unit. The permittee shall conform with any special building construction techniques requested by the City’s Building Department, which may include sound-rated windows and doors, sound-rated wall constructions, and acoustical caulking.
23. **Tribal Cultural Resources.** The project shall hire a qualified representative of the Tamien Nation to conduct in-person tribal cultural sensitivity training for construction team members during the first day of ground disturbing activities; video trainings may not be substituted for in-person training. If ground-disturbing activities are conducted by new construction team members after the initial training was conducted, those new teams or workers shall require the training provided by the Tamien Nation, prior to commencement of ground disturbing activities on their first day at the site.
24. **Revocation, Suspension, Modification.** This Planned Development Permit may be revoked, suspended or modified by the City Council at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:
- a. A violation of any conditions of the Planned Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

In accordance with the findings set forth above, a permit to use the subject property for said purpose specified above is hereby approved.

EFFECTIVE DATE

The effective date of this Planned Development Permit shall be the same as effective date of the Rezoning Ordinance for File No. PDC21-019 passed for publication on _____, 2022 (the "Zoning Ordinance") and shall be no earlier than the effective date of said Rezoning Ordinance.

ADOPTED this ____ day of _____, 2022, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

NOTICE TO PARTIES

The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.



November 30, 2022
HMH 5914.00
Page 1 of 1

EXHIBIT "A"
FOR REZONING PURPOSES

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being a portion of Property Two as described in the Grant Deed recorded April 25, 2000, in Document No. 15224632 of Official Records, Santa Clara County Records, described as follows:

BEGINNING at the northeasterly corner of said Property Two;
Thence along the northerly line of said Property Two; North 89°40'04" West, 203.12 feet to the easterly line of Camden Avenue (formerly Hicks Road, Los Gatos-Almaden Road and Harwood Road);

Thence along said easterly line the following two courses:

1. southerly, along a non-tangent curve to the right, having a radius of 1,008.00 feet, whose center bears North 87°58'43" West, through a central angle of 10°34'24" for an arc length of 186.02 feet;
2. Thence South 00°19'56" West, 188.87 feet to the southeasterly line of said Property Two;

Thence along said southeasterly line, the following three courses:

1. northeasterly, along a non-tangent curve to the right, having a radius of 866.50 feet, whose center bears South 61°03'35" East, through a central angle of 16°39'16" for an arc length of 251.87 feet;
2. Thence along a reverse curve to the left, having a radius of 108.50 feet, through a central angle of 33°07'50" for an arc length of 62.74 feet;
3. Thence along a reverse curve to the right, having a radius of 416.50 feet, through a central angle of 17°29'42" for an arc length of 127.18 feet, to the POINT OF BEGINNING.

Containing 1.01 acres, more or less.

As shown on Exhibit "B" attached hereto and made a part hereof.

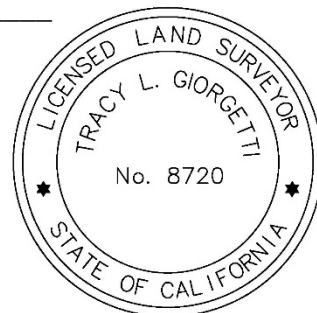
END OF DESCRIPTION

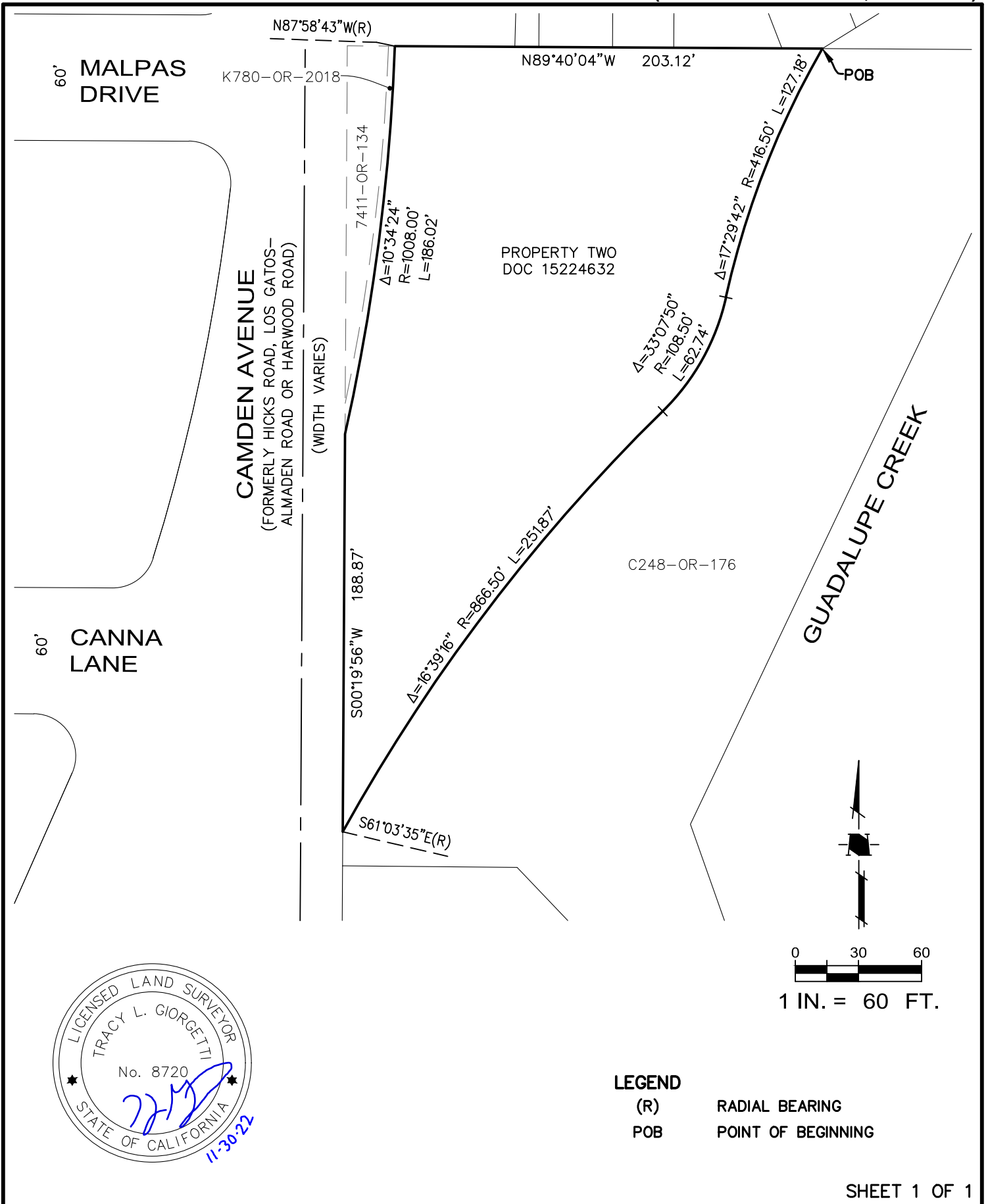
For assessment or zoning purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.

This legal description was prepared by me or under my direction in accordance with the Professional Land Surveyors Act.

Date: 11-30-22


Tracy L. Giorgetti, LS 8720





SHEET 1 OF 1