

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT PERMIT TO ALLOW THE REMOVAL OF FOUR TREES (THREE ORDINANCE-SIZE) AND THE CONSTRUCTION OF THREE BUILDINGS ON TWO SEPARATE PARCELS, FOR A TOTAL OF 16 MULTI-FAMILY RESIDENTIAL CONDOMINIUM UNITS, INCLUDING SEVEN LIVE-WORK UNITS ON A CUMULATIVE 0.81-ACRE SITE LOCATED ON THE WEST SIDE OF EVERGREEN VILLAGE SQUARE, BETWEEN RUBY AVENUE AND CLASSICO AVENUE (APN: 659-57-015 AND 659-84-093)

FILE NO. PD21-020

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on November 7, 2021, the applicant, Reyad Katwan of Hawkstone Development, on behalf of the property owner, William P. West of Shapell Norcal Rental Properties, LLC, filed a Planned Development Permit application (File No. PD21-020) with the City of San José (“City”) to allow the construction of three buildings on two separate parcels for a total of 16 multi-family residential units, including seven live-work units, and the removal of three ordinance-size trees and one non-ordinance-size tree on a cumulative approximately 0.81-gross-acre site (APN 659-57-015 and 659-84-093), on that certain real property situated in the MUN(PD) Planned Development Zoning District and located on the west side of Evergreen Village Square between Ruby Avenue and Classico Avenue, in San José (the “Project”); and

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

WHEREAS, at a duly noticed public hearing on May 28, 2025, the Planning Commission considered public comments and all evidence and testimony received at the public hearing regarding the Project and recommended that the City Council approve the Project; and

WHEREAS, this City Council received and considered the reports and recommendations of the City's Planning Commission and City's Director of Planning, Building, and Code Enforcement and conducted a duly noticed public hearing on the Project, giving all persons full opportunity to be heard and to present evidence and testimony; and

WHEREAS, at said hearing, this City Council received in evidence a plan for the subject property entitled, "Planned Development Permit, Evergreen Village Square", dated Revised August 3, 2023; said plan is on file in the Department of Planning, Building and Code Enforcement, is available for inspection and is incorporated by reference;

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

The foregoing recitals are hereby incorporated by reference as if fully set forth herein, and after considering evidence presented at the public hearing the City Council finds that the following are the relevant facts and findings regarding this Project:

- 1. Site Description and Surrounding Uses.** The subject site, consisting of two separate lots totaling approximately 0.81 gross acre, is located on the west side of Evergreen Village Square, between Classico Avenue and Ruby Avenue. The southern lot (Lot 1, APN 659-57-015) is approximately 0.54 acre, and the northern lot (Lot 2, APN 659-84-093) is approximately 0.27 acre. Both lots are undeveloped. The site is surrounded by a townhome building to the north, Evergreen Village Duck Pond to the west, apartment buildings and a library to the southeast across Classico Avenue, Evergreen Village Square to the east, and commercial use to the east across Ruby Avenue.
- 2. Project Description.** The Project consists of the construction of three multi-family residential buildings, including a two-unit building, a four-unit building, and a 10-unit building, totaling 16 condominium units on the subject site. Seven of the 16 units would

be designated “live-work” units. A live-work unit is a type of residential unit that combines both residential and work functions in a single space to allow people to live and work in the same location. The work spaces of the proposed live-work units would be placed on the ground floor facing public streets. Each unit would feature an enclosed garage facing and accessed from the new private alleys. A total of 26 parking spaces are provided in the garages of the residential units. There would be no surface parking. Vehicular access to the Project site would be provided via Ruby Avenue and Classico Avenue. The existing bus stop at Ruby Avenue would be relocated due to the location of the new driveway at Ruby Avenue.

The southern site (Lot 1) is long and shallow. It would include a three-story, 10-unit multi-family residential building (Building C), facing Classico Avenue. Five of the 10 units are “live-work” units. The northern site (Lot 2), also with an irregular shape, would include a four-unit building (Building B) in the front, facing Evergreen Village Square, and a two-unit building (Building A) at the rear. Two of the units in the front building would be designated “live-work” units. Due to the site grading for the retaining walls near the rear lot lines abutting the park (Evergreen Village Duck Pond) to the west, seven trees would be removed, including three ordinance-size trees and one non-ordinance-size tree on Lot 1. The removal of these four trees on site is included in the Planned Development Permit. The removal of the three trees offsite (on City property) will be reviewed at the public improvement plan stage.

In conjunction with the Planned Development Permit, the Project also includes a Planned Development Rezoning, File No. PDC21-036, and a Vesting Tentative Map, File No. T23-010. The Planned Development Rezoning ordinance rezoned the site from the A(PD) Planned Development Zoning District to the MUN(PD) Planned Development Zoning District, and the Vesting Tentative Map allows for up to 16 residential condominium units, including up to ten units on Lot 1 and up to six units on Lot 2.

- 3. General Plan Conformance.** The Project site has an Envision San José 2040 General Plan Land Use/Transportation Diagram designation of Mixed Use Neighborhood.

Density: Up to 30 DU/AC; FAR 0.25 to 2.0 (1 to 3.5 stories)

This designation is applied to areas intended for development primarily with either townhouse or small lot single-family residences and to existing neighborhoods that were historically developed with a wide variety of housing types, including a mix of residential densities and forms. This designation supports commercial or mixed-use development integrated within the Mixed Use Neighborhood area. Existing neighborhoods with this designation are typically characterized by a prevalence of atypical lot sizes or shapes and a parcel-by-parcel development pattern where a small townhouse development may exist adjacent to a more traditional single-family development or a more intense multi-family development.

Analysis: The site's General Plan land use designation was changed in 2023 to MUN Mixed Use Neighborhood, which supports residential and/or commercial development as described above.

The site is within a neighborhood that includes a mix of two to three-story townhomes, detached single-family houses, low-rise apartment buildings, and low-rise commercial buildings. The Project's urban form (three-story multi-family residential buildings) is consistent with the surroundings. The Project's density is 19.75 DU/AC, which is also consistent with the MUN density requirement listed above.

The following Envision San José 2040 policies would apply to the Project:

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

Analysis: The site is shallow with irregular shapes and is immediately adjacent to an open space (Evergreen Village Duck Pond) to the west and a plaza (Evergreen Village Square) to the east. The Project allows for specifically tailored development standards such as reduced front and rear setbacks and reduced open space requirements to facilitate a project that is consistent with the MUN Mixed Use Neighborhood land use designation at this unique location. The development standards of the MUN(PD) Planned Development Zoning District will enable three three-story multi-family residential buildings to be built on the unique site, enabling the Project to achieve a density of 19.75 DU/AC, which is consistent with the MUN Mixed Use Neighborhood land use designation.

- Policy H-1.1: Through the development of new housing and the preservation and rehabilitation of existing housing, facilitate the creation of economically, culturally, and demographically diverse and integrated communities.

Analysis: The Project would transform two currently undeveloped parcels into a multi-family residential development consisting of 16 condominium units, including seven live-work units. By contributing a mix of one- and two-bedroom ownership opportunities within an existing mixed-use neighborhood, the Project supports the development of a more economically and demographically diverse community. The inclusion of live-work units also encourages cultural and economic integration by accommodating a broader range of household types and working lifestyles. As

such, the Project is consistent with Policy H-1.1 by promoting new housing development that enhances diversity and integration in the City.

- 4. Zoning Conformance.** The Project site is located within the MUN(PD) Planned Development Zoning District, File No. PDC21-036. The MUN(PD) Planned Development Zoning District allows for the development of the Project as described in the Project Description section of this document. The Project would be subject to the applicable development standards as outlined in the General Development Plan.
- Land Use. This MUN(PD) Zoning District would allow for permitted, special, and conditional uses that conform with the MUN Mixed Use Neighborhood Zoning District, as amended, including multiple dwellings and live-work units.
 - Development Standards. The MUN Mixed Use Neighborhood Zoning District in Chapter 20.55 of the Zoning Code is the base zoning district for this MUN(PD) Planned Development Zoning District. The development standards for both are compared in the table below, including proposed project compliance with the Planned Development Zoning standards.

MUN & MUN(PD) Zoning District Development Standards

Development Standard	MUN Requirement (Conventional)	MUN(PD) Requirement	Provided by Project
Height (maximum)	Multiple dwelling: 45 feet	45 feet*	Building A: 35 feet Building B: 37.75 feet Building C: 42 feet
Stories (maximum)	Multiple dwelling: 4	No change	3
Setback, Front (to the property lines along public streets) (minimum)	10 feet	5 feet	5 feet
Side, interior (minimum)	8 feet	No change	Building A: 8 feet Building B: 9 feet Building C: 13 feet
Rear (minimum)	15 feet	15 feet (Lot 1, APN 659-57-015) 7 feet (Lot 2, APN 659-84-093)	Building A (on Lot 2): 7 feet Building C (on Lot 1): 20 feet
Private Open Space (minimum)	Multiple dwelling: 60 square feet per unit; Width: 15 feet	45 square feet per unit; Width: 8 feet	Unit A1: 69 square feet Unit A1a: 69 square feet Unit B1: 45 square feet Unit B2: 59 square feet Unit C1: 87 square feet Unit C2: 97 square feet Width: 8 to 13.75 feet

Common Open Space (minimum)	100 square feet per unit	Not required**	Not provided.
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* Elevator shafts, roof equipment, and other non-habitable building elements (including architectural elements) may extend 10 feet past the maximum building height.

** The proposed MUN(PD) Zoning District does not require common open space, given that the project site is immediately adjacent to a park (Evergreen Village Duck Pond) to the west and a plaza/park to the east (Evergreen Village Square).

Analysis: The Project conforms with the required height, setback, and private open space standards pursuant to the project development standards as outlined in the General Development Plan of the Planned Development Zoning District. The reduced setbacks and open space requirements compared to the standard (conventional) MUN Zoning District would allow the Project to achieve a density consistent with the General Plan Land Use Designation of MUN Mixed Use Neighborhood, while maintaining consistency with the form and pattern of the neighborhood.

- c. Parking: Pursuant to the General Development Plan, vehicle, bicycle, and motorcycle spaces are to be provided in accordance with Chapter 20.90 of the Zoning Code, as may be amended, except as follows: Each unit shall have a minimum one-car garage.

Analysis: The Project development includes fewer than 26 multi-family residential units. Therefore, the Project is exempt from the Transportation Demand Management (TDM) requirement per Zoning Code Section 20.90.900.B.2.b.

Each Project unit would include an enclosed garage. Six units include a one-car garage, and ten units include a two-car garage. The total number of parking spaces provided is 26 ((6 x 1) + (2 x 10)) spaces.

Bicycle parking: Pursuant to Section 20.90.250, the Director of Planning, Building and Code Enforcement may reduce or eliminate required long-term bicycle parking spaces for multi-family residential uses with a development permit when the multi-family uses are located in buildings that have individual enclosed garages assigned to each multi-family dwelling unit.

Analysis: Pursuant to Section 20.90.250, each Project unit includes a garage; therefore, the Project is not required to provide bicycle parking spaces.

Two-wheeled Motorized Vehicle Parking: Two-wheeled motorized vehicle parking shall be provided at a rate of 2.5% of standard vehicle parking provided, except for multi-family residential uses when the multi-family uses are located in buildings that have individual enclosed garages assigned to each multi-family dwelling unit.

Analysis: Pursuant to Section 20.90.250, each Project unit includes a garage, and no surface parking is provided. Therefore, the Project is not required to provide motorcycle parking spaces.

5. Citywide Design Standards and Guidelines. The Project is subject to the Citywide Design Standards and Guidelines (amended in October 2022). The Project architecture, massing, materials, and site plan have been determined to be consistent with all the applicable standards. The Project complies with the following key design standards and guidelines:

- 2.2.1.S3: All ground floor residential units fronting a street or paseo must have either one or a combination of:
 - A primary front door access from the street or paseo; or
 - A patio, balcony, or similar private open space placed along the street or paseo. The enclosure/railing for such an amenity must be at least 50 percent transparent and must be integrated in the design of the development.

Analysis: The units with ground floors facing public streets are “live-work” units. Each has entrances directly accessible from sidewalks along the public streets.

- 2.2.2.S4: Do not locate individual residence garages, parking pads, and driveways along primary streets, except for duplexes. Where provided, locate them along secondary streets, alleys, or private streets.

Analysis: All parking garages are accessed from the private driveways.

- 3.3.7.G1: Use durable high-quality materials, such as tile, wood, masonry, brick, stones, terracotta, or metal.

Analysis: The Project buildings would incorporate masonry veneer as the base, metal railings, and decorative wood shutters to provide visual interest, and is consistent with the surrounding townhomes.

6. City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals. Staff followed City Council Policy 6-30: Public Outreach Policy to inform the public of the Project. Three onsite signs have been posted on the Project street frontages since January 24, 2022. A virtual community meeting was held on October 27, 2022. Two community members joined the meeting without comments.

A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the Project site and posted on the City website. Additionally, a notice of the public hearing was posted in a newspaper of record (San José Post Record) on May 8, 2025. Staff have also been available to respond to questions from the public.

7. Environmental Review. The City of San José, as the lead agency for the Project, prepared an Initial Study/Mitigated Negative Declaration (“IS/MND”) for the subject Project. The potential environmental impacts of the subject Project were assessed in the IS/MND. The document was circulated for public comment from February 25, 2025, to March 15, 2025. The IS/MND identified potential impacts to Biological

Resources, and Hazards and Hazardous Materials. The Project includes a Mitigation Monitoring and Reporting Program (“MMRP”) and incorporates standard conditions and best management practices for construction activities. The IS/MND concluded that the Project would not result in a significant and unavoidable impact and an MND is the appropriate level of CEQA clearance for the Project.

A total of two comment letters were received during the public review period. One letter was received from the Amah Mutsun Tribal Band of San Juan Bautista & AMTB and provided general information on tribal cultural resources and most-likely descendant (“MLD”) recommendations, as well as resource sensitivity training and tribal resource monitoring services offered by the commenting party. The letter from the Amah Mutsun Tribal Band of San Juan Bautista & AMTB seemed to be intended for another Project located in Redwood City, based on context within the comment letter. The second comment letter received was submitted by PG&E confirming coordination with the applicant regarding the location of PG&E utilities and easements and did not raise any environmental concerns.

The comments received did not result in any changes to the Project description, analyses, and/or impacts that were previously disclosed in the IS/MND. While not required under the CEQA Guidelines for an IS/MND, these comments were addressed by staff in a formal Response to Comments document available on the Project website and emailed to the commenting parties.

The entire IS/MND and other related environmental documents are available on the Planning website at: <https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-review/environmental-review-documents/evergreen-village-townhomes-project>

8. Planned Development Permit Findings: Section 20.100.940 of the San José Municipal Code specifies the required findings for the approval of a Planned Development Permit:

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

Analysis: As discussed in General Plan Conformance Section, the Project is consistent with the General Plan Land Use Designation of MUN Mixed Use Neighborhood as it would allow the construction of 16 multi-family residential units in three buildings with a density of 19.75 DU/AC and similar urban form of the surrounding townhomes and low-scale multi-family residential buildings. The Project is also consistent with General Plan policies to promote rezoning of properties where the existing zoning is inconsistent with the General Plan land use designation and encourage housing development.

- b. The Planned Development Permit, as issued, conforms in all respects to the planned development zoning of the property.

Analysis: The Project conforms with the Development Standards of the General Development Plan for the Planned Development Zoning District established for the site (File No. PDC21-036). The MUN(PD) Planned Development Zoning District would allow for the construction of multifamily dwellings as uses that conform with the MUN Zoning District, as amended. Permitted, Special, and Conditional Uses would be subject to the approval of a Planned Development Permit. As discussed in the Zoning Conformance section, the Project conforms with all required setbacks, heights, open space, and parking requirements pursuant to the Project development standards of the Planned Development Zoning District.

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

Analysis: Staff followed City Council Policy 6-30: Public Outreach Policy to inform the public of the Project. Three onsite signs have been posted on the Project street frontages since January 24, 2022. A virtual community meeting was held on October 27, 2022. Two community members joined the meeting without comments. A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the Project site and posted on the City website. Additionally, a notice of the public hearing was posted in a newspaper of record (San José Post Record) on May 8, 2025. Staff have also been available to respond to questions from the public.

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

Analysis: The Project includes three multifamily residential buildings. The Project buildings are all three stories with similar heights. The architectural style, color, and materials are the same. Buildings are placed along the public streets with primary entrances facing the sidewalks and garage access from the internal private driveways. All “live-work” units locate the “live-work” spaces on the ground floor facing the public streets with transparent façades. The interrelationship between the orientation, location, mass, and scale of the building volumes and elevations of the Project buildings and other uses onsite is appropriate, compatible, and aesthetically harmonious.

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

Analysis: The Project will generate construction-related environmental impacts, such as air quality and noise. However, these impacts will be temporary in nature, and the Project will be required to adhere to the MMRP as well as construction Best Management Practices, regulatory agency requirements, and standard

environmental conditions designed to reduce and mitigate the impacts of construction on surrounding properties. Moreover, the Project is subject to Public Works requirements regarding stormwater capture and drainage. Because the Project consists of residential units, it would not generate environmental impacts related to noise, vibration, dust, drainage, erosion, stormwater runoff, or odor once it is occupied, and the Project will not have an unacceptable negative effect on adjacent properties.

- 9. Tree Removal Permit Findings.** Section 13.32.100 of the San José Municipal Code specifies the required findings for live tree removals.

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 Multifamily 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.				

- a. That the condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal.
- b. That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question.

Analysis: The Project includes the removal of three ordinance-size and one non-ordinance-size tree on Lot 1 due to the site grading for the Project's retaining wall. The trees to be removed include three Sequoia Sempervirens, 38 to 44 inches in circumference, to be replaced at a 4:1 ratio, and one Sequoia Sempervirens, 31 inches in circumference, to be replaced at a 2:1 ratio. The removal of these four trees requires the planting of 14 15-gallon replacement trees (or seven 24-inch box trees) on site. Per the landscape plan, 17 24-inch box trees would be planted on-site, consistent with the tree replacement requirement.

In accordance with the findings set forth above, a Planned Development Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **granted**. This City Council expressly declares

that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the Permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the Permittee shall be deemed to constitute all of the following on behalf of the Permittee:
 - a. Acceptance of the Permit by the Permittee; and
 - b. Agreement by the Permittee to be bound by, to comply with, and to do all things required of or by the Permittee pursuant to all the terms, provisions, and conditions of this Permit or other approval and the provisions of Title 20 of the San José Municipal Code applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire two (2) years from and after the date of issuance hereof by the City Council, if within such time period, the proposed use of the site or the construction of buildings (if a Building Permit is required) has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the City Council. However, the Director of Planning, Building, and Code Enforcement may approve a Permit Adjustment or Amendment to extend the validity of this Permit in accordance with Title 20, as amended (two one-year extensions may be permitted with the issuance of a Permit Adjustment). The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Permit shall be deemed acceptance of all conditions specified in this Permit and the Permittee's agreement to fully comply with all said conditions. No change in the character of occupancy or change to a different group of occupancies as described in the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the

San José - Santa Clara Regional Wastewater Facility- represented by approved land uses in the area served by said 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.

5. **Use Authorization.** Subject to all conditions herein, this Permit allows the removal of four trees (three ordinance-size and one non-ordinance-size) and the construction of a 10-unit multi-family residential building, including five live-work units on the southern parcel (APN 659-57-015) and the construction of a two-unit building and a four-unit multi-family residential building, including two live-work units on the northern parcel (APN 659-84-093).
6. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved Site Development Permit plans entitled “Planned Development Permit, Evergreen Village Square” Revised dated August 3, 2023, on file with the Department of Planning, Building and Code Enforcement, as may be amended and approved by the Director of Planning, Building, and Code Enforcement, and shall conform to the San José Building Code (San José Municipal Code, Title 24). The plans are referred to herein as the “approved plans” or the “Approved Plan Set.”
7. **Planned Development District Effectuated.** This Planned Development Permit effectuates the Planned Development Zoning PDC21-036 as reflected in the Permit’s Approved Plan Set and the corresponding legal description.
8. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, state, and federal laws.
9. **Discretionary Review.** The City maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
10. **Green Building Requirements.** This development is subject to the City’s Green Building Ordinance for Private Sector New Construction as set forth in San José Municipal Code Chapter 17.84. Prior to the issuance of any shell permits, or complete Building permits, for the construction of buildings approved through the scope of this

Permit, the Permittee shall pay a Green Building Refundable Deposit. In order to receive a refund of the deposit, the Project must achieve the minimum requirements as set forth in San José Municipal Code Chapter 17.84. The request for the refund of the Green Building Deposit together with evidence demonstrating the achievement of the green building standards indicated in San José Municipal Code Chapter 17.84 shall be submitted within a year after the Building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305.D of the San José Municipal Code.

11. **No Extended Construction Hours.** This Permit does not allow any construction activity on a site located within 500 feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.
12. **Construction Disturbance Coordinator.** Rules and regulations pertaining to all construction activities and limitations identified in this Permit, along with the name and telephone number of a Permittee-appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.
13. **Outdoor Lighting.** All on-site, exterior, unroofed lighting shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
14. **Required Parking.** This Project shall conform to the vehicular, motorcycle, and bicycle parking requirements as applicable in the Planned Development Zoning development standards, as amended. Any change to the parking requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning, Building, and Code Enforcement.
15. **Window Glazing.** Unless otherwise indicated on the Approved Plans, all windows shall consist of a transparent glass.
16. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City of San José.
17. **Refuse.** All trash and refuse storage areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the trash or refuse container(s). Trash areas shall be maintained in a manner to discourage illegal dumping.
18. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated in the Approved Plan Set.
19. **Utilities.** All new onsite telephone, electrical, and other service facilities shall be placed underground.
20. **Anti-Graffiti.** All graffiti shall be removed from buildings and wall surfaces, including job sites for projects under construction, within 48 hours of defacement.

21. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts, and garbage.
22. **No Sign Approval.** Any signage shown on the Approved Plan Set is conceptual only. No signs are approved at this time. Any signs shall be subject to review and approval by the Director of Planning, Building, and Code Enforcement through a subsequent Permit Adjustment.
23. **Building and Property Maintenance.** The property shall be maintained in good visual and functional condition. This shall include, but not be limited to, all exterior elements of the buildings such as paint, roof, paving, signs, lighting, and landscaping.
24. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
25. **No Generators Approved.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators will require the Permittee to secure appropriate permits and conform to the regulations of Title 20 of the San José Municipal Code.
26. **Tree Removal and Replacement.**
 - a. **Timing of Tree Removals.** Trees that are proposed for removal to accommodate new development shall not be removed until the related complete Public Works Grading Permit Application or Building Permit Application has been filed.
 - b. **Tree Protection Standards.** The Permittee shall maintain the trees and other vegetation shown to be retained in this Project and as noted on the Approved Plan Set. Maintenance shall include pruning and watering as necessary and protection from construction damage. Prior to the removal of any tree on the site, all trees to be preserved shall be permanently identified by metal numbered tags. Prior to issuance of the Grading Permit or removal of any tree, all trees to be saved shall be protected by chain link fencing, or other fencing type approved by the Director of Planning, Building, and Code Enforcement. Said fencing shall be installed at the dripline of the tree in all cases and shall remain during construction. No storage of construction materials, landscape materials, vehicles or construction activities shall occur within the fenced tree protection area. Any root pruning required for construction purposes shall receive prior review and approval and shall be supervised by the consulting licensed arborist. Fencing and signage shall be maintained by the Permittee to prevent disturbances during the full length of the construction period that could potentially disrupt the habitat or trees.
 - c. **Verification of Payment and/or Planting of Replacement Tree(s).** After payment of the in-lieu fee and/or the planting of replacement trees on-site, the permittee shall provide appropriate evidence such as, but not limited to, photographs and/or receipts to the Planning Project Manager to verify compliance

with the mitigation requirements. Such evidence shall be uploaded to www.sjpermits.org using these instructions:

- i. How to set up an account: <https://www.sanjoseca.gov/business/development-services-permit-center/online-permits-at-sjpermits-org>
- ii. How to upload:
<https://www.sanjoseca.gov/home/showpublisheddocument/88853/638088605255430000>
- iii. Such evidence shall also be emailed to the Planning Project Manager and labeled File No. PD21-020.

- d. **Replacement Tree Failure.** Onsite tree replacement trees that fail within three years after planting shall be promptly replaced.

27. **Landscaping.** Planting and irrigation are to be provided by the Permittee, as indicated on the final Approved Plans.

28. **Irrigation Standards.** Irrigation shall be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping, the City of San José Landscape and Irrigation Guidelines and the Zonal Irrigation Plan in the Approved Plans. The design of the system shall be approved and stamped by a California Registered Landscape Architect.

29. **Certification.** Pursuant to San José Municipal Code, Section 15.11.1050 certificates of substantial completion for landscape and irrigation installation shall be completed by a licensed or certified professional and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the Project.

30. **Common Area Landscaping.** All landscaping in common areas shall be maintained by the Homeowner's Association or other similar entity.

31. **Homeowner's Association.** Prior to Final Map issuance, a Homeowner's Association shall be established for maintenance of all common areas, including driveways/ courtyards, landscaping, and the community amenity area. A copy of the Development Permit, the accompanying Approved Plans, any approved Amendments or Adjustments to the Development Permit, and a complete set of approved building and all improvement plans shall be provided to the Homeowner's Association by the Permittee no later than 30 days upon completion of the Project.

32. **No Tract Sales Office/Model Homes Approved.** This Permit does not include the approval of a tract sales office/model homes complex. Said use requires a Permit Adjustment approved by the Director of Planning, Building and Code Enforcement.

33. **Stormwater Stenciling.** All storm drain inlets and catch basins shall be stenciled with the "NO DUMPING - FLOWS TO BAY," applied to the top and/or face of the curb next to the storm drain inlet. The development maintenance entity and/or property owner

shall ensure that all storm drain inlet markings located on privately-maintained streets within the property are present and maintained.

34. Housing Department. Residential Developments are subject to the Inclusionary Housing Ordinance (“IHO”).

- a. 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.
- b. 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.
- c. 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.

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

- a. *Construction Plans.* This permit File No. PD21-020 shall be printed on all construction plans submitted to the Building Division.
- b. *Construction Plan Conformance.* A Project construction plan conformance review by the Planning Division is required. Planning Division review for Project conformance begins with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
- d. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
- e. *Emergency Address Card.* The Project Permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
- f. *Project Addressing Plan.* Prior to issuance of a Building Permit, the following requirements shall be met to the satisfaction of the Chief Building Official: The Project Permittee shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial). The

addressing plan should include proposed street names for the streets (as referenced on an approved tentative map) and the type of addressing (i.e., individual street addresses as compared to unit number off of a primary street

g. *Other.* Such other requirements as may be specified by the Chief Building Official.

36. Bureau of Fire Department Clearance for Issuing Permits. Prior to the issuance of a Building Permit, the Project must comply with the California Fire Code, or as many be amended or updated by the City.

37. Recycling. Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the Project, including information on available haulers and processors.

38. Public Works Clearance for Building Permit(s) or Map Approval. Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the Permittee will be required to have satisfied all of the following Public Works conditions. The Permittee is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/devresources>.

a. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. The Minor Improvement Permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.

b. **Transportation:** Per the Final Public Works Memorandum dated May 7, 2025, this Project will not require a detailed CEQA Transportation Analysis because the Project will result in less-than-significant VMT impacts based on Table 1 entitled Screening Criteria for CEQA Transportation Analysis for Development Projects of the Transportation Analysis Handbook 2020. The Screening Criteria that this Project meets is/are: All single-family attached or multi-family residential projects of 25 or fewer units. The Project will result in less-than-significant transportation impacts and the projected traffic for the Project was reviewed and found to be minimal.

c. Grading/Geology:

i. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.

ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under

Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The Project shall provide storm drainage calculations that adhere to the latest California Plumbing Code as adopted under the City of San Jose Municipal Code Section 24.04.100 or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.

- iii. A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit. This report should include, but is not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations.
- d. **Stormwater Runoff Pollution Control Measures:** This Project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
 - i. The Project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this Project will be in conformance with City Policy 6-29.
 - ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
- e. **Stormwater Peak Flow Control Measures:** The Project is located in a Hydromodification Management (HM) area. However, the Project will not create and/or replace one acre or more of impervious surface within the HM area. The Project is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
- f. **Flood Zone D:** The Project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
- g. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable prior to issuance of Public Works clearance.
- h. **Municipal Water:** In accordance with City Ordinance #23975, Major Water Facilities Fee is due and payable. Contact the Environmental Services Department-Water Resources Division at (408) 535-8550 for further information.
- i. **Parks:** This residential project is subject to the payment of park fees in-lieu of land dedication under 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).

- j. **Assessments:** This Project is located within the boundaries of Community Facilities District No. 4 (Evergreen Improvements) which has placed a lien on the proposed lots for development to pay for public improvements required to serve the Evergreen Planned Residential Community. The 2025 special tax is \$411,009.10 on APN 659-57-015 and \$190,064.07 on APN 659-84-093. The CFD 4 special tax is adjusted annually each February 1 by the average annual change in the Construction Cost Index for the San Francisco area published by Engineering News-Record. For residential units, the apportioned lien on subdivided parcels is due at close of escrow. Coordination between the title company and City will be required regarding the timing, amount, and method of lien payment for each residential unit prior to approval of the Final Map. Alternatively, the total CFD 4 lien on APNs 259-57-015 and 659-84-093 can be paid in full prior to approval of the Final Map to avoid the lien adjusting each February 1. Please contact Stanley Wong at Stanley.wong@sanjoseca.gov for payment or coordination with the title company.

This Project is also located within the boundaries of Community Facilities District No. 2 (Aborn -Murillo), which maintains specific enhanced landscaped public features in the Evergreen Planned Residential Community. Properties within the district pay for the maintenance through annual special taxes placed on the property tax bills, which are adjusted annually by the Consumer Price Index. Future year special taxes will be apportioned based on the new parcel reconfiguration and land use. The 2025-2026 CFD 2 maximum special tax is calculated at \$1,384.12 per acre for non-residential uses and \$553.62 to \$899.56 per residential unit depending on product type. Future year taxes will continue to be collected through the County property tax bills listed under Tax Code 0932 "SJ-CFD #2 & #3".

k. Street Improvements:

- i. Reconstruct existing Handicap Ramps to be ADA compliant along Ruby Ave, Classico Ave, and Evergreen Village Square Project frontages per City Standard Detail R-11.
- ii. Permittee shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed Project.
- iii. Remove and replace broken, uplifted curb and gutter as well as broken, uplifted or non-ADA compliant sidewalk along Project frontage.
- iv. New driveway width along Ruby Ave Project frontage to be 20' per City Standard Detail R-6.
- v. Coordination with Santa Clara Valley Santa Clara Valley Transportation Authority (VTA) will be required for the relocation of the existing bus stop to accommodate the proposed driveway along Ruby Ave Project frontage.

- vi. Provide a \$24,000 voluntary contribution towards LED conversions on the existing lights along Classico Ave, Evergreen Village Square and the Class I trail behind and adjacent to the Project.
- vii. Close unused driveway cut(s).
- viii. Permittee shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the Project frontage.
- ix. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.

I. Sanitary:

- i. The Project is required to submit plan and profile of the private sewer mains with lateral locations for final review and comment prior to construction.
 - ii. The new sanitary lateral from Building C onto parcel 659-57-012 will require approval from the adjacent property owner.
- m. Storm:** The new storm lateral between Building A and B onto parcel 659-57-011 will require approval from the adjacent property owner.
- n. Electrical:** Existing electroliers along the Project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
- o. Street Trees:** Show all existing trees by species and diameter that are to be retained or removed. Obtain a street tree removal permit for any street trees that are over 6 feet in height that will be removed.
- p. Private Streets:** Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.
- q. Referrals:** This Project should be referred to the Santa Clara Valley Transportation Authority (VTA).
- 39. 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. _____.
- 40. Standard Environmental Permit Conditions.**
- a. **Construction-related Air Quality.** The following measures shall be implemented during all phases of construction to control dust and exhaust at the Project site:

- i. Water active construction areas at least twice daily or as often as needed to control dust emissions.
- ii. Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- iii. Remove visible mud or dirt track-out onto adjacent public roads using wet-power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- iv. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- v. Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- vi. Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- vii. Replant vegetation in disturbed areas as quickly as possible.
- viii. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- ix. Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
- x. Maintain and properly tuned in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- xi. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

b. Biological Resources

- i. **Santa Clara Valley Habitat Plan.** The Project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The Permittee shall submit the Santa Clara Valley Habitat Plan Coverage Screening Form (<https://www.scv-habitatagency.org/DocumentCenter/View/151/Coverage-Screening-Form?bidId=>) to the Director of Planning, Building and Code Enforcement or the Director's designee for approval and payment of all applicable fees prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at <https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan>.
- ii. **Tree Replacement.** Trees removed for the Project shall be replaced at ratios required by the City, as stated in the table below, as amended:

Table: 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 to 38 inches	3:1	2:1	None	15-gallon
Less than 19 inches	1:1	1:1	None	15-gallon
<p>x:x = tree replacement to tree loss ratio Note: Trees greater than or equal to 38-inch circumference measured at 54 inches above natural grade 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 replacement tree = two 15-gallon replacement trees</p>				

- A. Four onsite trees will be removed. Three trees require replacement at a 4:1 ratio and one tree requires replacement at a 2:1 ratio. Therefore, the removal of the four trees onsite results in a replacement tree requirement of 14 15-gallon trees (or 7 24-inch box trees). Based on the landscape plans, the Project will include planting of 17 24-inch box trees.
- B. If there is insufficient area on the Project site to accommodate the required replacement trees, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement or Director's designee. Changes to an approved landscape plan requires the issuance of a Permit Adjustment or Permit Amendment.
 - (a) The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the Project site.
 - (b) Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of building permit(s), in accordance with the City Council approved Fee Resolution in effect at the time of payment. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

c. Cultural Resources

- i. **Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-

foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a Native American Tribal representative registered with the Native American Commission for the City of San Jose and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall examine the find. The archaeologist in consultation with the Tribal representative shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and 2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

- ii. **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Permittee shall immediately notify the Director of Planning, Building and Code Enforcement or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

- a) The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
- b) The MLD identified fails to make a recommendation; or

d. **Geology and Soils**

i. **Seismic Hazards.**

- a) To avoid or minimize potential damage from seismic shaking, the Project shall be constructed using standard engineering and seismic safety design

techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The Project shall be designed to withstand soil hazards identified on the site and the Project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.

- b) All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- c) Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- d) Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- e) The Project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

e. Paleontological Resources.

- i. If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, the Director of Planning, Building and Code Enforcement or Director's designee, shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The Permittee shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee.

f. Construction-related Water Quality.

- i. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- ii. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.

- iii. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- iv. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- v. All trucks hauling soil, sand, and other loose materials shall be required to cover all trucks or maintain at least two feet of freeboard.
- vi. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- vii. Vegetation in disturbed areas shall be replanted as quickly as possible.
- viii. All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
- ix. The Permittee shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

g. Construction-related Noise.

- i. Pile driving is prohibited.
- ii. Limit construction hours to between 7:00 a.m. and 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- iii. Construct solid plywood fences around ground level construction sites adjacent to operational business, residences, or other noise-sensitive land uses.
- iv. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- v. Prohibit unnecessary idling of internal combustion engines.
- vi. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- vii. Utilize “quiet” air compressors and other stationary noise sources where technology exists.

- viii. Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the Project site.
 - ix. Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to adjacent land uses and nearby residences.
 - x. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
 - xi. Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
- h. Interior Noise Standard for Residential Development.**
- i. The Permittee shall prepare final design plans that incorporate building design and acoustical treatments to ensure compliance with State Building Codes and City noise standards. A Project-specific acoustical analysis shall be prepared to ensure that the design incorporates design controls to reduce interior noise levels to 45 dBa DNL or lower within the residential unit. The Permittee shall conform with any special building construction techniques requested by the City's Building Department, which may include sound-rated windows and doors, sound-rated wall constructions, and acoustical caulking.
 - ii. The landowner or their authorized representative rejects the recommendations of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.
- i. Proof of Enrollment in SJCE.**
- i. Prior to issuance of any Certificate of Occupancy for the Project, the occupant shall provide to the Director of Planning, Building, and Code Enforcement, or Director's designee, proof of enrollment in either the San Jose Clean Energy (SJCE) GreenSource program (approx. 95% renewable energy) or SJCE TotalGreen program (approx. 100% renewable energy). Program enrollment will be determined by the level assumed in the approved environmental clearance for the Project in accordance with the California Environmental Quality Act (CEQA). If it is determined the Project's environmental clearance requires enrollment in the TotalGreen program, neither the occupant, nor any future occupant, may opt out of the TotalGreen program.

41. Revocation, Suspension, Modification. This Permit may be revoked, suspended or modified by the City Council, at any time regardless of who is the owner of the subject

property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:

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

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

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Effective Date

The effective date of this Planned Development Permit shall be the effective date of the Planned Development Rezoning Ordinance for File No. PDC21-036 passed for publication on _____ (the “Planned Development Rezoning Ordinance”) and shall be no earlier than the effective date of said Planned Development Rezoning Ordinance.

ADOPTED this _____ day of _____, 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.



EXHIBIT "A"
FOR REZONING PURPOSES

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being all of Parcel 1 as shown on that certain Parcel map filed for record on May 20, 2002, in Book 748 of Maps, page 41, Santa Clara County Records, described as follows:

BEGINNING at the most southwesterly corner of said Parcel 1, being a point in the northwesterly right of way line of Classico Avenue;

Thence along said right of way the following two courses:

1. Thence North 77°24'03" East, 18.69 feet;
2. Thence North 56°13'45" East, 289.67 feet to the westerly line of Evergreen Village Square;

Thence along said westerly line, North 22°12'35" East, 51.60 feet;

Thence along the general northerly and northwesterly lines of said Parcel 1, the following seven courses:

1. Thence South 80°13'26" West, 30.98 feet;
2. Thence North 33°49'08" West, 63.22 feet;
3. Thence South 51°58'32" West, 137.84 feet;
4. Thence South 28°53'48" West, 115.59 feet;
5. Thence South 41°16'06" West, 37.67 feet;
6. Thence South 59°21'51" West, 30.51 feet;
7. Thence South 05°09'24" East, 30.28 feet to the POINT OF BEGINNING.

Containing 0.54 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: 11.9.21


Tracy L. Giorgetti, LS 8720

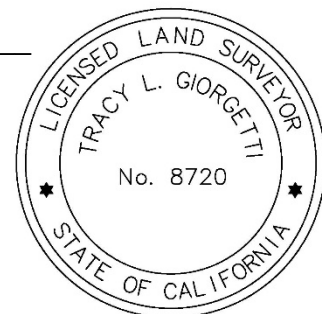




EXHIBIT "A"
FOR REZONING PURPOSES

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being all of Lot 93 as shown on that map of Tract 10093 filed for record on February 8, 2012, in Book 850 of Maps, page 26, Santa Clara County Records, described as follows:

BEGINNING at the most southerly corner of said Lot 93, being a point in the westerly right of way line of Evergreen Village Square;

Thence along said right of way, North 22°12'35" East, 112.19 feet to the southwesterly right of way line of Ruby Avenue;

Thence along said right of way, North 28°05'41" West, 42.85 feet;

Thence along the general northerly, westerly and southwesterly lines of said Lot 93, the following five courses:

1. Thence South 61°54'19" West, 60.62 feet;
2. Thence North 82°23'22" West, 62.19 feet;
3. Thence South 17°35'17" East, 17.33 feet;
4. Thence South 01°25'30" West, 61.22 feet;
5. Thence South 63°55'47" East, 99.29 feet to the POINT OF BEGINNING.

Containing 0.27 acres, more or less.

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

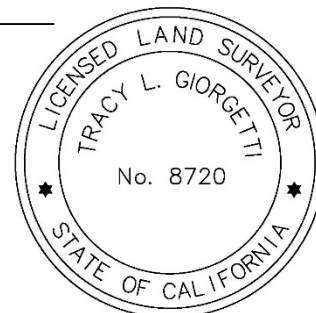
END OF DESCRIPTION

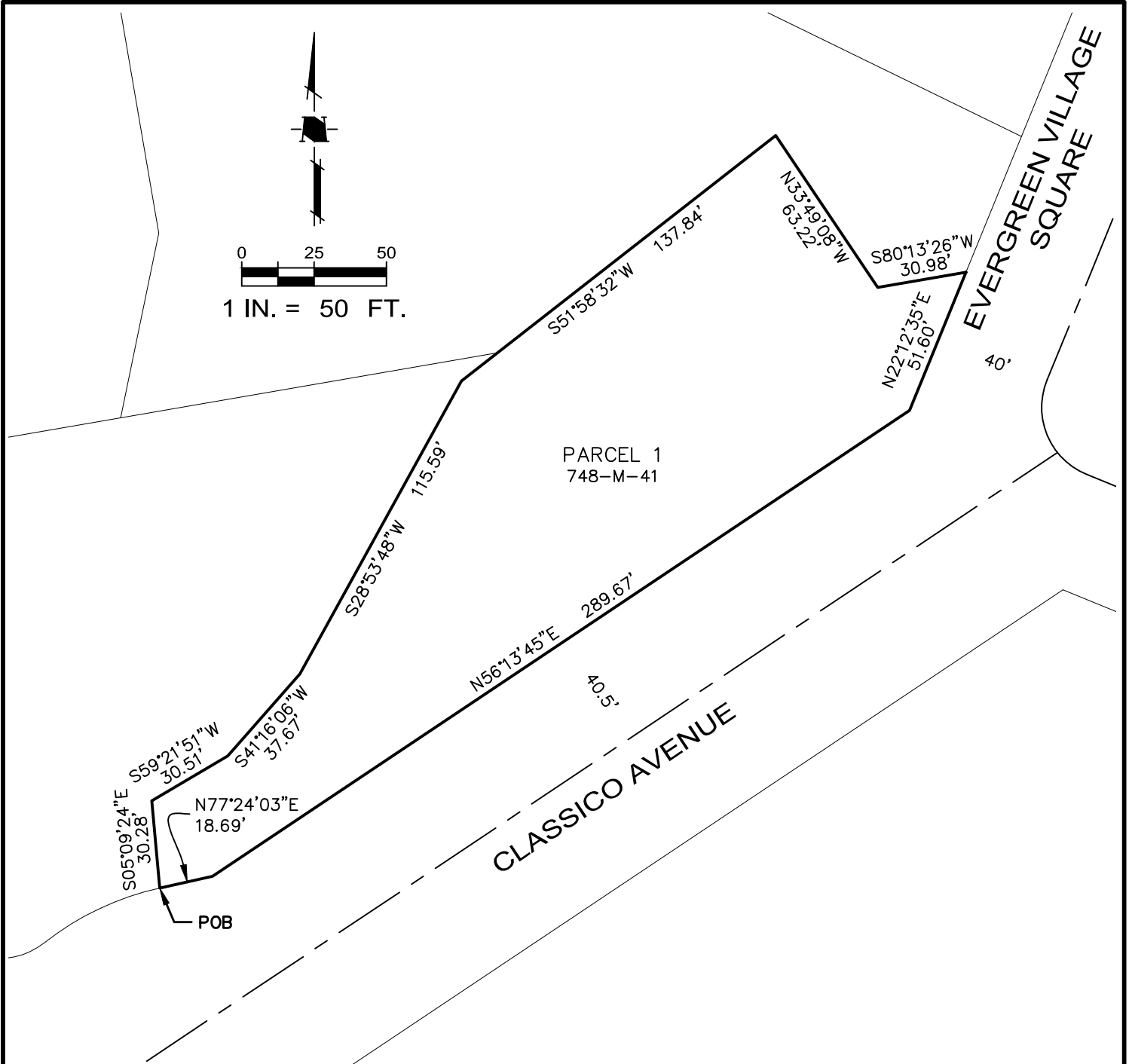
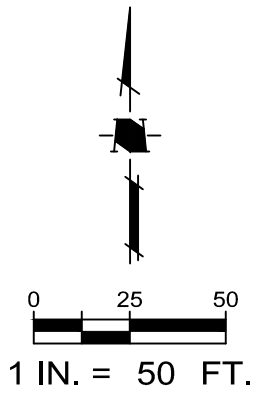
For assessment or zoning purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.

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

Date: 11.9.21


Tracy L. Giorgetti, LS 8720





LEGEND

POB POINT OF BEGINNING

SHEET 1 OF 1

Date:	2021 11 09
Designed:	DAW
Drawn:	DAW
Checked:	RF
Proj. Engr.:	DM
279170PL02	



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

SAN JOSE

[File No. PDC21-036](#)

CALIFORNIA

