

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A VESTING TENTATIVE MAP TO COMBINE FIVE PARCELS TOTALING APPROXIMATELY 24,393 SQUARE FEET RESIDENTIAL LOT INTO ONE RESIDENTIAL LOT ON AN APPROXIMATELY 0.56-GROSS-ACRE SITE SITUATED ON THE NORTHEASTERLY CORNER OF WEST SAN CARLOS STREET AND CLEVELAND AVENUE (1921 AND 1927 WEST SAN CARLOS STREET AND 30-58 CLEVELAND AVENUE) (APNS 274-17-018, 019, 020, 021, & 022)

FILE NO. T23-003

WHEREAS, pursuant to the provisions of Chapter 19.12 of Title 19 of the San José Municipal Code, on March 6, 2023, Henry Guan of PATH Ventures, filed an application (File No. T23-003), on behalf of the property owner, PATH Villas at Buena Vista, LLC with the City of San José for a Tentative Map to combine five commercial lots totaling approximately 24,393 square feet into one lot, concurrent with a Site Development Permit application (File No. H23-005) to allow the demolition of five commercial buildings totaling approximately 12,500 square feet and the construction of seven-story, mixed-use development consisting of 94 affordable housing units, including one manager unit and approximately 1,800 square feet of ground-floor commercial space, on an approximately 0.56-gross-acre site (the “Project”), and, upon annexation certification, on that certain real property situated in the UV Urban Village Zoning District and located on the northeast corner of West San Carlos Street and Cleveland Avenue (1921 and 1927 West San Carlos Street and 30, 40, and 58 Cleveland Avenue, APNs 274-17-018, 019, 020, 021, and 022) (sometimes referred to herein as the “subject property”); and

WHEREAS, a legal description of the subject property is attached as Exhibit "A," entitled “Legal Description,” and depicted in Exhibit “B,” entitled “Plat Map”, which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, at a duly noticed public hearing on April 9, 2025, the Planning Commission considered public comments and all evidence and testimony received at the public hearing regarding the Project and recommended that the City Council approve the Project; and

WHEREAS, this City Council received and considered the reports and recommendations of the City's Planning Commission and City's Director of Planning, Building, and Code Enforcement and conducted a duly noticed public hearing on the Project, giving all persons full opportunity to be heard and to present evidence and testimony; and

WHEREAS, at said hearing, this City Council received in evidence a plan for the subject property entitled, "Vesting Tentative Map PATH Villas on the Row, 1921-1927 West San Carlos Street and 30-58 Cleveland Avenue, City of San José, California, T23-003" dated October 31 2023, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection; said plan is incorporated by reference and incorporated by reference; and

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

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

The foregoing recitals are hereby incorporated by reference, and, after considering evidence presented at the public hearing, the City Council finds that the following are the relevant facts and findings regarding this Project:

- 1. Site Description and Surrounding Uses.** The subject property consists of an approximately 0.56-gross-acre parcel located at the northeast corner of West San

Carlos Street and Cleveland Avenue and is comprised of five contiguous lots, two of which front West San Carlos Street. The Project site is currently occupied by five commercial buildings totaling approximately 12,500 square feet and associated paved areas and driveways. The Project site is immediately adjacent to Cleveland Avenue (west), West San Carlos Street (south), commercial building and surface parking lot (east), and a single-family residence (north) and envelopes two sides of the commercial property to the east (APN 274-17-087 lands of 99 Cents Only Stores LLC). The site is located within the West San Carlos Urban Village Plan and is designated Urban Village in the Mixed Use Commercial Character Area and is generally surrounded by other commercial and residential uses.

- 2. Project Description.** The Project consists of a Vesting Tentative Map to combine five commercial lots totaling approximately 24,393 square feet into one lot resulting in approximately 0.56 acres, located on the northeast corner of West San Carlos Street and Cleveland Avenue.

The Vesting Tentative Map is associated with and would facilitate the development of a mixed-use Project filed under File No. H23-005, a Site Development Permit, to allow the demolition of five existing commercial buildings totaling approximately 12,500 square feet and the construction of a seven-story mixed-use development consisting of 94 one hundred percent affordable units, including 39 Permanent Supportive Housing units and a manager's unit, and approximately 1,800 square feet of ground floor commercial space, and a Density Bonus request for four concessions and eight waivers on a 0.56-acre site.

- 3. Envision San José 2040 General Plan Conformance.** Upon certification of annexation into the City of San José, the subject property will be designated Urban Village on the Land Use/Transportation Diagram of the Envision San José 2040 General Plan and the West San Carlos Urban Village Plan. This designation provides flexibility and supports both residential and commercial development. New development under this designation must meet the Plan's urban design guidelines and be designed in a way that promotes walking, transit use, and public interaction. Per the West San Carlos Urban Village, there is no minimum or maximum density for residential projects with the Urban Village designation. Where an existing use redevelops within the Mixed Use Commercial Character Area, the existing commercial square footage must be replaced with an equivalent commercial square footage in the new development, at a minimum. The replacement of existing commercial square footage does not apply to certain one hundred percent affordable housing developments.

Analysis: The Project includes combining five commercial lots to create an approximately 0.56-acre lot for a mixed use Project with a residential density of 168 dwelling units per acre and a Floor Area Ratio of 0.7. The Urban Village designation does not have a minimum or maximum density; therefore, the Project's density is allowed. The mixed-use building includes two entries, with the commercial entrance sited on the main street, West San Carlos Street, to promote foot traffic and public

interaction. The Project includes the demolition of approximately 12,500 square feet of commercial buildings and will replace approximately 1,800 square feet of commercial space; however, the residential portion of the Project is one hundred percent affordable and would not be subject to the commercial replacement requirement under the West San Carlos Urban Village Plan for properties located in the Mixed Use Commercial Character Area. In addition, pursuant to General Plan Policy H-2.11, commercial space requirements for residential developments found in the General Plan or approved Urban Village Plan do not apply to one hundred percent affordable housing developments that are deed restricted by a public agency for a period not less than 55 years to low-income residents.

4. Zoning Ordinance Consistency. The Project site is located in UV Urban Village Zoning District.

Use Regulations

Pursuant to Table 20-138 in Section 20.55.203 of the Zoning Code, a mixed use development is permitted in the UV Urban Village Zoning District with a Site Development Permit. Because the Project site is within the West San Carlos Urban Village Plan, the Plan's development standards apply. Where the Plan is silent, standards enumerated in Table 20-136 of Section 20.55.100 of the Municipal Code apply.

Development Standards

The Project, through design or Density Bonus concessions/waivers, conforms with all required development standards relevant to this Vesting Tentative Map, of the UV Urban Village Zoning District and the West San Carlos Urban Village Plan, as outlined below.

Development Standard	Requirements	Provided by Project
Minimum Lot Area	6,000 square feet	24,393 square feet
Mixed Use FAR	Max 10.0	0.7
Mixed Use Density (du/acre)	Min. 55	168
100% Affordable Residential Density (du/acre)	55-250	168
Front setback, (West San Carlos Street) (UVP)	10 feet maximum	4 feet
Side (corner) setback; adjacent to Cleveland Avenue (UVP)	10 feet maximum	3 feet, 11 inches

Development Standard	Requirements	Provided by Project
Side (interior) setback; adjacent to commercial use (UVP)	30 feet minimum	10 inches (Density Bonus waiver requested)
Side (interior); adjacent to surface parking lot (UVP)	30 feet minimum	6 inches (Density Bonus waiver requested)
Side (interior); north side of adjacent commercial building (UVP)	30 feet minimum	6 inches (Density Bonus waiver requested)
Rear setback (UVP)	15 feet minimum	5 feet to 9 feet, 11 inches (Density Bonus waiver requested)

Analysis: As shown on the approved Site Development Permit plan set and Vesting Tentative Map, the Project conforms with all required development standards pursuant to the adopted West San Carlos Urban Village Plan and the UV Urban Village Zoning District by design or through Density Bonus waivers.

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

Based on review of the Project subdivision and as described in Zoning Ordinance consistency section 4 above, the Council of the City of San José does not make any such findings to deny the subject subdivision. The map and the development's design are consistent with the San José Envision 2040 General Plan designation of Urban Village and the Urban Village Zoning District, as discussed above. The site is physically suitable for the proposed development in that the Project density and FAR and lot sizes are in conformance with the Urban Village land use designation and UV Urban Village Zoning District.

A Mitigated Negative Declaration and a related Mitigation Monitoring and Reporting Program has been adopted by the City Council. The Project site and the surrounding area are currently developed with commercial structures and the site is located within

an urban environment and does not contain historic resources, sensitive habitats, or wildlife. do not provide a natural habitat for either fish or wildlife. Therefore, the subdivision and subsequent improvements would not result in serious public health concerns.

- 6. Tentative Map Findings.** In accordance with Section 66474 of the Government Code of the State of California, the City Council of the City of San José, in consideration of the proposed subdivision shown on the Tentative Map with the imposed conditions, shall deny approval of a Tentative Map, if the Director makes any of the following findings:
- a. That the proposed map is not consistent with applicable General and Specific Plans as specified in Section 65451.
 - b. That the design or improvement of the proposed subdivision is not consistent with applicable General and Specific Plans.
 - c. That the site is not physically suitable for the type of development.
 - d. That the site is not physically suitable for the proposed density of development.
 - e. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
 - f. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
 - g. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Analysis: Based on the review of the subdivision, which consists of a Vesting Tentative Map to combine five commercial lots totaling approximately 24,393 square feet into one lot resulting in approximately 0.56 acres, the City Council does not make any such findings to deny the subject subdivision. The Project is consistent with the General Plan land use designation, as discussed in the Envision San José 2040 General Plan Conformance section above. The site is physically suitable for the Project in that it meets the lot design standards established under Title 19, as discussed in the Zoning Conformance section above, and the associated Site Development Permit (H23-005) would allow the construction of a mixed-use development with a density and FAR consistent with the UV Urban Village Zoning District.

7. City Council Policy Consistency

City Council Policy 6-30: Public Outreach Policy

Staff followed Council Policy 6-30: Public Outreach Policy to inform the public of the Project. One on-site sign was posted on the property since September 23, 2023. A Community Meeting was held on September 23, 2024, via Zoom. Four members of

the public attended the meeting. 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 December 20, 2024. The staff report is also posted on the City's website. Staff has also been available to respond to questions from the public.

- 8. Environmental Review.** The City of San José, as the lead agency for the Project, prepared an Initial Study/Mitigated Negative Declaration (IS/MND) (State Clearinghouse No. 2024101398) for the 1921 and 1927 West San Carlos Project (Burbank 45/C21-034/GPA23-001/H23-005/T23-003/ER23-026) in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines. The potential environmental impacts of the subject Project were analyzed in the IS/MND and was circulated for public review and comment from October 28, 2024, through November 20, 2024. The Mitigated Negative Declaration was approved by the Director of Planning, Building and Code Enforcement on October 22, 2024.

The IS/MND identified potential impacts to Air Quality, Hazards and Hazardous Materials, Noise and Tribal Cultural Resources. The Project includes a Mitigation Monitoring and Reporting Program (MMRP) which outlines specific mitigation measures that the applicant must comply with to address the impact and incorporates standard conditions and best management practices for construction activities. The IS/MND concluded that the proposed Project would not result in a significant and unavoidable impact and an MND is the appropriate level of CEQA clearance for the Project.

Five comment letters were received during the public review period. The comments received did not result in any substantive changes to the Project description, analyses, and/or impacts that were previously disclosed in the IS/MND. While not required under the CEQA Guidelines for an IS/MND, these environmental comments were addressed in a formal response in the Responses to Comments document, posted on the City's Environmental Review page under the subject Project's heading; commenters also received a response from staff via email.

In accordance with the findings set forth above, a Tentative Map to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. This City Council expressly declares that it would not have granted this permit and determination 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 permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Annexation Certification.** The City will issue the permit upon the successful certification of annexation of the subject property into the City of San José, which includes satisfying all conditions of annexation as laid out in the initiating and ordering annexation resolutions adopted by the City Council.
2. **Acceptance of Tentative Map.** Per Section 19.12.230, should the Subdivider fail to file a timely and valid appeal of this Tentative Map within the applicable appeal period, such inaction by the Subdivider shall be deemed to constitute all of the following on behalf of the Subdivider:
 - a. Acceptance of the Tentative Map by the Subdivider; and
 - b. Agreement by the Subdivider to be bound by, to comply with, and to do all things required of or by the Subdivider pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 19 applicable to such Tentative Map.
3. **Map Expiration.** This Vesting Tentative Map shall automatically expire 30 months from and after the date of issuance hereof by the City Council, if within such time period, a Final Map has not been obtained, pursuant to and in accordance with the provisions of this Tentative Map. The date of issuance is the date this Tentative Map is approved by the City Council. However, the Director of Planning may approve a Tentative Map Extension to extend the validity of this Tentative Map in accordance with Title 19. An extension of the approval of the Tentative Map shall not exceed two years by the City Council or the Director of Planning.
4. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, state, and federal laws.
5. **Improvements.** Pursuant to the Subdivision Agreement (hereinafter referred to as "Agreement"), the Subdivider shall, before approval and recording of the Final Map, improve or agree to improve all land within the subdivision and all land outside, but appurtenant to, the Subdivision shown on the Tentative Map for public or private streets, alleys, pedestrian ways and easements to the satisfaction of the Director of Public Works.
6. **Improvement Contract.** In the event the Subdivider has not completed the improvements required for the proposed subdivision at the time the final map is presented for approval, Subdivider shall enter into an improvement contract pursuant to Agreement with the City of San José, in accordance with Section 19.32.130 of the San José Municipal Code and shall provide the bonds and insurance mentioned therein.
7. **Public Use Easements.** The Subdivider shall dedicate on the final map for public use easements for public utilities, streets, pedestrian ways, sanitary sewers, drainage, flood control channels, water systems and slope easements in and upon all areas within the subdivision shown on the Tentative Map for the subdivision to be devoted to such purposes.

8. **Distribution Facilities.** The Subdivider shall, at no cost to the City, cause all new or replacement electricity distribution facilities (up to 40KV), telephone, community cable, and other distribution facilities located on the subject property to be placed underground.
9. **Conformance with Other Permits.** The subject Tentative Map conforms to and complies in all respects with the Site Development Permit File No. H23-005 and as may be amended, on which such Tentative Map is based. Approval of said Map shall automatically expire with respect to any portion of the lands covered by such Tentative Map on which a Final Map or Tract Map has not yet been recorded if, prior to recordation of a Final Map or Tract Map thereon, the Site Development Permit for such lands automatically expires or for any reason ceases to be operative.
10. **Final Map.** No Final Map or Tract Map shall be approved by City Council unless and until the appeal period for the development permit, City File No. H23-005, has expired and all appeals have been exhausted.
11. **Multiple Final Maps.** Multiple Final Maps may be filed for this subdivision if each and all of the following conditions are met with each Final Map:
 - a. All fees associated with development and a part of this approval shall be apportioned and paid for each portion of this subdivision for which a Final Map is being filed, including but not limited to Parkland Dedication, undergrounding of utilities, drainage, area and sewer treatment plan.
 - b. All public streets on which each Final Map has frontage shall be improved or bonded to be improved to the satisfaction of the Director of Public Works.
 - c. All grading, drainage, and easements for drainage, adequate to protect each lot for which a Final Map is requested, and surrounding parcels which could be impacted by such design or lack of design, shall be guaranteed to the satisfaction of the Director of Public Works.
 - d. Any and all off-site improvements necessary for mitigation of impacts brought about by this project shall be apportioned to the degree possible to guarantee adequate mitigation for each area for which a Final Map is being filed, to the satisfaction of the Director of Public Works.
 - e. For final maps that are phased, where the phasing is not specified, the applicant is required to process a Permit Amendment to specify the phases and phased improvements. All improvements must be in conformance with the associated development permit, as may be amended.
12. **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.

13. Inclusionary Housing Ordinance Requirements for Mixed Use Developments.

The permittee has submitted an Affordable Housing Compliance Plan Application ("Plan") and processing/application fees. Approval of the Plan is required prior to the development's planning application being deemed complete and prior to Planning's first approval.

- a. Prior to earliest of: Approval of any parcel or final map or issuance of any building permits, the permittee must execute and record their Affordable Housing Agreement memorializing the IHO obligations against the property, any other property required for the satisfaction of the compliance option selected in the Plan, and record the Affordable Housing Agreement or a City covenant against contiguous property under common ownership and control. No building permit may issue except consistent with the requirements of the IHO and the proposed Plan to fulfill the affordable housing obligations.
- b. Permittee must strictly comply with each requirement of the approved Affordable Housing Compliance Plan, the Affordable Housing Agreement, and any other applicable requirements of the IHO or its guidelines, and submit any additional or updated documents requested by the Housing Department in connection with the satisfaction of the compliance option selected in the Plan.
- c. No temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the IHO, its guidelines and the Affordable Housing Agreement are met.

14. Standard Environmental Conditions.

a. Air Quality

- i. Water active construction areas at least twice daily or as often as needed to control dust emissions.
- ii. Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- iii. Remove visible mud or dirt track-out onto adjacent public roads using wet

power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

- iv. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- v. Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- vi. Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- vii. Replant vegetation in disturbed areas as quickly as possible.
- viii. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- ix. Minimize idling times either by shutting off equipment when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
- x. Maintain and properly tune construction equipment in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- xi. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

b. Biological Resources

- i. **Santa Clara Valley Habitat Plan.** The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to 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 (PBCE) or the Director's designee for approval and payment of the nitrogen deposition fee 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>.

c. Cultural Resources.

- i. 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 (PBCE) 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

representative registered with the Native American Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall examine the find. The archaeologist 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 Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

- ii. If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
 - iii. 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.
 - iv. The MLD identified fails to make a recommendation; or
 - v. The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

d. Geology and Soils.

- i. To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in

- conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.
- ii. All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
 - iii. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
 - iv. Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
 - v. The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.
 - vi. If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement (PBCE) shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or the Director's designee.

e. Hazards and Hazardous Materials.

- 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.

f. Hydrology and 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 required to cover all trucks or 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 knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City.
- ix. The project applicant 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.

g. Construction-Related Noise.

- i. Limit construction hours to between 7:00 a.m. and 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- ii. Construct solid plywood fences around ground level construction sites adjacent to operational business, residences, or other noise-sensitive land uses.
- iii. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- iv. Prohibit unnecessary idling of internal combustion engines.
- v. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- vi. Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- vii. Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
- viii. 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 adjacent land uses and nearby residences.
- ix. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- x. Designate a “disturbance coordinator” who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and 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.

15. Public Works Clearance for Building Permit(s) or Map Approval: Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the Permittee will be required to have satisfied all of the following Public Works conditions. The Permittee is strongly advised to apply for any necessary Public Works permits prior to applying for Building

permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/devresources>.

- a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
- b. **Transportation:** A Local Transportation Analysis (LTA) has been completed for this project based on 45 net AM peak-hour trips and 48 net PM peak hour trips. See separate Traffic Memo dated November 5, 2024 for additional information. The following conditions shall be implemented:
 - i. Provide two (2) 26-foot-wide, full-access driveways along Cleveland Avenue.
 - ii. Provide a monetary contribution for an in-lieu fee (\$144 per linear foot) for future Class IV protected bike lane implementation along the West San Carlos Street project frontage per the CSJ Better Bike Plan 2025.
 - iii. Contribute a \$25K monetary contribution toward a potential future enhanced pedestrian crosswalk at the intersection of San Carlos Street/Vaughn Avenue.
- c. **Urban Village Plan:** This Project is located in the West San Carlos Urban Village which is a designated Urban Village per the Envision San José 2040 General Plan. Urban Villages are designed to provide a vibrant and inviting mixed-use setting to attract pedestrians, bicyclists, and transit users of all ages and to promote job growth.
- d. **Grand Boulevard:** This project fronts W. San Carlos 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.
- e. **Grading/Geology:**
 - i. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
 - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The Project shall provide storm drainage calculations that adhere to the latest California

- Plumbing Code as adopted under the City of San José Municipal Code Section 24.04.100 or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
- iii. A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit. This report should include, but is not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations.
- 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) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
- i. The Project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this Project shall be in conformance with City Policy 6-29.
 - ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
 - iii. A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating that all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.
 - iv. Media Filter Unit(s) located within Building footprints must conform to Building Division Directive P-005 located at the following:
<http://www.sanjoseca.gov/home/showdocument?id=27405>
- g. **Stormwater Peak Flow Control Measures:** The Project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
- 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 prior to issuance of Public Works clearance.

- j. **Parks:** This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San José Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San José Municipal Code) 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 in the chapter.
- k. **Undergrounding:** Undergrounding fees will not be collected as West San Carlos Street is an Underground District formed prior to 07/01/1988 and is exempt from future underground fees.
- l. **Street Improvements:**
 - i. Construct 20-foot-wide attached sidewalk with 5 feet by 5 feet tree wells along San Carlos St. project frontage per San Carlos St Urban Village Document. Provide approximately 3' wide street easement and 9' wide sidewalk easement to accommodate the new sidewalk width.
 - a. The recommended street trees are *Ulmus* 'Morton' spaced 35 feet on center. Construct 10-foot-wide detached sidewalk with parkstrip along Cleveland Avenue project frontage.
 - ii. Construct 10-foot-wide detached sidewalk with parkstrip along Cleveland Avenue project frontage.
 - a. The recommended street trees are *Aesculus carnea* spaced 30-foot on center.
 - iii. Construct two (2) 26-foot-wide driveways along Cleveland Avenue frontage per City of San José Standards.
 - iv. Install a red curb along the Cleveland Avenue project frontage to ensure adequate sight distance.
 - v. Construct or provide monetary contribution for an in-lieu fee to the Class IV protected bike lane along the San Carlos Street project frontage per the CSJ Better Bike Plan 2025 (\$144 per linear foot).
 - vi. Provide a voluntary \$25K monetary contribution for implementation of a future enhanced crosswalk (curb ramps, RRFBs, median island work) at the w. San Carlos/Vaughn Avenue intersection.
 - vii. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - viii. Remove and replace broken, uplifted curb and gutter as well as broken, uplifted or non-ADA compliant sidewalk along project frontage and within boundaries of annexation area to meet current city standards.

- ix. Developer shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the project frontage.
- x. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
- xi. 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.
- m. **SNI:** This project is located within the Burbank/Del Monte SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.
- n. **Electrical:** Existing electroliers along the Project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
- o. **Street Trees:**
 - i. The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within 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 along West San Carlos Street shall be planted 35' on center and shall be *Ulmus* 'Morton'. Street trees along Cleveland Avenue shall be in the parkstrip planted 30' on center and shall be *Aesculus Carnea*. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
 - ii. Show all existing trees by species and diameter that are to be retained or removed. Obtain a street tree removal permit for any street trees that are over 6 feet in height that are proposed to be removed.
- p. **Public Infrastructure Condition Assessment:** At the issuance of the first Public Works permit, including Grading and Drainage Permit, the Developer shall prepare a Condition Assessment in coordination with Department of Public Works of all public infrastructure within the annexation boundary, including but not limited to, sidewalk, street pavement, street trees, and streetlights for City of San José review. Developer shall repair, reconstruct, or install street improvements as deemed necessary for public safety to the satisfaction of the Director of Public Works.
- q. **Sanitary Sewer Condition Assessment:** Prior to the annexation certification, the Developer shall retain a Pipeline Assessment and Certification Program (PACP) certified professional and coordinate with Department of Public Works to complete

a condition assessment/evaluation of the Burbank Sanitary sewer pipes within the certified boundary of Burbank 45 (i.e., portion of Cleveland Avenue). The City of San José's Department of Public Works and/or Department of Transportation staff shall be present during assessment of sewer pipes. The Developer shall be responsible for repairing any grade 3 or higher defects as defined by the PACP rating system.

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

In accordance with the findings set forth above, a Tentative Map Permit to use the subject property for said purpose specified above, subject to conditions, 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.

**ANNEXATION NO.
ANNEXATION TO CITY OF SAN JOSE**

THE LAND REFERRED TO IS SITUATED IN THE UNINCORPORATED AREA OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

BEING A PORTION OF CLEVELAND AVENUE AND LOT 9 AND ALL OF LOTS 10, 11, 12, AND 13, BLOCK 13 OF THAT CERTAIN MAP ENTITLED "INTERURBAN PARK TRACT" DATED DECEMBER 5, 1904 AND RECORDED IN BOOK K OF MAPS, PAGE 21, SANTA CLARA COUNTY RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHEASTERN CORNER OF THE AFOREMENTIONED LOT 13, BLOCK 13 OF THAT CERTAIN MAP ENTITLED "INTERURBAN PARK TRACT" DATED DECEMBER 5, 1904 AND RECORDED IN BOOK K OF MAPS, PAGE 21, SANTA CLARA COUNTY RECORDS, SAME BEING THE TRUE POINT OF BEGINNING OF THE BURBANK NO. 40 ANNEXATION TO THE CITY OF SAN JOSE AS DESCRIBED IN RESOLUTION NO. 74505 DATED MAY 20, 2008; FROM WHICH A 3/4" IRON PIPE FOUND BEARS NORTH 89°59'38" WEST, 103.28 FEET, BEING 5 FEET EAST OF THE CENTERLINE OF SAID CLEVELAND;

THENCE ALONG THE NORTHERLY LINE OF WEST SAN CARLOS STREET, (1) NORTH 89°59'38" WEST, 133.28 FEET TO THE WESTERLY RIGHT OF WAY LINE OF CLEVELAND AVENUE;

THENCE ALONG THE WEST LINE OF SAID CLEVELAND AVENUE, (2) NORTH 0°08'17" WEST, 260.03 FEET;

THENCE (3) NORTH 89°51'43" EAST, 50.00 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 9, SAME BEING THE EASTERLY RIGHT OF WAY LINE OF CLEVELAND AVENUE;

THENCE ALONG THE WEST LINE OF SAID LOT 9, (4) SOUTH 0°08'17" EAST, 22.49 FEET;

THENCE CROSSING SAID LOT 9, (5) SOUTH 89°59'38" EAST, 124.92 FEET TO A POINT ON THE EAST LINE OF SAID LOT 9, SAME BEING THE WEST LINE OF LOT 23;


THENCE ALONG SAID COMMON LINE, (6) SOUTH 0°08'17" EAST, 112.66 FEET TO THE SOUTHERLY LINE OF SAID LOT 11, BLOCK 13 OF SAID INTERURBAN PARK TRACT;

THENCE ALONG SAID SOUTHERLY LINE, (7) NORTH 89°59'38" WEST, 41.63 FEET TO THE EASTERLY LINE OF SAID LOT 13, ALSO BEING THE WESTERLY LINE OF PARCEL 1 OF THAT CERTAIN PARCEL MAP DATED DECEMBER 18, 2009 AND RECORDED IN BOOK 834 OF MAPS, PAGES 50-51, SANTA CLARA COUNTY RECORDS;

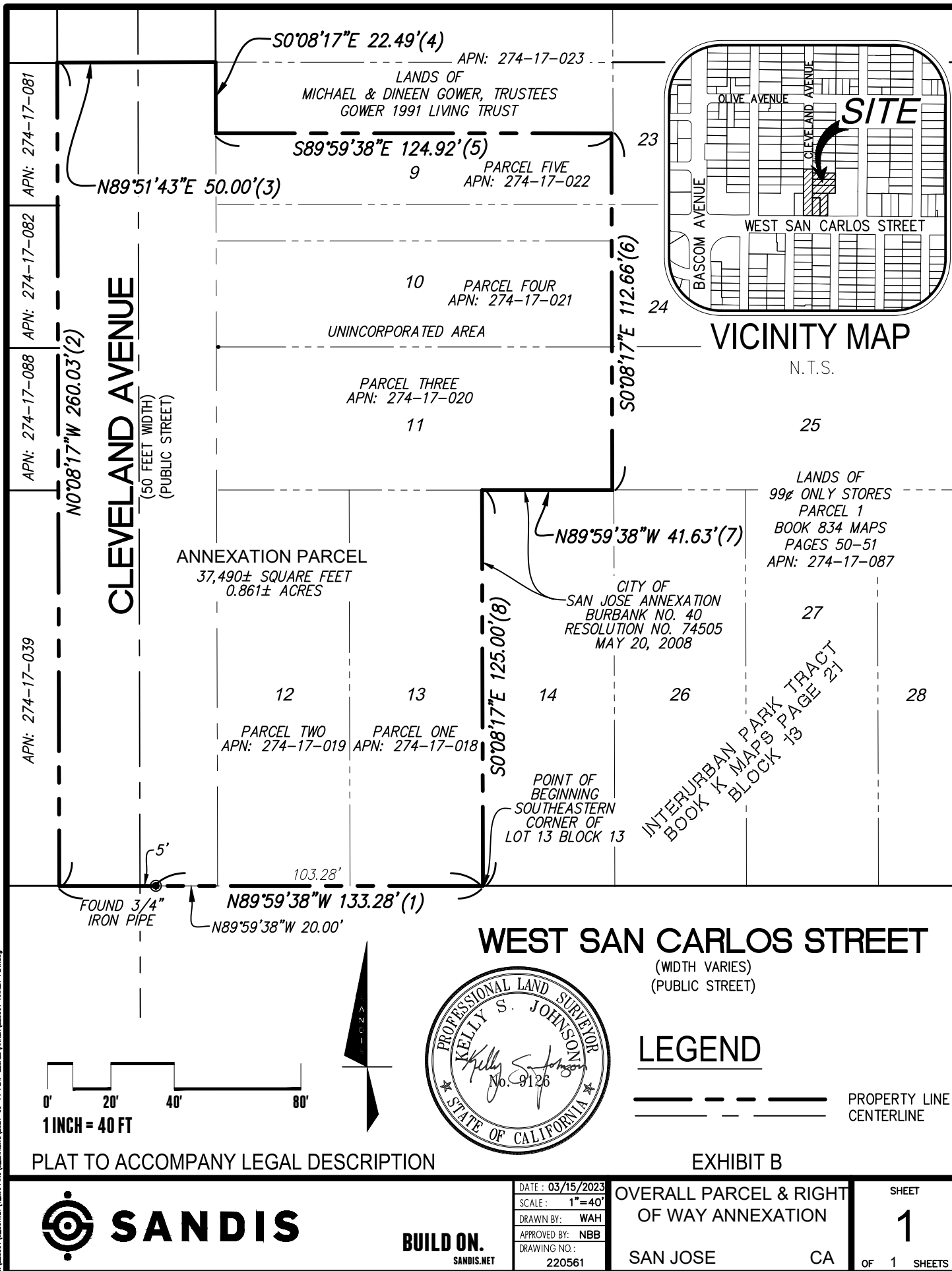
THENCE ALONG SAID COMMON LINE, (8) SOUTH 0°08'17" EAST, 125.00 FEET TO THE **POINT OF BEGINNING.**

SAID PARCEL AREA CONTAINING 24,485 SQUARE FEET OR 0.562 ACRES, AS SHOWN ON ATTACHED EXHIBIT "B", WHICH BY THIS REFERENCE IS MADE A PART HEREOF.

THIS DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE CALIFORNIA PROFESSIONAL LAND SURVEYORS ACT.


Kelly S. Johnson, PLS 9126
Date: March 17, 2023





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**220561-MAPCHECK
ANNEXATION PARCEL**

Survey Tech: Wayne Holland

Closure Summary

Precision, 1 part in: 74427.01'

Error distance: 0.01'

Error direction: N60°12'21"E

Area: 37489.79 Sq. Ft.

Square area: 37489.789

Perimeter: 870.01'

Point of Beginning

Easting: 5193.5461'

Northing: 1989.3279'

Side 1: Line

Direction: N89°59'38"W

Angle: [90°00'22"]

Deflection angle: [-89°59'38"]

Distance: 133.28'

Easting: 5060.2661'

Northing: 1989.3422'

Side 2: Line

Direction: N0°08'17"W

Angle: [-90°08'39"]

Deflection angle: [89°51'21"]

Distance: 260.03'

Easting: 5059.6396'

Northing: 2249.3714'

Side 3: Line

Direction: N89°51'43"E
Angle: [-90°00'00"]
Deflection angle: [90°00'00"]
Distance: 50.00'
Easting: 5109.6394'
Northing: 2249.4919'

Side 4: Line

Direction: S0°08'17"E
Angle: [-90°00'00"]
Deflection angle: [90°00'00"]
Distance: 22.49'
Easting: 5109.6936'
Northing: 2227.0019'

Side 5: Line

Direction: S89°59'38"E
Angle: [90°08'39"]
Deflection angle: [-89°51'21"]
Distance: 124.92'
Easting: 5234.6136'
Northing: 2226.9886'

Side 6: Line

Direction: S0°08'17"E
Angle: [-90°08'39"]
Deflection angle: [89°51'21"]
Distance: 112.66'
Easting: 5234.8851'
Northing: 2114.3290'

Side 7: Line

Direction: N89°59'38"W

EXHIBIT "B" (File Nos. C21-034, GP23-001, H23-005, T23-003)

Angle: [-89°51'21"]

Deflection angle: [90°08'39"]

Distance: 41.63'

Easting: 5193.2551'

Northing: 2114.3334'

Side 8: Line

Direction: S0°08'17"E

Angle: [89°51'21"]

Deflection angle: [-90°08'39"]

Distance: 125.00'

Easting: 5193.5563'

Northing: 1989.3338'.0054'

