

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A VESTING TENTATIVE MAP TO SUBDIVIDE ONE PARCEL INTO TWO PARCELS AND ALLOW NO MORE THAN 14 RESIDENTIAL CONDOMINIUM UNITS ON AN APPROXIMATELY 0.63-GROSS-ACRE SITE, FOR THE DEVELOPMENT OF UP TO 14 MULTIFAMILY RESIDENTIAL UNITS INCLUDING THE RECONSTRUCTION AND CONVERSION OF AN EXISTING SINGLE-FAMILY HOUSE INTO A DUPLEX AND THE CONSTRUCTION OF 12 TOWNHOUSES CONFIGURED IN FOUR THREE-STORY BUILDINGS, LOCATED ON THE NORTHEAST CORNER OF MITZI DRIVE AND RANCHERO WAY (4146 MITZI DRIVE) (APNS 299-16-001)

FILE NO. T22-030

WHEREAS, pursuant to the provisions of Chapter 19.12 of Title 19 of the San José Municipal Code, on August 2, 2022, an application (File No. PT22-002) was filed by the owner, Ciyavash Moazzami, with the City of San José for a Vesting Tentative Map to subdivide one parcel into two parcels and allow up to 14 residential condominium units, and for the concurrent Planned Development Permit application (PD22-020) for the removal of 33 trees (13 ordinance-size, 20 non-ordinance-size, 7 replacement trees) construction of up to 14 multifamily residential units including the reconstruction and conversion of an existing single-family house into a duplex and the construction of 12 townhouses configured in four three-story buildings on that certain real property situated in the UR(PD) Planned Development Zoning District located on the northeast corner of Mitzi Drive and Rancho Way (4146 Mitzi Drive, APN 299-16-001, 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 August 9, 2023, 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 Mitzi Court", dated July 11, 2022, 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 project:

- 1. Site Description and Surrounding Uses.** The subject 0.63-gross-acre site is located at the at the northeast corner of Mitzi Drive and Ranchero Way (4146 Mitzi Drive). The project site was originally developed with the Graves House, a single-family residence constructed in 1868. The house was partially destroyed in a fire on November 29, 2022. The remaining portion of the house was demolished and partially salvaged between May 11 and May 17, 2023. The site is surrounded by single-family residences across Mitzi Drive to the west and multifamily apartments to the north, east, and south.
- 2. Project Description.** The project consists of the reconstruction and conversion of the existing Graves House into a duplex and the construction of 12 townhouse units configured in four, three-story buildings. The development will be served by a private driveway accessible from a 26-foot-wide driveway along Ranchero Way.

As discussed in the Site Description and Surrounding Uses section above, the Graves House was partially destroyed in a fire on November 29, 2022. The reconstructed Graves House will be relocated to the northwest corner of the site, approximately 75 feet from its original location. The house would retain its original east-west orientation, facing Mitzi Drive. The project includes the on-site salvage and reconstruction of the residence to meet the Secretary of the Interior's Standards and Guidelines. The work includes Historic Preservation Guidance to assist the architect with architectural documents for the salvage work and historic replica reconstruction at the new location. The house will be converted from a single-family residence to a duplex with units on each floor of the two-story building. The rear portion of the building includes an attached two-car garage serving the two units.

The 12 townhouse units will be located to the south and east of the Graves House and will be configured in four, three-story buildings (Buildings A-D). Building A consists of two units and is located at the intersection of Mitzi Drive and Ranchero Way.

Building B consists of 7 units and is located at the southernmost portion of the site along Rancho Way. Buildings C and D, consist of two units each and are located at the northeastern portion of the site. Vehicle parking is provided in attached two-car garages for each townhouse unit, accessible from the 21-foot-wide private driveway.

Off-site improvements include the widening of Rancho Way to achieve a 60-foot-wide street section and a 12-foot-wide detached sidewalk on the project frontage. The widening of Rancho Way would allow for street parking along the project frontage. A 10-foot-wide sidewalk would also be constructed on the Mitzi Drive frontage.

To facilitate the project, the Vesting Tentative Subdivision Map is included with the application to allow the subdivision of one parcel into two parcels and the subdivision of the one parcel into no more than 14 residential condominium units with common areas.

- 3. General Plan Conformance.** The site is designated Urban Residential on the Envision San José 2040 General Plan Land Use/Transportation Diagram. This designation allows for medium density residential development and a fairly broad range of commercial uses, including retail, offices, hospitals, and private community gathering facilities, within identified Urban Villages, in other areas within the City that have existing residential development built at this density, within Specific Plan areas, or in areas in close proximity to an Urban Village or transit facility where intensification will support those facilities. Any new residential development at this density should be in Growth Areas or, on a very limited basis, as infill development within areas with characteristics similar to the Urban Village areas (generally developed at high-density and in proximity to transit, jobs, amenities and other services). The allowable density for this designation is further defined within the applicable Zoning Ordinance designation and may also be addressed within an Urban Village Plan or other policy document. This designation is also used to identify portions of Urban Village areas where the density of new development should be limited to a medium intensity in order to provide for a gradual transition between surrounding low-density neighborhoods and other areas within the Urban Village suitable for greater intensification. The allowable density/intensity for commercial projects is a floor-area ratio (FAR) of 1.0 to 4.0 with a minimum FAR of 1.0. Residential/commercial mixed-use development shall require a minimum of 30 DU/AC with a maximum FAR of 4.0. Developments in this designation would typically be three to four stories of residential or commercial uses over parking.

Chapter 5, page 6 of the General Plan states that identified residential densities and FAR are prescriptive, except when explicit exceptions are noted or when lower intensities are required in order to avoid significant aesthetic and other possible impacts under the California Environmental Quality Act (CEQA) (e.g., lower intensity development is needed to be compatible with a National Register or City Landmark Historic District).

Analysis: The Vesting Tentative Map facilitates a project that consists of the reconstruction of the Graves House, which is eligible for listing in the California Register of Historical Resources and listed in the San José Historic Resources Inventory as a Candidate City Landmark. The reconstructed house would be used as a two-unit residential building in addition to the 12 newly constructed townhouse units. The Urban Residential land use designation requires a minimum residential density of 30 dwelling units per acre (DU/AC). The proposed project includes a gross residential density of approximately 22.2 DU/AC (26 net DU/AC). However, the proposed project's construction at a lower residential density may be permitted as it is compatible with the adjacent historic resource and the surrounding neighborhood. The neighborhood to the west consists of single-family homes, while the neighborhood to the north, south, and east consist of multistory multifamily apartment buildings. The reduced residential density is necessary to accommodate the relocation and reconstruction of the historic resource while also allowing the construction of a compatible project that blends with the varying density, massing, and scale of the surrounding neighborhood.

4. Zoning Ordinance Consistency

General Development Plan

The project site is located in the UR(PD) Planned Development Zoning District per File No. PDC22-088. Subject to the project's Development Standards, the newly created UR(PD) Planned Development Zoning District allows for the development of attached townhouses, the reconstruction of the Graves House, and the incidental, administrative, permitted, special, and conditional uses of the UR Urban Residential Zoning District with the issuance of a Planned Development Permit or Planned Development Permit Amendment.

Setbacks and Height

The table below highlights the proposed Development Standards as outlined in the General Development Plan of the UR(PD) Planned Development Zoning District File No. PDC22-088.

Development Standard	Minimum Required	Graves House	Townhouses
Minimum Residential Density	26 DU/AC	26 DU/AC	
Minimum Lot Size	4,000 square feet	4,117 square feet	19,338 square feet
Minimum Front Setback (Mitzi Drive)	6 feet	8 feet	8 feet
Minimum Side, Interior Setback	3 feet	3 feet	7 feet
Minimum Side, Corner Setback (Ranchero Way)	0 feet	Not applicable	2 feet
Minimum Rear, Interior Setback	2 feet	4 feet	Not applicable
Minimum Rear, Corner Setback	4 feet	Not applicable	4 feet, 1 inch
Maximum Building Height	45 feet	35 feet	36 feet, 6 inches
Maximum Number of Stories	3	2	3

Analysis: As shown in the table above the project conforms with the required height and setback standards pursuant to the General Development Plan of the UR(PD) Planned Development Zoning District.

Parking

Pursuant to the General Development Plan of the Planned Development Zoning District, the project is required to provide parking at the following ratios:

Parking Type	Ratio	Minimum Required	Provided
Vehicle Parking	2 vehicle spaces per unit	28 spaces	28 spaces
Bicycle Parking	1 space per 4 units (may be provided in garage)	4 spaces	14 spaces
Motorcycle Parking	1 motorcycle space per 4 units (may be provided in garage)	4 spaces	14 spaces

Analysis: As shown in the table above, the project conforms with the minimum parking requirements pursuant to the General Development Plan of the UR(PD) Planned Development Zoning District. 28 vehicle parking spaces are required, and 28 spaces are provided. Additionally, 4 bicycle parking spaces and 4 motorcycle parking spaces are required and 14 bicycle and 14 motorcycle parking spaces are provided.

Private Open Space

Unit	Open Space (60 square feet per unit required)
Graves House (Unit A)	168 square feet
Graves House (Unit B)	145 square feet
Townhouse Plan 1	96 square feet
Townhouse Plan 2	183 square feet
Townhouse Plan 3	180 square feet
Townhouse Plan 4	193 square feet
Townhouse Plan 5	92 square feet

Analysis: Pursuant to the General Development Plan of the UR(PD) Planned Development Zoning District, a minimum of 60 square feet of private open space is required to be provided per unit. As shown in the table above, all residential units have a minimum of 92 square feet of private open space. All private open space is provided in the form of a deck, porch, or private yard.

5. 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 project. An on-site sign has been posted on the project frontage since September 12, 2022. A formally noticed Community Meeting was held on Monday, April 10, 2023, 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 500 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 July 14, 2023. The staff report is also posted on the City's website. Staff has also been available to respond to questions from the public.

6. Environmental Review.

An Addendum to the Mitzi Place Apartments Project Initial Study/Mitigated Negative Declaration (IS/MND) was prepared for the subject Planned Development Rezoning, Planned Development Permit to rezone the project site from the R-M Multiple Residence Zoning District to a UR(PD) Planned Development Zoning District, and Tentative Map (File Nos. PDC22-088, PD22-020, & T22-030) in compliance with the California Environmental Quality Act (CEQA). The nature and operational characteristics of the proposed multi-family residential project same as the project analyzed in the Mitzi Place Apartments Project IS/MND for the original Special Use Permit which was adopted by the Director of Planning, Building and Code Enforcement on October 7, 2020. No substantive revisions are needed to the adopted IS/MND because no new significant impacts or impacts of substantially greater severity would result from the project. There have been no changes in circumstance in the project area that would result in new significant environmental impacts or substantially more severe impacts than what was identified in the adopted IS/MND, and no new information has come to light that would indicate the potential for new significant impacts or substantially more severe impacts than were previously discussed. Therefore, no further evaluation is required.

In accordance with California Public Resources Code Section and 21166; and CEQA Guidelines Section 15162 through 15164, and as set forth in the analysis below, the Modified Project qualifies for an addendum. The project will be required to implement the mitigation measures and environmental conditions identified in the IS/MND for the original project, and therefore, this project's site modifications were determined to not have a significant effect on the environment.

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: To facilitate the potential future financing and sale of portions of the subject property, the Vesting Tentative Subdivision Map is the preliminary step of conditional approval to subdivide one parcel into two parcels and subdivide the parcels into no more than 14 residential condominium units and common area. As discussed in the General Plan Conformance section above, the project is consistent with the applicable General Plan goals, policies, and land use designation. The project site is physically suitable for the project buildings and the FAR of the Urban Residential land use designation. The multifamily residential uses are permitted uses of the UR(PD) Planned Development Zoning District (File No. PDC22-088). The project's lot sizes exceed the minimum required lot size of 4,000 square feet. The subject site is located in developed area surrounded by multifamily and single-family residential uses. Therefore, the project and associated improvements would not cause environmental damage or substantially injure fish or wildlife or their habitat.

A declaration of Covenants, Conditions, and Restrictions (CC&Rs) is required to be reviewed and approved by the City, and recorded, prior to final map approval. The CC&Rs 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 project. Additionally, the project is required to record a covenant of easement in favor of the City for ingress and egress and emergency vehicle access in accordance with Chapter 20.110 of the Zoning Code. The project is also required to record a covenant of easement for private service, emergency access, ingress and egress, private storm drainage, private sanitary sewer, and private storm drain release.

- 8. Subdivision Ordinance Findings.** In accordance with San José Municipal Code Section 19.12.130, the Director 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 project subdivision and as described in the sections above, the Council of the City of San José does not make any such findings to deny the subject subdivision. The map and the development's design are consistent with the San José Envision 2040 General Plan designation of Urban Residential and the UR (PD) Planned Development Zoning District (File No. PDC22-088), as discussed above. The site is physically suitable for the proposed development in that the project density and FAR and lot sizes are in conformance with the Urban Residential land use designation and UR Urban Residential Planned Development Zoning District.

An Addendum to the Mitzi Place Apartments Initial Study/Mitigated Negative Declaration and a related Mitigation Monitoring and Reporting Program have been adopted by the City Council. The project site and the surrounding area are currently developed with structures and do not provide a natural habitat for either fish or wildlife. Therefore, the subdivision and subsequent improvements would not result in serious public health concerns.

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, in order 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 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 Map Mitzi Court", dated July 11, 2022, 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) as amended. 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. PD22-020) 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 emergency access 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 private service, emergency access, ingress and egress, private storm drainage, private sanitary sewer, and private storm drain release in accordance with Part 1 of Chapter 20.110 of Title 20 of the San José Municipal Code, across the subject property for the benefit of the commercial condominium units 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. 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. **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.
15. **Common Interest Development.**
 - a. The Subdivider, at its sole cost, shall prepare, submit for prior review and approval by the city, and record concurrently with the applicable parcel or final map, 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 Subdivider shall submit the proposed governing documents to the city for review for compliance with the requirements of this chapter.

- b. The Subdivider 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.

16. 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.

17. 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.

18. Compliance with Local, State, and Federal Laws. The subject use shall be conducted in full compliance with all local, and, state, and federal laws.

19. 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.

20. 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. [REDACTED].

21. Standard Environmental Permit Conditions

a. Air Quality

- i. Construction Related Air Quality. The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:
 - (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) Limit all vehicle speeds on unpaved roads 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) All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
- (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 Subdivider shall submit the Santa Clara Valley Habitat Plan Coverage Screening Form 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

Table: Tree Replacement Ratios				
Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
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

- iii. 33 trees onsite will be removed. One tree requires replacement at a 5:1 ratio, 12 trees require replacement at 4:1 ratio, one tree requires replacement at a 3:1 ratio, 15 trees require replacement at 2:1 ratio, and four trees require replacement at a 1:1 ratio. The total number and size of replacement trees required to be planted on-site is 7 24-inch box trees. The Subdivider is required to pay Off-Site Tree Replacement Fees to the City for 76 replacement trees that could not be planted on-site because of insufficient area.
- iv. Prior to the issuance of building permit(s), the Subdivider shall pay Off-Site Tree Replacement Fee(s) to the City for 76 off-site replacement trees in accordance with the City Council approved Fee Resolution in effect at the time of payment.
- v. 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
 - (i) 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.

- (ii) 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, 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 Subdivider 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.
- iii. 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 project Subdivider shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of PBCE or the Director's designee.

d. Greenhouse Gas Emissions/Energy

- i. Proof of Enrollment in SJCE. Prior to issuance of any Certificate of Occupancy for the project, the occupant shall provide to the Director of Planning, Building, and Code Enforcement, or Director's designee, proof of enrollment in the San José Community Energy GreenSource program (approximately 95% carbon free power) or TotalGreen program (approximately 100% carbon free power) 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) A Geotechnical Report shall be submitted, reviewed, and approved by the City Geologist. The Geotechnical Report shall determine the site-specific soil conditions and identify the appropriate design and construction techniques to minimize risks to people and structures, including but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with State of California guidelines for the preparation of seismic hazard evaluation reports (CGS Special Publication 117A, 2008, and the Southern California Earthquake Center report, SCEC, 1999). A recommended minimum depth

of 50 feet should be explored and evaluated in the investigation. The City Geologist will review the Geotechnical Report and issue a Geologic Clearance.

- (ii) All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- (iii) Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- (iv) Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- (v) The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.
- (vi) 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. 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.

g. 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 project Subdivider 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.

h. Noise

- i. Construction-related Noise.** Noise minimization measures include, but are not limited to, the following:
 - (i) Pile Driving is prohibited.
 - (ii) Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a

- development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential use.
- (iii) Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
 - (iv) Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
 - (v) Prohibit unnecessary idling of internal combustion engines.
 - (vi) Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
 - (vii) Utilize “quiet” air compressors and other stationary noise sources where technology exists.
 - (viii) Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
 - (ix) Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
 - (x) If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
 - (xi) Designate a “disturbance coordinator” who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

22. Housing.

- a. Conditions of approval for Inclusionary Housing Ordinance Requirements for Residential Developments.
 - i. The Residential Development will construct fourteen (14) For-Sale Town Homes.

- ii. The Subdivider has selected to comply with the Inclusionary Housing Ordinance (IHO) through Payment of an In-Lieu Fee (5.08.520) Compliance option and will not provide any Inclusionary Units.
- iii. The development is in the West Valley part of the Inclusionary Housing Ordinance Area and will be subject to Strong Market area prices.
- iv. The in-lieu fee is subject to change July 1 of each year and the Subdivider is responsible for paying the current amount.
- v. The Subdivider must pay the in-lieu fee prior to receiving its certificate of occupancy.

23. 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 number, T22-030 shall be printed on all construction plans submitted to the Building Division.
- b. *San José's Natural Gas Infrastructure Prohibition and Reach Code Ordinances.* The City's Natural Gas Infrastructure Prohibition and Reach Code Ordinances apply to this project and all requirements shall be met. For more information, please visit www.sjenvironment.org/reachcode.
- c. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
- d. *Common Interest Development.* Prior to issuance of any certificate of occupancy, or release for occupancy, the Permittee shall provide a self-certified statement to the satisfaction of the City's Chief Building Official that the project, as constructed, meets the City of San José Common Interest Development standards.
- e. *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. 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).
- f. *Other.* Such other requirements as may be specified by the Chief Building Official.

24. Bureau of Fire Department Clearance for Issuing Permits. Prior to the issuance of a Building Permit, the project must comply with the 2019 California Fire Code, or as may be amended or updated by the City.

25. 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 following Public Works conditions. The Subdivider 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:** This project does not require a detailed CEQA Transportation Analysis nor a Local Transportation Analysis. The project is expected to result in less-than-significant transportation impacts and the projected traffic for the project was reviewed and found to be minimal.
- c. **Grading/Geology:**
 - i. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
 - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the latest California Plumbing Code as adopted under the City of San 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. 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 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 the investigation.
- d. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which

requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.

- i. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed 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 submitted prior to issuance of a Public Works Clearance.
 - iii. A design of the pervious pavement by a Licensed Geotechnical Engineer shall be submitted prior to the issuance of a Public Works Clearance.
- e. **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).
- f. **Flood Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
- g. **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.
- h. **Parks:** This residential project is subject to the payment of park fees in-lieu of land dedication under either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San José Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San José Municipal Code).
- i. **Street Improvements:**
- i. Construct curb, gutter, and sidewalk along the Rancho Way project frontage with a 12 foot-wide ADA compliant detached sidewalk section. This includes a 0.5 foot-wide curb, 6.5 foot-wide park strip, and 5 foot-wide sidewalk. A street easement dedication to achieve a 60' street section along Rancho Way project frontage will be required.
 - ii. Construct new curb, gutter and sidewalk along the Mitzi Drive project frontage with a 10 foot-wide ADA compliant detached sidewalk section. This includes a 0.5 foot-wide curb, 4.5 foot-wide park strip, 5 foot-wide sidewalk.
 - iii. Proposed Driveway width along Rancho Way project frontage to be 26 foot-wide wide per City Standard Detail R-5.
 - iv. Install new handicap ramps at the project corner and southeast corner of Mitzi Drive and Rancho Way per City Standard Detail R-10.

- v. Relocation of the existing street furniture (i.e. utility cabinet, utility pole, etc.) along Mitzi Drive to City Standards. Coordination with the utility companies will be required.
 - vi. Subdivider 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.
 - vii. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
 - viii. 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.
 - j. **Strong Neighborhoods Initiative (SNI):** This project is located within the Blackford SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.
 - k. **Sanitary:** The project is required to submit plan and profile of the sewer mains with lateral locations for final review and comment prior to construction.
 - l. **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.
 - m. **Street Trees:** 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 streets within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in the park strip along the Mitzi Drive and Rancho Way project frontages. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
 - a. **Private Streets:** Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.
26. **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. PD22-020 has expired and all appeals have been exhausted.
27. **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.

28. 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.

ADOPTED this ____ day of _____ 2023, 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.

EXHIBIT "A" (File No. PDC22-088)

FOR ZONING PURPOSES

4146 Mitzi Drive

San Jose, California

Real property in the City of San Jose, County of Santa Clara, State of California, and is described as follows:

Beginning at a point on the easterly line of Mitzi Drive, as said Mitzi Drive is shown on the Map entitled, "Tract No. 924, Hollywood Park Unit No. 2", filed for record in the Office of the Recorder of the County of Santa Clara, State of California, in Book 41 of Maps, Pages 18 and 19, distant South 0°15'00" East 210.56 feet; thence North 89°40'05" East 30.00 feet from the interception of the center line of Mitzi Drive with the center line of Piper Drive to the Point of Beginning; thence along the Easterly line of Mitzi Drive South 0°15'00" East 5.38 feet; thence along a curve to the right with a radius of 155.00 feet, through an angle of 26°58'13", an arc distance of 72.96 feet; thence leaving the Easterly line of Mitzi Drive South 48°51'06" East 87.18 feet; thence South 75°41'38" East 61.20 feet; thence South 83°30'58" East 39.00 feet; thence North 76°13'53" East 44.60 feet; thence North 04°48'38" East 143.65 feet; thence South 89°40'56" West 202.54 feet to the Point of Beginning.

END OF DESCRIPTION

APN: 299-16-001

DRAFT – Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.