

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT PERMIT, TO ALLOW THE DEMOLITION OF TWO UNOCCUPIED RESIDENCES, A FRUIT STAND AND ANCILLARY STRUCTURES, AND THE REMOVAL OF 584 TREES FOR THE CONSTRUCTION OF A MIXED-USE DEVELOPMENT CONSISTING OF 1,472 MULTIFAMILY RESIDENTIAL UNITS, APPROXIMATELY 18,965 SQUARE FEET OF COMMERCIAL SPACE, A 2.5-ACRE PUBLIC PARK, UP TO SIX COMMERCIAL CONDOMINIUM UNITS, AND SATURDAY CONSTRUCTION HOURS FROM 8:00 AM TO 5:00 PM ON AN APPROXIMATELY 22.88-GROSS-ACRE SITE, LOCATED AT THE NORTHEAST CORNER OF MONTAGUE EXPRESSWAY AND SEELY AVENUE (0 SEELY AVENUE) (APNS 097-15-033 & 034 AND 097-66-008)**

**FILE NO. PD22-002**

**WHEREAS**, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on January 21, 2022, Scott Youdall submitted an application with the City of San José (File No. PD22-002) on behalf of property owners David Triasco, Jenny Chan-Sakauye, and Alice Karolewski, for a Planned Development Permit to allow the demolition of two unoccupied residences, a fruit stand, and ancillary structures totaling approximately 19,820 square feet and the removal of 584 trees (261 ordinance-size, and 323 non-ordinance-size, 1,085 replacement trees) for the construction of a mixed-use development consisting of 1,472 multifamily residential units, approximately 18,965 square feet of commercial space, a 2.5-acre public park, up to six commercial condominium units, and Saturday construction hours from 8:00 a.m. to 5:00 p.m. on an approximately 22.88-gross-acre site, on that certain real property situated in the IP(PD) Planned Development Zoning District (File No. PDC21-035) and located at the northeast corner of Montague Expressway and Seely Avenue (0 Seely Avenue, APNs 097-15-033,

034 and 097-66-008), in San José, which real property is sometimes referred to herein as the “subject property”); and

**WHEREAS**, the subject property is all that real property more particularly described in Exhibit "A," entitled “Legal Description,” and Exhibit "B," entitled “Plat 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 application on June 26, 2024, 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 recommendation 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 PD22-002 0 Seely Avenue” dated

November 29, 2023, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

**WHEREAS**, said public hearing before the City Council was conducted in all respects as required by the San José Municipal Code and the rules of this City Council; 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:

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 approximately 22.88-gross-acre site is located at the northeast corner of Montague Expressway and Seely Avenue. The site is comprised of three parcels (APNs: 097-15-033 and 034, and 097-66-004). The Project site contains two unoccupied residential structures, barns and other storage structures, a fruit stand and agricultural land (orchards, fruits, and vegetables). The Project site is bounded by an office building and multifamily residential uses to the north, Coyote Creek to the east, general industrial uses across Montague Expressway to the south, and an office park across Seely Avenue to the west.
- 2. Project Description.** The Project consists of the redevelopment of a site with two residences, a fruit stand and orchard, and ancillary structures, for the development of a mixed-use Project including up to 1,472 multifamily residential units and approximately 18,965 square feet of commercial space.

The southern portion of the Project includes the construction of four multifamily residential buildings oriented around a future 2.5-acre public park. Building A, located at the northeast corner of Montague Expressway and Seely Avenue, is a six-story building consisting of 397 multifamily residential units and approximately 6,427 square feet of ground floor commercial space. Building B, located directly east of the park, is

a seven-story building consisting of 372 multifamily residential units and approximately 5,578 square feet of ground floor commercial space. Building C, located directly north of the park opposite Building A, is a seven-story building consisting of 371 multifamily residential units and approximately 6,960 square feet of ground floor commercial space. In compliance with the City’s Inclusionary Housing Ordinance (IHO), 57 moderate-income units with incomes not to exceed 100% of the Area Median Income (AM) will be provided in Buildings A, B, and C. These units will be distributed as follows: 20 units in Building A, 19 units in Building B, and 18 units in Building C, representing 5% of each market-rate multifamily building. The Affordable Apartment building, located east of Building A and south of Building C, is a six-story building consisting of 178 multifamily residential units. The income-eligibility breakdown of the affordable units is as follows:

<b>Affordability</b>	<b>Unit Count</b>
100% AMI	2 manager’s units
70% AMI	93
60% AMI	25
50% AMI	40
30% AMI	18
<b>Total</b>	<b>178</b>

Each of the buildings includes structured above-ground parking, lobby/leasing space, courtyards, and other indoor and outdoor amenities. Buildings A, B, and C include a pool area within the courtyards.

The northern portion of the site will be developed with 154 for-sale townhouse condominium units configured in 26 three-story buildings. The buildings range from three-plexes to eight-plexes. Each of the units includes a private garage that is accessible from a private street or alleyway. An approximately 2,500-square foot dog park is provided at the far northeastern portion of the site. The townhouses also have direct access to the existing Iris Chang Park to then north

The table below provides a breakdown of each component of the Project.

Land Use	No. of Units	Commercial Space	Parking
<b>Building A</b>	397 units	6,427 square feet	526 spaces
<b>Building B</b>	372 units	5,578 square feet	501 spaces
<b>Building C</b>	371 units	6,960 square feet	503 spaces
<b>Affordable Apartments</b>	178 units	None	89 spaces
<b>Townhouses</b>	154 units	None	348 spaces
<b>Total</b>	1,472 units	18,965 square feet	1,967 spaces

The Project also includes the development of a 2.5-acre (109,549 square feet) public park located roughly in the center of the site. The exact features, amenities, and landscaping of the public park will be determined based on feedback from the San José Parks Recreation and Neighborhood Services (“PRNS”) Department and community members. At a minimum, the park is expected to include a dog park, active open space, and a historic interpretive area dedicated to the history of the Project site.

Approximately 56,964 square feet of the existing site would be dedicated to the newly constructed private street network serving the Project site. The private street network is accessible from two entrances on Seely Avenue and one entrance on Epic Way at the northern end of the site.

The Project requires the dedication of an approximately 0.11-acre area at the southeastern corner of the site for the construction of a domestic water supply well. The well site would be dedicated to San José Municipal Water (“Muni Water”) to be used to meet the Project’s water demand and future planned growth within Muni Water’s service area. The well would pump ground water supply directly into the distribution system. The well would tie directly into the potable water distribution system transmission mains on Seely Avenue. Aboveground features would not exceed one-story (15-feet) in height and would include a motor control center, aboveground piping and control valves, emergency back-up generator, transformer appurtenances, storm drainage utilities, and control equipment.

To facilitate the construction of the Project and associated public improvements, the Project includes an application for a Vesting Tentative Map (File No. PT22-003) to subdivide the three existing lots into 48 lots. Of the 48 new lots, 32 would be buildable lots and 16 would be common lots. The Vesting Tentative Map also authorizes the subdivision of up to 154 residential condominium units and up to six commercial condominium units.

**3. General Plan Conformance.** The site is designated Industrial Park on the Land Use/Transportation Diagram of the General Plan and is within the boundary of the

Transit Employment Residential Overlay, which permits a density of 75 to 250 dwelling units per acre (“DU/AC”).

This overlay identifies sites within the North San José Employment Center that may be appropriate for residential development. Sites within this overlay may also be developed with uses consistent with the underlying designation. This designation permits development with commercial uses on the first two floors and residential use on upper floors, as well as wholly residential Projects. Development within this category is intended to make efficient use of land to provide residential units in support of nearby industrial employment centers. Site-specific land use issues and compatibility with adjacent uses should be addressed through the development permit process. Land within this overlay area may also be converted for the development of new schools and parks as needed to support residential development.

*Analysis: The Project is located within North San José and within the Transit Employment Residential Overlay (“TERO”). Any residential development within the TERO must meet a minimum residential density of 75 DU/AC. The combined Project area proposes a residential density of approximately 81 DU/AC, in conformance with this requirement.*

The proposed Planned Development Zoning of IP(PD) and the associated Planned Development Permit and Vesting Tentative Map are consistent with the following Envision San José 2040 General Plan policies:

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. These development standards and other site design issues implement the design standards set forth in the Envision General Plan and design guidelines adopted by the City Council. The second phase of this process, the Planned Development permit, is a combined site/architectural permit and conditional use permit which implements the approved Planned Development zoning on the property.

*Analysis: The Planned Development Zoning allows for specifically tailored development standards to facilitate a Project that is consistent with the Transit Employment Residential Overlay General Plan land use designation. At the time the Project was submitted in October 2021, the newly created TERO Zoning District had not been created. Therefore, the creation of a Planned Development Zoning District was the appropriate path forward for facilitating residential development at this site. The IP(PD) Planned Development Zoning District allows the permitted uses of the UR Urban Residential and MUN Mixed-Use Neighborhood Zoning Districts to facilitate the development of the Project at the required minimum residential density of 75 DU/AC.*

Major Strategy #3 – Focus Growth: The Focused Growth Major Strategy plans for new residential and commercial growth capacity in specifically identified “Growth Areas”

(Urban Villages, Specific Plan areas, Employment Areas, Downtown) while the majority of the City is not planned for additional growth or intensification. The strategy focuses new growth into areas of San José that will enable the achievement of economic growth, fiscal sustainability, and environmental stewardship goals, while supporting the development of new, attractive urban neighborhoods. While the Focused Growth strategy directs and promotes growth within identified Growth Areas, it also strictly limits new residential development through neighborhood infill outside of these Growth Areas to preserve and enhance the quality of established neighborhoods, to reduce environmental and fiscal impacts, and to strengthen the City's Urban Growth Boundary.

Efficient Use of Residential and Mixed-Use Lands Policy LU-10.2: Distribute higher residential densities throughout the City in identified growth areas and facilitate the development of residences in mixed-use development within these growth areas.

Land Use and Employment Policy IE-1.3: As part of the intensification of commercial, Village, Industrial Park and Employment Center job Growth Areas, create complete, mixed-employment areas that include business support uses, public and private amenities, childcare, restaurants, and retail goods and services that serve employees of these businesses and nearby businesses.

Housing Policy H-1.2: Facilitate the provision of housing sites and structures across location, type, price, and status as rental or ownership that respond to the needs of all economic and demographic segments of the community including seniors, families, the homeless, and individuals with special needs.

Housing Policy H-2.2: Integrate affordable housing in identified growth locations and where other housing opportunities may exist, consistent with the Envision General Plan.

Land Use Policy LU-9.1: Create a pedestrian-friendly environment by connecting new residential development with safe, convenient, accessible, and pleasant pedestrian facilities. Provide such connections between new development, its adjoining neighborhood, transit access points, schools, parks, and nearby commercial areas.

*Analysis: The Project allows for a high density mixed-use residential Project in a Growth Area (North San José). The Project maintains a minimum residential density of 81 DU/AC with the provision of 1,472 multifamily residential units. The Project also provides approximately 18,965 square feet of commercial space in the form of ground floor retail space, which would serve the new development and existing surrounding residences and businesses. The new retail space would provide employment and retail options as well as generate tax revenue for the City. The Project provides a diverse mix of housing types including market rate rental apartments, for-sale townhouses, and affordable rental apartments. The Project incorporates a 2.5-acre public park, which would be dedicated to the City. The park would serve both the new residents and the general public. The park would be connected to the existing residential neighborhood to the north via public and private streets and sidewalks.*

*Connections to Coyote Creek Trail are available from the sidewalk along Montague Expressway and through Iris Chang Park, directly to the north of the site.*

#### 4. Zoning Ordinance Compliance.

##### General Development Plan

The subject site is located within an IP(PD) Planned Development Zoning District (File No. PDC21-035). The IP(PD) Planned Development Zoning District allows for the development of the mixed-use Project as described in the Project Description section of this document. The Project would be subject to the applicable development standards as outlined in the General Development Plan.

The Planned Development Zoning District is divided into two areas, as shown in the General Development Plan in the plan set. Area A includes the portion of the site developed with the mixed-use residential buildings, affordable housing building, the public park, and the well site. Area A proposes compliance with the allowed uses and development standards of the UR Urban Residential Zoning District. Area B includes the portion of the site developed with townhouses and proposes compliance with the allowed uses and development standards of the MUN Mixed Use Neighborhood Zoning District.

##### Development Standards – Area A

Area A is subject to and conforms with the development standards of the UR Urban Residential Zoning District pursuant to Section 20.55.100 of the Zoning Code, as amended, with the following exceptions:

Development Standard	UR Requirement	Proposed Requirement
Minimum Lot Area	6,000 square feet	6,000 square feet (no minimum for common lots)
Maximum FAR	Max 4.0	Max 6.0
Maximum Building Height	120 feet (Section 20.85.020.C.e)	120 feet
Front Setback (Montague Expressway)	Maximum 10 feet	0-25 feet
Side Setback (Seely Avenue & Coyote Creek)	Maximum 10 feet	0-25 feet
Rear Setback (North)	Minimum 10 feet	0-25 feet

Development Standards – Area B

Area B is subject to and conforms with the development standards of the MUN Mixed Use Neighborhood Zoning District pursuant to Section 20.55.104 of the Zoning Code, as amended, with the following exceptions:

<b>Development Standard</b>	<b>MUN Requirement</b>	<b>Proposed Requirement</b>
Maximum Building Height	40 feet	45 feet
Setback to property line within Project boundary covered by the same development permit	15 feet	Minimum 7 feet
Minimum Private Open Space	300 square feet per unit	120 square feet per unit
Minimum width for Private Open Space	15 feet	5 feet

As shown on the Planned Development Permit plan set, the Project conforms with all required height and setback standards pursuant to the General Development Plan of the proposed Planned Development Zoning District.

Common Open Space

Pursuant to Section 20.55.102.B of the Zoning Code, the UR and MUN Zoning Districts require 75 square feet of common open space per residential unit in mixed-use projects and 100 square feet of common open space per residential unit in 100% residential projects. For Area A, the total requirement, based on 1,140 units in Buildings A, B, and C (mixed-use) and 178 units in the Affordable Building (100% residential), is 103,300 square feet of common open space. For Area B, with 154 residential units, the common open space requirement is 15,400 square feet. The total common open space requirement for the Project site is 118,700 square feet of common open space.

The common open space required and provided for the Project is shown in the table below.

<b>Project Component</b>	<b>Required</b>	<b>Provided</b>
Building A (mixed-use)	29,775 square feet	21,577 square feet
Building B (mixed-use)	27,900 square feet	9,548 square feet
Building C (mixed-use)	27,825 square feet	13,752 square feet
Affordable Building (100% residential)	17,800 square feet	6,565 square feet
Townhomes (100% residential)	15,400 square feet	21,714 square feet
<b>Total</b>	<b>118,700 square feet</b>	<b>73,156 square feet (Section 20.55.102)</b>

The construction of the 2.5-acre public park (approximately 109,853 square feet) that will be dedicated to the City allows the Project to provide less common open space than required by the Zoning Code, pursuant to Section 20.55.102.D.4. According to this Code section, on site development of public open space (i.e. public park), that is dedicated to the City pursuant to the Parkland Dedication Ordinance (PDO) and/or the Park Impact Ordinance (PIO) shall serve to fulfill common open space requirements based on the following ratio: every 1 square foot of public open space included in a development shall fulfill 2 square feet towards the total common open space requirement. Therefore, including the public park (109,853 square feet) and common open space (73,156), the project provides the equivalent of approximately 292,862 square feet of common open space, consistent with the common open space requirement.

#### Private Open Space

In addition to common open space, the Project is required to provide a total of 88,110 square feet of private open space for the entire Project. The Project provides approximately 67,725 square feet of private open space in the form of private patios, decks, and balconies. Pursuant to Section 20.55.102.D.2 of the Zoning Code, the Project may satisfy up to 50% of its private open space requirement (approximately 44,055 square feet) by providing an equivalent amount of common open space. The Project provides the equivalent of approximately 292,862 square feet of common open space, which exceeds 50% of the required private open space. Therefore, the Project conforms with the Private Open Space requirements.

Vehicle Parking

Use	Number of Units/Floor Area	Ratio	Required
Studio/1 BR (Apartment)	896 units	1.25 per unit	1,120 spaces
2 BR (Apartment)	368 units	1.7 per unit	626 spaces
3 BR (Apartment)	54 units	2 per unit	108 spaces
3 BR (Townhouse)	57 units	2.6 per unit	149 spaces
4 BR (Townhouse)	97 units	2.75 per unit	267 spaces
Retail	16,120 sf	1 per 200 sf of floor area	81 spaces
<b>Total Parking Required</b>			2,351 spaces
<b>Total Parking Provided</b>			1,967 spaces
<b>Parking Reduction</b>			16.3%

The Project was submitted on October 6, 2021, prior to the adoption of the updated vehicle parking requirements, which became effective on April 10, 2023. Therefore, pursuant to Chapter 20.90 of the Zoning Code, the entire Project is required to provide 2,351 vehicle parking spaces. Based on the Project plans, the Project would provide 1,967 vehicle parking spaces on-site, parking reduction of approximately 16.3%. Pursuant to Section 20.90.220 of the Zoning Code, a Project is eligible for up to a 20% parking reduction without requiring the implementation of a Transportation Demand Management (“TDM”) plan if the use is located in a Growth Area, and the Project provides bicycle parking in conformance with Table 20-190 of the Zoning Code. The subject site is located within North San José, a designated Growth Area. As discussed in the Bicycle Parking section of this clause, below, the Project provides greater than the required number of bicycle parking spaces. Therefore, a parking reduction of 16.3% is permitted.

Motorcycle Parking

Parking Provided	Motorcycle Parking Ratio	Required
1,967 vehicle parking spaces	2.5% of total vehicle parking spaces provided	50 spaces
<b>Total Provided</b>		<b>330 spaces</b>

Pursuant to the General Development Plan of the Planned Development Zoning District, the Project requires a total of 50 motorcycle parking spaces. The Project provides 330 motorcycle parking spaces, 280 more spaces than what is required by the General Development Plan.

Bicycle Parking

Use	Number of Units/Floor Area	Ratio	Required
Multifamily residential	1,472 units	1 per 4 living units	368 spaces
Retail	16,120 square feet	1 per 4,000 square feet of floor area	5 spaces
<b>Total Required</b>			<b>373 spaces</b>
<b>Total Provided</b>			<b>944 spaces</b>

The Project is also required to provide 373 bicycle parking spaces pursuant to the General Development Plan and Table 29-190, Section 20.90.060 of the Zoning Code. A total of 944 bicycle parking spaces are provided in conformance with this requirement.

- 5. Design Guidelines Consistency.** The Project was analyzed for consistency with the North San José Design Guidelines and Citywide Design Standards and Guidelines. Under State Senate Bill 330, California cities may not deny a project based on subjective standards (California Government Code Section 65589.5(j)(1)) and may only review a project using objective general plan, zoning, and policy standards. As the North San José Design Guidelines are subjective, they cannot be applied as a basis for denying the Project; however, the Project has been evaluated against the following key guidelines. Additionally, where the North San José Design Guidelines are silent, the Project is consistent with the following key objective standards of the Citywide Design Standards and Guidelines.

## North San José Design Guidelines

The Project is consistent with the following North San José Design Guidelines:

- Street Frontages
  - At least 75% of a building's street-oriented façade (measured by length) must meet the defined build-to line (where applicable) or main façade line. Permitted recesses and encroachments may be counted toward this requirement.
  - Build-to lines are established along the following streets (also see Guidelines for the Streetscape: Street Hierarchies and Typologies):
    - New Mixed-Use Retail streets - Buildings should be placed parallel to the street in order to form a continuous street edge.
    - New Residential streets - The build-to line for residential buildings is 15 feet from the street facing property line.

*Analysis: The Project includes the construction of both mixed-use buildings and residential buildings. All of the mixed-use buildings are placed parallel to the newly constructed streets, with retail space facing the street and public park. The townhouses are placed directly on the frontage along the newly constructed street frontages with minimal setbacks. No townhouse building is greater than 15 feet from the property line.*

- Building Design
  - Encourage horizontal and vertical building articulation through changes in building volume, recesses, balconies, awnings, textures, materials, and colors.

*Analysis: The mixed-use building and affordable building include changes in colors and materials throughout all facades. The buildings are broken up with recesses and projections consisting of individual vertical volumes. Some of these vertical volumes rise above the roof line to provide variation at the upper levels of the building. Window patterns that align with the vertical volumes provide further visual interest. Balconies are also provided throughout the façade to further break up the façade. Awnings are provided on the ground floor to distinguish individual store frontages and active spaces such as lobbies and leasing offices. Similarly, the townhouse buildings are designed with a mix of*

*materials and colors to provide variety in each of the buildings, while maintaining a unified design. Articulation of the townhouse buildings include changes in wall plane, roof line, façade texture, and the addition of balconies. The buildings are broken up into smaller forms so that each unit is identifiable from the street or interior lot frontage.*

- Office and mixed-use buildings should have a clearly articulated ground floor and roof zone. Buildings over 65 feet in height should have a distinguishable base, middle, and top zone.

*Analysis: Each of the apartment buildings are greater than 65 feet in height. Each of the apartment buildings are designed with a distinguishable base, middle, and top. The base of each building is highlighted by the ground floor active space on the street frontage, of which three of the buildings include ground floor retail. The middle portion of the buildings are defined by well-articulated facades which include changes in materials, colors, window patterns, and the provision of balconies. The upper portions of the buildings are defined by architectural elements that rise above the roof line at building corners, to create more visual interest as well as screen the view of mechanical equipment.*

- Residential units located at grade (for example, those that open onto mid-block pathways) should have a carefully designed transition zone that can accommodate front yards, porches, steps, patios, or stoops when facing public spaces such as streets, paseos, plazas, or courtyards.

*Analysis: All townhouse unit entrances are at grade and include a minimum 6-foot-deep transition zone at each entrance, which can accommodate seating areas along the street frontage.*

- At least 60% of the ground-floor façade should be glazed with clear, untinted glass. If double-paned glazing is used, it should be anti-reflective.

*Analysis: Each of the mixed-use buildings include a minimum of 60% clear, untinted glass at both the ground floor retail spaces and active frontages. Building A includes approximately 68% clear glazing on the ground-floor façade. Building B includes approximately 66% clear glazing on the ground-floor façade. Building C includes approximately 63% clear glazing on the ground-floor façade. The affordable building does not include retail space but does include active ground-floor space with clear windows.*

- The minimum ground-floor height is 15 feet from floor to floor.

*Analysis: All three of the mixed-use buildings have a minimum 15-foot floor-to-floor height on the ground floor. While the Affordable Building does not include retail, the floor-to-floor height on the ground floor is 16 feet.*

- Retail Spaces

- The minimum depth is 45 feet. Where possible 60-foot depths are encouraged to accommodate a wider range of tenants, especially food tenants.
- The minimum floor-to-floor height is 15 feet. Where possible, 18-foot floor-to-floor heights are encouraged.

*Analysis: The Building A retail depth is approximately 60 feet. Building B retail depth is approximately 48 feet. Building C retail depth is approximately 55 feet. As discussed above, the mixed-use buildings all have floor-to-floor heights of 15 feet.*

- Parking

- Locate parking structures at the side/and or rear of the buildings away from the street edge, or provide a high-quality, multi-layered architectural façade that integrate the parking structure into its adjacent street frontage.

*Analysis: Structured parking is provided in each of the mixed-use buildings and the affordable building. Buildings A and C are the only buildings with structured parking that would be exposed to the street edge along secondary streets. All buildings are designed with primary entrances facing the street and wrapped with active space. No structured parking is visible from the newly constructed street network or the public park. All townhouses include two covered parking spaces in private garages, which are provided in the rear of the buildings.*

- Provide a generous amount of designated motorcycle and bicycle parking stalls on the ground level, closest to building entrances and street edges.

*Analysis: Motorcycle and bicycle parking are provided in accordance with Chapter 20.90 of the Zoning Code. Both short-term and long-term*

*bicycle parking is provided on the ground floor for ease of access. Motorcycle parking is also provided on the ground floor.*

### Citywide Design Standards and Guidelines

The Project is subject to the following provisions of the Citywide Design Standards and Guidelines

- Section 2.2.1 – Pedestrian and Bicycle Access Location

- Standard 5 – Place primary building entrance such that it can be accessed from a street, public open space, semi-private open space, or POPOS.
- Guideline 1 – Provide frequent entrances and openings in building facades to connect buildings to the public realm.

*Analysis: The primary building entrances are all located with direct access to the newly constructed private streets serving the development. Additionally, each of the mixed-use buildings, which include ground floor retail space, are oriented towards the new public park.*

- Section 2.2.2 – Driveways and Vehicle Drop-offs

- Standard 4 – Do not locate individual residence garages and driveways along primary streets. Where provided, locate them along secondary streets, alleys, or private streets.

*Analysis: Individual residence garages for the townhouses are provided along internal private streets at the rear of each townhouse building.*

- Section 2.3.1 Building Placement

- Standard 1 - To create a continuous streetwall, place at least 75 percent of the ground floor primary street, paseo, or public open space- facing (except riparian corridor) façades of buildings with the primary commercial or residential use within five feet of the setback or easement line (whichever is more restrictive). When there are multiple buildings on the site, 75 percent of the sum of all primary street, paseo, and public open space-facing ground floor building façades must be considered in the calculation above.

*Analysis: All buildings on site are placed within five feet of the minimum 25-foot building setback line for the entirety of the building frontages along each of the newly constructed private streets. Therefore, each of*

*the buildings in the Project that have street frontage create a continuous streetwall exceeding the 75 percent requirement for ground floor building placement.*

- Section 3.2.2 – Vehicular Entrances and Driveways

- Standard 4 – Recess parking garage entrances at least two feet and not more than five feet when the building façade is at the street-facing property line.

*Analysis: All townhouse buildings include private street-facing garages that are recessed at least two-feet from the building façade.*

- Section 3.2.3 - Services and Utilities Entrances and Design

- Standard 1 - Screen solid waste, utilities, and service areas from residential and commercial uses, and on-site and off-site views to limit visual impact on the public realm using fences, walls, or landscaping that:
  - Use durable and weather-resistant materials.
  - Are four to five feet tall.
  - Do not interrupt the line-of-sight of drivers entering or exiting the site.

*Analysis: All solid waste and utilities are interior to each of the buildings.*

## 6. City Council Policies

### City Council Policy 6-34: Riparian Corridor Protection and Bird-Safe Design

Since portions of the Project are within 300 feet of either the top of the bank or the edge of vegetation at Coyote Creek, the City Council Policy 6-34: Riparian Corridor Protection and Bird-Safe Design applies to the Project. This policy requires any new buildings to be setback a minimum 100 feet from the edge of the top of bank of the riparian corridor. Based on the Biological Resources Evaluation (Exhibit) prepared by Johnson Marigot Consulting, LLC, dated November 2021, the riparian edge of Coyote Creek ranges between 90 and 350 feet east of the northeastern property boundary of the subject site. A small portion of the Project site overlaps with the 100-foot setback boundary of the top of the bank of the Coyote Creek Riparian Corridor to the east of the Affordable Building.

The sliver of the Project that overlaps within the 100-foot setback area contains undeveloped land and a chain link fence separating the Project site from Coyote Creek Trail. As part of the Project, the existing chain link fence would be replaced with a new four-foot-high wood and wire mesh fence. No other development would occur within this area. The remaining portion of the Project is located outside of the 100-foot riparian setback. The development has been designed so that no new buildings are placed within the 100-foot setback area. The Project would comply with relevant requirements of the City's Riparian Corridor Protection and Bird Safe Design Policy, which would be enforced through conditions in the Planned Development Permit Resolution. Project conditions include use of materials and lighting designed and constructed to reduce light and glare impacts to riparian corridors. The Project would also be required to avoid the use of mirrors and large areas of reflective glass. Therefore, the Project is consistent with the requirements of City Council Policy 6-34: Riparian Corridor Protection and Bird-Safe Design.

City Council Policy 6-30: Public Outreach Policy for Pending Land Use Decisions.

Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the proposed Project. An on-site sign has been posted on the project frontage since November 30, 2021. A Joint EIR Scoping/Community Meeting was held on March 7, 2022, to introduce the proposed project to the community. A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. Additionally, a notice of the public hearing was posted in a newspaper of record (San José Post Record) on June 4, 2024. The staff report is also posted on the City's website. Staff has also been available to respond to questions from the public.

- 7. Environmental Review.** The City of San Jose, as the Lead Agency, prepared an EIR (State Clearinghouse No. 2022020565) for the Planned Development Rezoning, Vesting Tentative Map, and a Planned Development Permit (PDC21-035, PD22-002, and PT22-003), for the 0 Seely Avenue Mixed Use 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 EIR evaluated the environmental impacts that might be anticipated to result from implementation of the proposed Project. The Notice of Preparation was circulated from February 23, 2022, to April 5, 2022. The EIR was originally circulated from January 18, 2024, through March 11, 2024, and then recirculated from March 19, 2024, to May 3, 2024.

Summary of Environmental Impacts Reduced to Less than Significant with Mitigation

The Draft EIR identified potential environmental impacts related to air quality during operations, nesting birds and roosting bats, archaeological resources, hazards, and hazardous materials from past uses on the site, construction-related noise, and

vehicle miles travelled. With implementation of the mitigation measures specified in the Mitigation Monitoring and Reporting Program (“MMRP”) prepared for the Project, these impacts are reduced to less than significant levels. As part of the certification of the Final EIR, the City Council will need to approve the associated MMRP for the Project.

#### Summary of Environmental Impacts Determined to be Significant and Unavoidable

The Draft EIR found that the Project would result in a significant and unavoidable impacts to Cultural Resources due to the demolition of the Sakauye House and other structures and site features that are collectively and individually eligible for listing under the California Register of Historical Resources and the San José Historic Resources Inventory as a Candidate City Landmark.

Pursuant to CEQA Guidelines Section 15093, a significant and unavoidable impact requires a Statement of Overriding Considerations to be adopted with findings that the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed Project outweigh the unavoidable adverse environmental effects if an environmentally superior alternative is not chosen. The Statement of Overriding Consideration found that the economic and social benefits of the proposed Project, as listed in Resolution No. RES2024-\_\_\_\_\_, outweigh its significant environmental impacts.

#### Project Alternatives

The Draft EIR analyzed five Project alternatives: (1) No Project – No Development Alternative, (2) No Project – Development Consistent with Existing Land Use and Zoning Alternative, (3) Historical Resource Avoidance Alternative, (4) On-Site Relocation of Historical Resources Alternative, and (5) On-Site Relocation of Individual Historical Resources Alternative. Alternatives that were considered but rejected include Location Alternative and Park Location Alternative. The five design alternatives were crafted based on their ability to reduce the impacts summarized above and to identify an environmentally superior proposal. The analysis of the five design alternatives in the Draft EIR includes discussion of the potential impacts of alternative site layouts for the purpose of decision-making.

Beyond the No Project – No Development Alternative, the Historical Resource Avoidance Alternative and the On-Site Relocation of Historical Resources Alternative would be the environmentally superior alternatives because they would preserve the existing historical structures either in their existing locations or moved somewhere else on-site. This would result in a less than significant impact to the eligible Historical landmark.

#### Summary of Comments Received

The City received 16 written comment letters during the public circulation period. Comments were submitted by eight agencies and organizations, which were the County of Santa Clara Roads and Airports Department, Pacific Gas and Electric Company, State Water Resources Control Board, Santa Clara Valley Transportation Authority, Santa Clara Unified School District, Preservation Action Council San José, River Oaks Neighborhood Association, and Adams Broadwell Joseph & Cardozo. Two individuals also sent comment letters. The main concerns raised by commenters are as follows:

- Installation of a traffic signal at Seely Avenue and Montague Expressway
- Increased traffic and vehicle miles travelled
- Questions on baselines conditions for analysis
- Impacts to Coyote Creek and water quality due to the proposed well
- Impacts to special status species
- Impacts to City historical resources
- Construction noise impacts

The City responded to all comments received on the Draft EIR and incorporated them into the First Amendment to the Draft EIR. None of the comments received address an issue of adequacy of the Draft EIR and no new mitigation measures are required. EIR text revisions were included in the First Amendment to address clarifications to text of the Draft EIR and other suggested text revisions from commenters.

The First Amendment, taken together with the Draft EIR, and the MMRP constitutes the Final EIR. The Draft EIR and First Amendment to the Draft EIR are available for review on the Project page on the City's Active EIR website. A copy of the signed MMRP is attached to the CEQA resolution.

#### EIR Recirculation Unnecessary

The comments received do not identify substantive inadequacies in the Draft EIR or new previously unidentified significant impacts that require recirculation. The recirculation of an EIR is required when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR for public review but before certification. "Information" can include changes in the Project or environmental setting as well as additional data or other information. New information added to a Draft EIR is not "significant" unless the Draft EIR is changed in a way that deprives the public of meaningful opportunity to comment on a substantial adverse environmental

effect of the Project or a feasible way to mitigate or avoid such an effect (CEQA Guidelines Section 15088.5).

In accordance with CEQA Guidelines Section 15088, the First Amendment to the Draft EIR for the Project includes written responses to all comments received during the public review period for the Draft EIR. As required by Section 15132 of the CEQA Guidelines, the responses in the First Amendment to the Draft EIR address significant environmental points and comments on the content and adequacy of the EIR. The responses and comments provide clarification and refinement of information presented in the Draft EIR and, in some cases, correct or update information in the Draft EIR. No significant new information has been added to the EIR since publication of the Draft EIR; therefore, the Draft EIR does not need to be recirculated.

**8. Planned Development Permit Findings:** Section 20.100.940 of the San José Municipal Code specifies the required findings for the approval of a Planned Development Permit.

- a. The Planned Development Permit, as issued, is consistent with and furthers the policies of the General Plan; and

*Analysis: The Project is located within North San José and is within the TERO. Any residential development within the TERO must meet a minimum residential density of 75 DU/AC. The Project maintains a minimum residential density of 81 DU/AC with the provision of 1,472 multifamily residential units. The Project is consistent with general plan policies for focused growth, mixed-use development, housing, and provision of park space. The Project allows for a high density mixed-use residential Project in a Growth Area (North San José). The Project also provides approximately 18,965 square feet of commercial space in the form of ground floor retail space, which would serve the new development and existing surrounding residences and businesses. The Project provides a diverse mix of housing types including market rate rental apartments, for-sale townhouses, and affordable rental apartments. The Project also includes the construction of a 2.5-acre public park, which would be dedicated to the City.*

- b. The Planned Development Permit, as issued, conforms in all respects to the Planned Development Zoning of the property; and

*Analysis: The Project conforms with the Development Standards of the General Development Plan for the Planned Development Zoning District established for the site (File No. PDC21-035). The newly created IP(PD) Zoning District would allow for the construction of the mixed-use development as well as uses that conform with the UR Urban Residential and MUN Mixed-Use Neighborhood Zoning Districts, as amended. Special and Conditional Uses would be subject to the approval of a Planned Development Permit. As discussed in the Municipal Code*

*Conformance section above, the Project conforms with all required lot sizes, setbacks, heights, open space, and parking requirements of the Planned Development Zoning District. Additionally, as discussed below, the Project is consistent with all tree removal replacement requirements.*

- c. The Planned Development Permit, as approved, is consistent with applicable City Council Policies, or counterbalancing considerations justify the inconsistency; and

*Analysis: The Project is consistent with the City's Riparian Corridor Policy, which requires all buildings to be set back a minimum of 100 feet from the edge of the riparian corridor. No buildings within the development are proposed within 100 feet of the edge of Coyote Creek, in conformance with this requirement. Additionally, this Planned Development Permit includes conditions for implementation of bird-safe design and lighting. Staff also implemented City Council Policy 6-30: Public Outreach Policy to inform the public of the Project. An on-site sign has been posted on the Project frontage since March 5, 2021. A formally noticed Community Meeting was held on March 7, 2022, to introduce the Project to the community. A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the Project site and posted on the City website. Additionally, a notice of the public hearing was posted in a newspaper of record (San José Post Record) on June 4, 2024. Staff has also been available to respond to questions from the public.*

- 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 interrelationship between the orientation, location, mass and scale of the building volumes and elevations of the Project buildings and other uses on-site are appropriate, compatible, and aesthetically harmonious. The three mixed-use buildings and affordable apartment building are oriented around the 2.5-acre public park, the focal point of the development. The buildings include similar massing, articulation, materials, and colors, while each maintaining a unique identity. The retail uses are compatible with the development as they are located on the ground floor with frontage directly on the newly constructed private streets and public park, further activating the streetscape. The intensity of development steps down towards the north of the site as the site transitions from six to seven-story buildings to three-story townhouses. The townhouses are oriented around a private street network and are separated by fully landscaped walkways between the buildings. Additional open space is provided in the form of common open space throughout the development.*

- 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 CEQA, will not have an unacceptable negative effect on adjacent property or properties.

*Analysis: Environmental impacts related to noise, vibration, dust, drainage, erosion, storm water runoff, and odor would be temporary and may only occur during construction. The Project is required to conform 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 discharge. The Project also includes standard environmental permit conditions to reduce and mitigate impacts regarding air quality, dust and emissions control, water quality, and noise. Additionally, the Project is required to adhere to the MMRP prepared for the Project in association with the Seely Avenue Mixed-Use Project Environmental Impact Report. The Project includes extended construction hours on Saturdays from 8:00 am to 5:00 pm. The Planned Development Permit Resolution includes a condition of approval for the appointment of a Construction Disturbance Coordinator to address any constructed related complaints or concerns. Therefore, the Project would not have an unacceptable impact on adjacent properties.*

**9. Parking Reduction Findings.** Section 20.90.220 of the San José Municipal Code specifies the required findings for a parking reduction.

- a. The structure or use is located within 2,000 feet of a proposed or an existing rail station or bus rapid transit station, or an area designated as a Neighborhood Business District, or as an Urban Village, or as an area subject to an area development policy in the City's General Plan or the use is listed in Section 20.90.220G; and
- b. The structure or use provides bicycle parking spaces in conformance with the requirements of Table 20-90.

*Analysis: Pursuant to Chapter 20.90 of the Zoning Code, the entire Project is required to provide 2,351 vehicle parking spaces. Based on the Project plans, the Project would provide 1,967 vehicle parking spaces on-site, parking reduction of approximately 16.3%. Pursuant to Section 20.90.220 of the Zoning Code, a Project is eligible for up to a 20% parking reduction without requiring the implementation of a TDM plan if the use is located in a Growth Area, and the Project provides bicycle in conformance with Table 20-190 of the Zoning Code. The subject site is located within North San José, a Growth Area. The Project provides greater than the required number of bicycle parking spaces (373 bicycle spaces required, 944 spaces provided). Therefore, a parking reduction of 16.3% is permitted.*

**10. Commercial Common Interest Development Findings.** Section 20.175.050 of the San José Municipal Code specifies the required findings for Commercial Common Interest Development.

- a. The proposed common interest development will not adversely impact the economic viability of large-scale commercial and industrial uses in the vicinity of the development, or in the city as a whole;

*Analysis: The Project's common interest development would not adversely impact the economic viability of the surrounding residential, commercial, or industrial uses in the vicinity in that the size of the commercial units adequately accommodates a variety of potential uses, and the anticipated uses, including general retail. The retail uses would add to the economic viability of the area by providing general services to the surrounding neighborhood, creating jobs, and increasing tax revenue for the City.*

- b. The proposed common interest development includes sufficient provisions for governance, funding and capitalization, and enforcement mechanisms to ensure that the common area continues to be adequately and safely maintained and repaired for the life of the common interest development; and

*Analysis: A Declaration of Covenants, Conditions, and Restrictions ("CC&Rs") is required, and when approved by the City in accordance with the Zoning Ordinance prior to the relevant final map approval, would include sufficient provisions for governance, funding and capitalization, and enforcement mechanisms to ensure that the common area continues to be adequately and safely maintained and repaired for the life of the common interest development.*

- c. The proposed common interest development includes sufficient provisions for the retention of such common areas for the use of all owners of separate interests therein.

*Analysis: The CC&Rs, required for review when the relevant final map is approved by the City in accordance with the Zoning Ordinance, would state that each commercial owner shall have, as appurtenant to their unit, an undivided interest in the common areas. This would ensure that each common interest development has sufficient retention of common areas for use by all owners as noted in the conditions of approval. The CC&Rs would also include provisions for ingress, egress, parking, emergency access, utilities, landscaping, and the like.*

**11. Demolition Permit Findings.** Chapter 20.80 of the San José Municipal Code establishes evaluation criteria for the issuance of a permit to allow demolition:

- a. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
- b. The failure to approve the permit would jeopardize public health, safety or welfare;
- c. The approval of the permit should facilitate a Project that is compatible with the surrounding neighborhood;
- d. The approval of the permit should maintain the supply of existing housing stock in the City of San José;
- e. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
- f. Rehabilitation or reuse of the existing building would not be feasible; and
- g. The demolition, removal, or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

*Analysis: The Project includes the demolition of an existing orchard and two residences, a fruit stand, and ancillary buildings. The approval of the demolition permit would not result in the creation or continued existence of a nuisance, blight or dangerous condition nor would it jeopardize public health, safety, or welfare, as it would allow for the redevelopment of the site with new mixed use residential and commercial uses that are consistent with the allowable uses and development standards of the TERO General Plan overlay and IP(PD) Planned Development Zoning District. The demolition permit would facilitate a redevelopment Project that is compatible with the surrounding neighborhood, which consists of a mix of residential, office and industrial park uses. The Project is consistent with all applicable General Plan goals and policies, Planned Development Zoning requirements, applicable City Council policies, and design standards and guidelines. The Project would not demolish any existing housing. Based on the Senate Bill 330 Replacement Unit Determination conducted by the Housing Department, the two existing residences have not been occupied in the last five years.*

*As discussed in the Environmental Impact Report, the Project site is partially developed with two unoccupied residences, utility poles, a fruit stand, agricultural land and supporting structures, and an existing orchard, all of which would be demolished as part of the Project. The structures and orchard are associated with late 19th century and early 20th century agricultural history and events associated with Japanese-American agriculture and are collectively and individually eligible for listing on the California Register of Historical Resources and listing in the City of San José Historic Resources Inventory as a Candidate City Landmark District and a*

*Candidate City Landmark. However, given the scope of the Project, the rehabilitation or reuse of any of the existing buildings on-site would not be feasible as the proposed Project requires the complete redevelopment of the site to support the new mixed-use development, including park space and the private street network. The new park will include an interpretive display dedicated to the history of the site.*

**12. Tree Removal Permit Findings.** Section 13.32.100 of the San José Municipal Code specifies the required findings for live tree removals.

<b>Tree Replacement Ratios</b>				
<b>Circumference of Tree to be Removed</b>	<b>Type of Tree to be Removed</b>			<b>Minimum Size of Each Replacement Tree</b>
	<b>Native</b>	<b>Non-Native</b>	<b>Orchard</b>	
38 inches or more	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon

x:x = tree replacement to tree loss ratio

Note: Trees greater than or equal to 38-inch circumference 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 permit is required for removal of trees of any size.

A 38-inch tree equals 12.1 inches in diameter.

A 24-inch box tree = two 15-gallon trees.

- a. That the condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal.
- b. That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question; or

*Analysis: The Project includes the removal of 584 trees. Of the trees to be removed, 261 are ordinance-size and 323 are non-ordinance-size. Based on the arborist report prepared by HortScience & Bartlett Consulting, dated October 29, 2021, the trees to be removed are located within the footprint of the Project buildings, the path of the newly constructed streets, or in an area that is required to be graded for soil remediation. A total of 129 trees are native species. A total of 293 trees require replacement, while 291 trees are orchard trees, which do not meet the threshold for*

*replacement. 52 trees require replacement at a 5:1 ratio, 40 trees require replacement at 4:1 ratio, 70 trees require replacement at a 3:1 ratio, 42 trees require replacement at 2:1 ratio, and 89 trees require replacement at a 1:1 ratio. Therefore, the removal of the 584 trees on-site requires the replacement of either 803 15-gallon trees or 402 24-inch box trees on site. The total number of replacement trees to be planted on site is 1,085 trees, which includes 884 24-inch box trees and 201 15-gallon trees, exceeding the tree removal replacement requirement.*

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 Section 20.100.290(B), should the Permittee fail to file a timely and valid appeal of this Planned Development Permit (“Permit”) within the applicable appeal period, such inaction by the Permittee shall be deemed to 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 of the San José Municipal Code applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire two (2) years from and after the date of issuance hereof by the City Council, if within such time period, the proposed construction of each of the Project phases (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 or Amendment to extend the validity of this Permit in accordance with Title 20, as amended (two one-year extensions may be permitted with the issuance of a Permit Adjustment). 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. **Use Authorization.** Subject to all conditions herein, this Permit allows the demolition of an existing two unoccupied residences, fruit stand and associated structures totaling approximately 19,820 square feet and the removal of 584 trees (261 ordinance-size, and 323 non-ordinance-size, 1,085 replacement trees) for the phased construction of mixed-use development consisting of 1,472 multifamily residential units, approximately 18,965 square feet of commercial space, a 2.5-acre public park, up to 154 residential condominium units, and up to six commercial condominium units and Saturday construction hour from 8:00 am to 5:00 pm on an approximately 22.88-gross-acre site.
6. **Project Phasing.** The Project is allowed to be constructed in the following independent phases. Sequencing of the phases may be modified as needed by the Permittee. Each phase must be constructed within the expiration period of this permit. Any phase that has not submitted a complete application for plan review for Building Permits for the construction of a new building will expire unless upon issuance of a development permit. Any portion of the Project built prior to expiration of this permit is still valid under this permit.

Phase 1: For Sale Townhomes

Phase 2: Mixed Use Building A

Phase 3: Mixed Use Building B

Phase 4: Affordable Rental Building

Phase 5: Mixed Use Building C

7. **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 PD22-002 0 Seely Avenue” dated November 29, 2023, on file with the Department of Planning, Building and Code Enforcement, as may be amended and approved by the Director of Planning, Building, and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24). The plans are referred to herein as the “approved plans” or the “Approved Plan Set.
8. **Planned Development District Effectuated.** This Planned Development Permit effectuates the portion of the Planned Development Zoning (File No. PDC21-035) as reflected in the Permit’s Approved Plan Set and the corresponding legal description.
9. **Demolition Permit.** A demolition permit may be issued for the existing fruit stand, orchard, and associated structures only upon the submittal of a complete Public Works Grading Permit application or the submittal of a complete Building Permit application for new construction.
10. **Well Site Dedication.** Prior to issuance of a Grading Permit, with the exception of a Grading Permit which would allow for the completion of soil remediation, the Permittee shall dedicate the approximately 0.11-acre well site to the City of San José.
11. **Required Vehicular, Motorcycle, and Bicycle Parking.** This Project shall conform to the vehicular, motorcycle, and bicycle parking requirements of the General Development Plan for the Planned Development Zoning District (File No. PDC21-035), as amended. Any changes to the required vehicular or bicycle parking requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning, Building, and Code Enforcement.
12. **Garage Parking Spaces for Attached Residential Unit Projects.** All garage parking spaces shown on the Approved Plans are to be used only for parking of residential unit vehicles and shall be kept free and clear of all obstructions. No conversion of any garages to living space, storage, or any other use is permitted.

13. **Green Building Requirements.** This development is subject to the City's Green Building Ordinance for Private Sector New Construction as set for in Municipal Code Section 17.84. Prior to the issuance of any shell permits, or complete building permits, for the construction of buildings approved through the scope of this Permit, the Permittee shall pay a Green Building Refundable Deposit. In order to receive a refund of the deposit, the Project must achieve the minimum requirements as set forth in Municipal Code Section 17.84. The request for the refund of the Green Building Deposit together with evidence demonstrating the achievement of the green building standards indicated in Municipal Code Section 17.84 shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.
14. **Extended Construction Hours.** Weekend construction hours, including staging of vehicles, equipment, and construction materials, shall be limited to Saturdays between the hours of 8:00 am to 5:00 pm. All other construction activity is limited to Monday through Friday from 7:00 am to 7:00 pm. Permittee shall be responsible for educating all contractors and subcontractors of said construction restrictions. The Director of Planning, Building, and Code Enforcement, at their discretion, may rescind provisions to allow extended hours of construction activities on weekends upon written notice to the Permittee.
15. **Construction Disturbance Coordinator.** Rules and regulations 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.
16. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
17. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, state, and federal laws.
18. **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.
19. **Refuse.** All trash and refuse storage areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the trash or refuse container(s). Trash areas shall be maintained in a manner to discourage illegal dumping.

20. **Anti-Graffiti.** All graffiti shall be removed from buildings and wall surfaces, including job sites for Projects under construction, within 48 hours of defacement.
21. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
22. **No Sign Approval.** Any signage shown on the Approved Plan Set are conceptual only. No signs are approved at this time. Any signs shall be subject to review and approval by the Director of Planning, Building, and Code Enforcement through a subsequent Permit Adjustment.
23. **Building and Property Maintenance.** The property shall be maintained in good visual and functional condition. This shall include, but not be limited to, all exterior elements of the buildings such as paint, roof, paving, signs, lighting, and landscaping.
24. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
25. **Mechanical Equipment.** The location and type of mechanical equipment shall be as shown on the Approved Plans and shall be screened from view. Changes to the mechanical equipment requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning, Building, and Code Enforcement.
26. **No Generators Approved.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators would require the permittee to secure appropriate permits and conform to the regulations of Title 20 of the Municipal Code.
27. **Lighting and Glare in Riparian Areas.**
  - a. Exterior site and architectural lighting shall be shielded and oriented downward and shall not be directed towards the easterly property line.
  - b. Uplighting and spotlights are prohibited within 100 feet of the Riparian Corridor.
  - c. Non-emergency lighting shall be turned off or shielded at night to minimize light from buildings.
  - d. Building elevations along the easterly property line facing Coyote Creek shall not include bright colors and/or glossy, reflective, see-through or glare-producing building and material finishes, and lighting shall not be directed into the riparian corridor.

28. **Bird-safe Design.** Buildings and structures along the easterly property line facing Coyote Creek shall not include mirrors, large areas of reflective glass, transparent glass walkways or entryways, free-standing glass walls, and transparent building corners.

29. **Homeowner's Association.** A Homeowner's Association shall be established for maintenance of all common areas, including driveways/courtyards, landscaping and the community amenity area for the for-sale townhome portion of the Project. A copy of the Development Permit, the accompanying Approved Plans, any approved Amendments or Adjustments to the Development Permit, and a complete set of approved building and all improvement plans shall be provided to the Homeowner's Association by the Permittee no later than 30 days upon completion of each phase.

30. **Common Interest Development.**

- a. The Permittee, at its sole cost, shall prepare, submit for prior review and approval by the city, , governing documents for the common interest development that include sufficient provisions for governance, funding and capitalization, and enforcement mechanisms, including enforcement by the city, to insure that the common area continues to be adequately and safely maintained and repaired for the life of the common interest development and that such common area shall be retained for the use of all owners within the development. Prior to approval of the parcel or final map by the city, the Permittee shall submit the proposed governing documents to the city for review for compliance with the requirements of this chapter.
- b. The Permittee shall, at its sole cost, prepare grant deeds for all mutual or reciprocal easement rights, which shall be reviewed by the city for compliance with the terms of this chapter and the requirements of Title 19 of this Code, and shall upon city approval be recorded concurrently with the approved parcel or final map.

31. **No Tract Sales Office/Model Homes Approved.** This Permit does not include the approval of a tract sales office/model homes complex. Said use requires a Permit Adjustment approved by the Director of Planning, Building, and Code Enforcement.

32. **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.

33. **Timing of Tree Removals.** Trees that are proposed for removal to accommodate new development shall not be removed until the related complete Public Works Grading Permit Application or Building Permit Application has been filed.

- 34. Tree Protection Standards.** The Permittee shall maintain the trees and other vegetation shown to be retained in this Project and as noted on the Approved Plan Set. Maintenance shall include pruning and watering as necessary and protection from construction damage. Prior to the removal of any tree on the site, all trees to be preserved shall be permanently identified by metal numbered tags. Prior to issuance of the Grading Permit or removal of any tree, all trees to be saved shall be protected by chain link fencing, or other fencing type approved by the Director of Planning, Building, and Code Enforcement. Said fencing shall be installed at the dripline of the tree in all cases and shall remain during construction. No storage of construction materials, landscape materials, vehicles or construction activities shall occur within the fenced tree protection area. Any root pruning required for construction purposes shall receive prior review and approval and shall be supervised by the consulting licensed arborist. Fencing and signage shall be maintained by the Permittee to prevent disturbances during the full length of the construction period that could potentially disrupt the habitat or trees.
- 35. Tree Replacement Enforcement.** Failure to plant trees in conformance with the approved plan set may be subject to in-lieu fees for trees not planted.
- 36. Verification of Payment and/or Planting of Replacement Tree(s).** After payment of the in-lieu fee and/or the planting of replacement trees on-site, the permittee shall provide appropriate evidence such as, but not limited to, photographs and/or receipts to the Planning Project Manager to verify compliance with the mitigation requirements. Such evidence shall be uploaded to [www.sjpermits.org](http://www.sjpermits.org) using these instructions:
- a. How to set up an account: <https://www.sanjoseca.gov/business/development-services-permit-center/online-permits-at-sjpermits-org>
  - b. How to upload: <https://www.sanjoseca.gov/home/showpublisheddocument/88853/638088605255430000>
  - c. Such evidence shall also be emailed to the Planning Project Manager and labeled File No. PD22-002.
- 37. Landscaping.** Planting and irrigation are to be provided by the Permittee, as indicated, on the final Approved Plans.
- 38. 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. The design of the system shall be approved and stamped by a California Registered Landscape Architect.

39. **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.
40. **Common Area Landscaping.** All landscaping in common areas shall be maintained by the Homeowner's Association or other similar entity.
41. **Reclaimed Water.** The Project shall conform to Chapter 15.10 and 15.11 of the San José Municipal Code for use of reclaimed water and shall include an irrigation system designed to allow for the current and future use of reclaimed water for all landscaping.
42. **Fence Standards.** Fences shall be erected in accordance with the standards established on the Approved Plans. Changes to the approved fencing shall comply with Section 17.24 of the City of San José Municipal Code.
43. **Conformance to Mitigation Monitoring and Reporting Program.** 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. \_\_\_\_\_.
44. **Standard Environmental Permit Conditions.**
- a. **Construction Related Air Quality.** The following measures shall be implemented during all phases of construction to control dust emissions.
    - i. Water active construction areas at least twice daily or as often as needed to control dust emissions.
    - ii. Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials 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. All vehicle speeds on unpaved roads shall be limited to 15 mph.
- viii. Replant vegetation in disturbed areas as quickly as possible.
- ix. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- x. 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.
- xi. Maintain and properly tune construction equipment in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- xii. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

**b. Biological Resources**

- i. **Santa Clara Valley Habitat Plan.** The Project may be subject to applicable SCVHP 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 (<https://www.scv-habitatagency.org/DocumentCenter/View/151/Coverage-Screening-Form?bidId=>) to the Director of Planning, Building and Code Enforcement or the Director's designee for approval and payment of all applicable fees prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at <https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan>.
- ii. **Tree Replacement.** The trees removed for the Project shall be replaced at ratios required by the City, as stated in the table below, as amended:

<b>Table: Tree Replacement Ratios</b>				
<b>Circumference of Tree to be Removed</b>	<b>Type of Tree to be Removed</b>			<b>Minimum Size of Each Replacement Tree</b>
	<b>Native</b>	<b>Non-Native</b>	<b>Orchard</b>	
38 inches or more	5:1	4:1	3:1	15-gallon
19 to 38 inches	3:1	2:1	None	15-gallon
Less than 19 inches	1:1	1:1	None	15-gallon

x:x = tree replacement to tree loss ratio  
 Note: Trees greater than or equal to 38-inch circumference measured at 54 inches above natural grade 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 permit is required for removal of trees of any size.  
 A 38-inch tree equals 12.1 inches in diameter.  
 A 24-inch box replacement tree = two 15-gallon replacement trees

- (i) 584 trees onsite will be removed. 52 trees require replacement at a 5:1 ratio, 40 trees require replacement at 4:1 ratio, 70 trees require replacement at a 3:1 ratio, 42 trees require replacement at 2:1 ratio, and 89 trees require replacement at a 1:1 ratio. Therefore, the removal of the 584 trees on-site requires the replacement of either 803 15-gallon trees or 402 24-inch box trees. Based on the landscape plan provided, a total of 1,085 (884 24-inch box & 201 15-gallon) trees are to be planted on site.
- (ii) If there is insufficient area on the Project site 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
  - (a) The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the Project site.
  - (b) Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of building permit(s), in accordance with the City Council approved Fee

Resolution in effect at the time of payment. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

**c. Cultural Resources**

- i. **Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a Native American Tribal representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall examine the find. The archaeologist in consultation with the Tribal representative shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to the Director of Planning, Building, and Code Enforcement or the Director's designee, and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.
- ii. **Human Remains.** 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 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 Native American Heritage Commission (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 mediation by the NAHC fails to provide measures acceptable to the landowner.

**d. Greenhouse Gas Emissions/Energy**

- i. **Proof of Enrollment in SJCE.** Prior to issuance of any Certificate of Occupancy for the multifamily residential buildings (Buildings A, B, C, and the Affordable Building), the occupant shall provide to the Director of the Department of Planning, Building, and Code Enforcement or the Director's designee, proof of enrollment in the San José Community Energy (SJCE) GreenSource program (approximately 60% renewable energy) or TotalGreen program (approximately 100% renewable energy) assumed in the approved environmental clearance for the Project in accordance with CEQA. If it is determined the Project's environmental clearance requires enrollment in the TotalGreen program, neither the occupant, nor any future occupant, may opt out of the TotalGreen program.

**e. Geology and Soils**

**i. Seismic Hazards**

- (i) All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- (ii) Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- (iii) Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- (iv) 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.

- (v) If dewatering is needed, the design-level geotechnical investigations to be prepared for individual future development Projects shall evaluate the underlying sediments and determine the potential for settlements to occur. If it is determined that unacceptable settlements may occur, then alternative groundwater control systems shall be required.
- f. **Paleontological Resources.** If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning, Building and Code Enforcement or the Director's designee 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 the Director's designee.
- g. **Hazards and Hazardous Materials**
  - i. **Asbestos and Lead-Based Paint**
    - (i) In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP).
    - (ii) During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
    - (iii) All potentially friable asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
    - (iv) A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.

- (v) Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

#### **h. Hydrology and Water Quality**

##### **i. Construction Related Water Quality**

- (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 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.

#### **45. Housing Department.**

The Hanover Company, The Pacific Companies, and SummerHill Homes (“Permittee”), will comply with the Inclusionary Housing Ordinance (IHO) through an

Alternative Method of compliance and develop a 1,472-unit master-planned community with 235 affordable rental units.

Phase I will consist of SummerHill's construction of 26 buildings with 154 market-rate townhomes. Phase 1 of the master development will comply with the IHO through the payment of an in-lieu fee. SummerHill is subject to pay \$7,930,558.16 prior to receiving the first Certificate of Occupancy. The in-lieu fee must be paid prior to the issuance of the first Certificate of Occupancy for Phase 1 construction. The fee will be calculated based on all units covered by the Building Permit for which the Permittee is seeking the first Certificate of Occupancy. The in-lieu fee is subject to changes each fiscal year.

Phase 2 of the master plan development will consist of a 1,140 market-rate multifamily building and Pacific's 178-unit rental affordable building. In addition to the affordable development in Phase 2, the Hanover Company will provide 57 inclusionary units rented at an affordable housing cost to moderate-income households with incomes not to exceed 100% AMI. These units will be distributed as follows: 20 units in Building A, 19 units in Building B, and 18 units in Building C, representing 5% of each market-rate multifamily building.

Prior to the issuance of a Certificate of Occupancy, for the first market-rate building constructed in Phase 2 (i.e., the first of phases 2.1, 2.3, or 2.4), the following must occur:

1. The Pacific Building shall have been issued its first Building Permit; or alternatively,
2. If the Pacific Building has not been issued a Building Permit prior to the first Certificate of Occupancy of the first market-rate building, the Project shall be required to post a performance bond for the benefit of the City of San José, equal to the amount of the in-lieu fee for all units covered under the Building Permit for that building seeking a Certificate of Occupancy.
  - a. Any bond(s) posted by the Permittees in this matter would be rescinded upon the issuance of a Building Permit for the Pacific Building.
  - b. If the Pacific Building does not receive a Building Permit within five (5) years of the first market-rate Certificate of Occupancy for Phase 2, then the City would have the right to call the bonds. If the Pacific Building has not received a Building Permit prior to the Certificate of Occupancy for Phase 2.1, then a bond in the amount of the in-lieu fees that Phase 2.1 would otherwise owe shall be posted. If the Pacific Building has secured a Building Permit, then all IHO obligations for the Phase 2 construction will have been satisfied.

- c. During the Phase 2 construction, Hanover shall deliver all required underground service lines and infrastructure, including sanitary sewer, storm sewer, potable water, electrical power, telecommunication, access roads, and emergency access roads prior to the occupancy of any market-rate rental unit.
- d. Hanover shall seek separate Building Permits for each of its three market-rate buildings.

The table below summarizes the Certificate of Occupancy requirements for each market-rate building and the performance bond amount that must be posted for each building if the Pacific Building has not received a Building Permit prior to that Building's first Certificate of Occupancy:

Phase	Certificate of Occupancy Requirement	City Assurance
2.1	The Pacific Building shall be issued a Building Permit	\$4,778,815 Performance Bond
2.2	The Pacific Building shall be issued a Building Permit	\$4,531,023 Performance Bond
2.4	The Pacific Building shall be issued a Building Permit	\$4,475,560 Performance Bond

\*The in-lieu fee is subject to changes each fiscal year.

Given the inclusionary units in Buildings A, B, and C, the project will receive a 25% reduction in their minimum contribution (from 75% to 50% of the IHO in-lieu fee for Phase 2 construction) and will owe a total financial contribution of \$6,892,700 to the Pacific Building, which may be satisfied in the form of land dedication and/or all infrastructure serving the Pacific Building or through a performance bond for the benefit of the City, per the City's IHO Guidelines and the Housing Department's approved Alternative Memo dated April 26, 2024.

Affordable Housing Development:

Affordability	Unit Count	Affordability Restriction Term
100% AMI	2 manager's units	At least 55 years
70% AMI	93	
60% AMI	25	
50% AMI	40	
30% AMI	18	
<b>Total</b>	<b>178</b>	

The Inclusionary Housing Agreement must be recorded (senior to all deeds of trust) on the land including all parcels needed to implement the Project's residential uses and affordable housing obligation including contiguous property under common ownership and control.

Conditions for Projects with Non-Residential Uses Adding at least 5,000 Square Feet

No further Commercial Linkage Fee (CLF) conditions are required for this Project. All CLF conditions have been met. Satisfaction plan submitted and reviewed, resulting in zero CLF per use of the new building. Permittee paid CLF satisfaction plan abbreviated application fee in full.

**46. Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:

- a. *Construction Plans.* This permit File No. PD22-002 shall be printed on all construction plans submitted to the Building Division.
- b. *Construction Plan Conformance.* A Project construction plan conformance review by the Planning Division is required. Planning Division review for Project conformance begins 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.
- c. *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](http://www.sjenvironment.org/reachcode).
- d. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
- e. *Emergency Address Card.* The Project Permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
- f. *Project Addressing Plan.* Prior to issuance of a 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.

**47. 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.

**48. San José Municipal Water System Requirements.**

- a. This development will be subject to fees in accordance with Chapter 15.08 of the San José Municipal Code. The cost to install all new water facilities, except for the well, will be the responsibility of the Project owner/developer.
- b. All plans showing proposed water facilities shall be reviewed and subject to approval by San José Municipal Water System.
- c. Any existing water services to the development site that will not be used shall be abandoned.
- d. All wells within the site shall be abandoned in accordance with Santa Clara Valley Water District regulations prior to receiving water service from San José Municipal Water System.
- e. Permittee shall dedicate utility easement over all private streets.
- f. Permittee will need to provide land sufficient for construction of a public groundwater well, as will be needed to ensure sufficient water supply to meet the Project's demands. The future groundwater well is to be further documented in the Project's environmental analysis documentation.
- g. This Project is conditioned to use recycled water for irrigation in accordance with San José Municipal Code requirements. Recycled water could be used for other purposes as desired, including water features, cooling, and/or dual plumbing. The recycled water main shall connect between two existing mains, adjacent to Coyote Creek and in Epic Way, to ensure reliability and redundancy of supply for the Project.

**49. Public Works Clearance for Building Permit(s) or Map Approval.** Prior to the approval of the Final Subdivision 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 the following: <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. **Transportation.** A Transportation Analysis (TA) has been performed for this Project based on a net 431 a.m. and 490 p.m. peak hour trips. See separate TA Memo dated May 3, 2024, for additional information. Based on the results of the analysis, the Project is conditioned as follows:
  - i. Implement the following multimodal physical mitigation measures to reduce the Project residential VMT for VMT impact mitigation:
    - A. Pedestrian Network Improvements (prior to the issuance of Building occupancy of the first single-family attached townhome unit)
      1. Provide a direct pedestrian trail connection between Coyote Creek Trail and the Project (onsite public park). If a trail connection is determined to be infeasible, in-lieu of the trail connection, the Permittee shall implement pedestrian ADA curb ramps, enhanced striping, and sidewalk bulb-outs at the existing mid-block crosswalk across Seely Avenue west of the Project frontage. If bulb-outs are determined to be infeasible to install at the crosswalk location, in lieu of bulb-outs, the Permittee shall implement Rectangular Rapid Flashing Beacons (RRFBs) at the existing mid-block crosswalk.
    - B. Bike Access Improvements (prior to the issuance of the first Building occupancy of the first apartment unit)
      1. Implement Class II bike lanes on the opposite (non-Project frontage) side of Seely Avenue in southbound direction per the San José Better Bike Plan 2025.
    - C. Traffic Calming Measures (prior to the issuance of Building occupancy of the first apartment unit)
      1. Narrow the existing roadway width along Seely Avenue to implement Class II bike lanes in both directions and a new two-way center left-turn lane.

- ii. Provide a Transportation Demand Management (TDM) plan prior to Planning Permit approval for the VMT impact mitigation for the following measures:
  - A. Provide subsidized memberships to a car-sharing program upon request for residents of all proposed apartment units (market-rate only).
  - B. Provide 100% unbundled parking for the designated apartment parking spaces. The monthly parking cost of a parking space will be \$26 at minimum (market-rate only).
  - C. Provide voluntary travel behavior change program with an expected participant rate of 100% (all proposed market-rate and affordable apartment units).
  - D. Onsite TDM Coordinator for Administration and Services.
    - 1. Provide a TDM plan prior to Planning Permit Approval. Include an annual monitoring requirement establishing an average daily trip (ADT) cap of 523 gross a.m. peak-hour trips and 629 gross p.m. peak-hour trips (for the “New Project” scenario, 431 gross a.m. peak-hour trips and 490 gross p.m. peak-hour trips). The annual monitoring report must demonstrate the Project is within 10% of the ADT cap and must be prepared by a traffic engineer.
    - 2. If the Project is not in conformance with the trip cap, the Permittee may add additional TDM measure(s) to meet the trip cap. A follow-up report will be required within six months. If the Project is still out of conformance, penalties will be assessed. See Council Policy 5-1.
- iii. Provide a fair-share contribution of \$200,000 towards the planned improvements at the McCarthy Boulevard-O’Toole Avenue and Montague Expressway intersection to address the Project level-of-service adverse effect prior to the issuance of the Building permit which contains the 916th residential unit for the entire development.
- iv. Submit a focused traffic operations study of Seely Avenue and River Oaks Parkway to determine appropriate traffic-calming measures that shall be implemented by the Permittee. This shall be completed within twelve (12) months after issuance of building occupancy for the final apartment building or upon reaching 95% building occupancy for the entire development,

whichever is achieved first. The Permittee shall implement traffic-calming measure improvements identified in the traffic study that shall not exceed \$450,000.

- v. Remove two parking spaces on either side of the proposed retail truck loading space on Fuyu Drive to provide adequate truck-turning movement space.
- c. **Street Vacation.** A street vacation is required in order to accomplish the land use plan as shown. The street vacation process requires further discretionary approval by the City Council and the Project shall be subject to this process prior to Public Works clearance. A title report must be submitted prior to any decisions regarding the possible vacation of the street.
- d. **Grading/Geology**
  - i. A grading permit is required prior to the issuance of a Public Works Clearance.
  - ii. All onsite 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 permits 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 City of San José 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 hauls more than 10,000 cubic yards of cut/fill to or from the Project site, 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 Permittee 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 stormwater 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. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed, and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not be limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in this investigation.
- e. **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), including 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 and this Project will be in 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.
- f. **Stormwater Peak Flow Control Measures.** The Project is located in a non-Hydromodification Management Area and is not required to comply with the City's Post Construction Hydromodification Management Policy (Council Policy 8-14).
- g. **Flood Zone X.** The Project site is not within a designated Federal Emergency management Agency (FEMA) 100-year floodplain. Flood Zone X is an area of moderate or minimal flood hazard. Zone X is used on new and revised maps in place of Zones B and C. There are no City floodplain requirements for Zone X.
- h. **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 issuance of Public Works clearance.

- i. **Municipal Water.** In accordance with City Ordinance #23975, the Major Water Facilities Fee is due and payable. Contact San Jose Municipal Water at (408) 794-6769 for further information.
- j. **Parks.** This residential Project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of the San José Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San José Municipal Code) for the dedication of land and/or payment of fees in lieu of dedication of land for public park and/or recreational purposes under the "Formula for Dedication of Land" and/or "Schedule of Fees and Credits contained within the chapter.
- k. **Undergrounding.**
  - i. Overhead wires exist along the Project frontages on Seely Avenue and Montague Expressway. However, Montague Expressway is exempt from undergrounding and no undergrounding fee is due. Seely Road is a designated street for undergrounding and the In-lieu Undergrounding Fee shall be paid prior to Public Works Clearance. One hundred percent of the base fee in place at the time of payment will be due. Currently, the base fee is \$627 per linear foot of frontage and is subject to change every January 31<sup>st</sup> based on the Engineering News record's City Average Cost Index for the previous year. (Based on the 2024 rate, the fee is approximately \$689,000).
  - ii. The Director of Public Works may, at their discretion, allow the Permittee to perform the actual undergrounding of all off-site utility facilities fronting the Project adjacent to Seely Avenue. Permittee shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.
- l. **Street Improvements.**
  - i. Prior to recordation of a final map for the townhome site, the following shall be guaranteed through the execution of a construction agreement:
    - A. Construct a 10' wide City Standard attached sidewalk with 4'x5' tree wells spaced 35' on center along the Epic Way Project frontage. Match the existing 36' curb-to-curb width and match the existing trees along Epic Way. Provide a 16' street dedication to achieve a 56' ultimate right-of-way width.
    - B. Construct a 26' wide City Standard driveway along Epic Way.

- C. Construct a direct pedestrian trail connection between Coyote Creek Trail and the Project. Alternatively, construct pedestrian ADA curb ramps, enhanced striping, and sidewalk bulb-outs or Rectangular Rapid Flashing Beacons (RRFBs) at the existing mid-block crosswalk along Seely Avenue.
- ii. Prior to recordation of a final map for the apartment sites, the following shall be guaranteed through the execution of a construction agreement:
  - A. Construct an 18' wide City Standard attached sidewalk with a 6' wide raised bikeway, green infrastructure, and 4'x5' tree wells spaced 35' on center along the Seely Avenue Project frontage.
  - B. Construct two 26' wide curb returns with 20' radii at the proposed private street entrances along Seely Avenue.
  - C. Construct a 26' wide City Standard driveway at Building C's entrance along Seely Avenue.
  - D. Construct Class II bike lanes on the opposite (non-Project frontage) side of Seely Avenue in southbound direction per the San José Better Bike Plan 2025.
  - E. Narrow the existing roadway width along Seely Avenue to implement Class II bike lanes in both directions and a new two-way center left-turn lane.
- iii. Permittee shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed Project.
- iv. Permittee shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the Project frontage.
- v. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
- vi. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
- vii. Permittee shall be responsible for coordinating with the County of Santa Clara for public improvements along Montague Expressway.

- m. **Sanitary.** The Permittee is required to submit plans and profiles of the private sewer mains with lateral locations for final review and comment prior to construction.
- n. **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.
- o. **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 the 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 cut-outs at the back of curb. Obtain a Department of Transportation street tree planting permit for any proposed street tree plantings. If street tree locations conflict with existing utilities, developer shall be solely responsible for relocating or adjusting utilities as necessary to resolve conflict. Street trees shown on this permit are conceptual only.
  - ii. The recommended street tree along Seely Avenue and Epic Way is *Quercus suber*.
  - iii. The recommended street tree along Montague Expressway is *Quercus agrifolia*.
- p. **Private Streets.**
  - i. Per the Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.
  - ii. The plan set includes details of private infrastructure improvements. The details are shown for information only. Final design shall require the approval of the Director of Public Works.
  - iii. Construct vehicular access from Seely Avenue to the townhome site prior to occupancy.
- q. **Referrals.** This Project should be referred to Valley Water, the Santa Clara Valley Transportation Authority (VTA), and the County of Santa Clara.

**50. 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. PDC21-035 passed for publication on [REDACTED], 2024 (the “Zoning Ordinance”) and shall be no earlier than the effective date of said Rezoning Ordinance.

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ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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MATT MAHAN  
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.*



## FOR REZONING PURPOSES

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being all of Parcel One as described in the Grant Deed recorded March 7, 2018, in Document No. 23882502 of Official Records; all of that parcel of land described in the Grant Deed recorded February 23, 2017, in Document No. 23587813 of Official Records; and a portion of New Parcel One as described in the Grant Deed recorded March 5, 2007, in Document No. 19326908 of Official Records, all of Santa Clara County Records, described as follows:

BEGINNING at the northerly corner of said Parcel One;

Thence southeasterly, along a curve to the left, having a radius of 1,200.00 feet, whose center bears North 62°27'51" East, through a central angle of 14°20'15" for an arc length of 300.28 feet;

Thence South 42°51'51" East, 50.93 feet;

Thence South 29°20'37" East, 342.00 feet;

Thence South 15°15'22" East, 469.25 feet;

Thence South 25°17'53" East, 349.96 feet;

Thence South 05°06'15" East, 190.80 feet;

Thence South 16°05'50" East, 99.44 feet;

Thence North 43°20'28" East, 79.74 feet;

Thence South 21°03'36" East, 33.27 feet;

Thence South 43°20'28" West, 227.40 feet;

Thence North 46°39'32" West, 30.00 feet;

Thence South 43°20'28" West, 49.66 feet;

Thence southwesterly, along a non-tangent curve to the right, having a radius of 201.86 feet, whose center bears North 37°48'10" West, through a central angle of 10°04'36" for an arc length of 35.50 feet;

Thence along a reverse curve to the left, having a radius of 213.86 feet, through a central angle of 16°02'02" for an arc length of 59.85 feet;

Thence South 46°14'24" West, 120.23 feet;

Thence North 46°41'43" West, 4.00 feet;

Thence South 46°14'54" West, 2.02 feet;

Thence along a tangent curve to the right, having a radius of 40.00 feet, through a central angle of 87°05'32" for an arc length of 60.80 feet;

Thence North 46°39'34" West, 79.50 feet;

Thence along a tangent curve to the right, having a radius of 270.00 feet, through a central angle of 23°01'00" for an arc length of 108.46 feet;

Thence along a reverse curve to the left, having a radius of 330.00 feet, through a central angle of 10°24'39" for an arc length of 59.96 feet;

Thence North 46°41'43" West, a distance of 813.19 feet;

Thence North 43°20'38" East, 803.09 feet;

Thence North 46°35'25" West, 500.00 feet;

Thence North 43°20'38" East, 338.07 feet, to the POINT OF BEGINNING.

Containing 22.88 acres, more or less.

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

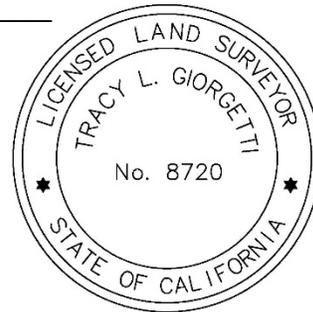
END OF DESCRIPTION

*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: 5-22-24

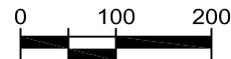
  
Tracy L. Giorgetti, LS 8720



CURVE TABLE			
CURVE	RADIUS	DELTA	LENGTH
C1	201.86'	10°04'36"	35.50'
C2	213.86'	16°02'02"	59.85'
C3	40.00'	87°05'32"	60.80'
C4	270.00'	23°01'00"	108.46'
C5	330.00'	10°24'39"	59.96'



LINE TABLE		
LINE	BEARING	LENGTH
L1	N43°20'28"E	79.74'
L2	S21°03'36"E	33.27'
L3	N46°39'32"W	30.00'
L4	S43°20'28"W	49.66'
L5	S46°14'24"W	120.23'
L6	N46°41'43"W	4.00'
L7	S46°14'54"W	2.02'
L8	N46°39'34"W	79.50'



1 IN. = 200 FT.

**LEGEND**

- POB POINT OF BEGINNING
- (R) RADIAL BEARING

Date:	2024-05-22
Designed:	AL
Drawn:	RF
Checked:	TG
Proj. Engr.:	AL
600600PL05	



1570 Oakland Road (408) 487-2200  
 San Jose, CA 95131 HMMca.com

EXHIBIT "B"  
 PLAT TO ACCOMPANY DESCRIPTION:  
 FOR REZONING PURPOSES

SAN JOSE

CALIFORNIA