

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT PERMIT TO ALLOW THE DEMOLITION OF THREE EXISTING BUILDINGS TOTALING APPROXIMATELY 19,000 SQUARE FEET, AND THE CONSTRUCTION OF A FOUR TO SEVEN-STORY MIXED-USE BUILDING WITH UP TO 226 RESIDENTIAL UNITS, UP TO A 45% PARKING REDUCTION WITH TRANSPORTATION DEMAND MANAGEMENT MEASURES, AND APPROXIMATELY 1,400 SQUARE FEET OF GROUND-FLOOR COMMERCIAL, ON AN APPROXIMATELY 1.39-GROSS ACRE SITE LOCATED APPROXIMATELY 230 FEET FROM THE NORTHWEST CORNER OF WEST SAN CARLOS AND MERIDIAN AVENUE (259 MERIDIAN AVENUE; APN: 274-14-152)

FILE NO. PD19-011

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on April 10, 2019, an application (File No. PD19-011) was filed by the applicant, Jerry Strangis of Strangis Properties, on behalf of Holmes Business LLC et al, with the City of San José for a Planned Development Permit to allow the removal of 10 non-ordinance sized trees, the demolition of three existing buildings totaling approximately 19,000 square feet, and the construction of a four to seven-story mixed-use building with up to 226 residential units, up to a 45% parking reduction with transportation demand management measures, and approximately 1,400 square feet of ground-floor commercial, all on an approximately 1.39-gross acre site, on that certain real property situated in the CP(PD) Planned Development Zoning District and located approximately 230 feet from the northwest corner of West San Carlos and Meridian Avenue (259 Meridian Avenue; APN: 274-14-152, which real property is sometimes referred to herein as the “subject property”); and

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

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Planning Commission conducted a hearing on said application on May 27, 2020, notice of which was duly given; and

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

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

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

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

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

WHEREAS, at said hearing, this City Council received in evidence a development plan for the subject property entitled, "Planned Development Permit for 259 Meridian Avenue" dated received on May 12, 2020, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone

interested herein, and said plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

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

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

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

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

1. **Site Description and Surrounding Uses.** The 1.39-gross acre project site currently contains approximately 19,000 square feet of three commercial buildings, a surface parking lot, and 10 non-ordinance sized trees. North of the project site are four single-family residences, south and east of the project site are offices, and west of the project site is a self-storage facility. Properties adjacent to the project site are all located within the West San Carlos Urban Village Planning area and contain a General Plan land use designation of Urban Village. Per the Urban Village Plan, these properties are intended for development over time to transform the area into a higher-density mixed-use area.
2. **Project Description.** The Planned Development Permit application requests the removal of 10 non-ordinance sized trees, the demolition of three existing buildings totaling approximately 19,000 square feet and the construction of a four- to seven-story mixed-use building with up to 226 residential units, up to a 45% parking reduction with transportation demand management measures, and approximately 1,400 square feet of ground-floor commercial on an approximately 1.39-gross acre site. The project also includes an approximately 2,256-square foot publicly-accessible, but privately-maintained and owned plaza fronting Meridian Avenue.

The project provides a total of 162 vehicular parking spaces; 71 parking spaces are located on the ground floor, and 91 parking spaces are located on the second floor. The parking spaces on the second floor are concealed behind a mid-century modern inspired design element that contributes to the mid-century building aesthetic. A total

of 57 secured bicycle parking spaces on the second floor of the parking area are provided. Access to the site is from a single two-way driveway on Meridian Avenue.

As mentioned, the project would remove 10 on-site non-ordinance sized trees. Pursuant to Section 13.32.030, non-ordinance sized trees do not require a Tree Removal Permit and Tree Removal Findings to be made. The trees are currently located along the perimeter and in the middle of the site. Two trees are crape myrtle trees and eight trees are camphor trees. The trees range from six inches in diameter to 12 inches in diameter. Approximately seven trees are located within the project's building footprint. The other three trees are located in the project's front setback and within the walking path at the west property line. The trees range in condition from fair to good but cannot be preserved because the project must satisfy the densities and commercial square footage requirements of the West San Carlos Urban Village Plan to achieve the growth envisioned for the area.

Also, the entire project site will be graded for the mixed-use building and the privately-maintained, publicly-accessible plaza to the extent that the 10 non-ordinance sized trees will be impacted and will not likely survive. These 10 non-ordinance sized trees restrict the economic development of the parcel and must be removed.

The tree replacement requirement is a 1:1 for native and non-native trees. There are 80 replacement trees proposed. Of the 80 replacement trees, 11 are Saratoga Laurel, 20 are Western Redbud, 12 are Princeton Sentry Maidenhair Tree, eight are Crimson Spire Oak, five are Fern Pine, seven are Brisbane Box, six are Coast Redwood, four are Dura heat River Birch, eight are Marina Strawberry Trees, and three are Holly Oak trees. Of the 80 replacement trees, 63 trees are proposed on the ground floor and 17 trees are proposed in the common open space located on the third floor.

The project is subject to the West San Carlos Urban Village Plan, which was adopted by the City Council on May 8, 2018. The project is subject to the West San Carlos Urban Village Plan because the Urban Village plan did not contain a pipeline policy for projects that were submitted prior to the adoption of the Plan to be exempt from its requirements.

- 3. General Plan Conformance.** As shown on the General Plan map, the project site has an Envision San José 2040 General Plan Land Use/Transportation Diagram designation of Urban Village and is located within the Mixed-Use Residential Character Area as per the West San Carlos Urban Village Plan. This is a Local Transit Urban Village characterized by its location along light rail or bus rapid transit facilities envisioned to be the primary travel mode. The Urban Village land use designation within the mixed-use residential character area is a commercial designation which only supports residential uses on parcels meeting a minimum size of 0.5 acres when located in the Mixed-Use Residential Character Area. Further, development along Meridian Avenue should include pedestrian-oriented, ground-floor commercial uses that front the street. The allowable density is from 55 dwelling units per acre (DU/AC)

to 250 DU/AC. The project site is approximately 1.39-gross acres has approximately 1,400 square feet of ground-floor commercial, and a density of 175 DU/AC, meeting these requirements. Additionally, the Urban Village land use designation within the Mixed-Use Residential Character Area also states that development should not result in any remnant Urban Village designated sites (single property or groupings of properties) that are less than 0.5 acre in area. The existing three single-family homes located to the north of the project site have a General Plan Land Use/Transportation Diagram designation of Urban Village. Combined, the three lots equal a total of approximately 26,158 square feet which is approximately 0.6 acre.

General Plan Policies

The Planned Development Permit is consistent with the following General Plan policies:

Major Strategy #3- Focused Growth: Strategically focus new growth into areas of San José that will enable the achievement of City goals for economic growth, fiscal sustainability and environmental stewardship and support the development of new, attractive urban neighborhoods. A Major Strategy of the Envision General Plan is to focus new growth capacity in specifically identified “Growth Areas,” while the majority of the City is not planned for additional growth or intensification.

Major Strategy #5- Urban Villages: Promote the development of Urban Villages to provide active, walkable, bicycle-friendly, transit-oriented, mixed-use urban settings for new housing and job growth attractive to an innovative workforce and consistent with the Plan’s environmental goals.

Land Use Policy LU-2.1: Provide significant job and housing growth capacity within strategically identified “Growth Areas” in order to maximize use of existing or planned infrastructure (including fixed transit facilities), minimize the environmental impacts of new development, provide for more efficient delivery of City services, and foster the development of more vibrant, walkable urban settings.

Analysis for Major Strategy #3 and #5, and Policy LU-2.1: The project is a mixed-use project with up to 226 residential units and 1,400 square feet of ground-floor commercial uses. The project is located within the West San Carlos Urban Village and has a land use designation of Urban Village. The project is furthering General Plan Major Strategy #3 and #5 by developing a higher-density residential and commercial project as envisioned in the West San Carlos Urban Village Plan.

The project includes the demolition of three existing commercial buildings (approximately 19,000 square feet) and a surface parking lot and constructs 226 residential units and approximately 1,400 square feet of ground-floor commercial uses in a more compact and urban form supporting a vibrant, walkable urban setting, and furthering the General Plan Major Strategies #3 and #5. Although the project is not providing significant job growth, it is providing significant housing growth in a compact form within an identified growth area.

Community Design Policy CD-1.5: Encourage incorporation of publicly accessible spaces, such as plazas or squares, into new and existing commercial and mixed-use developments.

Community Design Policy CD-1.6: Promote vibrant, publicly accessible spaces that encourage gathering and other active uses that may be either spontaneous or programmed. Place a variety of uses adjacent to public spaces at sufficient densities to create critical mass of people who will activate the space throughout the day and night.

Function CD-2.4: Incorporate public spaces (squares, plazas, etc.) into private developments to encourage social interaction, particularly where such spaces promote symbiotic relationships between businesses, residents, and visitors.

Analysis for CD-1.5, CD-1.6, CD-2.4: The project incorporates an approximately 2,256-square foot publicly-accessible, privately-maintained plaza, open to the general public, like the new and surrounding residents and businesses, through a public access easement. The plaza incorporates publicly accessible and viewable, but privately maintained artwork, planters, and seating areas all accessible from Meridian Avenue.

Community Design Policy CD-1.1: Require the highest standards of architectural and site design, and apply strong design controls for all development projects, both public and private, for the enhancement and development of community character and for the proper transition between areas with different types of land uses.

Community Design Policy CD-1.7: Require developers to provide pedestrian amenities, such as trees, lighting, recycling and refuse containers, seating, awnings, art, or other amenities, in pedestrian areas along project frontages. When funding is available, install pedestrian amenities in public rights-of-ways.

Community Design Policy CD-1.8: Create an attractive street presence with pedestrian-scaled building and landscaping elements that provide an engaging, safe, and diverse walking environment. Encourage compact, urban design, including use of smaller building footprints, to promote pedestrian activity throughout the City.

Community Design Policy CD-1.9: Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas such as Downtown, Urban Villages, or along Main Streets, place commercial and mixed-use building frontages at or near the street-facing property line with entrances directly to the public sidewalk, provide high-quality pedestrian facilities that promote pedestrian activity, including adequate sidewalk dimensions for both circulation and outdoor activities related to adjacent land uses, a continuous tree canopy, and other pedestrian amenities. In these areas, strongly discourage parking areas located between the front of buildings and the street to promote a safe and attractive street facade and pedestrian access to buildings.

Function CD-2.3: Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Main Streets, and other locations where appropriate.

1. Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways.
2. Strongly discourage drive-through services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas. Uses that serve the vehicle, such as car washes and service stations, may be considered appropriate in these areas when they do not disrupt pedestrian flow, are not concentrated in one area, do not break up the building mass of the streetscape, are consistent with other policies in this Plan, and are compatible with the planned uses of the area.
3. Provide pedestrian connections as outlined in the Community Design Connections Goal and Policies.
4. Locate retail and other active uses at the street level.
5. Create easily identifiable and accessible building entrances located on street frontages or paseos.
6. Accommodate the physical needs of elderly populations and persons with disabilities.
7. Integrate existing or proposed transit stops into project designs.

Analysis for CD-1.1, CD-1.7, CD-1.8, CD-1.9, and CD-2.3: The project is designed to be pedestrian-oriented. The building footprint is located within 30 feet (15-foot front setback, and 15-foot sidewalk) to Meridian Avenue and incorporates a ground-floor commercial use with floor to ceiling transparent glazing and limited mullions to allow for visibility to the active use. The building entrance is located off of Meridian Avenue and is easily identified through architectural expression. The directly-visible ground-floor commercial tenant space and the leasing office behind the commercial tenant space both contribute as active uses.

The project incorporates awnings and overhangs to create areas of shade, protection from the weather, and to create a comfortable semi-enclosed pedestrian plaza. The plaza includes various types of seating, tables, planters, and an art piece which all work in tandem with the ground-floor commercial space and the public sidewalk to contribute to a pedestrian environment.

The project includes planting of street trees along the sidewalk where none exist currently, and extends the sidewalk from approximately seven feet to 15 feet. The project is closing an existing driveway into the site, leaving one vehicular entrance

into site, thus reducing the number of vehicular and pedestrian conflict points creating a more comfortable pedestrian environment.

Function Policy CD-2.10: Recognize that finite land area exists for development and that density supports retail vitality and transit ridership. Use land use regulations to require compact, low-impact development that efficiently uses land planned for growth, especially for residential development which tends to have a long life-span. Strongly discourage small-lot and single-family detached residential product types in Growth Areas.

Promote Fiscally Beneficial Land Use Policy FS-4.8: Emphasize mixed-use development for most new development, to achieve service efficiencies from compact development patterns and to maximize job development and commercial opportunities near residential development.

Analysis for CD-2.10 and FS-4.8: The project is a four- to seven-story mixed-use building at a 3.3 floor area ratio (FAR). The project is a rental mixed-use multi-family building comprised of 206 studio units, 20 two-bedroom units, and approximately 1,400 square feet of ground-floor commercial. The project is built in a compact manner by including a parking facility within the footprint of the building (as opposed to a surface parking lot) and placing the residential units above the parking facility. With a density of 175 DU/AC and a FAR of 3.3, the project is utilizing the land efficiently in the design and site layout of the project.

Land Use and Employment Policy IE-1.3: As part of the intensification of commercial, Village, Industrial Park and Employment Center job Growth Areas, create complete, mixed-employment areas that include business support uses, public and private amenities, child care, restaurants and retail goods and services that serve employees of these businesses and nearby businesses.

Fiscally Sustainable Land Use Framework Policy FS-3.6: Through the land use entitlement process, approve new development projects, including mixed-use residential development, that conform to the completed Urban Village Plan or which provide job capacity above the amount identified in the Urban Village Plan for the subject property.

Analysis for IE-1.3 and FS-3.6: The project is adding 226 residential units and approximately 1,400 square feet of ground-floor commercial uses in the West San Carlos Urban Village Plan area which is an identified growth area. While the commercial square footage is not substantial, the West San Carlos Urban Village Plan area as a whole is anticipated to accommodate 980 jobs and 1,245 residential units. This project is contributing to these growth numbers by providing 18 percent of the total residential units and 0.4 percent of the job numbers.

Urban Villages Design Policy CD-7.1: Support intensive development and uses within Urban Villages, while ensuring an appropriate interface with lower-intensity

development in surrounding areas and the protection of appropriate historic resources.

Urban Villages Design Policy CD-7.9: Build new residential development within Urban Village areas at a minimum of four stories in height with a step down in height when building new residential development immediately adjacent to single-family residential sites that have a Residential Neighborhood designation. Individual Urban Village Plans may establish more specific policies or guidelines to ensure compatibility with adjacent single-family neighborhoods, and development should be consistent with these policies and guidelines, established in approved Urban Village Plans.

Analysis for CD-7.1 and CD-7.9: The project has varying heights of four stories to seven stories. The three existing homes north of the project site have a General Plan Land Use Designation of Urban Village, not Residential Neighborhood, which does not require the project to stepdown to those properties; however, to be sensitive to those existing single-family uses directly north of the project site, the project is utilizing setbacks and stepbacks at the northern property line. The project is setback approximately 21 feet from the northern property line at the ground floor and is setback approximately 17 feet from the second floor to the northern property line (see Sheet 3 of the attached plan set). The project is four stories at the northern property line and steps up to seven stories towards the south property line. Additionally, the project is utilizing the common open space for the project to deemphasize the mass of the building, particularly towards the northern property line. There is common open space on the third floor of the project placed towards the northern portion of the site to create voids in the building façade, thereby decreasing the mass.

West San Carlos Urban Village Compliance. The project site is located within and subject to the policies and standards of the West San Carlos Urban Village Plan and the Plan's Mixed-Use Residential Character Area. For a discussion of the land use designation compliance, please refer to the General Plan Conformance section. As noted in the height diagram of the Urban Village Plan (page 30 and 31), the project site has a height limitation of 85 feet, with allowances of an additional 10 feet in height for projections of non-occupiable architectural features. The project is proposing a varying height of approximately 52 feet to 85 feet and is in compliance with the height requirements of the Urban Village Plan.

West San Carlos Policies and Standards

The Planned Development Permit is consistent with the following policies in the West San Carlos Urban Village Plan:

Policy LU-2.2: Ensure that residential development along West San Carlos Street and Meridian Avenue that is developed under the Urban Village Land Use

Designation and located within the Mixed-Use Residential Character Area has ground-floor commercial and/or active uses fronting those streets.

Policy LU-2.1: Encourage mixed-use residential projects to be built at densities of 55 dwelling units to the acre or greater provided that the proposed site design is compatible with the surrounding neighborhood.

Analysis for LU-2.2 and LU-2.1: The project site has a land use designation of Urban Village and is located within the Mixed-Use Residential Character Area. The project includes approximately 1,400 square feet of ground-floor commercial uses and a density of 175 dwelling units per acre. Setbacks and stepbacks are used on the portion of the building closest to existing single-family residences. While the project is taller than most buildings in the area, the West San Carlos Urban Village Plan intends to see higher-density and taller projects in the future with build-out of the Village Plan. The project provides a balance between increasing density, height, and growth as envisioned in the Urban Village Plan while respecting existing single-family residential neighborhoods by utilizing setbacks and height transitions. The project has a mix of studio and two-bedroom units, and this mix of units helps to increase density within a reasonable building envelope.

Policy P-2.1: Integrate publicly-accessible, but privately-owned pocket parks, plazas, and green buffers into new development that are attractive, vibrant, and provide ideal gathering spaces for the community.

Policy P-2.2: Ensure that privately-owned, but publicly-accessible pocket parks and plazas be a minimum of 2,000 square feet in area in order to accommodate sufficient amenities and create viable spaces.

Policy P-2.3: Encourage new pocket parks and plazas to be business supportive, allowing for flexible expansion of business into private park space on a seasonal basis. This would provide additional incentive for businesses to locate in the area.

Policy P-2.5: Employ green buffers/paseos when larger new development abuts existing neighborhoods or is located in such a way that allows for the continuation of a green paseo.

Policy P-3.2: Public art should be implemented in such a way that increases the sense of place and identity of the West San Carlos Urban Village.

Analysis for P-2.1, P-2.2, P-2.3, P-2.5, and P-3.2: The project includes a publicly-accessible, but privately-maintained and owned plaza at the ground floor. This plaza contains a variety of seating furniture as well as planters and a piece of publicly-viewable but privately-maintained art. The plaza is approximately 2,256 square feet with general dimensions of 57 feet in width and 53 feet in depth. Per the development standards, the plaza can be used for both passive recreational uses and as spillover for the ground-floor commercial use.

Policy UD-3.5: Provide proper height transitions between new, higher-density commercial and mixed-use development and adjacent single-family homes by using building setback, upper story stepback, and landscaping to soften the transitions near property lines.

Stepback 1: Step building developments back to transition from the commercial frontage along West San Carlos Street to the lower profile residential homes of the surrounding neighborhoods.

Stepback 2: Encourage upper floor setbacks to have changes in plane and/or employ other colors, textures, or materials to minimize building bulk

Stepback 3: Provide a minimum 15-foot setback from a common property for buildings next to existing single-family residences.

Building Character 1: Reflect the unique mid-century identity and character of West San Carlos Street through architectural styling.

Analysis for UD-3.5, Setback 1, Setback 2, Setback 3, and Building Character 1: The project has a varying side setback of 16 to a 21 feet from the northern property line, which is adjacent to existing single-family residences with a General Plan land use designation of Urban Village. The project also utilizes building setbacks towards the northern property line. The project is four stories towards the northern property line and steps up to seven stories as it approaches the southern property line directly adjacent to other commercial uses. Furthermore, the project has oriented the common open space towards the northern property line, creating a void in building massing which reduces the mass. The project also includes the planting of a total of 19 trees species towards the northern property line to assist with privacy concerns with adjacent neighbors. Twelve trees are Brisbane Box and seven trees are a mix between Princeton Sentry Maidenhair trees and Crimson Spire Oak trees. Brisbane Box trees are considered fast growing and is a dense-leafed shade tree. Princeton Sentry Maidenhair trees are dense, compact trees. Crimson Spire Oak trees are fast growing, dense trees. Lastly, the project is designed with a mid-century inspired aesthetic, utilizing strong horizontal lines and materials found in mid-century architecture.

4. **Development Standards Compliance.** The subject site is in the CP(PD) Planned Development Zoning District.

This CP(PD) Planned Development Zoning District allows up to 226 residential units and 1,400 square feet of commercial uses with a minimum requirement of 2,000 square feet of publically-accessible but privately maintained and owned open space (plaza). Permitted uses of the CP Commercial Pedestrian Zoning District shall be allowed. The privately-owned, publicly-accessible open space will remain open to the public and will not be allowed to decrease in size.

Consistent with the Development Standards for this project, the project complies with the setback requirements. At the northern setback (closest to the existing single-family residences) the setbacks are (1) for the first two floors, a 20'-0" minimum setback shall be required, and (2) for the third floor and above, a 15'-0" minimum setback shall be required. The height of the building is allowed up to 85 feet consistent with the West San Carlos Urban Village Plan, as amended. The proposed building has a varying building height of 52 feet to 85 feet.

Automobile and bicycle parking are pursuant to Title 20 in the San José Municipal Code, and motorcycle parking is one space per every 10 automobile parking spaces for the project. The project utilizes the Municipal Code Section 20.90.220 parking reduction exception which allows a 50 percent reduction in the automobile parking with a development permit. Under Table 20-190 and Table 20-210 of the San José Municipal Code, the project is required to provide 258 parking spaces for 206 studio units, 34 parking spaces for 20 two-bedroom units, and six parking spaces for the 1,400 square feet of ground-floor commercial use. In total, under Table 20-190 and Table 20-210, the project is required to provide 298 parking spaces. However, because the project is utilizing the parking reductions allowed Municipal Code Section 20.90.220, the project is allowed to provide 50 percent of the required parking spaces, which is 149 parking spaces. The project is currently proposing 162 parking spaces, which equates to a 45 percent reduction in parking.

Pursuant to Section 20.90.220(A) of the Municipal Code, the project applicant must implement a total of three Transportation Demand Management (TDM) Measures for the life of the project. The project has been conditioned to provide the following TDM measures: (1) Provide bicycle parking in conformance with the Municipal Code requirements, (2) monthly stipend program to be provided to each occupant for rideshare, bicycle, (3) unbundled parking, and (4) implementing an on-site bike share program for residents.

The project has 57 long term bicycle parking spaces and 14 short term bicycle parking spaces, for a total number of 71 bicycle parking spaces consistent with the requirements of Municipal Code Table 20-210. The bicycle parking requirement for multiple dwelling uses is one bicycle parking per four units. Based on 226 residential units, the residential component requires 57 bicycle parking spaces. Pursuant to Municipal Code Table 20-190, the commercial component of the project is required to provide one bicycle parking space. The project is required to provide 58 bicycle parking spaces and is providing 71 bicycle parking spaces overall.

Consistent with the Development Standards for this project, the project complies with the common and private open space requirements. Private open space must be provided for 50 percent of inward facing units. There are 94 inward facing units, 79 of which are providing private open space in the form of a balcony. Of the 50 percent of inward facing units, studios must provide 40 square feet of private open space and two-bedroom units must provide 60 square feet of private open space. 76 studio units

are providing 3,040 square feet of private open space. There are 15 outward facing studio units (facing Meridian Avenue) that also provide private open space (equaling a total of 600 square feet) as well. The project exceeds the minimum private open space requirements. The common open space requirement is 100 square feet per residential unit and the plaza shall not count as part of the common open space requirement. Based on 226 residential units, the common open space requirement is 22,600 square feet. The project is providing 24,945 square feet of common open space, exceeding the common open space requirement by 2,345 square feet. The common open space is provided on the third floor in courtyards.

- 5. Residential Design Guidelines Conformance.** The project complies with the Residential Design Guidelines by being designed for the pedestrian at the ground-level and providing an interesting architectural aesthetics. The project demonstrates high-quality architecture, landscaping, and site design features through usage of a variety of different aesthetically compatible materials with different textures, substantial changes in building plane, strategic use of material, variation in roof line, and appropriate form and massing.

This project's pedestrian scaled is enforced by the plaza placement adjacent to the sidewalk while utilizing awnings and different material at the building's ground-floor to create an interesting streetscape. The building utilizes color to accent the horizontal nature of the awning and overhangs which assist in creating a visual base to the building. The middle of the building contains various colors of cream color, a grey color, and a rusted orange and textures of cement board, masonry brick veneer, and stucco to create the visual middle of the building. The project utilizes a mid-century modern inspired railing for the balconies and garage screening. The project includes a varied building façade, recessed windows, and protruding balconies, which all contribute to an interesting aesthetic (Planned Development Permit plan set Sheet 7.1), providing additional shadow lines to the building and dimensionality and architectural interest.

- 6. California Environmental Quality Act.** An Initial Study (IS) and Mitigated Negative Declaration (MND) entitled "Initial Study/Mitigated Negative Declaration for the 259 Meridian Avenue Project" was prepared by the Director of Planning, Building, and Code Enforcement for the subject Planned Development Rezoning and Planned Development Permit.

The document was circulated for public review between February 21, 2020 to March 12, 2020, a 20-day period. Two public comment was received during the public circulation period. The public comment received was primarily concerned with project design and transportation. Responses to comments can be found on the City's website as listed below.

The final IS/MND identified potentially significant environmental impacts and determined that the project would not have a significant effect on the environment with the incorporation of certain mitigations. The primary environmental issues addressed

in the IS/MND were the potential impacts to air quality, biological resources, cultural resources, and noise from the project. The MND includes mitigation measures for the previously stated resource areas that would reduce any potentially significant project impacts to a less-than-significant level. The mitigation measures are included in the Mitigation Monitoring and Reporting Program (MMRP) and in the associated permit as a part of the project.

The entire IS/MND, associated appendices, response to comments, and other related environmental documents are available on the Planning web site at:
<https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/negative-declaration-initial-studies/259-meridian-ave-residential-mixed-use-development>

7. **Planned Development Permit Findings.** Chapter 20.100 of the San José Municipal Code (SJMC) establishes required Findings for issuance of a Planned Development Permit for the demolition of three existing buildings and the construction of one mixed-use building. These criteria are applied to the project based on the above-stated findings related to General Plan and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in the Permit.
- a. The Planned Development Permit, as issued, is consistent with and furthers the policies of the General Plan; and
Analysis: As described above, the project is consistent with and will further the policies of the General Plan and West San Carlos Urban Village Plan.
 - b. The Planned Development Permit, as issued, conforms in all respects to the Planned Development Zoning of the property; and
Analysis: The Planned Development Permit conforms in all respects to the CP(PD) Planned Development Zoning District of the property, including the project's development standards, uses, setbacks, and height.
 - c. The Planned Development Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency; and
Analysis: The project is consistent with the City's Public Outreach Policy 6-30. To inform the public of the project, staff followed Council Policy 6-30: Public Outreach Policy. Two community meetings both coordinated with Council District 6 were held on Wednesday, May 15, 2019 (37 attendees) and Thursday, November 21, 2019 (20 attendees) to introduce the project to the community, receive feedback, and introduce the redesign. The notices for the community meeting and the public hearings were distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. A total of 2,040 notices were sent for both community meetings. A webpage for the project was created to inform the public and to post project information, such as: community

meeting notices, summaries of public comments, and project plan sets. The revised on-site sign notifying the public about the project (both the Planned Development Zoning and Planned Development Permit) was posted on June 8, 2019. The staff report is also posted on the City's website. Staff has 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 on-site are appropriate, compatible and aesthetically harmonious; and

Analysis: The interrelationship between the orientation, location, mass and scale of building volumes and elevations of the project building and other uses on-site are appropriate, compatible, and aesthetically harmonious. The project is a mid-century modern inspired building as called for in the West San Carlos Urban Village Plan, and employs the use of strong horizontal lines, brick veneer, and geometric balcony railing and garage screening elements. All these elements contribute to the mid-century aesthetic. Furthermore, the mass of the building is appropriate to the scale of the building as the project is utilizing the common open spaces to remove mass from the building while clearly defining the base, middle, and top of the building. The materials used are appropriately sized for the scale of the overall and three sections of the building. The commercial and residential uses are compatible as the commercial use shall be operated in a manner consistent with Section 20.40.600 (performance standards) of the Municipal Code. The commercial uses allowed in this building are those allowed in the CP Commercial Pedestrian Zoning District, and any impactful uses shall not be allowed.

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

Analysis: The demolition of existing buildings, removal of trees, and the construction of the project will not have an unacceptable negative affect on adjacent property or properties. In addition to the Initial Study/Mitigated Negative Declaration prepared pursuant to the California Environmental Quality Act (CEQA), the project was also evaluated per adopted stormwater requirements and has been found in compliance by providing a number of stormwater treatment measures on the project site, such as a subsurface infiltration system, pervious pavement with underdrains, beneficial landscaping, and a covered trash and recycling enclosure. Additionally, the project's residential and commercial uses are not anticipated to create odor as much of the activity occurs indoors. Lastly, noise and ground vibration related to construction and demolition, are the only anticipated temporary noise sources. Moreover, to reduce the potential construction noise impacts the project will implement mitigation measures to prepare and implement a construction noise logistics plan and is also subject to

Standard Permit Conditions to implement best management practices to reduce construction and demolition effects.

8. Transportation Demand Management (TDM) Measures Findings. Chapter 20.90 of the San José Municipal Code establishes required findings for Transportation Demand Management measures which findings are made for the Project based on the above-stated findings related to General Plan, Zoning and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in this Permit. Pursuant to Section 20.90.220(A)(e) of the San José Municipal Code, transportation demand management measure findings must determine that:

- a. The decision maker for the project application shall first find in addition to other required findings that the project applicant has demonstrated that it can maintain the TDM program for the life of the project, and it is reasonably certain that the parking shall continue to be provided and maintained at the same location for the services of the building or use for which such parking is required, during the life of the building or use; and

Analysis: The project applicant can maintain the reduced parking through programs that encourage reduced car usage, such as marketing information aimed at parking and mobility on-site, preferred priority parking for electric, carpool, and rideshare vehicles, promoting carpooling and ridesharing services on site, and bicycles for use on-site. The project applicant shall also notify perspective tenants of the unbundled parking requirement (parking is paid for separately from the rent and not required).

- b. The decision maker for the project application also shall first find that the project applicant will provide replacement parking either on-site or off-site within reasonable walking distance for the parking required if the project fails to maintain a TDM program.

Analysis: If the TDM program fails or if the project is unable to maintain a TDM program, a Planned Development Permit Amendment is required to in order to satisfy the City's parking requirements.

9. Evaluation Criteria for Demolition. Chapter 20.80 of the San José Municipal Code establishes evaluation criteria for issuance of a permit to allow for demolition. These criteria are made for the Project based on the above-stated findings related to General Plan, Zoning and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in the Resolution.

- a. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
- b. The failure to approve the permit would jeopardize public health, safety or welfare;
- c. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;

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

Analysis: The demolition of the existing approximately 19,000 square feet of commercial buildings will not result in the creation or continued existence of a nuisance, blight, or dangerous condition as the current buildings and site are underutilized, mostly vacant, and blighted; however, the demolition will help implement the General Plan by furthering Major Strategy # 3 and #5 along with a number of other General Plan and West San Carlos Urban Village policies (discussed in the General Plan Conformance section above). The demolition of the existing commercial buildings will facilitate the construction of a mixed-use building with up to 226 residential units and 1,400 square feet of ground-floor commercial and an approximately 2,256-square foot publicly-accessible, privately-maintained plaza that will be accessible to surrounding workers and residents. The surrounding uses are comprised of one-story commercial buildings and three single-family residences, all of which are within the West San Carlos Urban Village boundary. While the project is not compatible with the existing form and scale of the surrounding area (areas both inside and outside of the Village boundary), the project is completely consistent with what is envisioned in the West San Carlos Urban Village Plan in terms of densification and build-out.

The project will not diminish the existing housing stock in the City of San José since the project does not remove any residential units and adds 226 residential units. As part of the environmental review process, a cultural resources evaluation as well as a historic resources assessment (report prepared by Archives and Architecture dated June 6, 2019) were conducted. It was found that the three existing buildings do not meet the eligibility criteria for listing on the California Register of Historic Resources or the designation as a San José City Landmark structure or as a landmark site. The buildings were also not found to qualify either as buildings or as a site of lesser significance based on the 1950s modern design. Furthermore, the report concluded that the likelihood of the site and the buildings contributing to a potential historic district is not likely, as a sufficient density of mid-century commercial buildings in the immediate vicinity was not found (Archives and Architecture, 2019).

Reuse of the existing commercial buildings was found to not be feasible due to the smaller size, age, and layouts of the structures. The current configuration of the site is not conducive to encouraging compact development along Meridian Avenue as a large percentage of the site is occupied by a surface parking lot, which is not

consistent with the General Plan and Urban Village policies. Furthermore, the current location of the existing buildings would not allow the creation of the privately-maintained, publicly-accessible open space area.

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 permitted hereby.

CONDITIONS

1. **Acceptance of Permit.** Per Section 20.100.290(B) of Title 20 of the San José Municipal Code, should the permittee fail to file a timely and valid appeal of this Planned Development Permit within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the permittee:
 - a. Acceptance of the Planned Development Permit; and
 - b. Agreement by the permittee to be bound by, to comply with, and to do all things required of or by the permittee pursuant to all of the terms, provisions, and conditions of this Permit or other approval and the provisions of Title 20 of the San José Municipal Code applicable to such Permit.
2. **Permit Expiration.** The Planned Development Permit shall automatically expire four (4) years from and after the date of issuance hereof by the City Council, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the City Council. However, the Director of Planning, Building and Code Enforcement may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20 of the San José Municipal Code. The Permit Adjustment must be approved prior to the expiration of this Planned Development Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Planned Development Permit shall be deemed acceptance of all conditions specified in this permit and the permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.

4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by permittee shall constitute acknowledgement of receipt of notice by permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José - Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said 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 is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.
5. **Conformance to Plans.** The development of the site shall conform to the approved Planned Development Permit plans entitled, "Planned Development Permit for 259 Meridian Avenue," dated received on April 28, 2020, on file with the Department of Planning, Building and Code Enforcement, as may be amended subject to City's approval, and to the San José Building Code (San José Municipal Code, Title 24), as amended. The plans are referred to herein as the "Approved Plan Set".
6. **Planned Development District Effectuated.** Once this Planned Development Permit is accepted, the use of territory not covered by the permit shall only be land uses consistent with the Planned Development Zoning District and only upon issuance of a Planned Development Permit for those uses.
7. **Affordable Housing Financing Plans.** The San José City Council ("City") approved the Envision San Jose General Plan 2040 ("General Plan") in 2011. The General Plan provides the framework for development located in San Jose.

The City is in the process of developing financing plans to help fund affordable housing and related amenities and services. The financing plans may include the creation of a (i) Community Facilities District(s); (ii) Enhanced Infrastructure Financing District(s); (iii) Property Based Improvement District(s); (iv) Mitigation Impact Fee program(s); (v) Commercial linkage fee program(s); and/or (vi) other financing mechanisms or combination thereof. For example, the City Council has directed City staff to complete studies and make recommendations related to commercial impact fees to help fund affordable housing. These efforts are on-going and there will continue to be other similar efforts to study various funding mechanisms for affordable housing.

By accepting this Permit including the conditions of approval set forth in this Permit, permittee acknowledges it has read and understands all of the above. Permittee further agrees that prior to the issuance of any building permit, the project shall be subject to, fully participate in, and pay any and all charges, fees, assessments, or taxes included in any City Council approved financing plans related to affordable housing, as may be amended, which may include one or more of the financing mechanisms identified above.

8. **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.
9. **Demolition Permit.** A demolition permit may be issued for the buildings and structures indicated on the Approved Plans only upon the issuance of a Grading Permit for the project. Any modification to this precondition shall require approval of a Major Permit Adjustment. In no case shall this precondition supersede applicable mitigation measures for the project.
10. **Timing of Tree Removals.** Trees that are proposed for removal, as indicated on the Approved Plans, may be removed only upon the issuance of a Grading Permit for the project. Any modification to this precondition shall require approval of a Major Permit Adjustment. In no case shall this precondition supersede applicable mitigation measures for the project.
11. **Permit Adjustment Required.** Prior to the issuance of a Building Permit for construction, the Permittee shall obtain a Permit Adjustment to provide for an art piece in the publically-accessible but privately-maintained and owned plaza.
12. **Public Access Easement.** Prior to the Planning Conformance review, issuance of certificates of occupancy for the building, the permittee shall offer to the City of San José a Public Access Easement for public use of the publicly-accessible, privately owned and maintained plaza as shown on the approved plan set. The Public Access Easement shall be applied to the approximately 2,256-square foot plaza located between the mixed-use building and the sidewalk fronting Meridian Avenue. Said easement shall be binding upon, and all benefits shall insure to, all successors in interest to the affected real property. This easement shall be recorded by separate mechanism as a map is not required.
13. **Privately Owned, Publicly Accessible Open Space.** The project’s plaza located on the property between the building and the sidewalk (as referenced on the approved Plan Set) will be a privately owned and maintained, publicly accessible ground level open space. The plaza shall be an area designated for use by the general public while owned and maintained by a private owner, as described by the following:

- a. Permittee (including property owners and successors in interest of Permittee or property owner) providing this publicly accessible open space shall, to the fullest extent permitted by law, hold harmless and indemnify the City of San José, its officers, agents and employees, from any and all damage or injury caused in any manner by the design, construction, use, or maintenance of the open space; and
- b. Permittee (including property owners and successors in interest of Permittee or property owner) shall be solely liable for any and all damage or loss occasioned by any act or negligence in respect to the design, construction, use, or maintenance of the open space.
- c. Liability Insurance satisfactory to the City's Risk Manager and the City Attorney, naming the City of San José and its officers and employees as additional insureds, shall be provided for all such spaces. The property owner shall record with the County Recorder and provide a copy to the City prior to the issuance of building permits a special restriction on the property satisfactory in substance to the Department and sufficient to give notice to subsequent owners, lien holders, mortgagors, tenants, and others having any economic interests in the property of the open space requirement and the means by which the requirement has been, and must continue to be, satisfied.
- d. Maintenance - Open spaces shall be maintained at no public expense. Permittee (including property owners and successors in interest of Permittee or property owner) for the property on which the open space is located shall maintain the open space by keeping the area clean and free of litter and keeping in a healthy state any plant material that is provided for the life of the publicly accessible open space and subject project.
- e. Plaza Hours of Operation –The privately owned, publicly accessible open space shall remain open and unobstructed to public pedestrians 24 hours a day, 7 days a week.
- f. Security – The Permittee (including property owners and successors in interest of Permittee or property owner) shall put in place and maintain appropriate security and safety measures including, but not limited to, adequate lighting for nighttime visibility, textured or minimal slip paving, and access to a public “blue light” emergency phone or similar device situated within the plaza.
- g. The Permittee (including property owners and successors in interest of Permittee or property owner) shall install and maintain in good condition signage that is clearly readable and visible from the public street or public sidewalk at every entry to the public plaza within 20 feet of the public right-of-way.

14. Transportation Demand Management Measures (TDM Measures). Based on the TDM measures included, the project should meet the 45 percent parking reduction goal. The project is required to submit an annual monitoring report, which measures the effectiveness of the TDM plan. Additional TDM measures may be required if the

TDM measures are not effective. The project will also be required to implement control measures to prohibit parking at adjacent land uses.

- a. Provide bicycle parking in conformance with the Municipal Code requirements.
- b. Provide a monthly stipend program to be provided to each occupant for rideshare and bicycles
- c. Maintain one (1) on-site Cargo Bicycle for the tenants to share for the life of the project.
- d. Provide 100% unbundled parking for all residential spaces.
- e. Implement and maintain an on-site bike share program for residents.
- f. If the project fails to maintain the above TDM measures, a Permit Amendment is required to modify the TDM, provide replacement parking (either on-site or off-site within reasonable walking distance for the parking required), pursuant to San Jose Municipal Code Section 20.90.220, as amended.

15. **Window Glazing.** Unless otherwise indicated on the approved plan, all windows located on the ground floor shall consist of a transparent glass.

16. **Hours of Construction within 500 feet of a Residential Unit.** Unless otherwise expressly allowed in a development permit or other planning approval, no permittee or agent of the permittee shall suffer or 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.

17. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as conditioned.

18. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code.

19. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance or that adversely affects the peace, health, safety, morals or welfare of persons residing or working in the surrounding area or be detrimental to public health, safety or general welfare. Any such nuisance shall be abated immediately upon notice by the City.

20. **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.

21. **Anti-Graffiti.** During construction, the permittee shall remove all graffiti from buildings, walls and other surfaces within 48 hours of defacement. Upon project completion and/or transfer of ownership, the property owner, and/or Maintenance District shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
22. **Loitering.** Loitering shall not be allowed in the public right-of-way adjacent to the subject site.
23. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering the garbage container. No outdoor storage is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
24. **Noise.** Noise shall be contained within the buildings and the buildings shall be adequately insulated to prevent excessive sound from emanating outside. Adequate HVAC (air conditioning) shall be provided to allow all doors and windows on the subject site to remain closed during the operation and activities of the site.
25. **Sign Approval.** No signs are approved at this time. All project signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
26. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
27. **Perimeter wall.** Wall height and materials shall be provided as shown on the Approved Plans. Changes to the approved fencing shall require review by the Director of Planning, Building, and Code Enforcement.
28. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set. Any change in building colors and materials shall require a Permit Adjustment to the satisfaction of the Director of Planning, Building, and Code Enforcement.
29. **FAA Clearance.** FAA Clearance. Prior to the issuance of a building permit, the Permittee shall obtain from the Federal Aviation Administration (FAA) a "Determination of No Hazard" for the building's highest point(s). The Permittee shall initiate the regulatory FAA review by filing a "Notice of Proposed Construction or Alteration" (FAA Form 7460-1) for each building high point. The data on the form should be prepared by a licensed civil engineer or surveyor using NAD83 latitude/longitude coordinates out to hundredths of seconds and NAVD88 elevations rounded off to next highest foot.
30. **FAA Clearance Permit Adjustment.** Prior to the issuance of a building permit, the Permittee shall apply for and obtain a Permit Adjustment to incorporate any FAA

conditions identified in the Determination of No Hazard clearance(s) into the PD Permit. If the FAA requires filing of a "Notice of Actual Construction" (FAA Form 7460-2) upon completion of high point construction, such filing shall be a condition to be completed prior to issuance of a Certificate of Occupancy.

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

- a. *Construction Plans.* This permit file number, PD19-011, shall be printed on all construction plans submitted to the Building Division.
- b. *Americans with Disabilities Act.* The permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
- c. *Emergency Address Card.* The permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
- d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
- e. *Project Addressing Plan.* Prior to issuance of any Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official: The permittee shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial).

32. Access Control. When access control devices including bars, grates, gates, electric and/or magnetic locks, or similar devices which would inhibit rapid fire department emergency access to the building are installed, such devices shall be approved by the Chief. All access control devices shall be provided with an approved means for deactivation or unlocking by the Fire Department. Access control devices shall also comply with CFC/CBC Chapter 10 for exiting.

33. Fire Lanes. Fire lanes, suitably designated "FIRE LANE-NO PARKING," shall be provided as required by the Fire Department.

34. General Fire Prevention Requirements. The permittee shall provide the following improvements:

- a. *Fire Sprinkler System.* Building(s) shall be provided with an automatic fire extinguishing system in accordance with CFC 903.2 and SJFC 17.12.630. Systems serving more than 20 heads shall be supervised by an approved central, proprietary, or remote service to the satisfaction of the Fire Chief.
- b. *Requirements for Trash Areas.* Outdoor covered areas and trash enclosures

may require the sprinkler system to be extended to protect them.

- c. *Fire Alarm System.* Building(s) shall be provided with an automatic fire alarm system as required by CFC 907.2 and 907.3.
- d. *Standpipes Available During Construction.* All buildings under construction, three or more stories in height, shall have at least one standpipe for use during construction. Standpipes shall be equipped with fire department hose connections. Location(s) and numbers of standpipe(s) shall be reviewed and approved by the Fire Department.
- e. *Complex Map.* A complex map is recommended which incorporates an elevated view of the building and individual unit addresses. It should be illuminated during the hours of darkness and positioned in the lobby area to be readily readable from main pedestrian access entrance. A complex map should also be placed contiguous to the vehicular entrance to the development where it will not cause stacking problems when being viewed.
- f. *Public Safety Radio Coverage.* Public Safety Radio Coverage is to be provided throughout the area of each floor of the building. Communication repeaters may be required to be installed in the buildings.
- g. *Elevators.* Elevators shall be in accordance with the requirements stipulated in the California Building Code Chapter 30. All buildings with one or more passenger service elevators shall be provided with not less than one medical emergency service elevator.
- h. *Management Association Responsibilities for Life & Safety Systems.* The Subdivider/owner shall create and maintain a Management Association which will be responsible for the fire/life safety systems inspections per Title 19 and access to the systems if applicable.
- i. *Hazardous Materials.* The permittee must contact the Hazardous Materials Division at (408) 535-7750 as soon as possible to initiate the process to determine if the type and quantity of hazardous material is acceptable per code and whether a Hazardous Materials Plan Review is required.
- j. *Construction Fire Protection Plan.* A "Construction Fire Protection Plan" shall be prepared by the Permittee and submitted for approval by San José Building and Fire Departments prior to starting construction for wood framing projects consisting of 15 or more dwelling units or construction exceeding a total of 50,000 square feet.

35. Housing. The development is subject to the City's Inclusionary Housing Ordinance (IHO) and each of the conditions below:

- a. The permittee must execute and record their City Affordable Housing Agreement memorializing the IHO obligations against the property and any contiguous property under common ownership and control prior to earliest of either issuance

of any building permits or approval of any parcel or final map.

- 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.
- c. No building permit may issue until the Affordable Housing Agreement is recorded against the property. No building permit may issue except consistent with the requirements of the IHO and the proposed Plan to fulfill the affordable housing obligations.
- 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 and Affordable Housing Agreement are met.

36. 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 applicant will be required to have satisfied all of the following Public Works conditions. The applicant 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:** A Local Transportation Analysis (LTA) has been performed for the subject project based on a net 65 a.m. and 71 p.m. peak hour trips. See separate Traffic Memo dated 4/14/20 for additional information. The following conditions shall be implemented:
 - i. Provide installation of audible and visual warning signs at garage entrance/exit and a minimum of 50-feet at-grade clearance from gate access to back of walk.
 - 1) Accommodation for emergency, moving, garage, and commercial vehicles onsite.
 - 2) Submit a TDM for parking reduction prior to Planning approval.
- c. **Urban Village Plan:** This project is located in the West San Carlos Urban Village per the Envision San José 2040 General Plan. Urban Villages are designed to provide a vibrant and inviting mixed-use setting to attract pedestrians, bicyclists, and transit users of all ages and to promote job growth.

- d. *Grand Boulevard*: This project fronts Meridian Avenue which is designated as one of the seven Grand Boulevards per the Envision San José 2040 General Plan. Grand Boulevards are identified to serve as major transportation corridors for primary routes for VTA light-rail, bus rapid transit, standard or community buses, and other public transit vehicles.
- e. *Grading/Geology*:
 - i. A grading permit is required prior to the issuance of a Public Works Clearance.
 - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2013 California Plumbing Code or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
 - iii. If the project will haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
 - iv. Because this project involves a land disturbance of one or more acres, the permittee is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
 - v. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not be limited to, foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.

- f. *Shoring:*
- i. Shoring plans for the proposed subsurface infiltration system adjacent to the western property line will be required for review and approval as part of the Grading Permit for this project, if the depth of the subsurface infiltration system is greater than 5 feet.
 - ii. If tie-backs are proposed in the Public right-of-way as a part of the shoring operation, a separate Revocable Encroachment Permit must be obtained by the Developer or Contractor and must provide security, in the form of a CD or Letter of Credit, in the amount of \$100,000. All other shoring will not be allowed to encroach more than 12" within the public right-of-way (i.e. soldier beams).
 - iii. If tie-backs are proposed for use along the adjacent property (274-14-153) agreements between the Applicant and the adjacent property owner(s) will need to be secured, executed, and provided to the Public Works Project Engineer prior to approval of the Grading Permit for this project.
- g. *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 shall be in conformance with City Policy 6-29 during the implementation phase.
 - ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
 - iii. A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating that all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.
 - iv. A design of the pervious pavement by a Licensed Geotechnical Engineer shall be submitted prior to the issuance of a Public Works Clearance.
 - v. Project shall connect to the storm drain system within the adjacent property (APN 274-14-153) and shall secure a private storm drain easement (PSDE).
- h. *Stormwater Peak Flow Control Measures:* The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).

- i. *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.
- j. *Sewage Fees*: In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable prior to Public Works clearance.
- k. *Parks*: This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San José Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San José Municipal Code) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the "Formula for Dedication of Land" and/or "Schedule of Fees and Credits" contained within in the chapter.
- l. *Undergrounding*:
 - i. The In-Lieu Undergrounding Fee shall be paid to the City for all frontage(s) adjacent to Meridian Avenue prior to issuance of a Public Works Clearance. 100% percent of the base fee in place at the time of payment will be due. Currently, the 2020 base fee is \$515 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record's City Average Cost Index for the previous year. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued.
 - ii. The Director of Public Works may, at his discretion, allow the developer to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to Meridian Avenue. Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.
- m. *Street Improvements*:
 - i. Construct 15-foot wide attached City Standard sidewalk with 4-feet by 5-feet tree wells at the back of curb along Meridian Avenue project frontage.
 - ii. Per the Title Report dated March 26, 2019 and prepared by Old Republic Title Company, Holmes Business, LLC, (56.4% interest) and Paul Lin and Krista Lin (43.6% interest) own the fee title extending to the street centerline of Meridian Avenue project frontage. Provide approximately 37-foot wide street easement to accommodate the new sidewalk width and interest within the public street.
 - iii. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the project.
 - iv. Remove and replace curb, gutter, and sidewalk along project frontage.

- v. Close unused driveway cut(s).
- vi. Proposed driveway width to be 26 feet.
- vii. Developer shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the project frontage.
- viii. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
- 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.
- x. Submit a detailed plan showing existing and project street improvements.
- n. *Strong Neighborhood Initiative (SNI)*: The project is located within the Burbank/Del Monte SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.
- o. *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.
- p. *Street Trees*: The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cutouts at the back of curb. Obtain a DOT street tree planting permit for any street tree plantings. Street trees shown on this permit are conceptual only.
 - i. The recommended street trees are *Betula nigra* 'BNMTF' (Dura Heat) planted 25 feet on center or consult the City Arborist for alternatives.

37. Conformance to Mitigation Monitoring and Reporting Program. This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program (MMRP) approved for this development by City Council Resolution No. [REDACTED].

38. Standard Environmental Conditions.

- a. Air Quality:
 - 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 tune construction equipment 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. **Tree Replacement Ratio:** All ten of the trees onsite would be removed; nine trees would be replaced at a 2:1 ratio, and one tree would be replaced at a 1:1 ratio. As mentioned previously, there are no native trees on-site. The total number of replacement trees required to be planted would be 19 trees.

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Circumference of Tree to be Removed ¹	Type of Tree to be Removed ²			Minimum Size of Each Replacement Tree
	Native	Non-native	Orchard	
38 inches or more ³	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

¹ As measured 4.5 feet above ground level
² X:X = tree replacement to tree loss ratio
³ Ordinance-sized tree
Notes: Trees greater than or equal to 38 inches in circumference shall not be removed unless a Tree Removal Permit or equivalent, has been approved for the removal of such trees. For multi-family residential, commercial, and industrial properties, a Tree Removal Permit is required for removal of trees of any size.
A 38-inch tree equals 12.1 inches in diameter.
One 24-inch box tree equals two 15-gallon trees

- ii. In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:
 - 1) The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.
 - 2) Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.
- iii. HCP: The project is subject to applicable Santa Clara Valley Habitat Plan conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning or Director's designee of the City of San José Department of Planning, Building, and Code Enforcement (PBCE) for review and shall complete subsequent forms, reports, and/or studies as needed prior to the issuance of grading permits. The Habitat Plan and supporting materials can be viewed at www.scv-habitatagency.org.

c. Cultural Resources:

- i. In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Supervising Environmental Planner and Historic Preservation Officer of the Department of Planning, Building and Code Enforcement will be notified, and a qualified archaeologist will examine the find. The archaeologist will 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. If the finds do not meet the definition of a historical or archaeological resources, no further study or protection is necessary prior to project implementation. If the find(s) does meet the definition of a historical or archaeological resource, then it should be avoided by project activities. Project personnel should not collect or move any cultural material. Fill soils that may be used for construction purposes should not contain archaeological materials.
- ii. If avoidance is not feasible, adverse effects to such resources should be mitigated in accordance with the recommendations of the archaeologist. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery would be submitted to Supervising Environmental Planner and Historic Preservation Officer of the Department of Planning, Building and Code Enforcement and the Northwest Information Center.
- iii. If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and the qualified archaeologist, who will then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American.
- iv. If the remains are believed to be Native American, the Coroner will contact the NAHC within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts.
- v. 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:

- 1) 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.
- 2) The MLD identified fails to make a recommendation; or
- 3) The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

d. Geology and Soil:

- i. 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.
- ii. The MLD identified fails to make a recommendation; or
- iii. The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

e. Hazards and Hazardous Materials: Consistent with federal, state, and local policies and regulations, the following conditions are included to reduce impacts from asbestos and lead-based paint to a less than significant level:

- i. In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP).
- ii. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
- iii. All potentially friable asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
- iv. A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.

- v. Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.
 - vi. Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers.
 - vii. Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
 - viii. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.
 - ix. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.
- f. Hydrology: Consistent with the Downtown Strategy 2040 FEIR, best management practices to prevent stormwater pollution and minimize potential sedimentation shall be implemented during project construction, including but not limited to the following:
- 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 would be suspended during periods of high winds.
 - iii. All exposed or disturbed soil surfaces would 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 would be watered or covered.
 - v. All trucks hauling soil, sand, and other loose materials would be covered and all trucks would be required to maintain at least two feet of freeboard.
 - vi. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites would be swept daily (with water sweepers).
 - vii. Vegetation in disturbed areas would be replanted as quickly as possible.
 - viii. All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system may also be installed at the request of the City.
 - ix. The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site

- preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.
- x. Consistent with the General Plan and Downtown Strategy 2040 FEIRs, the project will be required to implement the following measures:
 - xi. The proposed project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures shall meet the numeric sizing design criteria specified in City Policy 6-29;
 - xii. The project's Stormwater Control Plan and numeric sizing calculations will be in conformance with City Policy 6-29;
 - xiii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of Public Works Clearance.
- g. Noise: Interior Noise: The following conditions of approval would be applied to the proposed project to reduce interior noise levels to acceptable levels:
- i. Provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for all residential units on the project site, so that windows can be kept closed at the occupant's discretion to control interior noise and achieve the interior noise standards.
 - ii. A qualified acoustical specialist shall prepare a detailed analysis of interior residential noise levels during the final design phase of the project to confirm that interior noise levels in residences will be reduced to 45 dBA DNL or lower. Special building techniques (e.g., sound-rated windows and building façade treatments) will likely be required to maintain interior noise levels at or below acceptable levels. These treatments would include, but are not limited to, sound-rated windows and doors, sound-rated wall construction, acoustical caulking, and protected ventilation openings. The specific determination of what treatments are necessary will be completed on a unit-by-unit basis during the final design phase of the project. Results of the analysis, including the description of the necessary noise control treatments, will be submitted to the City along with the building plans and approved prior to issuance of a building permit.

39. Revocation, Suspension, Modification. This Planned Development Permit may be revoked, suspended or modified by the Planning Commission, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed

hearing in accordance with Part 2 of Chapter 20.100 of Title 20 of the San José Municipal Code it finds:

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

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

Effective Date

The effective date of this Permit (File No. PD19-011) shall be the effective date of the Planned Development Rezoning Ordinance for File No. PDC18-016, passed for publication on _____, 20__ (the "Planned Development Rezoning Ordinance") and shall be no earlier than the effective date of said Planned Development Rezoning Ordinance.

ADOPTED this _____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

NOTICE TO PARTIES

The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.

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

PARCEL ONE:

BEGINNING at a point in the center line of Meridian Road, distant thereon 373.50 feet Northerly of the intersection of said center line of Meridian Road with the center line of San Carlos Street, also known as Stevens Creek Road, as the same formerly existed 60 feet wide, in 1928, running thence Westerly and parallel with San Carlos Street, also known as Stevens Creek Road, 170 feet; thence at right angles Northerly and parallel with the center line of Meridian Road, 55 feet to the land now or formerly of Norton; thence at right angles Easterly, parallel with San Carlos Street, also known as Stevens Creek Road, 170 feet to the center line of Meridian Road; thence Southerly along the center line of Meridian Road 55 feet to the point of beginning.

PARCEL TWO:

BEGINNING at the point of intersection of the center line of San Carlos Street, also known as Stevens Creek Road, as the same formerly existed 60 foot in width, in 1928, with the center line of Meridian Road; thence running Northerly along the center line of Meridian Road 427.50 feet; thence running Westerly and parallel with the center line of San Carlos Street, also known as Stevens Creek Road, 170.00 feet to the true point of beginning of this description, said true point of beginning being at the Northwest corner of that certain parcel of land described in the Deed from Glen A. Robertson to Angelo Lo Coco, dated May 10, 1937 recorded May 11, 1937 in Book 818 of Official Records, page 505, Santa Clara County Records, said true point of beginning being also at an angle corner of that certain parcel of land described in the Deed from Antonio Masino, et ux, to Giuseppe Basile, dated April 20, 1928, recorded April 27, 1928 in Book 394 of Official Records, page 453, Santa Clara County Records; thence running Westerly and parallel with the center line of San Carlos Street, also known as Stevens Creek Road, and along the Northerly line of the parcel of land described in the Deed to said Giuseppe Basile 160, N feet to the Northwest corner thereof; thence running Southerly and parallel with the center line of Meridian Road and along the Westerly line of the parcel of land so described in the Deed to Giuseppe Basile 55.00 feet; thence running Easterly and parallel with the centerline of San Carlos Street, also known as Stevens Creek Road, 160.0 feet to the Southwest corner of the parcel of land so described in the Deed to Angelo La Coco above referred to; thence running Northerly and parallel with the center line of Meridian Road and along the Westerly line of the parcel of land described in the Deed to said Angelo Lo Coco 55.00 feet to the true point of beginning.

PARCEL THREE;

BEGINNING at a point in the center line of Meridian Road and distant thereon 320 feet Northerly from the intersection of the center line of San Carlos Street with the center line of Meridian Road; thence Westerly and parallel with San Carlos Street, 170 feet; thence at a right angle Northerly and parallel with Meridian Road 52 1/2 feet to the Southwest corner of land, now or formerly of Robinson; thence at a right angle Easterly and parallel with San Carlos Street 170 feet to the center line of Meridian Road and thence Southerly and along the center line of Meridian Road 52 4 feet to the point of beginning, and being a part of Los Caches Rancho.

PARCEL FOUR:

BEGINNING at a point in the center line of Meridian Road distant thereon 267.50 feet Northerly of the intersection of said center line of Meridian Road with the center line of San Carlos Street, as the same formerly existed 60 feet wide, in 1928; thence Westerly and parallel with said line of San Carlos Street, 330 feet; thence Northerly and parallel with said line of Meridian Road 105 feet to the Southwesterly corner of the parcel of land conveyed by Giuseppe Basile to Angelo Lo Coco by Deed dated November 23, 1948 and recorded November 23, 1948 in Book 1708 of Official Records, page 386; thence Easterly along the Southerly line of said parcel of land and parallel with said line of San Carlos Street, 160 feet to the Northwesterly line of the parcel of land conveyed by Giuseppe Basile to Dominic E. Basile by Deed dated July 25, 1942 and recorded February 10, 1943 in Book 1130 of Official Records, page 199; thence Southerly along the Westerly line of said parcel of land so conveyed to Dominic E. Basile and parallel with said line of Meridian Road, 52.50 feet to the Southwesterly corner thereof; thence Easterly along the Southerly line of said parcel of land so conveyed to Dominic E. Basile and parallel with said line of San Carlos Street, 170 feet to said center line of Meridian Road; thence Southerly along said last mentioned line 52.50 feet to the point of beginning, and being a portion of the Los Caches Rancho.

PARCEL FIVE:

COMMENCING at the Northeasterly corner of that certain parcel of land conveyed by Joseph Gippetti, et ux, to Nathan H. Havlin, et ux, on May 4, 1959 and recorded in Book 4404 of Official Records, page 443, Santa Clara County Records; thence South 0° 13' East, along the Easterly boundary of said land so conveyed, 160 feet, more or less, to the Southwesterly corner of that certain tract of land deeded by Dominic E. Basile, et al, to Irvin Herman, et al, by Deed dated June 9, 1953 and recorded June 22, 1953 in Book 2668, page 53, Santa Clara County Records; thence South 89° 47' West 50 feet; thence North 0° 13' West 160 feet more or less, to the Northerly boundary of the lands conveyed to Nathan H. Halvin by Deed first hereinabove referred to; thence North 89° 47' East along the Northerly boundary of said lands, 50 feet to the point of beginning.

PARCEL SIX:

AN EASEMENT for drainage purposes over a strip of land 5.00 feet in width the Easterly and Southeasterly line of which is more particularly described as follows:

BEGINNING at a point in the Westerly line of Parcel 5, as described in the Deed dated March 19, 1968 from Jeanne Herman to M.Y. Frazee, et al, recorded in the office of the Recorder of the County of Santa Clara, State of California on March 26, 1960 in Book 8067 of Official Records, at page 350 distant thereon South 0° 13' East 5.00 feet from the Northwesterly corner thereof; thence from said point of beginning and along the Westerly line of said Parcel 5 and the Northerly prolongation thereof, North 0° 13' West to a point on the Northwesterly line of Lot 7, as shown on that certain Map entitled, "Map of the J.A. Norton Subdivision in the Los Coches Rancho", which Map was filed for record in the office of the Recorder of the County of Santa Clara, State of California on April 27, 1909 in Book "M" of Maps, at page 61; thence along the Northwesterly line of said Lot 7 North 46° 13' East to a point on the Southwesterly line of Norton Avenue, as shown on said Map of the J.A. Norton Subdivision in the Los Coches Rancho and the terminus of the line described herein, the Southerly terminus of said 5.00 foot easement is to terminate on a line which is at a right angle to the Westerly line of said Parcel 5, and the Northeasterly terminus of said 5.00 foot easement is to terminate on the Southwesterly line of said Norton Avenue.

PARCEL SEVEN:

AN EASEMENT for ingress and egress over a strip of land 20.00 feet in width the Easterly and Southeasterly line of which is more particularly described as follows:

BEGINNING at the Southwesterly corner of Parcel 5 as described in the Deed dated March 19, 1968 from Jeanne Herman to M.I. Frazee, et al, recorded in the office of the Recorder of the County of Santa Clara, State of California on March 26, 1968 in Book 8067 page 350 of Official Records; thence from said point of beginning and along the Westerly line of said Parcel 5 and along the Northerly prolongation thereof, North 0° 13' West to a point on the Northwesterly line of Lot 7 as said Lot is shown on that certain Map entitled, "Map of the J.A. Norton Subdivision in the Los Coches Rancho", which Map was filed for record in the office of the Recorder of the County of Santa Clara, State of California on April 27, 1909 in Book "M" of Maps, at page 61; thence along the Northwesterly line of said Lot 7 North 46° 13' East to a point on the Southwesterly line of Norton Avenue, as shown on said Map of the J.A. Norton Subdivision in the Los Coches Rancho and the terminus of the line described herein, the Southerly terminus of said 20.00 foot easement is to terminate on the Westerly prolongation of the Southerly line of said Parcel 5 and the Northeasterly terminus of said 20.00 foot easement is to terminate on the Southwesterly line of said Norton Avenue.

APN: 274-14-152