

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A VESTING TENTATIVE MAP TO SUBDIVIDE THREE PARCELS INTO SEVEN PARCELS WITH UP TO 580 CONDOMINIUM UNITS, AND THE RELOCATION OF LOPINA WAY TO A NEW LOCATION APPROXIMATELY 300 FEET TO THE EAST, ON AN APPROXIMATELY 10.0-GROSS ACRE SITE SITUATED ON THE SOUTHEAST CORNER OF STEVENS CREEK BOULEVARD AND LOPINA WAY (4300-4360 STEVENS CREEK BOULEVARD)

FILE NO. PT21-001

WHEREAS, pursuant to the provisions of Chapter 19.12 of Title 19 of the San José Municipal Code, on January 5, 2021, a concurrent application (File No. T21-001) was filed by the owner and applicant Perry Hariri of MPG Stevens Creek Owner LLC, with the City of San José for a Vesting Tentative Map to subdivide three parcels into seven parcels with up to 580 condominium units, and the relocation of Lopina Way to a new location approximately 300 feet to the east, on an approximately 10.0-gross acre site, on that certain real property situated in the CP(PD) Planned Development Zoning District and located on the southeast corner of Stevens Creek Boulevard and Lopina Way (4300-4360 Stevens Creek Boulevard, San José, which real property is sometimes referred to herein as the “subject property”); and

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

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Planning Commission conducted a hearing on said concurrent applications on July 13, 2022, notice of which was duly given; and

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

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

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

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

WHEREAS, at said hearing, this City Council received and considered the reports and recommendations of the Planning Commission and the City's Director of Planning, Building and Code Enforcement; and

WHEREAS, at said hearing, this City Council received in evidence a development plan for the subject property entitled "Vesting Tentative Map for Condominium Purposes PT21-001 Stevens Creek Promenade", dated September 1, 2021, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested, and is attached hereto and made a part hereof by this reference as if fully set forth herein; and

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

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

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

1. **Site Description and Surrounding Uses.** The Project Site is located at the southeast corner of Stevens Creek Boulevard and Lopina Way (4300-4360 Stevens Creek Boulevard). The approximately 10.0-gross acre site is currently developed with three two-story commercial office buildings, constructed in 1977. Existing access to the site is from six driveways along both sides of Lopina Way. The project scope includes the relocation of Lopina Way approximately 300 feet to the east.

To the north across Stevens Creek Boulevard are the Stevens Creek Cadillac and Stevens Creek BMW car dealerships and service centers. To the east of the site are the Stevens Creek Mazda, AutoNation, and Alfa Romeo car dealerships and service centers. South of the project site is a multifamily residential apartment complex, and west of the site is the Stevens Creek Volkswagen dealership.

2. **Project Description.** The project consists of a Vesting Tentative Map to allow the subdivision of three parcels into seven parcels with up to 580 condominium units on an approximately 10.0-gross acre site, located at the southeast corner of Stevens Creek Boulevard and Lopina Way (4300-4360 Stevens Creek Boulevard), and includes the relocation of Lopina Way to a new location approximately 300 feet to the east.

In conjunction with the Vesting Tentative Map, the project also includes a Planned Development Zoning, File No. PDC20-021, and a Planned Development Permit, File No. PD20-012. The Planned Development Zoning would rezone the site from the CP(PD) Planned Development Zoning District per File No. PDC16-036 to the CP(PD) Planned Development Zoning District, and the Planned Development Permit would allow the demolition of three existing commercial buildings totaling approximately 77,000 square feet, the removal of 104 ordinance-size trees and 92 non-ordinance trees, and the construction of three multifamily residential buildings with 580 residential units, including 173 units of affordable housing, of which 116 units are subject to the State Density Bonus Law, and a 250-room hotel building with 8,500 gross square feet of ground floor retail with associated parking, landscaping, and amenities.

The project consists of four buildings, identified on the development plans as Buildings A, B, C, and the Hotel building. Building A is a multifamily residential building with 173 units of affordable housing, of which 116 units are subject to the State Density Bonus Law with 58 units reserved for very low-income households (up to 50% AMI), 29 units reserved for low-income households (up to 60% AMI), and 29 units reserved for moderate-income households (up to 80% AMI), and is located on the southwest side of the project site; Building B is a multifamily residential building with 191 market-rate units and is located between Buildings A and C on the site; and Building C is a multifamily residential building with 216 market-rate units and is located on the southeast side of the site. The hotel building contains 250 guest rooms with 8,500 gross square feet of ground floor retail.

The project also includes a 14,000-square foot privately owned publicly accessible paseo between Building A and Building B and a 32,500-square foot privately owned publicly accessible promenade between Buildings B and C, extending up to Stevens Creek Boulevard.

3. Envision San José 2040 General Plan and Stevens Creek Boulevard Urban Village Plan Consistency. The project is within the **Urban Village** land use designation in the Envision San José 2040 General Plan Land Use/Transportation Diagram Map and is located within the boundary of the **Stevens Creek Boulevard Urban Village Plan**.

The Stevens Creek Boulevard Urban Village Plan is a Local Transit Urban Village, and the Urban Village designation is intended to support a wide range of commercial uses, including retail sales and services, professional and general offices, and institutional uses. This designation also allows residential uses in a mixed-use format. A maximum floor-area ratio (FAR) for commercial or mixed residential/commercial development is not established for properties designated Urban Village, but a minimum number of dwelling units per acre is required for the residential portion of mixed-use projects, which is 65 dwelling units per acre (du/acre). Residential densities are allowed up to 250 du/acre.

Analysis: The residential component of the project is consistent with the required density as follows:

Lot / Building	Acres	Units	DU/AC
<i>Lot 7 / Building A</i>	<i>1.59 acres</i>	<i>173 units</i>	<i>108.8 du/ac</i>
<i>Lot 6 / Building B</i>	<i>1.63 acres</i>	<i>191 units</i>	<i>117.2 du/ac</i>
<i>Lot 5 / Building C</i>	<i>1.80 acres</i>	<i>216 units</i>	<i>120 du/ac</i>

The project is consistent with the following key General Plan policies:

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.

Analysis: The project includes three multifamily residential buildings with 580 residential units, including 173 units of affordable housing, and a 250-room hotel with 8,500-gross square feet of ground floor retail, and is generally consistent with the surrounding land uses, but requires specific development standards to meet the density allowed by the General Plan and Urban Village Plan land use designation. The setbacks of the CP(PD) Planned Development Zoning Development Standards, compared to the standard R-M Multifamily Residential and CP Commercial Pedestrian

Zoning Districts, would allow the project to achieve a density consistent with the General Plan Land Use Designation of Urban Village, as well as provide flexibility to better suit the project site.

Urban Village Plan Goals and Policies Consistency: The project is consistent with the following key goals and policies of the Stevens Creek Boulevard Urban Village Plan:

Land Use Policy LU-1.2: Within the Urban Village land use designations, existing commercial or industrial square footage shall be replaced with an equivalent commercial square footage in the new residential or residential mixed-use development.

Analysis: The existing commercial square footage to be demolished is approximately 77,000 square feet. The hotel provides the required replacement commercial square footage of 241,873 square feet, which is approximately 164,873 square feet greater than the existing square footage.

Land Use Policy LU-1.3: Require a minimum overall commercial Floor Area Ratio (FAR) for the area designated with an Urban Village Land Use Designation of 0.25. New development that includes residential uses should not be developed such that the combined FAR of the area designated Urban Village drops below 0.25.

Analysis: The minimum commercial square footage required to meet the 0.25 FAR for the Urban Village area is 189,000 square feet. The commercial square footage provided by the hotel building is 241,873 square feet, which exceeds the minimum requirement. The project is consistent with this policy.

Land Use Policy LU-2.1: Strongly encourage mixed-uses and higher intensity development at express bus stops and at future BRT stations/stops to support transit ridership.

Analysis: The project site is located along Stevens Creek Boulevard, directly in front of Santa Clara Valley Transportation Authority (VTA) Bus Route 23 and within one block of VTA Rapid 523 at the intersection of Stevens Creek Boulevard and Kiely Boulevard. This is a mixed use, multi-story, high-intensity development including 580 residential units and a 250-room hotel. The project is consistent with the policy.

Land Use Policy LU-5.3: Consider the reduction of required private open space in residential development when public open space is significantly increased, well designed, and usable.

Parks and Plazas Policy P-2.1: Integrate publicly accessible, but privately owned urban plazas into new development that are attractive, vibrant and provides for community activities and space for community members to casually interact with each other.

Analysis for Policies LU-5.3 and P-2.1: The project includes approximately 190% of the required common open space and 50% of the required private open space. The

project includes a 14,000-square foot privately owned publicly accessible paseo between Building A and Building B and a 32,500-square foot privately owned publicly accessible promenade between Buildings B and C, extending up to Stevens Creek Boulevard. These public open spaces are well designed and usable with landscaping, accent paving, benches, and lounge seating. Therefore, the proposed development is consistent with this policy.

Building Height: Per the Maximum Height Diagram on page 49 of the Urban Village Plan, this project site has a maximum height of 120 feet.

Analysis: The height of Building A is 77.5 feet, Buildings B and C each are at a height of 89.5 feet, and the Hotel is at 82.5 feet, consistent with the requirement.

- 4. Zoning Ordinance Consistency.** The project includes a rezoning from the CG(PD) Planned Development Zoning District per File No. PDC16-036 to the **CP(PD) Planned Development** Zoning District. The surrounding car dealership uses are primarily zoned CG Commercial General, and the multifamily residential use to the south is zoned UR Urban Residential.

Land Use

The CP Commercial Pedestrian base zoning for the CP(PD) Planned Development Zoning District supports pedestrian-oriented retail activity at a scale compatible with the residential neighborhood to the south, supports mixed residential/ commercial development where appropriate, and is designed to support the commercial goals and policies of the general plan in relation to Urban Villages. This CP(PD) Planned Development Zoning District also supports intensive pedestrian-oriented commercial activity and development consistent with general plan urban design policies.

Development Regulations

Below is a comparison of the CP Commercial Pedestrian Zoning District and the project's CP(PD) Planned Development Zoning District development standards. Per Section 20.60.040.B of the Zoning Code, when a Planned Development permit has been implemented, the provisions of the permit prevail over the regulations of the base district zoning of the property.

Setbacks

Per the analysis above, the front setback along Stevens Creek Boulevard and the building height requirements are within the Stevens Creek Boulevard Urban Village Plan. The following is an analysis of all remaining setbacks.

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Setback	CP Commercial Pedestrian Zoning District Requirements	CP(PD) Planned Development Zoning District Development Standards	Provided by Project
Front Setback (Lopina Way)	No minimum, ten feet maximum	Commercial Use: Five feet minimum from property line Residential Use: Six feet minimum from property line	Commercial: 13.7 feet Residential: 6 feet
Front Setback (Albany Drive)	No minimum, ten feet maximum	Five feet minimum from property line	Building A: 13.5 feet Building B: 5.9 feet Building C: 8.2 feet
Side Setbacks (internal):	0 feet	No change to requirement	Building A west: 21 feet Building A east: 17 feet Building B west: 37 feet Building B east: 10 feet Building C west: 10 feet Hotel south: 29 feet Hotel west: 14 feet
Rear Setback	25 feet	Building A: Minimum 15 feet Building B: Minimum 20 feet Building C: Minimum 20 feet	Building A: 18 feet Building B: 23 feet Building C: 35 feet

Analysis: As shown on the Planned Development Permit PD20-012 Plan Set, the project conforms with all required setback standards pursuant to the General Development Plan of the Planned Development Zoning District. The setbacks of the CP(PD) Planned Development Zoning District Development Standards, compared to the standard CP Commercial Pedestrian Zoning District, would allow the project to achieve a density consistent with the General Plan Land Use Designation of Urban

Village, as well as provide flexibility to better suit the curved and undulating perimeter lot lines.

Vehicle Parking:

The following table shows a comparison of the parking standards of the Zoning Code, and the parking requirements of the CP(PD) Planned Development Zoning District development standards:

Parking	Zoning Code	CP(PD) Planned Development Zoning District Standards	Provided by Project
Affordable Multifamily Residential (Building A)	Per Section 20.190.040, minimum one space per studio and one-bedroom units Minimum 1.5 spaces for two- and three-bedroom units	Minimum 0.5 spaces per unit	87 spaces (173 units x 0.5 spaces per unit)
Market-Rate Multifamily Residential (Buildings B and C)	Per Chapter 20.90, minimum 1.25 spaces per studio and one-bedroom unit Minimum 1.7 spaces per two-bedroom unit Minimum 2.0 spaces per three-bedroom unit	Minimum one space per unit	Building B: 191 spaces (191 units x one space per unit) Building C: 216 spaces (216 units x one space per unit)
Total Residential Parking Required and Provided			494 spaces
Commercial Retail (Ground Floor of Hotel)	Minimum one space per 200 square feet of net floor area (85% of gross)	Minimum one space per 400 square feet of net floor area (85% of gross)	18 spaces (7,248 / 400) (85% x 8,527 square feet = 7,248 square feet)

Hotel	Minimum one space per guest room plus one space per employee	Minimum 0.9 space per guest room plus one space per employee	242 spaces (250 guest rooms x 0.9 = 225 spaces + 17 employee spaces)
Subtotal Hotel Parking			260 spaces
20% Reduction allowed per Section 20.90.220.A.1*			52 spaces
Total Hotel Parking Required			208 spaces
Total Hotel Parking Provided			210 spaces

*Per Section 20.90.220.A.1, the Zoning Code allows a parking reduction of up to 50% with a Transportation Demand Management (TDM) Plan, or up to 20% without a TDM Plan, provided the project meets the following criteria:

- a. The structure or use is located within two thousand (2,000) feet of a proposed or an existing rail station or bus rapid transit station, or an area designated as a neighborhood business district, or as an urban village, or as an area subject to an area development policy in the city's general plan or the use is listed in Section 20.90.220 G.; and
- b. The structure or use provides bicycle parking spaces in conformance with the requirements of Table 20-190.

Analysis: The project site is located along Stevens Creek Boulevard, directly in front of VTA Bus Route 23 and within one block of VTA Rapid 523 at the intersection of Stevens Creek Boulevard and Kiely Boulevard, and meets the criteria set forth in 'a' above. The bicycle parking provided meets the requirements, as analyzed below, and meets the criteria set forth in 'b' above. The hotel parking is therefore consistent with the parking requirements.

The CP(PD) Planned Development Zoning District provides parking ratios consistent with the reductions allowed by the Zoning Code and per the State Density Bonus incentive request. The Zoning Code requires a greater number of parking spaces than provided, but the applicant has requested an incentive to reduce the required residential parking, as analyzed below in the Density Bonus Law Consistency section. The rezoning allows the project to reduce the amount of land dedicated exclusively to parking, as well as encourage transit ridership at the nearby bus rapid transit station.

Motorcycle Parking

Since the project qualifies for a density bonus under State law, the City may not impose parking requirements greater than those set forth at Government Code section 65915(p)(1) (1.0 space for units with 0 to 1 bedroom; 1.5 spaces for units with 2 to 3 bedrooms), which are also allowed by Section 20.19.040 of the Zoning Code. Local jurisdictions are prohibited from requiring additional vehicle parking spaces above the

State Density Bonus Law parking ratios for the residential units. Per the California Vehicle Code, motorcycles are defined as vehicles. Therefore, no motorcycle spaces are required for the residential portion of the project.

For the commercial portion of the project, Table 20-250 of the Zoning Code requires one motorcycle parking space per twenty code-required parking spaces for commercial uses. For the hotel and retail uses, the required parking is 260 spaces per the table above. Therefore, 13 motorcycle spaces are required by the Zoning Code. Per the CP(PD) Planned Development Zoning District development standards, a minimum of ten motorcycle spaces are required.

Analysis: The project includes ten motorcycle parking spaces for the hotel and retail uses and is consistent with the requirement of the CP(PD) Planned Development Zoning District development standards.

Bicycle Parking

The project is required to provide one bicycle space per four units for the multifamily residential buildings per Table 20-210 of the Zoning Code, one space plus one per ten guest rooms for the hotel, and one space per 3,000 square feet of ground floor retail area per Table 20-190 of the Zoning Code. A minimum of two short-term bicycle parking spaces and one long-term bicycle parking space shall be provided for each site that has a nonresidential use. This results in 145 bicycle spaces required for the residential use, 26 spaces for the hotel use, and three spaces for the retail use for a total of 174 spaces required. Bicycle parking spaces are required to consist of at least sixty percent long-term and at most forty percent short-term spaces, which results in 114 long-term and 60 short-term spaces required.

Analysis: The project provides 18 short-term spaces and 26 long-term spaces in Building A, 20 short-term and 28 long-term spaces in Building B, 22 short-term and 32 long-term spaces in Building C, and 28 long-term spaces for the hotel and retail use. This results in 60 short-term spaces and 114 long-term spaces provided. The project is therefore consistent with the requirement.

Loading Spaces

Per Section 20.90.410 of the Zoning Code, retail and hotel uses are required to provide off-street loading spaces at a rate of one loading space per ten thousand square feet of floor area plus one additional space per every additional twenty thousand square feet of floor area. With a gross floor area of 241,873 square feet and a net floor area of 205,592 square feet, the project is required to provide a total of eleven loading spaces.

Per the CP(PD) Planned Development Zoning District development standards, the project is required to provide one loading space for the hotel and retail use, restricted to Class 4 through Class 6 delivery trucks, since the clear height of the loading space is less than 15 feet.

Analysis: The project is providing one loading space as required per the CP(PD) Planned Development Zoning District development standards and is consistent with the requirement.

5. **Subdivision Ordinance Consistency.** Vesting Tentative Maps must be consistent with Title 19 – Subdivisions of the San Jose Municipal Code. The project is analyzed for consistency with the Subdivision Ordinance below:

Chapter 19.36 – Design Requirements

Section 19.36.170 – Except as lot areas or widths are set forth in other provisions of Title 19 or 20 of this Code, each lot shall contain a minimum area of not less than six thousand square feet each with an average width of not less than 55 feet.

Analysis: Lot areas range in size from 0.67 acres (Lot 1) to 1.8 acres (Lot 5). The width of the lots range from 173 feet (Lot 7) to 253 feet (Lot 6). The Vesting Tentative Map is consistent with the requirements.

Section 19.36.220 – All lots fronting on a major street shall have a minimum depth of 120 feet.

Analysis: The lots along Stevens Creek Boulevard range in depth from 145 feet (Lot 1) to 258 feet (Lot 2). All proposed lots are greater than 120 feet in depth. The project is consistent with this requirement.

6. **State Density Bonus Law Consistency (Government Code Section 65915)**

The project includes 173 units of affordable housing, of which 116 units are subject to the State Density Bonus Law. Of the total 580 residential units included in the project, 58 units (10% of total) are reserved for very low-income households, 29 units (5% of total) are reserved for low-income households, and 29 units (5% of total) are reserved for moderate-income households, with income limits as defined in California Code Section 65915. The project is therefore eligible for the provisions of the State Density Bonus Law.

Density Bonus

The land use designation of Urban Village allows up to 250 dwelling units per acre (du/ac). The project density is 120 du/ac and is consistent with the designation as designed. No additional density is being requested for the project.

Incentives

Projects that are eligible for a density bonus are also eligible to pursue incentives and concessions, such as reductions in development standards to facilitate the economically viable construction of affordable housing. Based on the percentage of affordable units provided, the project qualifies for two incentives. The project has requested one incentive, as follows:

Incentive 1: Parking.

The project qualifies for the parking ratios set forth at Government Code Section 65915(p)(1) at one space per 0 to 1 bedroom units and 1.5 spaces for 2 to 3 bedroom units, which results in a total of 687 parking spaces for the residential use. However, the project may use a density bonus incentive to reduce the parking requirement per Gov. Code § 65915(p)(6). This incentive request is to reduce the parking from 687 spaces to 494 spaces per the ratios analyzed above in the Zoning Consistency section.

As described in the Density Bonus Request letter from the Permittee dated March 29, 2022, each parking space costs approximately \$55,000 per space. The incentive to reduce the parking requirement by 193 spaces, which would otherwise require the addition of one or more levels of structured or underground parking, would result in \$10,615,000 in cost savings, and if required would also result in at least \$5 million dollars in additional costs for craning, setting and assembly costs for the modular units. The modular unit efficiency and cost advantage works best with one level of parking. Thus, the concession for reduced parking would result in identifiable and actual costs savings that will contribute to affordable housing costs per Government Section 65915(k)(1).

As a result of the decreased costs, the project would be viable and can be constructed. Cost savings will go toward the affordability of the units. Therefore, the incentive request to reduce the required parking of the project results in actual and identifiable cost reductions and can be granted.

7. City Council Policy Consistency

City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals

Under City Council Policy 6-30, the project is considered to be a large development. Large development projects are required to provide Early Notification by website, email, postcard mailed to property owners and tenants within a 1,000-foot radius, and by on-site signage. Following City Council Policy 6-30, the required on-site sign has been posted at the site since September 3, 2021, to inform the neighborhood of the project. A community meeting was held to discuss the project on October 18, 2021 via Zoom webinar. Approximately 15 members of the public were in attendance for the meeting. Comments received during the community meeting included concerns regarding traffic, the possibility of adding bike lanes, height and density, and parking. Public Notices of the community meeting and public hearing were distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

8. California Environmental Quality Act.

The CEQA Clearance document prepared for this project is an Addendum to the Final Environmental Impact Report prepared for the 4300 Stevens Creek Boulevard Mixed Use Project (PDC16-036 and PD17-014) adopted by City Council Resolution No. 78994 on February 26, 2019 (FEIR). The Addendum was posted for review on the City's website on June 30, 2022 and can be accessed at <https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/active-eirs/4300-stevens-creek-boulevard-mixed-use-project-addendum#!/>.

The FEIR analyzed a Planned Development Rezoning and a Planned Development Permit (PDC16-036 and PD17-014) for the demolition of all existing buildings and development on the site, and relocation of the public street (Lopina Way); and development of approximately 315,000 square feet of office/commercial space and up to 582 residential units in three buildings, and associated parking garages.

CEQA recognizes that between the date an environmental document is certified and the date the project is fully implemented, that the project may change; the environmental setting of the project may change; laws, regulations, or policies may change; and/or previously unknown information can arise. CEQA Guidelines Section 15162 provides that when an Environmental Impact Report has been certified or a Negative Declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the Lead Agency determines that substantial changes to the project occur that will require major revisions to the EIR, or that new information which was not previously known or studied indicates that significant impacts on the environment may arise from development of the revised project.

The Lead Agency shall prepare an initial study tiering from a previously certified FEIR if some changes or additions are necessary, but none of the conditions described in CEQA Section 15162 calling for preparation of a subsequent FEIR have occurred.

This initial study analyzed the Stevens Creek Promenade Project under CEQA Section 15162 to determine whether any of the proposed project changes would result in new or substantially more severe impacts than were previously disclosed in the certified EIR. The proposed modified project would demolish three on-site buildings (APNs 296-38-013, 296-380-14, 296-40-009) and develop three residential buildings composed of 80 units and a mix of affordable and market rate housing, a 250-room hotel, and open space park area. No office space would be developed, and parking would be provided in podium levels under each of the structures.

Based on the proposed modified project description and knowledge of the project site from the previously-prepared FEIR, the City has concluded that the proposed modified project would not result in any new impacts not previously disclosed in the FEIR and would not result in a substantial increase in the magnitude of any significant environmental impacts previously identified in the FEIR.

All relevant best management practices, Standard Permit Conditions, Conditions of Approval, and relevant aspects of Mitigation Measures identified in the approved 4300 Stevens Creek Boulevard Mixed-Use Project FEIR are incorporated by reference and would be required of the proposed modified project. The modified project would incorporate some consolidated mitigation measures derived from the approved mitigation measures. However, no new or expanded mitigation measures have been proposed.

Mitigation measures were developed for the approved project to lessen the following impacts to less than significant levels: exposure of sensitive receptors to toxic air contaminants during construction, disturbance and/or destruction of nesting migratory birds during construction, greenhouse gas emissions during operation of the project, exposure of construction workers to residual contamination from agricultural chemicals in the soil and release of pesticide chemicals from on-site soils into the environment, exposure of sensitive receptors to construction noise and vibration, and traffic at nearby intersections.

Standard Permit Conditions and Conditions of Approval are also required to ensure no impacts occur during construction or operation of the project. These Standard Permit Conditions include best management practices for construction related air quality impacts, water quality impacts during construction and operation, best management practices to control noise during construction and achieving an interior noise level of less than 45 dBA DNL after construction, protection of nesting migratory birds, compliance with the Santa Clara Valley Habitat Plan, protection of unknown subsurface cultural resources and human remains, compliance with the California Building Code for seismic safety of the proposed building, and erosion control during construction activities.

9. **Tree Removal Findings.** Chapter 13.32 of the San José Municipal Code establishes at least one of the following required findings must be made for issuance of a Live Tree Removal Permit for ordinance-size trees. Findings are made for the project based on the findings related to General Plan, Zoning Ordinance and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in the resolution.
 - a. That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question

Analysis: As identified above, 104 ordinance-size trees and 92 non-ordinance trees are distributed within the footprint of the project development and will be removed to accommodate the project. The trees will be required to be replaced at the City-required ratio. Based on this reason, the trees proposed for removal cannot be preserved.

Five hundred seventy (570) replacement trees at 15-gallon size or 285 replacement trees at 24-inch box size are required to be replanted. Pursuant to the project landscaping plan, the development would plant a total of 286 replacement trees at 24-

inch box size or greater, which exceeds the City’s Tree Replacement ratios per the table below.

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

x:x = tree replacement to tree loss ratio

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. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size.

A 38-inch tree equals 12.1 inches in diameter.

A 24-inch box tree = two 15-gallon trees

Per Sheet L-6.1 of the Plan Set, of the 104 ordinance-size trees to be removed, 14 are native and 90 are non-native. The 14 native trees consist of species such as Coast Redwood and Valley Oak and will be required to be replaced at a ratio of 5:1, totaling 70 replacement trees. The 90 non-native ordinance trees to be removed consist of species such as American Sweet Gum, Shamel Ash, and Canary Island Pine, and will be required to be replaced at a ratio of 4:1, totaling 360 replacement trees.

Of the 92 non-ordinance trees to be removed, one native and 46 non-native trees are sized between 19 and 38 inches in circumference, and the remaining 45 trees are non-native less than 19 inches in circumference. The native tree is Pin Oak species, and the non-native trees are Japanese Maple, Crape Myrtle, and Southern Magnolia species. The replacement ratio 3:1 for the native tree, 2:1 for the non-native trees 19-38 inches in circumference, and 1:1 for all trees proposed to be removed less than 19 inches in circumference, for a total of 140 replacement trees.

The project will provide 286 replacement trees at 24-inch box size or greater at-grade. Therefore, the project is consistent with this requirement.

- 10. Vesting Tentative Map Findings.** In accordance with San José Municipal Code (SJMC) Sections 19.12.130 and 19.12.220 and California Government Code Section 66474, the Director of Planning of the City of San José, in consideration of the proposed subdivision shown on the Vesting Tentative Map with the imposed conditions, shall deny approval of a Vesting Tentative Map, if the Director makes any of the following findings:
- a. That the proposed map is not consistent with applicable General and Specific Plans as specified in Section 65451.

- b. That the design or improvement of the proposed subdivision is not consistent with applicable General and Specific Plans.
- c. That the site is not physically suitable for the type of development.
- d. That the site is not physically suitable for the proposed density of development.
- e. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- f. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
- g. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Analysis: Based on review of the subdivision plans, a Vesting Tentative Map to subdivide three parcels into seven parcels on the approximately 10.0-gross acre site, the City Council of the City of San José does not make any such findings to deny the subject subdivision. The project is consistent with the General Plan and Urban Village Plan goals, policies, and land use designation, as analyzed above. The Urban Village land use designation allows for higher-intensity projects. The project site is physically suitable for the project and proposed intensity in that mixed-use commercial/residential development is allowed up to 250 du/ac. Furthermore, the project site does not contain historic resources or sensitive habitats or wildlife.

The site is not located within a designated Federal Emergency Management Agency (FEMA) 100-year flood plain. The project site, as well as the surrounding area, are currently developed with structures and do not provide a natural habitat for either fish or wildlife. Multiple improvements to the pedestrian network and traffic calming measures are required to be implemented as conditions of approval, such as removing pork chop islands, eliminating uncontrolled right-turn lanes, and the implementation of signal modifications at the Kiely Boulevard intersection. Additionally, a new all-way stop will be required to be installed at the Lopina Way/Albany Drive intersection. The project will be required to provide a monetary contribution (\$122 per linear foot) for the future Class IV protected bikeway along the Stevens Creek Blvd project frontage per the San Jose Better Bike Plan 2025.

In accordance with the findings set forth above, a Tentative Map to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. This City Council expressly declares that it would not have granted this permit and determination except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Vesting Tentative Map.** Per Section 19.12.230, should the Subdivider fail to file a timely and valid appeal of this Vesting Tentative Map within the applicable appeal period, such inaction by the Subdivider shall be deemed to constitute all of the following on behalf of the Subdivider:
 - a. Acceptance of the Vesting Tentative Map by the Subdivider; and
 - b. Agreement by the Subdivider to be bound by, to comply with, and to do all things required of or by the Subdivider pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 19 applicable to such Vesting Tentative Map.
2. **Expiration of Vesting Tentative Map.** This Vesting Tentative Map shall automatically expire 30 months from and after the date of issuance hereof by the City Council of the City of San José. The date of issuance is the date this Vesting Tentative Map is approved by the City Council.
3. **Development Rights - Vesting on Approval of Vesting Tentative Map.**
 - a. Per San José Municipal Code Section 19.13.070, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards described in Government Code Section 66474.2. However, if Section 66474.2 of the Government Code is repealed, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved.
 - b. Notwithstanding subsection 3.a., above, any permit, including a building permit, approval, extension, or entitlement may be made conditional or denied if any of the following are determined:
 - i. A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.
 - ii. The condition or denial is required, in order to comply with state or federal law.
 - c. The rights referred to herein shall expire if a final map is not approved prior to the expiration of the vesting tentative map as provided in Section 19.13.060. If the final map is approved, these rights shall last for the following periods of time:
 - i. An initial time period of one year. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, this one-year initial time period shall begin for each phase when the final map for that phase is recorded. All of said final maps or parcel maps must be recorded within the time period set forth in Section 19.13.060 or the vesting tentative map

- approval shall expire for those parcels for which final maps or parcel maps are not timely recorded.
- ii. The initial time period set forth in 3.c.i. shall be automatically extended by any time used for processing a complete application for a grading permit if such processing exceeds thirty days from the date a complete application is filed.
 - iii. A Subdivider may apply to the director for a one-year extension at any time before the initial time period set forth in 3.c.i expires. If the extension is denied, the Subdivider may appeal that denial to the city council within fifteen (15) days.
 - iv. If the Subdivider submits a complete application for a building permit during the periods of time specified in 3.c.i. through 3.c.iii., above, the rights referred to herein shall continue until the expiration of that permit, or any extension of that permit.
4. **Conformance to Plans.** The development of the site shall conform to the approved plans entitled, "Vesting Tentative Map for Condominium Purposes PT21-001 Stevens Creek Promenade," dated September 1, 2021, 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 Vesting Tentative Map Plan Set."
 5. **Compliance with Subdivision Ordinance.** The final map shall comply with all of the requirements for final maps in Chapter 19.16 of the San José Municipal Code and shall show and contain all of the data required by San José Municipal Code Section 19.16.110.
 6. **Conformance with Other Permits.** The subject Vesting Tentative Map conforms to and complies in all respects with the Planned Development Permit File No. PD20-012 on which such Vesting Tentative Map is based. Approval of said Vesting Tentative Map shall automatically expire with respect to any portion of the lands covered by such Vesting Tentative Map on which a Final Map or Tract Map has not yet been recorded if, prior to recordation of a Final Map or Tract Map thereon, the Planned Development Permit for such lands automatically expires or for any reason ceases to be operative.
 7. **Previous Permits Superseded.** As of the effective date of this Permit, it shall supersede and replace the previously issued Vesting Tentative Map No. PT17-023.
 8. **Homeowner's Association and/or Maintenance District.** A Homeowner's Association or Maintenance District shall be established for maintenance of all common areas, including but not limited to, private streets, pedestrian walkways, easements, landscaping, and landscaping in the public right-of-way that is not already in a maintenance district. The Permittee shall provide to the Homeowners Association a copy of the Vesting Tentative Map 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 within 30 days of completion of each construction phase.

9. **Improvements.** Pursuant to the Subdivision Agreement (hereinafter referred to as "Agreement"), the Subdivider shall, before approval and recording of the Final Map, improve or agree to improve all land within the subdivision and all land outside, but appurtenant to, the Subdivision shown on the Tentative Map for public or private streets, alleys, pedestrian ways and easements to the satisfaction of the Director of Public Works.
10. **Improvement Contract.** In the event the Subdivider has not completed the improvements required for the proposed subdivision at the time the final map is presented for approval, Subdivider shall enter into an improvement contract pursuant to Agreement with the City of San José, in accordance with Section 19.32.130 of the San José Municipal Code and shall provide the bonds and insurance mentioned therein.
11. **Public Use Easements.** The Subdivider shall dedicate on the final map for public use easements for public utilities, streets, pedestrian ways, sanitary sewers, drainage, flood control channels, water systems and slope easements in and upon all areas within the subdivision shown on the Tentative Map for the subdivision to be devoted to such purposes.
12. **Conveyance of Easements.** Prior to recordation of the Final Map, the Subdivider shall offer to the City of San José a Covenant of Easement for joint use and emergency access purposes, in accordance with Part 1 of Chapter 20.110 of Title 20 of the San José Municipal Code, across lots as applicable as shown on the Approved Plan Set. Said easements shall be binding upon, and all benefits shall inure to, all successors in interest to the affected real property.
13. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José - Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José - Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager makes a determination that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.

14. Housing Conditions of Approval:

- a. The permittee has submitted an Affordable Housing Compliance Plan Application (“Plan”) and processing/application fees. Approval of the Plan is required prior to the development’s planning application being deemed complete and prior to Planning’s first approval.
 - i. Prior to earliest of: approval of any parcel or final map or issuance of any building permits, the permittee must execute and record their Affordable Housing Agreement memorializing the IHO obligations against the property, any other property required for the satisfaction of the compliance option selected in the Plan, and record the Affordable Housing Agreement or a City covenant against contiguous property under common ownership and control. No building permit may issue except consistent with the requirements of the IHO and the proposed Plan to fulfill the affordable housing obligations.
 - ii. Permittee must strictly comply with each requirement of the approved Affordable Housing Compliance Plan, the Affordable Housing Agreement, and any other applicable requirements of the IHO or its guidelines and submit any additional or updated documents requested by the Housing Department in connection with the satisfaction of the compliance option selected in the Plan.
 - iii. No Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the IHO, its guidelines and the Affordable Housing Agreement are met.
- b. For all Non-Residential development adding or constructing 5,000 square feet or more of new or additional floor area. An applicant is required to submit to the Housing Department, as part of its the application for First Approval the following: (a) a fully completed, executed Satisfaction Plan, (b) all attachments to the Satisfaction Plan, (c) the required application processing fee and (d) complete an addendum to the Satisfaction Plan, if the Project is requesting a secured deferred payment option or Affordable Housing Credits.
 - i. For Projects deemed complete before May 12, 2022, No Final Inspection Approval, Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units will be issued until all requirements of the Commercial Linkage Fee Ordinance and Guidelines are met.
 - ii. For Projects deemed complete on or after May 12, 2022, no scheduling of the final building inspection will occur until all requirements of the Commercial Linkage Fee Ordinance and Guidelines are met.
 - iii. For Office or R/D Projects adding more than 100,000 square feet that are deemed complete on or after May 12, 2022 and have selected the secured deferred payment option the following applies: Prior to issuance of any building permits, the permittee must execute an agreement regarding deferred payment specifying the security to be provided and pay 20% of the fee, Prior to the scheduling of final building inspection, those projects must pay another

20% of the fee and submit the letter of credit or payment bond securing the outstanding amount for approval.

15. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable prior to issuance of Public Works clearance.
16. **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 Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the "Formula for Dedication of Land" and/or "Schedule of Fees and Credits" contained within in the chapter.
17. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, and, state, and federal laws.
18. **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].
19. **Standard Environmental Conditions.** Prior to the approval of the Tract by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the Subdivider will be required to have satisfied all of the Standard Environmental conditions as described in the Planned Development Permit (PD20-012).
20. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the Subdivider will be required to have satisfied all of the Public Works conditions as described in the Planned Development Permit (PD20-012).
21. **Revocation, Suspension, Modification.** This Vesting Tentative Map is subject to revocation, suspension or modification for violation of any of its provisions or condition.

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

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APPROVED and issued this _____ day of _____, 2022, 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.

EXHIBIT A
LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED **IN THE CITY OF SAN JOSE** IN THE COUNTY OF **SANTA CLARA**, STATE OF **CALIFORNIA**, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

PARCEL A AS SHOWN ON THE PARCEL MAP OF A PORTION OF THAT CERTAIN 51.058 ACRE PARCEL OF LAND AS SHOWN ON THAT CERTAIN RECORD OF SURVEY, RECORDED APRIL 29, 1969 IN [BOOK 252, PAGE 38](#), SANTA CLARA COUNTY RECORDS, SAID PARCEL MAP BEING FILED DECEMBER 29, 2003 IN [BOOK 767 OF MAPS, PAGES 10-12](#).

[APN: 296-38-013](#)

PARCEL TWO:

PARCEL B AS SHOWN ON THE PARCEL MAP OF A PORTION OF THAT CERTAIN 51.058 ACRE PARCEL OF LAND AS SHOWN ON THAT CERTAIN RECORD OF SURVEY, RECORDED APRIL 29, 1969 IN [BOOK 252, PAGE 38](#), SANTA CLARA COUNTY RECORDS, SAID PARCEL MAP BEING FILED DECEMBER 29, 2003 IN [BOOK 767 OF MAPS, PAGES 10-12](#).

[APN: 296-38-014](#)

PARCEL THREE:

BEGINNING AT A NORTHEASTERLY CORNER OF THAT CERTAIN 51.058 ACRE PARCEL OF LAND AS SHOWN ON THAT CERTAIN RECORD OF SURVEY, RECORDED IN [BOOK 252, PAGE 38](#), SANTA CLARA COUNTY RECORDS, SAID CORNER BEING IN THE SOUTHERLY LINE OF STEVENS CREEK BOULEVARD; THENCE ALONG THE NORTHERLY LINE OF SAID 51.058 ACRE PARCEL, SAID LINE BEING ALSO THE SOUTHERLY LINE OF SAID STEVENS CREEK BOULEVARD, NORTH 89° 26' 25" WEST 260.09 FEET TO A POINT OF CUSP, AS DESCRIBED IN THAT CERTAIN DEED OF RIGHT-OF-WAY RECORDED IN [BOOK 8821, PAGE 278](#), SANTA CLARA COUNTY RECORDS; THENCE LEAVING SAID NORTHERLY LINE IN A SOUTHWESTERLY DIRECTION ALONG A CURVE, HAVING A RADIUS OF 30.00 FEET, CONCAVE SOUTHEASTERLY, THROUGH A CENTRAL ANGLE OF 89° 53' 44", AN ARC LENGTH OF 47.07 FEET; THENCE SOUTH 00° 39' 51" WEST 40.00 FEET; THENCE ON A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 236.00 FEET; THROUGH A CENTRAL ANGLE OF 7° 37' 41", AN ARC LENGTH OF 31.42 FEET TO A POINT OF REVERSE CURVATURE; THENCE ON A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 216.00 FEET THROUGH A CENTRAL ANGLE OF 7° 37' 41" AN ARC LENGTH OF 28.76 FEET; THENCE SOUTH 00° 39' 41" WEST 386.30 FEET; THENCE ON A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 20.00 FEET, THROUGH A CENTRAL ANGLE OF 90° 06' 25" AN ARC LENGTH OF 31.45 FEET; THENCE SOUTH 89° 26' 34" EAST 31.84 FEET; THENCE ON A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 330.00 FEET THROUGH A CENTRAL ANGLE OF 40° 03' 15" AN ARC LENGTH OF 230.70 FEET TO A POINT OF REVERSE CURVATURE; THENCE ON A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 270.00 FEET THROUGH A CENTRAL ANGLE OF 7° 52' 26" AN ARC LENGTH OF 37.11 FEET TO A POINT ON AN EASTERLY LINE OF SAID 51.058 ACRE PARCEL; THENCE ALONG SAID EASTERLY LINE NORTH 00° 38' 10" EAST 635.53 FEET TO THE POINT OF BEGINNING.

[APN: 296-40-009](#)

PARCEL MAP

CONSISTING OF THREE SHEETS

BEING A PORTION OF THAT CERTAIN 51.058 ACRE
PARCEL OF LAND AS SHOWN ON THAT CERTAIN
RECORD OF SURVEY, RECORDED APRIL 29, 1969 IN
BOOK 252, PAGE 38, SANTA CLARA COUNTY RECORDS
AND LYING IN THE

CITY OF SAN JOSE

COUNTY OF SANTA CLARA STATE OF CALIFORNIA

OCTOBER, 2003



KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
3350 Scott Boulevard, Building 22
Santa Clara, California 95054

OWNER'S STATEMENT

We hereby state that we are the owners of or have some right, title or interest in and to the real property included within the subdivision shown on the map; that we are the only persons whose consent is necessary to pass a clear title to said real property; that we hereby consent to the making of said map and subdivision as shown within the distinctive border line.

We also hereby covenant to the City of San Jose pursuant to the California Government Code (Sections 65870 - 65875) and Part 1 of Chapter 20.110 of Title 20 of the San Jose Municipal Code that an easement for ingress and egress purposes is created upon the recording of this map, for the benefit of Parcel B, over a portion of Parcel A. Said easement is not intended for the use of the general public but is intended for the exclusive use of the parcel benefited. Said easement is to be kept open and free of surface structures of any kind.

There is also shown on the hereon map, easements for storm drainage purposes, designated and delineated as "PSDE" (Private Storm Drainage Easement) for the installation and maintenance of private storm drainage facilities for the benefit of "Parcel B" over "Parcel A". These easements are to be kept open and free from buildings and structures of any kind, except irrigation systems and appurtenances thereto, lawful fences and all lawful unsupported roof overhangs. The maintenance, repair, and/or replacement of private storm drainage facilities shall be the sole responsibility of the lot owners benefited as determined by the appropriated covenants, conditions, and restrictions. Said easement is not offered, nor is it accepted for dedication by the City of San Jose.

We also hereby dedicate to public use an easement for surface flow of storm water on or over that certain strip of land which lies within Parcels A and B and being designated and delineated as "SDRE" (Surface Drainage Release Easement). Said easement shall be kept open and free of any obstructions, including, but not limited to, berms, trees, permanent excavations, shrubs, buildings, or permanent structures of any kind except lawful unsupported roof overhangs. Further, the surface elevations of said easement shall not be altered without the written consent of the Director of Public Works of the City of San Jose.

AS OWNER:

Meridian Square Investors of San Jose LLC, a Delaware limited liability company

BY: UBS REALTY INVESTORS LLC, ITS MANAGER

NAME: Thomas Enger

TITLE: Thomas Enger, Director

Acknowledgement

State of California SS,
County of ~~Santa Clara~~ San Francisco

On October 30, 2003 before me, the undersigned,
a notary public in and for said state, personally appeared

Thomas Enger

proved to me on the basis of satisfactory evidence to be the person(s) whose name is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand

Notary's Signature Thomas D. Belo

Printed Notary's Name Teresa L. Rao

Notary's Principal Place of Business San Francisco

Expiration of Notary's Commission Dec. 13, 2004

Notary Commission No. 1384491

EASEMENT ACCEPTANCE BY THE DIRECTOR OF PLANNING

Pursuant to the California Government Code (Sections 65870 - 65875) and Part 1 of Chapter 20.110 of Title 20 of the San Jose Municipal Code, I hereby Accept on behalf of the City of San Jose a Covenant of Easement shown on the herein map and described hereon.

Date: December 17, 2003

Stephen M. Haase, AICP
Director of Planning of the City of San Jose,
California

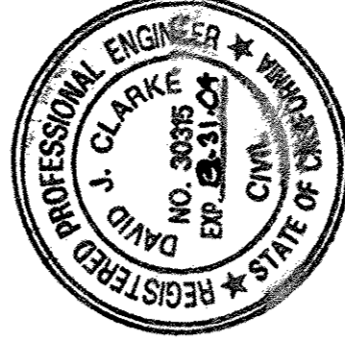
By: Jean-Hamilton
Deputy

CITY ENGINEER'S STATEMENT

I hereby state that I have examined the hereon parcel map; that the subdivision as shown hereon is substantially the same as it appeared on the tentative map if any; and any approved alterations thereof; that all provisions of the Subdivision Map Act, as amended, and of any local ordinance applicable at the time of approval of the tentative map if required; have been complied with and I am satisfied that said map is technically correct.

Date 12.17.03

David J. Clarke
David J. Clarke, R.C.E. No. 30315
City of San Jose, California
R.C.E. Expires: 03-31-04



COUNTY RECORDER'S STATEMENT

File No. 17550250 Fee \$12.00 Paid.

Accepted for record and filed in Book 767 of Maps at Pages 10
and 12, Santa Clara County Records, this 29th day of December
2003, at 2:03 P.M. at the request of Kier and Wright,
Civil Engineers and Surveyors.

Brenda Davis, County Recorder
Santa Clara County, California

By: g. Perez
Deputy

SURVEYOR'S STATEMENT

This map was prepared by me or under my direction and is based upon a field survey in conformance with the requirements of the Subdivision Map Act and local ordinance at the request of Arctec on October 3, 2003. I hereby state that this parcel map substantially conforms to the approved or conditionally approved tentative map, if any; that the survey is true and complete as shown; that all monuments are of the character and occupy the positions indicated, or that they will be set in those positions on or before October 3, 2004; that the monuments are, or will be, sufficient to enable the survey to be retraced.

Date 10-28-03

J. R. Vigil
Jimmy R. Vigil, LS 6256



#17550250

PARCEL MAP

CONSISTING OF THREE SHEETS

BEING A PORTION OF THAT CERTAIN 51.058 ACRE
PARCEL OF LAND AS SHOWN ON THAT CERTAIN
RECORD OF SURVEY, RECORDED APRIL 29, 1969 IN
BOOK 252, PAGE 38, SANTA CLARA COUNTY RECORDS
AND LYING IN THE

CITY OF SAN JOSE

COUNTY OF SANTA CLARA STATE OF CALIFORNIA

OCTOBER, 2003



KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
3350 Scott Boulevard, Building 22
Santa Clara, California 95054

BASIS OF BEARINGS

THE BEARING OF SOUTH 89°26'25" EAST, TAKEN ON THE CENTERLINE OF STEVENS CREEK BOULEVARD, AS SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED FOR RECORD ON APRIL 29, 1969 IN BOOK 252 OF MAPS AT PAGE 38, SANTA CLARA COUNTY RECORDS, AND AS FOUND MONUMENTED, WAS TAKEN AS THE BASIS FOR ALL BEARINGS SHOWN HEREON.

NOTES

1. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.
2. THE AREA WITHIN THE DISTINCTIVE BORDER LINE IS 5.445 ± ACRES.
3. THE DISTINCTIVE BORDER DENOTES THE BOUNDARY OF THE SUBDIVISION

LEGEND

- DISTINCTIVE BORDER LINE
- NEW LOT LINE
- CENTERLINE
- EASEMENT LINE
- FOUND STREET MONUMENT
- ⊙ SET 3/4" IRON PIPE & PLUG, L.S. 6256
- SET LEAD & TAG, L.S. 6256
- ⊙ RADIAL BEARING
- (R) RECORD INFORMATION

ABBREVIATIONS

- I.E.E. INGRESS EGRESS EASEMENT
- P.S.D.E. PRIVATE STORM DRAIN EASEMENT
- C.O.E. COVENANT OF EASEMENT
- S.D.R.E. SURFACE DRAINAGE RELEASE EASEMENT

LINE TABLE:

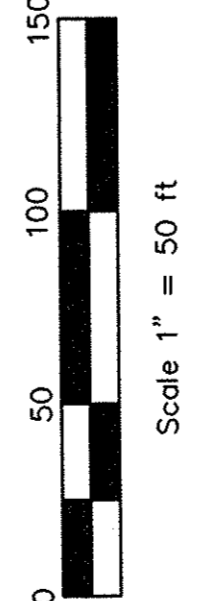
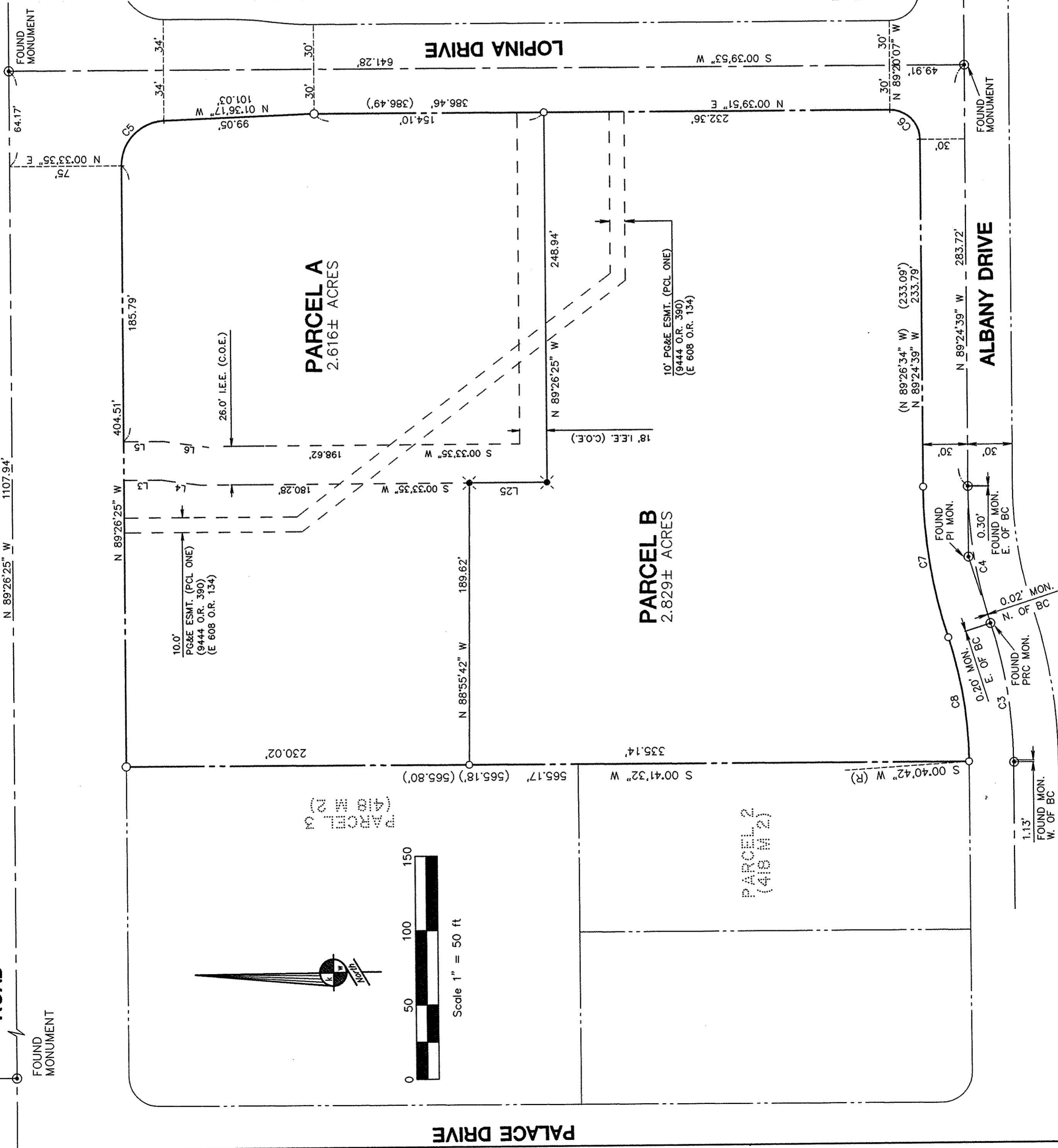
LINE	BEARING	DISTANCE	CURVE	RADIUS	DELTA	LENGTH
L1	S 00°33'35" W	17.35'	C1	8.00'	87°48'56"	12.26'
L2	S 00°32'41" W	18.56'	C2	13.00'	87°48'56"	19.92'
L3	N 00°39'51" E	5.00'	C3	300.00'	17°53'16"	93.86'
L4	N 41°24'52" W	3.49'	C4	300.00'	17°53'16"	93.86'
L5	N 41°24'52" W	3.51'	C5	30.00'	87°50'08"	45.99'
L6	S 89°44'50" W	32.65'	C6	20.00'	89°55'30"	31.39'
L7	S 89°44'50" W	32.15'	C7	330.00'	17°55'32"	103.24'
L8	N 51°09'38" W	10.14'	C8	270.00'	18°02'28"	84.90'
L9	N 89°18'28" W	29.94'				
L10	N 89°18'28" W	31.25'				
L11	N 89°18'28" W	24.57'				
L12	N 59°59'03" W	23.17'				
L13	N 59°59'03" W	23.64'				
L14	S 61°32'41" W	23.64'				

STEVENS CREEK BOULEVARD

(BASIS OF BEARINGS)
N 89°26'25" W 1107.94'

WOODHAMS ROAD

FOUND MONUMENT



#17550250

767
11/12
767
11/12

WOODHAMS ROAD

N 89°26'25" W 1107.94'
(BASIS OF BEARINGS)

FOUND MONUMENT

STEVENS CREEK BOULEVARD

N 89°26'25" W 404.51'

S 88°19'04" E 175.07'
S 88°19'04" E 171.87'

N 25°19'26" E 64.19'
N 25°19'26" E 58.90'

N 00°15'01" E 125.08'

N 00°15'01" E 128.62'

N 00°15'01" E 125.08'

N 00°15'01" E 125.08'

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N 00°15'01" E 125.08'

PARCEL MAP

CONSISTING OF THREE SHEETS
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3350 Scott Boulevard, Building 22
Santa Clara, California 95054

BASIS OF BEARINGS

THE BEARING OF SOUTH 89°26'25" EAST, TAKEN ON THE CENTERLINE OF STEVENS CREEK BOULEVARD, AS SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED FOR RECORD ON APRIL 29, 1969 IN BOOK 252 OF MAPS, AT PAGE 38, SANTA CLARA COUNTY RECORDS AND AS FOUND MONUMENTED, WAS TAKEN AS THE BASIS FOR ALL BEARINGS SHOWN HEREON.

NOTES

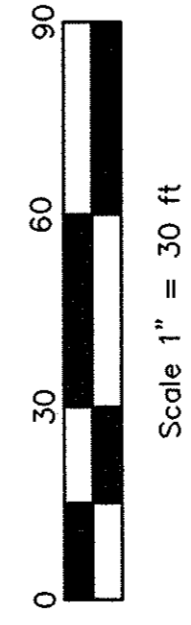
1. ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF.
2. THE AREA WITHIN THE DISTINCTIVE BORDER LINE IS 5.445 ± ACRES.
3. THE DISTINCTIVE BORDER DENOTES THE BOUNDARY OF THE SUBDIVISION.

LEGEND

- DISTINCTIVE BORDER LINE
- NEW LOT LINE
- CENTERLINE
- EASEMENT LINE
- FOUND STREET MONUMENT
- SET 3/4" IRON PIPE & PLUG, L.S. 6256
- SET LEAD & TAG, L.S. 6256
- RADIAL BEARING
- RECORD INFORMATION

ABBREVIATIONS

- I.E.E. INGRESS EGRESS EASEMENT
- P.S.D.E. PRIVATE STORM DRAIN EASEMENT
- C.O.E. COVENANT OF EASEMENT
- S.D.R.E. SURFACE DRAINAGE RELEASE EASEMENT



PARCEL A
2.616± ACRES

SEE SHEET 2 FOR LINE
TABLE & CURVE TABLE

PRIVATE STORM DRAIN EASEMENT
AND
STORM DRAIN RELEASE EASEMENT

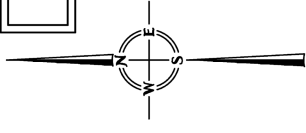
PARCEL B
2.829± ACRES

LOPINA DRIVE

#17550250

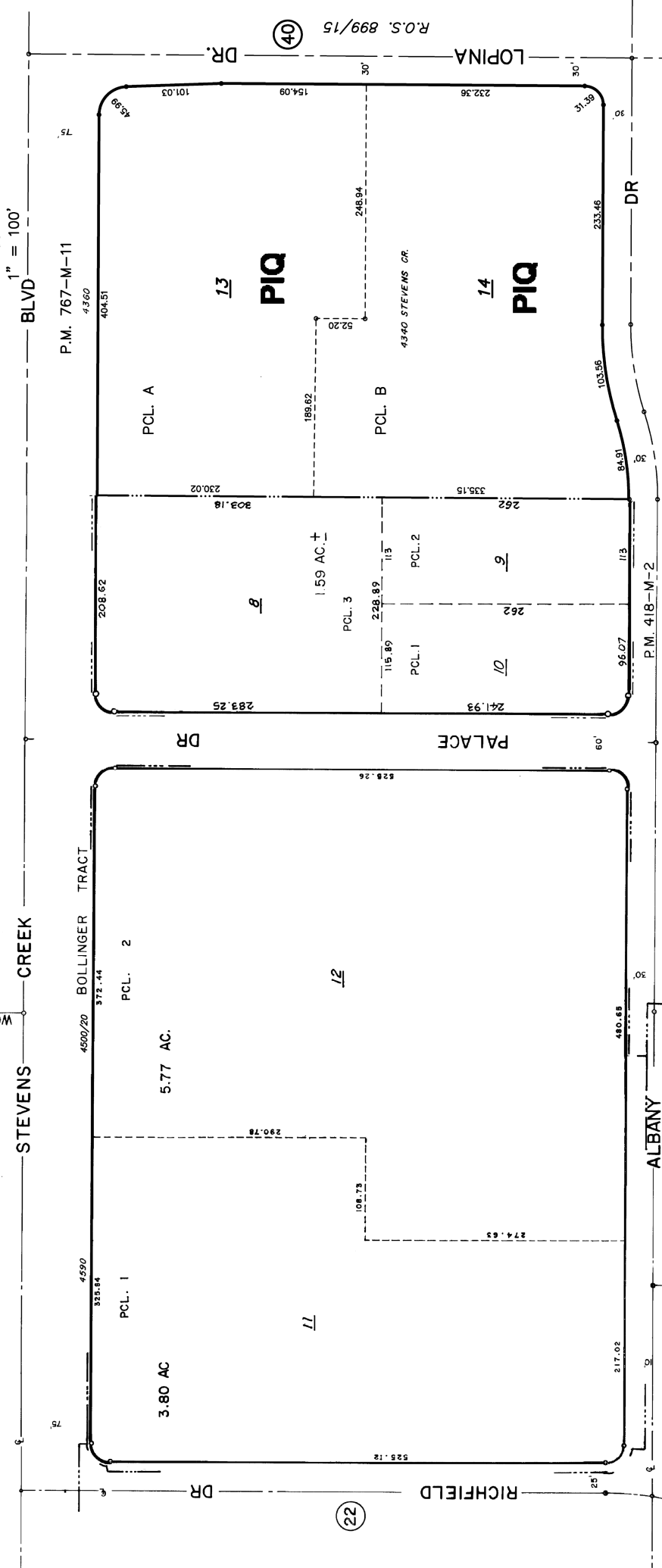
767
12/12
767
12/12

This map/plan is being furnished as an aid in locating the herein described land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the Company does not insure dimensions, distances, location of easements, acreage or other matters shown thereon.



(21)

(37)



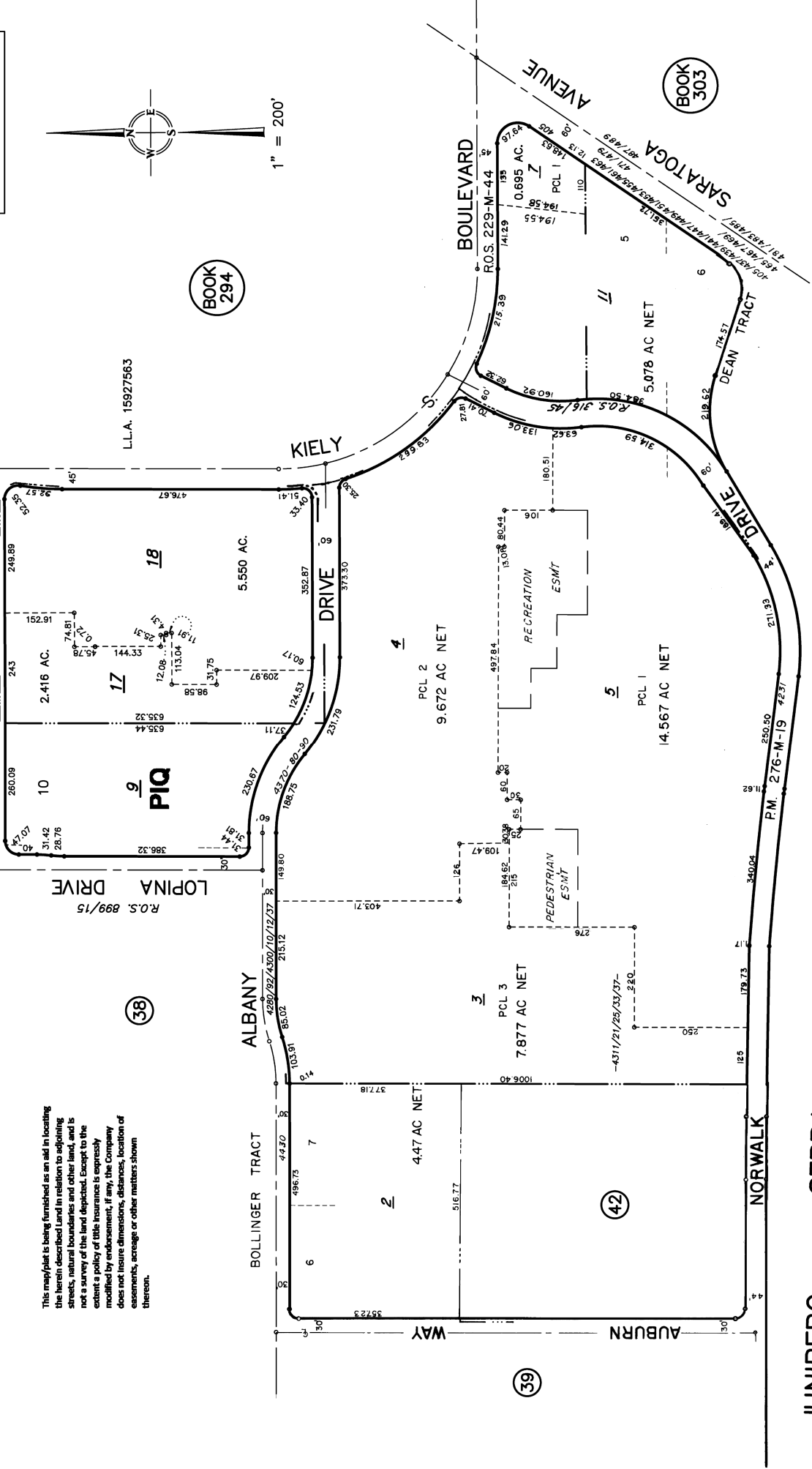
(22)

(39)

(40)

TRAL. DET. MAP 850
LAWRENCE E. STONE — ASSESSOR
Cadastral map for assessment purposes only.
Compiled under R. & T. Code, Sec. 327.
Effective Roll Year 2018-2019

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L.L.A. 15927563

R.O.S. 899/15

TRA. DET. MAP 950
LAWRENCE E. STONE — ASSESSOR
Cadastral map for assessment purposes only.
Compiled under R. & T. Code, Sec. 327.
Effective Roll Year 2018–2019