

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT PERMIT TO ALLOW THE DEMOLITION OF A SINGLE-FAMILY RESIDENCE, AND REMOVAL OF FOUR ORDINANCE-SIZE TREES, AND ALLOW THE CONSTRUCTION OF UP TO FIVE SINGLE-FAMILY DETACHED RESIDENCES ON AN APPROXIMATELY 0.45-GROSS ACRE SITE, LOCATED AT THE SOUTHEAST CORNER OF MURPHY AVENUE AND RINGWOOD AVENUE (1508 MURPHY AVENUE)

FILE NO. PD17-024

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on November 8, 2017, an application (File No. PD17-024) was filed by the applicant, Henry Cord, on behalf of Villas Developers, with the City of San José for a Planned Development Permit to allow the demolition of an existing single-family residence, removal of four ordinance-size trees, and allow the construction of up to five single-family detached residences on an approximately 0.45-gross acre site, on that certain real property situated in the RM(PD) Planned Development Zoning District and located at the southeast corner of Murphy Avenue and Ringwood Avenue (1508 Murphy Avenue, San José, which real property is sometimes referred to herein as the “subject property”); and

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

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Planning Commission conducted a hearing on said application on August 8, 2018, notice of which was duly given; and

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

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

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

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

WHEREAS, at said hearing, this City Council received and considered the reports and recommendations of the 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, "Murphy Villas," dated revised on March 14, 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 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 subject site is located at 1508 Murphy Avenue, at the southeast corner of Murphy Avenue and Ringwood Avenue. The 0.45-gross acre site consists of one lot that is currently developed with an approximately 1,618-gross square foot one-story single-family residence built in 1952. The property is adjacent to a six-lane arterial road (Murphy Avenue) and a residential street (Ringwood Avenue). To the south and east adjacent to the site is an existing detached single-family residential development (Foothill Glen Planned Development) at approximately 11.9 dwelling units to an acre. Across Ringwood Avenue to the west are two existing single-family residential units at 10.9 dwelling units to an acre. Across Murphy Avenue is an existing multiple-family residential development (Ringwood Apartments) built at approximately 26.7 dwelling units to an acre.
2. **Project Description.** The project consists of five single-family detached residential condominium units with two units fronting on Murphy Avenue, two interior units fronting on the private driveway, one interior building with a front entrance oriented towards Ringwood Avenue, and a common area parcel for egress and ingress for a private driveway. The units along Murphy Avenue are three-story, and the other units are two-story. The project would develop at a density of approximately 11.19 dwelling units per acre. The project provides 14 off-street parking spaces connected by the private driveway with access from Ringwood Avenue. Four ordinance-size trees and 12 non-ordinance-size trees will be removed from the site, with the project planting at least fifteen replacement trees on the site.
3. **General Plan Conformance.** The subject site has a Residential Neighborhood land use designation on the General Plan Land Use/Transportation Diagram. This designation is applied broadly throughout the City encompassing most of the established single-family residential neighborhoods. The intent of this designation is to preserve the existing character of residential neighborhoods and to guide new infill projects to 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

Residential Neighborhood land use designation is typically eight dwelling units per acre or matches existing neighborhood character up to 16 dwelling units per acre. The surrounding parcels in the Residential Neighborhood land use designation are a mixture of single-family detached and multi-family residential with densities ranging from 10.9 to 26.7 dwelling units per acre.

The project would facilitate a development with single-family detached residential developments with an approximately 11.9 dwelling units per acre that is consistent with the density and site configuration of existing residential developments in the vicinity.

1. Land Use Policy LU-5.1: For new infill development, match the typical lot size and building form of any adjacent development, with particular emphasis given to maintaining consistency with other development that fronts onto a public street to be shared by the proposed new project.

Analysis: The infill site is located on a corner parcel that is surrounded by single-family residential developments to the east and south, and a mix of attached multi-family residential and single-family detached residential developments across Ringwood Avenue. The project has a density that is similar to the surrounding single-family and multi-family residential development. The project consists of five single-family detached residential units with two units fronting on Murphy Avenue, two interior lots fronting on the private driveway and an interior building with an entrance oriented towards Ringwood Avenue. The adjacent single-family detached residences developed with a Planned Development Permit, average lots sizes are approximately 3,000 square feet and the proposed development range from 2,700 to 3,500 square feet condominium lots.

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

Analysis: The project is an infill development that would conform to the land use designation and be consistent with the uses and community design goals and policies as prescribed in the Envision San José General Plan. The project would add to the City's housing stock while remaining consistent with the surrounding residential density and site configuration.

3. Connection Policy CD3.9: A minimize driveway entrances to enhance pedestrian safety and decrease the area of paved surfaces. Encourage shared vehicular access points that serve multiple uses and/or parcels, including shared access for commercial and residential uses. Avoid driveways that break up continuous commercial building frontages. Position vehicular access to minimize negative impacts to aesthetics and to pedestrian and bicycle safety.

Analysis: The project has one shared driveway entrance for all the residential units to minimize the disruption of the street frontages and encourage pedestrian access to units along the street frontage

4. 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 surrounded by a mix of single-family and multi-family residential uses. The RM(PD) Planned Development Zoning District would allow the development of a project that combines elements of nearby single-family residential uses, while promoting a density that is similar to the nearby multi-family developments with a density range of 10.9 to 26.7 dwelling units per acre. The Planned Development Permit would allow the development of a project that would include two units that front onto public streets and three interior units that front onto a private driveway. This pattern is similar to the nearby single-family developments adjacent to the east and south.

4. North San José Area Development Policy

The project is located within the North San José Area Development Policy boundary. The City developed several policy documents to support the ongoing growth and development of the North San José area as a key employment and residential center for San José. The North San José Area Development Policy works in conjunction with the General Plan to facilitate various types of complementary development in North San José. The Policy also identifies necessary transportation improvements to support new development and establishes an equitable funding mechanism for new development to share the cost of those improvements. The project would facilitate a five-unit residential development and the number of vehicle trips generated would fall within the expected trips for the area in the North San José Area Development Policy. Therefore, no new unidentified impacts from the vehicle trips would be generated. The North San José Area Development Policy includes mitigation measures that are paid with traffic impact fees. The project is subject to the residential fee of \$10,326 per single-family unit and \$8,262 per multi-family unit and is subject to an annual escalation fee on July 1.

5. Zoning and Planned Development Zoning Conformance. The site is in the RM(PD) Planned Development Zoning District with a Residential Neighborhood General Plan land use designation. The site is not designated as prime farmland and is not subject to a Williams Act Contract. project is a residential development with five detached single-family dwelling units. Subject to the Development Standards adopted as part of the rezoning, the maximum allowed height would be 45 feet, and the tallest project building measures 35 feet to the top of the roof. A The Development Standards adopted the zoning code parking requirements at the following ratios:

Living Unit Size	Two-Car Garage
0 Bedroom (Studio)	2.2
1 Bedroom	2.3
2 Bedroom	2.5
3 Bedroom	2.6
Each additional Bedroom	0.15

The project includes two 4-bedroom and three 3-bedroom units. A total of 13.3 parking spaces are required and the project would provide 14 parking spaces on-site with a mix of 3 two-car garages, 2 three-car garages, and two surface guest parking spaces. Additionally, the project conforms to the following setback requirements.

Setback	Required	Provided
Front (Ringwood Avenue)	10 feet minimum	10 feet
Rear (Northeast Property Line):	5 feet minimum	5 feet
Side (Southeast Property Line):	15 feet minimum	15 feet
Side Corner (Murphy Avenue):	7.5 feet minimum	7.5 feet
Interior Side Lot Lines:	5 feet minimum	5 feet

The project is consistent with street frontage orientation as the units fronting along Murphy Avenue and the interior building closest to Ringwood Avenue have entrances on the front elevation facing the street frontages. The two interior lots not near street frontages would be facing towards the private driveway, are consistent with the nearby single-family developments to the south and east of the site.

6. Residential Design Guidelines. The project mimics the existing development patterns of the neighborhood by orienting the building frontage towards Ringwood Avenue and Murphy Avenue. The project enhances the pedestrian area by fronting

primarily buildings entrance onto the street and limiting the development to one driveway curb cut and providing landscaping along the public street frontage. To reduce conflict between vehicle and pedestrian right of way, all parking and garage entrances are located on the private driveway. The building height and massing allowed in this Planned Development Zoning is similar to what is found in nearby Planned Development Zoning Districts. The proposed architectural elements include tile, open gable roof, stone base, wood trim, variety of windows and colors to break up the massing. Each unit is required to provide at least 450 square feet of private open space. The project has each unit providing a range of open space from 450 square feet to 730 square feet.

- 7. Environmental Review.** An Initial Study/Mitigated Negative Declaration (IS/MND) entitled "Murphy Villas Subdivision" was approved on May 31, 2018, by the Director of Planning, Building, and Code Enforcement for the subject Planned Development Rezoning, Planned Development Permit, and Tentative Map. The IS/MND was completed in compliance with the California Environmental Quality Act (CEQA), as amended, to reflect an independent judgment and analysis of the project.

The IS/MND identified potentially significant environmental impacts and determined that the project would not have a significant effect on the environment. The environmental issues addressed in the IS/MND were the resource areas of biological resources and hazards and hazardous materials. The IS/MND determined with the incorporation of mitigation measures that the project would not have a significant effect on the environment. Mitigation measures are included for both of these resource areas which will reduce any potentially significant project impacts to a less-than-significant level. These mitigation measures include conducting pre-construction bird surveys and subsurface soil testing for organochlorine pesticides and pesticide-based metals. The mitigation measures and associated compliance methods are included in the Mitigation Monitoring and Reporting Program.

A historical evaluation was conducted for the existing residence on the site. According to the Department of Parks and Recreation's Primary Record report of the project site, the 66-year old residence no longer provides historical integrity due to years of additions and alterations that have obliterated the original design. The residence is not eligible for the California Register of Historic Resources or as a San José Historic Landmark (California Department of Parks and Recreation 2017). The project site is not within a City Historic District or Conservation Areas, as defined in the General Plan.

The IS/MND was circulated from June 5, 2018 to June 25, 2018, for a 20-day review period. Comments were received during this period from the Amah Mutsun Tribal Band confirming the project is outside their traditional tribal territory. No other comments were received. The IS/MND concluded that the implementation of the project would not result in any significant effects to the environment.

8. Planned Development Permit Findings: Chapter 20.100 of the San José Municipal Code establishes evaluation criteria for the 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 proposed 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:

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

Analysis: As described in the General Plan conformance analysis, the project is consistent with the General Plan land use designation of Residential Neighborhood, as the density and building orientation is consistent with the existing surrounding residential developments.

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

Analysis: As described above, the project conforms in all respects to the Planned Development's RM (PD) Planned Development Zoning District and its associated General Development Standards. The single-family detached residential development is an allowed use, and all buildings are below the maximum building height of 45 feet. The project is also consistent with the required parking ratio and maintains all the required setbacks.

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

Analysis: The project site is not subject to a specific City Council Policy. The project was analyzed for conformance with the North San José Area Development Policy, and number of trips generated by the five-unit residential project and would not exceed the number of expected trips in the North San José Area Development Policy. Therefore, the project would not generate new unidentified traffic impacts.

Under the North San José Area Development Policy, the project is subject to the residential fee of \$10,326 per single-family unit and \$8,262 per multi-family unit and is subject to an annual escalation fee on July 1.

4. 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 proposed project is for a new development consisting of a mix of two and three-story buildings with the tallest portion of the three-story unit

buildings are at the peak of the roof a maximum of 35 feet, and the two-story buildings are 27 feet in height at the peak of the roofs. All the buildings would share a common driveways with same vehicular access. All the developments shared a stone bases, gable roofs, recessed windows elements and compatible color schemes.

5. The environmental impacts of the project, including, but not limited to aesthetics, air quality, noise, and transportation/traffic, 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: An Initial Study and Mitigated Negative Declaration (IS/MND) was prepared for the project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines. Based on the environmental analysis of the project in the IS/MND and scope of the project, as discussed above, the project was determined to have limited effects on the adjacent properties. As the project is an infill residential use that is similar to the surrounding urban and residential area, the use is compatible and expected to have limited impacts. Given the size and scope of the project for five single-family residential use, there is sufficient traffic capacity for the project.

9. **Demolition Findings:** Pursuant to Section 20.80.460 of the San José Municipal Code the following criteria have been considered by the Director of Planning to determine whether the benefits of permitting the demolition of the existing building outweighs the impacts of demolition:

- b. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
- c. The failure to approve the permit would jeopardize public health, safety or welfare;
- d. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood.
- e. The approval of the permit should maintain the supply of existing housing stock in the City of San José;
- f. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
- g. Rehabilitation or reuse of the existing building would not be feasible; and
- h. 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 proposed project will require the demolition of an existing single-family residences that was built in 1952. According to the Department of Parks and Recreation's Primary Record report of the project site (see attached), the existing on-site residence has lost its architectural integrity due to modifications to the building and is not considered eligible for the California Register of Historic

Resources or as a San José Historic Landmark. The project site is not within the City's Historic Districts or Conservation Areas. Subsequent redevelopment will include the construction of five new residential development and would increase the supply of the housing stock in the City of San José. The proposed development would provide an infill development that furthers the General Plan Policies related to residential redevelopment of an existing site. Therefore, these positive changes outweigh the impact of the demolition of the existing structure.

10. Tree Removal Findings: Chapter 13.32.100 of the San José Municipal Code establishes at least one of the following required findings must be made for issuance of a Tree Removal Permit for ordinance-size trees measuring 56 inches or more in circumference. Findings are made for the project based on the above-stated findings related to General Plan, Zoning Ordinance and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in this Permit.

- a. That the tree affected is of a size, type and condition, and is in such a location in such surroundings, that its removal would not significantly frustrate the purposes of Chapter 13.32 of the San José Municipal Code as set forth in Section 13.32.010;
- b. That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question;
- c. That the condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal

Analysis: The project includes the removal of four ordinance-size trees and 12 non-ordinance-size trees for a total of 16 trees. The location of the existing trees would restrict the new structures, driveway, and other site improvements such as walkways and stormwater treatment areas. The largest trees on the site are orchard fruit trees and redwood and ash trees. The project would be required, based on the species and size, to provide 26 15-gallon replacement trees. In lieu of planting twenty-six (26) 15-gallon trees, the project will install fifteen (15) 24-inch box trees, as 24-inch box trees can be installed instead of 15-gallon trees at a 2 to 1 ratio .

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.** 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 Plant 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.

5. **Conformance to Plans.** The development of the site shall conform to the approved Planned Development Permit plans entitled, "Murphy Villas," dated revised on March 14, 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."
6. **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.
7. **Scope and Use Authorization of the Planned Development Permit.** This Planned Development Permit allows the demolition of an existing single-family residence, removal of four ordinance-size trees, and allows the construction of up to five single-family detached residences on an approximately 0.45-gross acre site, in accordance with the approved development plans and uses consistent with the General Development Standards of the Planned Development Zoning District.
8. **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.
9. **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.
10. **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.
11. **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.
12. **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.

13. **Loitering.** Loitering shall not be allowed in the public right-of-way adjacent to the subject site.
14. **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. 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. **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.
17. **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.
18. **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.
19. **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.
20. **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. The permit file number, PD17-024, 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), including paths of travel connecting all buildings on the site.
 - c. Emergency Address Card. The permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - d. Street Number Visibility. Street numbers of the buildings shall be easily visible at all times, day and night.
 - e. 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.
21. **Construction and Demolition Hours.** Construction, demolition, and grading activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday. This includes the staging of equipment and construction personnel. The construction hours shall be printed on all plans for the project used to construct the project. Interior construction activities that do not generate any audible noise impacts at residential properties are allowed on Saturdays between 9:00 a.m. and 5:00 p.m.
22. **Demolition of Structures.** No demolition permits may be issued prior to the submittal of foundation or structural building permits. Demolition Permits may be issued prior to the Final Map approval.
23. **Landscaping.** Planting and irrigation are to be provided as indicated on the approved plans. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced. Permanent irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
24. **Landscaping Maintenance.** The permittee shall maintain on-site landscaping areas and landscaping areas along the public right-of-way areas/streets to the satisfaction of the Director of Public Works.

25. **Irrigation Standards.** The permittee shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San José Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect prior to Certificate of Occupancy.
26. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
27. **Street Cleaning and Dust Control.** During construction, permittee shall damp sweep the public and private streets within and adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, permittee shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.
28. **Recycling.** Scrap construction and demolition material should be recycled. Integrated Waste Management staff can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
29. **Lighting.** All exterior lighting shall be as shown on the approved plans. On-site, exterior, unroofed lighting shall conform to the Outdoor Lighting Policy. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.
30. **Fencing.** Fence height and materials shall be as shown on the approved plans. Changes to the approved fencing shall require review by the Director of Planning, Building, and Code Enforcement.
31. **Mechanical Equipment.** The location of mechanical equipment (AC Units) shall be located as shown on the approved plans and shall be screened from view.
32. **Utilities.** All new on-site telephone, electrical, and other overhead service facilities shall be placed underground.
33. **Final Map.** With the exception of building demolition, improvements associated with this permit cannot occur until there is a City approved and recorded final map subdividing the property.
34. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the permittee shall 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:**
 - i. An area wide traffic impact analysis was prepared as part of the North San José Area Development Policy, adopted June 2005. Traffic impacts were identified and resulted in an area wide traffic impact fees. This project is covered under the North San José EIR.
 - ii. Consistent with North San José EIR, this project is required to pay a traffic impact fee. The 2018 fee is \$10,326.00 per single-family unit and \$8,262 per multi-family unit and are subject to an annual escalation of 3.3% on July 1st and the next fee escalation will occur on July 1st, 2019. This fee must be paid prior to issuance of Public Works Clearance. Credits for existing structures on site will be applied to the residential traffic impact fee consistent with the policy and will be prorated with each building permits issued.
- c. **Grading/Geology:**
 - i. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
 - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 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. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also

include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.

- d. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
 - i. 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.
- e. **Sewage Stormwater Peak Flow Control Measures:** The project is located in a non-Hydrmodification Management area and is not required to comply with the City's Post-Construction Hydrmodification Management Policy (Council Policy 8-14).
- f. **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.
- g. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable prior to Public Works Clearance.
- h. **Parks:** This development is subject to the requirements of 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 the parkland dedication ordinance and the associated Fees and Credit Resolutions.).
- i. **Reimbursement:** The developer will be required to reimburse the City for costs advanced for the construction of street improvements along Murphy Avenue in accordance with City Ordinance #19663.

j. **Street Improvements:**

- i. Construct curb, gutter, and 10-foot wide attached sidewalk with tree wells at the back of curb along Murphy Avenue project frontage to City standard.
 - ii. Construct curb, gutter, and 8-foot wide attached sidewalk with tree wells at the back of curb along Ringwood Avenue project frontage to City standard.
 - iii. Construct a 26-foot wide driveway along Ringwood Avenue project frontage per City Standard detail R-6.
 - iv. Close driveway cut along Murphy Avenue.
 - v. Install handicap ramp at the southeast corner of Murphy Avenue and Ringwood Avenue per City Standard detail R-11. This will require a street easement dedication.
 - vi. Developer shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the project frontage.
 - vii. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
 - viii. 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.
- k. **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.
- l. **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 in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
- m. **Private Streets:** Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.

35. **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.

36. Standard Environmental Permit Conditions

a. AIR QUALITY.

The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:

- i. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- ii. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- iii. 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.
- iv. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.
- v. 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.
- vi. 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.
- vii. 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.
- viii. Post a publicly visible sign with 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.

//

//

//

b. BIOLOGICAL RESOURCES.

- i. Any tree to be removed will be replaced with new trees in accordance with the City’s Tree Replacement Ratios, as set forth below.

Table 4.4-1 Tree Replacement Ratios

Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	None	15-gallon
Less than 19 inches	1:1	1:1	None	15-gallon

Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

- ii. In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage
 - 1) The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
 - 2) 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.
- iii. 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 permittee 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.

c. CULTURAL RESOURCES.

- i. Should evidence of prehistoric cultural resources be discovered during construction, work within 50 feet of the find shall be stopped to allow adequate time for evaluation and mitigation by a qualified professional archaeologist. The material shall be evaluated and if significant, a mitigation program including collection and analysis of the materials at a recognized storage facility shall be developed and implemented under the direction of the City’s Supervising Environmental Planner.
- ii. If avoidance is not feasible, adverse effects to such resources should be mitigated in accordance with the recommendations of the appropriate

personnel. 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.

- iii. 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 Section 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 permittee shall immediately notify the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and a qualified archaeologist, who will then notify the Santa Clara County Coroner. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. 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.
- iv. 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 project proponent will be responsible for implementing the recommendations of the paleontological monitor.

c. GEOLOGY AND SOIL.

- i. 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 development complies with the California Building Code and the requirements of applicable City Ordinance 25015 and Building Division Policy 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.

- 1) 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."
- ii. The project permittee shall comply with the City of San José Grading Ordinance (Chapter 17.04, Part 6), 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 storm water pollution and minimize potential sedimentation during construction:
 - 1) Grading will not be allowed between October 1st and April 30th of any year without Erosion Control plans and measures approved by the Director of Public Works.
 - 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.
 - 6) Provide permanent cover to stabilize the disturbed surfaces after construction has been completed

d. HAZARDS AND HAZARDOUS MATERIALS.

- i. 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.
- ii. 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.

e. **NOISE.**

- i. Construction hours within 500 feet of residential uses will be limited to the hours of 7:00 a.m. and 7:00 p.m. weekdays, with no construction on weekends or holidays.
- ii. Utilize 'quiet' models of air compressors and other stationary noise sources where technology exists.
- iii. Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment;
- iv. Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjacent land uses;
- v. Locate staging areas and construction material areas as far away as possible from adjacent land uses;
- vi. Prohibit all unnecessary idling of internal combustion engines;
- vii. The contractor will prepare a detailed construction plan identifying a schedule of major noise generating construction activities. This plan shall identify a noise control 'disturbance coordinator' and procedure for coordination with the adjacent noise sensitive facilities so that construction activities can be scheduled to minimize noise disturbance. This plan shall be made publicly available for interested community members.
- viii. The disturbance coordinator will be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g. starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented. The telephone number for the disturbance coordinator at the construction site will be posted and included in the notice sent to neighbors regarding the construction schedule.

41. Revocation, Suspension, Modification. This Planned Development Permit may be

revoked, suspended or modified by the Planning Commission, or by the City Council, as applicable, 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. PD17-024) shall be the effective date of the Planned Development Rezoning Ordinance for File No. PDC17-050 approved for publication on _____, 2018 (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.

RECORDING REQUESTED BY:
First American Title Company

**MAIL TAX STATEMENT
AND WHEN RECORDED MAIL DOCUMENT TO:**

Space Above This Line for Recorder's Use Only

A.P.N.: 241-23-053

File No.: 4312-5325116 (JW)

GRANT DEED

FOR A VALUABLE CONSIDERATION.

the following described property in the City of **San Jose**, County of **Santa Clara**, State of **California**:

PARCEL ONE:

PORTION OF LOT 21, AS SHOWN UPON THAT CERTAIN MAP ENTITLED, "MAP OF THE SUBDIVISION OF D. J. MURPHY'S RINGWOOD FARM", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON OCTOBER 13, 1894 IN BOOK H OF MAPS, AT PAGES 90 AND 91, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER LINE OF MURPHY AVENUE, DISTANT THEREON SOUTH 52° 48' WEST 1372.41 FEET FROM A GRANITE MONUMENT SET AT THE POINT OF INTERSECTION OF SAID CENTER LINE OF MURPHY AVENUE, WITH THE CENTER LINE OF LUNDY AVENUE, AS SAID AVENUES ARE SHOWN UPON THE MAP ABOVE REFERRED TO, AND FROM WHICH POINT OF BEGINNING A 1" IRON PIPE ON THE SOUTHEASTERLY LINE OF MURPHY AVENUE BEARS SOUTH 37° 12' EAST 25.00 FEET, RUNNING THENCE SOUTH 52° 48' WEST, ALONG SAID CENTER LINE OF MURPHY AVENUE, 106.00 FEET TO A POINT FROM WHICH A 1" IRON PIPE ON THE SOUTHEASTERLY LINE OF MURPHY AVENUE BEARS SOUTH 37° 12' EAST 25.00 FEET; THENCE LEAVING THE SAID CENTER LINE OF MURPHY AVENUE AND RUNNING THENCE SOUTH 37° 12' EAST AND PARALLEL WITH THE SOUTHWESTERLY LINE OF LOT 21, AS SAID LOT IS SHOWN UPON THE MAP ABOVE REFERRED TO, 228.77 FEET TO A 1" IRON PIPE; RUNNING THENCE NORTH 52° 48' EAST AND PARALLEL WITH THE SAID CENTER LINE OF MURPHY AVENUE, 106.00 FEET TO A 1" IRON PIPE; RUNNING THENCE NORTH 37° 12' WEST AND PARALLEL WITH THE SAID SOUTHWESTERLY LINE OF LOT 21, FOR A DISTANCE OF 228.77 FEET TO THE POINT OF BEGINNING.

Grant Deed - continued

Date: 04/27/2017

EXCEPTING THEREFROM ALL THAT PORTION OF LAND DESIGNATED IN THAT CERTAIN FINAL ORDER OF CONDEMNATION, CASE NO. 606089, SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA, AS DISCLOSED BY THE WITHDRAWAL OF LIS PENDENS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA ON AUGUST 29, 1989 IN BOOK L 75 AT PAGE 209, OFFICIAL RECORDS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING A PORTION OF THAT PARCEL OF LAND DESCRIBED IN THE DEED TO S.H. NG AND DORIS NG RECORDED JULY 21, 1981, IN BOOK G227 OF OFFICIAL RECORDS, PAGE 228, SANTA CLARA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHERNMOST CORNER OF SAID PARCEL, SAID POINT BEING ALSO ON THE CENTERLINE OF MURPHY AVENUE;

THENCE ALONG THE NORTHEASTERLY LINE OF SAID PARCEL, S. 37° 20' 30" E., 65.00 FEET TO A LINE PARALLEL WITH AND 65.00 FEET SOUTHEASTERLY OF SAID CENTERLINE;

THENCE ALONG SAID LINE S. 52° 44' 42" W., 97.13 FEET;

THENCE ALONG A TANGENT 20.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 26° 18' 16" FOR AN ARC DISTANCE OF 9.18 FEET TO THE SOUTHWESTERLY LINE OF SAID PARCEL;

THENCE ALONG SAID LINE N. 37° 20' 30" W., 67.07 FEET TO SAID CENTERLINE;

THENCE ALONG SAID CENTERLINE N. 52° 44' 42" E., 106.00 FEET TO THE POINT OF BEGINNING.

PARCEL TWO:

PARCEL 7-C (REMAINDER PARCEL) AS SHOWN ON THE PARCEL MAP FOR SILICON VALLEY HABITAT FOR HUMANITY, FILED JULY 1, 2006 IN BOOK 788 OF MAPS, PAGE 46, IN THE OFFICE OF THE SANTA CLARA COUNTY RECORDER.