

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT PERMIT TO DEMOLISH FOUR EXISTING SINGLE-FAMILY HOMES AND REMOVE ~~FOUR~~ SIX ORDINANCE SIZED TREES AND ~~THREE~~ ONE NON-ORDINANCE SIZED TREES, AND TO CONSTRUCT SIX SINGLE-FAMILY HOMES WITH ASSOCIATED SITE IMPROVEMENTS ON A 0.48 GROSS ACRE SITE LOCATED AT THE SOUTH SIDE OF CARLTON AVENUE, APPROXIMATELY 290 FEET WESTERLY OF NATIONAL AVENUE (15980 CARLTON AVENUE, APN: 421-13-060)

FILE NO. PD17-023

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on September 27, 2016, an application (File No. PD17-023) was filed by the applicant, Calero Lot #2 Partners G.P, with the City of San José for a Planned Development Permit to demolish four existing single-family homes and remove ~~four~~ six ordinance sized trees and ~~three~~ one non-ordinance sized trees, and to allow the construction of six single-family homes with associated site improvements and tentative map, on that certain real property situated in the R-M(PD) Planned Development Zoning District and located at the south side of Carlton Avenue, approximately 290 feet westerly of National Avenue (15980 Carlton avenue, APN: 421-13-060, San José, which real property is sometimes referred to as the “subject property”); and

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

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Planning Commission conducted a hearing on said application on December 6, 2017, notice of which was duly given; and

WHEREAS, at said hearing, the Planning Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing, the Planning Commission made a recommendation to the City Council respecting said matter based on the evidence and testimony; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, this City Council conducted a hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, this City Council gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing this City Council received and considered the reports and recommendations of the City's Planning Commission and 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, "Carlton Avenue San José CA," dated received on November 10, 2017, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

WHEREAS, said public hearing before the City Council was conducted in all respects as required by the San José Municipal Code and the rules of this City Council; and

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

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

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

1. **Site Description and Surrounding Uses.** The project site is located at 15980 Carlton Avenue and currently contains four single-family residences that are approximately 75 years old, approximately 2,380 square foot in size and two accessory buildings, approximately 1,110 square feet in size. The property has historically been used for residential purposes. The subject site is bounded by single-family and duplex uses to the north, single-family residential uses located in the Town of Los Gatos to the east, and multi-family residential uses to the west and south.
2. **Project Description.** On November 1, 2017, a Planned Development Rezoning, Planned Development Permit and Tentative Map applications (File Nos. PDC17-049, PD17-023, and PT17-050) were filed to rezone the project site from the R-M Multiple Residence Zoning District to R-M(PD) Planned Development Zoning District, to demolish four single-family residences, totaling approximately 2,380 square feet and two accessory buildings, totaling approximately 1,110 square feet, constructing six single-family residences, totaling approximately 8,500 square feet, removing six ordinance-sized trees and one 13-non-ordinance sized trees and utilize uniform sized parking spaces, and to reconfigure one lot into six residential condominiums on an approximately 0.48 gross acre site.

The project is proposing six two-story single-family detached residences. Each house will contain three to four bedrooms and a two-car garage. Each unit will also include a private yard, ranging from approximately 500 square feet to 1200 square feet. The project would take access from Carlton Avenue through a shared private driveway. The residential units facing Carlton Avenue have front porches and doors facing Carlton, consistent with the neighborhood. The two units at the south end of the property will also have the front doors oriented towards Carlton.

The project is proposing six residential condominiums, as all six structures are contained on one lot. A Condition of Approval has been placed on the project requiring a Homeowner's Association to be established. The Homeowner's Association will be required to maintain the private driveway and common areas.

3. **General Plan Conformance.** The Envision San José 2040 General Plan Land Use/Transportation Diagram land use designation for the subject site is Residential Neighborhood. This designation is applied broadly throughout the City to encompass most of the established, single-family residential neighborhoods, including both the suburban and traditional residential neighborhood areas which comprise the majority of its developed land. The intent of this designation is to preserve the existing character of these neighborhoods and to strictly limit new development to infill projects which closely conform to the prevailing existing neighborhood character as defined by density, lot size and shape, massing and neighborhood form and pattern. New infill development should improve and/or enhance existing neighborhood conditions by completing the existing neighborhood pattern and bringing infill properties into general conformance with the quality and character of the surrounding neighborhood. The project is consistent with the Residential Neighborhood General Plan land use designation in that the prevailing density in the neighborhood is 16.22 DU/AC. The block is defined as both sides of Carlton between National Avenue and Kinghurst Drive. As the General Plan does not allow for the density to exceed 16 DU/AC, the maximum density for the area would be 16 DU/AC. The maximum number of dwelling units per acre on the subject site is seven units.

The proposed Planned Development Rezoning, Planned Development Permit and Tentative Map are consistent with the following General Plan goals and policies:

- a. High-Quality Living Environments 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 is providing approximately 4,414 square feet of private open space in the form of private yards. The residential design guidelines state that new residential developments should provide a minimum of 400 square feet of private open space per residential unit with a minimum dimension of 15 feet. The project would thus be required to provide 2,400 square feet of private open space. Private open areas should be adjacent to each other, where possible, to maximum sunlight and exposure and sense of openness. The project is proposing approximately 2,014 square footage more than the guideline suggests and the private open space for each unit is placed adjacent to the open space for another unit. Based on the private open space provided and the way it is designed, the proposal's open space is in compliance with this General Plan policy.

- b. Implementation Policy IP-8.5: Use the Planned Development zoning process to tailor such regulations as allowed uses, site intensities and development standards to a particular site for which, because of unique circumstances, a Planned Development zoning process will better conform to Envision General Plan goals and policies than may be practical through implementation of a conventional Zoning District. These development standards and other site design issues implement the design standards set forth in the Envision General Plan and design guidelines adopted by the City Council. The second phase of this process, the Planned Development Permit, is a combined site/architectural permit and conditional use permit which implement the approved Planned Development zoning on the property.

Analysis: The site is currently in the R-M Multiple Residence Zoning District, which does not allow for more than one single-family dwelling to be developed on a lot located in the R-1, R-M and R-MH Zoning Districts and therefore, in order to further the goals and policies of the General Plan, a Planned Development Zoning District was requested and approved by Council.

4. **Zoning Ordinance Compliance.** The site is located in the R-M Multiple Residence Zoning. General Plan Implementation Policy IP-8.5, allows the Planned Development Rezoning process to be utilized if the Planned Development Rezoning process will better conform to the General Plan goals and policies than a conventional zoning district, which would only allow for single-family homes (R-1-5 or R-1-8) and the site is currently zoned R-M Multiple Residence District. It is appropriate for a Planned Development Zoning District to be utilized because the adjacent sites within the City's jurisdiction are designated R-M and include higher density developments. Additionally, the R-M District only allows for one single-family dwelling per lot, which does not allow for full build-out as envisioned in the General Plan.

As shown in the tables below, the overall development boundaries comply with the requirements of the R-M Zoning District. Additionally, the project provides the required number of parking spaces with a two-car garage for each unit and four on-site guest parking spaces. However, as noted above, multiple one-family dwellings are not allowed on a single lot in the R-M Zoning District. Therefore, the Planned Development Zoning allows up to six one-family dwellings on one lot and notes the minimum separation between the buildings to maintain differentiation between the units. The proposed Planned Development Zoning also allow all uses currently, or as amended, in the R-M Zoning District.

The project is also utilizing uniform sized parking spaces, which measure eight feet and six inches by 17 feet. Pursuant to Section 20.90.060(A)(3) of the San Jose Municipal Code, a development permit may authorize all off-street vehicle parking spaces to be uniform-size car spaces. The project is utilizing the uniform sized

parking spaces in order to provide guest parking spaces and not infringe upon the bioretention areas.

R-M Zoning District – Development Standards	
Setbacks	
Front setback	10 feet
Side, interior setback	5 feet
Rear, interior setback	25 feet
Maximum height	45 feet
Parking	
3-4 bedrooms	2.6 per unit

Proposed R-M (PD) Zoning District	
Perimeter Setbacks	
Front setback	11 feet from the front property line to the porch 15 feet from the front property line to the face of building
Side, interior setback	5 feet
Rear, interior setback	25 feet
Maximum height	45 feet
Building Separation	
Between exterior building wall faces	Minimum 7 feet 6 inches
Parking	
3-4 bedrooms	2 parking spaces per unit and 0.5 guest parking spaces per unit

5. **Residential Design Guidelines Conformance.** The project complies with the Residential Design Guidelines in that the development is proposing only two-story homes (consistent with surrounding development) and an appropriate massing with the use of gable and hip roof forms. In addition, the proposed homes include the use of horizontal siding, lap siding, stucco and wood architectural details all of which are found in the immediate neighborhood. The use of the proposed roof forms and

materials maintains the neighborhood streetscape while providing compatible housing in the area. The project architecture, materials and massing is similar to the residential structures in the neighborhood.

6. **Environmental Review.** An Initial Study (IS) and Mitigated Negative Declaration (MND) were prepared by the Director of Planning, Building and Code Enforcement for the subject Planned Development Rezoning and Planned Development Permit. The documents were circulated for public review from November 8, 2017 to November 28, 2017. There were no public comments submitted.

A Historical Resources evaluation of the four structures was conducted by Archives & Architecture on January 13, 2017. Results of the evaluation indicated that the four buildings on this site are approximately 75 years in age. The property has not been previously evaluated, listed, or designated as a part of any local, state, or national survey of historic resources. The buildings are not representative of any important patterns of development within San José or its environs. The use has not been identified as important within the history of the city, and the rural characteristics of the neighborhood disappeared during the early 1950s. The property is not bound by any consistent thematic or physical attributes. The property therefore is not associated with significant patterns, persons, and/or events, and would not qualify for the California Register of Historic Resources or as a San José City Landmark under this criterion.

The final IS/MND states that the proposed project will not have a significant effect on the environment. The primary environmental issues addressed in the final Initial Study include potential impacts on the physical development of the site on: biological resources, hazards and hazardous materials, noise, and vibration.

The MND includes mitigation measures that would reduce any potentially significant project impacts to a less-than-significant level. In addition to other environmental conditions, the mitigation measures would be included in the Planned Development permit as project conditions and in a Mitigation Monitoring and Reporting Program (MMRP). The entire IS/MND and other related environmental documents are available on the Planning web site at: <http://www.sanjoseca.gov/index.aspx?NID=2165>

7. **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. Based on the foregoing, the City Council finds:
 - a. The Planned Development Permit, as issued, is consistent with and furthers the policies of the General Plan;

Analysis: As described above, the project is consistent with and furthers the policies of the General Plan.

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

Analysis: The Planned Development Permit conforms in all respects to the R-M(PD) Planned Development Zoning of the property, including uses, setbacks and height.

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

Analysis: As discussed below, the project is in conformance with City Council Policy 6-30 Public Outreach. Staff received confirmation that the on-site sign was posted at the subject property, in accordance with the City Council Policy 6-30 on December 19, 2016.

- 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, two-story mass and scale of the proposed buildings are harmonious with the surrounding neighborhood and will be constructed of high quality material. Additionally, the project is architecturally compatible with the surrounding homes with the use of horizontal siding, gable roof forms and wood architectural accents provide a successfully compatible project.

- 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 will not have an unacceptable negative effect on adjacent property or properties as the project is not anticipated to generate noise levels and odors after construction as it is a multi-family residential development. There will not be uses on-site that are anticipated to generate noise. The project has been evaluated with stormwater requirements and was found to be in compliance. The project has also been evaluated in accordance with CEQA and has been found to not have an unacceptable negative effect on the adjacent properties.

8. **Tentative Map Findings.** In accordance with Section 66474 of the Government Code of the State of California, the City Council of the City of San José, in consideration of the proposed subdivision shown on the Tentative Map with the imposed conditions, shall deny approval of a tentative map, if it makes any of the following findings:

- 1) That the proposed map is not consistent with applicable general and specific plans as specified in Government Code Section 65451.

- 2) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
- 3) That the site is not physically suitable for the type of development.
- 4) That the site is not physically suitable for the proposed density of development.
- 5) That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- 6) That the design of the subdivision or type of improvements is likely to cause serious public health problems.
- 7) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

As discussed in detail above, all of the required findings for a tentative map can be made to reconfigure one lot into six residential condominiums for the development of six new single-family residences.

9. **Tree Removal Permit Findings.** Chapter 13.32 of the San José Municipal Code establishes evaluation criteria for issuance of a permit to allow tree removals. These criteria are made for 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 Resolution.

- 1) That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question;

Analysis: The trees proposed for removal are located within the footprint of the building area. The grading that will occur on the site will remove ~~three~~ six ordinance size trees and ~~four~~ one non-ordinance sized trees. The proposed project includes four 15 gallon or larger replacement trees to be planted on the site and will include retention of the existing cedar trees located adjacent to the sidewalk. The new landscaping will enhance the existing open space and provide stormwater treatment for the new development.

10. **Evaluation Criteria for Demolition.** Chapter 20.80 of the San José Municipal Code establishes evaluation criteria for issuance of a permit to allow demolition. These criteria are made for 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 Resolution.

- a. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
- b. The failure to approve the permit would jeopardize public health, safety or welfare;

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

Analysis: The demolition of the existing buildings will facilitate the construction of six single-family residences that will enhance and is compatible with the surrounding neighborhood. There are four residential units on the property; however, the project is proposing six new single-family residences. The development permits sought is for a new single-family residential project. The project site is not found to be historic and the project site is not found to be located in a district of historical significance.

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

CONDITIONS

1. **Acceptance of Permit.** Per Section 20.100.290(B) of Title 20 of the San José Municipal Code, should the permittee fail to file a timely and valid appeal of this Planned Development Permit within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the permittee:
 - a. Acceptance of the Planned Development Permit; 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 of the terms, provisions, and conditions of this Permit or other approval and the provisions of Title 20 of the San José Municipal Code applicable to such Permit.
2. **Permit Expiration.** The Planned Development Permit shall automatically expire two (2) years from and after the date of issuance hereof by the City Council, 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 City Council. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20 of the San José Municipal Code. The Permit Adjustment/Amendment must be approved prior to the expiration of this Planned Development Permit.

3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Planned Development Permit shall be deemed acceptance of all conditions specified in this permit and the permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
5. **Conformance to Plans.** The development of the site shall conform to the approved Planned Development Permit plans entitled, "Carlton Avenue San José CA," dated received on November 10, 2017, 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".
6. **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 conditioned.

7. **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 Title 20 of the San José Municipal Code.
8. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance or that adversely affects the peace, health, safety, morals or welfare of persons residing or working in the surrounding area or be detrimental to public health, safety or general welfare. Any such nuisance shall be abated immediately upon notice by the City.
9. **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.
10. **Anti-Graffiti.** During construction, the permittee shall remove all graffiti from buildings, walls and other surfaces within 48 hours of defacement. Upon project completion and/or transfer of ownership, the property owner, and/or Maintenance District shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
11. **Loitering.** Loitering shall not be allowed in the public right-of-way adjacent to the subject site.
12. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering the garbage container. No outdoor storage is allowed / permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
13. **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.
14. **Homeowner's Association.** A Homeowner's Association shall be established for maintenance of all common areas, including driveways/courtyards, stormwater facilities, and landscaping. A copy of the Development Permit, the accompanying Plan Set, any approved Amendments or Adjustments to the Development Permit, and a complete set of approved building and all improvement plans shall be provided to the Homeowner's Association by the permittee no later than 30 days upon completion of each phase.
15. **Building and 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 exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.

16. **Perimeter Fencing.** Fence height and materials shall be provided as shown on the approved plans. Changes to the approved fencing shall require review by the Director of Planning, Building, and Code Enforcement.
17. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set. Any change in building colors and materials shall require a Permit Adjustment.
18. **Window Glazing.** Unless otherwise indicated on the approved plan, all windows shall consist of a transparent glass.
19. **Timing of Tree Removals.** Trees that are proposed for removal to accommodate new development shall not be removed until the related Grading Permit has been issued.
20. **Demolition.** This permit allows the demolition of buildings and structures as noted on the Approved Plans. The demolition of the building and structures may occur at the issuance of grading permit.
21. **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.
22. **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.* These permit file numbers, PD17-023 and PT17-050 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.
 - e. *Project Addressing Plan.* Prior to issuance of any Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official: The permittee shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial).
23. **Access Control.** When access control devices including bars, grates, gates, electric and/or magnetic locks, or similar devices which would inhibit rapid fire department emergency access to the building are installed, such devices shall be approved by the Chief. All access control devices shall be provided with an approved means for deactivation or unlocking by the Fire Department. Access control devices shall also comply with CFC/CBC Chapter 10 for exiting.
24. **Security Gate Access.** All access control vehicle security gate(s) shall be a minimum of 20 feet clear width and may have a clear width of 14 feet for each direction of travel when split by median. Gates shall be recessed beyond the turning radius required by the San José Fire Department (SJFD) and without obstruction of any median island dividers. All gate installing shall be reviewed and approved prior to construction. Electric gate operators must have UL 325 listing and it gate must comply with ASTM F2200.
25. **Emergency Vehicle Access.** Width, length, and grade of the fire apparatus access roads, streets, avenues, and the like. Every portion of all building exterior walls shall be within 150 feet of an access road. To the satisfaction of the Fire Chief, the fire access shall include the following:
- a. An approved all weather surface;
 - b. Access road that are at least 20 feet wide;
 - c. Dimensions with a minimum 13 feet, 6 inches vertical clearance;

- d. Load bearing designs that are maintained to support the loads of fire apparatus of at least 75,000 pounds;
- e. Maintain a minimum inside turning radius of 30 feet and an outside turning radius of 50 feet;
- f. Designs with approved provisions for turnaround of fire apparatus if accessway has dead ends and is in excess of 150 feet;
- g. Maintain a maximum grade of 15 percent;
- h. Provision of a second point of access is required when a fire apparatus road exceeds 1,000 feet;
- i. Curbs are required to be painted red and marked as "Fire Lane - No Parking" under the following conditions: (show exact locations on plan)
- j. Roads, streets, avenues, and the like that are 20 feet wide to less than 26 feet wide measured from face-of-curb to face-of-curb shall have curbs on both sides of the road painted and marked
- k. Roads, streets, avenues, and the like that are 26 feet wide to less than 32 feet wide measured from face-of-curb to face-of-curb shall have one curb painted and marked.

26. Fire Hydrant Location & Spacing. The Fire Hydrant Location & Spacing shall meet the requirements of CFC Appendix C with City of San José Amendments. Show the location and spacing of the fire hydrants on the plans meeting the following general requirements.

- a. Determine the required number and spacing of fire hydrants per CFC Appendix C, Table C102.1; (or Refer to San José Fire Flow and Hydrant Policy <http://sanjoseca.gov/DocumentCenter/View/61703>). For the purposes of determining the required number and spacing of fire hydrants, no reduction in the Required Fire Flow is allowed even for buildings with sprinkler systems.
- b. Show the spacing of the fire hydrants along the fire apparatus access roads on the plans.
- c. Demonstrate on plans that all exterior walls of the building(s) are within 400 feet from a fire hydrant. The distance should be calculated from a fire hydrant on a fire apparatus access road, as measured along the path of travel around the exterior of the building (and not by drawing a 400 feet radius around the fire hydrant).

27. Available Fire Flow. Provide a copy of the letter from the property's water company that indicates the Available Fire Flow in gallons per minute (gpm). Approval of Fire Hydrant Location & Spacing by SJFD is required before requesting Fire Flow data

from the water company. Verify with the water company that a minimum of 1,000 gpm from a new proposed fire hydrant is available at minimum pressure of 20 psi.

28. **Fire sprinkler system** is required in all units and will be a deferred submittal after building permit is issued.
29. **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.
30. **Transportation:** This project is exempt from the Level of Service (LOS) Policy, and no further LOS analysis is required because the project proposes less than 15 Single Family detached units.
31. **Grading/Geology:**
 - a. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
 - b. 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.
 - c. A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit. This report should include, but is not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations.
32. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) requiring 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.
 - a. 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.

- b. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
33. **Stormwater Peak Flow Control Measures:** The project is located in a Hydromodification Management (HM) area, but will not create and/or replace one acre or more of impervious surface. Therefore, the project is exempt from the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
34. **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.
35. **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.
36. **Parks:** This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San José Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San José Municipal Code) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the formula contained within in the Subject Chapter and the Associated Fees and Credit Resolutions.
37. **Street Improvements:**
 - a. Remove and replace curb, gutter, and sidewalk along Carlton Avenue with 12-foot wide detached sidewalk section with a 6.5-foot park strip and 5-foot wide sidewalk.
 - b. Proposed driveway width to be 22 feet wide per City Standard Detail R-5.
 - c. Close unused driveway cuts.
 - d. 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.
38. **Sanitary:** The project is required to submit plan and profile of the private sewer mains with lateral locations for final review and comment prior to construction.
39. **Storm:** Construct a new 15-inch reinforced concrete pipe (RCP) storm main extension from the existing manhole located at the intersection of Kinghurst Drive and Carlton Avenue across the project frontage as there is currently no storm main along Carlton Avenue.

40. **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.
41. **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.
42. **Private Streets:** Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.
43. **Conformance to Mitigation Monitoring and Reporting Program.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program (MMRP) approved for this development by City Council Resolution No. [REDACTED].

44. **Standard Environmental Conditions:**

1. **AIR QUALITY.**

1.1. Consistent with the 2017 BAAQMD CEQA Air Quality Guidelines, GP Policy MS-13.1, and current City requirements, the project shall implement the following standard permit conditions during all phases of construction on the project site, to reduce dustfall emissions:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered twice daily.
- All haul trucks transporting soil, sand, and 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 miles per hour.
- 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 five 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 operations.
- Post a publicly visible sign 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.

1.2. All diesel-powered construction equipment larger than 50 horsepower and operating on site for more than two days continuously (or 20 hours total) shall meet U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent. Equipment retrofitted with CARB Level 3 Verified Diesel Emissions Control Strategy (VDECS) would exceed this standard.

2. **BIOLOGICAL RESOURCES.**

2.1. Tree Replacement. The removed trees shall be replaced according to tree replacement ratios required by the City, as provided in Table 3.4-1 below. If the project cannot replace according to the Table 3.4-1 above, one or more of the following measures shall be implemented, to the satisfaction of the City's Environmental Principal Planner, at the development permit stage:

- The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
- Replacement tree plantings may be accommodated at an alternative site(s). An alternative site may include local parks or schools, or an adjacent property where such plantings may be utilized for screening purposes. However, any alternatively proposed site would be pursuant to agreement with the Director of the Department of Planning, Building and Code Enforcement.

Table 3.4-1: Tree Replacement Ratios				
Diameter of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
18 inches or more	5:1	4:1	3:1	24-inch box
12 - 18 inches	3:1	2:1	none	24-inch box
Less than 12 inches	1:1	1:1	none	15-gal. container

x:x = tree replacement to tree loss ratio
 Note: Trees greater than or equal to 18-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

- A donation may be made to Our City Forest or similar organization for in-lieu tree planting in the community. Such donation shall be equal to the cost of the required replacement trees, including associated installation costs, for off-site tree planting in the local community. A receipt for any such donation shall be provided to the City of San José Planning Project Manager prior to issuance of any grading permit.

2.2. Tree Protection.

- *Tree Protection Zones.*
 - A pre-demolition meeting with a certified arborist (“site arborist”) shall be required to discuss monitoring schedule, as recommended by the site arborist, in addition to applicable logistics to ensure trees protection.
 - Tree protection zones shall be established and maintained during construction of the project. Fencing for the protection zones shall be six-foot tall metal chain link supported by metal support poles spaced no more than 10 feet apart on center. The location of the protection fencing shall be as close to the dripline as possible still allowing room for construction to safely continue.
 - Signs shall be placed on fencing signifying “Tree Protection Zone - Keep Out”. No materials or equipment will be stored or cleaned inside the tree protection zones. Areas outside the fencing but still

beneath the dripline of protected trees, where foot traffic is expected to be heavy, shall be mulched with four to six inches of chipper chips. The existing driveway on the east side of the property is to stay in place as long as possible as the driveway offers protection to the neighbor's trees.

- *Demolition.*
 - During the demolition process all tree protection shall be in place. An inspection shall be completed by a certified arborist prior to the start of the demolition.
 - All vehicles must remain on paved surfaces if possible. If it is not possible for vehicles to remain on paved surfaces, four to six inches of chips shall be spread and plywood laid a mulch layer.
 - Parking shall not be allowed off the paved surfaces. The removal of foundation materials, when inside the driplines of protected trees, shall be carried out with care. Hand excavation shall be required in areas of heavy rooting. Exposed or damaged roots should be repaired and covered with native soil. Tree protection fencing may need to be moved after the demolition. The site arborist shall be notified if relocation of the fences is needed and the relocated fence shall be inspected.
- *Root Cutting.* Any roots to be cut shall be monitored by the site arborist and documented. Large roots (over two inches in diameter) must be inspected by the site arborist. The site arborist, at this time, may recommend irrigation or fertilization of the root zone. All roots to be cut shall be cut clean with a saw or lopper. Roots that would be exposed for a period of time shall be covered with layers of burlap and kept moist.
- *Trenching.* Trenching for irrigation, drainage, electrical or any other reason shall be done by hand when inside the dripline of a protected tree. All trenches shall be backfilled with native materials and compacted to near its original level, as soon as possible. Trenches to be left open for a period of time, shall require the covering of all exposed roots with burlap and be kept moist. The trenches shall also be covered with plywood to help protect the exposed roots. Trenching within the dripline shall also be monitored by the site arborist.
- *Irrigation.* Normal irrigation shall be maintained on the project site at all times. On a construction site, irrigation during winter months, on-site trees

shall be irrigated once per month. Seasonal rainfall may reduce the need for additional irrigation. During the warm season, April – November, on-site trees shall be irrigated two times per month. Enough water should be applied to the soil to wet the entire root zone. This type of irrigation shall start prior to any excavation. The on-site arborist may make adjustments to the irrigation recommendations as needed. The foliage of the tree may need cleaning if dust levels are extreme. Removing dust from the foliage will help to reduce mite and insect infestation.

- *Inspections During Construction:* The City of San José may require additional tree protection inspections and reports when construction is taking place in proximity to ordinance trees. The property owner shall contact a certified arborist prior to any work that takes place underneath the dripline of a tree on-site.

2.3. Habitat Plan. The project is subject to applicable Habitat Plan conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant shall submit a Habitat Plan Coverage Screening Form to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement for review and will complete subsequent forms, reports, and/or studies as needed.

3. **CULTURAL RESOURCES.**

3.1. Prehistoric/Historic Resources. In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Supervising Environmental Planner and Historic Preservation Officer of the Department of Planning, Building and Code Enforcement will be notified, and a qualified archaeologist will examine the find. The archaeologist will 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. If the finds do not meet the definition of a historical or archaeological resources, no further study or protection is necessary prior to project implementation. If the find(s) does meet the definition of a historical or archaeological resource, then it should be avoided by project activities. Project personnel should not collect or move any cultural material. Fill soils that may be used for construction purposes should not contain archaeological materials.

If avoidance is not feasible, adverse effects to such resources should be mitigated in accordance with the recommendations of the archaeologist.

Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery would be submitted to Supervising Environmental Planner and Historic Preservation Officer of the Department of Planning, Building and Code Enforcement and the Northwest Information Center.

- 3.2. Human Remains. If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. 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 project applicant shall immediately notify the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and the qualified archaeologist, who will then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American.

If the remains are believed to be Native American, the Coroner will contact the NAHC within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts.

If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

- The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 24 hours after being notified by the NAHC.
- The MLD identified fails to make a recommendation; or
- The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

- 3.3. Paleontological Resources. General Plan policy ER-10.3, the following permit conditions would be implemented by the project to reduce and avoid impacts to as yet unidentified paleontological resources:

- If vertebrate fossils are discovered during construction, all work on the site would 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 project proponent would be responsible for implementing the recommendations of the paleontological monitor.

4. HAZARDS AND HAZAROUS MATERIALS.

- 4.1. Asbestos. In accordance with National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines, an asbestos survey shall be performed on all structures proposed for demolition that are known or suspected to have been constructed prior to 1980. If asbestos-containing materials are determined to be present, the materials shall be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of Bay Area Air Quality Management District (BAAQMD). Demolition and disposal of asbestos-containing materials (ACMs) will be completed in accordance with the procedures specified by BAAQMD's Regulation 11, Rule 2. A final report of methodologies and findings of the survey shall be submitted to the Building Division of the City of San José Department of Planning, Building and Code Enforcement prior to the issuance of grading or building permits.
- 4.2. Lead. A lead-based paint survey shall be performed on all structures proposed for demolition that are known or suspected to have been constructed prior to 1980. If lead-based paint is identified, then federal and state construction worker health and safety regulations shall be followed during renovation or demolition activities. If loose or peeling lead-based paint is identified at the building, it shall be removed by a qualified lead abatement contractor and disposed of in accordance with existing hazardous waste regulations. Requirements set forth in the California Code of Regulations will be followed during demolition activities, including employee 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 waste being disposed. A final report of methodologies and findings of the survey shall be submitted to the Building Division of the City of San José Department of Planning, Building and Code Enforcement prior to the issuance of grading or building permits.

5. HYDROLOGY AND WATER QUALITY.

5.1. Implementation of the following measures would reduce the construction impacts on water quality:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be required to cover all trucks or maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City.
- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.
- A Storm Water Permit will be administered by the State Water Resources Control Board (SWRCB). Prior to construction grading for the proposed land uses, the project proponent will file an NOI to comply with the General Permit and prepare a SWPPP which addresses measures that would be included in the project to minimize and control construction and post-construction runoff. Measures will include, but are not limited to, the aforementioned RWQCB Best Management Practices.
- The SWPPP shall be posted at the project site and will be updated to reflect current site conditions.

- When construction is complete, a Notice of Termination (NOT) for the General Permit for Construction shall be filed with the SWRCB. The NOT shall document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction stormwater management plan is in place as described in the SWPPP for the site.

6. NOISE.

6.1. Construction-Related Noise.

- Construction will be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- The contractor shall use “new technology” power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.
- The unnecessary idling of internal combustion engines shall be prohibited.
- Staging areas and stationary noise-generating equipment shall be located as far as possible from noise-sensitive receptors such as residential uses (a minimum of 200 feet).
- The surrounding neighborhood shall be notified early and frequently of the construction activities.
- A “noise disturbance coordinator” shall be designated to respond to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator would be conspicuously posted at the construction site.

6.2. Ventilation. Provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for the residence closest to Carlton Avenue, so that windows can be kept closed to control noise.

7. GEOLOGY AND SOIL

7.1. Prior to the issuance of any site-specific grading or building permits, a design-level geotechnical investigation shall be prepared and submitted to the City of San José Public Works Department for review and confirmation that the proposed development fully complies with the California Building Code and the requirements of applicable City ordinances No. 25015 and Building Division Policy No. SJMC 24.02.310-4-94. The report shall determine the project site's surface geotechnical conditions and address potential seismic hazards, such as seismicity, expansive soils, and liquefaction. The report shall identify building techniques appropriate to minimize seismic damage. In addition, the following requirement for the geotechnical and soils report shall be met:

- Analysis presented in the geotechnical report shall conform to the California Division of Mines and Geology recommendations presented in the "Guidelines for Evaluating Seismic Hazards in California."

7.2. Similar to the environmental conditions in the Hydrology and Water Quality Resource section, implementation of the City's following environmental conditions during construction would reduce erosion impacts to a less than significant level:

- All excavation and grading work will be scheduled in dry weather months or construction sites will be weatherized.
- Stockpiles and excavated soils will be covered with secured tarps or plastic sheeting.
- Ditches will be installed, if necessary, to divert runoff around excavations and graded areas.

45. 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 of Chapter 20.100 of 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 permit to use the subject property for said purpose specified above is hereby **approved**.

EFFECTIVE DATE

The effective date of this Permit (File No. PD17-023) shall be the effective date of the R-M(PD) Planned Development Rezoning Ordinance for File No. PDC17-049 adopted on _____, 2017 (the "Planned Development Zoning Ordinance") and shall be no earlier than the effective date of said Planned Development Rezoning Ordinance.

ADOPTED this _____ day of _____, 2017, 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.

ORDER NO. : 0615025454

EXHIBIT A

The land referred to is situated in the County of Santa Clara, City of San Jose, State of California, and is described as follows:

Portion of Lot 12, as shown above that certain Map entitled, "Map of C.M. Schiele Subdivision No. 3, being part of the Rinconada De Los Gatos, known as National Tract", which Map was filed for Record in the office of the Recorder of the County of Santa Clara, State of California, on January 16, 1891, in Book E of Maps at Page 67, and more particularly described as follows:

Beginning at a point on the Southerly line of Carlton Avenue, distant thereon North 77° 54' East 294 feet from the point of intersection of the Southerly line of Carlton Avenue, with the center line of National Avenue, and running thence along the Southerly line of Carlton Avenue, North 77° 54' East 97.5 feet to a 2" x 4" stake; thence parallel to National Avenue, South 12° East 222.10 feet; thence parallel with the southerly line of Carlton Avenue, South 77° 54' West 97.54 feet; thence North 12° West and parallel with the said line of National Avenue, 222.10 feet to the point of beginning.

EXCEPTING THEREFROM all that portion describes in the Deeds to the City of San Jose Recorded March 18, 1991, in Book 1645, at Page 72, Inst No. 10836291.

APN: 421-13-060