

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A CONDITIONAL USE PERMIT TO ALLOW THE DEMOLITION OF EXISTING BUILDINGS TOTALING 210,635 SQUARE FEET AND THE PHASED CONSTRUCTION AND OPERATION OF A PRIVATE SCHOOL (TODDLER THROUGH 12TH GRADE, AGES 2 TO 18), TOTALING APPROXIMATELY 458,155 SQUARE FEET ABOVE GRADE (INCLUSIVE OF THE ADAPTIVE REUSE OF TWO COMMERCIAL BUILDINGS AND ONE FOUR-LEVEL PARKING STRUCTURE) FOR UP TO 2,744 STUDENTS AND 480 FACULTY AND STAFF AT FINAL BUILD-OUT; AND THE REMOVAL OF 122 ON-SITE TREES, NINE OF WHICH ARE ORDINANCE-SIZE TREES, ON AN APPROXIMATELY 11.87-GROSS ACRE SITE ON THE NORTHWEST CORNER OF RACE STREET AND PARKMOOR AVENUE (550-570 MERIDIAN AVENUE, 1401 PARKMOOR AVENUE AND 691, 581, 529 RACE STREET)

FILE NO. CP19-013

**WHEREAS**, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on April 11, 2019, a concurrent application (File No. CP19-013) was filed by the applicant, Stephen Hanon of Avenues Silicon Valley, LLC., with the City of San José for a Conditional Use Permit and Tentative Vesting Map to allow the demolition of existing buildings totaling 210,635 square feet and the phased construction and operation of a private school (toddler through 12th grade, ages 2 to 18) totaling approximately 458,155 square feet above grade (inclusive of the adaptive reuse of two commercial buildings and one four-level parking structure) for up to 2,744 students and 480 faculty and staff at final build-out, and the removal of 122 on-site trees, nine of which are ordinance-size trees and associated modifications on the existing surface parking and landscaping on an approximately 11.87-gross acre site, on that certain real property situated in the CIC Combined Industrial/Commercial Zoning District and located at the northwest corner of Race Street and Parkmoor Avenue (550-570 Meridian Avenue, 1401 Parkmoor Avenue, and 529, 591, and 691 Race Street, San José, which real property is

sometimes referred to herein as the “subject property”); and

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

**WHEREAS**, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Planning Commission conducted a hearing on said concurrent applications on September 23, 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 Planning Commission and the City’s Director of Planning, Building and Code Enforcement; and

**WHEREAS**, at said hearing, this City Council received in evidence approved plans

entitled "Avenues: The World School – Silicon Valley campus," dated revised on June 15, 2020, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested, and is attached hereto and made a part hereof by this reference as if fully set forth herein; and

**WHEREAS**, said public hearing before the City Council was conducted in all respects as required by the San José Municipal Code and the rules of this City Council; 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 project site is located on the northwest corner of Race Street and Parkmoor Avenue and is generally bounded by Race Street, Parkmoor Avenue, Meridian Avenue, and Harmon Avenue. The site is developed with three commercial office buildings totaling approximately 212,806 square feet and warehouses totaling approximately 150,635 square feet, a four-level parking structure with 488 stalls and associated landscaping and surface parking. The approximately 11.87-gross acre site abuts Vocera Communications, a commercial office building on the north and northeast and shares a cul-de-sac with a residential multi-family complex on the northeastern site boundary. Uses surrounding the project site include a commercial shopping center to the west, multi-family residential on the north and east, a motorcycle dealership on the north, a private school on the southeast, and commercial buildings to the north and south. Further south of the site is Interstate 280. The Valley Transportation Authority (VTA) Green Line light rail line is located along the southeast corner of the site.

*Site History*

On December 4, 2018, the City Council adopted Resolution No. 78904, amending the San José 2040 General Plan to modify the Land Use/Transportation Diagram from Industrial Park to Combined Industrial/Commercial at 550, 570 and 460 Meridian

Avenue.

**Project Description.** The project is a Conditional Use Permit (CP19-013) to allow demolition of one existing 60,000-square foot commercial office building fronting Parkmoor Avenue and three warehouse buildings on the southwest corner of Race Street and Parkmoor Avenue totaling 150,635 square feet, for a total of 210,635 square feet, and allow the phased construction and operation of an approximately 458,155-square foot above-grade and approximately 89,304 square feet below-grade private school (toddler through 12th grade, ages 2 to 18) for up to 2,744 students and 480 faculty at final build-out. The total student population (2,744 students) would include: up to 24 students in the toddler [daycare] program; up to 272 students in the Early Learning Center Program; up to 160 students in the Kindergarten program; up to 880 students in grades 1 through 5; up to 528 students in grades 6 to 8; and up to 880 students in grades 9 to 12. Two existing office buildings along Meridian Avenue (Buildings 1 and 2) totaling approximately 152,806 square feet and an existing 4-level above-ground parking structure fronting Harmon Avenue and located east of Building 1, would be maintained and reused for the private school use. Site improvements would include an approximately 1.14-acre sports playing field with a total of 14 pole-mounted LED lights not exceeding 25 feet to illuminate the sports field, and four new buildings, two of which would include below-grade levels. The project would also include the removal of 122 on-site trees, nine of which are ordinance-size trees.

#### Construction Phasing

The construction of the school campus would be carried out in four main phases, where Phase 1 would be divided into two phases (Phase 1A and Phase 1B). The phasing is triggered by student count. Construction of all four phases would take approximately ten to fifteen years.

**Phase 1A.** Phase 1A would include the adaptive reuse of two floors of an existing three-story commercial office building (570 Meridian Avenue) for school and administrative purposes, comprising approximately 35,515-gross square feet. The building would accommodate 150 students from 3rd to 12th grade and 60 faculty and staff. This phase would require interior tenant improvements and retrofitting for the private school use and minor exterior work.

**Phase 1B.** Phase 1B would include:

- Adaptive reuse of an existing three-story commercial office building (550 Meridian Avenue, sister building to 570 Meridian Avenue), comprising approximately 76,852-gross square feet,
- Remaining adaptive reuse and tenant improvements for the approximately 76,735-gross square foot building at 570 Meridian Avenue (i.e., third floor and partial areas on ground and second floors);
- Demolition of a 60,000-square foot commercial office building (1401 Parkmoor

Avenue) and three warehouse buildings along Race Street totaling 150,635 square feet;

- Partial construction of the gymnasium building ("Building 4 West" approximately 28,000 square feet) and construction of a 53-foot tall, 50-foot wide portal structure between and connecting 550 Meridian Avenue (Building 1) and 570 Meridian Avenue (Building 2); and
- Site improvements including the development of a 1.14-acre sports playing field located along Parkmoor Avenue and the addition of landscaping improvements around the new buildings.

The total building area under Phase 1A and Phase 1B would be approximately 184,000 gross square feet above grade (excluding the existing parking structure area). Following completion of improvements, Phase 1A and Phase 1B would accommodate a total of 1,112 students from toddler through 12th grade and 268 faculty and staff.

**Phase 2.** Phase 2 would include the construction of an approximately 120,750-square foot academic building (Building 6) located along Parkmoor Avenue, east of the sports field constructed in Phase 1B.

Phase 2 would also create a rooftop playground on the southern portion of the top floor of the parking structure (eliminating approximately 13 parking stalls). Site improvements would include landscaping improvements and the addition of surface parking.

Following Phase 2 improvements, the project would accommodate 2,120 total students (toddler through 12th grade) and 381 faculty and staff.

**Phase 3.** Phase 3 of the project would include the expansion of Building 4 and the construction of Building 5 along Race Street to facilitate the expansion of the gymnasium facilities, including an aquatic center and theater encompassing approximately 87,000 gross square feet above grade. This phase would include the excavation of approximately 43,000 cubic yards for a two levels of below-grade parking to accommodate 147 parking stalls under Building 5, and wet lockers beneath Building 4.

After Phase 3, the project would accommodate 2,592 total students (toddler through 12th grade) and 463 faculty and staff.

**Phase 4.** The fourth and final phase of project construction would include the construction of an approximately 67,000-square foot academic building (Building 7) with a basement level located on the southeast corner of the campus. Additionally, this phase would include approximately 7,000 cubic yards of excavation.

Phase 4, the final project build-out, would allow a maximum enrollment of 2,744 students (grades toddler through 12th) and 480 faculty and staff. The project would cumulatively require 618 vehicle parking spaces and 751 bicycle parking spaces. The

project would provide 642 vehicle parking spaces and 751 bicycle parking spaces.

2. **General Plan Conformance.** The project site has an Envision San José 2040 General Plan designation of Combined Industrial/Commercial. The Combined Industrial/Commercial designation allows significant flexibility for the development of a varied mixture of compatible commercial and industrial uses, including hospitals and private community gathering facilities. A private school and daycare are allowed in the Combined Industrial/Commercial designation with a Conditional Use Permit. This designation supports Floor Area Ratios (FARs) of up to 12:1 and developments up to 24 stories in height.

The project conforms to the following key General Plan policies and goals:

- a) Land Use and Employment Goal, IE-1. Proactively manage land uses to provide and enhance economic development and job growth in San José.
- b) Business Growth and Retention Policy IE-2.9. Partner with public, private, and non-profit organizations, and continue to develop partnerships with San José State University, community colleges and other educational institutions to advance economic development goals, meet the needs of businesses, and resolve constraints to business operations at the local, state and federal levels.
- c) Broad Economic Prosperity Policy IE-6.2. Attract and retain a diverse mix of businesses and industries that can provide jobs for the residents of all skill and education levels to support a thriving community.
- d) Broad Economic Prosperity Policy LU-11.1. Foster development patterns that will achieve a complete community in San José, particularly with respect to increasing jobs and economic development and increasing the City's jobs-to-employed ratio while recognizing the importance of housing and resident workforce.

*Analysis (a-d): The overarching goal of Land Use and Employment in the General Plan is to grow San José's economic role within the region. The project involves the construction and operation of a state-of-the-art campus in San José serving 2,744 students in pre-kindergarten through high school. The campus would be part of a network of internationally connected and interdependent campuses located in global cities. The subject project represents the first campus by New-York based Avenues on the West Coast and would advance the economic development goals by generating local jobs for the 458,155-square foot campus and establishing a new school serving families with children in grades daycare through high school. The school would provide additional educational options in the community and contribute to the City's jobs-to-employed resident ratio by providing local jobs.*

- e) Private Gathering Facility Policy VN-5.3. Encourage Private Community Gathering Facilities as a primary or secondary dual- or multi-use with other activities. The City should strongly promote the incorporation of spaces suitable for public assembly within new mixed-use development within Urban Villages (e.g., include

dual- or multi-use assembly space as a first-floor or second-floor portion of a development that also includes retail, residential or other employment uses.) Support dual- or multiuse of existing facilities, such as schools or Private Community Gathering Facilities, so that these sites, buildings, and parking areas are utilized throughout the week for multiple purposes

- f) Goal ES-1 – Education. Promote the operation of high-quality educational facilities throughout San Jose as a vital element to advance the City’s Vision and goals for community building, economic development, social equity, and environmental leadership.
- g) Education and Services Policy ES-1.3. Encourage new schools, including public and private, to locate near populations which they serve.
- h) Education and Services Policy ES-1.7. Support efficient use of land through consideration of smaller school sites and alternative school configurations (e.g., multi-story buildings, underground parking, placement of recreation space over parking areas or on rooftops) to support the needs of each community.

*Analysis (f-h): The project would include the construction of a state-of-the-art private school campus meeting the green building goals of the City. The new school would serve local students but be part of a global school organization. The school design would include and feature multi-story buildings, underground parking, and placement of recreation space over buildings to maximize the available project site square footage.*

- i) Education and Services Policy ES-1.10. Encourage and enable the use of available school facilities for child care, private community gathering facilities, public recreation facilities and other dual- and multi-use purposes.

*Analysis: The new school would support private community gathering facilities and encourage the use of its recreation facilities, including indoor and outdoor athletic facilities for on-going and one-time events outside of normal school operating hours and during the summer months.*

### 3. Zoning Conformance.

The site is in the CIC Combined Industrial/Commercial Zoning District which conforms to the Envision San José 2040 General Plan Land Use/Transportation Diagram designation pursuant to Municipal Code Section 20.120.110. Pursuant to Table 20-110 of Municipal Code Section 20.50.100, the CIC Combined Industrial/Commercial Zoning District requires a Conditional Use Permit for private elementary and secondary school uses and day care center uses.

The development would adhere to the development standards enumerated in Section 20.50.200 (Table 20-200, Industrial Zoning Districts Development Standards) as described below.

Minimum lot size. The CIC Combined Industrial/Commercial Zoning District has a

minimum lot area of 6,000 square feet.

Front Setback. The minimum front setback is 15 feet.

Side Setback. The minimum side setback is 0 from the property line or 25 from residential district, whichever is greater.

Rear Setback. The minimum side setback is 0 from the property line or 25 from residential district, whichever is greater.

Maximum Height. The maximum height is 120 feet.

*Analysis: The project's Parkmoor Avenue, Race Street, and Meridian Avenue frontages are subject to the front setback requirements and the remaining property line partially along Harmon Avenue would be subject to the rear setback requirements. As described above, the project would conform to the required fifteen-foot setback as Buildings 1, 2, 5, 6 and 7 are all set back from the respective front property line at least fifteen feet. Buildings 3 and 4 are set back approximately 20 feet and 6 feet, respectively, from the rear property line which is in conformance with the zero-minimum rear setback. Buildings 1, 2, 3, 4, 5 and 6 are three stories, three stories, four levels, two and a half stories, three stories, and six stories, respectively, where the six-story building would reach approximately 90 feet from grade to parapet and in conformance with the maximum 120-foot height allowed. Building 7 proposed on the southeast corner near the Race Street and Parkmoor Avenue intersection would be the tallest building at 10 stories (120 feet) in height which is in conformance with the maximum height allowed for the district.*

Parking. In accordance with Chapter 20.90 (Parking and Loading), of the City of San José Municipal Code, the following vehicle and bicycle parking capacities are required for each use proposed:

- **Day care center:** 1 per 6 children, up to 5 spaces and thereafter 1 per 10 children (includes employee parking). 1 bicycle parking space required per 10 full-time employees and children. The project would require 34 required vehicle parking spaces and 40 bicycle parking spaces.
- **School (K-8):** 1 per teacher, plus 1 per employee. 1 bicycle parking space required per 10 full-time employees and children. The project would require 260 vehicle parking spaces and 416 bicycle parking spaces.
- **School (9-12):** 1 per teacher, plus 1 per employee, plus 1 per 5 students. 1 bicycle parking space required per 10 full-time employees and children. The project would require 324 vehicle parking spaces and 295 bicycle parking spaces.

*Analysis: Consistent with the required parking count, the final build-out (Phase 4) of the project would provide 642 parking spaces and 751 bicycle parking spaces. Each phase of the development would also comply with the requirements. Phase*



*I would require 280 vehicle parking spaces and 284 bicycle parking spaces; 495 vehicle parking spaces and 284 bicycle parking spaces would be provided. Phase 2 would require 462 vehicle parking spaces and 528 bicycle parking spaces; 495 vehicle parking spaces and 528 bicycle parking spaces would be provided. Phase 3 of the project would require 563 vehicle parking spaces and 750 bicycle parking spaces; consistent with the requirements. At build-out (Phase 4), the project would require 618 parking spaces and 751 bicycle parking spaces and the project would provide 642 vehicle parking spaces and 751 bicycle parking spaces.*

Landscaping and Screening.

- 1) All setback areas, exclusive of permitted off-street parking areas and private egress, or circulation, shall be landscaped.
- 2) A four-foot high parking screen is required when residential uses are located across the street. Attractive walls, dense landscaping or depressed parking are acceptable screening solutions.
- 3) All landscaped areas shall be designed and maintained in conformance with City Council Policy No. 6-29, entitled "City Council Policy on Post Construction Urban Runoff Management," as the same may be amended time to time.

*Analysis: As shown on the approved plan set, the project includes a comprehensive Landscape Plan where all setback areas, exclusive of permitted off-street parking areas and private egress, or circulation, would be landscaped. The trash pad/loading dock along Harmon Avenue would be screened with dense vegetation; the building façade (Building 3) for the trash enclosure would be treated with a living wall to soften the look of the parking structure.*

Lighting. Pursuant to Section 20.50.260, all lighting or illumination shall: 1) Conform with any lighting policy adopted by the city council, 2) Light fixtures heights should not exceed eight feet when adjacent to residential uses unless the setback of the fixture from property line is twice the height of the fixture. No ground mounted light fixture shall exceed twenty-five feet in height, and 3) Any lighting located adjacent to riparian areas shall be directed downward and away from riparian areas.

*Analysis: The project is in conformance with City Council Policy 4-3 (Outdoor Lighting on Private Developments) and other city council adopted lighting policies. The project would include a sports field set back approximately 500 feet from the center of the turf to the nearest residential use, with dark-sky compliant field light fixtures erected on poles not exceeding 25 feet. A photometric study prepared by the project architect Efficiency Lab for Architecture (Efficiency Lab for Architecture PLLC, 2019) and referenced in the environmental document (Page 43-44 of the Avenues: World School EIR, March 2020) specifically analyzed the sports field lighting and illustrates the primary source of new nighttime lighting from the project would result from the pole-mounted sports lights at the sports field adjacent to Parkmoor Avenue; however, the lights would be fully shielded and designed to focus the beam onto the playing field*

*and minimize the amount of light escaping into the sky or onto adjacent uses. The sports field (turf grass, lighting, bleachers) would be installed during Phase 1B and the activity and field lighting would be buffered by the construction of Building 6 (east of sports field) at Phase 2. As stated in the photometric study, after completion of project Phases II and III, Buildings 5 and 6, being substantially taller than the field lights would shield the existing multifamily residences on Race Street from exposure to nighttime lighting created by the field lights. Further, the lights would be shielded and directed downward so as not to create glare for adjacent traffic or create unsafe driving conditions on the surrounding roadways. Use of the sports field, including the lighting, would be limited to 4 p.m. to 10 p.m., Monday through Friday and 4 p.m. to 9 p.m. on Saturday and Sunday.*

*All exterior lighting proposed near Harmon Avenue (nearest to residential use) are bollards to light the walkways and do not exceed eight feet. The project site is not located adjacent to any riparian areas.*

Noise. Pursuant to Section 20.50.300 of the Municipal Code, the sound pressure level generated by any use or combination of uses shall not exceed the decibel level at any property line as shown in Table 20-135, except upon issuance and in compliance with a special use permit as provided in Chapter 20.100. Maximum noise level in decibels at property line for industrial use adjacent to a property use or zoned for residential purposes is 55 dBA DNL; 60 dBA DNL for industrial use adjacent to a property used or zoned for commercial purposes; and 70 dBA DNL for industrial use adjacent to a property used or zoned for industrial or use other than commercial or residential purposes.

*Analysis: As described above, the project site is adjacent to residential uses (northwest, Harmon Avenue) and commercial uses (northeast, property line abutting commercial office building). The project applicant would be required to prepare a Construction Noise Logistics Plan and adhere to best management practices for noise reduction during construction activities and utilize mechanical equipment designed to reduce excessive noise levels at the surrounding uses to meet the City's 55 dBA DNL adjacent to residential uses and 60 dBA DNL adjacent to commercial uses for the school's operation. In addition, construction hours shall be limited to 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.*

*Outdoor/exterior learning activity noise levels were analyzed in a Noise and Vibration Assessment Report prepared by Illingworth and Rodkin, Inc. dated October 16, 2019. The outdoor/exterior activity area would be located approximately 220 feet from the nearest residence to the northwest and 250 feet from the nearest residence northeast of the site. The Noise and Vibration Report concluded that the outdoor play and activity areas' activities would produce noise levels ranging from 54 to 55 DBA DNL at the nearest residential properties, consistent with the Municipal Code Noise Standards in Section 20.50.130. Additionally, the noise levels produced by the outdoor activities*

would typically be lower than the noise produced by traffic along Meridian Avenue. The project's turf fields, located centrally on the campus would generate the most noise. However, the nearest residences would be located over 500 feet from the turf fields and would experience noise levels up to 54 dBA DNL consistent with the noise limits set forth in the Municipal Code.

Finally, the design of the project also considered ways to reduce the impact of existing noise environment on the future students using the playgrounds north of Building 1, consistent with the General Plan acceptable noise levels. In order to reduce the ambient noise levels existing on-site due to traffic, the playgrounds would incorporate 5-foot-high earthen berms in the playground design as shown on the approved plan set to lower the ambient noise from 62-63 DBA DNL on-site to less than 60 DBA DNL on-site.

## 5. City Council Policies.

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

Under City Council Policy 6-30, the project is a large development proposal project. Council Policy 6-30 specifies the public outreach and communication required regarding development projects including posting a notice of development application on the project site, hosting a community meeting which is appropriately advertised to the community, and providing Public Hearing Notices to the public in a timely manner to an appropriate project radius. Under City Council Policy 6-30, a large project requires notification to property owners and tenants within 1,000 feet of the project site.

*Analysis: Following City Council Policy 6-30, the project applicant posted on-site signs in May 2019 to inform the surrounding neighborhood of the project. On July 18, 2019, the City hosted a community meeting in conformance with the Public Outreach Policy 6-30. Comments at the community meeting were made with respect to timeline for permits, school operation and traffic circulation, and traffic impacts to the general community. Staff received an additional comment after the community meeting regarding queuing of vehicles on Parkmoor Avenue affecting Northup Street vehicle egress. As discussed above, the school project would be completed in four main phases, serving approximately 2,744 students from pre-Kindergarten to 12<sup>th</sup> grade, ages 2 to 18 with approximately 480 faculty and staff. The total student population (2,744 students) would include: up to 24 students in the toddler [daycare] program; up to 272 students in the Early Learning Center Program; up to 160 students in the Kindergarten Program; up to 880 students in grades 1 through 5; up to 528 students in grades 6 through 8; and up to 880 students in grades 9 through 12. Potential traffic impacts have been analyzed in the environmental document and found to be less than significant with mitigation measures incorporated. Specifically, the project would be required to implement a Transportation Demand Management (TDM) Plan to ensure the project reduces per-student Vehicle Miles Traveled (VMT) by 17 percent. The*

*hearing and community meeting notices were sent to all owners and tenants within 1,000 feet of the project site. Staff contact information was published on the posted Notice of Development sign located on the project frontage and available on the mailing notices. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.*

City Council Policy 6-14: Guidelines for Child Care

The City Council Policy 6-14: Guidelines for Child care are intended to:

1. Create safe environments for all children in child care facilities in San José
2. Ensure that child care facilities are good neighbors, and are compatible with their surroundings
3. Provide guidance to child care providers on how to successfully design and operate facilities with greater certainty; and
4. Consolidate the guidelines for use by child care providers, decision-makers, and City staff on the location, design, and operation of child care facilities.

The Guidelines focus on the following categories:

- 1) Facility and Location: New childcare facilities should be located in conjunction with church uses or school sites or in non-residential areas to provide support for surrounding employment uses or in residential areas on major collector and arterial streets. In non-residential areas the uses should not be located near any facilities that would impact the health and safety of children. New childcare facilities are discouraged on residential streets with limited access.
- 2) Traffic and Circulation: Child care pick-up and drop-off should not cause on-street stacking. The on-site circulation should be designed to accommodate pick-up and drop-off on-site with adequate driveways and turn-around areas.
- 3) Parking and Drop-off: Parking should be provided in accordance with the Municipal Code requirements and located out of the front and side setback areas. Child care centers should provide short term parking for drop-off and pick-up.
- 4) Site Design: The child care center should conform to Zoning Code setback and height standards and should be on sites that can adequately support on-site circulation, parking, play areas and setbacks (typically at least 10,000 square feet). The outdoor play areas should be located away from adjacent residences, as feasible and a minimum of five feet perimeter landscaping should be provided to buffer the active play areas and 10 feet to buffer the parking areas from any residential uses. Proposed buildings or additions should be architecturally compatible with other development on-site and the surrounding neighborhood character. Roof equipment should be screened from public streets and located away from adjacent residential uses.
- 5) Number of Children: The maximum number of children shall not exceed that

allowed by the State Community Care Licensing requirements.

- 6) Operation: Child care centers adjacent to residential neighborhoods should operate from 6:00 a.m. to 7:00 p.m. The center should meet the General Plan and Zoning General Plan noise standards.

*Analysis: Pursuant to the Guidelines (1-4), a child care center is defined as any child care facility, including a preschool, other than a Family Care Home, which provides non-medical care to children under eighteen (18) years of age in need of personal services, supervision, or assistance for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. Thus, as defined in the Guidelines for Child Care, the subject project includes a child care center (pre-school/day care). The Guidelines focus on the following categories: 1) Facility and Location, 2) Traffic and Circulation, 3) Parking and Drop-off, 4) Site Design, 5) Number of Children, and 6) Operation, as described above.*

*The day care center would operate as an incidental use to the school and is an allowed use in the CIC Combined/Industrial Commercial Zoning District with a Conditional Use Permit. Access to the school generally and the day care center specifically would not negatively impact off-site traffic flow as the school construction and operation would be phased. The school and day care operations would queue vehicles on-site via two internal drop-off lanes/loading zones accessed from Harmon Avenue and Race Street which could accommodate up to 39 vehicles. Per the Traffic Analysis prepared by Hexagon in a report dated March 12, 2020, with the implementation of the Transportation Demand Management (TDM) program (e.g., trip cap, commute trip reduction marketing/educational campaign, school carpool program, bicycle storage), the project impact on Vehicle Miles Traveled (VMT) would be less than significant. Furthermore, the project would be required to contribute to off-site improvements, including traffic-calming measures to address expected increases in the volume of traffic. In addition, arrival and dismissal times for the school campus would be staggered in order to mitigate traffic and circulation congestion during pick-up and drop-off times. According to the Traffic Analysis prepared by Hexagon Transportation Consultants dated March 12, 2020, the project would stagger start times between the lower grades and high school students by 15 to 90 minutes in order to achieve reasonable drop-off operations in the morning. Parents would have a drop-off span of approximately 30 minutes for the lower grades and 60 minutes for the high school before the first bell. Toddlers would not participate in after-school programs; therefore, pick-up time for toddlers would occur between 3:00 p.m. and 3:40 p.m.*

*As described above, parking for the school project at full build-out would require 618 vehicle parking spaces in accordance with Chapter 20.90 of the Zoning Ordinance and 642 spaces would be provided. With respect to site design, the school site would meet all setback requirements and is of a lot size (11.87-gross acres) capable of accommodating typical school operation and activities, including on-site circulation, parking, classroom buildings and active outdoor play areas. The outdoor play areas*

*are located with a minimum five feet of perimeter landscaping to buffer the activity and noise from the residential use on Harmon Avenue. As discussed above, the overall design of the school campus was reviewed in conformance with the Commercial Design Guidelines and the Industrial Design Guidelines to ensure compatibility with surrounding buildings. All roof equipment, trash enclosures, and mechanical equipment would be screened from view from public streets and located away from the edge of the roofs to minimize potential for nuisances to any adjacent residences. The number of day care students, including toddlers and the Early Learning Center Program students, is estimated to include 296 students (of the total school enrollment of 2,744) under the subject Conditional Use Permit where the child day care center use would be incidental to the school. Pursuant to the Guidelines on Child Care, operating hours of the child care use would be limited to 6 a.m. to 7 p.m., Monday through Friday. The incidental daycare would comply with State laws on child care.*

*Outdoor/exterior learning activity was analyzed in a Noise and Vibration Assessment Report prepared by Illingworth and Rodkin, Inc. dated October 16, 2019. According to the report, the City's acceptable exterior noise level objective is 60 dBA DNL or less for the school use and 65 dBA DNL for outdoor sports and recreational uses. Although outdoor learning activities and outdoor play would occur north of Building 1 (nearest the residential use) and have the potential to increase ambient noise levels, a minimum five-foot noise barrier – which is shown as a berm on the approved plan set- would provide the necessary noise level reduction to meet the normally acceptable exterior noise level threshold.*

- 6. Design Guidelines.** The project was reviewed in conformance with the Commercial Design Guidelines and the Industrial Design Guidelines given the site's CIC Combined Industrial/Commercial Zoning District.

*Analysis: With respect to building form and scale, the Commercial Design Guidelines recommend the scale of new buildings be compatible with, although not necessarily the same as, adjacent buildings with special care to achieve compatibility next to small scale buildings. The project site is surrounded by one- and two-story commercial buildings and a mix of two-story and four- to five-story multi-family residential buildings. As such, the new buildings located along a shared property line follow the form and scale of the nearest buildings. Except for Building 7, no new buildings on the northern half of the campus are taller than three stories. Building 7, which would be located on the southeast corner near the intersection of Race Street and Parkmoor Avenue, would be the tallest building at 10 stories (120 feet) in height; Building 6, east of the sports field, and west of Building 7 would be six stories. Buildings closest to the main street frontages are on the southern half of the project site and include Buildings 2, 6, and 7; buildings on the northern half of the project site include Buildings 1, 3 (parking structure), 4, and 5. The project site would be accessible via Race Street (east), Parkmoor Avenue (south), and Harmon Avenue (north).*

*Colors and materials would be varied to provide architectural interest; buildings and*

*outdoor spaces would be sited and organized around a central-axial pedestrian campus walk that would link the functional and programmatic components of the school reflective of the institutional nature.*

*The project landscaping follows the Industrial Design Guidelines in that all areas not covered by structures, walkways, driveways and parking spaces are landscaped and the unity of the landscape design is achieved repeating certain plant varieties. Specifically, the school's western perimeter would be buffered by an oak savannah landscape, dense vegetation, and complementary bio-retention areas; living green walls would also be included on the northern façades of Building 4 and Building 3.*

7. **Environmental Review.** The City of San José, as the lead agency for the proposed project, prepared a Draft Environmental Impact Report (DEIR), which was circulated for public review and comment from March 27, 2020 to May 10, 2020. A First Amendment to the DEIR was prepared that provided responses to public comments submitted during the public circulation period and revisions to the text of the DEIR. The First Amendment together with the DEIR constitute the Final Environmental Impact Report (FEIR) for the proposed project. Potential environmental impacts to Air Quality, Biological Resources, Cultural Resources, Hazardous Materials, Noise, Transportation and Traffic are found to be less than significant with mitigations incorporated.

The DEIR analyzed four project alternatives that could lessen the significant effects of the project and achieve the project objectives, in accordance with CEQA Guidelines Section 15126.6. The alternatives included:

- **No Project/No Development Alternative-** This alternative considers what would reasonably be expected to occur in the foreseeable future if no project were approved and no new development would occur. Since the site is developed with three office buildings (two of which are vacant), it was anticipated the buildings would all be occupied increasing traffic generated from the currently single-occupied office building on-site. The project would avoid most of the environmental impacts of the project including construction and operational impacts to neighboring residential uses; however, none of the project objectives would be satisfied.
- **No Project/Existing General Plan/Zoning Development Alternative-** This alternative considered the re-development of the site consistent with the current IP Industrial Park Zoning District. The alternative considered the development of approximately 500,000 square feet of commercial and light industrial space with building between three and five stories in height, consistent with the Zoning District and General Plan Land Use Designation. This alternative would have a similar building footprint to the proposed project and similar impacts would result from the alternative's construction. The majority of the project's goals pertaining to the establishment of a private school would not be satisfied.

- **Reduced Intensity Alternative**-This alternative would develop a private school with a smaller enrollment, staff, and school size. The alternative analyzed 2,244 students, 390 staff members, and the reduction of approximately 20-25 classrooms (approximately 76,000 square feet). While the reduced alternative would reduce trips generated to the site, the private school could still generate vehicle miles travelled impacts (VMT) with students and staff traveling throughout the region to attend the school and therefore the reduced alternative would continue to require mitigation to reduce VMT impacts. Additionally, construction of the reduced size school would result in lessened yet similar air quality impacts requiring mitigation. Operational and construction noise impacts would also continue to result from the reduced alternative. While this alternative would meet most of the project objectives, it could result in the loss of the Kindergarten/Day Care use of the school.
- **Adjusted Design Alternative**- This alternative would reduce the building footprints and would require re-design of additional on-site buildings. While this alternative could meet most of the project alternatives and would avoid hazardous materials impacts it could result in demolition of the parking structure and Building 1 which could increase energy and GHG impacts.

The DEIR identified that the environmentally superior alternative would be the No Project-No Development Alternative, which would avoid all project impacts, however it would achieve none of the project objectives. Beyond the No Project – No Development Alternative, the Reduced Intensity Alternative would be the environmentally superior alternative.

The DEIR was circulated for public review and comment from March 27, 2020 to May 10, 2020. Six comments were received during public circulation including five from regional and local agencies and one from a member of the public. The comments included:

- Clarifications from the Norman Y. Mineta Airport to the Airports and Airport Hazards discussion in the DEIR
- A request for traffic analysis of certain County intersections by the Santa Clara County Roads and Airports Department
- Concerns from the Bay Area Air Quality Management District regarding the Health Risk Assessment analysis, construction phasing analysis, and requirements for potential for asbestos demolition. The commenter also provided clarification on Air District permitting regulations.
- Santa Clara Valley Water District clarified the watershed, dam, and sub basin terms and discussion in the DEIR and noted no encroachment permit would be required for the project.



- Santa Clara Valley Transportation Authority acknowledged the inter-agency coordination between the City, VTA, Federal Railroad Administration, and California Public Utilities Commission to resolve any conflicts with the Race Street Light Rail Station and Route 64b along Meridian Avenue. The comment identified concerns with the pedestrian and bus stop improvements near the light rail station and requested clarification on the site access and circulation plans for the project. Clarifications regarding the bicycle share program were noted and the commenter requested additional information regarding the Quiet Zone for the Vasona Rail Corridor. A safety study for the school and additional information regarding the TDM plan were requested.
- A member of the public, Gavin Lohry requested the contact information for the project developer.

#### *DEIR Recirculation Unnecessary*

The public circulation comments, and comments received leading up to the Planning Commission hearing, in addition to testimony during the hearing, did not identify inadequacies in the DEIR nor present new previously unidentified significant impacts that require recirculation. The recirculation of an EIR is required when significant new information is added to the EIR after public notice is given of the availability of the DEIR for public review but before certification. "Information" can include changes in the project or environmental setting as well as additional data or other information. New information added to a Draft EIR is not "significant" unless the DEIR is changed in a way that deprives the public of meaningful opportunity to comment on a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (CEQA Guidelines Section 15088.5). No new significant information has been added to the DEIR since publication of the DEIR; therefore, it does not need to be recirculated.

**8. Conditional Use Permit Findings:** Chapter 20.100 of the San José Municipal Code establishes evaluation criteria for the issuance of a Conditional Use Permit. These criteria are applied to the project based on the above-stated findings related to General Plan, Zoning and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in the permit.

1. The Conditional Use Permit, as approved, is consistent with and will further the policies of the General Plan, applicable specific plans, and area development policies; and

*Analysis: As discussed above, the project is consistent with the General Plan designation and policies in that the project involves the construction of a school, an institutional use, which is allowed in the Combined Industrial/Commercial designation and would advance the economic development goals by generating jobs and providing a flexible space for school and community events. Community events would occur outside of normal school hours but within the school operation*

hours. Generally, community events would take place after 5 or 6 p.m. during the week and end no later than 10 p.m. in accordance with the hours of use. Per the hours of use condition, weekend days (Saturday, Sunday) events could begin at 7 a.m. and end no later than 9 p.m. At no time will events during the week or weekends extend past 10:00 p.m. Events involving the use of the sports field would be subject to conditions of approval which limit the use of the sports field from 4 p.m. to 10 p.m. Monday through Friday, and until 9 p.m. on Saturday and Sunday.

2. The Conditional Use Permit, as approved, with the zoning code and all other provisions of the San José Municipal Code applicable to the project; and

*Analysis: The project conforms to the CIC Combined Industrial/Commercial Zoning District development regulations and standards. As discussed above, a private school and incidental day care are permitted uses in CIC Combined Industrial/Commercial Zoning District with a Conditional Use Permit. The project would comply with all setbacks and the 120-foot maximum height limitation. Although the school project would be constructed in four phases, the required vehicle and bicycle parking would be adequately provided at each phase. As detailed above under project phasing, at full build-out, the school use would require 618 vehicle parking spaces and 751 bicycle parking spaces, and the project would provide 642 vehicle parking spaces and 751 bicycle parking spaces. In accordance with the performance standards, exterior lighting fixtures would not exceed 25 feet in height and all loading and trash removal activities adjacent to the residential use on Harmon Avenue would be setback and properly screened. Additionally, as described above, the Noise and Vibration Report prepared by Illingworth and Rodkin on October 16, 2019 concluded the outdoor school uses including the outdoor play activity area and fields, would not generate noise levels above 55 dBA DNL at the nearest residential properties, consistent with the noise standards of the Municipal Code. As described above, the drop-off/pick-up times would be staggered. All after school activity and weekend events will be subject to the hours of use (Monday through Friday, 7 a.m. to 10 p.m.; Saturday and Sunday, 7 a.m. to 9 p.m.; sports field lighting from 4 p.m. to 10 p.m., Monday through Friday, and until 9 p.m. Saturday and Sunday).*

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

*Analysis: Staff followed Council Policy 6-30: Public Outreach Policy to inform the public of the project. A sign describing the project was posted on the project site frontage in May 2019 and is visible from Parkmoor Avenue and Meridian Avenue (southwest corner of project site). A community meeting was held on July 18, 2019 to better inform the surrounding community of the subject project. Comments at the community meeting were made with respect to timeline for permits, school operation and traffic circulation, and traffic impacts to the general community. Staff received an additional comment after the community meeting*

*regarding queuing of vehicles on Parkmoor Avenue affecting Northup Street vehicle egress. As discussed above, the school project would be completed in four main phases, serving approximately 2,744 students from pre-Kindergarten to 12<sup>th</sup> grade, ages 2 to 18 with approximately 480 faculty and staff. Potential traffic impacts have been analyzed in the environmental document and found to be less than significant with mitigation measures incorporated. Specifically, the project would be required to implement a Transportation Demand Management (TDM) Plan to ensure the project reduces per-student Vehicle Miles Traveled (VMT) by 17 percent. Both the community meeting notice and notice of the public hearing were distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. Staff have been available to answer questions from the public. The project is also consistent with the Child Care Policy 6-14. As described above, the project would conform to the enumerated child care guidelines: 1) Facility and Location, 2) Traffic and Circulation, 3) Parking and Drop-off, 4) Site Design, 5) Number of Children, and 6) Operation. The project is also consistent with the City's Lighting Policy (4-3) in that all outdoor lighting will preserve energy, will be downlit and unobtrusive, and protect the night sky. The sports field lighting is in conformance with the requirements of the Combined Industrial/Commercial Zoning District in that it will not exceed 25 feet and would be designed to be confine spill light to the campus.*

4. The proposed use at the location requested will not:
  - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
  - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
  - c. Be detrimental to public health, safety or general welfare; and

*Analysis: As described above, the project is located in an area with a mix of residential and commercial uses. The school use would be compatible with the surrounding residential and commercial uses. Consistent with the Commercial and Industrial Design Guidelines, special consideration to building form, massing, and height were made to ensure the design of the buildings, landscaping and outdoor spaces would be harmonious with the surroundings. The school use would constitute a second school site within the immediate vicinity. Therefore, the project would not adversely affect the surrounding developments. Outdoor/exterior learning activity was analyzed in a Noise and Vibration Assessment prepared by Illingworth and Rodkin, Inc. dated October 16, 2019. According to the report, the City's acceptable exterior noise level objective is 60 dBA DNL or less for the school use and 65 dBA DNL for outdoor sports and recreational uses. Although outdoor learning activities and outdoor play would occur north of Building 1 (nearest the residential use) and have the potential to increase ambient noise levels, a minimum five-foot noise barrier – which is shown as a berm on the approved plan set- would provide the necessary noise level reduction to meet the normally acceptable exterior noise level threshold. The same Noise and Vibration*

*Assessment, also included analysis of the potential noise generated by sports field activities – the sports field is located over 500 feet from the nearest residences along Race Street – assuming unshielded conditions during Phase 1 of the project, average hourly noise levels would be 46 dBA Leq or less, with maximum instantaneous noise levels up to 53 dBA Lmax which is still in conformance with the 65 dBA DNL for outdoor sports and recreational uses. The project would be required to comply with the noise mitigation measures in the Mitigation, Monitoring, and Reporting Program (MMRP). A photometric study of the sports field lighting is included in the environmental review and shows that no spill light would occur at the nearby residential properties across Race Street or the commercial properties across Meridian Avenue. The field lights would be shielded and directed downward so as not to create glare for adjacent traffic or create unsafe driving conditions.*

4. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and

*Analysis: As described above, the 11.87-gross acre project site would be of a lot size able to accommodate outdoor common areas, fences, parking, vehicle and pedestrian circulation, loading, and landscaping. The school would be constructed in four phases to allow an orderly development of the site.*

5. The proposed site is adequately served:
  - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
  - b. By other public or private service facilities as are required.

*Analysis: Main vehicle access points to the site would be from Race Street and Harmon Avenue with vehicles exiting onto Parkmoor Avenue. The project would include two internal drop-off locations for students. The primary drop-off location would be on the west side of the school and the secondary drop-off location would be on the south side of the school. As stated in the Supplemental Traffic Analysis prepared by Hexagon Transportation Consultants on June 29, 2020, the project would have more than 1,000 feet of vehicle storage on-site; vehicle queue would not extend back onto the public right-of-way. Off-site improvements included as conditions of approval for the project would assist in trip distribution for parents picking up and dropping off students. The Race Street Light Rail Station is across the street from the project site on Race Street (approximately 130 feet) and would support alternative transportation access options to the site. The project site is approximately 500 feet from Interstate 280 and is within a developed area that is currently served by necessary private and public facilities.*

6. 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 affect on adjacent property or properties.

*Analysis: As stated above, the project would be developed in an urbanized area that is adequately serviced by all required utilities and public services. The Stormwater Control Plan is in compliance with the City's stormwater policies that require low impact development stormwater treatment measures to minimize stormwater pollutant discharges. Noise generated by outdoor activities associated with the school use would not exceed the noise levels listed in the Combined Industrial/Commercial Zoning District performance standards as described in the project's environmental document. The project would therefore not have an unacceptable impact on adjacent properties.*

7. **Tree Removal Findings**

Chapter 13.32 of the San José Municipal Code establishes required findings for a Tree Removal 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. In order to make the Tree Removal findings pursuant to Section 13.32.100 of the San José Municipal Code the City Council must determine:

- a. That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question;

*Analysis: There are currently 174 trees onsite representing 14 different species in poor, fair, and good condition per the Evergreen Consultants Arborist Report dated March 19, 2019. There are no Heritage Trees on or adjacent to the site that would be impacted by the project. The project will remove 122 trees, nine of which are ordinance-size trees in good condition. The trees to be removed are located within or near the footprint of four project buildings, associated walkways, and a sports field. In conformance with the tree preservation guidelines, 229 replacement trees would be required. In accordance with the City's tree replacement requirements, the project would provide a total of 115 24-inch box replacement trees which is equivalent to 230 15-inch box trees. Therefore, the tree replacement minimum tree replacement requirement is met.*

8. **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 approval of the demolition would be associated with a Conditional Use Permit and would result in a project with a structured phased construction schedule as described in detail above. The school project, as discussed above, is compatible with the surrounding area. The approval of the permit would not result in the demolition of existing residential structures. As described above, two existing commercial buildings would be adapted into academic buildings during Phase 1A but demolition would be required to facilitate development of the rest of school. The failure to approve the demolition permit could jeopardize the health, safety and welfare of the students and staff without the proper site design and circulation, and safety fencing associated with the larger project. None of the buildings that will be demolished are listed on the National Register of Historic Places (NRHP), California Register of Historic Resources (CRHR), City of San José Historic Resources Inventory or Santa Clara County Heritage Resources Inventory as stated in the Historic Resources Evaluation Report prepared by Archaeological/Historical Consultants dated January 2020. Per the findings in the Historic Resources Evaluation Report, although the warehouses along Race Street are more than fifty years old, after review of aerial photographs, building permits, and field visits conducted, the warehouses were found to lack integrity of setting and association to be designated as City Landmarks or be eligible for the CRHR or NRHP. Therefore, no historic structure or eligible historic structure would be demolished. As discussed above, the demolition would be phased and would not result in an adverse impact on the surrounding neighborhood.*

In accordance with the findings set forth above, a Conditional Use 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 approved. This City Council expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions,

each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

## CONDITIONS

1. **Acceptance of Permit.** Per Section 20.100.290(B) of Title 20 of the San José Municipal Code, should the permittee fail to file a timely and valid appeal of this Conditional Use Permit ("Permit") within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the permittee:
  - a. Acceptance of the Permit; 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 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/Amendment must be approved prior to the expiration of this Conditional Use Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Permit shall be deemed acceptance of all conditions specified in this permit and the permittee's agreement to fully comply with all 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. **Scope and Use Authorization of the Conditional Use Permit.** Subject to all conditions herein, this Permit allows the demolition of one existing 60,000-square foot commercial office building fronting Parkmoor Avenue and three warehouse buildings on the southwest corner of Race Street and Parkmoor Avenue totaling 150,636 square feet, for a total of 210,635 square feet, and the phased construction and operation of an approximately 458,155-square foot above-grade, and approximately 89,304-square foot below-grade private school (toddler [day care] through 12<sup>th</sup> grade, ages 2-18) for up to 2,744 students and 480 faculty at final build-out. The total student population (2,744 students) would include: up to 24 students in the toddler [daycare] program; up to 272 students in the Early Learning Center Program; up to 160 students in the Kindergarten program; up to 880 students in grades 1 through 5; up to 528 students in grades 6 through 8; and up to 880 students in grades 9 through 12. Two existing office buildings along Meridian Avenue (Buildings 1 and 2) totaling approximately 152,806 square feet and an existing 4-level above-grade parking structure would be maintained and reused for the private school use. Site additions and improvements would include an approximately 1.14-acre sports field with fourteen 25-foot field light posts, and four new school buildings, two of which would include below-grade levels, and the removal of 122 on-site trees, nine of which are ordinance-size trees on an approximately 11.87-gross acre site.

#### Construction Phasing

The construction of the school campus would be carried out in four main phases, where Phase 1 would be divided into two phases (Phase 1A and Phase 1B). The phasing is triggered by student count. Construction of all four phases would take approximately ten to fifteen years.

**Phase 1A.** Phase 1A would include the adaptive reuse of two floors of an existing three-story commercial office building (570 Meridian Avenue) for school and administrative purposes, comprising approximately 35,515-gross square feet. The building would accommodate 150 students from 3<sup>rd</sup> to 12<sup>th</sup> grade and 60 faculty and staff. This phase would require interior tenant improvements and retrofitting for the private school use and minor exterior work.

**Phase 1B.** Phase 1B would include:



- Adaptive reuse of an existing three-story commercial office building (550 Meridian Avenue, sister building to 570 Meridian Avenue), comprising approximately 76,852-gross square feet,
- Remaining adaptive reuse and tenant improvements for the approximately 76,735-gross square foot building at 570 Meridian Avenue (i.e., third floor and partial areas on ground and second floors);
- Demolition of a 60,000-square foot commercial office building (1401 Parkmoor Avenue) and three warehouse buildings along Race Street totaling 150,635 square feet;
- Partial construction of the gymnasium building (“Building 4 West” approximately 28,000 square feet) and construction of a 53-foot tall, 50-foot wide portal structure between and connecting 550 Meridian Avenue (Building 1) and 570 Meridian Avenue (Building 2); and
- Site improvements including the development of the sports playing field and 14 pole-mounted LED lights not exceeding 25 feet, located along Parkmoor Avenue and the addition of landscaping improvements around the new buildings.

The total building area under Phase 1A and Phase 1B would be approximately 184,000-gross square feet above grade (excluding the non-enclosed existing parking structure areas). Following completion of improvements, Phase 1A and Phase 1B would accommodate a total of 1,112 students from toddler through 12<sup>th</sup> grade and 268 faculty and staff.

**Phase 2.** Phase 2 would include the construction of an approximately 120,750-square foot academic building (Building 6) located along Parkmoor Avenue, east of the sports field constructed in Phase 1B.

Phase 2 would also create a rooftop playground on the southern portion of the top floor of the parking structure (eliminating approximately 13 parking stalls). Site improvements would include landscaping improvements and the addition of surface parking.

Following Phase 2 improvements, the project would accommodate 2,120 total students (toddler through 12<sup>th</sup> grade) and 381 faculty and staff.

**Phase 3.** Phase 3 of the project would include the expansion of Building 4 and the construction of Building 5 along Race Street to facilitate the expansion of the gymnasium facilities, including an aquatic center and theater encompassing approximately 87,000-gross square feet above grade. This phase would include the excavation of approximately 43,000 cubic yards for two levels of below-grade parking to accommodate 147 parking stalls under Building 5, and wet lockers beneath Building 4.

After Phase 3, the project would accommodate 2,592 total students (toddler through

12<sup>th</sup> grade) and 463 faculty and staff.

**Phase 4.** The fourth and final phase of project construction would include the construction of an approximately 67,000-square foot academic building (Building 7) with a basement level located on the southeast corner of the campus. Additionally, this phase would include approximately 7,000 cubic yards of excavation.

Phase 4, the final project build-out, would allow a maximum enrollment of 2,744 students (grades toddler through 12th) and 480 faculty and staff. The project would cumulatively require 618 vehicle parking spaces and 751 bicycle parking spaces. The project would provide 642 vehicle parking spaces and 751 bicycle parking spaces. Parking for special events and sports events would be accommodated within the 642 vehicle parking spaces provided on-site. For sport events specifically, although there is no separate requirement under the Municipal Code, the sports field hours of use are Monday through Friday, 4 p.m. to 10 p.m. and as such, in addition to the 24 vehicle parking spaces provided in excess of the required parking, because lower level grades would be dismissed earlier than 4 p.m., additional parking would be made available.

6. **Conformance to Plans.** The development of the site shall conform to the approved plans entitled, "Avenues: The World School – Silicon Valley campus," dated revised on June 15, 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."
7. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
8. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as conditioned.
9. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code.
10. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance or that adversely affects the peace, health, safety, morals or welfare of persons residing or working in the surrounding area or be detrimental to public health, safety or general welfare. Any such nuisance shall be abated immediately upon notice by the City.

11. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the approved plan set.
12. **Utilities.** All new on-site telephone, electrical, and other overhead service facilities shall be placed underground.
13. **Anti-Graffiti.** The permittee shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.
14. **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.
15. **Property Maintenance.** The permittee 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 parking lot such as striping, paving, lighting and landscaping.
16. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
17. **Lighting.** All exterior lighting shall be as shown on the approved plans. New on-site, exterior, unroofed lighting shall conform to the City's Outdoor Lighting Policy and shall use fully cut-off and fully shielded, low-pressure sodium. Any changes to the on-site lighting will require a Permit Adjustment. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property. Changes to the approved lighting shall require review by the Director of Planning, Building and Code Enforcement.
18. **Sports Field Exterior Lighting.** Sports field lighting posts shall not exceed 25 feet in height and shall only be for the purposes of illuminating the sports field from 4:00 p.m. to 10 p.m., Monday through Friday, and till 9 p.m. on Saturday and Sunday. Pursuant to Section 20.50.250 of the Municipal Code, no ground mounted light fixture shall exceed 25 feet. Changes to field lighting with respect to height are subject to discretionary review by the Director of Planning, Building and Code Enforcement or Director's designee.
19. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set.
20. **Mechanical Equipment.** The location of mechanical equipment (HVAC) shall be located as shown on the approved plans. New buildings shall screen mechanical equipment from view. Existing screening conditions on Building 1 and 2 (550 and 570 Meridian Avenue) to remain as currently built.
21. **No New Generators Approved.** This permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.

22. **Reclaimed Water.** The project shall conform to Chapter 15.10 and 15.11 of the San José Municipal Code. The Code addresses the use of reclaimed water including the requirement that an irrigation system be designed to allow for the current and future use of reclaimed water for all landscaped cumulative areas in excess of ten thousand (10,000) square feet.
23. **Hours of Use.** The hours of use for outdoor common space areas and the interior areas of the school campus shall be limited between 6 a.m. and 10:00 p.m. Monday through Friday, between 7:00 a.m. and 10:00 p.m. on Saturdays and between 7:00 a.m. and 9:00 p.m. on Sundays.
24. **Construction and Demolition Hours.** On-site construction, demolition, and grading activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday. This includes the staging of equipment and construction personnel. The construction hours shall be printed on all plans for the project used to construct the project. Interior construction activities that do not generate audible noise impacts at residential properties are allowed on Saturdays between 9:00 a.m. and 5:00 p.m.
25. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of any Building Permit, the project must comply with the 2019 California Fire Code.
26. **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, CP19-013, 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).
27. **Demolition of Structures.** No demolition permits may be issued prior to the submittal of foundation or structural building permits. Demolition Permits may be issued prior to the Final Map approval.

28. **Final Map or Lot Line Adjustment Required.** Prior to the issuance of a Building Permit, the permittee shall secure approval and provide recordation of the final map.
29. **Landscaping.** Planting and irrigation are to be provided as indicated on the approved plans. Landscaped areas shall be maintained and watered, and all dead plant material is to be removed and replaced. Permanent irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
30. **Landscaping Maintenance.** The permittee shall maintain on-site landscaping areas and landscaping areas along the public right-of-way areas/streets to the satisfaction of the Director of Public Works.
31. **Irrigation Standards.** The permittee shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San José Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect prior to Certificate of Occupancy.
32. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
33. **Street Cleaning and Dust Control.** During construction, permittee shall damp sweep the public and private streets within and adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, permittee shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.
34. **Recycling.** Scrap construction and demolition material should be recycled. Integrated Waste Management staff can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
35. **Federal Aviation Administration (FAA) Clearance.**
  - a. Prior to filing an application for a Building Permit for Building 6 and 7, the permittee shall obtain from the FAA a "Determination of No Hazard" for the building high points. The permittee shall initiate the regulatory FAA review by filing a "Notice of Proposed Construction or Alteration" (FAA Form 7460-1) for each building corner and any additional highest point(s) of the structure. The data on the forms 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.

- b. The permittee shall comply with any requirements set forth by the FAA in its airspace safety determinations (once issued). If the FAA requires installation of roof-top obstruction lighting or other physical modification to the structure, the permittee shall apply for and obtain a Permit Adjustment from the City to incorporate those modifications prior to filing an application for a Building Permit. If the FAA requires a completed construction notification via filing of a "Notice of Actual Construction" (FAA Form 7460-2), such filing shall be completed prior to City issuance of a Certificate of Occupancy

**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 any Building permits, whichever occurs first, the permittee shall be required to have satisfied all of the following Public Works conditions. The permittee is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following:  
<http://www.sanjoseca.gov/devresources>.

**37. Construction Agreement and Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of either a Construction Agreement or Minor Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.

**38. Transportation:** Based on the analysis contained in the Traffic memo dated 08/20/20, the subject project is in conformance with both the City of San Jose Transportation Analysis Policy (Council Policy 5-1) and the Santa Clara County Congestion Management Program. Therefore, a determination for less than significant impacts can be made with respect to transportation impacts.

**39. Urban Village Plan:** This project is located in a designated Urban Village per the Envision San Jose 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.

**40. Grand Boulevard:** This project fronts Meridian Avenue, which is designated as one of the seven Grand Boulevards per the Envision San Jose 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.

**41. Grading/Geology:**

- a. 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.
  - b. If the project proposes to 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.
  - c. Because this project involves a land disturbance of one or more acres, the applicant 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.
  - d. A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit. This report should include, but is not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations.
42. **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.
- a. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this project will be in conformance with City Policy 6-29.
  - b. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
  - c. A design of the pervious pavement by a Licensed Geotechnical Engineer shall be submitted prior to the issuance of a Public Works Clearance.
43. **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).
44. **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.

45. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable prior to issuance of Public Works clearance.
46. **Undergrounding:** The In-Lieu Undergrounding Fee shall be paid to the City for the length of frontage adjacent to Meridian Avenue and Parkmoor Avenue prior to issuance of a Public Works Clearance. Percentage of the base fee will be determined at a later date. Currently, the 2020 base fee is \$515 per linear foot of frontage and is subject to change every January 31<sup>st</sup> 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.
47. **Street Improvements:** All street improvements shall be to the satisfaction of the Director of Public Works. Any new, or modification to an existing, traffic signal will require a traffic signal "kick-off" coordination process prior to submitting the application for the Public Street Improvement permit. At least 30 days prior to submitting an application, send a request to begin the kick-off coordination with an electronic copy of a scaled conceptual traffic signal plan showing right-of-way, intersection geometrics, and signal layout.

**Phase 1a (up to 150 students)**

- a) Provide ADA accessible path of travel at all project driveways on Parkmoor Avenue, Meridian Avenue, and Harmon Avenue.
- b) Remove all closed driveways and replace with City standard curb, gutter, and sidewalk.
- c) Remove and replace all cracked or uplifted concrete curb, gutter, and sidewalk to City standards.

**Phase 1b (151 to 1,112 students)**

- a) **Race Street and Parkmoor Avenue (see Phase 1b Offsite Improvements in the Public Works Final Memo dated 9/11/2020)**
  - i) Subject to a future City Council approved agreement between the City and Permittee and City contribution in the amount up to Two Million Dollars (\$2,000,000), Permittee shall construct street improvements and full traffic signal modification at the Race and Parkmoor intersection pursuant to the above referenced exhibit. The street improvements and traffic signal modification include, but are not limited to, frontage improvements along Race Street and Parkmoor Avenue, pavement, median islands, advance vehicle warnings signals, vehicular and pedestrian gates, and pedestrian channelization barriers. Permittee shall work with City at the design



stage to further define the scope of work, which should not exceed Eight Million Nine Hundred Thousand Dollars (\$8,900,000) including full design, associated permitting fees and construction. In the event the full design and construction of the improvements set forth in this Condition 47(d)(i) is less than the budgeted Eight Million Nine Hundred Thousand Dollars (\$8,900,000), any remaining funds will be used towards the Meridian Avenue and Parkmoor Avenue improvements identified under Phase 2 below. Coordination and permits from VTA and California Public Utilities Commission (CPUC) are required and the City will take the lead on coordination, reviewing and expediting the proposed improvements with VTA and CPUC with permittee's support.

- ii) If the City is unable to provide the contribution of up to Two Million Dollars (\$2,000,000), as stated in the item above, permittee shall make payment to the City as an in-lieu contribution in the amount of, but not to exceed, Six Million Five Hundred Thousand Dollars (\$6,500,000) and construct certain frontage improvements up to the amount of Four Hundred Thousand Dollars (\$400,000).

**b) Harmon Avenue (see cul-de-sac exhibit by Kimley Horn in the Public Works Final Memo dated 9/11/2020)**

- i) Construct an offset cul-de-sac on Harmon Ave with minimum 8-foot wide attached sidewalk along the terminus/bulb where driveways are located with a minimum 6-foot wide sidewalk where building structure and/or neighboring property line constraints prohibit the full 8-foot wide sidewalk. Grading and drainage and driveway accessibility improvements will be required as necessary for adequate drainage and access to adjacent properties impacted by the cul-de-sac design.
- i) Dedication will be required to accommodate the cul-de-sac design and a street vacation is desired for the remaining public right-of-way over the existing terminus of Harmon Avenue beyond the cul-de-sac improvements.
- ii) Construct 10-foot wide attached sidewalk with tree wells at back of curb along the remaining Harmon Avenue frontage.
- iii) Construct directional ADA curb ramp at the southeast corner of the Harmon Ave and Meridian Ave intersection.

**Phase 2 (1,113 to 2,120 students)**

**a) Meridian Avenue and Parkmoor Avenue (see Exhibit: A-2 in the Public Works Final Memo dated 9/11/2020)**

- ii) Construct traffic signal and street improvements as shown in the above referenced exhibit and frontage improvements along Meridian up to the amount of \$1,250,000 plus any remaining funds from the Race Street and Parkmoor Avenue improvements under Phase 1B above. Improvements may include, but are not limited to, traffic signal modification, pavement, raised median islands, pork chop islands removal, new curb, gutter, attached sidewalk (minimum 15-foot) with tree wells at back of curb along Meridian frontage, and new 10-foot by 55-foot bus pad and shelter with current VTA standards at the existing bus stop on northbound Meridian Avenue.

**48. Street Vacation:** A street vacation is required in order to accomplish the land use plan as shown at Harmon Ave. The street vacation process requires further discretionary approval by the City Council and the project will be subject to this process prior to Public Works Clearance. The preliminary title report indicates the County of Santa Clara owns the street in fee. Upon vacation no further action by the City is required. Permittee should notify the County immediately of the proposed vacation.

**49. Strong Neighborhoods Initiative (SNI):** This project is located within the Burbank/Del Monte SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.

**50. Electrical:**

- a. 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.
- b. Locate and protect existing electrical conduit in driveway and/or sidewalk construction.

**51. Street Trees:**

- a. The locations of the street trees will be determined at the street improvement stage. 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 cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
- b. Contact the City Arborist at (408) 794-1901 for the designated street trees. The City arborist has provided the following recommendations:
  - i. Parkmoor Avenue: Quercus douglasii planted 35 feet on center.
  - ii. Meridian Avenue: Gingko biloba 'Autumn Gold' planted 35 feet on center.

- iii. Race Street: *Acer rubrum* 'Red Sunset' planted 35 feet on center.
- iv. Harmon Avenue: *Corymbia ficifolia* planted 35 feet on center.

52. **Conformance to MMRP.** 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. \_\_\_\_\_.

53. **Standard Environmental Permit Conditions**

a. **AIR QUALITY.**

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

- i. Water active exposed surface areas (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered at least twice daily or as often as needed to control dust emissions.
- ii. Cover trucks hauling/transporting soil, sand, or other loose material off-site shall be covered.
- iii. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- iv. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
- v. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- vi. Replant of vegetation in disturbed areas as soon as possible after completion of construction.
- vii. Idling times shall be minimized either by shutting equipment off 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 the California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- viii. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- ix. Post a publicly visible sign with the telephone number and person to contact regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

**b. BIOLOGICAL RESOURCES.**

1. Santa Clara Valley Habitat Plan. The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The permittee would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at [www.scv-habitatagency.org](http://www.scv-habitatagency.org).
2. Trees that are to be removed to accommodate new development shall not be removed until Public Works Grading Permit has been issued. The on-site trees removed by the project would be replaced according to tree replacement ratios required by the City, as provided in Table 4.4-2 below.

Circumference of Tree to be Removed <sup>1</sup>	Type of Tree to be Removed <sup>2</sup>			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
12 inches or more <sup>3</sup>	5:1	4:1	3:1	15-gallon
6.0 to 12 inches	3:1	2:1	None	15-gallon
Less than 6.0 inches	1:1	1:1	None	15-gallon

<sup>1</sup> As measured 4.5 feet above ground level  
<sup>2</sup> X:X = tree replacement to tree loss ratio  
<sup>3</sup> 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.  
A 19-inch tree equals 6.1 inches in diameter.  
One 24-inch box tree= two 15-gallon trees

- i. 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) 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.

**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. 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 (if applicable). Project personnel should not collect or move any cultural materials.

- ii. 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 permittee 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.
- iii. 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.
- iv. 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.
- v. If vertebrate fossils are discovered during construction, all work on the site will stop immediately until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate treatment.

Treatment may include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection, and may also include preparation of a report for publication describing the finds. The project proponent will be responsible for implementing the recommendations of the paleontological monitor.

**c. GEOLOGY AND SOILS.**

- i. To avoid or minimize potential damage from seismic shaking, the project would be built using standard engineering and seismic safety design techniques. Building design and construction at the site will be completed in conformance with the recommendations of a geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Planning, Building, and Code Enforcement as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes, including the 2016 California Building Code Chapter 16, Section 1613, as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.
- ii. All excavation and grading work will be scheduled in dry weather months or construction sites will be weatherized.
- iii. Stockpiles and excavated soils will be covered with secured tarps or plastic sheeting.
- iv. Ditches will be installed, if necessary, to divert runoff around excavations and graded areas.
- v. The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. In addition, the San José Department of Public Works requires a grading permit to be obtained prior to the issuance of a Public Works clearance. These standard practices, including the measure outlined below, will ensure that the future building on the site is designed properly to account for soils-related hazards on the site. The project shall conform to the recommendations of a project-specific geotechnical report, including design considerations for project foundations.

**d. HAZARDS AND HAZARDOUS MATERIALS.**

- 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 to determine the presence of asbestos-containing materials and/or lead-based paint.
- ii. During demolition activities, all building materials containing lead-based paint

shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings would be disposed of at landfills that meet acceptance criteria for the waste being disposed.

- iii. All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8 of 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 BAAQMD regulations. Removal of materials containing more than one percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

**e. HYDROLOGY AND WATER QUALITY.**

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

**F. NOISE**

- i. Consistent with City of San José General Plan Policy EC-1.7, the Avenues: Silicon Valley and/or its designated contractor shall prepare a Construction Noise Logistics Plan.

54. **Affordable Housing Financing Plans.** The San José City Council (“City”) approved the Envision San José General Plan 2040 (“General Plan”) in 2011. The General Plan provides the framework for development located in San José.

- i. 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.
- ii. 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.

55. **Revocation, Suspension, Modification.** This Permit may be revoked, suspended or modified by the City Council at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2 of Chapter 20.100 of Title 20 of the San José Municipal Code it finds:

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

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



**EFFECTIVE DATE**

The effective date of this Permit (File No. CP19-013) shall be the effective date of the Conforming Rezoning Ordinance for File No. C19-013, passed for publication on \_\_\_\_\_, 20\_\_ (the "Conforming Rezoning Ordinance") and shall be no earlier than the effective date of said Conforming 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.*

## LEGAL DESCRIPTION

Real property in the City of San Jose, County of Santa Clara, State of California, described as follows:

TRACT A:

PARCEL ONE:

COMMENCING AT THE INTERSECTION OF THE NORTHERLY LINE OF MOORPARK AVENUE, FORMERLY SPLIVADO STREET, WITH THE SOUTHWESTERLY CORNER OF THE HAMILTON SUBDIVISION, A MAP OF WHICH WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON APRIL 1, 1890 IN [BOOK D OF MAPS, AT PAGE 177](#); THENCE ALONG THE NORTHERLY LINE OF SAID MOORPARK AVENUE SOUTH 85° 30' WEST 215.00 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE FROM SAID POINT OF BEGINNING AND LEAVING LAST SAID LINE AND PARALLEL WITH THE WESTERLY LINE OF SAID HAMILTON SUBDIVISION, NORTH 2° WEST 399.60 FEET TO A POINT OF THE SOUTHERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE DEED FROM ANN GAVIN, A WIDOW, TO PETER N. BATINICH, DATED MARCH 14, 1911 AND RECORDED MARCH 18, 1911 IN [BOOK 360 OF DEEDS, AT PAGE 316](#), SANTA CLARA COUNTY RECORDS; THENCE ALONG THE SOUTHERLY LINE OF SAID LAND DEEDED TO PETER N. BATINICH SOUTH 85° 25' WEST 142.24 FEET, MORE OR LESS, TO THE INTERSECTION THEREOF WITH THE NORTHEASTERLY CORNER OF PARCEL NO. 1, AS DESCRIBED IN THE DEED OF RIGHT OF WAY FROM GASPAR G. KRALYEVICH, ET AL, TO THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA DATED AUGUST 12, 1960 AND RECORDED NOVEMBER 21, 1960 IN BOOK 4987 OF OFFICIAL RECORDS, PAGE 525, SANTA CLARA COUNTY RECORDS; THENCE ALONG THE EASTERLY LINE OF PARCEL NO. 1, PARCEL NO. 2 AND PARCEL NO. 3, AS DESCRIBED IN SAID DEED TO THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA THE FOUR FOLLOWING COURSES AND DISTANCES: SOUTH 0° 36' EAST 332.66 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE LEFT; THENCE ALONG LAST SAID CURVE, HAVING A RADIUS OF 35.00 FEET, THROUGH A CENTRAL ANGLE OF 84° 55' 18" FOR AN ARC DISTANCE OF 52.15 FEET TO A POINT OF TANGENCY; THENCE SOUTH 85° 31' 18" EAST 106.18 FEET TO A POINT; THENCE SOUTH 4° 30' EAST 15.00 FEET TO A POINT ON THE NORTHERLY LINE OF SAID MOORPARK AVENUE; THENCE ALONG THE NORTHERLY LINE OF SAID MOORPARK AVENUE NORTH 85° 30' EAST 12.65 FEET TO THE TRUE POINT OF BEGINNING, AND BEING A PORTION OF LOT 95 OF THE LOS COCHES RANCHO, SANTA CLARA COUNTY, CALIFORNIA.

EXCEPTING FROM PARCEL ONE ABOVE DESCRIBED, ALL THAT PORTION CONDEMNED TO THE STATE OF CALIFORNIA, BY JUDGMENT IN CONDEMNATION ENTERED IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF SANTA CLARA, ON MARCH 7, 1975; A CERTIFIED COPY OF WHICH WAS RECORDED MARCH 12, 1975 IN [BOOK B315, PAGE 719](#), SANTA CLARA COUNTY OFFICIAL RECORDS.

PARCEL TWO:

A PORTION OF THAT PARCEL OF LAND CONVEYED AS PARCEL 1 TO THE STATE OF CALIFORNIA BY DEED RECORDED JULY 16, 1969 IN [BOOK 8607, PAGE 93](#) OF OFFICIAL RECORDS OF SANTA CLARA COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE WESTERLY LINE OF THAT PORTION OF MERIDIAN AVENUE VACATED BY THE CITY OF SAN JOSE, BY RESOLUTION NO. 46345, RECORDED MARCH 24, 1975 IN [VOLUME B330, PAGE 483](#) OF OFFICIAL RECORDS OF SANTA CLARA COUNTY, WITH THE COURSE SHOWN WITH THE LENGTH OF 131.93 FEET ON THE GENERAL EASTERLY LINE OF PARCEL 4, AS SAID PARCEL 4 IS SHOWN ON THAT CERTAIN SET OF MAP OF 11 SHEETS ENTITLED, "RELINQUISHMENT IN THE COUNTY OF SANTA CLARA," FILED JULY 16, 1973 IN STATE HIGHWAY MAP [BOOK NO. 7, PAGES 70 TO 80](#) INCLUSIVE, IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA; THENCE ALONG SAID GENERAL EASTERLY LINE SOUTH 23° 08' 48" WEST 19.93 FEET

ALONG A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 384.00 FEET, THROUGH AN ANGLE OF 10° 11' 23" AN ARC LENGTH OF 68.29 FEET, AND ALONG A COMPOUND CURVE TO THE LEFT, WITH A RADIUS OF 67.00 FEET, THROUGH AN ANGLE OF 61° 44' 22" AN ARC LENGTH OF 72.20 FEET TO SAID WESTERLY LINE; THENCE ALONG LAST SAID LINE FROM A TANGENT THAT BEARS NORTH 31° 21' 51" EAST ALONG A CURVE TO THE LEFT, WITH A RADIUS OF 45.00 FEET, THROUGH AN ANGLE OF 30° 47' 39" AN ARC LENGTH OF 24.19 FEET AND NORTH 0° 34' 12" EAST 125.63 FEET TO THE POINT OF COMMENCEMENT.

PARCEL THREE:

COMMENCING AT A POINT IN THE EASTERLY LINE OF MERIDIAN AVENUE (86 FEET WIDE) AT THE NORTHEASTERLY CORNER OF THAT CERTAIN PARCEL OF LAND DESIGNATED AS PARCEL NO. 1 AS DESCRIBED IN THAT DEED OF RIGHT OF WAY TO COUNTY OF SANTA CLARA FILED FOR RECORD IN THE OFFICE OF THE COUNTY RECORDER, SANTA CLARA COUNTY, CALIFORNIA ON NOVEMBER 21, 1960 IN BOOK 4987 OF OFFICIAL RECORDS, AT PAGE 525; THENCE LEAVING SAID POINT OF COMMENCEMENT ALONG THE FOLLOWING COURSES: SOUTH 86° 31' 27" WEST 22.66 FEET; SOUTH 12° 57' 12" WEST 95.12 FEET TO A POINT IN THE CENTER LINE OF SAID MERIDIAN AVENUE (86 FEET WIDE) AND THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID TRUE POINT OF BEGINNING ALONG SAID CENTER LINE OF MERIDIAN AVENUE SOUTH 0° 34' 12" WEST 274.76 FEET TO A POINT IN A NON-TANGENT CURVE WITH A RADIUS OF 104.00 FEET; THENCE LEAVING SAID CENTER LINE WESTERLY ALONG SAID NONTANGENT CURVE TO THE RIGHT FROM A TANGENT WHICH BEARS NORTH 79° 54' 12" WEST THROUGH A CENTRAL ANGLE OF 28° 44' 08" FOR AN ARC DISTANT OF 52.16 FEET TO A POINT OF COMPOUND CURVATURE; THENCE WESTERLY ALONG A TANGENT CURVE TO THE RIGHT WITH A RADIUS OF 67.00 FEET, THROUGH A CENTRAL ANGLE OF 2° 23' 04" FOR AN ARC DISTANCE OF 2.78 FEET TO A POINT IN THE WESTERLY LINE OF SAID MERIDIAN AVENUE (86 FEET WIDE); THENCE NORTHERLY ALONG SAID WESTERLY LINE AND ALONG A CURVE TO THE LEFT, FROM A TANGENT WHICH BEARS NORTH 31° 21' 51" EAST WITH A RADIUS OF 45.00 FEET, THROUGH A CENTRAL ANGLE OF 30° 47' 39" FOR AN ARC DISTANCE OF 24.19 FEET; THENCE CONTINUING ALONG SAID WESTERLY LINE NORTH 0° 34' 12" EAST 125.63 FEET TO A POINT IN THE SOUTHEASTERLY LINE OF THE NEW ALIGNMENT OF MERIDIAN AVENUE; THENCE ALONG SAID SOUTHEASTERLY LINE NORTH 23° 08' 48" EAST 112.00 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL FOUR:

THOSE PORTIONS OF MERIDIAN AVENUE AND PARKMOOR AVENUE, FORMERLY MOORPARK AVENUE, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING ON THE EASTERLY LINE OF MERIDIAN AVENUE (86 FEET WIDE) AT THE NORTHEASTERLY CORNER OF PARCEL NO. 1, AS SAID PARCEL IS DESCRIBED IN THE DEED OF RIGHT OF WAY TO THE COUNTY OF SANTA CLARA, RECORDED ON NOVEMBER 21, 1960 IN BOOK 4987, PAGE 525, OFFICIAL RECORDS OF SAID COUNTY; THENCE ALONG THE EASTERLY LINES OF PARCELS NO. 1, NO. 2 AND NO. 3 OF SAID DEED SOUTH 0° 34' 12" WEST 332.40 FEET ALONG A TANGENT CURVE TO THE LEFT, WITH A RADIUS OF 35.00 FEET, THROUGH AN ANGLE OF 84° 57' 48" AN ARC LENGTH OF 51.90 FEET AND SOUTH 84° 23' 36" EAST 96.79 FEET; THENCE SOUTH 87° 26' 09" WEST 17.22 FEET; THENCE ALONG A TANGENT CURVE TO THE RIGHT, WITH A RADIUS OF 752.00 FEET, THROUGH AN ANGLE OF 11° 38' 14" AN ARC LENGTH OF 152.74 FEET TO A POINT OF COMPOUND CURVATURE; THENCE ALONG A TANGENT CURVE TO THE RIGHT WITH A RADIUS OF 104.00 FEET, THROUGH AN ANGLE OF 29° 45' 36" AN ARC LENGTH OF 54.02 FEET TO A POINT OF COMPOUND CURVATURE; THENCE ALONG A TANGENT CURVE TO THE RIGHT, WITH A RADIUS OF 67.00 FEET, THROUGH AN ANGLE OF 2° 23' 04" AN ARC LENGTH OF 2.79 FEET TO THE WESTERLY LINE OF SAID MERIDIAN AVENUE; THENCE ALONG LAST SAID LINE FROM A TANGENT THAT BEARS NORTH 31° 21' 51" EAST ALONG A CURVE TO THE LEFT, WITH A RADIUS OF 45.00 FEET, THROUGH AN ANGLE OF 30° 47' 39" AN ARC LENGTH OF 24.19 FEET AND NORTH 0° 34' 12" EAST 125.63 FEET; THENCE NORTH 23° 08' 48" EAST 112.00 FEET; THENCE NORTH 12° 57' 12" EAST 95.12 FEET; THENCE NORTH 86° 31' 27" EAST 22.66 FEET TO THE POINT OF COMMENCEMENT.

EXCEPTING THEREFROM THAT PORTION THEREOF LYING WITHIN PARCEL THREE ABOVE.

ALSO EXCEPTING THEREFROM ALL THAT PORTION CONDEMNED FOR STATE HIGHWAY PURPOSES, BY THE STATE OF CALIFORNIA BY FINAL ORDER OF CONDEMNATION, A CERTIFIED COPY OF WHICH WAS RECORDED ON APRIL 24, 1983 IN [BOOK H 837, PAGE 57](#) OF OFFICIAL RECORDS.

PARCEL FIVE:

A NON-EXCLUSIVE EASEMENT FOR PASSENGER VEHICULAR AND PEDESTRIAN INGRESS AND EGRESS ACROSS THE FEE PARCEL DESCRIBED THEREIN FOR ACCESS TO A PARKING STRUCTURE FOR PARKING, AND THE NON-EXCLUSIVE RIGHT TO PARK, AS CONVEYED BY EASEMENT AGREEMENT RECORDED MARCH 14, 2001 AS DOCUMENT NO. [15591430](#) OF OFFICIAL RECORDS; AND AS MODIFIED BY AMENDMENT RECORDED DECEMBER 27, 2001 AS DOCUMENT NO. [16031863](#) OF OFFICIAL RECORDS.

PARCEL SIX:

NON-EXCLUSIVE EASEMENT FOR INGRESS, INGRESS AND PARKING, AS SET FORTH IN THAT CERTAIN EASEMENT RECORDED MARCH 14, 2001 AS INSTRUMENT NO. [15591430](#) OF OFFICIAL RECORDS, AS AMENDED BY THAT CERTAIN AMENDMENT TO EASEMENT RECORDED DECEMBER 27, 2001 AS INSTRUMENT NO. [16031863](#) OF OFFICIAL RECORDS AND BY THAT CERTAIN SECOND AMENDMENT TO EASEMENT AGREEMENT RECORDED DECEMBER 28, 2012 AS INSTRUMENT NO. [22028428](#) OF OFFICIAL RECORDS.

PARCEL SEVEN:

NON-EXCLUSIVE EASEMENTS FOR INGRESS AND EGRESS, STORM DRAIN AND LANDSCAPE MAINTENANCE, AS SET FORTH IN THAT CERTAIN "NONEXCLUSIVE RECIPROCAL EASEMENT AGREEMENT" RECORDED DECEMBER 28, 2012 AS INSTRUMENT NO. [22028427](#) OF OFFICIAL RECORDS.

TRACT B:

BEGINNING AT THE MOST NORTHEASTERLY CORNER OF THAT CERTAIN 1.581 ACRE PARCEL, AS SHOWN UPON A RECORD OF SURVEY RECORDED IN [BOOK 212 OF MAPS PAGE 54](#), RECORDS OF SAID SANTA CLARA COUNTY;

THENCE SOUTH 0° 09' 11" EAST ALONG THE EASTERLY LINE OF SAID 1.581 ACRE PARCEL A DISTANCE OF 277.74 FEET TO AN ANGLE POINT THEREIN;

THENCE CONTINUING ALONG THE BOUNDARY LINE OF SAID 1.581 ACRE PARCEL THE FOLLOWING BEARING AND DISTANCES, SOUTH 85° 50' 15" WEST A DISTANCE OF 8.35 FEET;

SOUTH 1° 33' 30" EAST A DISTANCE OF 151.86 FEET TO THE SOUTHEASTERLY CORNER OF SAID 1.581 ACRE PARCEL;

THENCE SOUTH 85° 51' 20" WEST ALONG THE SOUTHERLY LINE OF SAID 1.581 ACRE PARCEL A DISTANCE OF 368.65 FEET TO A POINT IN THE EASTERLY LINE OF MERIDIAN AVENUE;

THENCE NORTH 0° 04' 00" WEST ALONG LAST MENTIONED EASTERLY LINE A DISTANCE OF 389.72 FEET;

THENCE NORTH 86° 06' 00" EAST A DISTANCE OF 10.16 FEET TO A POINT IN A NON TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 957.00 FEET;

THENCE NORTHERLY ALONG LAST MENTIONED CURVE FROM WHICH A RADIAL BEARS NORTH 89° 05' 55" WEST THROUGH A CENTRAL ANGLE OF 1° 25' 56" AN ARC DISTANCE OF 23.92 FEET TO THE BEGINNING OF A COMPOUND CURVE, HAVING A RADIUS OF 20.00 FEET;

THENCE NORTHERLY AND EASTERLY ALONG LAST MENTIONED CURVE THROUGH A CENTRAL ANGLE OF 83° 46' 05" AN ARC DISTANCE OF 29.24 FEET TO A POINT IN THE SOUTHERLY LINE OF HARMON COURT;

THENCE NORTH 86° 06' 00" EAST ALONG LAST MENTIONED SOUTHERLY LINE A DISTANCE OF 342.96 FEET TO THE POINT OF BEGINNING.

TRACT C:

LOTS 3 AND 4, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "HAMILTON SUB. OF THE E. 1/2 OF LOT 93 OF LOS COCHES", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON APRIL 01, 1890, IN BOOK "D" OF MAPS, PAGE(S) 177.

EXCEPTING THEREFROM THAT PORTION GRANTED TO THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY (VTA), BY GRANT DEED RECORDED JUNE 28, 2001, AS DOCUMENT NO. [15746243](#), OFFICIAL RECORDS, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT REAL PROPERTY SITUATE IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING A PORTION OF THE PARCEL DESCRIBED IN THAT CERTAIN DEED RECORDED ON AUGUST 28, 1979 IN [BOOK E 754 OF OFFICIAL RECORDS, AT PAGE 393](#), SANTA CLARA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF SAID PARCEL WITH THE WESTERLY RIGHT OF WAY LINE OF RACE STREET (60 FEET WIDE);

THENCE ALONG SAID SOUTHERLY LINE, SOUTH 86° 28' 57" WEST, 7.280 METERS;

THENCE LEAVING LAST SAID LINE, NORTH 0° 00' 05" EAST, 10.551 METERS;

THENCE NORTH 0° 57' 44" EAST, 37.973 METERS TO THE NORTHERLY LINE OF SAID PARCEL, SAID LINE ALSO BEING THE SOUTHERLY LINE OF THE PARCEL DESCRIBED IN THAT CERTAIN DEED RECORDED ON JANUARY 18, 1994 IN [BOOK N 253 OF OFFICIAL RECORDS, AT PAGE 0563](#), SAID COUNTY RECORDS;

THENCE ALONG LAST SAID LINES, NORTH 86° 28' 57" EAST, 4.722 METERS TO THE NORTHEAST CORNER OF SAID PARCEL DESCRIBED IN [BOOK E 754 OF OFFICIAL RECORDS, AT PAGE 393](#) AND THE SAID WESTERLY RIGHT OF WAY LINE OF RACE STREET;

THENCE ALONG THE EASTERLY LINE OF LAST SAID PARCEL AND THE SAID WESTERLY RIGHT OF WAY LINE, SOUTH 2° 16' 03" EAST, 48.400 METERS TO THE POINT OF BEGINNING.

TRACT D:

PARCEL ONE:

LOT 1, AS SHOWN ON THAT CERTAIN MAP ENTITLED MAP OF THE HAMILTON SUBDIVISION OF THE EAST 1/2 OF LOT 95 OF 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 1, 1890 IN [BOOK D OF MAPS, PAGE 177](#).

PARCEL TWO:

BEGINNING AT A POINT ON THE WESTERLY LINE OF RACE STREET, AT THE INTERSECTION OF SAID WESTERLY LINE OF RACE STREET WITH THE DIVIDING LINE BETWEEN LOTS 1 AND 2 OF THE HAMILTON SUBDIVISION, RUNNING THENCE SOUTHERLY ALONG THE SAID WESTERLY LINE OF RACE STREET, 22 FEET; RUNNING THENCE WESTERLY PARALLEL WITH THE SAID DIVIDING LINE BETWEEN LOTS 1 AND 2, 366 FEET, MORE OR LESS TO THE WESTERLY LINE OF LOT 2; THENCE NORTHERLY ALONG SAID LINE, 22 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT; THENCE EASTERLY ALONG THE DIVIDING LINE BETWEEN LOTS 1 AND 2, 365.90 FEET TO THE POINT OF BEGINNING, BEING THE NORTHERLY 22 FEET OF LOT 2, AS SHOWN UPON THAT CERTAIN MAP ENTITLED, MAP OF HAMILTON SUBDIVISION OF THE EAST 1/2 OF LOT 95 OF 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 1, 1890 IN [BOOK D OF MAPS, AT PAGE 177](#).

PARCEL THREE:

PORTION OF LOT 2, AS SHOWN ON THAT CERTAIN MAP ENTITLED MAP OF THE HAMILTON SUBDIVISION OF THE EAST 1/2 OF LOT 95 OF 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 1, 1890 IN [BOOK D OF MAPS, PAGE 177](#) AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY LINE OF RACE STREET, WHERE THE SAME IS INTERSECTED BY THE DIVIDING LINE BETWEEN LOTS 2 AND 3 OF THE HAMILTON SUBDIVISION, AS SHOWN ON THE MAP HEREIN ABOVE REFERRED TO; RUNNING THENCE SOUTH 85 1/2° WEST ALONG SAID DIVIDING LINE, 368.40 FEET TO THE WESTERLY LINE OF SAID LOT 2; THENCE NORTH 1° 50' WEST, ALONG SAID WESTERLY LINE OF SAID LOT 75.25 FEET TO A POINT ON SAID WESTERLY LINE DISTANT 22 FEET SOUTHERLY FROM THE COMMON CORNER FOR LOTS 1 AND 2 OF SAID SUBDIVISION; THENCE NORTH 85 1/2° EAST AND PARALLEL WITH FIRST MENTIONED DIVIDING LINE, 366.38 FEET TO THE WESTERLY LINE OF RACE STREET; THENCE SOUTH 3 1/4° EAST 75.25 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM A PORTION OF LAND CONVEYED THROUGH "FINAL ORDER OF CONDEMNATION" TO SANTA CLARA VALLEY TRANSPORTATION AUTHORITY RECORDED ON MAY 14, 2003 AS DOCUMENT NO. [17036848](#) OF OFFICIAL RECORDS AND LATER CONVEYED TO CITY OF SAN JOSE, A MUNICIPAL CORPORATION OF THE STATE OF CALIFORNIA BY DOCUMENT RECORDED ON MARCH 19, 2009 AS DOCUMENT NO. [20175442](#) OF OFFICIAL RECORDS.

TRACT E:

ALL OF LOTS 5 AND 6, AS SHOWN UPON THAT CERTAIN MAP ENTITLED, "MAP OF THE HAMILTON SUBDIVISION OF THE EAST 1/2 OF LOT 95 OF THE LOS COCHES RANCH", RECORDED IN BOOK "D" OF MAPS, PAGE 177, SANTA CLARA COUNTY RECORDS; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WESTERLY LINE OF SAID HAMILTON SUBDIVISION WITH THE NORTHERLY LINE OF MOORPARK AVENUE, SHOWN AS SPLIVALO STREET ON SAID MAP; THENCE FROM SAID POINT OF BEGINNING ALONG SAID WESTERLY LINE OF HAMILTON SUBDIVISION, NORTH 01° 50' 00" WEST 196.32 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 5; NORTH 85° 30' 00" EAST 372.28 FEET TO THE INTERSECTION THEREOF WITH THE WESTERLY LINE OF RACE STREET, AS SHOWN ON SAID MAP; THENCE ALONG SAID WESTERLY LINE RACE STREET; SOUTH 03° 15' 00" EAST 111.92 FEET TO THE INTERSECTION THEREOF WITH THE NORTHWESTERLY LINE OF THE LANDS OF SOUTHERN PACIFIC RAILROAD COMPANY; THENCE RUNNING ALONG THE LAST-NAMED LINE IN A SOUTHWESTERLY DIRECTION 121 FEET MORE OR LESS TO THE INTERSECTION THEREOF WITH SAID NORTHERLY LINE OF MOORPARK AVENUE; THENCE ALONG THE LAST-NAMED LINE, SOUTH 85° 30' 00"

WEST 291.90 FEET MORE OR LESS TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT CERTAIN PARCEL OF LAND CONVEYED BY LOUIS J. DEVISH, ET AL TO THE STATE OF CALIFORNIA BY DEED DATED AUGUST 06, 1971 AND RECORDED FEBRUARY 08, 1972 IN [BOOK 9695 OF OFFICIAL RECORDS, PAGE 294](#), DESCRIBED AS FOLLOWS:

COMMENCING ON THE NORTHERLY LINE OF MOORPARK AVENUE AT THE SOUTHWESTERN CORNER OF LOT 6, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "MAP OF THE HAMILTON SUBDIVISION IN THE EAST 1/2 OF LOT 95 OF THE LOS COCHES RANCHO", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF SANTA CLARA COUNTY ON APRIL 01, 1890 IN BOOK "D" OF MAPS, AT PAGE 177; THENCE ALONG THE WESTERLY LINE OF SAID LOT NORTH 0° 44' 03" WEST 7.87 FEET; THENCE NORTH 87° 26' 09" EAST, 132.55 FEET; THENCE SOUTH 3° 11' 03" EAST, 6.03 FEET TO SAID NORTHERLY LINE OF MOORPARK AVENUE; THENCE ALONG LAST LINE SOUTH 86° 38' 38" WEST, 132.88 FEET TO THE POINT OF COMMENCEMENT.

ALSO EXCEPTING THEREFROM THAT PORTION THEREOF CONDEMNED TO THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY BY FINAL ORDER OF CONDEMNATION RECORDED APRIL 24, 2003 IN DOCUMENT NO. [16988337](#), OFFICIAL RECORDS.

TRACT F:

PARCEL ONE:

BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF MOORPARK AVENUE, FORMERLY SPLIVALO STREET WITH THE SOUTHWESTERLY CORNER OF THE HAMILTON SUBDIVISION, A MAP OF WHICH WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON APRIL 01, 1890 IN BOOK "D" OF MAPS, AT PAGE 177; THENCE ALONG THE NORTHERLY LINE OF SAID MOORPARK AVENUE SOUTH 85° 30' WEST 195.00 FEET TO A POINT THEREON; THENCE LEAVING LAST SAID LINE AND PARALLEL WITH THE WESTERLY LINE OF SAID HAMILTON SUBDIVISION NORTH 2° WEST 230.00 FEET TO A POINT; THENCE PARALLEL WITH THE NORTHERLY LINE OF SAID MOORPARK AVENUE NORTH 85° 30' EAST 195.00 FEET TO A POINT ON THE WESTERLY LINE OF SAID HAMILTON SUBDIVISION; THENCE ALONG LAST SAID LINE SOUTH 2° EAST 230.00 FEET TO THE POINT OF BEGINNING AND BEING A PORTION OF LOT 95 OF THE LOS COCHES RANCHO, SANTA CLARA COUNTY, CALIFORNIA.

EXCEPTING THEREFROM ALL THAT PORTION CONDEMNED BY THE STATE OF CALIFORNIA BY FINAL ORDER OF CONDEMNATION, A CERTIFIED COPY OF WHICH WAS RECORDED ON AUGUST 24, 1983 IN [BOOK H 837, PAGE 57](#) OF OFFICIAL RECORDS AND BEING MORE PARTICULARLY DESCRIBED THEREIN AS FOLLOWS:

FOR STATE HIGHWAY PURPOSES, THAT REAL PROPERTY DESCRIBED AS FOLLOWS:

COMMENCING ON THE NORTHERLY LINE OF MOORPARK AVENUE AT THE SOUTHWEST CORNER OF THE HAMILTON SUBDIVISION, A MAP OF WHICH WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF SANTA CLARA COUNTY ON APRIL 01, 1890 IN BOOK "D" OF MAPS, AT PAGE 177; THENCE ALONG THE WESTERLY LINE OF SAID SUBDIVISION NORTH 0° 44' 03" WEST 7.87 FEET; THENCE SOUTH 87° 26' 09" WEST 229.21 FEET TO THE GENERAL EASTERLY LINE OF LAND CONVEYED TO THE COUNTY OF SANTA CLARA BY DEED RECORDED NOVEMBER 21, 1960 IN [BOOK 4987, AT PAGE 525](#), OFFICIAL RECORDS OF SANTA CLARA COUNTY; THENCE ALONG LAST SAID GENERAL EASTERLY LINE SOUTH 3° 21' 22" EAST 11.03 FEET TO SAID NORTHERLY LINE OF MOORPARK AVENUE; THENCE ALONG SAID LAST SAID LINE NORTH 86° 38' 38" EAST 228.83 FEET TO THE POINT OF COMMENCEMENT.

PARCEL TWO:

COMMENCING AT THE INTERSECTION OF THE NORTHERLY LINE OF MOORPARK AVENUE, FORMERLY SPLIVALO STREET WITH THE SOUTHWESTERLY CORNER OF THE HAMILTON SUBDIVISION, A MAP OF WHICH WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON APRIL 01, 1890 IN BOOK "D" OF MAPS, AT PAGE 177; THENCE ALONG THE NORTHERLY LINE OF SAID MOORPARK AVENUE SOUTH 85° 30' WEST 195.00 FEET TO A POINT THEREON; THENCE LEAVING LAST SAID LINE AND PARALLEL WITH THE WESTERLY LINE OF SAID HAMILTON SUBDIVISION NORTH 2° WEST 230.00 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE FROM SAID TRUE POINT OF BEGINNING AND CONTINUING ALONG LAST SAID PARALLEL LINE NORTH 2° WEST 169.60 FEET, MORE OR LESS, TO A POINT ON THE SOUTHERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE DEED FROM ANN GAVIN, A WIDOW, TO PETER N. BATINICH, DATED MARCH 14, 1911 AND RECORDED MARCH 18, 1911 IN [BOOK 360 OF DEEDS, PAGE 316](#), SANTA CLARA COUNTY RECORDS; THENCE ALONG THE SOUTHERLY LINE OF SAID LAND DEEDED TO PETER N. BATINICH NORTH 84° 25' EAST 195.00 FEET, MORE OR LESS, TO THE SOUTHEASTERLY CORNER THEREOF ON THE WESTERLY LINE OF SAID HAMILTON SUBDIVISION; THENCE ALONG THE WESTERLY LINE OF SAID HAMILTON SUBDIVISION SOUTH 2° EAST 169.60 FEET TO A POINT DISTANT THEREON NORTH 2° WEST 230.00 FEET FROM THE NORTHERLY LINE OF SAID MOORPARK AVENUE; THENCE LEAVING LAST SAID LINE AND PARALLEL WITH THE NORTHERLY LINE OF SAID MOORPARK AVENUE SOUTH 85° 30' WEST 195.00 FEET TO THE TRUE POINT OF BEGINNING, AND BEING A PORTION OF LOT 95 OF THE LOS CONCHES RANCHO, SANTA CLARA COUNTY, CALIFORNIA.

PARCEL THREE:

COMMENCING AT THE INTERSECTION OF THE NORTHERLY LINE OF MOORPARK AVENUE, FORMERLY SPLIVALO STREET WITH THE SOUTHWESTERLY CORNER OF THE HAMILTON SUBDIVISION A MAP OF WHICH WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON APRIL 01, 1890 IN BOOK "D" OF MAPS, AT PAGE 177; THENCE ALONG THE NORTHERLY LINE OF SAID MOORPARK AVENUE SOUTH 85° 30' WEST 195.00 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE FROM SAID POINT OF BEGINNING AND CONTINUING ALONG THE NORTHERLY LINE OF SAID MOORPARK AVENUE SOUTH 85° 30' WEST 20.00 FEET TO A POINT THEREON; THENCE LEAVING LAST SAID LINE AND PARALLEL WITH THE WESTERLY LINE OF SAID HAMILTON SUBDIVISION NORTH 2° WEST 399.60 FEET, MORE OR LESS, TO A POINT ON THE SOUTHERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE DEED FROM ANN GAVIN, A WIDOW, TO PETER N. BATINICH, DATED MARCH 14, 1911, AND RECORDED MARCH 18, 1911 IN [BOOK 360 OF DEEDS, PAGE 316](#), SANTA CLARA COUNTY RECORDS; THENCE ALONG THE SOUTHERLY LINE OF SAID LAND DEEDED TO PETER N. BATINICH NORTH 85° 25' EAST 20.00 FEET, MORE OR LESS, TO A POINT ON A LINE WHICH IS A PARALLEL WITH THE WESTERLY LINE OF SAID HAMILTON SUBDIVISION AND BEARS NORTH 2° WEST FROM THE TRUE POINT OF BEGINNING; THENCE ALONG LAST SAID PARALLEL LINE SOUTH 2° EAST 399.60 FEET, MORE OR LESS, TO THE POINT OF BEGINNING AND BEING A PORTION OF LOT 95 OF THE LOS COCHES RANCHO, SANTA CLARA COUNTY, CALIFORNIA.

EXCEPTING THEREFROM ALL THAT PORTION CONDEMNED BY THE STATE OF CALIFORNIA BY FINAL ORDER OF CONDEMNATION, A CERTIFIED COPY OF WHICH WAS RECORDED ON AUGUST 24, 1983 IN [BOOK H 837, PAGE 57](#) OF OFFICIAL RECORDS AND BEING MORE PARTICULARLY DESCRIBED THEREIN AS FOLLOW:

FOR STATE HIGHWAY PURPOSES, THAT REAL PROPERTY DESCRIBED AS FOLLOWS:

COMMENCING ON THE NORTHERLY LINE OF MOORPARK AVENUE AT THE SOUTHWEST CORNER OF THE HAMILTON SUBDIVISION, A MAP OF WHICH WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF SANTA CLARA COUNTY ON APRIL 01, 1890 IN BOOK "D" OF MAPS, AT PAGE 177; THENCE ALONG THE WESTERLY LINE OF SAID SUBDIVISION NORTH 0° 44' 03" WEST 7.87 FEET; THENCE SOUTH 87° 26' 09" WEST 229.21 FEET TO THE GENERAL EASTERLY LINE OF LAND CONVEYED TO THE COUNTY OF SANTA CLARA BY DEED RECORDED NOVEMBER 21, 1960 IN BOOK 4987, AT PAGE



525, OFFICIAL RECORDS OF SANTA CLARA COUNTY; THENCE ALONG LAST SAID GENERAL EASTERLY LINE SOUTH 3° 21' 22" EAST 11.03 FEET TO SAID NORTHERLY LINE OF MOORPARK AVENUE; THENCE ALONG LAST SAID LINE NORTH 86° 38' 38" EAST 228.83 FEET TO THE POINT OF COMMENCEMENT.

PARCEL FOUR:

A NON-EXCLUSIVE EASEMENT FOR PASSENGER VEHICULAR AND PEDESTRIAN INGRESS AND EGRESS ACROSS THE FEE PARCEL DESCRIBED THEREIN FOR ACCESS TO A PARKING STRUCTURE FOR PARKING, AND THE NON-EXCLUSIVE RIGHT TO PARK, AS CONVEYED BY EASEMENT AGREEMENT RECORDED MARCH 14, 2001 AS DOCUMENT NO. [15591430](#) OF OFFICIAL RECORDS; AND AS MODIFIED BY AMENDMENT RECORDED DECEMBER 27, 2001 AS DOCUMENT NO. [16031863](#) OF OFFICIAL RECORDS; AND AS MODIFIED BY THAT CERTAIN SECOND AMENDMENT TO EASEMENT AGREEMENT RECORDED DECEMBER 28, 2012 AS INSTRUMENT NO. [22028428](#) OF OFFICIAL RECORDS.

PARCEL FIVE:

NON-EXCLUSIVE EASEMENTS FOR VEHICULAR INGRESS AND EGRESS AND FOR STORM DRAIN PURPOSES, AS SET FORTH IN THAT CERTAIN NONEXCLUSIVE RECIPROCAL EASEMENT AGREEMENT RECORDED DECEMBER 28, 2012 AS INSTRUMENT NO. [22028427](#) OF OFFICIAL RECORDS.

APN: 264-08-060, 264-08-066 AND 264-08-067 (TRACT A), 264-08-071 (TRACT B), 264-08-072 (TRACT C), 264-08-077 (TRACT D), 264-08-078 (TRACT E), AND 264-08-063 (TRACT F)

### LEGAL DESCRIPTION

Real property in the City of San Jose, County of Santa Clara, State of California, described as follows:

PARCEL A:

LOT 1, AS SHOWN ON THAT CERTAIN MAP ENTITLED MAP OF THE HAMILTON SUBDIVISION OF THE EAST 1/2 OF LOT 95 OF 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 1, 1890 IN [BOOK D OF MAPS, PAGE 177](#).

PARCEL B:

BEGINNING AT A POINT ON THE WESTERLY LINE OF RACE STREET, AT THE INTERSECTION OF SAID WESTERLY LINE OF RACE STREET WITH THE DIVIDING LINE BETWEEN LOTS 1 AND 2 OF THE HAMILTON SUBDIVISION, RUNNING THENCE SOUTHERLY ALONG THE SAID WESTERLY LINE OF RACE STREET, 22 FEET; RUNNING THENCE WESTERLY PARALLEL WITH THE SAID DIVIDING LINE BETWEEN LOTS 1 AND 2, 366 FEET, MORE OR LESS TO THE WESTERLY LINE OF LOT 2; THENCE NORTHERLY ALONG SAID LINE, 22 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT; THENCE EASTERLY ALONG THE DIVIDING LINE BETWEEN LOTS 1 AND 2, 365.90 FEET TO THE POINT OF BEGINNING, BEING THE NORTHERLY 22 FEET OF LOT 2, AS SHOWN UPON THAT CERTAIN MAP ENTITLED, MAP OF HAMILTON SUBDIVISION OF THE EAST 1/2 OF LOT 95 OF 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 1, 1890 IN [BOOK D OF MAPS, AT PAGE 177](#).

PARCEL C:

PORTION OF LOT 2, AS SHOWN ON THAT CERTAIN MAP ENTITLED MAP OF THE HAMILTON SUBDIVISION OF THE EAST 1/2 OF LOT 95 OF 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 1, 1890 IN [BOOK D OF MAPS, PAGE 177](#) AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY LINE OF RACE STREET, WHERE THE SAME IS INTERSECTED BY THE DIVIDING LINE BETWEEN LOTS 2 AND 3 OF THE HAMILTON SUBDIVISION, AS SHOWN ON THE MAP HEREIN ABOVE REFERRED TO; RUNNING THENCE S. 85 1/2° W. ALONG SAID DIVIDING LINE, 368.40 FEET TO THE WESTERLY LINE OF SAID LOT 2; THENCE N. 1° 50' W., ALONG SAID WESTERLY LINE OF SAID LOT 75.25 FEET TO A POINT ON SAID WESTERLY LINE DISTANT 22 FEET SOUTHERLY FROM THE COMMON CORNER FOR LOTS 1 AND 2 OF SAID SUBDIVISION; THENCE N. 85 1/2° E. AND PARALLEL WITH FIRST MENTIONED DIVIDING LINE, 366.38 FEET TO THE WESTERLY LINE OF RACE STREET; THENCE S. 3 1/4° E. 75.25 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM A PORTION OF LAND CONVEYED THROUGH "FINAL ORDER OF CONDEMNATION" TO SANTA CLARA VALLEY TRANSPORTATION AUTHORITY RECORDED ON MAY 14, 2003 AS DOCUMENT NO. [17036848](#) OF OFFICIAL RECORDS AND LATER CONVEYED TO CITY OF SAN JOSE, A MUNICIPAL CORPORATION OF THE STATE OF CALIFORNIA BY DOCUMENT RECORDED ON MARCH 19, 2009 AS DOCUMENT NO. [20175442](#) OF OFFICIAL RECORDS.

APN: 264-08-077

### LEGAL DESCRIPTION

Real property in the City of San Jose, County of Santa Clara, State of California, described as follows:

LOTS 3 AND 4, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "HAMILTON SUB. OF THE E. 1/2 OF LOT 93 OF LOS COCHES", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON APRIL 01, 1890, IN [BOOK "D" OF MAPS, PAGE\(S\) 177.](#)

EXCEPTING THEREFROM THAT PORTION GRANTED TO THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY (VTA), BY GRANT DEED RECORDED JUNE 28, 2001, AS DOCUMENT NO. [15746243](#), OFFICIAL RECORDS, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT REAL PROPERTY SITUATE IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING A PORTION OF THE PARCEL DESCRIBED IN THAT CERTAIN DEED RECORDED ON AUGUST 28, 1979 IN [BOOK E 754 OF OFFICIAL RECORDS, AT PAGE 393](#), SANTA CLARA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF SAID PARCEL WITH THE WESTERLY RIGHT OF WAY LINE OF RACE STREET (60 FEET WIDE);

THENCE ALONG SAID SOUTHERLY LINE, SOUTH 86° 28' 57" WEST, 7.280 METERS;

THENCE LEAVING LAST SAID LINE, NORTH 0° 00' 05" EAST, 10.551 METERS;

THENCE NORTH 0° 57' 44" EAST, 37.973 METERS TO THE NORTHERLY LINE OF SAID PARCEL, SAID LINE ALSO BEING THE SOUTHERLY LINE OF THE PARCEL DESCRIBED IN THAT CERTAIN DEED RECORDED ON JANUARY 18, 1994 IN [BOOK N 253 OF OFFICIAL RECORDS, AT PAGE 0563](#), SAID COUNTY RECORDS;

THENCE ALONG LAST SAID LINES, NORTH 86° 28' 57" EAST, 4.722 METERS TO THE NORTHEAST CORNER OF SAID PARCEL DESCRIBED IN [BOOK E 754 OF OFFICIAL RECORDS, AT PAGE 393](#) AND THE SAID WESTERLY RIGHT OF WAY LINE OF RACE STREET;

THENCE ALONG THE EASTERLY LINE OF LAST SAID PARCEL AND THE SAID WESTERLY RIGHT OF WAY LINE, SOUTH 2° 16' 03" EAST, 48.400 METERS TO THE POINT OF BEGINNING.

APN: 264-08-072

### LEGAL DESCRIPTION

Real property in the City of San Jose, County of Santa Clara, State of California, described as follows:

ALL OF LOTS 5 AND 6, AS SHOWN UPON THAT CERTAIN MAP ENTITLED, "MAP OF THE HAMILTON SUBDIVISION OF THE EAST 1/2 OF LOT 95 OF THE LOS COCHES RANCH", RECORDED IN [BOOK "D" OF MAPS, PAGE 177](#), SANTA CLARA COUNTY RECORDS; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WESTERLY LINE OF SAID HAMILTON SUBDIVISION WITH THE NORTHERLY LINE OF MOORPARK AVENUE, SHOWN AS SPLIVALO STREET ON SAID MAP; THENCE FROM SAID POINT OF BEGINNING ALONG SAID WESTERLY LINE OF HAMILTON SUBDIVISION, NORTH 01° 50' 00" WEST 196.32 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 5; NORTH 85° 30' 00" EAST 372.28 FEET TO THE INTERSECTION THEREOF WITH THE WESTERLY LINE OF RACE STREET, AS SHOWN ON SAID MAP; THENCE ALONG SAID WESTERLY LINE RACE STREET; SOUTH 03° 15' 00" EAST 111.92 FEET TO THE INTERSECTION THEREOF WITH THE NORTHWESTERLY LINE OF THE LANDS OF SOUTHERN PACIFIC RAILROAD COMPANY; THENCE RUNNING ALONG THE LAST-NAMED LINE IN A SOUTHWESTERLY DIRECTION 121 FEET MORE OR LESS TO THE INTERSECTION THEREOF WITH SAID NORTHERLY LINE OF MOORPARK AVENUE; THENCE ALONG THE LAST-NAMED LINE, SOUTH 85° 30' 00" WEST 291.90 FEET MORE OR LESS TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT CERTAIN PARCEL OF LAND CONVEYED BY LOUIS J. DEVISH, ET AL TO THE STATE OF CALIFORNIA BY DEED DATED AUGUST 06, 1971 AND RECORDED FEBRUARY 08, 1972 IN [BOOK 9695 OF OFFICIAL RECORDS, PAGE 294](#), DESCRIBED AS FOLLOWS:

COMMENCING ON THE NORTHERLY LINE OF MOORPARK AVENUE AT THE SOUTHWESTERN CORNER OF LOT 6, AS SHOWN ON THAT CERTAIN MAP ENTITLED, "MAP OF THE HAMILTON SUBDIVISION IN THE EAST 1/2 OF LOT 95 OF THE LOS COCHES RANCHO", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF SANTA CLARA COUNTY ON APRIL 01, 1890 IN [BOOK "D" OF MAPS, AT PAGE 177](#); THENCE ALONG THE WESTERLY LINE OF SAID LOT N. 0° 44' 03" W. 7.87 FEET; THENCE N. 87° 26' 09" E., 132.55 FEET; THENCE S. 3° 11' 03" E., 6.03 FEET TO SAID NORTHERLY LINE OF MOORPARK AVENUE; THENCE ALONG LAST LINE S. 86° 38' 38" W., 132.88 FEET TO THE POINT OF COMMENCEMENT.

ALSO EXCEPTING THEREFROM THAT PORTION THEREOF CONDEMNED TO THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY BY FINAL ORDER OF CONDEMNATION RECORDED APRIL 24, 2003 IN DOCUMENT NO. [16988337](#), OFFICIAL RECORDS.

APN: 264-08-078

# EXHIBIT B

## Kimley»Horn

100 W SAN FERNANDO STREET, SUITE 250, SAN JOSE, CA 95113





PHONE: 619-234-9411

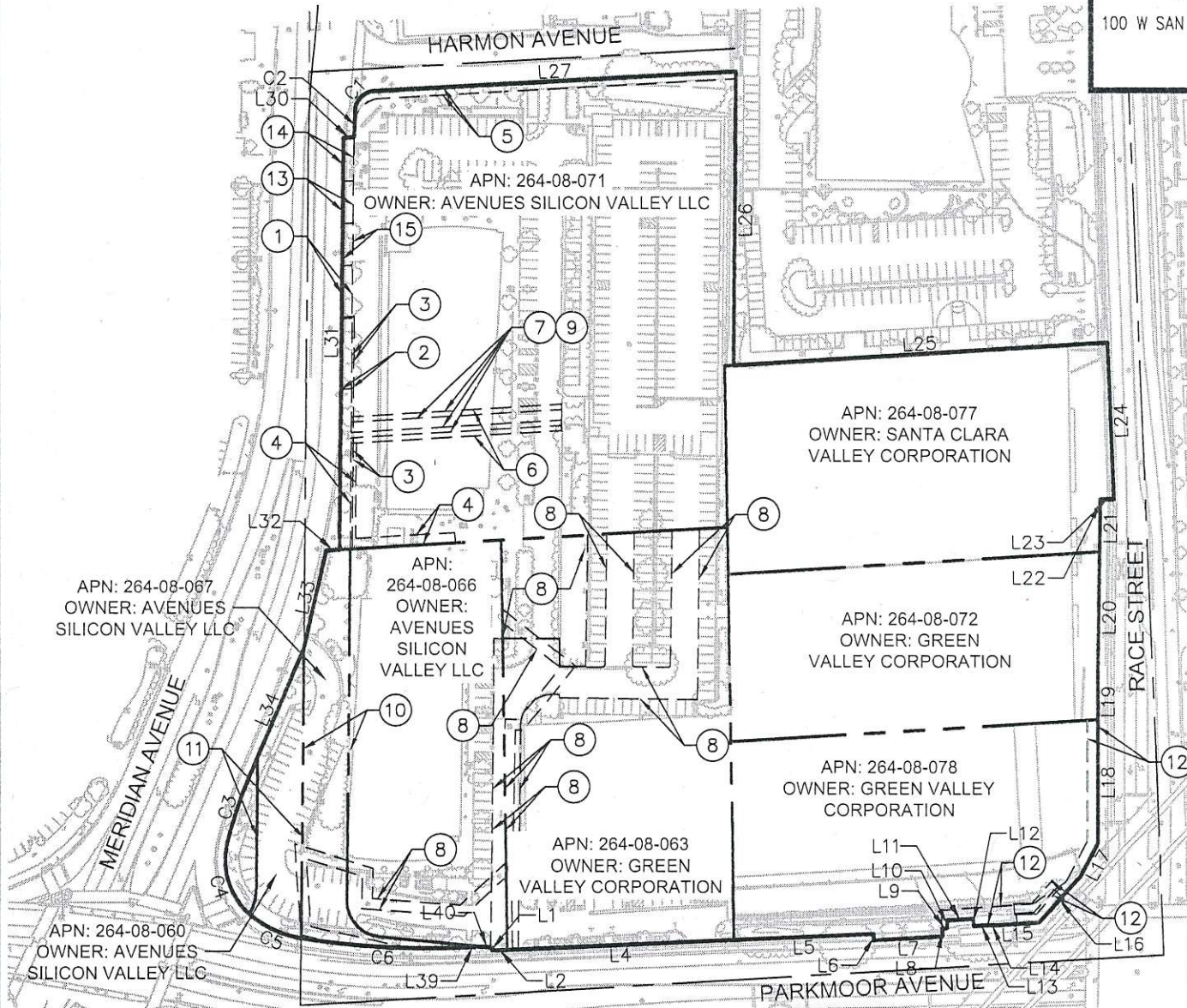
WWW.KIMLEY-HORN.COM

### NOTES

THE PROPERTY LINE AND BOUNDARY INFORMATION SHOWN ON THIS MAP IS PER ALTA/NPSP LAND TITLE SURVEY PREPARED BY BOCK AND CLARK DATED AUGUST 8, 9 AND 14, 2018. KIMLEY-HORN DOES NOT ACCEPT RESPONSIBILITY FOR THE ACCURACY OF THE PROPERTY LINE/BOUNDARY INFORMATION. THE INFORMATION SHALL NOT BE USED FOR RECORDATION PURPOSES UNTIL VERIFIED BY A LICENSED CALIFORNIA SURVEYOR PER THE REQUIREMENTS OF THE CALIFORNIA PROFESSIONAL LAND SURVEYORS ACT.

### LEGEND

-  PROPERTY LINE
-  SUBJECT PROPERTY
-  EASEMENT LINE
-  EASEMENT NOTES SEE SHEET 3

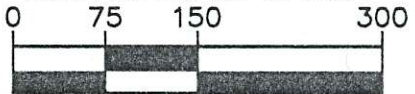


AVENUES - SILICON VALLEY  
550/570 MERIDIAN AVENUE

DATED: 04/02/2019



GRAPHIC SCALE IN FEET



CITY OF SAN JOSE

SHEET 1 OF 3

EXHIBIT "B"

(File Nos. C19-013, CP19-013, T20-015)

## EXHIBIT B

# Kimley»Horn

100 W SAN FERNANDO STREET, SUITE 250, SAN JOSE, CA 95113  
 PHONE: 619-234-9411  
 WWW.KIMLEY-HORN.COM

### LINE TABLE

LINE	LENGTH	BEARING
L1	2.78	S3°21'04"E
L2	14.31	N87°26'27"E
L4	214.89	N87°26'27"E
L5	132.64	N87°26'26"E
L6	6.03	S3°10'45"E
L7	65.21	N86°38'56"E
L8	7.63	N3°27'09"W
L9	5.00	N86°32'51"E
L10	7.49	N3°27'09"W
L11	25.00	N86°32'51"E
L12	6.99	S3°27'09"E
L13	15.00	N86°32'51"E
L14	4.95	S87°44'58"E
L15	42.21	N86°01'16"E
L16	58.17	N42°10'48"E
L17	35.21	N27°56'56"E
L18	118.17	N0°00'05"E
L19	34.62	N0°00'05"E
L20	124.54	N0°57'48"E
L21	43.58	N0°57'40"E

### LINE TABLE

LINE	LENGTH	BEARING
L22	5.90	N2°14'47"W
L23	13.03	N87°43'57"E
L24	147.52	N2°16'05"W
L25	355.19	S86°28'58"W
L26	277.74	N0°33'16"E
L27	343.04	S86°48'27"W
L30	10.16	S86°48'27"W
L31	389.69	S0°34'37"W
L32	12.63	S86°33'47"W
L33	95.15	S12°57'37"W
L34	131.92	S23°09'13"W
L39	17.22	N87°26'34"E
L40	9.81	S84°23'11"E

### CURVE TABLE

CURVE	RADIUS	LENGTH	CHORD BEARING	CHORD	DELTA
C1	20.00'	29.24'	S44°55'31"W	26.71'	83°46'05"
C2	957.00'	23.92'	S2°19'30"W	23.92'	1°25'56"
C3	384.00'	68.29'	S18°03'31"W	68.20'	10°11'23"
C4	67.00'	74.98'	S19°05'53"E	71.13'	64°07'26"
C5	104.00'	54.02'	S66°02'24"E	53.41'	29°45'36"
C6	752.00'	152.74'	S86°44'19"E	152.47'	11°38'14"



AVENUES - SILICON VALLEY  
 550/570 MERIDIAN AVENUE

DATED: 04/02/2019

CITY OF SAN JOSE

SHEET 2 OF 3

## EXHIBIT B

# Kimley»Horn

100 W SAN FERNANDO STREET, SUITE 250, SAN JOSE, CA 95113

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## EASEMENT NOTES

- ① EASEMENT FOR PUBLIC STREET/ROAD PER DOCUMENT RECORDED APRIL 07, 1960 IN BOOK 4755, PAGE 275 OF OFFICIAL RECORDS.
- ② EASEMENT FOR PUBLIC STREET/ROAD PER DOCUMENT RECORDED SEPTEMBER 08, 1959 AS BOOK 4537, PAGE 492 OF OFFICIAL RECORDS.
- ③ EASEMENT FOR PUBLIC STREET/ROAD PER DOCUMENT RECORDED NOVEMBER 17, 1982 AS BOOK H150, PAGE 48 OF OFFICIAL RECORDS.
- ④ EASEMENT FOR INGRESS AND EGRESS AND UNDERGROUND CONDUITS RECORDED JUNE 14, 1982 AS BOOK G841, PAGE 198 OF OFFICIAL RECORDS.
- ⑤ EASEMENT FOR STREET PER DOCUMENT RECORDED OCTOBER 27, 200 AS INSTRUMENT NO. 15437233 OF OFFICIAL RECORDS.
- ⑥ EASEMENT FOR POLE LINE PER DOCUMENT RECORDED JANUARY 22, 1965 AS BOOK 6823, PAGE 393 OF OFFICIAL RECORDS.
- ⑦ EASEMENT FOR INGRESS AND EGRESS, AND SANITARY SEWER DEDICATED ON THE MAP OF RECORD OF SURVEY PER DOCUMENT RECORDED OCTOBER 08, 1964 IN BOOK 186, PAGE 13 OF RECORD MAPS.
- ⑧ NONEXCLUSIVE RECIPROCAL EASEMENT AGREEMENT PER DOCUMENT RECORDED DECEMBER 28, 2012 AS INSTRUMENT NO. 22028427 OF OFFICIAL RECORDS.
- ⑨ EASEMENT FOR INGRESS AND EGRESS, SANITARY SEWER PER DOCUMENT RECORDED OCTOBER 08, 1964 AND ON FILE IN BOOK 186, PAGE 13, OF RECORD MAPS.
- ⑩ EASEMENT FOR PUBLIC UTILITIES PER DOCUMENT RECORDED MARCH 03, 1975 IN BOOK B302, PAGE 688 OF OFFICIAL RECORDS.
- ⑪ EASEMENT FOR PUBLIC UTILITIES PER DOCUMENT RECORDED MARCH 24, 1975 IN BOOK B330, PAGE 483 OF OFFICIAL RECORDS.
- ⑫ EASEMENT FOR TEMPORARY CONSTRUCTION PER DOCUMENT RECORDED APRIL 24, 2003 AS DOCUMENT NO. 16988337 OF OFFICIAL RECORDS.
- ⑬ EASEMENT FOR PUBLIC STREET/ROAD PER DOCUMENT RECORDED JULY 13, 1959 IN BOOK 4479, PAGE 324 OF OFFICIAL RECORDS.
- ⑭ EASEMENT FOR PUBLIC STREET/ROAD PER DOCUMENT RECORDED JULY 13, 1959 IN BOOK 4479, PAGE 377 OF OFFICIAL RECORDS.
- ⑮ EASEMENT FOR PUBLIC STREET/ROAD PER DOCUMENT RECORDED DECEMBER 15, 1959 IN BOOK 4637, PAGE 562 OF OFFICIAL RECORDS.



AVENUES - SILICON VALLEY  
550/570 MERIDIAN AVENUE

DATED: 04/02/2019

CITY OF SAN JOSE

SHEET 3 OF 3

EXHIBIT "B"

(File Nos. C48 042; CB48 042; T20 042)