

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT PERMIT TO ALLOW THE DEMOLITION OF THREE EXISTING COMMERCIAL BUILDINGS, THE REMOVAL OF 104 ORDINANCE-SIZE TREES AND 92 NON-ORDINANCE TREES, AND THE CONSTRUCTION OF THREE MULTIFAMILY RESIDENTIAL BUILDINGS WITH 580 RESIDENTIAL UNITS, INCLUDING 173 UNITS OF AFFORDABLE HOUSING, AND A 250-ROOM HOTEL BUILDING WITH 8,500 GROSS SQUARE FEET OF GROUND FLOOR RETAIL WITH ASSOCIATED PARKING, LANDSCAPING, AND AMENITIES ON AN APPROXIMATELY 10.0-GROSS ACRE SITE, LOCATED AT THE SOUTHEAST CORNER OF STEVENS CREEK BOULEVARD AND LOPINA WAY (4300-4360 STEVENS CREEK BOULEVARD)**

**FILE NO. PD20-012**

**WHEREAS**, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on January 5, 2021, an application (File No. PD20-012) was filed by the owner and applicant Perry Hariri of MPG Stevens Creek Owner LLC, with the City of San José for a Planned Development Permit to allow the demolition of three existing commercial buildings, the removal of 104 ordinance-size trees and 92 non-ordinance trees, and the construction of three multifamily residential buildings with 580 residential units, including 173 units of affordable housing, and a 250-room hotel building with 8,500 gross square feet of ground floor retail with associated parking, landscaping, and amenities on an approximately 10.0 gross acre site, on that certain real property situated in the CP(PD) Planned Development Zoning District and located on the southeast corner of Stevens Creek Boulevard and Lopina Way (4300-4360 Stevens Creek Boulevard, San José, which real property is sometimes referred to herein as the “subject property”); and

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

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

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

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

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

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

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

**WHEREAS**, at said hearing, this City Council received in evidence a plan for the subject property entitled, "Planned Development Permit PD20-012 – Stevens Creek Promenade" dated March 7, 2022, said plan is on file in the Department of Planning, Building and Code

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

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

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

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

After considering evidence presented at the public hearing, the City Council finds that the following are the relevant facts and findings regarding this proposed project:

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

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

2. **Project Description.** The project consists of a Planned Development Permit to allow the demolition of three existing commercial buildings totaling approximately 77,000 square feet, the removal of 104 ordinance-size trees and 92 non-ordinance trees, and the construction of three multifamily residential buildings with 580 residential units, including 173 units of affordable housing, of which 116 units are subject to the State Density Bonus Law, and a 250-room hotel building with 8,500 gross square feet of ground floor retail with associated parking, landscaping, and amenities on an approximately 10.0-gross acre site, located at the southeast corner of Stevens Creek Boulevard and Lopina Way (4300-4360 Stevens Creek Boulevard).

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

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

In conjunction with the Planned Development Permit, the project also includes a Planned Development Rezoning, File No. PDC20-021, and a Vesting Tentative Map, File No. PT21-001. The Planned Development Rezoning rezoned the site from the CG(PD) Planned Development Zoning District per File No. PDC16-036 to the CP(PD) Planned Development Zoning District, and the Vesting Tentative Map subdivided three parcels into seven parcels on the Project Site.

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

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

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

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

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

**Implementation Policy IP-8.5:** Use the Planned Development zoning process to tailor such regulations as allowed uses, site intensities and development standards to a particular site for which, because of unique circumstances, a Planned Development zoning process will better conform to Envision General Plan goals and policies than may be practical through implementation of a conventional Zoning District.

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

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

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

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

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

*Analysis: The minimum commercial square footage required to meet the 0.25 FAR for the Urban Village area is 189,000 square feet. The commercial square footage*

*provided by the hotel building is 241,873 square feet, which exceeds the minimum requirement. The project is consistent with this policy.*

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

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

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

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

*Analysis for Policies LU-5.3 and P-2.1: The project includes approximately 190% of the required common open space and 50% of the required private open space. The project includes a 14,000-square foot privately owned publicly accessible paseo between Building A and Building B and a 32,500-square foot privately owned publicly accessible promenade between Buildings B and C, extending up to Stevens Creek Boulevard. These public open spaces are well designed and usable with landscaping, accent paving, benches, and lounge seating. Therefore, the proposed development is consistent with this policy.*

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

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

**Urban Village Plan Design Guidelines and Standards Consistency:** Per the Urban Village Design Concept on page 54, the project site is within the Mixed-Use Auto “character area,” which is intended to accommodate new mixed-use development alongside existing automobile dealerships.

Parking Standard 1.b: Adjacent to side or rear property lines: Parking areas for nonresidential uses shall provide a perimeter landscape strip at least five feet wide where the parking area adjoins a side or rear property line.

*Analysis: As shown in the landscaping plans, a 14-foot-wide planting strip will be installed along Lopina Way in front of the hotel, exceeding the requirement for a five-foot wide landscape strip.*

**Setback and Stepback Standard 4:** Provide a front setback to achieve a minimum 20-foot-wide pedestrian environment along the ground floor of a non-residential development fronting onto Stevens Creek Boulevard.

*Analysis: The project includes additional right-of-way dedication for the required 20-foot-wide sidewalk with street trees along Stevens Creek Boulevard. This dedication includes the entire site along Stevens Creek Boulevard, including the frontage of the existing buildings that are proposed to remain.*

**Façade Articulation Standard 1:** Ensure commercial and mixed-use building facades along Stevens Creek Boulevard consist of clear un-tinted glass or other glazing material on at least 60 percent of the surface area between two feet and seven feet above grade.

*Analysis: Per Sheet AH1.15 of the Project Plans, the total percentage of clear glazing along the facade facing Stevens Creek Boulevard is 86% between two and seven feet above grade, exceeding the requirement.*

**Façade Articulation Guideline 7:** Use of stucco shall be minimized and aluminum mesh is prohibited as a balcony material.

*Analysis: The façade materials include a combination of plaster, fiber cement panels, brick, and glass fiber reinforced concrete with minimal use of stucco consistently and cohesively throughout the site. The balcony materials include fabricated metal railings with glass inserts, consistent with this requirement.*

#### **4. Zoning Ordinance Consistency**

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

##### **Land Use**

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

Development Regulations

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

Setbacks

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

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

*Analysis: As shown on the Planned Development Permit PD20-012 Plan Set, the project conforms with all required setback standards pursuant to the General Development Plan of the Planned Development Zoning District. The setbacks of the CP(PD) Planned Development Zoning District Development Standards, compared to*



*the standard CP Commercial Pedestrian Zoning District, would allow the project to achieve a density consistent with the General Plan Land Use Designation of Urban Village, as well as provide flexibility to better suit the curved and undulating perimeter lot lines.*

Vehicle Parking:

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

<b>Parking</b>	<b>Zoning Code</b>	<b>CP(PD) Planned Development Zoning District Development Standards</b>	<b>Provided by Project</b>
Affordable Multifamily Residential (Building A)	Per Section 20.190.040, minimum one space per studio and one-bedroom units Minimum 1.5 spaces for two- and three-bedroom units	Minimum 0.5 space per unit	87 spaces (173 units x 0.5 space per unit)
Market-Rate Multifamily Residential (Buildings B and C)	Per Section 20.90, minimum 1.25 spaces per studio and one-bedroom unit Minimum 1.7 spaces per two-bedroom unit Minimum 2.0 spaces per three-bedroom unit	Minimum one space per unit	Building B: 191 spaces (191 units x one space per unit) Building C: 216 spaces (216 units x one space per unit)
<b>Total Residential Parking Required and Provided</b>			<b>494 spaces</b>
Commercial Retail (Ground Floor of Hotel)	Minimum one space per 200 square feet of net floor area (85% of gross)	Minimum one space per 400 square feet of net floor area (85% of gross)	18 spaces (7,248 / 400) (85% x 8,527 square feet = 7,248 square feet)
Hotel	Minimum one space per guest room plus one space per employee	Minimum 0.9 space per guest room plus one space per employee	242 spaces (250 guest rooms x 0.9 = 225 spaces + 17 employee spaces)
Subtotal Hotel Parking			260 spaces
20% Reduction allowed per Section 20.90.220.A.1*			52 spaces
<b>Total Hotel Parking Required</b>			<b>208 spaces</b>
<b>Total Hotel Parking Provided</b>			<b>210 spaces</b>

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

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

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

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

#### Motorcycle Parking

Since the project qualifies for a density bonus under State law, the City may not impose parking requirements greater than those set forth at Government Code section 65915(p)(1) (1.0 space for units with 0 to 1 bedroom; 1.5 spaces for units with 2 to 3 bedrooms), which are also allowed by Section 20.19.040 of the Zoning Code. Local jurisdictions are prohibited from requiring additional vehicle parking spaces above the State Density Bonus Law parking ratios for the residential units. Per the California Vehicle Code, motorcycles are defined as vehicles. Therefore, no motorcycle spaces are required for the residential portion of the project.

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

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

### Bicycle Parking

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

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

### Loading Spaces

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

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

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

## **5. San Jose Design Guidelines Consistency**

The project was analyzed for consistency with applicable Commercial Design Guidelines (1990) for the hotel and retail uses and the Residential Design Guidelines (1999) for the multifamily residential uses. Per Senate Bill 330, effective January 1, 2020, only objective standards and guidelines can be applied to certain affordable

housing projects. Objective standards per SB 330 must be measurable and quantifiable.

The updated Citywide Guidelines were adopted on February 23, 2021 and effective March 25, 2021. These updated guidelines include objective standards in response to the requirements of SB 330. The project had a complete application on file on January 5, 2021, prior to the effective date of the new guidelines and therefore subject to the previous Commercial and Residential Design Guidelines.

The project complies with the following key guidelines below:

### **Commercial Design Guidelines**

Section 2.A.3: Corner buildings should have a strong tie to the setback lines of each street. The primary mass of the building should not be placed at an angle to the corner. This does not preclude angled or sculpted building corners, or an open plaza at the corner.

*Analysis: The hotel building is placed within two feet of the Stevens Creek Boulevard sidewalk and within 14 feet of the Lopina Way sidewalk, consistent with the setback requirements of the Stevens Creek Boulevard Urban Village Plan and the CP(PD) Planned Development Zoning District development standards. The building placement is square to the corner and not placed at an angle. Therefore, the project is consistent with this guideline.*

Section 2.C.2: The exterior building design, including roof style, color, materials, architectural form and detailing, should be consistent among all buildings in a complex and on all elevations of each building to achieve design harmony and continuity within itself and with its surroundings.

*Analysis: The design elements of the hotel building are consistent with the three residential buildings on the site. For example, all four buildings have flat roofs. Shared materials include glass railings and metal awnings. Shared colors include white, copper red, orange, and gray. The architectural style is modern contemporary throughout the project, with unique details like laser cut and perforated metal privacy panels.*

Section 2.D.1: Roof design should conform to legitimate forms, i.e. hipped, gabled, or flat, etc. Superficial application of artificial roof elements, such as the mansard style roof to disguise a flat roof should not be used. This does not preclude roof top equipment wells when set behind conventional roof forms.

*Analysis: The roof style of all four buildings is flat. The hotel includes a tower element at the corner and varied roof heights. All mechanical equipment is shielded from view from the street.*

## **Residential Design Guidelines**

Chapter 11.A Façade Articulation. All building facades containing 3 or more attached dwellings in a row should incorporate at least one of the following:

1. At least one architectural projection per unit. Such a projection must project no less than 2 feet 6 inches from the major wall plane, must be between 4 feet 6 inches and 15 feet wide, or
2. A change in wall plane of at least 3 feet for at least 12 feet every 2 units.

*Analysis: The windows, balconies, awnings, and architectural projections and recessions provided with the project design is consistent with the façade articulation guidelines. There is at least one projection, change in wall plane, or architectural feature that meets this guideline on all facades of the project.*

Chapter 11.E. Changes in Materials. The exterior materials and architectural details of a single building should relate to each other in ways that are traditional and/or logical. Material changes not accompanied by changes in plane also frequently give material an insubstantial or applied. There are, however, exceptions to this principle such as the articulation of the base of a building by a change in color, texture or material.

*Analysis: The project includes multiple changes in plane, materials, and color throughout all facades of the project. The project successfully incorporates materials and colors that relate to each other between the four buildings. Some changes to materials and textures are intended as focal points, including the large mural on the north side of the hotel facing the Stevens Creek Boulevard. The project is consistent with this guideline.*

Chapter 16.A. Access to Transit Facilities. New residential projects should be designed with a pedestrian circulation element that provides a direct connection from project units to adjacent transit facilities such as bus stops and light rail stations.

*Analysis: Per the Site Plan, Sheet A1.2 of the Plan Set, the pedestrian path to the existing bus stop along Stevens Creek Boulevard is shown as a dashed line. The project provides a direct connection to the adjacent transit facility and is consistent with this guideline.*

Chapter 16.C. Bicycle Parking. Attached unit projects, which do not provide private enclosed garages, should provide secure bicycle parking facilities to encourage the use of bicycles instead of automobiles.

*Analysis: Each of the four buildings included in this project have an interior room dedicated to long-term bicycle parking and storage, as discussed in the Zoning Consistency section above.*

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

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

### Density Bonus

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

### Incentives

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

#### Incentive 1: Parking.

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

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

As a result of the decreased costs, the project would be viable and can be constructed. Cost savings will go toward the affordability of the units. Therefore, the incentive

request to reduce the required parking of the project results in actual and identifiable cost reductions and can be granted.

## 7. City Council Policy Consistency

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

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

## 8. California Environmental Quality Act.

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

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

CEQA recognizes that between the date an environmental document is certified and the date the project is fully implemented, that the project may change; the environmental setting of the project may change; laws, regulations, or policies may change; and/or previously unknown information can arise. CEQA Guidelines Section 15162 provides that when an Environmental Impact Report has been certified or a Negative Declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the Lead Agency determines that substantial changes to the project

occur that will require major revisions to the EIR, or that new information which was not previously known or studied indicates that significant impacts on the environment may arise from development of the revised project.

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

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

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

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

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

Standard Permit Conditions and Conditions of Approval are also required to ensure no impacts occur during construction or operation of the project. These Standard Permit Conditions include best management practices for construction related air quality impacts, water quality impacts during construction and operation, best management practices to control noise during construction and achieving an interior noise level of less than 45 dBA DNL after construction, protection of nesting migratory



birds, compliance with the Santa Clara Valley Habitat Plan, protection of unknown subsurface cultural resources and human remains, compliance with the California Building Code for seismic safety of the proposed building, and erosion control during construction activities.

**9. Planned Development Permit Findings.** Section 20.100.940 of the Zoning Ordinance specifies the required findings for approval of a Planned Development Permit. These findings are made for the project based on the analysis related to General Plan, Zoning Ordinance, and CEQA conformance and subject to the conditions set forth in the Permit. In order to make the Planned Development Permit findings and recommend approval to the Planning Commission, staff must determine that:

- a. The planned development permit, as issued, is consistent with and furthers the policies of the general plan; and

*Analysis: As analyzed above, the mixed-use project including a hotel and three multifamily housing buildings with 580 residential units is consistent with the Urban Village Land Use Designation per the Stevens Creek Boulevard Urban Village Plan, including relevant goals and policies. The use is allowed within the Urban Village designation, the project is providing a FAR of 2.5, 120 du/ac, a maximum height of 89.5 feet, and ground floor retail in the hotel building facing Stevens Creek Boulevard.*

- b. The planned development permit, as issued, conforms in all respects to the planned development zoning of the property; and

*Analysis: As analyzed above, the project is consistent with the CP(PD) Planned Development Zoning District development standards. The project is required to have 702 vehicle parking spaces and five bicycle parking spaces. The project provides 704 vehicle parking spaces, ten motorcycle spaces, and 174 bicycle parking spaces to fulfill the parking requirements. The project is also providing one on-site loading space. Therefore, the project conforms with the municipal code development standards.*

- c. The planned development permit, as approved, is consistent with applicable city council policies, or counterbalancing considerations justify the inconsistency; and

*Analysis: As discussed above, the project is subject to and conforms to the Public Outreach Policy for Pending Land Use and Development Proposals. The on-site sign has been posted at the site since September 3, 2021 to inform the neighborhood of the project. A community meeting was held to discuss the project on October 18, 2021 via Zoom webinar. Approximately 15 members of the public were in attendance for the meeting. Comments received during the community meeting included concerns regarding traffic, the possibility of adding bike lanes, height and density, and parking. Public Notices of the community*

*meeting and public hearing were distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.*

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

*Analysis: The subject mixed-use project provides a 250-room hotel with ground floor retail and three multifamily residential buildings with 580 residential units. The project design includes modern contemporary architecture including aluminum and glass at the ground floor of the hotel with plaster and fiber cement board on the podium level, and with perforated metal privacy panels, metal awnings, and stucco on the residential buildings. The project design also includes variations on color, materials, projections, and recessions at the podium level, which contribute to an interesting and varied design.*

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

*Analysis: The project incorporates measures to address noise, stormwater runoff, drainage and erosion. The project will be required to adhere to all applicable standard permit conditions and mitigation measures related to reducing temporary and operational sources of noise and vibration, dust, and erosion. Residential and hotel buildings are not usually considered a source of significant odor and would not impact adjacent properties. The project will be required to comply with all City permits and policies related to erosion and storm water runoff. For these reasons the project is not anticipated to have an unacceptable negative impact on adjacent properties.*

**10. Evaluation Criteria for Demolition.** Section 20.80.460 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 this Permit.

- 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 Jose;

- 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 project includes the demolition of three vacant commercial office buildings on site with a total floor area of approximately 77,000 square feet. The project includes architectural design that is compatible with the character of the surrounding neighborhood, which includes car dealerships to the north, east, and west, and multifamily residential buildings to the south. The project would not have an adverse impact on the adjacent properties. The demolition would facilitate a mixed-use project including a 250-room hotel with ground floor retail and three multifamily residential buildings with 580 units. Re-use of the buildings would not be feasible to implement the goals of the project. The existing buildings on-site, as well as the adjacent commercial and office buildings and residences, were constructed around 1977, making them approximately 45 years old. However, the buildings are not listed on the City's Historic Resources Inventory, and none meet the eligibility criteria for inclusion on the California Register of Historic Resources or the National Register of Historic Places based on their age and architectural style. The existing supply of housing would be maintained and exceeded through the provision of the 580 housing units.*

**11. Tree Removal Findings.** Chapter 13.32 of the San José Municipal Code establishes at least one of the following required findings must be made for issuance of a Live Tree Removal Permit for ordinance-size trees. Findings are made for the project based on the findings related to General Plan, Zoning Ordinance and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in the resolution.

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

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

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

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

Tree Replacement Ratios				
Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon

x:x = tree replacement to tree loss ratio

Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size.

A 38-inch tree equals 12.1 inches in diameter.

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

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

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

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

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

subject property for the use conditionally permitted hereby.

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

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

Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager makes a determination that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.

5. **Use Authorization.** Subject to all conditions herein, this Permit allows a mixed-use project including three multifamily residential buildings with 580 units, including 173 units of affordable housing, and a 250-room hotel building with 8,500 gross square feet of ground floor retail
6. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved Planned Development Permit plans entitled, “Planned Development Permit PD20-012 – Stevens Creek Promenade” dated March 7, 2022, on file with the Department of Planning, Building and Code Enforcement (“Approved Plans”), 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 Plans” or the “Approved Plan Set.”.
7. **Regulatory Agreement.** The project is required to provide at least 173 units of affordable housing, including 58 units reserved for households earning up to 50% AMI, 29 units reserved for households earning up to 60% AMI, 29 units reserved for households earning up to 80% AMI, and 57 units reserved for households earning up to 120% AMI. Prior to the issuance of any building permits or approval of any parcel or final map, whichever occurs first, permittee shall enter into a Regulatory Agreement with the City for the affordable units. Such Regulatory Agreement shall be recorded in the Santa Clara County Clerk-Recorder’s Office. The Regulatory Agreement shall be in a form approved by the City Attorney and Director of Planning, Building and Code Enforcement.
8. **Demolition Permit.** A demolition permit may be issued for the three existing commercial office buildings only upon the submittal of a complete Public Works Grading Permit application or the submittal of a complete Building Permit application for new construction.
9. **Timing of Tree Removals.** Trees that are proposed for removal to accommodate new development shall not be removed until the related complete Public Works Grading Permit Application or Building Permit Application has been filed.
10. **Tree Protection Standards.** The permittee shall maintain the trees and other vegetation shown to be retained in this project and as noted on the Approved Plan Set. Maintenance shall include pruning and watering as necessary and protection from construction damage. Prior to the removal of any tree on the site, all trees to be

preserved shall be permanently identified by metal numbered tags. Prior to issuance of any Grading Permit or removal of any tree, all trees to be saved shall be protected by chain link fencing, or other fencing type approved by the Director of Planning. Said fencing shall be installed at the dripline of the tree in all cases and shall remain during construction. No storage of construction materials, landscape materials, vehicles or construction activities shall occur within the fenced tree protection area. Any root pruning required for construction purposes shall receive prior review and approval and shall be supervised by an approved licensed arborist. Fencing and signage shall be maintained by the permittee to prevent disturbances during the full length of the construction period that could potentially disrupt the habitat or trees.

11. **Window Glazing.** Unless otherwise indicated on the Approved Plan, all windows shall consist of a transparent glass.
12. **Previous Permits Superseded.** As of the effective date of this Permit, it shall supersede and replace the previously issued Planned Development Permit No. PD17-014.
13. **Planned Development District Effectuated.** This Planned Development Permit effectuates the portion of the Planned Development Zoning as reflected in the Permit's Approved Plan Set and the corresponding legal description.
14. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City of San José.
15. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, state, and federal laws.
16. **Discretionary Review.** The City maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
17. **Refuse.** All trash and refuse storage areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the trash or refuse container(s). Trash areas shall be maintained in a manner to discourage illegal dumping
18. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.
19. **Utilities.** All new on-site telephone, electrical, and other service facilities shall be placed underground.
20. **Anti-Graffiti.** All graffiti shall be removed from buildings and wall surfaces, including job sites for projects under construction, within 48 hours of defacement.
21. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and

debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts, and garbage.

22. **No Sign Approval.** Any signage shown on the Approved Plan Set are conceptual only. No signs are approved at this time. Any signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
23. **Building and Property Maintenance.** The permittee shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the building such as paint, roof, paving, signs, lighting and landscaping.
24. **No Generators Approved.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
25. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
26. **Required Vehicular, Motorcycle, and Bicycle Parking.** This project shall conform to the vehicular, motorcycle, and bicycle parking requirements of the Zoning Ordinance/approved Planned Development Zoning, as amended. Any changes to the required vehicular, motorcycle, or bicycle parking requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning.
27. **Garage Parking Spaces for Attached Residential Unit Projects.** All garage parking spaces shown on the Approved Plans are to be used only for parking of residential unit vehicles and shall be kept free and clear of all obstructions. No conversion of any garages to living space, storage, or any other use is permitted.
28. **Mechanical Equipment.** The location and type of mechanical equipment shall be as shown on the Approved Plans and shall be screened from view. Changes to the mechanical equipment requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning.
29. **Privately Owned, Publicly Accessible Open Space.** The project's promenade located on the property between multifamily residential Buildings B and C, extending north to Stevens Creek Boulevard (as referenced on the approved Plan Set), will be a privately owned, publicly accessible ground level open space. The promenade shall be an area designated for use by the general public while owned and maintained by a private owner, as described by the following:
  - a. Permittee (including property owners and successors in interest of Permittee or property owner) providing this publicly accessible open space shall, to the fullest extent permitted by law, hold harmless and indemnify the City of San José, its officers, agents and employees, from any and all damage or injury caused in any manner by the design, construction, use, or maintenance of the open space; and



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

### **30. Housing Conditions of Approval**

- a. The permittee has submitted an Affordable Housing Compliance Plan Application (“Plan”) and processing/application fees. Approval of the Plan is required prior to the development’s planning application being deemed complete and prior to Planning’s first approval.
  - i. Prior to earliest of: (1) approval of any parcel or final map or (2) issuance of any building permits, the permittee must execute and record their Affordable Housing Agreement memorializing the IHO obligations against the property, any other property required for the satisfaction of the compliance option

- selected in the Plan and record the Affordable Housing Agreement or a City covenant against contiguous property under common ownership and control. No building permit may issue except consistent with the requirements of the IHO and the proposed Plan to fulfill the affordable housing obligations.
- ii. Permittee must strictly comply with each requirement of the approved Affordable Housing Compliance Plan, the Affordable Housing Agreement, and any other applicable requirements of the IHO or its guidelines and submit any additional or updated documents requested by the Housing Department in connection with the satisfaction of the compliance option selected in the Plan.
  - iii. No Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the IHO, its guidelines and the Affordable Housing Agreement are met.
- b. For all Non-Residential development adding or constructing 5,000 square feet or more of new or additional floor area. An applicant is required to submit to the Housing Department, as part of its the application for First Approval the following:
- (a) a fully completed, executed Satisfaction Plan, (b) all attachments to the Satisfaction Plan, (c) the required application processing fee and (d) complete an addendum to the Satisfaction Plan, if the Project is requesting a secured deferred payment option or Affordable Housing Credits.
  - i. For Projects deemed complete before May 12, 2022, No Final Inspection Approval, Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units will be issued until all requirements of the Commercial Linkage Fee Ordinance and Guidelines are met.
  - ii. For Projects deemed complete on or after May 12, 2022, no scheduling of the final building inspection will occur until all requirements of the Commercial Linkage Fee Ordinance and Guidelines are met.
  - iii. For Office or R/D Projects adding more than 100,000 square feet that are deemed complete on or after May 12, 2022 and have selected the secured deferred payment option the following applies: Prior to issuance of any building permits, the permittee must execute an agreement regarding deferred payment specifying the security to be provided and pay 20% of the fee, Prior to the scheduling of final building inspection, those projects must pay another 20% of the fee and submit the letter of credit or payment bond securing the outstanding amount for approval.
- 31. Construction Disturbance Coordinator.** Rules and regulation pertaining to all construction activities and limitations identified in this Permit, along with the name and telephone number of a Permittee-appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.
- 32. Stormwater Stenciling.** All storm drain inlets and catch basins shall be stenciled with the “NO DUMPING - FLOWS TO BAY,” applied to the top and/or face of the curb next

to the storm drain inlet. The development maintenance entity and/or property owner shall ensure that all storm drain inlet markings located on privately-maintained streets within the property are present and maintained.

33. **Landscaping.** Planting and irrigation are to be provided by the Permittee, as indicated, on the final Approved Plans.
34. **Irrigation Standards.** Irrigation shall be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping, the City of San José Landscape and Irrigation Guidelines and the Zonal Irrigation Plan in the Approved Plans. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
35. **Certification.** Pursuant to San José Municipal Code, Section 15.11.1050 certificates of substantial completion for landscape and irrigation installation shall be completed by a licensed or certified professional and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
36. **Replacement Landscaping.** All landscaping removed with the construction of the project shall be replaced with similar landscaping in the immediate area. All landscaped replacement areas shall be automatically irrigated.
37. **Common Area Landscaping.** All landscaping in common areas shall be maintained by the Homeowner's Association or other similar entity.
38. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the project must comply with the California Fire Code as adopted or updated by the city.
39. **Building Division Clearance for Issuing Permits.** Prior to the issuance of any Building permit, the following requirements shall be met to the satisfaction of the Chief Building Official:
  - a. *Construction Plans.* This Permit file number, PD20-012 shall be printed on all construction plans submitted to the Building Division.
  - b. *San Jose's Natural Gas Infrastructure Prohibition and Reach Code Ordinances.* The City's Natural Gas Infrastructure Prohibition and Reach Code Ordinances apply to this project and all requirements shall be met. For more information, please visit [www.sjenvironment.org/reachcode](http://www.sjenvironment.org/reachcode).
  - c. *Americans with Disabilities Act.* The permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
  - d. *Emergency Address Card.* The project Permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
  - e. *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.

- f. *Common Interest Development.* Should condominiums be proposed, prior to issuance of any certificate of occupancy, or release for occupancy, the Permittee shall provide a self-certified statement to the satisfaction of the City's Chief Building Official that the project, as constructed, meets the City of San José Common Interest Development standards.
  - g. *Project Addressing Plan.* Prior to issuance of any Building Permit, the following requirements shall be met to the satisfaction of the Chief Building Official: The project Permittee shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial). The addressing plan should include proposed street names for the streets (as referenced on an approved tentative map) and the type of addressing (i.e., individual street addresses as compared to unit number off of a primary street).
  - h. *Other.* Such other requirements as may be specified by the Chief Building Official.
40. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
41. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the permittee will be required to have satisfied all of the following Public Works conditions. The permittee is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at: <http://www.sanjoseca.gov/devresources>.
- a. **Mapping:** Submit a Quitclaim Deed for existing the 10-foot wide PG&E easement, in a form approved by the City Public Works Department, to be recorded prior to map recordation.
  - b. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement 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.
  - c. **Transportation:** A Transportation Analysis has been performed for this project based on a net new 202 AM and 102 PM peak hour trips. See separate Traffic Memo dated 4/22/22 for additional information. The following conditions shall be implemented:

- i. Implement the following multimodal physical improvements per project's description:
  - 1) Pedestrian Network and Traffic Calming Improvements:
    - (a) Remove the pork-chop islands, eliminate the uncontrolled slip right-turn lanes, and tighten the corner radius at both the southwest and northwest corners of the Stevens Creek Boulevard and Kiely Boulevard intersection.
    - (b) Implement a signal modification changing the signal phasing from permitted to protected along both Kiely Boulevard approaches and update the traffic signal in conjunction with the geometry improvements.
    - (c) Coordinate and seek approval when within their jurisdiction with the City of Santa Clara to confirm the final design plans for the intersection improvements.
  - ii. Provide a westbound left-turn pocket of at least 50 feet in length at the new Lopina Way/Stevens Creek Boulevard intersection.
  - iii. Install an all-way stop control at the new Lopina Way/Albany Drive intersection.
  - iv. Implement 40 feet of red curb to the west and 15 feet to the east of the new Lopina Way on Stevens Creek Boulevard to ensure adequate sight distance.
  - v. Provide one (1) 26-foot driveway along Stevens Creek Boulevard, two (2) 26-foot driveways along Albany Drive, and three (3) 26-foot driveways along Lopina Way.
  - vi. Implement 80 feet of red curb west and 15 feet of red curb east of the Building A driveway.
  - vii. Implement 15 feet of red curb along both sides of Building B driveway on Albany Drive, and both sides of the Building C driveway on Lopina Way.
- d. **Urban Village Plan:** This project is located in the Stevens Creek Boulevard 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.
- e. **Grand Boulevard:** This project fronts Stevens Creek Boulevard 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.
- f. **Street Vacation:** A street vacation is required in order to relocate Lopina Way to

the eastern property line and to accomplish the land use plan as shown. Prior to Public Works clearance, the street vacation shall be processed through a final map in conformance with the vesting tentative map, which requires further discretionary approval by the City Council. The preliminary title report indicates the permittee owns the street in fee. Upon vacation no further action by the City is required.

g. **Grading/Geology:**

- i. A grading permit is required prior to the issuance of a Public Works Clearance.
  - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the latest California Plumbing Code as adopted under the City of San Jose Municipal Code Section 24.04.100 or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
  - iii. 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.
  - iv. 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.
  - v. 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.
- h. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
- i. The project's Stormwater Control Plan and numeric sizing calculations have

- been reviewed and this project shall be in conformance with City Policy 6-29.
- ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
  - iii. A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating that all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.
  - iv. A design of the pervious pavement by a Licensed Geotechnical Engineer shall be submitted prior to the issuance of a Public Works Clearance.
  - i. **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).
  - j. **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.
  - k. **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.
  - l. **Parks:** This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the "Formula for Dedication of Land" and/or "Schedule of Fees and Credits" contained within in the chapter.
  - m. **Street Improvements:**
    - i. Construct 20-foot wide City standard attached sidewalk with 4-foot by 5-foot tree wells behind back of curb along Stevens Creek Boulevard project frontage. Provide approximately 10-foot wide public street easement to accommodate the new sidewalk width.
    - ii. Construct 12-foot wide City standard attached sidewalk with 4-foot by 5-foot tree wells behind back of curb along Albany Drive project frontage. Provide approximately 2-foot wide public street easement to accommodate the new sidewalk width.

- iii. Construct relocated Lopina Way consisting of a 12-foot wide attached City standard sidewalk with 4-foot by 5-foot tree wells behind back of curb along the west side of the street. A 4-foot wide attached sidewalk shall be constructed along the east side of the street. Provide approximately 50-foot wide public street easement to accommodate the relocated street.
  - 1) Final right of way cross section of new Lopina Way shall be determined per the approved PD20-012 permit and as determined by City of San Jose.
  - 2) Provide written agreement with property owner of APN 296-40-017 for proposed improvements at their property frontage (i.e., new driveway).
- iv. If street tree locations conflict with existing utilities, permittee shall be solely responsible for relocating or adjusting utilities as necessary to resolve conflict.
- v. Reconstruct half street along Albany Drive and Stevens Creek Boulevard frontage including curb, gutter, sidewalk, and pavement sections.
- vi. Construct 26-foot wide City standard driveways along Lopina Way, Albany Drive, and Stevens Creek Boulevard project frontages.
- vii. Construct half bulb-outs along Albany Drive at the new intersection of relocated Lopina Way.
- viii. Construct two (2) City standard directional handicap ramps at opposite returns across relocated Lopina Way, at Stevens Creek Boulevard.
- ix. Construct one (1) directional ADA curb ramp at the northwest project corner of the relocated Lopina Way/Albany Drive intersection including one (1) receiving curb ramp for a total of four (4) curb ramps.
- x. Construct all-way stop at the new intersection of relocated Lopina Way and Albany Drive.
- xi. Provide voluntary monetary contribution (\$122 per LF) for the future Class IV protected bikeway along the Stevens Creek Blvd project frontage per the San Jose Better Bike Plan 2025.
- xii. Provide \$25,000 contribution for implementation of video detection cameras at the Stevens Creek/Kiely intersection.
- xiii. As of June 2022, VTA removed the bus stop along the project's frontage on the southwest corner of Stevens Creek Blvd and Lopina Way due to the location not having a crosswalk to access the pair bus stop in the westbound directions. As a result, Developer shall perform either of the following two (2) options:
  - 1) Option #1: Coordinate with VTA to construct the following improvements to the VTA bus stop at the southwest corner of Stevens Creek



Blvd/Palace Drive by relocating the bus stop to east of Woodhams Road (near the controlled crosswalk):

- (a) Install a 10'x55' PCC bus pad per VTA standards and requirements.
- (b) Replace the wooden bench with a metal bench per VTA specifications.
- (c) Remove the existing bus stop location and PCC concrete pad. The existing location has safety issues with right hooks when cars are turning into Palace Drive and the bus is proceeding straight on Stevens Creek Blvd.
- (d) Provide location of the bus stop and a note to contact VTA at [Bus.Stop@vta.org](mailto:Bus.Stop@vta.org) or 403-321-5800 at least 72 business hours prior to any construction that may impact bus operations.

2) Option #2: Provide a not-to-exceed monetary contribution of \$138,000 towards VTA transit improvements.

- xiv. Permittee shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
- xv. Close unused driveway cut(s).
- xvi. Developer shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the project frontage.
- xvii. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
- xviii. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.

n. **Sanitary:**

- i. The proposed development has been determined to add flows to an existing deficiency downstream on Kiely Boulevard. To avoid adding flow to an existing deficiency, install a weir in the existing upstream manhole of the new 8-inch sanitary sewer line to be constructed on the relocated Lopina Way, which will direct any incoming flow from the west on Albany Drive to the relocated Lopina Way.
- ii. The existing 8-inch sanitary line along Albany Drive and Kiely Boulevard may not have adequate capacity to support the development. Provide flow monitoring along the 8-inch line at Kiely Blvd. The metered data should include dry weather days to avoid rain. If it is determined that the project is

creating a deficiency, the project will be required to upsize the pipe.

- iii. Expected flow rate to the existing surrounding sanitary mains to be evaluated for potential capacity constraints for this project. If the provided flow rate for the project exceeds the current capacity, upsizing of the surrounding mains will be required.

**o. Electrical:**

- i. Salvage existing electroliers and luminaires along Lopina Way.
- ii. Install electroliers on relocated Lopina Way project frontage. Ultimate location will be determined at public improvement plan stage.
- iii. Relocate existing electrolier to maintain 10 feet minimum clearance between driveway and electrolier.
- iv. 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.
- v. Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
- vi. Provide clearance for electrical equipment from driveways and relocate driveway or electrolier. The minimum clearance from driveways is 10 feet in commercial areas and 5 feet in residential areas.

**p. Street Trees:**

- i. The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in 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.
- ii. Stevens Creek Boulevard: Recommended street trees are Platanus x acerifolia 'Columbia' as infill of vacant and proposed tree wells 35-feet on center.
- iii. Albany Way: Recommended street trees are Quercus suber planted 35 feet on center.
- iv. Lopina Way: Recommended street trees are Gingko biloba 'Autumn Gold' planted 35 feet on center.
- v. Show all existing trees by species and diameter that are to be retained or removed. Obtain a street tree removal permit for any street trees that are over

6 feet in height that are proposed to be removed.

42. **Conformance to MMRP.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program (MMRP), as maybe be amended and approved for this development by City Council Resolution No. \_\_\_\_\_.

43. **Standard Environmental Conditions.** The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:

a. **Air Quality**

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

b. **Biological Resources**

- i. **Tree Removal and Replacement.** The trees removed by the proposed project would be replaced according to tree replacement ratios required by the City as

provided in Table 3.4 2 below. Of the 196 trees on-site that would be removed, 14 trees would be replaced at a ratio 5:1 ratio, 90 trees would be replaced at a 4:1 ratio, one tree would be replaced at a 3:1 ratio, 46 trees will be replaced at a 2:1 ratio, and 45 trees would be replaced at a 1:1 ratio. The total number of replacement trees required to be planted would be 570 trees. The project proposes to plant a total of 286 replacement trees at 24-inch box size or greater at-grade, which meets the City’s Tree Replacement ratios.

<b>Table Error! No text of specified style in document.-1: Tree Replacement Requirements</b>				
<b>Diameter of Tree to be Removed<sup>1</sup></b>	<b>Type of Tree to be Removed<sup>2</sup></b>			<b>Minimum Size of Each Replacement Tree</b>
	<b>Native</b>	<b>Non-Native</b>	<b>Orchard</b>	
12.1 inches or more <sup>3</sup>	5:1	4:1	3:1	15-gallon container
6.1 – 12.1 inches	3:1	2:1	None	15-gallon container
Less than 6.1 inches	1:1	1:1	None	15-gallon container

<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 trees

Notes: Trees greater than or equal to 12.1 inches in diameter 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 is 12.1 inches in diameter.  
 1 24-inch box tree = 2 15-gallon trees.

In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:

- 1) The size of a 15-gallon replacement may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.
- 2) Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance with the City Council approved Fee Resolution. The City will use the following off-site tree replacement fee(s) to plant trees at alternative sites.

ii. **Santa Clara Valley Habitat Plan.** The project is subject to applicable Habitat

- Plan 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 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 <https://scv-habitatagency.org/>.
- c. **Hydrology and Water Quality.** Consistent with the General Plan, measures shall be implemented to prevent stormwater pollution and minimize potential sedimentation during construction, including, but not limited to, the following:
- i. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
  - ii. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
  - iii. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
  - iv. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
  - v. All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.
  - vi. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
  - vii. Vegetation in disturbed areas shall be replanted as quickly as possible.
  - viii. All unpaved entrances to the site shall be filled with rock to remove mud from truck tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
  - ix. The permittee shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.
- d. **Noise.** Pursuant to General Plan Policy EC-1.7, project construction operations shall use best available noise suppression devices and techniques including, but not limited to the following:
- i. Pile Driving is prohibited.
  - ii. Limit construction to the hours of 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. Construction outside of these hours may be approved through a development

- permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential use.
- iii. Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
  - iv. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good conditions and appropriate for the equipment.
  - v. Prohibit unnecessary idling of internal combustion engines.
  - vi. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
  - vii. Utilize “quiet” air compressors and other stationary noise sources where technology exists.
  - viii. Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
  - ix. Notify all adjacent businesses, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to adjacent land uses and nearby residences.
  - x. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
  - xi. Designate a “disturbance coordinator” who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g. bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
- e. **Interior Noise.** The following measures are recommended to reduce future interior noise levels at residential use areas on the project site:
- i. A qualified acoustical specialist shall prepare a detailed analysis of interior residential noise levels resulting from all exterior sources during the design phase pursuant to requirements set forth in the State Building Code. The study will review the final site plan, building elevations, and floor plans prior to construction and recommend building treatments to reduce residential interior noise levels to 45 dBA DNL or lower.

- ii. Treatments would include, but are not limited to, sound-rated windows and doors, sound-rated wall and window constructions, acoustical caulking, protected ventilation openings, mechanical ventilation, etc. The specific determination of what noise insulation treatments are necessary shall be completed on a unit-by-unit basis during final design of the project. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City for review and approval, along with the building plans and approved design, prior to issuance of a building permit.

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

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

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

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ADOPTED this \_\_\_\_ day of \_\_\_\_, 2022, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk

*NOTICE TO PARTIES*

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



**EXHIBIT A**  
**LEGAL DESCRIPTION**

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

PARCEL ONE:

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

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

PARCEL TWO:

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

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

PARCEL THREE:

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

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

# PARCEL MAP

CONSISTING OF THREE SHEETS

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

CITY OF SAN JOSE

COUNTY OF SANTA CLARA STATE OF CALIFORNIA

OCTOBER, 2003



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

## OWNER'S STATEMENT

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

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

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

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

## AS OWNER:

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

BY: UBS REALTY INVESTORS LLC, ITS MANAGER

NAME: Thomas Enger

TITLE: Thomas Enger, Director

## Acknowledgement

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

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

Thomas Enger

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

Witness my hand

Notary's Signature Teresa L. Rao

Printed Notary's Name Teresa L. Rao

Notary's Principal Place of Business San Francisco

Expiration of Notary's Commission Dec. 13, 2004

Notary Commission No. 1384491

## EASEMENT ACCEPTANCE BY THE DIRECTOR OF PLANNING

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

Date: December 17, 2003

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

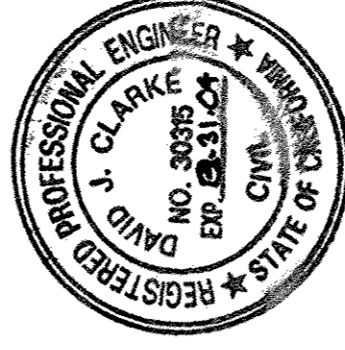
By: Jean-Hamilton  
Deputy

## CITY ENGINEER'S STATEMENT

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

Date 12.17.03

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



## COUNTY RECORDER'S STATEMENT

File No. 17550250 Fee \$12.00 Paid.

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

Brenda Davis, County Recorder  
Santa Clara County, California

By: g. Perez  
Deputy

## SURVEYOR'S STATEMENT

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

Date 10-28-03

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



#17550250

# PARCEL MAP

CONSISTING OF THREE SHEETS

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

CITY OF SAN JOSE

COUNTY OF SANTA CLARA STATE OF CALIFORNIA

OCTOBER, 2003



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

## BASIS OF BEARINGS

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

## NOTES

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

## LEGEND

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

## ABBREVIATIONS

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

## LINE TABLE:

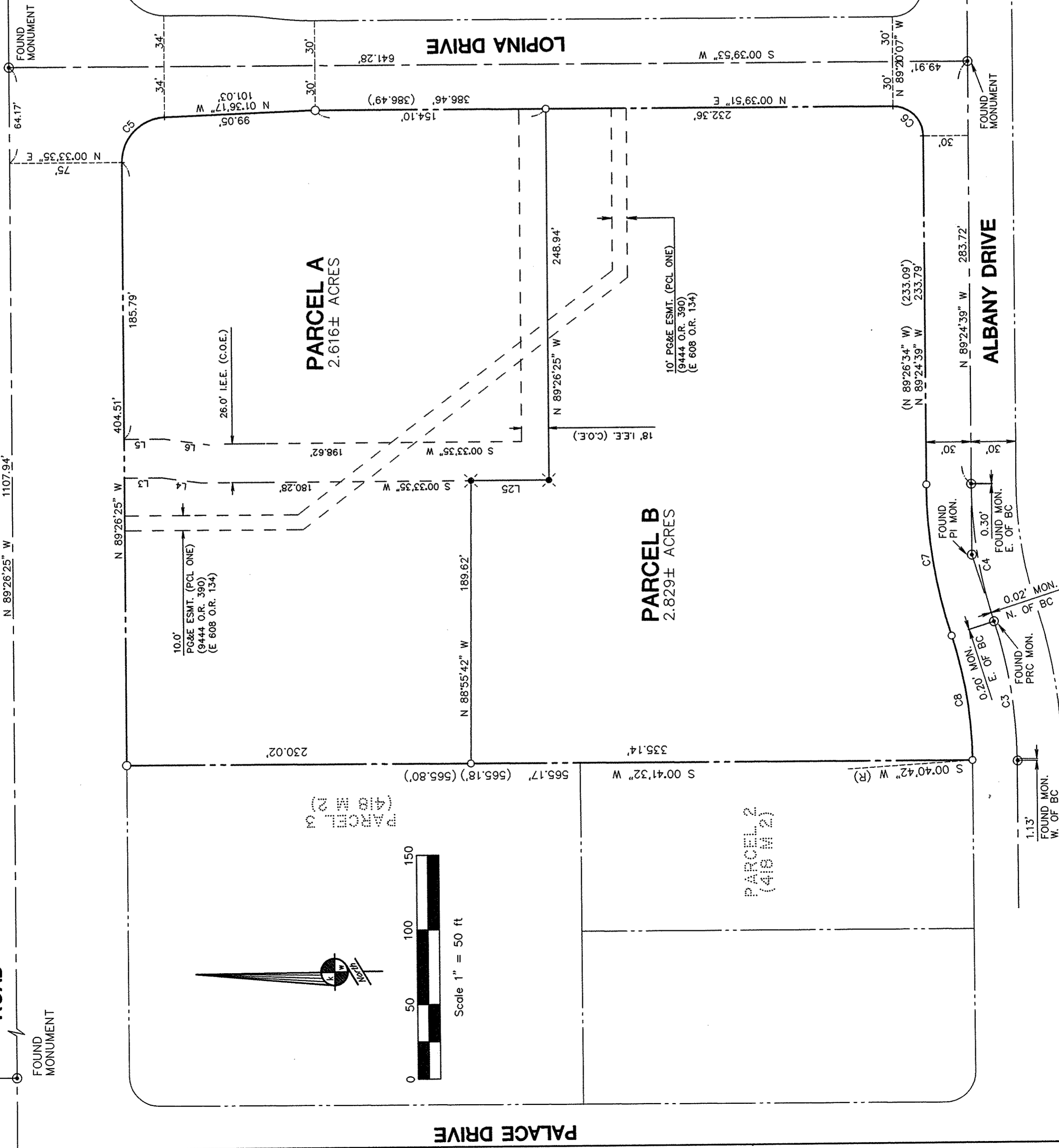
LINE	BEARING	DISTANCE	CURVE	RADIUS	DELTA	LENGTH
L1	S 00°33'35" W	17.35'	C1	8.00'	87°48'56"	12.26'
L2	S 00°32'41" W	18.56'	C2	13.00'	87°48'56"	19.92'
L3	N 00°39'51" E	5.00'	C3	300.00'	17°53'16"	93.86'
L4	N 41°24'52" W	3.49'	C4	300.00'	17°53'33"	93.86'
L5	N 41°24'52" W	3.51'	C5	30.00'	87°50'08"	45.99'
L6	S 89°44'50" W	32.65'	C6	20.00'	89°55'30"	31.39'
L7	S 89°44'50" W	32.15'	C7	20.00'	(89°53'35") (31.36)	(31.36)
L8	N 51°09'38" W	10.17'	C8	330.00'	17°55'32"	(103.91')
L9	N 51°09'38" W	10.14'			(18°02'28")	(84.90')
L10	N 89°18'28" W	29.94'			(18°02'28")	(85.02')
L11	N 89°18'28" W	31.25'				
L12	N 59°59'03" W	24.57'				
L13	N 59°59'03" W	23.17'				
L14	S 61°32'41" W	23.64'				

## STEVENS CREEK BOULEVARD

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

## WOODHAMS ROAD

FOUND MONUMENT



## PALACE DRIVE

#17550250

767  
11/12  
767  
11/12

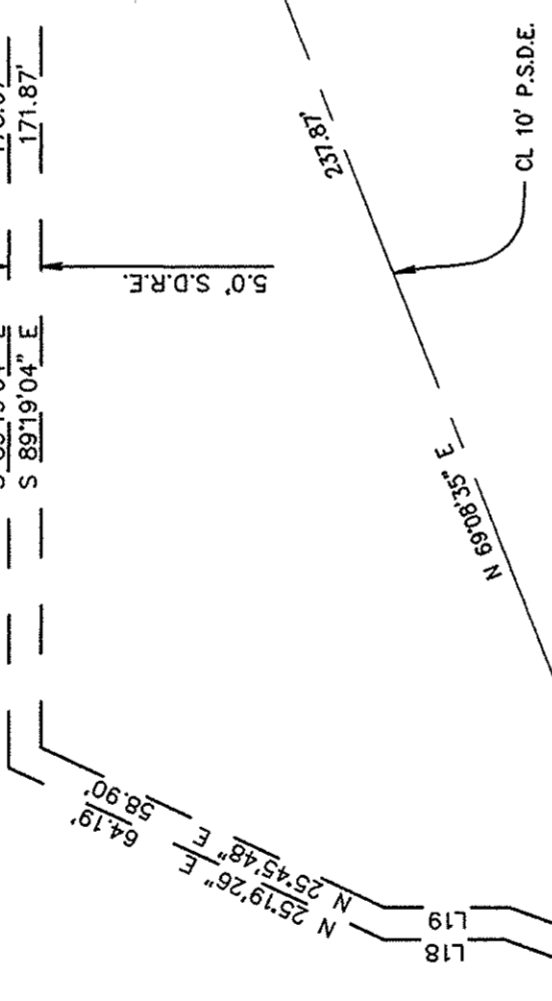
WOODHAMS ROAD

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

FOUND MONUMENT

STEVENS CREEK BOULEVARD

N 89°26'25" W 404.51'



PARCEL A  
2.616± ACRES

PARCEL B  
2.829± ACRES

SEE SHEET 2 FOR LINE  
TABLE & CURVE TABLE



Scale 1" = 30 ft

PRIVATE STORM DRAIN EASEMENT  
AND  
STORM DRAIN RELEASE EASEMENT

# PARCEL MAP

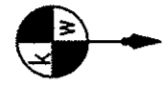
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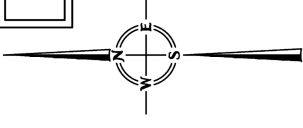
3-02236

92192-8

SHEET 3 OF 3

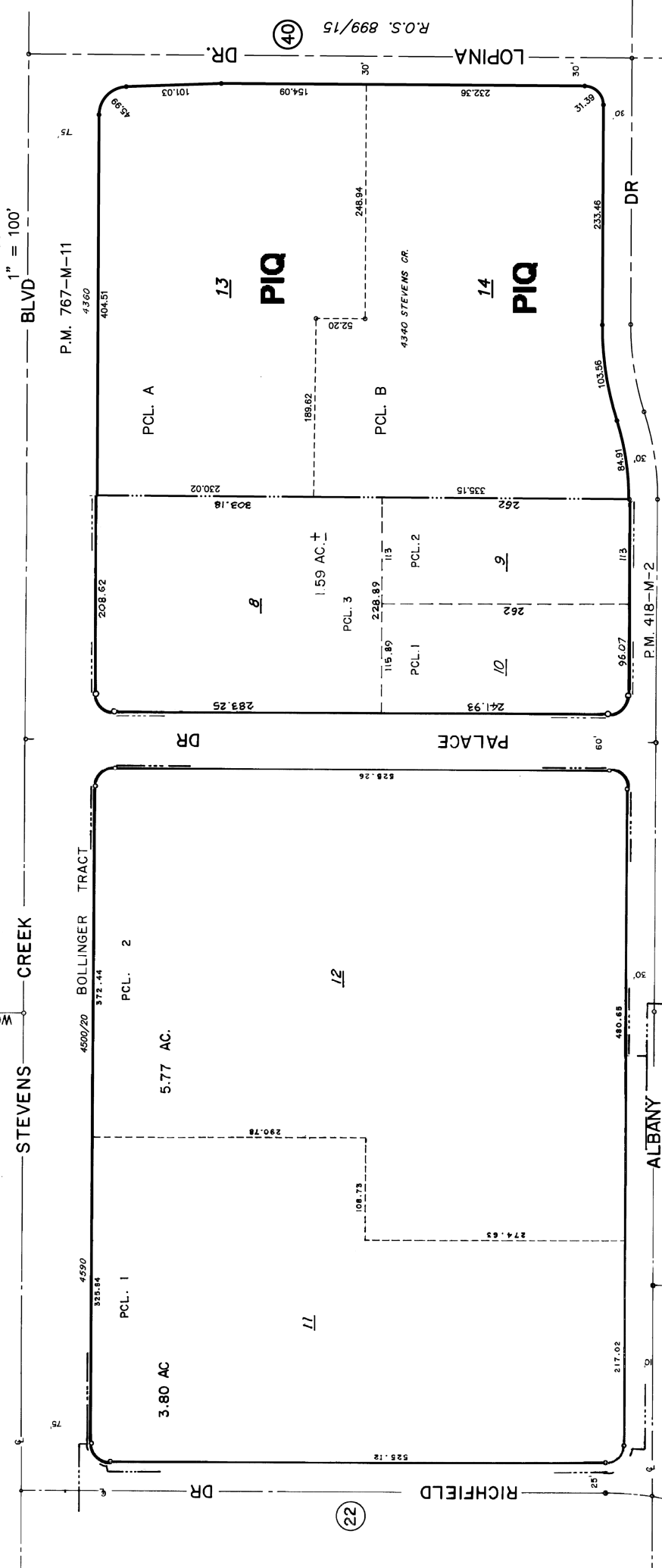
#17550250

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



(21)

(37)

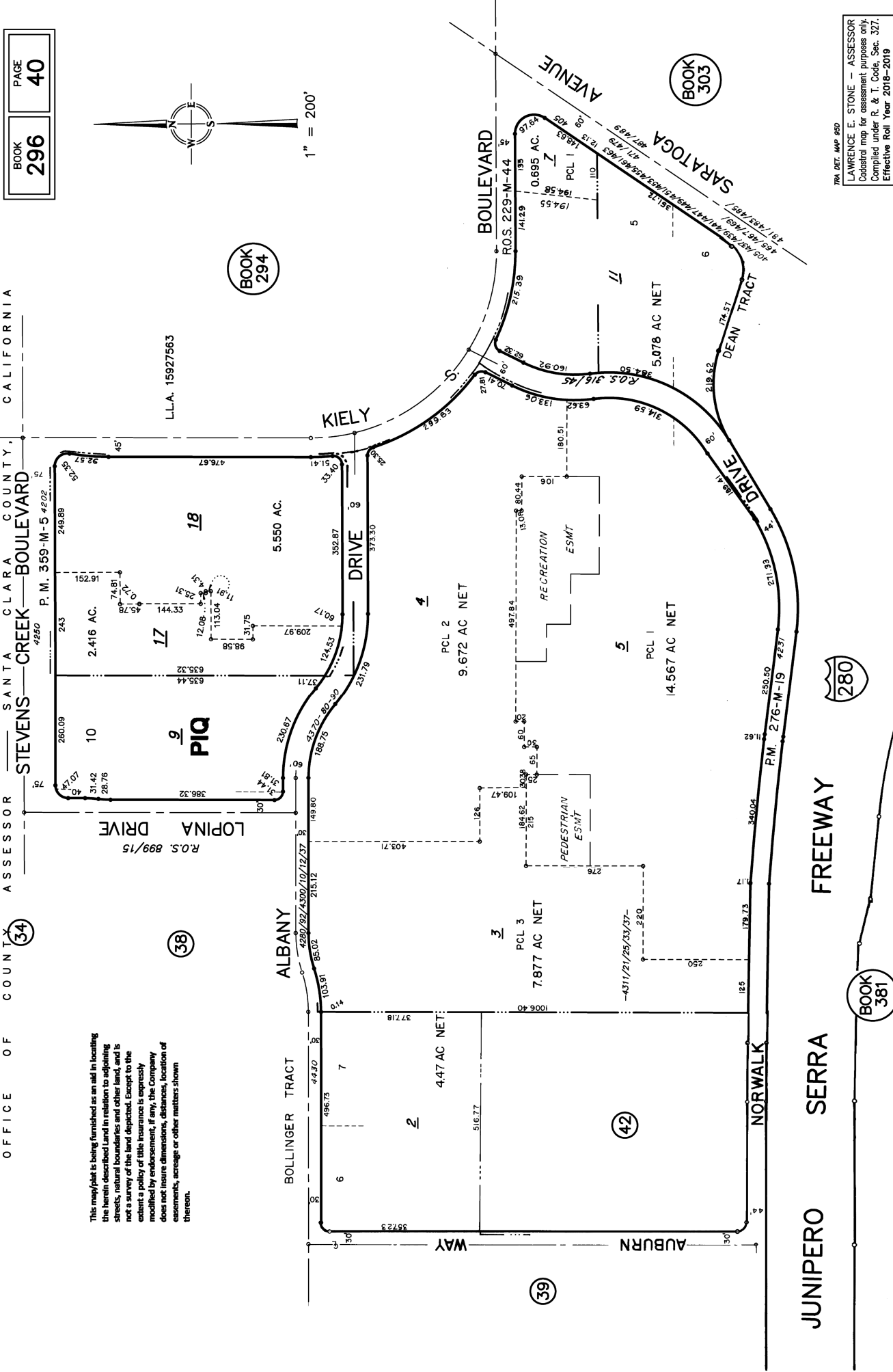
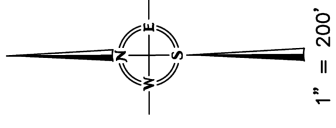


(39)

(40)

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

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

