

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT PERMIT TO ALLOW DEMOLITION OF FIVE EXISTING BUILDINGS, REMOVAL OF SIX ORDINANCE-SIZE TREES AND CONSTRUCTION OF A NEW SEVEN-STORY, 249-UNIT RESIDENTIAL MIXED-USE BUILDING WITH 26,585 SQUARE FEET OF GROUND FLOOR COMMERCIAL SPACE ON A 1.22-GROSS ACRE SITE LOCATED AT THE NORTHWEST CORNER OF WEST JULIAN SREET AND STOCKTON AVENUE (715 WEST JULIAN STREET)

FILE NO. PD17-029

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on December 15, 2017, application File No. PD17-029 was filed by the applicant, 715 West Julian LLC for Speno Enterprises, for a Planned Development Permit to allow the demolition of five existing buildings, removal of six ordinance size trees and the construction of a mixed-use development containing 249 multi-family residential units and 26,585 square feet of ground level commercial space within a seven-story building with two levels of underground parking on a 1.22-gross acre site, on that certain real property situated in the CP(PD) Planned Development Zoning District and located at the northwest corner of West Julian Street and Stockton Avenue (715 West Julian Street, San José, which real property is sometimes referred to herein as the “subject property); and

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

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Planning Commission conducted a hearing on said application on September 26, 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 recommendation of the City's Planning Commission and the City's Director of Planning, Building and Code Enforcement; and

WHEREAS, at said hearing, this City Council received in evidence a development plan for the subject property entitled "Julian and Stockton," dated last revised August 20, 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 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 at the northwestern corner of West Julian Street and Stockton Avenue, and is bounded by Highway 87 to the east and The Alameda corridor to the south. The existing Avalon Morrison Park apartments are directly to the north, and Pacific Gas & Electric service center is across the street to the east. The site is currently occupied by five buildings which include two residences, a commercial building, and two vacant buildings (previously occupied by San José Blue, a blueprinting company). All five of these buildings are over 50 years old.
2. **Project Description.** The project would demolish the five existing buildings, remove six ordinance size trees and construct a mixed-use development containing 249 multi-family residential units and 26,585 square feet of ground level commercial space within seven-story buildings and two-story underground parking structure on a 1.22 gross acre site.

The ground floor will consist of commercial and/or retail uses, the residential lobby and leasing office, and additional parking behind the commercial space. Residential units and related space are proposed on floors 2 through 7. A courtyard for the residential use is proposed on the second floor and would contain a pool and outdoor amenities. In addition, undefined indoor amenity spaces are proposed on the second floor. A small 372 square foot outdoor deck is proposed on the roof. Approximately 2,025 square feet of ground floor yard area is proposed on the northwest side of the site. In addition, an approximately 2,057 square foot public plaza is proposed at the southeast corner of the site at the junction of Stockton Avenue and Julian Street. The combined private and public open space provided would total 0.63 gross acres.

Access to the proposed underground parking garage will be provided from Stockton Avenue. Some parking is also proposed at the street level. A total of 246 parking spaces are proposed, to be shared by the residential and commercial uses. In addition, 250 bike parking spaces will be provided.

The project will be landscaped with the planting of new trees and other landscaping along the project perimeter and within the courtyard and common areas. The project will require the removal of 69 trees, six of which are ordinance-size trees, that will be replaced in accordance with the City's requirements.

3. **General Plan Conformance.** The subject property is designated as Urban Village on the San José 2040 General Plan Land Use/Transportation Diagram (Figure 2). This designation supports a wide variety of commercial, residential, institutional, or

other land uses with an emphasis on establishing an attractive urban form in keeping with the Urban Village concept. Development within the Urban Village designation should conform to land use and design standards established with an adopted Urban Village Plan, which specifies how each Urban Village will accommodate the planned housing and job growth capacity within the identified Urban Village Growth Area. The project site is within the Diridon Station Area Plan (DSAP), an adopted Urban Village plan, and is therefore subject to the land use and design standards established within the plan. The project is consistent with the DSAP, as discussed further below, and is therefore consistent with the Urban Village General Plan designation

Land Use Policy LU-1.2: Encourage Walking. Create safe, attractive, and accessible pedestrian connections between developments and to adjacent public streets to minimize vehicular miles traveled.

Analysis: The project would include widened public sidewalks up to 22 feet wide on Stockton Avenue (from 18 feet) and 15 feet wide on Julian Street (from 10 feet). In addition to a clear walkway, both sidewalks will have proportional landscaped buffers from edge of curb to edge of sidewalk. The wider walkways and buffers provide a safer, more pleasing pedestrian buffer from the adjacent streets. The project also creates a neighborhood plaza designed for passive recreation or resting in between destinations and is part of the pedestrian network envisioned with the DSAP's "green finger" and pedestrian connections.

Land Use Policy LU-9.6: Require residential developments to include adequate open spaces in either private or common areas to partially provide for residents' open space and recreation needs.

Analysis: The project would include private and public open space in conformance with the Residential Design Guidelines. The private open space would be comprised of balconies at least 60 square feet in size for more than half of the total units, and the public open space would be comprised of an interior courtyard space above the podium that includes a pool, seating, and planter areas, a ground level neighborhood plaza at the corner of West Julian Street and Stockton Street and a rooftop deck.

Land Use Policy LU-10.7: Encourage consolidation of parcels to promote mixed-use and high-density development at locations identified in the Land Use / Transportation Diagram.

Analysis: The project combines two properties (through a tentative map under File No. PT17-063) with individual acreage ranging from 0.11 to 1.10 acres in size. Developed individually, the density and commercial use envisioned in the General Plan would not be feasible on these smaller lots. When combined as the project, the properties can be developed with commercial square footage and higher residential density consistent with the Urban Village designation.

Vibrant Neighborhood Policy VN-1.7: Use new development within neighborhoods to enhance the public realm, provide for direct and convenient pedestrian access, and visually connect to the surrounding neighborhood. As opportunities arise, improve existing development to meet these objectives as well.

Analysis: The project would include widened sidewalks with enhanced landscaping buffers along Stockton Avenue and Julian Street, trees, and pedestrian access to commercial uses. In addition to wider sidewalks, the project would provide a corner paseo/plaza as a privately-owned, publicly accessible open space that would provide residents in the new development as well as existing residential neighborhoods with a safe and pleasant resting stop along the pedestrian corridors.

4. **Diridon Station Area Plan (DSAP).** The project site is in the Northern Zone-Innovation District of the DSAP. The intent of the DSAP is to shape development to ensure that the architecture, open space, and site design of the proposed project are appropriate and compatible with the envisioned form.

The Urban Village designation for this site has a density allowance of up to 250 dwelling units per acre and a floor area ratio of up to 10.0. However, as applied to Diridon Station Area Plan (DSAP), the project site also has a minimum of 0.5 commercial FAR for projects containing residential uses. This designation would therefore only support residential development in a vertical or horizontal mixed-use format that includes commercial uses or square footage that is equal to or greater than a 0.5 FAR for a given project. The mixed-use project has 249 units for a density of 204 dwelling units per acre and 26,585 square feet of ground level commercial space for an FAR of 0.5. The density and ratios noted qualify the project for a mixed-use development per the above standards. Further, the proposed retail square footage is within approximately 81,100 gross square feet of retail and restaurant use projected for the Northern Zone of the DSAP; and the number of residential units help fulfill the “test-fit” capacity of 1,277 residential for the DSAP.

The following guidelines and policies should be incorporated into projects within the DSAP:

Overall Themes and Goals

- Foster a vibrant public realm throughout the DSAP that supports pedestrian activity and integrates public spaces into development with new plazas, parks, and public spaces.
- Neighborhood Squares should be connected with the pedestrian network, other plazas or open spaces and the neighborhoods;

Analysis: Neighborhood Squares - As discussed, the project includes an open, ground level “Neighborhood Plaza” (approx. 2,000 square feet) located at the corner intersection of Stockton and West Julian Street. The plaza would be privately owned and maintained but be publicly accessible for the surrounding community to be used

as a paseo across the corner of the property for passive recreation as well as meeting place. This plaza would be located on one of four corners where the intersection of Julian and Stockton occurs. When the remaining corners are developed they would form a “square”, connected by pedestrian crosswalks at the intersection, thereby helping establish an interconnected pedestrian network within the DSAP area.

Urban Form and Structure - Building Height.

- Create an urban district in the Station Area with buildings that maximize height potential. The Station Area should accommodate a mix of uses including commercial, office, and entertainment development.
- Ground floor retail should be integrated in mixed-use buildings that take advantage of maximum heights and densities.
- Maximize a building’s active spaces along its public street perimeter by locating retail, office, or commercial uses with customer activity on the ground floor level.

Analysis: The project maximizes the DSAP’s height limit as shown on Figure 3-2-1: Building Heights of the Diridon Station Plan Area in the DSAP with a building that is seven stories with a roof height of 85 feet. Also, the ground floor of the mixed-use building is primarily devoted to retail commercial use with entrances and floor to ceiling glazing alongside the adjacent sidewalks.

Building Form and Building Siting

The Northern Zone – Innovation District guidelines, promote a close public/private interaction by requiring buildings be placed parallel to the street or public spaces, and along the edges of a site to create a tight urban fabric. As a corner development, the building entries and active commercial spaces are oriented to the adjacent streets. Most of the units above will also incorporate private decks open to the streets below. In addition, the guidelines state that the walls along the street should not be blank; walls should vary in architectural detail and facade treatments to provide texture and interest to the pedestrian environment.

Analysis: The massing of the project would be varied to avoid the creation of a long monotonous unbroken plane. The street elevations incorporate the use of varied materials, architectural features (such as balconies, parapet wall, etc.) and alternating planes to create a rhythmic architectural pattern. A courtyard on the podium level would be located on the north side of the building. This creates a large break in the massing so that the middle and longest portion of the building sits back further from the neighboring Avalon apartments.

The project plans for the Planned Development Permit are consistent with the above guidelines, through the use of recessed and projecting wall planes, a variety of compatible materials (stone, plaster, and wooden siding), and through variation in

roof line. All sides of the building have been architecturally designed to respond to the street, and the existing apartment development to the north of the site.

5. **Residential Design Guidelines.** The Residential Design Guidelines state that residents of new multi-family housing projects should have access to usable open space, whether public or private, for recreation and social activities. The guideline suggests 60 square feet of private space for one half of the units (due to the highly urbanized and high residential density of the site) and 100 square feet of common open space for each unit in mixed-use developments. The proposal would include a minimum of 60 square feet of private open space comprised of balconies for more than half of residential units. The proposed interior courtyard on top of the first-floor podium level, roof-top deck and ground level neighborhood plaza would provide more than 78 square feet of common open space per unit. This combination of common and private open space is more compatible with urban projects (like as proposed) that are more interconnected with the public realm that surrounds it. The open space ratios recommended in the Residential Design Guidelines have been modified through the Planned Development Zoning to better address the urban setting and the DSAP vision. The slight deficit in common open space is in recognition of the urban setting of the project and the existing and planned public recreational spaces such as the corner plaza/paseo, a larger network of neighborhood squares and paseos in the plan area, and existing and planned/improved park space.
6. **General Development Plan Conformance (Development Standards).** The project conforms to the approved General Development Plan of the Planned Development Zoning, File No. PDC17-058.
 - a. **Use.** Uses consistent with the conventional CP Zoning District and Diridon Station Area Plan including mixed uses, are permitted.
 - b. **Setbacks.** The required building setbacks are 0 to 10 feet maximum for the Front, and Sides. The Rear setback, along the length of the entire rear property line is modified from the required 25 feet to the following:
 - i. Street property lines: 10 feet maximum
 - ii. Interior side: 10 feet minimum
 - iii. Rear: Minimum of 3 feet; 5 to 25 feet at portions of the building over 25 feet in height.
 - c. **Height.** The maximum building height in Diridon Station Area Plan is 90 feet. The roof of the mixed-use building is at 85 feet in height. Further, minor projections of up to 10 feet above the roof height are allowed.

Analysis: The project is a mixed-use development consisting of multi-family residential and commercial uses, where are permitted in this Planned Development Zoning. The project is consistent with the required setbacks, in that

zero-foot setbacks are provided along the street frontages, ten-foot setbacks are provided along the interior side set back; and three-foot setbacks are provided for portions of the structure up to 25 feet in height along the rear (north) property line, with five-foot setbacks for portions over 25 feet in height. The maximum height of the proposed project is approximately 85 feet with minor projections not exceeding 95 feet.

- d. **Parking.** One vehicle space per dwelling unit; one vehicle space per 200 square feet (85%) of net commercial floor area. Up to a 57 percent reduction of this requirement may be allowed through implementation of a TDM plan. The TDM Plan includes the following requirements:
- i. 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.
 - ii. If the project is unable to maintain the TDM program, a Planned Development 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.
 - iii. Bicycle parking. A total of 250 spaces are being proposed (only 71 spaces are required), 218 of them are secured long-term.
 - iv. Car share programs will be located on site with management subsidized memberships for residents.
 - v. Onsite TDM Coordinator during normal business hours (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.
 - vi. Preferred parking for electric vehicles is provided
 - vii. Provide 100% unbundled parking for all residential spaces that require an additional rental fee to discourage car ownership.

One bicycle space per 3,000 square feet of commercial space is required; and one space per four residential units is required.

Analysis: Based on the above, the required 362 spaces would first be reduced to 181 spaces (50 percent reduction); and then further reduced to 154 (15 percent reduction from 181 spaces), or a combined 57% reduction. The project

is providing 246 parking spaces, thus meeting the minimum parking requirement, after reductions. For bicycle parking, a total of 250 spaces would be provided (71 spaces are required). Eight bicycle spaces are required for the commercial area, and 63 spaces are required for the residential units (71 spaces total). A total of 250 bicycle parking spaces are provided, exceeding the requirement of 71 bicycle parking spaces.

7. **Environmental Review.** Pursuant to CEQA Guidelines §15164, the Planning Director approved on August 20, 2018, an Addendum to the Diridon Station Area Plan Environmental Impact Report (EIR) (Resolution No. 77096), the Envision San José 2040 General Plan Program EIR (Resolution No. 76041), and the General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto, because minor changes made to the project did not raise important new issues about the significant impacts on the environment. The Initial Study identified impacts to air quality, biological resources, cultural resources, hazardous materials, and noise that could result from implementation of the project. However, these impacts were previously identified in the DSAP EIR and General Plan Program and Supplemental EIRs and include mitigation measures that would reduce the impacts to a less than significant level. Therefore, a project specific Mitigation Monitoring and Reporting Program containing the mitigation measures was prepared for the project.

Historical Structures

A historical resources evaluation was conducted on March 1, 2018 by Archaeological Resource Management, of the five existing buildings on the site, all of which are over 50 years old: the single structure at 301-307 Stockton Avenue, the residence at 715 West Julian, the residence at 739 West Julian, and the former San José Blue buildings at 835 and 859 West Julian Street. The evaluation determined that all the structures, except for the one at 301-307 Stockton Avenue, were determined to be non-significant structures. The structure at 301-307 Stockton Avenue was identified as a potential historic resource that could be classified on the City's Historic Resources Inventory as a Structure of Merit. General Plan Policies LU-14.4 and LU-14.6 encourage the preservation of Structures of Merit and the consideration of the feasibility of incorporating the structures into a development proposal. The policies discourage the demolition of structures that are eligible for the Historic Resources Inventory and encourage rehabilitation and relocation of historic resources. Thus, the following recommendations were identified in the historical evaluation:

- Retain the structure at 301-307 Stockton Avenue and construct the remainder of the proposed project around it, or
- Construct a portion of the proposed project in an acute triangular configuration, mirroring the massing of the current 301-307 Stockton Avenue structure.

Demolition of the building at 301-307 Stockton Avenue, while not a significant CEQA impact, is not consistent with the City's General Plan. However, the architecture of the mixed-use building is of an unusual triangular configuration and generally reflects the massing of the existing building at 301-307 Stockton Avenue to be removed. Additionally, an open plaza will occupy the majority of the current location of the structure, which would mirror the triangular configuration. Subsequently, the historic resources evaluation recommended standard conditions that would apply to the project and would result in a less than significant impact.

The Addendum concluded that the project would not result in any new impacts not previously disclosed in the Diridon Station Area Plan EIR, and the Envision San José 2040 General Plan Program and Supplemental EIRs, and would not result in a substantial increase in the magnitude of any significant environmental impact previously identified in the EIRs. For these reasons, a supplemental or subsequent EIR was not required and an addendum to the DSAP FEIR was prepared for the proposed project.

8. **Demolition Permit Findings.** Under the provisions of Section 20.80.460 of the San José Municipal Code, prior to the issuance of any development permit, which allows for the demolition, removal or relocation of a building, the following shall be considered to determine whether the benefits of permitting the demolition, removal or relocation outweigh the impacts of the demolition, removal or relocation:
- a. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
 - *The existing structures were damaged by fire and are currently a public hazard.*
 - b. The failure to approve the permit would jeopardize public health, safety or welfare;
 - *The existing structures were damaged by fire and are currently a public hazard; approval of demolition would restore the site to a safer condition.*
 - c. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;
 - *As described in previous sections, the project is compatible with the surrounding area and the guidelines of the DSAP.*
 - d. The approval of the permit should maintain the supply of existing housing stock in the City of San José;
 - *Demolition of the existing structures would take away two residential units but would add 249 new residential units.*
 - e. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
 - *As described above, four of the five existing buildings that will be removed were found to have no historical significance; the fifth building was found to be*

a potential historic resource that could be classified on the City's Historic Resources Inventory as a Structure of Merit. Implementation of standard conditions would result in a less than significant impact;

- f. Rehabilitation or reuse of the existing building would not be feasible; and
 - *The existing structures were damaged by fire and rehabilitation would be too costly and not compatible with current building code;*
- g. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.
 - *A new mixed-use project is being proposed in place of the proposed demolition.*

Based on consideration of the above, the benefits of permitting the demolition outweigh the impacts in that the demolition of the existing structures will allow for redevelopment of the site to provide housing. Furthermore, while the two existing single-family residences on the subject site will be demolished, the number of new dwelling units constructed as a result of the project will exceed this number of units lost by 247, therefore, the supply of existing housing stock in the city will not be diminished. Further, the proposed mixed-use project will provide a commercial component that will add job opportunity for the community as well as an overall urban form that exemplifies the goals and policies of the Diridon Station Area Plan.

9. Planned Development Permit Findings

Chapter 20.100 of the San José Municipal Code establishes evaluation criteria for issuance of a Planned Development Permit. These criteria are applied to the project based on the above-stated findings related to General Plan, Zoning and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in the permit. In order to make the Planned Development Permit findings pursuant to Section 20.100.720 of the San José Municipal Code and recommend approval to the City Council, Planning Commission must determine that:

- a. The Planned Development Permit, as issued, is consistent with and furthers the policies of the General Plan;

*Analysis: The project is consistent with the General Plan Land Use/ Transportation Diagram designation of Urban Village for the subject site, which defers to the Urban Village designation requirements within the DSAP. The project conforms to a maximum density of 250 DU/AC and FAR ranging from 0.50 to 10.0 for the DSAP. The project also conforms to the Implementation Policies IP-1.6, IP-8.4, and IP-8.5 of the General Plan. The project also conforms to the Land Use Policies LU-1.2, LU-9.6, LU-10.7, VN-1.7, and Design Guidelines of the Diridon Station Plan Area, all as discussed above. Therefore, this finding **can** be made.*

- b. The Planned Development Permit, as issued, conforms in all respects to the Planned Development Zoning of the property;

Analysis: As discussed above, the Planned Development Permit conforms in all respects to the proposed Development Standards of the proposed CP(PD) Planned Development Zoning of the property, including uses, setbacks and height. Therefore, this finding can be made.

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

Analysis: As discussed above, the project is consistent with all applicable City Council policies. Compliant with Council Policy 6-30: Public Outreach Policy, 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. Further, staff held a community meeting for the project. The project is also consistent with exterior lighting and stormwater treatment policies. Therefore, this finding can be made.

- d. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious;

Analysis: The orientation, location, mass and scale of the proposed seven-story, 249-unit mixed-use development compliments the surrounding neighborhood and will be compatible in height and scale to the adjacent four-story Avalon apartment complex. Architecturally, the project complements and enhances the surrounding mix of multi-residential and commercial development through the use of similar and upgraded materials such as horizontal wood siding, stone and glass veneer on the ground floor facades as well as interesting articulation throughout the street facing elevations.

Since the site is a corner lot, most residences will have street frontages with private decks oriented towards public streets, creating a street presence like that found in the residential neighborhood to the south. The project also includes a "Neighborhood Plaza" at the corner of the building that lightens the mass of the structure and creates an open and useable recreational space. This finding can be made.

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

Analysis: The project would not result in an increase in long-term operational noise levels and odors above the City's and regional agency's standards threshold for single-family residential development. Temporary noise and odor

*impacts from construction activities would be reduced to less than significant levels with implementation of standard conditions to reduce construction noise and odor. The project has been evaluated by the Department of Public Works for grading, drainage and stormwater requirements, and was found in compliance as per the Final Public Works Memo dated August 17, 2018. The project will, therefore, not have any unacceptable negative effect on the adjacent properties. Therefore, this finding **can** be made.*

10. Tree Removal Findings. Chapter 13.32.100 of Title 13 of the San José Municipal Code establishes additional findings for issuance of a Tree Removal Permit. Sixty-nine onsite trees, six of which are ordinance size, unreasonably restrict the economic development of the parcel in question, in that the entire project site must be cleared, excavated and re-graded in order to facilitate the project, which requires removal of the trees.

Analysis: The project requires the demolition of all existing structures and the re-grading of the site. The removal of the subject trees is therefore required in order for improvements to be realized. Replacement trees will be required in accordance to Chapter 13.32 -Tree Removal Controls of Title 13, San José Municipal Code and City policies

In accordance with the findings set forth above, a Planned Development Permit to use the subject property for said purpose specified above and subject to each and all 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.

CONDITIONS

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all the following on behalf of the permittee:
 - a. Acceptance of the Permit by the permittee; and
 - b. Agreement by the permittee to be bound by, to comply with, and to do all things required of or by the permittee pursuant to all the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire two years from and after the date of issuance hereof by said Director, if within such time period, a Building Permit

has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.

3. **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 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.
4. **Conformance to Plans.** The development of the site shall conform to the approved Planned Development Permit plans entitled, "Julian and Stockton" dated August 20, 2018, on file with the Department of Planning, Building and Code Enforcement, as may be amended subject to City's approval, and to the San José Building Code (San José Municipal Code, Title 24), as amended. The plans are referred to herein as the "Approved Plan Set.
5. **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 (BART) 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 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, permittee acknowledges it has read and understands all of the above. Permittee further agrees that prior to the issuance of any building permit, the 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.

6. **Demolition.** This permit allows the demolition of structures as noted on the approved Plans. These structures may be demolished prior to grading or building permit issuance for the mixed-use project.
7. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set.
8. **Planned Development District Effectuated.** Once this Planned Development Permit is accepted, the use of land covered by the Permit shall only be land uses consistent with the Planned Development Zoning District and only upon issuance of a Planned Development Permit for those uses.
9. **Scope and Use Authorization of the Planned Development Permit.** This Planned Development Permit allows the demolition of five existing buildings, removal of six ordinance size trees and the construction of a mixed-use development containing 249 multi-family residential units and 26,585 square feet of ground level commercial space within a seven-story building with two levels of underground parking, in accordance with the approved development plans and uses consistent with the General Development Standards of the Planned Development Zoning District. Additionally, this Planned Development Permit effectuates the street-level plaza to be used for a privately owned, publicly accessible open space plaza.
10. **Privately Owned, Publicly Accessible Open Space Plaza.** The project's corner plaza located on the subject property at the intersection of West Julian Street and Stockton Avenue, shall be a privately owned, publicly accessible ground level open

space. The plaza shall be an area designated for use by the general public while owned and solely maintained by a private owner, as set forth below:

- a) Permittee (including property owners) shall, to the fullest extent permitted by law, hold harmless and indemnify the City of San José, its officers, agents and employees, from any and all damage or injury caused in any manner by the design, construction, use, repair, maintenance, or operation of the privately owned publicly accessible open space; and
- b) Permittee (including property owners) shall be solely liable for any and all damage or loss occasioned by any act or negligence in respect to the design, construction, use, repair, maintenance, or operation of the privately owned publicly accessible open space.
- c) Liability Insurance satisfactory to the City's Risk Manager and City Attorney, naming the City of San José and its officers and employees as additional insureds, shall be provided for all such spaces. The property owner shall record with the Santa Clara County Recorder a special restriction on the property satisfactory in substance to the Planning Department and sufficient to give notice to subsequent owners, tenant and other persons having other economic interests in the property of the privately owned publicly accessible open space requirement and the means by which the requirement has been, and must continue to be, satisfied.
- d) Maintenance – Privately owned publicly accessible open spaces shall be maintained, repaired, and replaced when necessary at no public expense. Permittee (including property owners) for the property on which the open space is located shall maintain the open space by keeping the area clean, free of litter, and safe for public use. All plant material that is provided in the privately owned publicly accessible open space shall be provided for the life of the publicly accessible open space and subject building.
- e) Plaza Location and Features - Prior to the issuance of any building permit, Permittee shall submit plans for construction subject to review and approval by the Director of Planning. The plans submitted for construction and building permit applications shall contain a final site plan, elevations, and landscaping plan for the plaza, all of which shall meet each of the following requirements:
 - i. Plaza shall be located on the subject property at the corner of Stockton Avenue and West Julian Street, bound by the adjacent public right-of-way, as depicted on the Approved Site Plan for PD17-029.
 - ii. Plaza shall be at least 1,800 square feet in size, with a minimum boundary dimension of 30 feet on at least two sides (abutting public right-of-way).
 - iii. Plaza shall be maintained with open accessibility, without obstruction (no fencing or barriers) to adjacent public sidewalks, so that pedestrians may pass across said plaza freely; provided that the Permittee (owner) may, with

Planning Director prior approval, be permitted to obstruct such access on a temporary basis as reasonably necessary in connection with the maintenance, repair and replacement to the Plaza and project elements in and around the Plaza.

- iv. Further, the plaza may include improvements, landscape, art, and hardscape installations, as well as furniture, and may occur on the boundary of the plaza so long as these elements do not generally preclude public accessibility, and do not occupy more than twenty percent (20%) of the usable space.
- v. The plaza may also be utilized by an immediately adjacent retail space for the purposes of customer seating, so long as exclusive seating contiguously occupies no more than an additional fifteen percent (15%) of the privately owned publicly accessible open space. At any time, no more than 35% of the total area shall be occupied by seating, planters or any obstructive element utilized by the leaser of any tenant space or the owner of the project.
- vi. The above conditions shall remain in effect for the life of the associated development.
- f) Plaza Hours of Operation – Any business utilizing the aforementioned fifteen percent (15%) of the open space may control the hours of accessibility to that space with respect to the designated seating or features associated with the business. The remaining privately owned publicly accessible space shall remain open and unobstructed to public pedestrians 24 hours a day, 7 days a week.
- g) Security – The Permittee (including property owners) shall put in place and maintain appropriate security and safety measures including, but not limited to, adequate lighting for nighttime visibility, textured or minimal slip paving, and access to a public “blue light” emergency phone or similar device situated within 10 feet of the plaza.
- h) The City, at its discretion, may require certain signage to be installed notifying the public of the privately owned, publicly accessible open space.

11. Replacement Trees. Based on the size and species of the six ordinance size trees removed, a total of nine (9) replacement 15-gallon trees are required to mitigate for their removal. Prior to the approval of any Building Permits, the permittee shall designate five (5) new trees to be planted on site in the podium level courtyard and make payment to the City in accordance to the City’s Schedule of Fees for funding to plant an additional 4 trees within the City boundary. These funds will be used for tree planting and maintenance of planted trees for approximately three years. The Project proponent shall provide the payment receipt for “off-site tree planting” to the Planning Project Manager prior to issuance of a building permit.

12. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
13. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
14. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
15. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the approved plan set.
16. **Utilities.** All new on-site telephone, electrical, and other overhead service facilities shall be placed underground.
17. **Anti-Graffiti.** The permittee shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.
18. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
19. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
20. **Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all elements of the site such as paving, lighting and landscaping.
21. **Lighting.** Lighting. All new on-site, exterior, unroofed lighting shall conform to the City's Outdoor Lighting Policy and shall use fully cut-off and fully shielded, low-pressure sodium fixtures unless otherwise approved with this project. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.
22. **Generators.** This permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
23. **Reclaimed Water.** The project shall conform to Chapter 15.10 and 15.11 of the San José Municipal Code. The Code addresses the use of reclaimed water including the

requirement that an irrigation system be designed to allow for the current and future use of reclaimed water for all landscaped cumulative areas in excess of ten thousand (10,000) square feet.

- 24. Parkland Dedication Ordinance.** This The residential portion of the 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.
- 25. Green Building Requirements for Mixed-Use New Construction Projects.** The development is subject to the City's Green Building Ordinance for Private Sector New Construction. Prior to the issuance of any shell or complete building permits issued on or after September 8, 2009 for the construction of buildings approved through the scope of this permit, the permittee shall pay a Green Building Refundable Deposit applicable to the gross square footage of said buildings which are approved through this permit. The request for refund of the Green Building Deposit together with green building certification evidence demonstrating the achievement of the green building standards indicated above shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code
- 26. Transportation Demand Management (TDM) Plan.** The Transportation Demand Management plan ("TDM Plan"), prepared by Hexagon and on file with the Department of Public Works, is incorporated fully herein by this reference. Based on the TDM measures included in the approved TDM Plan, the project shall meet the 57 percent parking reduction requirement parking conformance. The project 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 57 percent.

The TDM Plan shall include the following requirements for the life of the project:

- a) 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.

- b) If the project is unable to maintain the TDM program, a Planned Development 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.
- c) Bicycle parking. A total of 250 spaces are being proposed (only 71 spaces are required), 218 of them are secured long-term.
- d) Car share programs will be located on site with management subsidized memberships for residents.
- e) Onsite TDM Coordinator during normal business hours (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.
- f) Preferred Parking for Electric Vehicles
- g) Provide 100% unbundled parking for all residential spaces that require an additional rental fee to discourage car ownership.

27. **Conformance to MMRP.** 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. _____.

28. **Standard Environmental Conditions.**

Air Quality

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

- Idling times shall be minimized either by shutting equipment off 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 [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned 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.
- A publicly visible sign shall be posted at the site with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

Cultural/Historical Resources

Cultural:

- **Stop Work and Evaluate Unanticipated Finds.** If buried cultural deposits are encountered during project activities, all work within 50 feet of the find should be redirected. A qualified archaeologist shall: (1) evaluate the find to determine if it meets the CEQA definition of a historical or archaeological resource; and (2) provide project-specific recommendations regarding the disposition of the find. The results of any archaeological investigation will be submitted to the Northwest Information Center.

If the find does not meet the definition of a historical or archaeological resource, then no further study or protection is necessary prior to project implementation. If the find does meet the definition of a historical or archaeological resource, then it should be avoided by project activities. Avoidance may be accomplished through redesign, conservation easements, or site capping.

- **Provide Preconstruction Worker Awareness Training.** The City will ensure that all construction personnel receive paleontological resources awareness training that includes information on the possibility of encountering fossils during construction; the types of fossils likely to be seen, based on past finds in the project area; and proper procedures in the event fossils are encountered. Worker training will be prepared and presented by a qualified paleontologist.
- **Stop Work.** If vertebrate fossils are discovered during construction, all work on the site will stop immediately until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate treatment. Treatment may include 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

City will be responsible for ensuring that the recommendations of the paleontological monitor regarding treatment and reporting are implemented.

- **Follow Statutory Procedures if Human Remains are Encountered.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the remains are of Native American origin, the Coroner shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American to inspect the site and provide recommendations for the proper treatment of the remains and associated grave goods. The archaeologist should recover scientifically valuable information, as appropriate and in accordance with the recommendations of the Native Americans. Upon completion of analysis, as appropriate, the archaeologist will prepare a report documenting the methods and results of the investigation. This report will be submitted to the Northwest Information Center.

If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

Historical:

- **Relocation or Salvage.** Prior to issuance of any demolition permit, the project applicant shall offer for relocation buildings that are listed or eligible as a Structure of Merit. The advertisement shall include a photograph of the structure, contact information for the project applicant, and contact information for the City's Historic Preservation Officer. The project applicant shall provide evidence to the City's Historic Preservation Officer that the structure has been advertised for relocation in a newspaper of general circulation, posted on a website, and posted on the sites for a period of no less than 30 days. If an entity or individual is interested in relocating the building to a new site, the costs and liability of the relocation will be borne entirely by that entity/individual. If relocation is not successful, the project applicant shall advertise the structure for salvage in a newspaper of general circulation (for 3-days). The project applicant shall provide evidence of the advertisement to the City's Historic Preservation Officer, prior to issuance of any demolition permit.
- **Documentation.** If relocation is not successful, prior to issuance of any demolition permit, the Structure of Merit shall be photo-documented to an archival level utilizing 35 mm photography and consisting of selected black and white views of the building to the following standards:

- Cover sheet - The documentation shall include a cover sheet identifying the photographer, providing the address of building, common or historic name of the building, date of construction, date of photographs, and photograph descriptions.
- Camera - A 35mm camera.
- Lenses - No soft-focus lenses. Lenses may include normal focal length, wide angle and telephoto.
- Filters – Photographer's choice. Use of a polaroid screen is encouraged.
- Film - Must use black and white film; tri-X, Plus-X, or T-Max film is recommended.

The project shall coordinate the submission of the photo-documentation, including the original prints and negatives, to History San José. Digital photos may be provided as a supplement to the above photo-documentation, but not in place of it. Digital photography shall be recorded on a CD and submitted with the above documentation. The above shall be accompanied by a transmittal stating that the documentation is submitted as a standard measure to address the loss of the historic resource, which shall be named and the address stated, in coordination with the City's Historic Preservation Officer.

HAZARDS AND HAZARDOUS MATERIALS

- All potentially friable asbestos-containing materials shall be removed in accordance with National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities will be undertaken in accordance with Cal/OSHA standards, contained in Title 8 of the California Code of Regulations (CCR) Section 1529, to protect workers from exposure to asbestos. Materials containing more than one percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations.
- During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code of Regulations 1532.1, including employees training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings will be disposed of at landfills that meet acceptance criteria for the subject waste.

HYDROLOGY AND WATER QUALITY

Construction Measures

Prior to the commencement of any clearing, grading or excavation, the project shall comply with the State Water Resources Control Board's National Pollutant Discharge

Elimination System (NPDES) General Construction Activities Permit, to the satisfaction of the Director of Public Works, as follows:

1. The applicant shall develop, implement and maintain a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of stormwater pollutants including sediments associated with construction activities.
2. The applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB).

The project shall incorporate Best Management Practices (BMPs) into the project to control the discharge of stormwater pollutants including sediments associated with construction activities. Examples of BMPs are contained in the publication *Blueprint for a Clean Bay*, and include preventing spills and leaks, cleaning up spills immediately after they happen, storing materials under cover, and covering and maintaining dumpsters. Prior to the issuance of a grading permit, the applicant may be required to submit an Erosion Control Plan to the City Project Engineer, Department of Public Works, 200 E. Santa Clara Street, San José, California, 95113. The Erosion Control Plan may include BMPs as specified in ABAG's *Manual of Standards Erosion & Sediment Control Measures* for reducing impacts on the City's storm drainage system from construction activities. For additional information about the Erosion Control Plan, the NPDES Permit requirements or the documents mentioned above, please call the Department of Public Works at (408) 535-8300.

The project applicant shall comply with the City of San José Grading Ordinance, including 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. The following specific BMPs will be implemented to prevent stormwater pollution and minimize potential sedimentation during construction:

1. Restriction of grading to the dry season or meet City requirements for grading during the rainy season (October 1 through April 30);
2. Utilize on-site sediment control BMPs to retain sediment on the project site;
3. Utilize stabilized construction entrances and/or wash racks;
4. Implement damp street sweeping;
5. Provide temporary cover of disturbed surfaces to help control erosion during construction; and
6. Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

NOISE

- Provide a suitable form of forced-air mechanical ventilation for the proposed building, as determined by the City, so that windows can be kept closed to control noise.

- Provide sound rated windows to maintain interior noise levels at acceptable levels. Preliminary calculations show that sound-rated windows with minimum STC Ratings of 32 to 34 would be satisfactory for units facing roadways to achieve acceptable interior noise levels. The specific determination of what noise insulation treatments are necessary shall be conducted during final design of the project.
- The project applicant shall retain a qualified acoustical specialist to prepare a detailed analysis of interior residential noise levels resulting from all exterior sources during the final design phase of the project pursuant to requirements set forth in the State Building Code. The study will review the final site plan, building elevations, and floor plans prior to construction and confirm building treatments necessary to reduce residential interior noise levels to 45 dBA DNL or lower, and address and adequately control the noise from adjacent rooftop equipment. Treatments would include, but are not limited to, sound-rated windows and doors as specified above, sound-rated wall and window constructions, acoustical caulking, protected ventilation openings, etc. The specific determination of what noise insulation treatments are necessary shall be conducted on a unit-by-unit basis during final design of the project. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City, along with the building plans and approved design, prior to issuance of a building permit.

Consistent with the requirements for future development under the DSAP, the proposed project would implement the following standard noise control measures:

- In accordance with Policy EC-1.7 of the City's General Plan, utilize the best available noise suppression devices and techniques during construction activities.
- Construct temporary noise barriers, where feasible, to screen stationary noise-generating equipment. Temporary noise barrier fences would provide a 5 dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines should be strictly prohibited.
- Locate stationary noise-generating equipment, such as air compressors or portable power generators, as far as possible from sensitive receptors as feasible. If they must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used reduce noise levels at the adjacent sensitive receptors. Any enclosure openings or venting shall face away from sensitive receptors.

- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Construction staging areas shall be established at locations that will create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.
- A temporary noise control blanket barrier could be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
- Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities and notify in writing all adjacent business, residences, and other noise-sensitive land uses of the construction schedule. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- 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 will 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 in it the notice sent to neighbors regarding the construction schedule.

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

- a. *Construction Plans.* This permit file number, PD17-029, shall be printed on all construction plans submitted to the Building Division.
- b. *Americans with Disabilities Act.* The permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
- c. *Emergency Address Card.* The permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
- d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division.

Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.

30. **Affordable Housing.** The project may be subject to the City's Inclusionary Housing Ordinance (IHO) or Affordable Housing Impact Fee (AHIF). If the development is subject to the referenced IHO or AHIF, the permittee must execute and record their Affordable Housing Agreement with the City prior to the issuance of any building permits, or any final approval of any final map.
- a. The IHO and AHIF Resolution each exempt certain developments from affordable housing obligations, if the development meets certain criteria. However, whether an exemption is claimed or not, the permittee must submit an Affordable Housing Compliance Plan Application, and the application processing fee to the Housing Department as part of the application for First Approval.
 - b. The Housing Department has reviewed and approved the Affordable Housing Compliance Plan for this project. Permittee shall strictly comply with the approved Affordable Housing Compliance Plan for this project and any other applicable requirements of the IHO or AHIF.
 - c. If the project is subject to the AHIF, no building permit may issue until the AHIF is paid. No Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the AHIF Resolution are met.
 - d. If the project is subject to the IHO, no Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the IHO are met.
31. **FAA Clearance Required.** Prior to the issuance of any building permit, the permittee shall obtain from the Federal Aviation Administration a "Determination of No Hazard to Air Navigation" for each building high point. The Permittee shall file a "Notice of Proposed Construction or Alteration" (FAA Form 7460-1) for the building corner points and two top mechanical overrun points on each building. The data on the FAA forms should be prepared by a licensed civil engineer or surveyor using NAD83 location coordinates out to hundredths of seconds and NAVD88 elevations rounded off to next highest foot.
32. **FAA Permit Adjustment.** Prior to the issuance of any Building Permit, the Permittee shall obtain a Permit Adjustment to incorporate all FAA conditions identified in the Determinations of No Hazard (if issued), e.g., obstruction lights or construction-related notifications, into the Planned Development Permit conditions of approval.
33. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.

34. **Fire Flow.** Required fire flow for the site is approved by the Fire Chief. Any changes to project require a re-review and approval by the Fire Chief.
35. **Fire Hydrants.** Prior to the issuance of building permits, number of Public (off-site) and private (on-site) fire hydrants and their locations need approval through a Fire Variance and to the satisfaction of the Fire Chief.
36. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways will be confirmed at time of building permit review to the satisfaction of the Fire Chief.
37. **Fire Department Access.** Prior to the issuance of any building permits, fire equipment access needs approval through a Fire Variance and to the satisfaction of the Fire Chief.
38. **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 any 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/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 Impact Analysis has been performed for this project based on 71 AM and 130 PM peak hour trips. Based on the results of analysis conducted by DOT and included in the Traffic memo dated August 17, 2018, the subject project will be in conformance with the City of San José Transportation Level of Service Policy (Council Policy 5-3) and a determination of less than significant impact can be made with respect to traffic impacts.
 - c. **Private Improvements within Public Property:** The proposed encroachments for balconies, windows and architectural features shall be subject to Chapter 13.37 of the San José Municipal Code. These encroachments within the public right-of-way are limited to a maximum of 4 feet. No further discretionary approval by City Council is required for balconies, windows and/or architectural features that comply with the San José Building Code. Permittee shall execute an Encroachment Agreement as part of Public Works Clearance requirement(s) and prior to Building Permit issuance. The Encroachment Agreement shall be recorded against title to the property.

d. 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 permittee 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 shall 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 is 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.

e. Shoring:

- i. Shoring plans will be required for review and approval as part of the Grading Permit for this project.
- ii. If tie-backs are proposed in the Public right-of-way as a part of the shoring operation, a separate Revocable Encroachment Permit must be obtained by the Permittee or Contractor and must provide security, in the form of a CD or Letter of Credit, in the amount of \$100,000. All other shoring will not be allowed to

- encroach greater than 12 inches into the public right-of-way (i.e., soldier beams).
- iii. If tie-backs are proposed for use along the adjacent properties (261-01-111, 261-01-037, 261-01-038), agreements between the Permittee and the adjacent property owner(s) will need to be secured, executed and provided to the Public Works Project Engineer prior to approval of the Grading Permit for this project.
 - 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 will be in conformance with City Policy 6-29.
 - ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
 - 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 Public Works clearance.
 - j. **Undergrounding:**
 - i. The In-Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to West Julian Street and Stockton Avenue prior to issuance of a Public Works Clearance. 100 percent 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 discretion, allow the permittee to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to Stockton Avenue. Permittee shall submit copies of executed

utility agreements to Public Works prior to the issuance of a Public Works Clearance.

- k. **Street Improvements:** Permittee shall be solely responsible for the construction of the following improvements:
- i. Remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - ii. Remove and replace curb, gutter, and sidewalk along all project frontages.
 - iii. Remove the “pork chop” island at the northwest corner of West Julian Street and Stockton Avenue. Traffic signal modification and realignment of crosswalks will be required.
 - iv. Construct a 22-foot wide sidewalk along Stockton Avenue project frontage with a 10.5-foot wide park strip (not including the curb width of 0.5 foot), and an 11-foot wide detached sidewalk.
 - v. Construct a 15-foot wide sidewalk along West Julian Street project frontage with the following:
 - A 6-foot wide park strip (not including the curb width of 0.5 foot), and an 8.5-foot wide detached sidewalk on West Julian Street.
 - Construct a 26-foot wide City standard driveway at Stockton Avenue project frontage.
 - Close unused driveway cuts along West Julian Street and Stockton Avenue.
 - Permittee 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.
 - The type and structural section of the proposed decorative pavers within the public right-of-way will be evaluated at the public improvement plan stage.
 - 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.
- l. **Site Utilization Plan and Revocable Encroachment Permit (Street/Sidewalk Closures):** At the permitting stage, Permittee shall provide to the Public Works Project Engineer a Site Utilization Plan with the application of a Revocable Encroachment Permit for any proposed sidewalk and lane closures to support the onsite construction activities.

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

- i. **Site Utilization Plan and Letter of Intent:** The site utilization plan shall provide a detailed plan of the location of the temporary facilities within the boundary of the construction site. The Letter of Intent shall include a description of the 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. The Letter of Intent shall also include a discussion as to the reasons why covered pedestrian walkways will not be provided (e.g., swinging loads over sidewalk not safe for pedestrians).
- ii. **Multi-Phased Site-Specific Sketches:** These sketches shall show the phased closures during the course of construction with a 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.

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

- i. Implementing the closures at the time the onsite activities dictate the need for the closure.
- ii. Minimizing the closure timeframes to accomplish the onsite tasks and implement the next phase of the closure as outlined in Condition No. 38.I.ii., above.

If proposed lane and parking closures are a part of the Revocable Permit Application, Permittee 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>. Permittee shall contact DOT at (408) 535-8350 for more information concerning the requirements of these applications.

- m. **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.
- n. **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 the park strip. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.

39. Revocation, Suspension, Modification. This Planned Development Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:

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

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

//

//

//

//

//

//

//

//

//

//

//

//

EFFECTIVE DATE

The effective date of this Permit shall be the effective date of the Planned Development Rezoning Ordinance for File No. PDC17-058 adopted on _____ (the "Planned Development Rezoning Ordinance") and shall be no earlier than the effective date of said Planned Development Rezoning Ordinance.

ADOPTED 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.

LEGAL DESCRIPTION

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

TRACT ONE:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHERLY LINE OF JULIAN STREET WITH THE SOUTHWESTERLY LINE OF STOCKTON AVENUE; THENCE WESTERLY ALONG THE NORTHERLY LINE OF JULIAN STREET 111 FEET; THENCE AT RIGHT ANGLES NORTHERLY AND PARALLEL WITH THE DIVIDING LINE BETWEEN LOTS 1 AND 2 OF THE RHODES TRACT, AS HEREINAFTER REFERRED TO, 82.75 FEET; THENCE AT RIGHT ANGLES EASTERLY AND PARALLEL WITH THE NORTHERLY LINE OF JULIAN STREET, 46.77 FEET TO THE SOUTHWESTERLY LINE OF STOCKTON AVENUE; THENCE SOUTHEASTERLY AND ALONG SAID LINE OF STOCKTON AVENUE TO THE POINT OF INTERSECTION, AND BEING A PART OF LOT 1 OF THE RHODES TRACT ACCORDING TO A MAP ENTITLED, "MAP OF THE SUBDIVISION OF THE RHODES TRACT", WHICH SAID MAP IS OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA IN BOOK "B" OF MAPS, PAGE 87, SANTA CLARA COUNTY RECORDS.

TRACT TWO:

PARCEL A AS SHOWN ON CITY OF SAN JOSE, CALIFORNIA DEPARTMENT OF CITY PLANNING LOT LINE ADJUSTMENT PERMIT, FILE NO. AT 97-05-053 AS EVIDENCED BY DOCUMENT RECORDED OCTOBER 10, 1997, AS DOCUMENT NO. 13894399, OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF PARCEL 1 AS SHOWN ON THAT CERTAIN PARCEL MAP FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, IN BOOK 584 OF MAPS AT PAGES 7 AND 8.

AND IN ADDITION THERETO, THE FOLLOWING TRANSFER AREA 1:

ALL THAT REAL PROPERTY DESCRIBED IN THAT CERTAIN DEED RECORDED MARCH 16, 1997, IN BOOK C668, PAGE 354, OFFICIAL RECORDS OF SANTA CLARA COUNTY, DESCRIBED AS FOLLOWS:

ALL OF LOT TEN (10) AS SHOWN ON THAT MAP ENTITLED "MAP OF THE SUBDIVISION OF THE RHODES TRACT", FILED FOR RECORD ON SEPTEMBER 14, 1887 IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA IN VOL. "B" OF MAPS, PAGE 87, DESCRIBED AS FOLLOWS:

BEGINNING AT SOUTHEASTERLY CORNER OF SAID LOT 10, SAID CORNER BEING THE SOUTHWESTERLY CORNER OF SAID PARCEL 1 AS SHOWN ON SAID PARCEL MAP;

THENCE ALONG THE SOUTHERLY, WESTERLY AND NORTHERLY LINE OF SAID LOT 10 THE FOLLOWING THREE (3) COURSES:

SOUTH 87° 08' 20" WEST 50.00 FEET;

NORTH 2° 51' 40" WEST 196.00 FEET;

SOUTH 66° 48' 20" EAST 55.66 FEET TO THE COMMON LINE BETWEEN SAID LOT 10 AND

PARCEL 1, AS SAID PARCEL IS SHOWN ON SAID PARCEL MAP FILED IN BOOK 584 OF MAPS AT PAGES 7 AND 8.

THENCE ALONG SAID COMMON LINE SOUTH 2° 51' 40" EAST 171.55 FEET TO THE POINT OF BEGINNING.

AND IN ADDITION THERETO, THE FOLLOWING TRANSFER AREA 2:

ALL THAT REAL PROPERTY DESCRIBED IN THAT CERTAIN DEED RECORDED FEBRUARY 27, 1996, IN BOOK P218, PAGE 2033, OFFICIAL RECORDS OF SANTA CLARA COUNTY, DESCRIBED AS FOLLOWS:

PORTIONS OF LOTS 1 AND 2 AS SHOWN ON THAT MAP ENTITLED, "MAP OF THE SUBDIVISION OF THE RHODES TRACT", FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON SEPTEMBER 14, 1887 IN BOOK "B" OF MAPS, PAGE 87, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHWESTERLY LINE OF JULIAN STREET DISTANT THEREON 151.20 FEET SOUTHWESTERLY FROM THE POINT OF INTERSECTION OF SAID NORTHWESTERLY LINE OF JULIAN STREET WITH THE SOUTHWESTERLY LINE OF STOCKTON AVE; SAID POINT BEING THE SOUTHEASTERLY CORNER OF SAID PARCEL 1, AS SHOWN ON SAID PARCEL MAP;

THENCE ALONG THE GENERAL EASTERLY LINE OF SAID PARCEL 1 NORTH 2° 51' 40" EAST 82.75 FEET;

THENCE PARALLEL WITH SAID NORTHWESTERLY LINE OF JULIAN STREET NORTH 87° 08' 20" EAST 40.20 FEET;

THENCE AT RIGHT ANGLES SOUTH 2° 51' 40" EAST 82.75 FEET TO SAID NORTHWESTERLY LINE OF JULIAN STREET;

THENCE ALONG SAID NORTHWESTERLY LINE SOUTH 87° 08' 20" WEST 40.20 FEET TO THE POINT OF BEGINNING.

AND IN ADDITION THERETO THE FOLLOWING TRANSFER AREA 3:

ALL THAT REAL PROPERTY DESCRIBED IN THAT CERTAIN DEED RECORDED AUGUST 3, 1990, IN BOOK L438, PAGE 1669, OFFICIAL RECORDS OF SANTA CLARA COUNTY, DESCRIBED AS FOLLOWS:

PORTION OF LOTS 1 AND 2 AS SHOWN ON THAT CERTAIN MAP ENTITLED, "MAP OF THE SUBDIVISION OF THE RHODES TRACT", FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, SEPTEMBER 14, 1887 IN BOOK "B" OF MAPS, AT PAGE 87, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHWESTERLY LINE OF STOCKTON AVENUE, DISTANT THEREON 104.85 FEET NORTHWESTERLY FROM THE POINT OF INTERSECTION OF THE SAID SOUTHWESTERLY LINE OF STOCKTON AVENUE WITH THE NORTHWESTERLY LINE OF JULIAN STREET;

THENCE ALONG SAID SOUTHWESTERLY LINE OF STOCKTON AVENUE NORTH 40° 45' 00" WEST 51.30 FEET TO THE MOST EASTERLY CORNER OF SAID PARCEL 1 AS SHOWN ON SAID PARCEL MAP;

THENCE ALONG THE GENERAL EASTERLY LINE OF SAID PARCEL 1 SOUTH 49° 15' 00" WEST
65.93 FEET;

THENCE PARALLEL WITH SAID NORTHWESTERLY LINE OF JULIAN STREET NORTH 87° 08' 20"
EAST 83.54 FEET TO THE POINT OF BEGINNING.

APN: 261-01-030 (Tract One) and 261-01-094 (Tract Two)

