

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A VESTING TENTATIVE MAP TO MERGE THREE PARCELS INTO ONE AND SUBDIVIDE THE ONE PARCEL UP TO THIRTY-ONE PARCELS AND UP TO 362 CONDOMINIUM UNITS ON AN APPROXIMATELY 13.05-GROSS-ACRE SITE SITUATED ON THE NORTH SIDE OF BERRYESSA ROAD, APPROXIMATELY 1,100 FEET WESTERLY OF LUNDY AVENUE (1655 BERRYESSA ROAD) (APNS 241-03-023, 241-03-024, 241-03-025)

FILE NO. T25-006

WHEREAS, pursuant to the provisions of Chapter 19.12 of Title 19 of the San José Municipal Code, on April 29, 2025, a concurrent application (File No. T25-006) was filed by the owner and applicant Robert Facchino of Terracommercial Real Estate Corp for a Vesting Tentative Map to merge three parcels into one and subdivide into thirty-one parcels and up to 362 condominium units on an approximately 13.05-gross-acre site, on that certain real property situated in the UR(PD) and CP(PD) Planned Development Zoning Districts and located on the north side of Berryessa Road, approximately 1,100 feet westerly of Lundy Avenue (1655 Berryessa Road), 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 “Exhibit ‘A’ For Zoning Purposes” and depicted in Exhibit “B,” entitled “Exhibit ‘B’ Plat to Accompany Description: For Zoning Purposes,” which are attached hereto and made a part hereof by this reference as if fully set forth herein; and

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

WHEREAS, at said hearing, the 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 report and recommendation of 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 Master Tentative Tract Map for Condominium Purposes, T25-006, Lands of Facchino", dated April 21, 2025. 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 consists of three parcels totaling approximately 13.05 gross acres, located on the north side of Berryessa Road, approximately 1,100 feet westerly of Lundy Avenue (1655 Berryessa Road; APNs 241-03-023, 241-03-024, 241-03-025). The site is currently occupied by an existing light industrial facility and surface parking lot. Existing access to the site is from one ingress/egress driveway from Berryessa Road. The site is surrounded by single-family and multifamily residential uses to the north, west, and east across the BART tracks, and the Berryessa Flea Market to the south across Berryessa Road. Prior to the submittal of this application, the Subdivider was notified by the California State Water Resources Control

Board that a protected wetland exists on the property, which rendered the previously approved Vesting Tentative Map unfeasible.

2. **Project Description.** The project consists of a Vesting Tentative Map would allow modifications to the previously approved Vesting Tentative Map (File No. PT21-030), including revising the street network to eliminate a portion of Mercado Way between Bernard Drive and Perlo Drive, expansion of the open space parcel, and elimination of the lot line shared between Lots 20 and 21.

In conjunction with the Vesting Tentative Map, the project also includes a Planned Development Rezoning (File No. PDC25-016) to rezone the approximately 13.05-gross-acre subject site from the R-M(PD) and CP(PD) Planned Development Zoning Districts to the UR(PD) and CP(PD) Planned Development Zoning Districts. The project also includes a Planned Development Permit (File No. PD25-008) to allow the construction of a six-story multifamily residential building totaling 260 units, 100% of which are affordable and subject to the State Density Bonus Law, on an approximately 2.38-gross-acre portion of the rezoning site.

3. **Envision San José 2040 General Plan and Berryessa BART Urban Village Plan Consistency.** The project the site is partially designated as Mixed-Use Neighborhood along the western and northern property lines, Transit Employment Center facing Berryessa Road, and Urban Residential for the remainder of the site within the Envision San José 2040 General Plan Land Use/Transportation Diagram Map and is located within the Facchino District of the Berryessa BART Urban Village Plan (BBUVP).

The BBUVP is a Regional Transit Urban Village. The following is a summary and analysis of the requirements for each designation:

Mixed-Use Neighborhood

For new development, the Mixed-Use Neighborhood designation is applied to specific areas in the Facchino district only. The goal of the Plan is to concentrate planned growth in District areas, which results in mid- and high-density residential development in most Districts. In the Facchino District, the limited residential uses under the Mixed-Use Neighborhood designation will serve as a transitional buffer between the mid-density residential in the District and the adjacent single-family residential neighborhoods. This transitional buffer will minimize the height impacts of tall residential buildings on adjacent homes. The Mixed-Use Neighborhood designation has an allowable residential density of up to 30 DU/AC.

Analysis: This approximately 2.06-gross-acre area comprises Lots 1-19 and Lots 22-27. A total of 24 single-family residences and 24 townhomes have been approved under File No. PD21-009. This area will have a density of approximately 23.3 DU/AC and is consistent with the land use designation, which allows up to 30 DU/AC.

Transit Employment Center

Within this Urban Village plan, the Transit Employment Center designation is applied to areas within walking distance of the Berryessa/North San José BART Station, which are envisioned for intensive job creation. Uses allowed in this designation include retail and service commercial uses on the first two floors, office, research and development (R&D), as well as other supportive commercial uses such as personal services. In particular, this Village Plan envisions types of businesses with high employee densities that would place a premium on being adjacent to the BART Station and would support BART ridership. Flex office space with large floor plate formats that are highly adaptable to current or future decentralized employment needs is highly desirable. Overall, the focus on the Transit Employment designation in the Berryessa BART Urban Village is high-density employment growth, typically associated with office uses. Therefore, office/R&D uses are the only industrial uses that are allowed in this Urban Village.

The Transit Employment Center designation generally supports the desired urban form and development intensities of each District that has this designation. The range of commercial FAR for the Facchino District is 3.0 to 5.0 FAR, supporting between 288,000 and 480,000 square feet of space approximately. Minimum commercial FARs are envisioned to be implemented on a building basis, excluding parking (both surface and parking garage), roads, and public right-of-way. Additional flexibility in maximum FARs is allowed, provided that future development shape the desired urban form in each District, focusing on the development of towers on key locations.

Analysis: This area is comprised of Lot 21 along the Berryessa Road frontage of the project site. Pursuant to the Berryessa BART Urban Village Plan, a minimum 3.0 FAR of job-generating commercial use was implemented as a requirement to create jobs at the site, which is likely to generate a greater number of jobs than the previous light industrial use at existing site. Under File No. PDC18-036, this area is proposed with approximately 280,000 to 455,000 square feet of commercial medical office use over 2.09-gross-acres. This would result in approximately 3.0 to 4.0 FAR.

This is consistent with the land use designation. A future Planned Development Permit would be required to develop Lot 21, consistent with the General Development Plan of this project's Planned Development Zoning, File No. PDC25-016.

Urban Residential

The Urban Residential designation allows for scaling-down building heights towards low-density residential neighborhoods. The Urban Residential designation is most appropriate for the residential character of the Facchino District. This land use designation will enable a transition between medium-density residential and the adjacent single-family homes to the north and west. Urban Residential will also allow

compatibility with the commercial development fronting Berryessa Road and the new high-density residential on the district's western boundary.

Urban Residential is envisioned in this Village Plan to support mid-rise multifamily residential uses preferably, including mixed-use residential with ground-floor neighborhood-serving commercial uses or other community amenities. However, the General Plan generally allows commercial uses under Urban Residential, so this Village Plan would also allow 100% commercial projects that support transit ridership, such as coworking space, cultural activities, or community services to nearby residents. The Urban Residential land use designation in the Berryessa BART Urban Village supports a residential density that ranges from 75 to 250 DU/AC in the Facchino District. For context, the minimum density of 75 DU/AC supports the development of approximately 320 units and the maximum density of 250 DU/AC supports the development of approximately 1,062 units, using the area designated as Urban Residential in the land use plan. For condos and for-sale residential the Plan allows a density range of 95-100 DUs considering the larger size of those units.

Analysis: This area is comprised of Lots 20, 28, and 29 of the project site. Up to 260 residential units and 338 condominium units are included in this area. This calculates to approximately 101.5 DU/acre and is consistent with the requirements of the land use designation. These lots provide a transition from the adjacent single-family homes and townhome units to the north and west into higher-density multifamily units and provides a transition into the high-intensity commercial use fronting Berryessa Road to the south. Future Planned Development Permits will be required to develop these sites to be consistent with the General Development Plan of the Planned Development Zoning, File No. PDC25-016.

Berryessa BART Urban Design Guidelines – All Districts

Block Size Standards – Per Table 5-1, Section B, the maximum block size is 2.3 acres with a maximum length of 450 feet.

Analysis: The largest block within the project is 2.3 acres with a length of 437.5 feet. The project is consistent with this requirement.

Berryessa BART Urban Design Guidelines – Facchino District

Setbacks and Height – The project is located within the Facchino District of the Urban Village Plan. Per Table 5-1 and Policy 1A-DS of the [Berryessa BART Urban Village Plan](#), the following are the setback and height requirements for Blocks A, B, and C of the Facchino District for the first phase of the project, as proposed under Planned Development Permit, File No. PD21-009. All other blocks will require future PD permits to establish consistency findings with the Urban Village Plan.

Development Standard	Required by Berryessa BART Urban Village Plan	Provided by Project
Front Setback	Table 5-1: Maximum 6 feet	Townhome – Maximum 6 feet Single-Family – Maximum 6 feet
Side Setback	Policy 1A-DS-4: Maximum 5 feet from existing residential areas	Townhome – N/A Single-Family – 4 feet
Rear Setback	Policy 1A-DS-3: Minimum 20 feet	Townhome – 20 feet Single-Family – 20 feet
Height	Policy 1A-DS-1: Maximum 40 feet where adjacent to single-family homes	Maximum 38 feet

Analysis: The project is consistent with the setback and height requirements of the Urban Village Plan per the table above. The side setback for the townhomes is listed as “N/A” not applicable, since the townhomes do not have a side setback adjacent to the existing residences, only a rear setback.

4. **Zoning Ordinance Consistency.** The project includes a rezoning from the R-M(PD) and CP(PD) Planned Development Zoning Districts to the UR(PD) and CP(PD) Planned Development Zoning Districts, including the establishment of a General Development Plan and site-specific Development Standards that will be applied to the development of the site.

Land Use

The UR Urban Residential base zoning district for the UR(PD) Planned Development Zoning District supports the development of land for the construction, use and occupancy of higher density residential development and higher density residential-commercial mixed-use development.

The CP Commercial Pedestrian base zoning district 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.

Analysis: The R-M base zone is applied to the areas of the Project Site intended for single-family, townhome, and multifamily residential use, and the uses are consistent with the allowed uses of the base zone and the General Development Plan of the Planned Development Zoning. Similarly, the CP base zone is applied only to the area of the project site intended for high-intensity, pedestrian-oriented commercial use,

which is consistent with the allowed land uses of the base zone and the General Development Plan of the Planned Development Zoning.

Development Regulations

Phase 1 – Blocks A, B & C (24 Single-Family Homes and 24 Townhomes)

Below is a comparison of the R-M Multiple Residence Zoning District and the project's R-M(PD) Planned Development Zoning District development standards. The uses within the CP(PD) Planned Development Zoning District will require a future Planned Development Permit to provide consistency findings for the development. 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. In this case, the PD Permit is only applicable to Phase 1 of the project.

Residential Lot Standards

The table below is an analysis of the residential lot standards of the R-M Zoning District and the development standards of the PD Zoning per PDC18-036:

Lot Standard	R-M Multiple Residence Zoning District Requirements	R-M(PD) Planned Development Zoning District Development Standards	Provided by Project
Detached Single-Family Minimum Lot Area	6,000 square feet	2,160 square feet	2,170 square feet
Detached Single-Family Minimum Lot Width	55 feet	35 feet	35 feet

Development Standards

The table below includes the applicable development standards of the General Development Plan.

Development Standard	Requirement	Provided
Density (within the Urban Residential District)	Minimum 75 DU/AC and maximum 250 DU/AC	Approximately 110.63 DU/AC
Setbacks	Maximum side setback for a corner lot: 14 feet	Between approximately 7 and 10 feet
Building Height	Consistent with the height limits described in the Berryessa BART Urban Village Plan: 90 feet (northwest portion) and 160 feet (southeast portion)	78 feet

Analysis: The project is consistent with the density, setbacks, and building height requirements of the General Development Plan, as outlined above.

Vehicle Parking

Pursuant to the General Development Plan, vehicle parking shall be designed in accordance with Title 20 of the San José Municipal Code, as may be amended.

Analysis: As of April 10, 2023, the City of San José no longer has a minimum parking requirement. Instead, projects are required to prepare a Transportation Demand Management (TDM) Plan. A TDM Plan was prepared for the project by Hexagon Transportation Consultants, Inc. dated June 5, 2025. While Section 20.90.900.B.5 states that projects providing 100% restricted affordable units are exempt from TDM requirements in the Zoning Code, the Berryessa BART Urban Village Plan has its own TDM requirements and takes precedence over the Zoning Code. Chapter 5 of the Berryessa BART Urban Village District Parking Study, beginning on page 16, outlines implementation of the Berryessa BART Urban Village Plan's TDM requirements. All developments within the Berryessa BART Urban Village are required to implement a TDM plan which achieves 30 points. The first 10 of these points shall be met by the mandatory TDM measures as shown in Figure 4, page 18, also as described below:

Citywide TDM Category	Citywide TDM Measures	BBUV Points
Program-1	Transportation Management Association	10
Program-2	Education, Marketing, and Outreach	
Program-3	Transit Pass Subsidy	
Parking-1	Unbundled Parking	
Parking-2	Price Parking	

These mandatory TDM measures are explained in further detail in Attachment A of the Berryessa BART Urban Village District Parking Study beginning on page 30. The remaining 20 points may be met using a combination of additional TDM measures outlined in Figure 5, page 22. Projects may be able to achieve these 20 points based on the amount of off-street parking provided. Pursuant to Figure 6 on page 24, the project's off-street parking ratio of 0.65 spaces per dwelling unit (170 spaces / 260 dwelling units) achieves 20 points. The TDM Plan for the project complies with the 30-point requirements discussed above.

Bicycle Parking

Pursuant to the General Development Plan, bicycle parking shall be provided as required per Title 20 of the San José Municipal Code, as may be amended.

Analysis: Pursuant to Table 20-190 in Section 20.90.060, one bicycle parking space is required for every four multifamily dwelling units. Therefore, 65 bicycle parking spaces are required. A total of 71 bicycle parking spaces (65 long-term and four short-term) are provided, meeting the requirement.

Motorcycle Parking

The General Development Plan is silent on motorcycle parking. Therefore, motorcycle parking shall be provided per the requirements of the Zoning Code. Pursuant to Section 20.90.350, two-wheeled motorized vehicle (motorcycle) parking shall be provided at a rate of 2.5 percent of standard vehicle parking provided.

Analysis: The project will provide 170 vehicle parking spaces. Therefore, five motorcycle parking spaces are required. The project includes five motorcycle parking spaces, meeting 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 19.36.190 – All lots shall have direct access to a public street. The director may waive this requirement with respect to certain lots in a proposed subdivision if he finds that, because of the design of and/or improvements in such subdivision, proposed private ways of access from said lots to a public street for both vehicular and pedestrian traffic, are adequate for such lots.

Analysis: All lots have direct pedestrian and vehicular access to a public street, with the exception of the 24 townhomes within Lot 22, which will have vehicular access via a private drive, which Public Works has deemed to meet the requirement for access.

Section 19.36.220 – All lots fronting on a major street shall have a minimum depth of 20 feet.

Analysis: Lot 21 along Berryessa Road is approximately 288 feet in depth and is consistent with this requirement.

6. **City Council Policy 6-30: Public Outreach Policy for Pending Land Use Decisions.** Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the proposed Project. On-site signs have been posted on the Project frontages and were last inspected on May 29, 2025. A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the Project site and posted on the City's website. The staff report is also posted on the City's website. Staff has also been available to respond to questions from the public.

7. **California Environmental Quality Act.** The City of San José has prepared an Addendum to the 2023 FEIR (Resolution No. RES2023-223) for the subject Planned Development Rezoning, Vesting Tentative Map, and Planned Development Permit (File Nos. PDC25-016, T25-006 & T25-006) in compliance with the California Environmental Quality Act (CEQA).

As analyzed in the Addendum, the modifications to the previously approved project would continue to be consistent with the 2023 FEIR analysis for aesthetic, agricultural and forestry, biological, cultural, energy, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral, population and housing, public services, recreation, utilities and service systems, tribal cultural, and wildfire resources. The supplemental analyses for transportation (Appendix A), air quality (Appendix B), and noise and vibration (Appendix C) confirmed that the project modifications do not result in any new impacts than what were disclosed in the 2023 FEIR. In addition, no new information of substantial importance has become available that would change the conclusions of the 2023 FEIR and all previously identified mitigation measures would remain applicable. Therefore, in accordance with CEQA Guidelines Section 15164, preparation of this Addendum to the certified 2023 FEIR is appropriate and sufficient to evaluate and document the proposed project modifications.

8. **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 merge three parcels into one and subdivide the one parcel up to thirty-one parcels and up to 362 condominium units on the approximately 13.05-gross acre site, the Director of Planning, Building, and Code Enforcement 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 in the Envision San José 2040 General Plan and Berryessa BART Urban Village Plan Conformance 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 residential development is allowed up to 250 du/ac. Furthermore, based on findings from the analysis in the FEIR tech reports, the project site does not contain historic resources or sensitive habitats or wildlife that will be substantially injured. Additionally, 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 industrial structures and a surface parking lot. As discussed in the FEIR, mitigation measures are incorporated into the project to ensure construction of the proposed project would not result in significant impacts construction workers, neighboring residents, or the environment due the release of contaminated soil or groundwater. Therefore, the proposed subdivision and subsequent improvements

are not likely to cause serious public health problems. The design of the subdivision does not conflict with any easements.

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

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Vesting Tentative Map.** Per Section 19.12.230 of the San José Municipal Code, 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. **Map Expiration.** This Tentative Map shall automatically expire 30 months from and after date of issuance thereof by the Director of Planning, Building and Code Enforcement/Planning Commission/City Council, if within such time period, a Final Map has not been obtained, pursuant to and in accordance with the provisions of this Tentative Map. The date of issuance is the date this Tentative Map is approved by the Director of Planning/Planning Commission/City Council. However, the Director of Planning, Building and Code Enforcement may approve a Tentative Map Extension to extend the validity of this Tentative Map in accordance with Title 19. An extension of the approval of the Tentative Map shall not exceed two years by the City Council or the Director of Planning, Building and Code Enforcement (see Section 19.16.030 in Chapter 19.16 of Title 19 of the San José Municipal Code).
3. **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

4. **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.
5. **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.
6. **Distribution Facilities.** The Subdivider shall, at no cost to the City, cause all new or replacement electricity distribution facilities (up to 40KV), telephone, community cable, and other distribution facilities located on the subject property to be placed underground.
7. **Homeowner's Association.** A Homeowner's Association 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 Subdivider 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.
8. **Conformance with Other Permits.** The subject Vesting Tentative Map conforms to and complies in all respects with the Planned Development Permit File No. PD25-008 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.
9. **Final Map.** No Final Map or Tract Map shall be approved by City Council unless and until the appeal period for the development permit, City File No. PD25-008, has expired and all appeals have been exhausted.
10. **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 insure to, all successors in interest to the affected real property.

11. 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 of the San José Municipal Code. 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 of the San José Municipal Code 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 11.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 11.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 11.c.i. through 11.c.iii., above, the rights referred to

herein shall continue until the expiration of that permit, or any extension of that permit.

12. **Conformance to Plans.** The development of the site shall conform to the approved plans entitled, "Vesting Master Tentative Tract Map for Condominium Purposes, T25-006, Lands of Facchino", dated April 21, 2025, 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."
13. **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.
14. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Subdivider shall constitute acknowledgement of receipt of notice by Subdivider 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.
15. **Housing Department Conditions.** Prior to earliest of either approval of any parcel or final map, or issuance of any building permits, the Subdivider must execute and record their Affordable Housing Agreement memorializing the Inclusionary Housing Ordinance ("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.
 - a. The Subdivider has received approval for an Alternative Methods Compliance Plan under SJMC Section 5.08.610(F). The project will satisfy the Inclusionary Housing

requirement through construction of 257 affordable units in a 100% affordable building on Blocks D & H (defined below). This results in 129 surplus affordable units above the required 128 units (15% of 850). The affordable units will serve households at 30%, 50%, 60%, and 70% AMI and will be regulated for 55 years.

The affordable building will be financed using 4% Low Income Housing Tax Credits and tax exempt bonds, with a financing reservation from California Debt Limit Allocation Committee/California Tax Credit Allocation Committee received on April 8, 2025. The financing must close by October 6, 2025. Construction is expected to begin in October 2025 and be completed by February 2028.

The Subdividers's obligations are summarized as follows:

- i. Phase 1 – Blocks A, B, and C: 48 for-sale market-rate units (24 rowhomes and 24 townhomes/flats).
- ii. Phase 2 – Blocks D and H: 260-unit affordable rental community, including 3 manager units.
- iii. Phase 3 – Blocks F and G: Up to 542 high-density market-rate units.

Total Units	Minimum IHO Obligation	Affordable Housing Proposed
850	128	257

Approval of the Plan includes waivers to:

- i. SJMC 5.08.420 (Contiguous Property under Common Ownership)
- ii. SJMC 5.08.460 (Timing of Construction of Inclusionary Units)
- iii. SJMC 5.08.470 (Standards for Inclusionary Units)

Subdivider 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.

- b. The security obligation for assuring compliance with the IHO's affordable housing requirements is satisfied through either a City performance bond (by a California licensed surety) or a letter of credit using the City forms and its value is based upon the in-lieu fee amount for satisfying the project's IHO obligation ("security").
- c. The Subdivider will be required to record the IHO agreement prior to the recording of the parcel map, unsubordinated to any deeds of trust, and to include the following conditions:
 - i. The entire security is due for the entire market rate project prior to issuance of the first Certificate of Occupancy for the first market rate unit. The amount of

- the security is based on the current fiscal year in-lieu fee when the security is provided. Alternatively, the market rate phase 1 obligations for in-lieu security could be due for the entire market rate project prior to the first Certificate of Occupancy for the first phase 1 unit and with the same conditions applying to phase 2. The amount of the fee security should be based on the current fiscal year fee when the security is provided.
- ii. The fees would be refundable to the payor upon the financing closing and the building permit issuance for the 260-unit restricted affordable project. If this does not occur within five (5) years of the 1st Certificate of Occupancy for the first phase 1 market-rate unit, then the City may call the bond or otherwise collect the amount due for the Project's entire in-lieu fee.
 - iii. No building permit should issue for Phase 3 except in accordance with the affordability restrictions for that site.
 - iv. Required minimum standards and amenities.
- d. 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.
16. **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.
17. **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.
18. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, and, state, and federal laws.
19. **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. RES2023-223.
20. **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 (PD25-008).
21. **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 (PD25-008).

22. 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**.

APPROVED this _____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
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.



April 18, 2023
HMH 5221.00.270
Page 1 of 2

EXHIBIT "A"
FOR ZONING PURPOSES

Parcel One

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being all of Parcels 1 & 2 and a portion of Parcel 3 as described in the Gift Deed recorded July 7, 2005, in Document No. 18456695 of Official Records, Santa Clara County Records, described as follows:

BEGINNING at the westerly corner of said Parcel 3;
Thence along the southwesterly line of said Parcel 3, South 37°13'17" East, 854.86 feet, to Point A designated hereon;
Thence North 48°50'52" East, 39.25 feet;
Thence along a tangent curve to the right, having a radius of 190.00 feet, through a central angle of 06°39'07" for an arc length of 22.06 feet;
Thence North 55°30'00" East, 65.11 feet;
Thence along a tangent curve to the left, having a radius of 210.00 feet, through a central angle of 02°43'16" for an arc length of 9.97 feet;
Thence North 52°46'43" East, 195.70 feet;
Thence along a tangent curve to the left, having a radius of 60.00 feet, through a central angle of 65°35'57" for an arc length of 68.70 feet;
Thence North 75°57'13" East, 1.51 feet, to the general westerly line of the Parcel of Land described in the Grant Deed recorded May 17, 2012, in Document No. 21671768 of Official Records, Santa Clara County Records;
Thence along said general westerly line the following four courses:
1. Thence North 14°02'47" West, 847.79 feet;
2. Thence westerly, along a non-tangent curve to the left, having a radius of 10.00 feet, whose center bears South 75°57'56" West, through a central angle of 112°43'09" for an arc length of 19.67 feet;
3. Thence South 53°14'47" West, 10.00 feet;
4. Thence North 36°45'13" West, 21.69 feet, to the northwesterly line of said Parcel 3;
Thence along said northwesterly line, South 53°13'56" West, 702.67 feet, to the POINT OF BEGINNING.

Containing 10.84 acres, more or less.

Parcel Two

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being a portion of Parcel 3 as described in the Gift Deed recorded July 7, 2005, in Document No. 18456695 of Official Records and a portion of Parcel C as shown on that certain Record of Survey, filed for record on February 17, 1969, in Book 249 of Maps, page 1, all of Santa Clara County Records, described as follows:

BEGINNING at Point A designated above, being on the southwesterly line of said Parcel 3;

Thence North 48°50'52" East, 39.25 feet;
Thence along a tangent curve to the right, having a radius of 190.00 feet, through a central angle of 06°39'07" for an arc length of 22.06 feet;
Thence North 55°30'00" East, 65.11 feet;
Thence along a tangent curve to the left, having a radius of 210.00 feet, through a central angle of 02°43'16" for an arc length of 9.97 feet;
Thence North 52°46'43" East, 195.70 feet;
Thence along a tangent curve to the left, having a radius of 60.00 feet, through a central angle of 65°35'57" for an arc length of 68.70 feet;
Thence North 75°57'13" East, 1.51 feet, to the general westerly line of the Parcel of Land described in the Grant Deed recorded May 17, 2012, in Document No. 21671768 of Official Records, Santa Clara County Records;
Thence along said general westerly line the following three courses:
 1. Thence South 14°02'47" East, 137.76 feet;
 2. Thence South 30°57'40" West, 15.38 feet;
 3. Thence South 14°01'55" East, 206.48 feet;
Thence South 46°05'08" West, 239.78 feet, to the southwesterly line of said Parcel 3;
Thence along said southwesterly line, North 37°13'17" West, 315.90 feet, to the POINT OF BEGINNING.

Containing 2.09 acres, more or less.

As shown on Exhibit "B" attached hereto and made a part hereof.

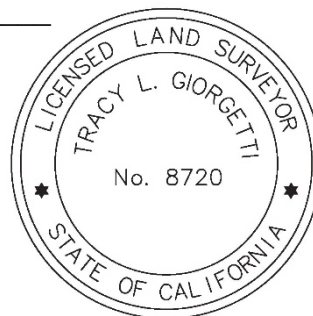
END OF DESCRIPTION

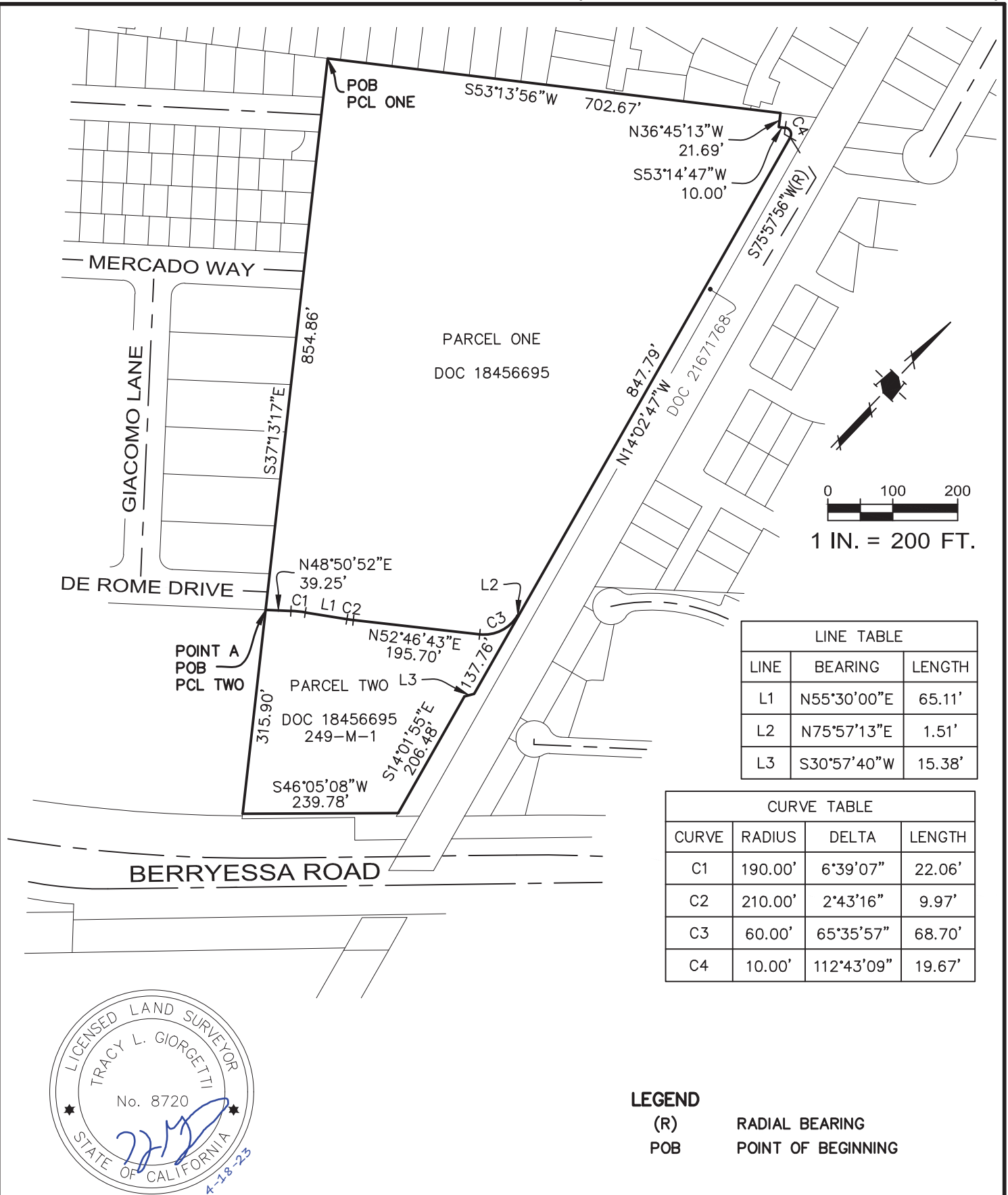
For assessment or zoning purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.

This legal description was prepared by me or under my direction in accordance with the Professional Land Surveyors Act.

Date: 4-18-23


Tracy L. Giorgetti, LS 8720





SHEET 1 OF 1

Date: 2023-04-18

Designed: DM

Drawn: RF

Checked: TG

Proj. Engr.: —

522100PL01

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

SAN JOSE

EXHIBIT "B"
PLAT TO ACCOMPANY DESCRIPTION:
FOR ZONING PURPOSES

CALIFORNIA