

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A SITE DEVELOPMENT PERMIT TO ALLOW THE DEMOLITION OF AN EXISTING APPROXIMATELY 12,000-SQUARE-FOOT OFFICE BUILDING THAT IS AN ELIGIBLE CITY LANDMARK, AND THE REMOVAL OF 20 TREES (10 ORDINANCE-SIZE) FOR THE CONSTRUCTION OF A SEVEN-STORY MULTIFAMILY BUILDING WITH 118 RESIDENTIAL UNITS, INCLUDING SIX UNITS AFFORDABLE TO VERY-LOW-INCOME HOUSEHOLDS PURSUANT TO THE STATE DENSITY BONUS LAW, ON AN APPROXIMATELY 0.49-GROSS-ACRE SITE, LOCATED ON THE NORTHERLY SIDE OF BASSETT STREET BETWEEN NORTH 1ST STREET AND NORTH 2ND STREET (380 NORTH 1ST STREET) (APN 249-44-088)**

**FILE NO. H23-007**

**WHEREAS**, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on April 14, 2023, an application (File No. H23-007) was filed by the applicant’s representative, Erik Schoennauer, on behalf of property owner, 380 N 1<sup>st</sup> Street QOZB, LLC, to the City of San José for a Site Development Permit to allow the demolition of a two-story office building totaling approximately 12,000 square feet that is an eligible City Landmark and the removal of 20 trees (10 ordinance-size) for the construction of a seven-story multifamily building consisting of 118 residential units, including six units affordable to very-low-income households, and a parking garage with 74 stacked spaces, on an approximately 0.49-gross-acre site, on that certain real property situated in the TR Transit Residential Zoning District and located on the north side of Bassett Street between North 1<sup>st</sup> Street and North 2<sup>nd</sup> Street (380 North 1<sup>st</sup> Street, APN 249-44-088), in San José, which real property is sometimes referred to herein as the “subject property”); and

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

**WHEREAS**, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Planning Commission conducted a Public Hearing on said application on February 12, 2025, 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, "380 N First Street" dated October 25, 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 0.49-gross-acre site is a corner lot spanning one block with frontage on North 1<sup>st</sup> Street, Bassett Street, and North 2<sup>nd</sup> Street. The site is currently developed with a two-story, 12,000-square-foot office building and a surface parking lot. Adjacent uses include three-story multifamily residential buildings to the east and west; a rail right-of-way to the north; and a one-story county library building and surface parking lot to the south. The Blue and Green light rail lines run along the site's North 1<sup>st</sup> Street frontage.
- 2. Project Description.** The Project consists of the demolition of the existing two-story office building that is an eligible City Landmark and the construction of a multifamily residential building with 118 units, including six units affordable to very-low-income households. The proposed building has seven stories and a height of 82 feet three inches. A parking garage will provide 74 vehicle parking spaces in automated stackers on the ground level and one subterranean level, with access from a single driveway on Bassett Street. The ground level includes two lobbies, a leasing office, bicycle storage, and utility and service rooms.

The residential units will be located on floors two through seven and will consist of 17 studios, 81 one-bedroom units, and 20 two-bedroom units. Eleven units will have private balconies and 10 will have private patios. Common open space for the Project consists of a fitness center on the second floor (692 square feet), and a community room and a roof deck on the seventh floor (811 square feet and 450 square feet, respectively). The subject site is located approximately 300 feet from Ryland Park and approximately ¼ mile from St. James Park.

Six of the Project's residential units (5%) will be reserved for very-low-income households, and pursuant to California's Density Bonus Law (Government Code Section 65915), the Project is eligible for a 20% density bonus, one development concession, and unlimited waivers of development standards. The allowed density on the site is 250 DU/AC and the Project density is 244 DU/AC, so the Project will not utilize the density bonus. The applicant is requesting the following concessions and waivers pursuant to the Density Bonus Law:

- One concession to provide private open space for 21 units in lieu of the 59 units (50% of total units) otherwise required pursuant to SJMC 20.55.102.D.1.
- One waiver to eliminate the building setback requirement for the Bassett Street and North 2nd Street elevations in Citywide Design Standards Section 3.1.1, Standard 1.
- One waiver to eliminate the five-foot landscape buffer required along the north property line, pursuant to Citywide Design Standards Section 2.3.8, Standard 9.
- One waiver to eliminate the transformer screening on North 2nd Street required pursuant to Citywide Design Standards Section 2.2.3, Standard 3.

The Project will result in the demolition of the existing office building on the site, which was constructed in 1964. According to the Historic Resource Evaluation and Local Landmark Assessment (Exhibit H) prepared by Evans & De Shazo, Inc., and dated April 5, 2023, the building design is an example of the New Formalism architectural style, which began in the mid-1950s and combined elements of Modern and Classical architecture. Character-defining features of the subject building include full-height columns supporting arches, wide overhanging eaves with stylized fascia, plate glass windows, and belt courses.

The historic report states that the building appears to be eligible for listing on the California Register of Historical Resources under Criterion 3, in that it embodies characteristics of the New Formalism architectural style. In addition, the report identified the building as an eligible City Landmark under two criteria. First, the building is a representative example of New Formalism architecture and second, the original design has been retained without significant alteration. As such, the building is considered a historical resource under the California Environmental Quality Act, and the Environmental Impact Report (EIR) for the Project has identified its demolition as having a significant impact.

The Project was heard at the Historic Landmarks Commission on November 6, 2024, as part of the preparation and notice of availability of the Environmental Impact Report. Members of the Historic Landmarks Commission expressed concerns about the demolition of an eligible City Landmark and made the following recommendations: designation of the existing building as a City Landmark and exploration of the potential for adaptive reuse of the existing building in the Project,

reduction in the Project density, or an increase in the height of the new building to preserve the existing building and maintain the Project density.

Pursuant to San José Municipal Code (“SJMC”) Section 21.07.020.B, for Projects for which the EIR identifies a significant environmental effect, the Planning Commission shall make a recommendation to the City Council concerning certification of the final EIR.

- 3. General Plan Conformance.** The site is designated Transit Residential on the Land Use/Transportation Diagram of the General Plan. The Transit Residential designation allows residential density of 50 to 250 dwelling units per acre (“DU/AC”).

Transit Residential is the primary designation for new high-density, mixed-use residential development sites located close to transit, jobs, amenities, and services. The minimum required density for residential/commercial mixed-use development is 50 DU/AC with a maximum FAR of 12.0. 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.

*Analysis: The Project is a 118-unit multifamily development, which is consistent with the Transit Residential land use designation’s support for high-density, residential uses. The proposed density of 244 DU/AC and proposed FAR of 4.7 are consistent with density range of the land use designation.*

In addition, the Project is consistent with the following General Plan major strategy, goals, and policies:

Major Strategy #3 – Focused Growth: This major strategy of the General plan encourages growth in areas that will support the city’ sustainability and contribute to attractive, pedestrian-friendly neighborhoods.

Goal H-1: Provide housing throughout our City in a range of residential densities, especially at higher densities, and product types, including rental and for-sale housing, to address the needs of an economically, demographically, and culturally diverse population.

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

Policy H-1.9: Facilitate the development, preservation, and rehabilitation of housing to meet San José’s fair share of the County’s and region’s housing needs.

Policy H-2.1: Facilitate the production of extremely low-, very low-, low-, and moderate-income housing by maximizing use of appropriate policies and financial resources at the federal, state, and local levels; and various other programs.

Policy LU-10.3: Develop residentially- and mixed-use-designated lands adjacent to major transit facilities at high densities to reduce motor vehicle travel by encouraging the use of public transit.

Policy LU-13.2: Preserve candidate or designated landmark buildings, structures, and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitation and relocation on-site. If the City concurs that no other option is feasible, candidate or designated landmark structures should be rehabilitated and relocated to a new site in an appropriate setting.

Policy LU-13.8: Require that new development, alterations, and rehabilitation/remodels adjacent to a designated or candidate landmark or Historic District be designed to be sensitive to its character.

Policy CD-1.8: Create an attractive street presence with pedestrian-scaled building and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City.

Policy CD-1.11: To create a more pleasing pedestrian-oriented environment for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid blank walls that do not enhance the pedestrian experience. Encourage inviting, transparent façades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.

*Analysis: The Project is aligned with the City's focused growth strategy, in that the subject site is located one block from the Downtown growth area boundary, within walking distance of public and private amenities including transit, parks, libraries, museums, restaurants, and shopping. The building includes material and color changes, recessed entries with large windows at the pedestrian level, planter boxes, and pedestrian lighting that provide a pedestrian-friendly environment for pedestrians and cyclists, consistent with the community design policies of the General Plan.*

*The Project will also support General Plan policies that encourage the development of housing across income levels. The Project will add 118 rental units at a density of 244 DU/AC to the housing stock of the city and region. In addition, the Project will utilize the State Density Bonus Law to provide six units affordable to very-low-income households, which may include formerly homeless individuals, seniors living on fixed incomes, and families. The remaining units will be offered at market rate, serving households with diverse income levels and consistent with the policy.*

*The Project includes the demolition of a two-story office building that is representative of New Formalism architectural style and is eligible for City Landmark status. The Project is a 118-unit residential building that does not include office uses, so*

*preserving the building for its historic use is not feasible. Conversion of the existing building to residential use would reduce the number of units that could be constructed on the site and render the Project financially infeasible, as achieving the planned number of units would require increasing the height of the new building and incur additional construction costs. Pursuant to the Mitigation Monitoring and Reporting Plan for the Project EIR, the applicant will be required to advertise the building for relocation for at least 60 days prior to issuance of a demolition or grading permit. Other mitigation measures include submittal of Historic American Building Survey documentation and three-dimensional laser scans of the building and development of a commemorative interpretive display or exhibit to be approved by the Department of Planning, Building, and Code Enforcement.*

*The Project site is located approximately 80 feet south of the Borchert Brothers Building at 396 North 1st Street, City Landmark #111, which has a brick exterior. All elevations of the new multifamily building will incorporate brick siding on all elevations, including a significant portion of the North 1<sup>st</sup> Street and North 2<sup>nd</sup> Street elevations. In response to a recommendation from a representative of the Preservation Action Council of San José at the Historic Landmarks Commission meeting, the brick siding on the Project's North 1<sup>st</sup> Street elevation has been extended down to the pedestrian level.*

#### 4. Zoning Ordinance Compliance.

The Project site is located within the TR Transit Residential Zoning District, which is intended to implement the Transit Residential General Plan land use designation. The Project's consistency with the development standards of the TR Zoning District is analyzed below.

- a. Land Use. Pursuant to SJMC Section 20.55.203, multiple dwelling Projects are permitted in the TR Zoning District. The Project requires a Site Development Permit for building construction pursuant to Section SJMC Section 20.100.610.
- b. Development Standards. The Project is subject to the development standards of the TR Zoning District, as shown in the table below.

Development Standard	Required	Provided
Lot size (minimum)	6,000 square feet	21,085 square feet
Height (maximum)	270 feet	82 feet 3 inches
Front setback – North 1 <sup>st</sup> and North 2 <sup>nd</sup> Streets (maximum)	10 feet	North 1 <sup>st</sup> Street: 2 feet. North 2 <sup>nd</sup> Street: 1 foot 8 inches
Side setback (maximum)	10 feet	Northern property line: 2 feet. Bassett Street: 6 feet

Rear setback (minimum)	10 feet	Not applicable
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*Analysis: The subject site is a corner lot with frontage on three streets: North 1st Street, Bassett Street, and North 2nd Street. Per SJMC Section 20.200.700, the front lot line of a corner lot is defined as the narrower lot line abutting a public or private right-of-way. The North 1st Street and North 2nd Street frontages are both 98 feet while the Bassett Street frontage is approximately 287 feet. Therefore, both the North 1st Street and North 2nd Street frontages are defined as front lot lines, while the Bassett Street frontage and the northerly site boundary are side lot lines. The site does not have a rear lot line, per the Code definition. The Project is consistent with the lot size, height, and setback standards of the TR Zoning District.*

c. Common and Private Open Space.

- Common Open Space. Pursuant to SJMC Section 20.55.102, residential Projects in the TR Zoning District with 15 units or more are required to provide both common space and private open space. However, projects located within ¼-mile walking distance of an existing public space are exempt from providing common open space.

*Analysis: The Project is located approximately 300 feet from Ryland Park and ¼ mile from St. James Park and is therefore exempt from the common open space requirement. The Project includes common open space however, including a fitness center on the second floor and a clubhouse and roof deck on the seventh floor.*

- Private Open Space. Pursuant to SJMC Section 20.55.102.C.2, 100% residential projects must provide at least 40 square feet of private open space for studios and one-bedroom units and 60 square feet of private open space for units with two or more bedrooms. At least 50% of all dwelling units shall have direct access to private open space in the form of a balcony, patio, or roof terrace. Common open space may be substituted for up to 50% of the private open space requirement, but at least 50% of the units must have private open space.

*Analysis: The Project provides private open space for 21 residential units (18% of the total), in lieu of the 59 units otherwise required. Eleven units have balconies with an area of 50 square feet each, and 10 units have private patios on the second floor with areas ranging from approximately 59 square feet to 156 square feet. The applicant has been granted a Density Bonus concession for a reduction in the number of units with private open space (see the Density Bonus Law Conformance section below).*



d. Parking.

- Vehicle Parking. Pursuant to SJMC Chapter 20.90, the Project is not required to provide vehicle parking spaces, but as a Home End Use with 26 or more units, it is required to provide transportation demand management (TDM) measures that achieve a 25-point target.

*Analysis: Although the Project does not require the provision of vehicle parking spaces, 74 spaces will be provided in automated stackers. The Project will provide the following TDM measures to achieve the required 25-point target: right-sized parking; bicycle parking facilities; a bike share station; education, marketing, and outreach; and unbundling the parking cost from the apartment lease cost. The Project conditions require the Department of Transportation approval of the Project's TDM Plan and a signed covenant and agreement to maintain the TDM Plan for the life of the Project.*

- Bicycle parking: Pursuant to SJMC Section 20.90.060, one bicycle parking space is required for every four living units, resulting in a total requirement of 30 onsite spaces (60% are required to be long-term spaces). Pursuant to SJMC Section 20.90.240, the onsite requirement for short-term bicycle parking spaces may be eliminated when the Project provides short-term bicycle parking facilities in the public right-of-way within 200 feet of a publicly accessible building entrance in conformance with an encroachment permit approved by the Director of Public Works and the facilities provided are reasonably convenient and accessible to visitors to the subject site.

*Analysis: The Project is consistent with the requirement, providing a total of 30 bicycle parking spaces, including 18 long-term spaces (60%) in a secure room within the building and 12 short-term bicycle spaces in the parkway along the subject site frontage. Consistent with SJMC Section 20.90.240, the short-term bicycle parking will be located within 200 feet of a building entrance and will therefore be convenient and accessible to site visitors. Per Condition 8 of this Permit, prior to issuance of a Building permit for the Project, the Permittee will be required to submit an application for an Encroachment Permit for the installation of bicycle racks within the public right-of-way from the Department of Public Works.*

In addition, pursuant to SJMC Section 20.90.060, Section 20.90.190, and Section 20.90.195, bicycle parking spaces are required to be consistent with the following design standards:

- All bicycle parking facilities within vehicle parking areas shall be separated by a curb or other physical barrier to protect bicycles from damage by automobiles or other moving vehicles.
- Short-term bicycle parking spaces must be located at least three feet from any wall, fence, or other structure.

- When multiple short-term bicycle parking facilities are installed together in sequence, they shall be installed at least three feet apart and located in a configuration that provides spaces for parked bicycles to be aligned parallel to each other.
- The minimum dimensions for each bicycle parking space is two feet wide, six feet long, and four feet high.
- There must be at least five feet of clear space to access all bicycle parking spaces and allow room for bicycle maneuvering.

*Analysis: The short-term bicycle parking spaces are accessible from the sidewalk, and long-term spaces are provided inside the bike storage room. The bicycle parking space dimensions shown on the plans are consistent with the requirements.*

- Two-wheeled Motorized Vehicle Parking: Pursuant to SJMC Section 20.90.350, the Project is required to provide two-wheeled motorized vehicle parking equivalent to 2.5% of the number of vehicle spaces provided.

*Analysis: The Project provides two parking spaces for two-wheeled motorized vehicles, which represents 2.5% of the 74 vehicle spaces provided and is consistent with the requirement.*

e. Transportation Demand Management.

Pursuant to SJMC Section 20.90.900, the Project is a Home-End Use with more than 26 residential units and is required to provide transportation demand management (TDM) measures.

*Analysis: The applicant's TDM Plan, which includes minimizing off-street vehicle parking spaces, providing bike share stations, unbundling parking costs, and implementing education, marketing, and outreach programs, has been approved by the Department of Transportation.*

## 5. Density Bonus Law Conformance.

The Project will provide six dwelling units, or 5% of the 118 units, that are affordable to very-low-income households. Pursuant to California Government Code § 65915, the Project is therefore eligible for a 20% density bonus, or up to 300 DU/AC. The Project proposes 118 units at a density of 244 DU/AC.

The state Density Bonus law also grants the Project one development concession and unlimited waivers of development standards.

### Concession

A concession may be granted if the applicant can demonstrate that it would result in an identifiable and actual cost reduction. The Project applicant has requested the following concession:

- a. The development standard for 100% residential projects pursuant to SJMC Section 20.55.102.C.2 requires that at least 50% of the units have direct access to private open space. The applicant has requested to reduce the requirement to provide private open space for 21 units, instead of the 59 units otherwise required. As described in the letter received from law firm Sheppard, Mullin, Richter & Hampton, LLP on behalf of the applicant, and dated November 17, 2023, the estimated cost of providing private open space is \$15,500 per unit and the requested concession will result in a total Project cost savings of \$589,000 (\$15,500 x 38 units). Without the requested concession, the Project is not financially viable and cannot be constructed.

As a result of the decreased costs, the Project will be viable and can be constructed. Cost savings will facilitate affordability of the units. Therefore, the incentive request to reduce the required amount of private open space results in actual and identifiable cost reductions and can be granted.

### Waivers

A waiver may be granted if the applicant can demonstrate that consistency with the development or design requirement would physically preclude the Project as designed. The Project applicant has requested the following waivers:

- a. Standard 1 of Section 3.1.1 of the Citywide Design Standards requires that the building façade be stepped back starting at a height of 65 feet on Bassett Street and 80 feet on North 2<sup>nd</sup> Street.

*Analysis: The height of the building is 82 feet three inches on all elevations. The applicant has requested and is eligible for a waiver to eliminate the required stepbacks on Bassett Street and North 2<sup>nd</sup> Street and has provided an exhibit to demonstrate that consistency with the standard would reduce the floor area of nine units located on the seventh floor of the building.*

- b. Standard 9 of Section 2.3.8 of the Citywide Design Standards requires a five-foot landscape buffer along the northerly property line.

*Analysis: The applicant has requested and is eligible for a waiver to provide a two-foot setback along the northerly property line, which precludes the provision of a five-foot-wide landscape buffer. The applicant has provided an exhibit to demonstrate that consistency with this standard would result in the loss of 20 units.*

- c. Standard 3 of Section 2.2.3 of the Citywide Design Standards requires screening for any equipment located outside the building envelope within 30 feet of the public right-of-way.

*Analysis: The Project's two transformers will be located outside the building envelope, adjacent to the public right-of-way on North 2<sup>nd</sup> Street. The applicant has requested and is eligible for a waiver to eliminate the screening requirement. The applicant has provided an exhibit demonstrating that because*

*PG&E requires clear space around the transformers, inclusion of screening would require shifting the transformers five feet to the west. This would in turn require moving the building wall, which would result in a loss of residential units on that side of the building.*

**6. Citywide Design Standards and Guidelines Conformance.** The Project conforms to the following relevant standards of the Citywide Design Standards and Guidelines.

Section 2.1.2, Relationship to Transit

- Standard 1: When located within 500 feet of a Frequent Network transit stop, locate the primary building entrance at the building façade closest to the transit stop.

*Analysis: The primary building entrance is located on Bassett Street, which does not have a Frequent Network transit stop. While Frequent Transit stops are located on North 1<sup>st</sup> Street and North 2<sup>nd</sup> Street (Valley Transit Authority bus route 72), the Bassett Street frontage of the site is closer to the bus stops (both of which are located south of the subject site) than the building's frontage on North 1<sup>st</sup> and North 2<sup>nd</sup> Streets. The Project is consistent with the standard.*

- Standard 2: Do not locate driveways directly adjacent to bus stops, rail stations, and light rail corridors, unless there are no other streets adjoining the property.

*Analysis: The entrance to the parking garage is located mid-block on Bassett Street and is not directly adjacent to a bus stop or light rail corridor, consistent with the standard.*

- Standard 3: Do not place at-grade vehicle access to development sites across light rail tracks or within 60 feet of an active rail corridor unless the only access to the site from a public street is across the light rail tracks.

*Analysis: The driveway entrance is located approximately 120 feet east of the light rail tracks on North 1<sup>st</sup> Street, consistent with the standard.*

Section 2.2.1, Pedestrian and Bicycle Access Location

- Standard 3: Locate primary building entrances for residential buildings on a development site so that they are within 15 feet of a public sidewalk or publicly accessible open space, uninterrupted by parking lots or vehicular circulation areas.

*Analysis: The westerly lobby entrance, which is the primary building entrance, is within 11 feet of the public sidewalk, consistent with the standard.*

- Standard 4: Provide direct access for all lobbies, public open spaces, and paseos from the street or publicly accessible pedestrian walkways.

*Analysis: The primary lobby entrance is directly accessible from the sidewalk along Bassett Street, consistent with the requirement.*

### Section 2.2.2, Driveways and Vehicle Drop-offs

- Standard 1: Locate curb cuts at least 20 feet away from publicly accessible open spaces and 50 feet away from pedestrian and bicycle entrances, except for sites with less than 60 feet of street frontage.

*Analysis: The curb cut for the parking garage entrance on Bassett Street is located approximately 60 feet from the westerly (primary) pedestrian and bicycle entrance and approximately 95 feet from the easterly pedestrian and bicycle entrance, consistent with the standard.*

- Standard 3: For corner parcels or properties with two intersecting streets, provide the vehicular and driveway access on the secondary street or the street with lesser, pedestrian, bicycle, and vehicular circulation.

*Analysis: The parking garage entrance is located on Bassett Street, which is a secondary street with less pedestrian, bicycle, and vehicular circulation than North 1<sup>st</sup> Street and North 2<sup>nd</sup> Street.*

### Section 2.2.3, Services and Utilities Access and Location

- Standard 1: If the Fire Department or any utility companies require access to onsite facilities from the street, locate services and utilities such that they occupy less than 25% of ground-floor, street-facing building façades.

*Analysis: The Project's ground-floor, street-facing building facades total approximately 398 feet. The utility rooms on the ground floor facing the street are the electrical room and trash room along the North 2<sup>nd</sup> Street façade. The length of those rooms is 45.5 feet, which is 11% of the total ground floor façade length, consistent with the standard.*

- Standard 3: Screen all services and utilities located outside the building envelope that are within 30 feet of a public right-of-way.

*Analysis: As discussed in the Density Bonus Law Consistency section above, the applicant has requested and received a waiver of this standard for the transformers located outside the building envelope. Providing screening would require moving the location of the transformers, which would physically preclude the provision of the residential units as designed.*

### Section 2.3.1, Building Placement

- Standard 1: To create a continuous streetwall, place at least 75% of the ground floor primary street-facing façades of buildings with the primary residential use within five feet of the setback or easement line (whichever is more restrictive).

*Analysis: The primary streets adjoining the Project site are North 1<sup>st</sup> Street and North 2<sup>nd</sup> Street, where the maximum setback allowed is 10 feet. The building is set back two feet from the property line on North 1<sup>st</sup> Street and one foot eight inches from the property line on North 2<sup>nd</sup> Street, consistent with the standard.*

- Standard 2: To create a continuous streetwall, place at least 60% of the ground floor secondary street-facing façades of buildings with the primary residential use within five feet of the setback or easement line (whichever is more restrictive).

*Analysis: Bassett Street is a secondary street, and the setback required is a maximum of 10 feet. The Bassett Street façade has an 11-foot setback, which is within one foot of the maximum setback line, consistent with the standard.*

#### Section 2.3.5, Bicycle Parking Placement

- Standard 1: Locate at least 40% of the required bicycle parking on the ground floor with direct physical access to an elevator or building exit.

*Analysis: The required long-term bicycle parking (60% of required bicycle parking) is located in a storage room on the ground floor with direct access to an elevator in the secondary lobby, consistent with the standard.*

- Standard 2: Place bicycle parking so that bicyclists do not have to cross vehicular parking or drive aisles to enter the building.

*Analysis: The long-term bicycle parking is located within a storage room on the ground floor with direct entrances from the sidewalk and the short-term bicycle parking is located on the sidewalk on Bassett Street. The Project is consistent with the standard.*

#### Section 2.3.7, Site Lighting

- Standard 1: Orient all site lighting directly downwards to prevent light pollution and excess glare in the public realm.

*Analysis: According to the lighting specifications included in the plans, exterior lighting is oriented downwards, consistent with the standard.*

- Standard 3: In General Plan Residential land use designations, the height of a lighting fixture must be up to 12 feet when the distance from the fixture to the adjacent residential property line is less than twice the height of the fixture or up to 25 feet when the distance of the fixture from the adjacent property line is more than twice the height of the fixture.

*Analysis: Exterior lights on all building elevations include soffit lights and wall lights. The soffit lights have a height of 15 feet and the wall lights have a height of eight feet. The adjacent residential property line on North 1<sup>st</sup> Street is 100 feet from the subject site and the adjacent residential property line on North 2<sup>nd</sup> Street is 80 feet from the subject site. Both distances exceed the distance requirement, consistent with the standard.*

- Standard 6: All site lighting fixtures must be fully shielded to prevent light from shining upward and light spillage and glare that can be seen from above.

*Analysis: According to the lighting specifications included in the plans, exterior lighting is fully shielded, consistent with the standard.*

- Standard 7: Keep the maximum color temperature for outdoor lighting below 2700 Kelvin except for outdoor decorative lighting from November 15 to January 15.

*Analysis: The Project is consistent with the standard, as noted on the Project lighting plan.*

#### Section 2.3.8, Landscaping and Stormwater Management

- Standard 9: Provide at least a five-foot-wide landscape buffer at the side and rear property lines and a five-foot-tall solid wall/concrete fence at the shared property lines where Commercial or Mixed-Use General Plan land use designations abut Residential General Plan land use designations.

*Analysis: The subject site has a General Plan land use designation of Transit Residential, which is a mixed-use designation. The site to the north has a designation of Urban Residential, which allows residential uses, and therefore, the Project is required to provide the landscape buffer along the northerly property line. The applicant has requested and been granted a waiver, pursuant to the state Density Bonus Law, to provide a two-foot setback along the northerly property line.*

#### Section 3.1.1, Massing Relationship to Context

- Standard 1: Outside General Plan growth areas, provide building setbacks fronting rear shared property lines within a setback plane of 60 degrees from horizontal and fronting public rights-of-way within a setback plane of 75 degrees from horizontal.

*Analysis: The required setbacks are as follows:*

- *North elevation (adjacent to rail right-of-way property): The adjoining property is within the Urban Residential Zoning District, which allows a maximum height of 135 feet. The Project height is 82 feet three inches, less than the maximum height allowed for the adjoining property, and setbacks are not required.*
- *East elevation (North 2nd Street): The maximum height allowed for the site located across North 2nd Street is 50 feet and the street width is 80 feet. Therefore, setbacks on the northeast elevation are required starting at 80 feet in height.*
- *South elevation (Bassett Street): The maximum height allowed for the site across Bassett Street is 65 feet and the street width is 52 feet. Therefore, setbacks on the southeast elevation are required starting at 65 feet.*
- *West elevation: The property across North 1st Street is within the Transit Residential Zoning District, which allows a maximum height of 270 feet. The Project height is 82 feet 3 inches, less than the adjoining property height maximum, and setbacks are not required.*

*The applicant has been granted a waiver to eliminate the required setbacks on North 2<sup>nd</sup> Street and Bassett Street.*

#### Section 3.1.2, Form, Proportion, and Scale

- Standard 3: For streetwalls more than 200 feet in length, provide at least one recess or projection in the facade that is at least 15 feet wide and 10 feet deep for residential developments.

*Analysis: The streetwall on Bassett Street is approximately 269 feet long. The building has a recess that is 20 feet 11 inches wide and 10 feet deep, consistent with the standard.*

#### Section 3.1.3, Historic Adjacency

- Standard 3: For projects located within 100 feet of a City Landmark structure, use historic materials that match nearby historic buildings on at least 25 percent of a street, paseo or public open space facing façade and on 10 percent of other façades that are visible from the public realm.

*Analysis: The Project site is located approximately 80 feet south of the Borchert Brothers Building, City Landmark #111, at 396 North 1st Street, which has a brick exterior. All elevations of the new multifamily building will incorporate brick siding, particularly the elevations facing North 1<sup>st</sup> Street and North 2<sup>nd</sup> Street. The percentage of brick and stucco siding on each elevation is shown below:*

- *Bassett Street: 7.6% brick, 50.1% stucco.*
- *North 1st Street: 37.3% brick, 23.4% stucco.*
- *North 2nd Street: 39.8% brick, 52.6% stucco.*
- *North elevation (interior, not visible from the public realm): 10% brick.*

*Based on these percentages, the Project is consistent with the standard.*

#### Section 3.2.1: Pedestrian and Bicycle Entrance Design

- Standard 1: Provide at least one building entrance along a public street or active pedestrian area for all buildings with multiple access points, all buildings with over 200 feet of frontage along streets and public open spaces, and all residential developments with over 50 units.

*Analysis: The Project has two building entrances on Bassett Street, which is consistent with the standard.*

- Standard 2: The primary building entrance must be directly accessible from the public realm and meet the requirements of the Americans with Disabilities Act (ADA).

*Analysis: The primary building entrance on Bassett Street is directly accessible from the sidewalk and there are no steps or ramps to reach the entrance, which is consistent with the standard.*



- Standard 3: Recess all building entrances that open toward a sidewalk by a minimum of three feet to protect pedestrians. If the doors open inwards, no recess is required, but provide a projecting or arching cover at least three feet deep for protection from weather.

*Analysis: The primary building entrance is recessed 11 feet from the sidewalk and the secondary entrance is recessed approximately 10 feet, which is consistent with the standard.*

#### Section 3.2.2: Vehicular Entrances and Driveways

- Standard 1: Driveways must be less than 25% of street frontage for sites that are more than 100 feet wide at the street and not more than 25 feet for sites that are less than 100 feet wide at the street.

*Analysis: The parking garage width is 26 feet, which is approximately 10% of the Bassett Street frontage, consistent with the standard.*

- Standard 2: Driveways for parking facilities must be a maximum width of 52 feet cumulatively for each street frontage.

*Analysis: The width of the single driveway into the parking garage is 26 feet, consistent with the standard.*

#### Section 3.2.3: Services and Utilities Entrances and Design

- Standard 1: Screen solid waste, utilities, and service areas from residential and commercial uses, and on-site and off-site views to limit visual impact on the public realm.

*Analysis: As discussed in the Density Bonus Law Consistency section above, the applicant has requested and received a waiver of this standard as to the transformer on the North 2<sup>nd</sup> Street side of the Project, which would physically preclude the provision of the residential units as designed. The trash room and utility and service rooms are located inside the building envelope, consistent with the standard.*

#### Section 3.3.1: Façade Design and Articulation

- Standard 1: Articulate all building façades facing a street or public open space for at least 80 percent of each façade length. Articulate all other building façades for at least 60 percent of each façade length.

*Analysis: The Project is consistent with the standard. On the Bassett Street façade, there are eight plane changes and seven material or color changes across the length of the façade, and two window spacing patterns (one on the second floor and another on floors three through seven). There is also a varied pattern of occupied balconies on alternating columns of windows. The North 1st Street and North 2nd Street facades have multiple material or color changes (five and four, respectively) and rhythmic patterns of windows. The northern elevation, like the*

*Bassett Street elevation, has multiple material and color changes across its entire length.*

- Standard 2: Occupied decks and balconies must be at least six feet wide and four feet deep to encourage outdoor seating.

*Analysis: All private balconies and patios are at least five feet deep and 10 feet wide, consistent with the standard.*

#### Section 3.3.3: Decks and Balconies

- Standard 1: Private balconies may not extend more than 10 feet from the building façade.

*Analysis: The balconies extend five feet from the building façade, consistent with the standard.*

- Standard 2: Occupied decks and balconies must be at least six feet wide and four feet deep to encourage outdoor seating.

*Analysis: As discussed in Section 3.3.1, the private balconies and patios are at least five feet deep and 10 feet wide, consistent with the standard.*

- Standard 3: Façade elements and unoccupied spaces such as Juliet balconies must be a minimum of three feet wide and 12 inches deep.

*Analysis: Based on the floor plans, the Juliet balconies on floors three through seven are at least seven feet three inches wide and 12 inches deep, consistent with the standard.*

- Standard 5: When balconies are provided, at least 25% of residential units facing secondary streets must have balconies.

*Analysis: Fifty-seven of the units face Bassett Street, a secondary street, but only 11 have balconies, which is less than 25% of the units. The applicant is eligible for a Density Bonus incentive for a reduction in the number of units providing private open space, as discussed in the Density Bonus Law Conformance section above.*

#### Section 3.3.4: Awnings, Sunshades, and Screens

- Standard 1: When sunshades, awnings, recessed windows, screens, or any other shading devices are provided on south and west building facades, design them such that they provide shade on at least 30 percent of each exposed exterior window surface on those building facades.

*Analysis: According to the shading calculations provided for the two types of windows with sunshades, a minimum of 32.6% of each window will be shaded, consistent with the standard.*

### Section 3.3.5: Parking Garage Design

- Standard 1: Line at least 50% of the total parking structure façade length facing a primary street with a minimum 20-foot-deep active frontage or residential or commercial uses.

*Analysis: North 1<sup>st</sup> Street and North 2<sup>nd</sup> Street are primary streets. On North 1<sup>st</sup> Street, approximately 81% of the ground-floor is occupied by the leasing office, mail room, amenities room, and service areas that are consistent with the standard. On North 2<sup>nd</sup> Street, the entire ground floor frontage consists of a bicycle storage room and services and utility rooms with a depth of at least 20 feet, consistent with the standard.*

### Section 3.3.7: Materials and Color

- Standard 2: Material transitions along any façade must only occur on the inside corner of plane change.

*Analysis: All material transitions occur on the inside corner of plane changes, consistent with the standard.*

- Standard 3: For buildings taller than four stories, limit the use of stucco to a maximum of 60 percent of any façade that faces a street, open space, or paseo in General Plan growth areas.

*Analysis: The approximate percentages of stucco on the street-facing elevations are the following: North 1<sup>st</sup> Street, 40%; North 2<sup>nd</sup> Street, 53%, and Bassett Street, 60%. The Project is consistent with the standard.*

- Standard 4: For buildings taller than four stories, do not provide unbroken multi-story sections of the same material, texture, or color for more than 150 feet of façade length and more than 2/3 of the number of floors in height.

*Analysis: The Project elevations include variation in materials, colors, and textures, such that there are no unbroken multi-story sections of the same material, texture, or color for more than 150 feet of façade length and more than 2/3 of the number of floors in height, consistent with the standard.*

### Section 3.3.8: Architectural Lighting

- Standard 1: Orient at least 90 percent of exterior lighting fixtures downward.

*Analysis: All architectural lighting is oriented downward, consistent with the standard.*

- Standard 2: Provide pedestrian-scale lighting to illuminate the ground floor building façades and an adjacent four-foot-wide zone with lighting fixtures that are placed every 40 feet or less for all building façades to illuminate the sidewalk along primary and secondary streets.

*Analysis: Pedestrian scale lighting fixtures are located approximately every nine to 10 feet on the Bassett Street elevation. On the North 1<sup>st</sup> Street and North 2<sup>nd</sup> Street elevations, the distance between lighting fixtures is a maximum of 29 feet and 35 feet, respectively. The Project is consistent with the standard.*

## 7. City Council Policies

### City Council Policy 6-30

Staff followed Council Policy 6-30: Public Outreach Policy for Pending Land Use and Development Proposals to inform the public of the Project. Onsite signs have been posted on all Project frontages since August 4, 2023. A Joint EIR Scoping/Community Meeting was held via Zoom on September 11, 2023, to introduce the Project to the community and gather feedback. There were 19 members of the public at the meeting and 10 provided comments. Several community members voiced support for the Project, while others expressed concerns about loss of views of Downtown and privacy for residents in nearby buildings, limited parking, traffic safety, and affordability of the residential units.

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. The staff report is also posted on the City website. A notice of the public hearing was posted in a newspaper of record (San José Post Record) on January 22, 2025. Staff has also been available to respond to questions from the public.

### City Council Policy on Preservation of Historic Landmarks

The Project includes the demolition of a two-story office building that is an eligible City Landmark, as an intact example of New Formalism architecture, and was referred to the Historic Landmarks Commission pursuant to the City Council Policy. The Project was heard at the Historic Landmarks Commission on November 6, 2024, as part of the preparation and notice of availability of the Environmental Impact Report. Members of the Historic Landmarks Commission expressed concern about the demolition of a building that is an eligible City Landmark and eligible for listing on the California Register of Historical Resources, and made the following recommendations:

- Designation of the existing building as a City Landmark.
- Exploration of the potential for adaptive reuse of the existing building/incorporation of the existing building into the Project design.
- Exploration of the potential for a reduction in Project density or an increase in the building height to preserve the existing building while maintaining the proposed density of the Project.
- Exploration of all other preservation alternatives.

At the hearing, a representative of the Preservation Action Council of San José recommended that the brick siding on the upper floors of the proposed building be continued to the pedestrian level to strengthen the building's connection to the Borchert Brothers Building, City Landmark #111, located approximately 80 feet north of the Project site at 396 North 1<sup>st</sup> Street. In response, the applicant revised the design of the North 1<sup>st</sup> Street elevation to include brick siding at ground level.

## 8. Environmental Review.

The City of San José, as the lead agency for the proposed Project, prepared the 380 North First Street Draft Environmental Impact Report (Draft EIR). The Notice of Preparation was circulated from August 28, 2023, to September 27, 2023. The Draft EIR was circulated for public review and comment from October 18, 2024, to December 2, 2024. A First Amendment to the Draft EIR was prepared that provided responses to public comments submitted during the public circulation period and revisions to the text of the DEIR. The First Amendment together with the Draft EIR constitute the Final Environmental Impact Report (Final EIR) for the proposed Project.

### Summary of Environmental Impacts Reduced to Less than Significant with Mitigation

The Draft EIR identified potential environmental impacts to Air Quality, Biological Resources, Cultural Resources, Hazards and Hazardous Materials, and Noise. 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 proposed demolition of the building at 380 North First Street eligible for listing under the California Register of Historical Resources and the San José Historic Resources Inventory as a Candidate City Landmark.

If City Council were to approve the Project as proposed, in compliance with CEQA Guidelines Section 15093, a Statement of Overriding Considerations must 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 the CEQA Resolution (Exhibit F) outweigh its significant environmental impacts.

### Alternatives

The Draft EIR evaluated four selected project alternatives, the No Project – No Development Alternative, the No Project – Development Consistent with Existing Land

Use Designation, the Preservation of Historic Resource On-Site Alternative, and the Reduced Density Preservation Alternative that could lessen the significant effects of the Project and achieve the Project objectives, in accordance with CEQA Guidelines Section 15126.6. Alternatives that were considered but rejected include the Location Alternative and the Relocation of the Historic Resource Off-Site Preservation Alternative.

The No Project – No Development Alternative would avoid all Project impacts; however, CEQA Section 15126.6(e)(2) requires that when the no-project alternative is the environmentally superior alternative, another alternative shall be identified. The Reduced Density Preservation Alternative would be the environmentally superior alternative beyond the no-project alternative because it would preserve the existing historical building on-site. The significant unavoidable impacts to historical resources would be avoided under this alternative. The Reduced Density Preservation Alternative would still be required to implement all other mitigation measures, Standard Permit Conditions, and Conditions of Approval identified for the proposed Project. As a result, the impacts to air quality, biological resources, subsurface cultural resources, hazardous waste, and noise would be reduced to a less than significant level consistent with the proposed Project.

#### DEIR Circulation Comments

Six comments were received during the DEIR public circulation period, comprising three from regional and local agencies and three from members of the public, organizations, and businesses. City staff prepared responses in a First Amendment/Response to Comments document addressing the following topics:

##### *Cultural Resources and Tribal Cultural Resources*

- Sensitivity for tribal cultural resources on the Project site and recommendations to reduce potential impacts to potential uncovered tribal cultural resources.

##### *Hydrology and Water Quality*

- The Project should incorporate water conservation measures.
- Textual changes requested to update the identification of the Guadalupe River watershed, the Municipal Regional Permit issuance date, Valley Water's Well Ordinance, flood zone map numbers, and the Groundwater Management Plan.

##### *Utilities and Service Systems*

- Identification of Valley Water fee title property and easements and requirements to obtain permits from Valley Water at the time of Project development.

##### *Transportation*

- The Project applicant would need to notice the Valley Transportation Authority (VTA) of construction work that would block any bus services and obtain appropriate permits from the agency to construct the Project.

### DEIR Circulation Unnecessary

Staff responded to the comments and questions in the First Amendment. None of the comments raised represent new significant information that would warrant recirculation of the Draft EIR pursuant to CEQA Guidelines Section 15088.5(a). 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).

The First Amendment was posted on the City's website on January 31, 2025, and all commenters were notified via email of the document's availability. The Draft Environmental Impact Report (DEIR) and First Amendment are available for public review on the City's website:

<https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/380-north-first-street-residential-project>.

**9. Site Development Permit Findings:** To make the Site Development Permit findings pursuant to San José Municipal Code Section 20.100.630, and recommend approval to the City Council, the Planning Commission must determine that:

- a. The Site Development Permit, as approved, is consistent with and will further the policies of the General Plan, applicable specific plans, and area development policies.

*Analysis: As discussed in the General Plan Conformance section above, the Project is consistent with the density and floor-area ratio required for the Transit Residential General Plan land use designation. The Project is also consistent with General Plan strategies, goals, and policies for focused growth and housing development and affordability. The subject site is located within one block of the Downtown growth area boundary, giving residents access to the area's public and private amenities, including parks, transit, libraries, and shopping. The Project will contribute 118 units to the City's housing stock and six of the units will be affordable for very-low-income households, which may include formerly homeless individuals, people with disabilities, and families.*

- b. The Site Development Permit, as approved, conforms with the Zoning Code and all other provisions of the San José Municipal Code applicable to the project.

*Analysis: As discussed in the San José Municipal Code Conformance section above, the subject site is a corner lot with two front lot lines and two side lot lines,*

*pursuant to the definitions contained in the Municipal Code. The Project is consistent with the height and setback standards of the Transit Residential Zoning District. The Project is not required to provide common open space because it is located within ¼ mile of two public parks and has been granted a concession, under the state Density Bonus Law, to provide private open space to 21 of the 118 units, in lieu of the 59 units otherwise required. The Project will provide 74 vehicle parking spaces, 30 bicycle parking spaces, and two spaces for two-wheeled motorized vehicles, and a TDM Plan with measures to reduce parking demand, consistent with the Municipal Code.*

- c. The Site Development Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency.

*Analysis: Pursuant to the City Council Policy on the Preservation of Historic Landmarks, a historic evaluation report for the existing building proposed for demolition was prepared and the Project was referred to the Historic Landmarks Commission on November 6, 2024 (additional information is provided in the Public Outreach section below).*

*Staff also implemented City Council Policy 6-30: Public Outreach Policy to inform the public of the Project. Onsite signs have been posted on the Project frontage since August 4, 2023. A formally noticed Community Meeting was held on September 11, 2023, to introduce the Project to the community (additional information is provided in the Public Outreach section below). 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 January 22, 2025. Staff has also been available to respond to questions from the public.*

- d. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

*Analysis: The Project consists of a single seven-story building with 118 residential units above a podium garage with 74 stacked parking spaces. The building is oriented toward Bassett Street, with two entry lobbies, a leasing office, a bike storage room accessible from the sidewalk, and an ingress/egress driveway to the interior garage. The garage is screened from view by metal mesh panels and raised planter boxes located along the building façade. Service and utility rooms (trash, electrical, mail, etc.) are located within the building, along the shorter facades on North 1<sup>st</sup> Street and North 2<sup>nd</sup> Street or at the rear of the building, to reduce their visibility.*

*Amenity spaces for the residents include a 692-square-foot fitness room on the second floor and an 811-square-foot clubhouse with a roof deck on the seventh floor. Twenty-one of the units have private open space, including 11 balconies*



*facing Bassett Street and 10 second-floor patios facing the rail right-of-way at the rear of the building.*

*The building's colors and materials create a cohesive architectural expression. The bases of the building's street-facing elevations are clad in dark gray stucco and composite siding. On the Bassett Street elevation, upper floors are distinguished with white stucco and vertical blue stucco accent sections, as well as building recesses, to articulate the approximately 270-foot-long facade. Brick veneer on the North 1<sup>st</sup> Street and North 2<sup>nd</sup> Street elevations wraps around the street-facing corners, referencing the brick of nearby historic buildings and anchoring the building on the site.*

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

*Analysis: Environmental impacts related to noise, vibration, dust, drainage, erosion, storm water runoff, and odor will be temporary and will only occur during construction. The Project is required to conform with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29), requiring implementation of Best Management Practices (BMPs) including site design measures, source controls, and numerically sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharge. The Project also includes standard environmental permit conditions to reduce and mitigate impacts regarding air quality, dust and emissions control, water quality, and noise, including designating a construction disturbance coordinator to address concerns related to construction. Additionally, the Project is required to adhere to the Mitigation Monitoring and Reporting Program (MMRP) prepared for the Project in association with the project's Environmental Impact Report (additional information on the Environmental Impact Report is provided in the Environmental Review section above). Although there will be temporary impacts to the surrounding neighborhood, ongoing operation of the Project will not have an unacceptable environmental impact on adjacent properties.*

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

- a. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
- b. The failure to approve the permit would jeopardize public health, safety or welfare;
- c. The approval of the permit should facilitate a Project that is compatible with the surrounding neighborhood;

- d. The approval of the permit should maintain the supply of existing housing stock in the City of San José;
- e. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
- f. Rehabilitation or reuse of the existing building would not be feasible; and
- g. The demolition, removal, or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

*Analysis: The Project includes the demolition of an existing 12,000-square-foot office building that is an eligible City Landmark. The approval of the demolition permit will not result in the creation or continued existence of a nuisance, blight, or dangerous condition, nor will it jeopardize public health, safety, or welfare, as it will allow for the improvement and redevelopment of the site with a multifamily residential building that is consistent with the allowable uses in the TR Zoning District.*

*As discussed in the Environmental Impact Report for the Project (see the California Environmental Quality Act section below), the existing building is eligible for listing on the California Register of Historical Resources and meets the significance criteria of a City Landmark for its association with New Formalism architecture, during a time period (1960s) where New Formalism was prevalent in San José. However, given the scope of the Project, the rehabilitation or reuse of the existing building will not be feasible as the proposed Project requires the complete redevelopment of the site to support the new multifamily building. The Mitigation Monitoring and Reporting Program for the Environmental Impact Report details mitigation measures for the demolition of this historic resource, including submittal of Historic American Building Survey documentation and three-dimensional laser scans of the building, advertisement of the building for relocation for at least 60 days prior to issuance of a demolition or grading permit, and development of a commemorative interpretive display or exhibit to be approved by the Department of Planning, Building, and Code Enforcement.*

*Reuse of the existing building would reduce the Project density and result in the Project's financial infeasibility. The Project is compatible with the surrounding neighborhood and has been found to be in conformance with development and design standards except for four standards, for which the applicant is eligible for incentives and waivers pursuant to the state Density Bonus Law. The approval of the Site Development Permit will increase the supply of housing in the City of San José. Therefore, findings can be made to support demolition of the building.*

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

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 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon

x:x = tree replacement to tree loss ratio  
 Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size.  
 A 38-inch tree equals 12.1 inches in diameter.  
 A 24-inch box tree = two 15-gallon trees.

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

*Analysis: The Project includes the removal of all 20 trees onsite, including 10 ordinance-size trees. Based on the arborist report prepared by HMM Engineers (Exhibit G) and last revised on June 12, 2023, the trees to be removed are located within the footprint of the building. Of the trees, 10 require replacement at a 4:1 ratio (40 trees), six require replacement at a 2:1 ratio (12 trees), and four require replacement at a 1:1 ratio (four trees). Therefore, the removal of 20 trees requires the replacement of 56 15-gallon trees. The Project does not include planting of any onsite trees, and the City's off-site tree planting fee will be required to be paid for all 56 replacement trees.*

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

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the Permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the Permittee shall be deemed to constitute all of the following on behalf of the Permittee:

- a. Acceptance of the Permit by the Permittee; and
  - b. Agreement by the Permittee to be bound by, to comply with, and to do all things required of or by the Permittee pursuant to all the terms, provisions, and conditions of this Permit or other approval and the provisions of Title 20 of the San José Municipal Code applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire two (2) years from and after the date of issuance hereof by the City Council, if within such time period, the proposed use of the site or the construction of buildings (if a Building Permit is required) has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the City Council. However, the Director of Planning, Building, and Code Enforcement may approve a Permit Adjustment or Amendment to extend the validity of this Permit in accordance with Title 20, as amended (two one-year extensions may be permitted with the issuance of a Permit Adjustment). The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Permit shall be deemed acceptance of all conditions specified in this Permit and the Permittee's agreement to fully comply with all said conditions. No change in the character of occupancy or change to a different group of occupancies as described in the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José - Santa Clara Regional Wastewater Facility- represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José - Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager makes a determination that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge

standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.

5. **Use Authorization.** Subject to all conditions herein, this Permit allows the demolition of an existing office building totaling approximately 12,000 square feet and the removal of 20 trees (10 ordinance-size and 10 non-ordinance-size) for the construction of a seven-story multifamily building with 118 units and 74 vehicle parking spaces, on an approximately 0.49-gross-acre site.
6. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved Site Development Permit plans entitled “380 N First Street” and dated October 25, 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 shall conform 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.”
7. **Demolition Permit.** A demolition permit may be issued for the existing office building only upon the submittal of a complete Public Works Grading Permit application or the submittal of a complete Building Permit application for new construction, and as consistent with the Mitigation Monitoring and Reporting Program for the Project.
8. **Encroachment Permit.** Prior to issuance of a Building permit for the Project, the Permittee shall submit an application for an Encroachment Permit for installation of the bicycle racks within the public right-of-way from the Department of Public Works.
9. **Conformance to Transportation Demand Management Plan.** The Project shall conform to the approved Transportation Demand Management (TDM) Plan entitled “380 N. First Street Residential Development Transportation Demand Management (TDM) Plan,” dated October 4, 2023, on file with the Department of Planning, Building, and Code Enforcement (“Approved TDM Plan”), with the exception of any subsequently approved modifications. Modifications to the Approved TDM Plan may be made as provided by Section 20.90.912 of the Municipal Code, as amended.
10. **Transportation Demand Management Plan Requirements.** This Project requires a Transportation Demand Management (TDM) plan for the lifetime of the project, which shall mean until such time as the project is demolished, or such time as the Project is added to or replaced with a new project that is subject to the requirements of Section 20.90, Part 9, as may be amended.
  - a. **Covenant and Agreement.** The Project shall execute and record a Covenant and Agreement that runs with the land, that an Approved TDM Plan and the TDM strategies contained therein will be maintained throughout the lifetime of the Project. A TDM Plan may be modified at the discretion of the TDM Coordinator pursuant to Section 20.90.910.C, as may be amended. No Building Permit shall be issued to a Project without an approved TDM Plan and recorded Covenant and Agreement.

- b. **Strategy Implementation.** The Project shall implement the TDM strategies in the Project's Approved TDM Plan throughout the lifetime of the Project.
  - c. **Compliance Documentation.** The Project shall submit TDM Plan Compliance Documentation pursuant to SJMC Section 20.90.910.A.1.b, as may be amended, for all projects and additionally, pursuant to Section 20.90.910.A.1.c, as may be amended for Level 2 projects, to the TDM Coordinator not more than one year after receiving its Certificate of Occupancy. The Project shall henceforth submit TDM Plan Compliance Documentation.
11. **TDM Compliance and Enforcement.** The TDM Coordinator shall be responsible for enforcing continual compliance with the requirements of the TDM Program.
- a. **Compliance with TDM Program.** No building, grading, demolition, foundation, use of land or change of use permit, nor Certificate of Occupancy, shall be issued for any building or site that contains a project that is not in compliance with the requirements of the TDM Program.
  - b. **City Access.** The Project shall allow City staff access to relevant portions of the property to conduct site visits, inspect physical improvements, collect empirical data, and/or facilitate phone and/or digital surveys with residents, tenants, employees, and visitors. City staff shall provide advance notice of request for such access.
12. **Green Building Requirements.** This development is subject to the City's Green Building Ordinance for Private Sector New Construction as set for in Municipal Code Section 17.84. Prior to the issuance of any shell permits, or complete Building permits, for the construction of buildings approved through the scope of this Permit, the Permittee shall pay a Green Building Refundable Deposit. In order to receive a refund of the deposit, the Project must achieve the minimum requirements as set forth in Municipal Code Section 17.84. The request for the refund of the Green Building Deposit together with evidence demonstrating the achievement of the green building standards indicated in Municipal Code Section 17.84 shall be submitted within a year after the Building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305.D of the Municipal Code.
13. **Window Glazing.** Unless otherwise indicated on the Approved Plans, all windows shall consist of a transparent glass.
14. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City of San José.
15. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, state, and federal laws.
16. **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.

17. **Refuse.** All trash and refuse storage areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the trash or refuse container(s). Trash areas shall be maintained in a manner to discourage illegal dumping.
18. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated in the Approved Plan Set.
19. **Utilities.** All new onsite telephone, electrical, and other service facilities, except for the electrical transformers located along the North 2<sup>nd</sup> Street property frontage, shall be placed underground.
20. **Anti-Graffiti.** All graffiti shall be removed from buildings and wall surfaces, including job sites for projects under construction, within 48 hours of defacement.
21. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts, and garbage.
22. **No Sign Approval.** Any signage shown on the Approved Plan Set is conceptual only. No signs are approved at this time. Any signs shall be subject to review and approval by the Director of Planning, Building, and Code Enforcement through a subsequent Permit Adjustment.
23. **Building and Property Maintenance.** The property shall be maintained in good visual and functional condition. This shall include, but not be limited to, all exterior elements of the buildings such as paint, roof, paving, signs, lighting, and landscaping.
24. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
25. **Mechanical Equipment.** The location and type of mechanical equipment shall be as shown on the Approved Plans and shall be screened from view. Changes to the mechanical equipment requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning, Building, and Code Enforcement.
26. **No Generators Approved.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators will require the permittee to secure appropriate permits and conform to the regulations of Title 20 of the Municipal Code.
27. **No Extended Construction Hours.** This Permit does not allow any construction activity on a site located within 500 feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.
28. **Construction Disturbance Coordinator.** Rules and regulations pertaining to all construction activities and limitations identified in this Permit, along with the name and

telephone number of a Permittee-appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.

29. **Timing of Tree Removals.** Trees that are proposed for removal to accommodate new development shall not be removed until the related complete Public Works Grading Permit Application or Building Permit Application has been filed.
30. **Tree Protection Standards.** The Permittee shall maintain the trees and other vegetation shown to be retained in this Project and as noted on the Approved Plan Set. Maintenance shall include pruning and watering as necessary and protection from construction damage. Prior to the removal of any tree on the site, all trees to be preserved shall be permanently identified by metal numbered tags. Prior to issuance of the Grading Permit or removal of any tree, all trees to be saved shall be protected by chain link fencing, or other fencing type approved by the Director of Planning, Building, and Code Enforcement. Said fencing shall be installed at the dripline of the tree in all cases and shall remain during construction. No storage of construction materials, landscape materials, vehicles or construction activities shall occur within the fenced tree protection area. Any root pruning required for construction purposes shall receive prior review and approval and shall be supervised by the consulting licensed arborist. Fencing and signage shall be maintained by the Permittee to prevent disturbances during the full length of the construction period that could potentially disrupt the habitat or trees.
31. **Tree Removal In-Lieu Fee.** Prior to the removal of trees without onsite replacement trees, the Permittee shall pay the invoice for tree replacement in-lieu fees per Municipal Code Section 13.32 for 56 15-gallon replacement trees. The fee shall be paid prior to Building Permit or Grading Permit issuance, whichever comes first, according to the current adopted fee schedule.
32. **Verification of Payment and/or Planting of Replacement Tree(s).** After payment of the in-lieu fee and/or the planting of replacement trees on-site, the permittee shall provide appropriate evidence such as, but not limited to, photographs and/or receipts to the Planning Project Manager to verify compliance with the mitigation requirements. Such evidence shall be uploaded to [www.sjpermits.org](http://www.sjpermits.org) using these instructions:
  - a. How to set up an account: <https://www.sanjoseca.gov/business/development-services-permit-center/online-permits-at-sjpermits-org>
  - b. How to upload:  
<https://www.sanjoseca.gov/home/showpublisheddocument/88853/638088605255430000>
  - c. Such evidence shall also be emailed to the Planning Project Manager and labeled File No. H23-007.
33. **Landscaping.** Planting and irrigation are to be provided by the Permittee, as indicated, on the final Approved Plans.



34. **Irrigation Standards.** Irrigation shall be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping, the City of San José Landscape and Irrigation Guidelines and the Zonal Irrigation Plan in the Approved Plans. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
35. **Certification.** Pursuant to San José Municipal Code, Section 15.11.1050 certificates of substantial completion for landscape and irrigation installation shall be completed by a licensed or certified professional and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the Project.
36. **Regulatory Agreement.** Prior to the issuance of the first Building Permit, the Permittee shall submit a Permit Adjustment Application and enter into a Density Bonus Regulatory Agreement with the City. The final Regulatory Agreement, as amended and as approved by the City Attorney and by the Director of Planning, shall be recorded in the Office of the County Recorder by the City. This Permit shall take effect upon the date of recordation of the Density Bonus Regulatory Agreement in the form approved by the City and shall have no force and effect prior to that date.
37. **Salvage of Historic Materials.** Surplus historic bricks and other architectural features shall be re-used where feasible in other areas of the Project and for repairs within the building.
38. **FAA Clearance Required.** Prior to issuance of any Building Permit for construction, the Permittee shall obtain from the Federal Aviation Administration a “Determination of No Hazard to Air Navigation” for each building high point. The permittee shall abide by any and all conditions of the FAA determinations (if issued) such as height specifications, rooftop marking/lighting, construction notifications to the FAA through filing of Form 7460-2, and “No Hazard Determination” expiration date. The data on the FAA forms shall be prepared by a licensed civil engineer or surveyor, with location coordinates (latitude/longitude) in NAD83 datum out to hundredths of seconds, and elevations in NAVD88 datum rounded off to the next highest foot.
39. **FAA Clearance Permit Adjustment.** Prior to issuance of any Building Permit for construction, the permittee shall apply for and obtain a Permit Adjustment to incorporate any and all FAA conditions identified in the Determinations of No Hazard (if issued), e.g., installation of roof-top obstruction lighting or construction-related notifications.
40. **Subsequent Permit Adjustments/Amendments.** Any Permit Adjustment/Amendment application filed by the permittee that proposes to increase the maximum structure elevations or change the location of the structure’s highest point(s), will be referred by the Planning, Building, and Code Enforcement Department to the Airport Department for review prior to approval.

**41. 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.

**42. Standard Environmental Permit Conditions.**

- a. **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 all exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) two times per day.
  - ii. Cover all haul trucks transporting soil, sand, and other loose material off-site.
  - iii. Remove all visible mud or dirt track-out onto adjacent public roads at least once per day using wet-power vacuum street sweepers. The use of dry power sweeping is prohibited.
  - iv. Limit all vehicle speeds on unpaved roads to 15 mph.
  - v. Pave all new 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. Suspend all excavation, grading, and/or demolition activities when average wind speeds exceed 20 mph.
  - viii. Wash off all trucks and equipment, including their tires, prior to leaving the site.
  - ix. Treat unpaved roads providing access to sites located 100 feet or further from a paved road with a 6- to 12-inch layer of compacted wood chips, mulch, or gravel.
  - x. Minimize idling time either by shutting off equipment when not in use or reducing the idling time to no more than 2 minutes (a 5-minute limit is required by state Airborne Toxics Control Measures [Title 13, Sections 2449(d)(3) and 2485 of the California Code of Regulations]). Provide clear signage with this requirement for workers at all access points to the site.
  - xi. Maintain and properly tune construction equipment in accordance with manufacturer’s specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
  - xii. Post a publicly visible sign with the name and phone number of an onsite construction coordinator to contact regarding dust complaints. The onsite construction coordinator shall respond and take corrective action within 48 hours. The sign shall also provide the City’s Code Enforcement Complaints email and number and the Bay Area Air Quality Management District’s General Air Pollution Complaints number to ensure compliance with applicable regulations.

**b. Biological Resources**

- i. **Santa Clara Valley Habitat Plan.** The Project may be subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The Permittee shall submit the Santa Clara Valley Habitat Plan Coverage Screening Form (<https://www.scv-habitatagency.org/DocumentCenter/View/151/Coverage-Screening-Form?bidId=>) to the Director of Planning, Building and Code Enforcement or the Director’s designee for approval and payment of all applicable fees prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at <https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan>.
- ii. **Tree Replacement.** 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) Twenty trees onsite will be removed. Ten trees require replacement at a 4:1 ratio, 40 trees require replacement at 4:1 ratio, 70 trees require replacement at a 3:1 ratio, six trees require replacement at a 2:1 ratio, and four trees require replacement at a 1:1 ratio. Therefore, the removal of the 20 trees onsite requires the replacement of 56 15-gallon trees. Based on the landscape plan provided, the Project does not include tree replacement onsite.

- (ii) Prior to the issuance of Building permits, the Permittee shall pay the in-lieu fee for Off-site Tree Replacement for 56 replacement trees in accordance with the City Council-approved Fee Resolution in effect at the time of payment.

**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 (NAHC) 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 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 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 property owner or their 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 property owner or their 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 building, the occupant shall provide to the Director of the Department of Planning, Building, and Code Enforcement or the Director's designee, proof of enrollment in the San José Community Energy (SJCE) GreenSource program (approximately 60% renewable energy) or TotalGreen program (approximately 100% renewable energy) assumed in the approved environmental clearance for the Project in accordance with CEQA. If it is determined the Project's environmental clearance requires enrollment in the TotalGreen program, neither the occupant, nor any future occupant, may opt out of the TotalGreen program.

**e. Geology and Soils**

**i. Seismic Hazards.**

- (i) All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- (ii) Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- (iii) Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- (iv) The Project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices will ensure that the future building on the site is designed to properly account for soils-related hazards on the site.
- (v) If dewatering is needed, the design-level geotechnical investigations to be prepared for individual future development projects shall evaluate the underlying sediments and determine the potential for settlements to occur. If it is determined that unacceptable settlements may occur, then alternative groundwater control systems shall be required.

f. **Paleontological Resources.** If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning, Building and Code Enforcement or the Director's designee shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The Permittee shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning, Building, and Code Enforcement or the Director's designee.

g. **Hazards and Hazardous Materials**

i. **Asbestos and Lead-Based Paint**

- (i) In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP).
- (ii) During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
- (iii) All potentially friable asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
- (iv) A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- (v) Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

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

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

- (i) Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- (ii) Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- (iii) All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- (iv) Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- (v) All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.
- (vi) All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- (vii) Vegetation in disturbed areas shall be replanted as quickly as possible.
- (viii) All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
- (ix) The Permittee shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

### **i. Noise.**

Construction-related Noise. Noise minimization measures shall 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 an onsite or off-site work within 500 feet of any residential unit. Construction outside 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.

**j. Operations Noise.**

Interior Noise Standard for Residential Development. The Project applicant shall prepare final design plans that incorporate building design and acoustical treatments to ensure compliance with State Building Codes and City noise standards. A Project-specific acoustical analysis shall be prepared to ensure that the design incorporates controls to reduce interior noise levels to 45 dBA DNL or lower within the residential unit. The Project applicant shall conform with any special building construction techniques requested by the City’s Building Department, which may include sound-rated windows and doors, sound-rated wall constructions, and acoustical caulking.

**43. Housing Department.**

The Permittee has submitted an Affordable Housing Compliance Plan Application on April 14, 2023, and resubmitted on October 22, 2024. Based on the Housing



Department review of the AMANDA information on the above referenced development and information provided by the Planner and Permittee, the development is determined to be a Residential Development including residential components and there are no existing residential dwelling units on the property that is site of the above referenced development.

Residential Developments are subject to the Inclusionary Housing Ordinance (“IHO”). The Permittee has paid the Development’s application fees for the Inclusionary Housing Ordinance. Permittee has completed the required application(s) and obtained approval(s) of the plan(s) for the Inclusionary Housing Ordinance. If this is a Master Planned development, each subsequent planning permit must comply with the Inclusionary Housing Ordinance guidelines for the respective construction phase.

SJMC Section 5.08.610(D) requires the Plan to be approved as part of the First Approval of any Residential Development. The First Approval means the first of the following approvals to occur with respect to a Residential Development: development agreement, general plan amendment, specific or area plan adoption or amendment, zoning, rezoning, pre-zoning, annexation, planned development permit, tentative map, parcel map, conditional use permit, special use permit, or building permit.

The Permittee understands the AHCP is binding and can only be modified as set forth under SJMC 5.08.610 (E). A request for a minor modification of an approved AHCP may be granted by the City Manager if the modification is substantially in compliance with the original AHCP and the permit’s conditions of approval. Any other modification(s) require the Permittee to resubmit the AHCP application and it will be processed in the same manner as the original plan.

This Permittee understands the City’s provisions SJMC 5.08.600 titled Continuing Affordability and Initial Occupancy and agrees that these inclusionary units shall expressly allow for rental to Section 8 voucher holders. To ensure the restricted affordable units will be marketed appropriately, the applicant will need to submit and receive approval of a marketing plan, before building permits, that complies with conditions in the IHO and IHO Guidelines and obtain the City’s approval of that marketing plan before pulling building permits.

Conditions of Approval for Inclusionary Housing Ordinance Requirements for Residential Developments

This Project has selected to comply with the Inclusionary Housing Ordinance (IHO) through the Mixed compliance option. The applicant will restrict 5% of the total Dwelling Units in the Residential Development at 50% AMI and pay an adjusted in-lieu fee calculated based on the rentable square footage of the Residential Development. The development is in a strong market area and will be subject to an in-lieu fee of \$976,286.12 (\$11.71 X 83,372 net residential square footage). To account for inflation in affordable housing development costs, the adjusted in-lieu fee is subject to change on July 1 of each year. The development will provide a total of

118 units. The Project will restrict six units at 50% AMI. A breakdown of the IHO units mix is provided below:

NAME	DESCRIPTION	AVG. GROSS UNIT SF	LEVEL 02	LEVEL 03	LEVEL 04	LEVEL 05	LEVEL 06	LEVEL 07	QTY	PER UNIT TYPE
RESIDENTIAL - UNIT										
UNIT 1A	RESIDENTIAL	662 SF	0	4	5	5	5	4	23	15235 SF
UNIT 1A-1	RESIDENTIAL	636 SF	0	2	0	1	0	2	5	3179 SF
UNIT 1A-1.1	RESIDENTIAL	642 SF	0	0	0	0	0	1	1	642 SF
UNIT 1A-1.2	RESIDENTIAL	630 SF	0	1	0	0	0	0	1	630 SF
UNIT 1A-1.3	RESIDENTIAL	676 SF	0	1	1	1	2	3	8	5424 SF
UNIT 1A-1.4	RESIDENTIAL	662 SF	0	0	2	3	2	1	8	5457 SF
UNIT 1A-1.5	RESIDENTIAL	689 SF	0	2	2	1	1	0	6	4135 SF
UNIT 1A-2	RESIDENTIAL	669 SF	0	0	1	1	1	1	4	2677 SF
UNIT 1A-2.1	RESIDENTIAL	624 SF	0	1	0	0	0	0	1	624 SF
UNIT 1B	RESIDENTIAL	730 SF	0	0	1	1	1	1	4	2921 SF
UNIT 1B-1	RESIDENTIAL	704 SF	0	1	0	0	0	0	1	704 SF
UNIT 1C	RESIDENTIAL	567 SF	3	0	0	0	0	0	3	1701 SF
UNIT 1C-1	RESIDENTIAL	563 SF	1	0	0	0	0	0	1	563 SF
UNIT 1C-2	RESIDENTIAL	557 SF	3	0	0	0	0	0	3	1671 SF
UNIT 1D	RESIDENTIAL	626 SF	2	0	0	0	0	0	2	1653 SF
UNIT 1D-1	RESIDENTIAL	709 SF	1	0	0	0	0	0	1	709 SF
UNIT 1D-2	RESIDENTIAL	666 SF	1	0	0	0	0	0	1	666 SF
UNIT 1D-3	RESIDENTIAL	606 SF	1	0	0	0	0	0	1	606 SF
UNIT 1E	RESIDENTIAL	618 SF	1	0	0	0	0	0	1	618 SF
UNIT 1F	RESIDENTIAL	646 SF	1	0	0	0	0	0	1	646 SF
UNIT 1G	RESIDENTIAL	603 SF	0	0	0	0	0	1	1	603 SF
UNIT 2A	RESIDENTIAL	1090 SF	0	1	1	1	1	0	4	4359 SF
UNIT 2A-1	RESIDENTIAL	1045 SF	0	1	1	1	1	0	4	4179 SF
UNIT 2B	RESIDENTIAL	1021 SF	0	0	1	1	1	1	4	4084 SF
UNIT 2C	RESIDENTIAL	1059 SF	0	1	1	1	1	1	5	5294 SF
UNIT 2D	RESIDENTIAL	930 SF	1	0	0	0	0	0	1	930 SF
UNIT 2E	RESIDENTIAL	966 SF	1	0	0	0	0	0	1	966 SF
UNIT 3	RESIDENTIAL	469 SF	0	1	1	1	1	1	5	2344 SF
UNIT S1	RESIDENTIAL	496 SF	0	1	1	1	1	1	5	2479 SF
UNIT S2	RESIDENTIAL	554 SF	0	0	1	1	1	1	4	2215 SF
UNIT S2-1	RESIDENTIAL	511 SF	0	1	0	0	0	0	1	511 SF
UNIT S3	RESIDENTIAL	482 SF	1	0	0	0	0	0	1	482 SF
RESIDENTIAL - UNIT: 112			17	18	19	20	19	19	112	79347 SF
RESIDENTIAL - UNIT (BMR)										
UNIT 1A (BMR)	RESIDENTIAL	665 SF	0	1	0	0	1	0	2	1331 SF
UNIT 1A-1 (BMR)	RESIDENTIAL	637 SF	0	0	1	0	0	0	1	637 SF
UNIT 1C (BMR)	RESIDENTIAL	567 SF	1	0	0	0	0	0	1	567 SF
UNIT 2B (BMR)	RESIDENTIAL	1030 SF	0	1	0	0	0	0	1	1030 SF
UNIT S4 (BMR)	RESIDENTIAL	461 SF	1	0	0	0	0	0	1	461 SF
RESIDENTIAL - UNIT (BMR): 6			2	2	1	0	1	0	6	4025 SF
			19	20	20	20	20	19	118	83372 SF

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

- a. *Construction Plans.* This permit File No. H23-007 shall be printed on all construction plans submitted to the Building Division.
- b. *Construction Plan Conformance.* A Project construction plan conformance review by the Planning Division is required. Planning Division review for Project conformance begins with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
- d. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).

- e. **Emergency Address Card.** The Project Permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
  - f. **Project Addressing Plan.** Prior to issuance of a Building Permit, the following requirements shall be met to the satisfaction of the Chief Building Official: The Project Permittee shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial). The addressing plan should include proposed street names for the streets (as referenced on an approved tentative map) and the type of addressing (i.e., individual street addresses as compared to unit number off of a primary street
  - g. **Other.** Such other requirements as may be specified by the Chief Building Official.
45. **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 many be amended or updated by the City.
46. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the Project, including information on available haulers and processors.
47. **Public Works Clearance for Building Permit(s) or Map Approval.** Prior to the approval of issuance of Building permits, whichever occurs first, the Permittee will be required to have satisfied all of the following Public Works conditions. The Permittee is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works Permits may be found at the following: <http://www.sanjoseca.gov/devresources>.
- a. **Construction Agreement.** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
  - b. **Transportation.** A Transportation Analysis has been performed for this Project. We conclude that the subject Project will be in conformance with the City of San Jose Transportation Policy (Council Policy 5-1) and a determination for less than significant impacts can be made with respect to transportation impacts. See separate Transportation Analysis Memo dated 12/13/23 for additional information.
  - c. **Grand Boulevard.** This Project fronts North 1<sup>st</sup> Street which is designated as one of the seven Grand Boulevards per the Envision San José 2040 General Plan. Grand Boulevards are identified to serve as major transportation corridors for primary routes for VTA light-rail, bus rapid transit, standard or community buses, and other public transit vehicles.

**d. 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 onsite storm drainage conveyance facilities and earth-retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permits prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains, and inlets. The Project shall provide storm drainage calculations that adhere to the latest California Plumbing Code as adopted under City of San José Municipal Code Section 24.04.100 or submit a stamped and signed engineered design alternative for Public Works' discretionary approval and must be designed to convey a 10-year storm event.
- iii. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed, and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not be limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in this investigation.

**e. Shoring.**

- i. Shoring plans will be required for review and approval as part of the Grading Permit for this Project.
  - ii. If tie-backs are proposed in the public right-of-way as a part of the shoring operation, a separate Revocable Encroachment Permit must be obtained by the Developer or Contractor and must provide security, in the form of a CD or Letter of Credit, in the amount of \$100,000. All other shoring will not be allowed to encroach more than 12" within the public right-of-way (i.e., soldier beams).
- f. Stormwater Runoff Pollution Control Measures.** This Project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs), including site design measures, source controls, and numerically sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.

- i. The Project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this Project will be in conformance with City Policy 6-29.
  - ii. Final inspection and maintenance information on the post-construction treatment control measures must be included on the final Stormwater Control Plan.
- g. **Stormwater Peak Flow Control Measures.** The Project is located within a non-Hydromodification Management Area and is not required to comply with the City's Post Construction Hydromodification Management Policy (Council Policy 8-14).
- h. **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.
- i. **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.
- j. **Parks.** This residential Project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of the San José Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San José Municipal Code) for the dedication of land and/or payment of fees in lieu of dedication of land for public park and/or recreational purposes under the "Formula for Dedication of Land" and/or "Schedule of Fees and Credits contained within the chapter.
- k. **Street Improvements.**
  - i. The street traveled way is comprised of concrete panels and any re-grading of the curb, gutter, and any other intrusion or damage to existing panels due to construction will require the removal and replacement of the entire concrete panel(s).
  - ii. Remove and replace curb, gutter, and sidewalk along N. 1<sup>st</sup> Street Project frontage with a 12' wide attached sidewalk with tree wells located at back of curb. An approximate 2' sidewalk easement will be required to achieve the sidewalk section.
  - iii. Remove and replace curb, gutter, and sidewalk along N. 2<sup>nd</sup> Street Project frontage with a 15' wide attached sidewalk with tree wells located at back of curb.
  - iv. Remove and replace curb, gutter, and sidewalk along Bassett Street Project frontage with a 10' wide attached sidewalk with tree wells located at back of curb. An approximate 1' sidewalk easement will be required

to achieve the sidewalk section. This will require the realignment of the curb line to achieve a 38' curb-to-curb street section.

- v. Construct a bulb-out with an ADA-compliant directional handicap ramp at the North 2nd Street and Bassett Street Project corner.
- vi. Reconstruction handicap ramp at the North 1st Street and Bassett Street Project corner.
- vii. Proposed driveway along Bassett Street to be 26' wide per City Standard Detail R-6.
- viii. Close unused driveway cuts.
- ix. Provide a contribution for Class IV protected bike lane along the North 2nd Street Project frontage per the CSJ Better Bike Plan 2025 (\$144 per LF).
- x. Provide an in-lieu monetary contribution of \$8,000 for APS signal improvements at the North 1st Street and East Julian Street intersection.
- xi. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
- xii. 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.

- I. **Site Utilization Plan and Revocable Encroachment Permit (Street/Sidewalk Closures).** At the implementation stage, Developer shall provide to the Public Works Project Engineer a Site Utilization Plan with the application of a Revocable Encroachment Permit for any proposed sidewalk and lane closures to support the onsite construction activities.

The following should be included with the Site Utilization Plan and Revocable Permit application, but are not limited to:

- i. Site Utilization Plan and Letter of Intent: The site utilization plan should provide a detailed plan of the location of the temporary facilities within the boundary of the construction site. The Letter of Intent should provide a description of operations of the site as well as the reasons for the sidewalk/lane closures and why the activities/uses can't occur within the construction site. These include the use of the right-of-way for temporary facilities and activities such as man lifts, baker tanks, staging area, concrete pumping activities, etc. The letter must also provide a detailed discussion if covered pedestrian walkways are infeasible (e.g., swinging loads over the sidewalk are not safe for pedestrians).

- ii. **Multi-Phased Site-Specific Sketches:** These sketches should show the phased closures during the course of construction with a provided timeframe estimate of when each phase would be implemented. These sketches should include the type and location of the work to be accomplished within the right-of-way. The exhibit should show in detail the vehicular and/or pedestrian diversion route that shows the appropriate safety equipment, such as barricades, cones, arrow boards, signage, etc.

Developer shall minimize the potential impact to vehicular and pedestrian traffic by:

- i. Implementing the closures at the time the onsite activities dictate the need for the closures.
- ii. Minimizing the closure timeframes to accomplish the onsite tasks and implement the next phase of the closure as outlined in the condition above.

If the proposed lane and parking closures are a part of the Revocable Permit Application, the Developer shall submit Downtown Lane Closure and Tow Away Permit Applications to the Department of Transportation. These applications may be obtained at: <http://www.sanjoseca.gov/?navid=1629>. Developer shall contact DOT at (408) 535-8350 for more information concerning the requirements of these applications.

- m. **Sanitary.** The Permittee is required to submit plans and profiles of the private sewer mains with lateral locations for final review and comment prior to construction.
- n. **Electrical.** Existing electroliers along the Project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
- o. **Street Trees.** The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within the public right-of-way along entire Project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects." Street trees shall be installed in cut-outs at the back of curb along the Project frontages. Obtain a Department of Transportation street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
- p. **Referrals.** This Project should be referred to the Santa Clara Valley Transportation Authority (VTA) and Union Pacific Railroad.

**48. Revocation, Suspension, Modification.** This Permit may be revoked, suspended or modified by the City Council, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same

at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:

- a. A violation of any conditions of the Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance or State law was not abated, corrected, or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

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

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2025, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
MATT MAHAN  
Mayor

ATTEST:

\_\_\_\_\_  
TONI J. TABER, MMC  
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**  
**LEGAL DESCRIPTION**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN JOSE, IN THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST WESTERLY CORNER OF THAT CERTAIN 1.853 ACRE PARCEL OF LAND DESIGNATED PARCEL A AND SHOWN ON THAT CERTAIN MAP ENTITLED, "RECORD OF SURVEY OF PROPERTY OF SECURITY WAREHOUSE AND COLD STORAGE COMPANY," WHICH MAP WAS FILED FOR RECORD ON OCTOBER 3, 1958 IN [BOOK 98 OF MAPS, PAGE 23](#), SANTA CLARA COUNTY RECORDS; THENCE FROM SAID POINT OF BEGINNING, ALONG THE SAID NORTHEASTERLY LINE OF NORTH FIRST STREET, S. 30° 40' E. 67.93 FEET; THENCE ALONG THE ARC OF A CURVE CONCAVE TO THE NORTH AND TANGENT TO SAID NORTHEASTERLY LINE OF NORTH FIRST STREET, WITH A RADIUS OF 10.00 FEET, THROUGH A CENTRAL ANGLE OF 90° 27' 49" FOR AN ARC DISTANCE OF 15.78 FEET; THENCE PARALLEL WITH THE NORTHWESTERLY LINE OF PARCEL A HEREINABOVE REFERRED TO N. 58° 52' 11" E. 255.91 FEET; THENCE ALONG THE ARC OF A CURVE CONCAVE TO THE WEST, WITH A RADIUS OF 10.00 FEET, THROUGH A CENTRAL ANGLE OF 89° 32' 11" FOR AN ARC DISTANCE OF 15.63 FEET TO A POINT OF TANGENCY WITH THE SOUTHWESTERLY LINE OF NORTH SECOND STREET; THENCE ALONG SAID LAST NAMED LINE N. 30° 40' W. 67.93 FEET TO THE MOST NORTHERLY CORNER OF SAID PARCEL A; THENCE ALONG THE NORTHWESTERLY LINE THEREOF S. 58° 52' 11" W. 275.91 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION THEREOF CONDEMNED IN FAVOR OF SANTA CLARA COUNTY TRANSIT DISTRICT, CITY OF SAN JOSE, PER "FINAL ORDER OF CONDEMNATION" RECORDED JUNE 23, 1986 IN BOOK 3738, PAGE 763, INSTRUMENT NO. 88 [32665, OF OFFICIAL RECORDS](#).

EXCEPTING THEREFROM THE UNDERGROUND WATER AS GRANTED IN THE DEED FROM THE CITY TITLE INSURANCE COMPANY, A CORPORATION, TO SAN JOSE WATER WORKS, A CALIFORNIA CORPORATION DATED AUGUST 5, 1963 AND RECORDED AUGUST 6, 1963 IN [BOOK 6135 OF OFFICIAL RECORDS, PAGE 351](#).

[APN: 249-44-088](#)