

RESOLUTION NO. ____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING A VESTING TENTATIVE MAP, SUBJECT TO CONDITIONS, TO COMBINE THREE PARCELS INTO ONE AND TO SUBDIVIDE THE PARCEL INTO 130 RESIDENTIAL CONDOMINIUMS AND A COMMON AREA ON A 1.05 GROSS ACRE SITE, GENERALLY LOCATED AT THE NORTH SIDE OF AUZERAIS AVENUE (425 AUZERAIS; APN: 264-26-088, 433, 435, AND 437 AUZERAIS AVENUE; APN: 264-26-017) AND THE WEST SIDE OF DELMAS AVENUE (383 DELMAS AVENUE; APN: 264-26-013)

FILE NO. T17-015

WHEREAS, pursuant to the provisions of Chapter 19.13 of Title 19 of the San José Municipal Code, on March 21, 2018, an application (File No. T17-015) was filed by the applicant, Auzerais SJ LLC Et Al, with the City of San José, for a Vesting Tentative Map to combine three parcels into one parcel and to subdivide the parcel into 130 residential condominium units and a common area, on that certain real property situated in the DC Downtown Primary Commercial Zoning District and located on the north side of Auzerais Avenue and the west side of Delmas Avenue (383 Delmas Avenue; APN: 264-26-013, 425 Auzerais Avenue; APN: 264-26-088, 433, 435, and 437 Auzerais Avenue, APN: 264-26-017), 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 Exhibits "A1 and A2," entitled “Legal Description” and depicted in Exhibits “B1 and B2,” entitled “Plat Maps,” which are attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Planning Commission conducted a hearing on said application

on May 23, 2018, 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 recommendations of the 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 development plan for the subject property entitled "Vesting Tentative Map," dated received on April 16, 2018, 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 development 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.

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

JOSE THAT:

After considering all of the evidence presented at the Public Hearing, the City Council finds that the following are the relevant facts regarding this proposed project:

1. **Site Description and Surrounding Uses.** The project site is located on the north side of Auzerais Avenue and the west side of Delmas Avenue within the Park/San Carlos area of the Diridon Station Area Plan. The project site consists of three parcels (APN: 264-26-013; APN: 264-26-017; and APN 264-26-088) that are currently developed with a one-story single-family residence and auxiliary structure, a vacant one-story residence partially destroyed by a previous fire, a one-story commercial building and a two-story commercial building. North of the project site are single-family residential uses. South of the project site is an existing restaurant, single-family residences, and a commercial business. East of the project site is the Guadalupe Freeway (CA-87) and west of the project site are single-family residential uses. The nearby single-family residential uses are primarily one-story structures. The project site is also adjacent to a previously approved (2016) development project (File Numbers C15-047, H15-046, and T15-058) located to the north of the project site that will construct a five-story building with 120 residential units.
2. **Project Description.** The project would allow the demolition of four existing structures, removal of two ordinance sized trees, and the construction of a new six-story 130 residential units, the utilization of Transportation Demand Management (TDM) measures to reduce the parking requirements by 50%, and an alternative parking design (i.e., car lifts), and to combine three parcels into one parcel, and to subdivide the parcel into 130 residential condominium units and a common area. The project proposes parking, lobby areas, and a community room on the ground floor with residential units on floors two through six. The proposed car lifts are located on the ground floor and there are 55 proposed car lifts. A surface parking lot can be accessed on Auzerais Avenue.
3. **General Plan Conformance.** The project site has an Envision San José 2040 General Plan Land Use/Transportation Diagram designation of Downtown and Residential Neighborhood. The Downtown designation allows office, retail, service, residential, and entertainment uses in the Downtown. Development within the Downtown designation is at very high intensities, unless incompatibility with other major policies within the General Plan (such as Historic Preservation Policies) indicates otherwise. The Residential Neighborhood designation is applied broadly throughout the City to encompass most of the established, single-family residential neighborhoods, including both the suburban and traditional residential neighborhood areas which comprise the majority of its developed land.

The portion of the project site that has a General Plan land use designation of Residential Neighborhood is proposed to be used as common open space for the proposed project. The General Plan land use designation of Residential Neighborhood envisions lower

densities (typically eight dwelling units per acre and/or matching existing neighborhood character) and strictly limits development to closely conform to the existing neighborhood form and pattern. This portion of the project site is also not located in the Diridon Station Area Plan boundary. By utilizing this portion of the project site as the common open space, the project is providing a transition from the densities allowed in General Plan land use designation of Downtown to the densities and forms allowed in the General Plan land use designation of Residential Neighborhood. The site design allows a buffer between the existing single-family residential uses located along Gifford Avenue and the six-story building.

The proposed Conforming Rezoning, Special Use Permit, and Site Development Permit are consistent with the following General Plan policies:

Major Strategy #8- Destination Downtown: Support continued growth in the Downtown as the City's cultural center and as a unique and important employment and residential neighborhood. Focusing growth within the Downtown will support the Plan's economic, fiscal, environmental, and urban design/placemaking goals.

Land Use Policy LU-3.1: Provide maximum flexibility in mixing uses throughout the Downtown Area. Support intensive employment, entertainment, cultural, public/quasi-public, and residential uses in compact, intensive forms to maximize social interaction; to serve as a focal point for residents, businesses, and visitors; and to further the Vision of the Envision General Plan.

Analysis for Major Strategy #8 and LU-3.1: The General Plan land use designation for the project site is Downtown, which supports significant intensification of underutilized sites. The proposed project is a 130-unit residential project which will contribute to the growing critical population mass of the Downtown in support of economic, fiscal, environmental, and urban design/placemaking goals and act as a transition to lower intensity residential uses.

Implementation Policy IP-1.6: Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram and advance Envision General Plan vision, goals, and policies.

Implementation Policy IP-1.7: Use standard Zoning Districts to promote consistent development patterns when implementing new land use entitlements. Limit use of the Planned Development Zoning process to unique types of development or land uses which cannot be implemented through standard Zoning Districts, or to sites with unusual physical characteristics that require special consideration due to those constraints.

Implementation Policy IP-8.2: Use the City's conventional zoning districts, contained in its Zoning Ordinance, to implement the Envision General Plan Land Use/Transportation Diagram. These districts include a range of allowed land uses, development intensities, and standards within major land use categories (residential, commercial and industrial) together with zoning districts for other land uses such as mixed-use and open space. The various ranges of allowed use and development intensity correspond generally to

the respective Envision General Plan land use designations, while providing greater detail as to the appropriate land uses and form of development.

Analysis for IP-1.6, IP-1.7, and IP-8.2: The proposed rezoning would change the zoning of two parcels (APN: 264-26-088 and APN: 264-26-013) on the site from the LI Light Industrial and R-2 Two-Family Residential Zoning Districts to the DC Downtown Primary Commercial Zoning District. The DC Downtown Primary Commercial Zoning District is consistent with the General Plan land use designation and Diridon Station Area Plan designation of Downtown and is a conventional district. The third parcel that fronts Auzerais Avenue (APN: 264-26-017) is proposed to remain as the R-2 Two-Family Residential Zoning District, consistent with the project site's General Plan land use designation of Residential Neighborhood.

Land Use Policy LU-2.1: Provide significant job and housing growth capacity within strategically identified "Growth Areas" in order to maximize use of existing or planned infrastructure (including fixed transit facilities), minimize the environmental impacts of new development, provide for more efficient delivery of City services, and foster the development of more vibrant, walkable urban settings.

Analysis for LU-2.1: The proposed project is providing an additional 130 residential units to contribute to the critical population mass of the Downtown area in support of vibrant, walkable urban settings. The Downtown is considered a Growth Area as stated in the General Plan. The project site is also in support of existing and planned transit facilities located approximately 0.7 mile from the Diridon Station, within approximately 0.4 mile from the Valley Transportation Authority (VTA) San Fernando Light Rail station and within approximately 0.2 mile from a VTA bus stop (routes 23 and 81).

- 4. Diridon Station Area Plan Conformance.** The Diridon Station Area Plan (DSAP), approved by the San José City Council in June 2014, establishes a mix of vibrant uses and districts that build off the synergy and activity of the San José Arena and an expanded Diridon Station. Employment, retail, and entertainment uses are focused at the Diridon Station core to support transit activity and establish the area as a regionwide destination. Residential and supportive commercial uses are located within an easy walk to the Station core. The neighborhood components are located strategically in order to minimize impacts from transportation infrastructure and to strengthen existing neighborhoods.

A portion of the project is located within the Diridon Station Area Plan (DSAP) boundary. The proposed location of the common open space is not located within the Diridon Station Area Plan boundary. The Diridon Station Area Plan has a designation of Downtown for the project site and the project site is located in the Southern Zone, subarea F (Park/San Carlos). The Diridon Station Area Plan land use classification of Downtown supports residential uses as well as non-residential uses, including office, retail, service, hotel, medical, and entertainment uses. The Park/San Carlos area is a mix of new and existing uses neighborhood with a mix of older, newer, smaller and large properties.

Design Guidelines

The Diridon Station Area Plan's Design Guidelines represent a long-term vision for the area. Various design aspects are discussed in detail below.

Maximum Build-Out

The Diridon Station Area Plan anticipates the eventual build-out for the area, establishing the maximum theoretical development that could occur. This site allows a maximum of 154 residential units, up to 15,000 square feet of retail (although not required as the site does not have a required retail frontage requirement). The project is in conformance with these requirements.

Height

Guidelines are provided on the maximum height of buildings in the Diridon Station Area. The DSAP allows for a maximum building height of eight stories. These guidelines are consistent with the Federal Aviation Administration's (FAA) Part 77 Airport Approach Zone height limits and with the Santa Clara County Airport Land Use Commission's (ALUC) Comprehensive Land Use Plan (CLUP). To continue the safe operation of the Mineta San José International Airport, the maximum height is 75 feet as designated by the FAA. The maximum building height in the DSAP Southern Zone is intended to ensure the compatibility of new development with the surrounding relatively low density residential neighborhoods. The eight-story maximum height limit in the Diridon Station Area Plan discourages taller buildings adjacent to areas with existing single-family homes and requires the new development to be set back from the established single-family areas. The maximum height of the proposed project is approximately 73 feet, which is below 75 feet and therefore complies with the maximum height allowed by the Federal Aviation Administration's height limits.

Setbacks

The Diridon Station Area Plan requires that residential buildings be set back up to 15 feet from the street-facing property line to allow a transition zone between the public and private spaces. The project has a setback of 15 feet, 5 inches on Delmas Avenue and a varying setback of 10 feet, 5 inches to 17 feet, 4 inches on Auzerais Avenue. The project complies with the setback from the street-facing property line on Delmas Avenue of 15 feet; however, the project does not completely comply with the setback from the street-facing property line on Auzerais Avenue as the setback on Auzerais Avenue varies from 10 feet, 5 inches to 17 feet, 4 inches. As previously stated, the Diridon Station Area Plan requires a 15-foot setback from the street-facing property line. The extra 2 feet, 4 inches is intended to provide additional depths in the wall plane to create an interesting architectural expression and aesthetic, consistent with the Residential Design Guidelines.

The project provides an outdoor recreational area between the existing single-family residences and the building (APN: 264-26-017). The proposed outdoor recreational area

acts as a buffer and a setback from the existing single-family residences and the proposed building. This buffer area provides a setback to the existing single-family residences ranging from 30 feet to 70 feet.

Parking Design

The Diridon Station Area Plan states that structured parking that fronts onto streets should be wrapped with habitable space whenever possible and any exposed parking structure façade should be screened with architectural elements and/or vegetation. The project is placing the lobby areas and community room in front of the street, and effectively screening the garage from Auzerais Avenue and Delmas Avenue.

Building Siting

The Diridon Station Area Plan requires minimization of the visual impacts of non-active spaces by placing them behind active uses and landscaping. The only non-active use on the project site is the parking garage entrance along the Auzerais Avenue frontage. The parking garage is articulated with an aluminum and frosted glass door, and a fire riser room. The landscaping located in front of the fire riser room includes a variety of shrubs that will provide screening of the blank wall. The garage entrance is approximately 20 feet wide, which is the minimum for a two-direction drive aisle. The remaining areas of the Auzerais Avenue project frontage includes active spaces with large, transparent windows, an entrance to the building lobby, bicycle parking and a community room.

5. **Zoning Ordinance Compliance.** The parcels at 425 Auzerais Avenue (APN: 264-26-088) and 383 Delmas (APN: 264-26-013) were rezoned from the LI Light Industrial Zoning District/R-2 Two-Family Residence Zoning District and the LI Light Industrial Zoning District, respectively, to the DC Downtown Primary Commercial Zoning District. The zoning of the parcel at 437 Auzerais Avenue (APN: 264-26-017) remained as R-2 Two-Family Residence Zoning District. The project does not propose any structures on the R-2 Two-Family Residence Zoning District parcel (aside from a seven-foot, six-inch tall bronze metal fence), and will be utilized for common open space.

Setbacks

Properties located in the DC Downtown Primary Commercial Zoning District are not subject to any minimum setback requirements. However, there are setback requirements for the R-2 Two-Family Residence Zoning District (Parcel at APN: 264-26-017). The setback requirements are as follows:

- Front: 15 feet
- Side, interior: 5 feet
- Rear, interior: 25 feet

The parcel would be common open space with only a seven-foot, six-inch tall, 73-foot long bronze metal fence installed 15 feet from the Auzerais Avenue frontage property

line. The project residential building on the DC Downtown Primary Commercial Zoning District would have a setback of 15 feet, 5 inches from Delmas Avenue property line and a stepped setback of 10 feet, 5 inches to 17 feet, 4 inches from the Auzerais Avenue frontage property line. Therefore, the setback requirements are met.

Height

Pursuant to Section 20.70.200 of the San José Municipal Code, properties located in the Downtown zoning districts shall only be subject to the height limitations necessary for the safe operation of San José International Airport. The R-2 Zoning District allows a maximum height of 35 feet. The project does not propose any structures on the portion of the project that contains an R-2 Zoning District. The proposed building has a maximum height of 73 feet, where a maximum of 75 feet is required to maintain the safe operation of Mineta San José International Airport. Therefore, the project complies with the height requirements and meets the height limitations for safe operation of the San José Airport.

Off-Street Vehicle Parking

Section 20.70.100 (Allowed Uses and Permit Requirements) of the San José Municipal Code sets forth the off-street vehicle parking requirements. A residential multiple dwelling unit requires one off-street vehicle parking space per unit. Based on 130 units, 130 off-street vehicle parking spaces are required. The project will have 65 parking spaces. Section 20.70.330 allows the Director of Planning to grant up to a 15 percent parking reduction if the following findings can be made:

- a. Implementation of a Transportation Demand Management (TDM) program. The project has developed a TDM program (prepared by Hexagon Transportation Consultants, Inc.) that has been approved by the Department of Public Works on January 4, 2018 that provides evidence that the TDM program reduces parking demand and identifies the percentage of parking demand that will be reduced through the TDM program. The TDM program will incorporate one or more of the following TDM elements including, but not limited to, measures such as SmartPass transit card, parking cash-out, alternative work schedules, ride sharing, transit support, carpool/vanpools, shared parking, or any other reasonable measures; and
- b. The project demonstrates that 1) it can maintain the TDM program for the life of the project; and 2) it is reasonably certain that the parking shall continue to be provided and maintained at the same location for the services of the building or use for which such parking is required, during the life of the building or use.

The project TDM plan provides the following elements for reducing the demand for parking for the life of the project:

- Provide two free Valley Transportation Authority (VTA) SmartPass (or equivalent) per unit;

- Provide two free car share (Zipcar or equivalent) memberships per unit;
- Provide one free Bay Area Bike Share (or equivalent) membership per unit;
- Provide on-site cargo bicycle share program available to all residents;
- Provide 100 percent unbundled parking; and
- Provide a designated on-site TDM Coordinator and services.

The Homeowners Association, property manager, and/or property owner shall include and maintain the TDM measures for the life of the project.

In addition to the 15% parking reductions allowed in Section 20.70.330, Section 20.90.220 allows up to an additional 50% parking reduction (to be applied after the application of the 15% reduction allowed in Section 20.70.330) if the following elements are met:

- The structure/use is located within 2,000 feet of a proposed or an existing rail station, or bus rapid transit station;
- The project provides all the bicycle parking required by Section 20.90.060;
- The project proposes to implement or develop at least one of the following TDM measures: (1) Implement a carpool/vanpool or car-share program, e.g., carpool ride-matching for employees, assistance with vanpool formation, provision of vanpool or car-share vehicles, etc., and assign carpool, vanpool and car-share parking at the most desirable on-site locations at the ratio set forth in the development permit or development exception considering type of use; or (2) Develop a transit use incentive program for employees and tenants, such as on-site distribution of passes or subsidized transit passes for local transit system (participation in the region-wide Clipper Card or VTA SmartPass system will satisfy this requirement);
- The project proposes at least two of the following measures:
 - (1) Implement a carpool/vanpool or car-share program, e.g., carpool ride-matching for employees, assistance with vanpool formation, provision of vanpool or car-share vehicles, etc., and assign carpool, vanpool and car-share parking at the most desirable on-site locations; or
 - (2) Develop a transit use incentive program for employees, such as on-site distribution of passes or subsidized transit passes for local transit system (participation in the regionwide Clipper Card or VTA SmartPass system will satisfy this requirement); or
 - (3) Provide preferential parking with charging station for electric or alternatively-fueled vehicles; or
 - (4) Provide a guaranteed ride home program; or

- (5) Implement telecommuting and flexible work schedules; or
- (6) Implement parking cash-out program for employees (non-driving employees receive transportation allowance equivalent to the value of subsidized parking); or
- (7) Implement public information elements such as designation of an on-site TDM manager and education of employees regarding alternative transportation options; or
- (8) Make available transportation during the day for emergency use by employees who commute on alternate transportation (this service may be provided by access to company vehicles for private errands during the workday and/or combined with contractual or pre-paid use of taxicabs, shuttles, or other privately provided transportation); or
- (9) Provide shuttle access to Caltrain stations; or
- (10) Provide or contract for on-site or nearby child-care services; or
- (11) Incorporate on-site support services (food service, ATM, drycleaner, gymnasium, etc. where permitted in zoning districts); or
- (12) Provide on-site showers and lockers; or
- (13) Provide a bicycle-share program or free use of bicycles on-site that is available to all tenants of the site; or
- (14) Unbundled parking;

The project meets the requirement for an additional 50% parking reduction because it is located approximately 1,000 feet to Children's Discovery Museum Light Rail Station and approximately 1,900 feet of the San Fernando Light Rail Station and therefore, is located within 2,000 of two existing rail stations. The project is also providing 156 bicycle parking spaces when 130 bicycle parking spaces are required; therefore, the project complies with the bicycle parking requirement. As mentioned above, the project is providing six (6) TDM measures. Because the project is located within 2,000 feet of two existing Light Rail Stations, is providing above the minimum bicycle parking requirement and is proposing six (6) TDM measures, the project is able to utilize additional parking reductions pursuant to Section 20.90.220.

Transportation Demand Management (TDM) Findings. Chapter 20.90.220.A.1.e. requires any project that utilizes a TDM program to make the following findings:

- a. The decision-maker for the project application shall first find in addition to other required findings that the project applicant has demonstrated that it can maintain the TDM program for the life of the project, and it is reasonably certain that the parking shall continue to be provided and maintained at the same location for the services of the building or use for which such parking is required, during the life of the building or use; and

Based upon the TDM plan provided, the applicant can maintain the reduced parking through aggressive programs which encourage reduced car usage. Also, parking is unbundled, which requires the residents to rent parking spaces. The project's close proximity to the Diridon Station, VTA bus lines, Light Rail, and bicycle facilities will incentive the residents to utilize the TDM program features instead of using an automobile.

- b. The decision-maker for the project application also shall first find that the project applicant will provide replacement parking either on-site or off-site within reasonable walking distance for the parking required if the project fails to maintain a TDM program.

If the TDM program fails, the site is located within 500 feet of a public parking lot, and 2,000 feet of the Diridon Station parking. If the project is unable to maintain the TDM program, a Special Use Permit Amendment is required to proceed in order to satisfy the increased parking demand through adjustments to the TDM program or the use of off-site parking facilities. Further, the conditions of approval authorized the Department of Public Works to require other TDM measures if the approved TMD measure are ineffective in reducing parking demands by at least 50%.

Alternative Parking Arrangement

The project will provide 65 spaces with 22 spaces accommodated by an automated parking lift system manufactured by Klaus Multi-parking, Model GmbH Trend Vario 2400 series (<https://www.multiparking.com/index.php?KLAUS-TrendVario-parking-automat-parking-solution>) or equivalent brand and model. The lift allows the desired car to be called to the bottom row without requiring another car to be moved by a different resident. The lift works independently and does not rely on other cars to be moved to bring the car in question forward. This will be accomplished through an Alternative Parking Arrangement per Municipal Code Section 20.90.200:

- a. In addition to any other findings required for a Special Use Permit, the City Council may approve such off-street parking facilities arrangements only upon making the following findings:
 - i. The number of off-street parking spaces provided in such parking facilities adequately meets the parking requirements of the individual buildings and uses as specified in this Chapter 20.90 of this title; in that, 130 parking spaces are required under the Code and 65 are provided.
 - ii. It is reasonably certain that the parking facility shall continue to be provided and maintained at the same location for the service of the building or use for which such facility is required, during the life of the building or use; in that, the lifts are conditioned to maintain their operation for the life of the project.

The parking facility is reasonably convenient and accessible to the buildings or uses to be served; in that, the lifts are located in the ground floor of the building and the lift allows the desired car to be called to the bottom row without requiring another car to be moved by a different resident.

Bicycle Parking

Table 20-140 in Section 20.70.100 of the SJMC requires one bicycle parking space per unit. Based on 130 residential units, 130 bicycle parking spaces are required. Bicycle parking is located in the lobby areas and in the parking garage. The project complies with the bicycle parking requirement by providing 156 bicycle parking spaces and one cargo bicycle parking space (to be shared among the building's tenants) exceeding the required 130 bicycle parking spaces.

- 6. Residential Design Guidelines Conformance.** The Residential Design Guidelines state that Transit-Oriented Development should create interesting and varied building facades that reinforce street activity, visual interest, and "eyes on the street." Additionally, the guidelines state that buildings along pedestrian routes are encouraged to have frontages with minimal or no setbacks. Lastly, the guidelines state that appropriate setbacks and building separations where different housing types abut or face one another should be applied. The project complies with the Residential Design Guidelines by being designed for the pedestrian at the ground level and providing an interesting architectural aesthetic. This project is pedestrian scaled by providing a 12-foot setback from the sidewalk, an awning and entry element at the ground floor, and a dark plaster finish material that provides a distinctive base. Furthermore, reduced building setbacks are appropriate to higher density housing types in areas near downtown to reinforce the planned urban character of the neighborhood.

The project features a varied roof line with varying heights from approximately 65 feet to approximately 73 feet, which helps reduce the mass of the building and provides architectural interest. The project is incorporating a variety of materials, ranging from swiss pearl for the ground floor and entry way element and plaster for the body of the building. The project also includes a varied building façade, recessed windows and protruding balconies, which all contribute to an interesting aesthetic. The project includes an approximately 15,077-square foot outdoor landscaped area, with picnic tables and barbeque facilities. This outdoor landscaped area is located on the western property line to provide a setback from the existing single-family residences. The project includes a community room on the ground floor, and landscaped interior courtyards.

- 7. Environmental Review.** An Addendum to the Diridon Station Area Plan Environmental Impact Report (EIR), San José Downtown Strategy 2000 EIR, and Envision San José 2040 General Plan EIR, Supplemental EIR, and Addenda thereto was prepared by the Director of Planning, Building, and Code Enforcement for the subject Rezoning, Special Use Permit, and Vesting Tentative Map. The Diridon Station Area Plan and San José Downtown Strategy 2000 EIRs contain sufficient information to provide project-level environmental clearance for certain impacts by including standard measures that apply

to all projects in San José. The project is eligible for an Addendum pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15164 and was completed in compliance with CEQA to reflect an independent judgment and analysis of the project.

An Initial Study was prepared in support of the Addendum that provided analysis of the proposed actions. The Initial Study included relevant mitigation measures, as identified in the previous EIRs, for air quality and biological resources impacts. Mitigation measures are required for both of these resource areas which will reduce any potentially significant project impacts to a less-than-significant level. These mitigation measures include preparing a diesel particulate matter emissions reduction plan for construction equipment and conducting pre-construction bird surveys. The mitigation measures and associated compliance methods are included in the Mitigation Monitoring and Reporting Program.

Additionally, a historical resources evaluation was completed for the project. Due to the age of the structures on site being more than 45 years old, historic evaluations were completed for the structures at 383 Delmas Avenue and 425 Auzerais Avenue to determine if the buildings are eligible to be listed on historic registers at the national, state, and local level. The historic evaluation determined that the structures are not associated with significant events or historically significant persons, not a significant example of the architectural style, and does not appear to have the potential to yield information important to history. Based on the conclusion of the evaluation, both structures are not considered eligible for listing on the National Register of Historic Places, California Register of Historical Resources, or the City's Historic Resources Inventory and are, therefore, not considered historic resources.

The Initial Study concluded that the Diridon Station Area Plan EIR, San José Downtown Strategy 2000 EIR, and Envision San José 2040 General Plan EIRs adequately address the environmental effects of the proposed project with supplemental evaluation, and the project would not result in significant environmental effects that are not already identified in the EIRs.

The City must consider this Addendum, along with the Diridon Station Area Plan EIR, San José Downtown Strategy 2000 EIR, and Envision San José 2040 General Plan EIRs, prior to making a decision on the project. The Addendum identified that the implementation of the project would not result in any significant effects on the environment. The Addendum, Initial Study, associated appendices, and other related environmental documents are available on the Planning website at: <http://www.sanjoseca.gov/index.aspx?nid=6016>.

8. **Subdivision Ordinance Findings.** In accordance with San José Municipal Code (SJMC) section 19.12.130, the City Council may approve the Tentative Map if the Council cannot make any of the findings for denial in Government Code section 66474 and the 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 Council may approve the project if the 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.

Analysis: As described above, based on review of the proposed subdivision, the City Council does not make any such findings to deny the subject subdivision. Additionally, the Addendum prepared for the project does not identify any significant environmental impacts.

9. **Tentative Map Findings.** In accordance with Section 66474 of the Government Code of the State of California, the 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 it 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 review of the proposed subdivision, the City Council does not make any such findings to deny the subject subdivision. The project is consistent with the General Plan goals, policies and land use designation. The project complies with the General Plan goals and policies related to Downtown design, growth areas, among others. General Plan land use designation of Downtown allows for high-density residential projects. The project site is physically suitable for the project and proposed density in that it the development intensity is encouraged and expected within the Downtown. Furthermore, the project site does not contain any historic resources or sensitive habitats or wildlife. The project is required to improve the public sidewalks on Delmas Avenue, and Auzerais Avenue.

In accordance with the findings set forth above, a Vesting 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. **Acceptance of Vesting Tentative Map.** Per Section 19.12.230, should the subdivider fail to file a timely and valid appeal of this Vesting Tentative Map within the applicable appeal period, such inaction by the subdivider shall be deemed to constitute all of the following on behalf of the subdivider:
 - a. Acceptance of the Vesting Tentative Map by the subdivider; and
 - b. Agreement by the subdivider to be bound by, to comply with, and to do all things required of or by the subdivider pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 19 applicable to such Vesting Tentative Map.
2. **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 Vesting Tentative Map shall be deemed acceptance of all conditions specified in this permit and the subdivider's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by 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.
3. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the subdivider for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval 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. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.

4. **Conformance to Plans.** Development of the site shall conform to approved Vesting Tentative Map project plans entitled, "Vesting Tentative Map," dated received on April 16, 2018 on file with the Department of Planning, Building and Code Enforcement, as may be amended and approved by the Director of Planning, Building, and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24). The plans are referred to herein as the "Approved Plan Set" or "approved plans".
5. **Conformance with Other Permits.** The subject Vesting Tentative Map conforms to and complies in all respects with the Special Use Permit and Site Development Permit (File No. SP17-016) on which such Vesting Tentative Map is based. Approval of said Vesting Tentative Map shall automatically expire with respect to any portion of the lands covered by such Vesting Tentative Map on which a Final Map or Tract Map has not yet been recorded if, prior to recordation of a Final Map or Tract Map thereon, the Special Use Permit or Site Development Permit for such lands automatically expires or for any reason ceases to be operative.
6. **Improvements.** Pursuant to the Subdivision Agreement (hereinafter referred to as "Agreement"), the subdivider shall, before approval and recording of the Final Map, improve or agree to improve all land within the subdivision and all land outside, but appurtenant to, the Subdivision shown on the Vesting Tentative Map for public or private streets, alleys, pedestrian ways and easements to the satisfaction of the Director of Public Works.
7. **Improvement Contract.** In the event 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 an Agreement with the City of San José, in accordance with Section 19.32.130 of the San José Municipal Code, and provide the bonds and insurance mentioned therein.
8. **Final Map.** No Final Map or Tract Map shall be approved by City Council unless and until the appeal period for the development permit, File No. SP17-016 has expired and all appeals have been exhausted.
9. **Expiration of Vesting Tentative Map.** This Vesting Tentative Map shall automatically expire 48 months from and after the date of issuance hereof by the Director of Planning of the City of San José. The date of issuance is the date this Vesting Tentative Map is approved by the City Council.
10. **Compliance with Subdivision Ordinance.** The final map shall comply with all of the requirements for final maps in Chapter 19.16 of the San José Municipal Code and shall show and contain all of the data required by San José Municipal Code Section 19.16.110.
11. **Homeowner's Association.** A Homeowner's Association (HOA) shall be established for maintenance of all common areas within the residential land use, including driveways/courtyards, landscaping and the community amenity area. A copy of the Development Permit, the accompanying Plan Set, any approved Amendments or

Adjustments to the Development Permit, and a complete set of approved building and all improvement plans shall be provided to the Homeowner's Association by the subdivider no later than 30 days upon completion of each phase. Documentation of HOA formation must be submitted to the City prior to issuance of the first certificate of occupancy for the project.

12. **Public Use Easements.** Subdivider shall dedicate on the final map for public use easements for public utilities, emergency access, open space, streets, pedestrian ways, sanitary sewers, drainage, flood control channels, water systems, and parking in and upon all areas within the subdivision shown on the Vesting Tentative Map for the subdivision to be devoted to such purposes.
13. **Distribution Facilities.** 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.
14. **Diridon Station Area Financing Plan.** The San José City Council of the City of San José ("City") approved the Diridon Station Area Plan on June 17, 2014 ("Diridon Plan"). The Diridon Plan, in conjunction with the 2040 General Plan, provides the framework for development within the approximately 250-acre Diridon Plan area surrounding the existing Diridon Station and future High Speed Rail and Bay Area Rapid Transit hub.

The City is in the process of developing a comprehensive financing plan for the Diridon Plan ("Diridon Financing Plan") to fund public improvements, affordable housing, and other amenities and services. The Diridon Financing Plan may include the creation of a (i) Community Facilities District(s); (ii) Enhanced Infrastructure Financing District(s); (iii) Property Based Improvement District(s); (iv) Mitigation Impact Fee program; (v) Commercial linkage fee program; and/or (vi) other financing mechanism.

The City completed a Diridon Station Area Infrastructure Analysis on January 31, 2017 ("2017 Infrastructure Analysis"). The 2017 Infrastructure Analysis examined the basic public infrastructure required for the build-out of the Diridon Plan totaling approximately \$70 million for public streets, sanitary sewer, storm drain and flood control, potable and recycled water, and parks, plazas, and trails. The City is in the process of updating the 2017 Infrastructure Analysis. The City is also in the process of conducting various studies to determine the appropriate financing mechanisms to be included in the Diridon Financing Plan and fair-share contributions from each project located within and outside the Diridon Plan area boundary.

By accepting this Permit including the conditions of approval set forth in this Permit, subdivider acknowledges it has read and understands the above. Subdivider further agrees that prior to the issuance of any building permit, the proposed project shall be subject to, fully participate in, and pay any and all charge, fee, assessment or tax

included in the City Council approved Diridon Financing Plan, as may be amended, which may include one or more of the financing mechanisms identified above.

15. Housing.

- a. Permit Issuance and/or Tentative Map or Parcel Map Approval. The above referenced proposed development(s) contains dwelling units and is thus subject to the City's Inclusionary Housing Ordinance or Affordable Housing Impact Fee (AHIF). The subdivider shall, as part of the application for First Approval, submit to the Housing Department for approval an Affordable Housing Compliance Plan Application (Compliance Plan), and all relevant attachments. The Compliance Plan Application is available at: <http://www.sanjoseca.gov/DocumentCenter/View/57915>. The subdivider must also submit the required Compliance Plan application processing fee to the Housing Department. The Inclusionary Housing Ordinance and AHIF Resolution provide a process that allow subdivider to make a claim that a Project may be exempt from affordable housing obligations under the Inclusionary Housing Ordinance or the AHIF Resolution. However, the subdivider who believes their project is exempt must submit a Compliance Plan Application, and provide information regarding eligibility for a claimed exemption. Please contact the Housing Department as soon as possible to initiate Affordable Housing Compliance Plan completion. The Compliance Plan must be submitted and approved by the Housing Department prior to Planning scheduling the Project for hearing. Any Inclusionary Housing Ordinance benefits desired for on-site units (e.g., setbacks) listed in the Compliance Plan shall be approved by the Director of the Planning, Building and Code Enforcement Department. The above listed permit(s) may seek demolition of existing structures with residential dwelling units if: (i) the existing structure is multi-family (triplexes or larger) and the subdivider is required to comply with the Tenant Protection Ordinance and cannot evict tenants without good cause (intent to demolish the building is not good cause); or (ii) the project involves demolition of existing multi-family residential units built before September 7, 1979 that are subject to the Apartment Rent Ordinance (ARO), and includes at least four units that are subject to the City's Ellis Act Ordinance. Requirements imposed upon the owner/ subdivider include, but are not limited to, delivery of 120 days minimum to 1 year to tenants of owner's intent to withdraw building from the rental market, provide tenant relocation assistance, and/or record an Ellis Act covenant. New or remodeled units rented within five years of withdrawal under the Ellis Act are subject to the ARO and impacted tenants are notified of their right to return to the property upon owner's intention to bring back the property onto the rental market. For information, please visit: www.sjhousing.org and/or call (408) 975-4480.
- b. Actions Required for Housing Department's Clearance for Building Permit(s) or Map Approval. Prior to the approval of any final or parcel map, or issuance of any building permit for a rental residential development, the subdivider of a Rental residential development shall either pay the outstanding AHIF fee(s) or, if the

subdivider is claiming an exemption, the owner and subdivider shall execute an Affordable Housing Agreement to memorialize the project's affordable housing obligation, the outstanding requirements, and if needed, obtain a fee deferral. The Affordable Housing Agreement must then be recorded against the entire development. Prior to the approval of any final or parcel map, or issuance of any building permit for a For-Sale residential development, the subdivider of a project that has claimed to be a For-Sale project shall provide evidence that it has met the For-Sale requirements and provide any documentation associated with its selected compliance option (e.g., on-site, off-site construction of affordable units), and any exemption that may have been claimed. The owner and subdivider shall execute an Affordable Housing Agreement to memorialize the project's affordable housing obligation and the outstanding requirements. The Affordable Housing Agreement must then be recorded against the entire development.

- a. Actions required for Housing Department's Clearance of Final Inspection and Issuance of Certificate of Occupancy. No Final Inspection Approval, Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units will be issued until all requirements of the Inclusionary Housing Ordinance, and/or the AHIF Resolution and implementing regulations are met.

16. 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 Subdivider shall be required to have satisfied all of the following Public Works conditions. The Subdivider is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/index.aspx?nid=2246>.

- 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 Traffic Operational Analysis has been performed for this project based on a net of 87 AM and 87 PM peak hour trips. See separate Traffic memo dated 1/4/18 for additional information. The following conditions shall be implemented:
 - i. The parking garage entry gate shall be opened during the time period of the day when most of the inbound vehicle trips are likely to occur (generally from 2:00 pm to 7:00 pm).
 - ii. "No Parking" zones shall be installed adjacent to the project driveway, as well as appropriate audible and visible warning signals to alert pedestrians and

bicyclists for vehicles exiting the site.

- iii. Provide adequate car door buffer space between the parking spaces and garage supporting walls, and/or assign those parking spaces located adjacent to walls to residents with compact vehicles.
- iv. On-street limited parking zone on Delmas Avenue or Auzerais Avenue for large moving trucks shall be installed. The loading zone location and design shall be evaluated by City staff during the implementation phase.
- v. Implement a comprehensive Transportation Demand Management (TDM) plan in order to meet the proposed 50 percent parking reduction for the project. A Transportation Demand Management plan (“TDM Plan”) has been submitted and approved for this project. The TDM Plan dated April 5, 2017 entitled “TDM Plan” prepared by Hexagon Transportation Consultants is on file with the Department of Public Works and is incorporated fully herein by this reference. Based on the TDM measures included in the approved TDM Plan, the project shall meet the 50 percent parking reduction goal. The subdivider is required to submit an annual monitoring report (and pay associated administrative cost for City’s time to review), which measures the effectiveness of the approved TDM plan, in a form approved by the Director of Public Works. The report shall be provided to the City on or before each June 30th for the reporting period of the prior calendar year. Additional TDM measures, or changes to existing TDM measures, may be required at the discretion of the Director of Public Works if the TDM measures are not effective in reducing the parking demand by a minimum of 50 percent. The project will also be required to implement control measures to prohibit any parking in the adjacent and surrounding neighborhoods, businesses, and areas. Subdivider shall insure no person living, working, visiting or using the project site in any manner shall create any parking impact to the surrounding neighborhoods, businesses, and areas. The proposed residential TDM Plan includes the following measures:
 - 1) Free SmartPass or Clipper Card; two (2) per residential unit and one (1) per employee for the retail use.
 - 2) One (1) onsite free Cargo Bicycle for the tenants to share for the life of the project.
 - 3) Provide 100% unbundled parking for all residential spaces.
 - 4) Employee Clipper Card incentive program for retail employees.
 - 5) Provide onsite TDM Coordinator (minimum 8 hours per day) to monitor and implement the TDM measures; including providing information packets on transportation options, implementing a car share/ride share program, monitoring

parking demand, and scheduling the cargo bicycle. The TDM Coordinator shall have comprehensive knowledge of local transit, trip planning services, car share services, private shuttles, as well as local contact for car sharing service.

- 6) Establish an up-to-date TDM services and membership management website. The site should give information on local transit, car sharing services and how residence can get and manage their memberships. The TDM Coordinator shall manage and continuously update the website.
- vi. If the project fails to maintain the above TDM measures, a Special Use Permit Amendment is required to modify the TDM, or provide replacement parking (either on-site or off-site within reasonable walking distance for the parking required), pursuant to San José Municipal Code Section 20.90.220, as amended.
- vii. With the inclusion of the above 16.b.i. through 16.b.v. conditions, the subject project will be in conformance with Envision San José 2040 General Plan Goals for the Downtown Strategy Plan.

c. Grading/Geology:

- i. A grading permit is required prior to the issuance of a Public Works Clearance.
- 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 2013 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10-year storm event.
- iii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
- iv. Because this project involves a land disturbance of one or more acres, the subdivider is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.

- v. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- d. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
 - i. a) The project's preliminary Stormwater Control Plan and numeric sizing calculations have been reviewed, and this project will be in conformance with City Policy 6-29.
- e. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
- f. **Flood Zone X:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone X is an area of moderate or minimal flood hazard. Zone X is used on new and revised maps in place of Zones B and C. There are no City floodplain requirements for Zone X.
- g. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable prior to Public Works clearance.
- h. **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 contained within in the Subject Chapter and the Associated Fees and Credit Resolutions.
- i. **Undergrounding:**
 - i. The In Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to Auzerais Avenue and Delmas Avenue prior to issuance of a Public

- Works Clearance. One-Hundred percent (100%) of the base fee in place at the time of payment will be due. Currently, the 2018 base fee is \$485 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record's City Average Cost Index for the previous year. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued.
- ii. The Director of Public Works may, at his/her discretion, allow the subdivider to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to Auzerais Avenue and Delmas Avenue. Subdivider shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.
- j. **Street Improvements:**
- i. Construct 10-foot wide attached sidewalk with 4-foot by 5-foot tree wells along Auzerais Avenue project frontage.
 - ii. Construct 12-foot wide attached sidewalk with 4-foot by 5-foot tree wells along Delmas Avenue project frontage. Provide approximately 2-foot wide sidewalk easement.
 - iii. Subdivider shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - iv. Remove and replace curb, gutter, and sidewalk along project frontage.
 - v. Close unused driveway cut(s).
 - vi. Proposed driveway width to be 26 feet.
 - vii. Subdivider shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the project frontage.
 - viii. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
 - ix. City recommends reconstruction of the curb ramp at the corner intersection of the Auzerais Avenue and Delmas Avenue project frontages. This may benefit the users accessing the project site.
- k. **Site Utilization Plan and Revocable Encroachment Permit (Street/Sidewalk Closures):** At the Implementation stage, subdivider 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.
- i. The following should be included with the Site Utilization Plan and Revocable Permit application, but are not limited to:

- 1) **Site Utilization Plan and Letter of Intent:** The site utilization plan shall provide a detailed plan of the location of the temporary facilities within the boundary of the construction site. The Letter of Intent shall provide a description operations of the site as well as the reasons for the sidewalk/lane closures and why the activities/uses that are proposed within the Public right-of-way 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. This would also provide a discussion as to the reasons why covered pedestrian walkways will not be provided (e.g., swinging loads over sidewalk not safe for pedestrians).
 - 2) **Multi-Phased Site Specific Sketches:** These sketches shall show the phased closures during the course of construction with a provided timeframe estimate of when each phase would be implemented. These sketches shall include the type and location of the work to be accomplished within the right-of-way. The exhibit shall show in detail the vehicular and/or pedestrian diversion route that shows the appropriate safety equipment, such as barricades, cones, arrow boards, signage, etc.
- ii. Subdivider shall minimize the potential impact to vehicular and pedestrian traffic by:
- 1) Implementing the closures at the time the onsite activities dictate the need for the closure.
 - 2) Minimizing the closure timeframes to accomplish the onsite tasks and implement the next phase of the closure as outlined in Condition 16.k.i.2 above.
- iii. iii. If proposed lane and parking closures are a part of the Revocable Permit Application, subdivider shall submit Downtown Lane Closure and Tow Away Permit Applications to DOT. These applications may be obtained at: <http://www.sanjoseca.gov/index.aspx?NID=3713>. Subdivider shall contact DOT at (408) 535-8350 for more information concerning the requirements of these applications.
- l. **Strong Neighborhoods Initiative (SNI):** This project is located within the Delmas Park SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.
- m. **Sanitary:** The subdivider is required to submit plans and profiles of the private sewer mains with lateral locations for final review and comment prior to construction.
- n. **Greater Downtown Area Master Plans:** This project is located within the Greater Downtown area. Public improvements shall conform to the Council approved San

José Downtown Streetscape and Street and Pedestrian Lighting Master Plans.

- o. **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.
- a. **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 public right-of-way along entire project street frontage per City standards; refer to the current “Guidelines for Planning, Design, and Construction of City Streetscape Projects”. Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.

17. **Conformance to Mitigation Monitoring and Reporting Program.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program (MMRP) approved for this development by City Council Resolution No. _____.

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

In accordance with the findings set forth above, a Vesting Tentative Map Permit to use the subject property for said purpose specified above is hereby **approved**.

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Effective Date

The effective date of this Tentative Map shall be the effective date of the Rezoning Ordinance for File No. C17-009 and shall be no earlier than the effective date of said Rezoning Ordinance.

APPROVED and issued this _____ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

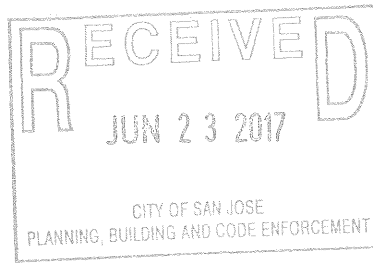
SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

NOTICE TO PARTIES

The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.



June 16, 2017
HMH 4963.00.270
Page 1 of 1

**EXHIBIT "A1"
FOR DC REZONING PURPOSES**

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being all of Parcels One, Two and Four described in the grant deed recorded December 16, 2016 in Document No. 23535168 and all of Parcel One described in the Correctory Trustee's Deed recorded August 12, 2015 in Document No. 23050441 both of Official Records, Santa Clara County Records, described as follows:

BEGINNING at the easterly corner of said Parcel Four, being on the northwesterly line of Auzerais Avenue;

Thence along said northwesterly line the following two courses:

1. Thence South 60°15'35" West, 91.63 feet;
2. Thence South 54°47'54" West, 15.26 feet, to the southwesterly line of said Parcel One as described in said grant deed;

Thence along said southwesterly line, and the northwesterly and northeasterly lines of said Parcel One the following three courses:

1. Thence North 43°28'21" West, 213.81 feet;
2. Thence North 60°15'35" East, 105.08 feet;
3. Thence South 29°44'25" East, 68.61 feet, to the northwesterly line of said Parcel Two;

Thence along said northwesterly line, North 60°15'35" East, 137.50 feet, to the southwesterly line of Delmas Avenue;

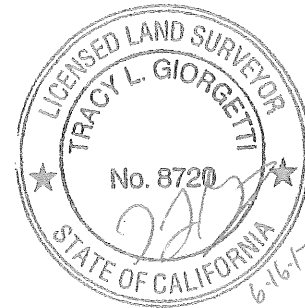
Thence along said southwesterly line, South 29°44'25" East, 68.82 feet, to the southeasterly line of said Parcel One as described in said Correctory Trustee's Deed;

Thence along said southeasterly line, South 60°15'35" West, 85.00 feet, to the northeasterly line of said Parcel Four;

Thence along said northeasterly line, South 29°44'25" East, 68.82 feet, to the POINT OF BEGINNING.

Containing 29,562 square feet or 0.68 acres, more or less.

For assessment or zoning purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.





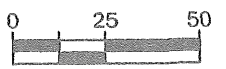
DELMAS AVENUE

AUZERAS AVENUE

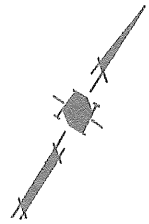
MINOR AVENUE

LEGEND

POB POINT OF BEGINNING



1 IN. = 50 FT.



SHEET 1 OF 1

Date:	2017-06-16
Designed:	-
Drawn:	RF
Checked:	TG
Proj. Eng.:	-
49630	

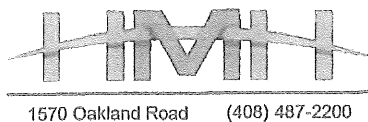
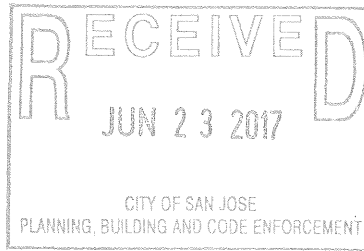


EXHIBIT "B1"
 PLAT TO ACCOMPANY DESCRIPTION:
 FOR DC REZONING PURPOSES

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



June 16, 2017
HMH 4963.00.270
Page 1 of 1

**EXHIBIT "A2"
FOR R-2 ZONING PURPOSES**

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being all of Parcels Five and Six as described in the grant deed recorded December 16, 2016 in Document No. 23535168 of Official Records, Santa Clara County Records, described as follows:

BEGINNING at the easterly corner of said Parcel Five, being on the northwesterly line of Auzerais Avenue;
Thence along said northwesterly line, South 54°47'54" West, 68.00 feet, to the general southwesterly line of said Parcel Five;
Thence along said general southwesterly line and the southwesterly line of said Parcel Six the following three courses:
1. Thence North 35°12'07" West, 115.00 feet;
2. Thence South 54°47'54" West, 5.03 feet;
3. Thence North 35°12'07" West, 200.00 feet, to the northwesterly line of said Parcel Six;
Thence along said northwesterly line and northeasterly line of said Parcels Five and Six the following two courses:
1. Thence North 54°47'54" East, 27.24 feet;
2. Thence South 43°28'21" East, 318.31 feet, to the POINT OF BEGINNING.

Containing 15,214 square feet or 0.35 acres, more or less.

For assessment or zoning purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.





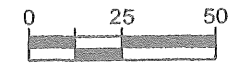
DELMAS AVENUE
30'

AUZERAIS AVENUE
30'

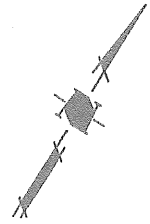
MINOR AVENUE
25'

LEGEND

POB POINT OF BEGINNING



1 IN. = 50 FT.



SHEET 1 OF 1

Date:	2017-06-16
Designed:	-
Drawn:	RF
Checked:	TG
Proj. Engr.:	-
496300PL02	



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

EXHIBIT "B2"
PLAT TO ACCOMPANY DESCRIPTION:
FOR R-2 ZONING PURPOSES

SAN JOSE

CALIFORNIA

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