

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A VESTING TENTATIVE MAP TO SUBDIVIDE THREE LOTS INTO 48 LOTS (32 BUILDABLE LOTS, 16 COMMON LOTS) AND TO ALLOW UP TO 154 RESIDENTIAL CONDOMINIUM UNITS AND UP TO SIX COMMERCIAL CONDOMINIUM UNITS ON AN APPROXIMATELY 22.22-GROSS-ACRE SITE, FOR THE DEVELOPMENT OF A MIXED-USE PROJECT CONSISTING OF UP TO 1,472 MULTIFAMILY RESIDENTIAL UNITS, APPROXIMATELY 18,965 SQUARE FEET OF COMMERCIAL SPACE AND A 2.5-ACRE PUBLIC PARK LOCATED ON THE NORTHEAST CORNER OF MONTAGUE EXPRESSWAY AND SEELY AVENUE (0 SEELY AVENUE) (APNS 097-15-033 & 034 AND 097-66-008)**

**FILE NO. PT22-003**

**WHEREAS**, pursuant to the provisions of Chapter 19.12 of Title 19 of the San José Municipal Code, on January, 2021, Scott Youdall submitted an application with the City of San José (File No. PT22-003) on behalf of property owners David Triasco, Jenny Chan-Sakauye, and Alice Karolewski, for a Vesting Tentative Map to subdivide three lots into 48 lots (32 buildable lots, 16 common lots) and to allow up to 154 residential condominium units and up to six commercial condominium units, in association with the concurrent Planned Development Permit application (PD22-002) for the construction of a mixed-use development consisting of 1,472 multifamily residential units, approximately 18,965 square feet of commercial space, and a 2.5-acre public park on that certain real property situated in the IP(PD) Planned Development Zoning District (File No. PDC21-035) located on the northeast corner Montague Expressway and Seely Avenue (0 Seely Avenue, APNs 097-15-033, 034 and 097-66-008), 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”, 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 hearing on said concurrent applications 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, "Vesting Tentative Tract Map for Condominium Purposes for 0 Seely Avenue", dated June 11, 2024, 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 22.22-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, 34 and 097-66-008). The Project site contains two 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 subdivision of three lots into 48 lots (32 buildable lots, 16 common lots) and to allow up to 154 residential condominium units and up to six commercial condominium units. The subdivision would facilitate the construction of a mixed-use Project including up to 1,472 multifamily residential units and approximately 18,965 square feet of commercial space in association with a Planned Development Permit (File No. PD22-002).

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:

Affordability	Unit Count
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 the 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.

- 3. General Plan Conformance.** The site is designated Industrial Park on the Land Use/Transportation Diagram of the Envision San José 2040 General Plan and is within the boundary of the Transit Employment Residential Overlay. This overlay identifies sites within the North San José Employment Center that may be appropriate for residential development and supports residential development as an alternate use at a minimum average net density of 75 units per acre. Sites with 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 subdivision will facilitate a Project that 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 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 existing residents in the surrounding area.*

#### 4. Zoning Ordinance Consistency

##### 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:

<b>Development Standard</b>	<b>UR Requirement</b>	<b>Proposed Requirement</b>
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:

Development Standard	MUN Requirement	Proposed Requirement
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 and Vesting Tentative Map, the Project conforms with all required height and setback standards pursuant to the General Development Plan of the proposed Planned Development Zoning District.

- 5. Environmental Review.** The City of San José, 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.

6. **City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals** . 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. **Vesting Tentative Map Findings:** In accordance with Section 66474 of the Government Code of the State of California, the City Council of the City of San José, in consideration of the proposed subdivision shown on the Vesting Tentative Map with the imposed conditions, shall deny approval of a Vesting Tentative Map, if it makes any of the following findings.
1. That the proposed map is not consistent with applicable General and Specific Plans as specified in Section 65451.
  2. That the design or improvement of the proposed subdivision is not consistent with applicable General and Specific Plans.
  3. That the site is not physically suitable for the type of development.
  4. That the site is not physically suitable for the proposed density of development.
  5. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
  6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
  7. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

*Analysis: Based on the review of the Vesting Tentative Map, the Director of Planning, Building and Code Enforcement of the City of San José recommends approval of the Vesting Tentative Subdivision Map, because none of the above findings can be made for the denial of the proposed subdivision. To facilitate the potential future financing and sale of portions of the subject property, the Vesting Tentative Subdivision Map is the first step of conditional approval to reconfigure three lots into 48 lots and allow up to 154 residential condominium units and six commercial condominium units. The review and approval of a final map and/or multiple final maps, will allow the formal subdivision of the property.*

*As discussed in the General Plan Conformance section above, the Project is consistent with the applicable General Plan goals, policies, and land use designation, including the minimum residential density of 75 DU/AC for the Transit Employment Residential Overlay. The multifamily residential and retail uses are all permitted uses of the proposed IP(PD) Planned Development Zoning District (File No. PDC21-035). The lot sizes exceed the minimum required lot size of 6,000 square feet for Area A of the Planned Development Zoning District. There are no minimum lot sizes for the Area B portion of the Zoning District. The minimum commercial condominium size is not less than 750 square feet.*

*The project would redevelop an existing orchard in an area surrounded by urban land uses and already served by all necessary public and private utilities. All buildings within the project area maintain a minimum 100-foot riparian setback in accordance with City Council Policy 6-34. Therefore, the Project and associated improvements would not cause environmental damage or injure fish or wildlife or their habitat. Please see the discussion on the California Environmental Quality Act above for additional information.*

*The Permittee will be required to prepare declaration of Covenants, Conditions, and Restrictions (“CC&Rs”) as part of the Project. The CC&Rs would include sufficient provisions for governance, funding and capitalization, and enforcement mechanisms to ensure that the private streets and common areas within the development continue to be adequately and safely maintained and repaired for the life of the common interest development. Similarly, the townhouse portion of the project will include the establishment of a Homeowner’s Association to ensure maintenance and upkeep of all common areas. Additionally, the Permittee, at its sole cost, shall prepare grant deeds for all mutual or reciprocal easement right, which shall be reviewed by the City for compliance with the terms of Chapter 20.175 of the Zoning Code and Chapter 19 of Subdivision Code.*

*Additionally, the Project is required to record a covenant of easement in favor of the City for emergency vehicle access, ingress/egress, pedestrian access, private sewer, private storm drain and private surface drainage release purposes in accordance with Chapter 20.110 of the Zoning Code. Therefore, based on the review of the Vesting Tentative Map, the Director of Planning, Building and Code Enforcement of the City of San José (Director) recommends approval of the Vesting Tentative Subdivision Map, because none of the above findings can be made for the denial of the proposed subdivision.*

- 8. Subdivision Ordinance Findings.** In accordance with San José Municipal Code Section 19.12.130, the Director of Planning, Building, and Code Enforcement may approve the Tentative Map if the City Council cannot make any of the findings for denial in Government Code section 66474 and the City Council has reviewed and considered the information relating to compliance of the Project with the California Environmental Quality Act and determines the environmental review to be adequate. Additionally, the City Council may approve the Project if the City Council does not make any of the findings for denial in San José Municipal Code Section 19.12.220. Section 19.12.130 incorporates the findings for denial in Section 66474 of the Government Code specified in Findings Section 1 herein and also adds the additional requirement that the Project obtain CEQA clearance.

*Analysis: Based on review of the proposed subdivision, the Director of Planning, Building and Code Enforcement recommends approval of the Vesting Tentative Map. The map and the Project design are consistent with the San José Envision 2040 General Plan designation of Transit Employment Residential Overlay and the IP(PD) Planned Development Zoning District (PDC21-035), as discussed above. The site is*

*physically suitable for the proposed development in that the proposed residential density, FAR, and lot sizes are in conformance with the Transit Employment Residential Overlay.*

*In accordance with the CEQA, a final environmental impact report (FEIR) has been prepared for the Project (Seely Avenue Mixed-Use Project EIR). The FEIR identifies potential Project impacts related to air quality, migratory bird nesting, roosting bat habitat, archaeological deposits, hazardous materials and vapors, noise, and vehicle miles traveled (VMT), which can be reduced to less than significant with mitigation measures. The City of San José shall adopt a Mitigation Monitoring and Reporting Program to ensure compliance with the mitigation measures identified in the FEIR. The FEIR also identifies a significant and unavoidable impact on structures and site features that are collectively and individually eligible for listing in the California Register of Historical Resources and the San José Historic Resource Inventory as a Candidate City Landmark, for which a Statement of Overriding Considerations has been prepared. The Project site, as well as the surrounding area, are currently developed with an orchard and associated structures and do not provide a natural habitat for either fish or wildlife. The subdivision and subsequent improvements are not likely to cause serious public health problems.*

In accordance with the findings set forth above, a Vesting Tentative Map to establish the conditions of approval by which the subject property may be subdivided by recordation of an approved final subdivision map 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 Vesting Tentative Map 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 Vesting Tentative Map.** Per Section 19.12.230, should the Subdivider fail to file a timely and valid appeal of this Vesting Tentative Map within the applicable appeal period, such inaction by the Subdivider shall be deemed to constitute all of the following on behalf of the Subdivider:
  - a. Acceptance of the Vesting Tentative Map by the Subdivider; and
  - b. Agreement by the Subdivider to be bound by, to comply with, and to do all things required of or by the Subdivider pursuant to all of the terms, provisions, and conditions of this Permit or other approval and the provisions of Title 19 of the San José Municipal Code applicable to such Vesting Tentative Map.
2. **Expiration of Vesting Tentative Map.** This Vesting Tentative Map shall automatically expire 30 months from and after the date of issuance hereof by the City Council of the City of San José, if within such time period, a Final Map has not been obtained, pursuant to and in accordance with the provisions of this Vesting Tentative Map. The

date of issuance is the date this Vesting Tentative Map is approved by the City Council. However, the Director of Planning, Building, and Code Enforcement may approve a Vesting Tentative Map Extension to extend the validity of this Vesting Tentative Map in accordance with Title 19.

### 3. Development Rights - Vesting on Approval of Vesting Tentative Map.

- a. Per San José Municipal Code Section 19.13.070, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards described in Government Code Section 66474.2. However, if Section 66474.2 of the Government Code is repealed, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved.
- b. Notwithstanding subsection 3.a., above, any permit, including a building permit, approval, extension, or entitlement may be made conditional or denied if any of the following are determined:
  - i. A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.
  - ii. The condition or denial is required to comply with state or federal law.
- c. The rights referred to herein shall expire if a final map is not approved prior to the expiration of the vesting tentative map as provided in Section 19.13.060. If the final map is approved, these rights shall last for the following periods of time:
  - i. An initial time period of one year. Where several final maps are recorded on various phases of a Project covered by a single vesting tentative map, this one-year initial time period shall begin for each phase when the final map for that phase is recorded. All of said final maps or lot maps must be recorded within the time period set forth in Section 19.13.060 or the vesting tentative map approval shall expire for those lots for which final maps or lot maps are not timely recorded.
  - ii. The initial time period set forth in 3.c.i. shall be automatically extended by any time used for processing a complete application for a grading permit if such processing exceeds thirty days from the date a complete application is filed.
  - iii. A Subdivider may apply to the Director of Planning, Building, and Code Enforcement for a one-year extension at any time before the initial time period set forth in 3.c.i. expires. If the extension is denied, the subdivider may appeal that denial to the city council within fifteen (15) days.
  - iv. If the Subdivider submits a complete application for a building permit during the periods of time specified in 3.c.i. through 3.c.iii., above, the rights referred to herein shall continue until the expiration of that permit, or any extension of that permit.

4. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved Tentative Map plans entitled, "Vesting Tentative Tract Map for Condominium Purposes for 0 Seely Avenue", dated June 11, 2024, 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". The Vesting Tentative Map allows for a phased subdivision.
5. **Conformance with Other Permits.** The subject Vesting Tentative Map conforms to and complies in all respects with the Planned Development Permit (File No. PD22-002) on which such Vesting Tentative Map is based. Approval of said Vesting Tentative Map shall automatically expire with respect to any portion of the lands covered by such Vesting Tentative Map on which a Final Map or Tract Map has not yet been recorded if, prior to recordation of a Final Map or Tract Map thereon, the Special Use Permit for such lands automatically expires or for any reason ceases to be operative.
6. **Compliance with Subdivision Ordinance.** The final map shall comply with all of the requirements for final maps in Chapter 19.16 of the San José Municipal Code and shall show and contain all of the data required by San José Municipal Code Section 19.16.110.
7. **Improvements.** Pursuant to the Subdivision Agreement (hereinafter referred to as "Agreement"), the Subdivider shall, before approval and recording of the Final Map, improve or agree to improve all land within the subdivision and all land outside, but appurtenant to, the Subdivision shown on the Vesting Tentative Map for public or private streets, alleys, pedestrian ways and easements to the satisfaction of the Director of Public Works.
8. **Improvement Contract.** In the event Subdivider has not completed the improvements required for the subdivision at the time the final map is presented for approval, Subdivider shall enter into a subdivision improvement agreement with the City of San José, in accordance with Section 19.32.130 of the San José Municipal Code, and provide the improvement security and insurance required therein.
9. **Distribution Facilities.** The Subdivider shall, at no cost to the City, cause all new or replacement electricity distribution facilities (up to 40KV), telephone, community cable, and other distribution facilities located on the subject property to be placed underground.
10. **Public Use Easements.** Subdivider shall dedicate on the final map for public use easements for public utilities, emergency access, open space, streets, pedestrian ways, sanitary sewers, drainage, flood control channels, water systems, and parking in and upon all areas within the subdivision shown on the Vesting Tentative Map for the subdivision to be devoted to such purposes.

11. **Covenant of Easements.** Prior to recordation of the Final Map, the subdivider shall offer to the City of San José a Covenant of Easement for emergency vehicle access, ingress/egress, pedestrian access, private sewer, private storm drain and private surface drainage release purposes in accordance with Part 1 of Chapter 20.110 of Title 20 of the San José Municipal Code, across Lots 33, 34, 35, 37, 38, 40, 42, 45, 49 for the benefits of Lots 1-32 (as numbered on Vesting Tentative Map File No. PT22-003) as shown on the Approved Plan Set. Said easements shall be binding upon, and all benefits shall insure to, all successors in interest to the affected real property.
12. **Conveyance of Easements.** Subdivider shall convey or cause to be conveyed to the City of San José, easements in and upon all areas as shown on the Vesting Tentative Map outside the boundaries of, but appurtenant to, the subdivision. Should a separate instrument be required for the conveyance of the easement(s), it shall be recorded prior to the recordation of the Final Map. Such easements so conveyed shall be shown on the Final Map, together with reference to the Book and Page in the Official Recorder of Santa Clara County, where each instrument conveying such easements is recorded.
13. **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.
14. **Common Interest Development.**
  - a. The Permittee, at its sole cost, shall prepare 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.
15. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Vesting Tentative Map by Subdivider shall constitute acknowledgement of receipt of notice by Subdivider 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.

16. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
17. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, and, 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.
15. **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. \_\_\_\_\_.
16. **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 Project 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 Project 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 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.
- (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 ACMs shall be removed in accordance with National Emission Standards for Air Pollution 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.

#### **17. 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.

19. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the Subdivider will be required to have satisfied all of the Public Works conditions as described in the Planned Development Permit (PD22-002).
20. **Final Map.** No Final Map or Tract Map shall be approved by City Council unless and until the appeal period for the development permit, City File No. PD22-002 has expired and all appeals have been exhausted.
21. **Multiple Final Maps.** Multiple Final Maps may be filed for this subdivision if each and all of the following conditions are met with each Final Map:
  - a. All fees associated with development and a part of this approval shall be apportioned and paid for each portion of this subdivision for which a Final Map is being filed, including but not limited to Parkland Dedication, undergrounding of utilities, drainage, area and sewer treatment plan.

- b. All public streets on which each Final Map has frontage shall be improved or bonded to be improved to the satisfaction of the Director of Public Works.
- c. All grading, drainage, and easements for drainage, adequate to protect each lot for which a Final Map is requested, and surrounding parcels which could be impacted by such design or lack of design, shall be guaranteed to the satisfaction of the Director of Public Works.
- d. Any and all off-site improvements necessary for mitigation of impacts brought about by this Project shall be apportioned to the degree possible to guarantee adequate mitigation for each area for which a Final Map is being filed, to the satisfaction of the Director of Public Works.
- e. For final maps that are phased, where the phasing is not specified, the Permittee is required to process a Permit Amendment to specify the phases and phased improvements. All improvements must be in conformance with the associated development permit, as may be amended.

**22. Revocation, Suspension, Modification.** This Vesting Tentative Map is subject to revocation, suspension or modification for violation of any of its provisions or conditions.

In accordance with the findings set forth above, a Vesting Tentative Map is hereby approved.

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

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
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

