

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT PERMIT TO CONSTRUCT A SIX-STORY, 192,350 SQUARE FOOT OFFICE BUILDING, PARKING STRUCTURE ADDITION TO ACCOMMODATE A TOTAL OF 1,870 PARKING SPACES, LANDSCAPING AND ASSOCIATED SITE IMPROVEMENTS, ON AN APPROXIMATELY 63 GROSS ACRE SITE LOCATED AT THE TERMINUS OF AMERICA CENTER DRIVE, APPROXIMATELY 500 FEET NORTH OF STATE ROUTE 237 (0 AMERICA CENTER DRIVE, APNS: 015-45-013, 024, 032, 048, 049, 050, 051, 051, 052, & 053)

FILE NO. PD15-053

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on October 29, 2015, an application (File No. PD15-053) was filed by the applicant, SteelWave LLC, with the City of San José for a Planned Development Permit to construct a 192,350 square new office building, an addition to the existing parking structure to accommodate a total of 1,870 parking spaces, landscaping and associated site improvements, on that certain real property situated in the A(PD) Agriculture Planned Development Zoning District and located at the terminus of America Center Drive, approximately 500 feet northerly of State Route 237 (0 America Center Drive, APN: 015-45-044, San José, which real property is sometimes referred to herein as the “subject property”); and

WHEREAS, the subject property is all that real property more particularly described in Exhibit "A," entitled “Legal Description,” and depicted in Exhibit "B," entitled “Site 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 hearing on said application on January 10, 2018, notice of which was duly given; and

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

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

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

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

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

WHEREAS, at said hearing, this City Council received in evidence a development plan for the subject property entitled, "America Center," dated received on December 20, 2017, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

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

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

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

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

1. **Site Description and Surrounding Uses.** The project site is a partially developed 63.7 gross-acre site, known as the America Center site, which is currently developed with two occupied office buildings, a hotel, two additional office buildings under construction, a parking structure with 800 parking spaces, the connector roads and surface parking lots with 2,124 parking spaces. The area north of the site is designated as Open Space Preserve pursuant to the original zoning Planned Development Zoning File No. PDC99-044. The site is bordered by State Route 237 to the south, the San Tomas Aquino Creek to the west, salt evaporation ponds along the edge of the San Francisco Bay to the northwest, and the Southern Pacific railroad tracks to the east. Across San Tomas Aquino Creek is a wetlands mitigation site. There is an extended-stay hotel and two office buildings to the east of the Union Pacific Railroad (UPRR) train tracks.
2. **Project Description.** On October 29, 2015, a Planned Development Rezoning (PDC15-058) and Planned Development Permit (PD15-053) application was filed for the America Center site. The proposed Planned Development Rezoning would maintain the existing designation of A(PD) Planned Development Zoning District and remove the approximately 6.7-acre River Commercial area adjacent to the Guadalupe River/Alviso Slough from the Planned Development Zoning. This 6.7-acre area was covered under a separate Planned Development Rezoning (PDC15-016) approved on March 22, 2016 by Ordinance No. 29712. The currently proposed rezoning would also include minor lot line adjustments and would increase the allowed commercial office/R&D land use of 190,000 square feet. The existing allowed height of 90 feet will remain in place. The Planned Development Permit (PD15-053) would allow the construction of a six-story office building (Building 5) up to a maximum height of 83 feet at the top of roof, and would contain approximately 192,350 square feet of floor

space. Additional parking would be accommodated through a five-story expansion of the previously approved parking structure resulting in a total of 1,870 structured parking spaces and 1,740 surface parking spaces. Onsite circulation will remain as it is currently, with the main access point located at the southern end of the site.

3. General Plan Conformance. The Project has an Envision San José 2040 General Plan Land Use/Transportation Diagram designation of Combined Industrial/Commercial. This land use designation is intended for a wide variety of commercial, office, industrial developments, or a compatible mix of these uses. The project is also consistent with the following General Plan policies:

1. Land Use Policy LU-8.1: In areas that are designated for mixed industrial and commercial uses, allow only commercial uses that are compatible with industrial uses. Non-employment uses are prohibited in these areas.

Analysis: The proposed Planned Development Permit would accommodate an additional 190,000 square feet for Building 5 and the expansion of the parking structure would accommodate the additional required parking. The requested changes would make for a larger single or multi user campus. The additional square footage will provide office space and additional employment opportunities. The proposed building and parking are compatible with the existing buildings and other commercial uses on the site in that the architecture, massing and uses are consistent with the existing development on the site.

2. Environmental Resources Policy ER-2.1: Ensure that new public and private development adjacent to riparian corridors in San José are consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Plan/ Natural Communities Conservation Plan.
3. Environmental Resources Policy ER-2.2: Ensure that a 100-foot setback from riparian habitat is the standard to be achieved in all but a limited number of instances, only where no significant environmental impacts would occur.
4. Environmental Resources Policy ER-2.3: Design new development to protect adjacent riparian corridors from encroachment of lighting, exotic landscaping, noise and toxic substances into the riparian zone.
5. Environmental Resources Policy ER-4.4: Require that development projects incorporate mitigation measures to avoid and minimize impacts to individuals of special-status species.
6. Environmental Resources Policy ER-5.1: Avoid implementing activities that result in the loss of active native birds' nests, including both direct loss and indirect loss through abandonment, of native birds. Avoidance of activities that could result in impacts to nests during the breeding season or maintenance of buffers between such activities and active nests would avoid such impacts.

7. Environmental Resources Policy ER-5.2: Require that development projects incorporate measures to avoid impacts to nesting migratory birds.
8. Environmental Resources Policy ER-6.5: Prohibit use of invasive species, citywide, in required landscaping as part of the discretionary review of proposed development.
9. Environmental Resources Policy ER-7.1: In the area north of Highway 237 design and construct buildings and structures using bird friendly design and practices to reduce the potential for bird strikes for species associated with the Baylands or the riparian habitats of lower Coyote Creek.

Analysis: The project would respect the 100-foot riparian setback specified within of General Plan Policy ER-2.1, ER-2.2, ER-2.3 and Council Policy 6-34. Landscape plans would be in compliance with Policy ER-6.5. Mitigation measures MM BIO-1.1 and MM BIO-1.2 would be implemented consistent with General Plan Policy ER-4.4, ER-5.1, and ER-5.2. Bird-safe design features, such as no vegetated, glass-walled atria and not including glass windows or siding in the design for the parking garage, are proposed and Building 5 will incorporate View Dynamic Glass (i.e., a smart glass system that allows the tint of the glass to be varied, allowing the tint to be increased at night to prevent brightly lit windows, which can result in the disorientation of migrating birds at night) in the building. All bird-safe design features are reviewed by city staff as part of the overall design review process for consistency with City Council Policy 6-34 and Policy ER-7.1.

4. **Alviso Master Plan – Land Use:** The site is designated Combined Industrial/Commercial by the Alviso Master Plan, which allows for a wide range of industrial uses, including warehousing, office, research and development, and light manufacturing. This land use designation also allows for retail, restaurant, hotel, or other commercial establishments. The proposed project fits into the parameters of this land use designation. The project is also consistent with several Objectives, Goals and Policies of the Alviso Master Plan.

1. Industrial/Non-Industrial Relationships Objective: Setbacks and buffers should be established to protect environmental resources (e.g., Coyote Creek) and "sensitive uses" (e.g., residential, day care, and school uses) from potential negative impacts of industrial use.

Analysis: The proposed Planned Development Permit maintains the adopted setbacks and established open space areas included in the original Planned Development Zoning (File No. PDC99-044). The proposed Building 5 location is located at the interior of the site, between existing buildings. The proposed parking garage expansion is located along the existing rail line and away from designated open space areas.

2. River Orientation Policy 3: New Buildings adjacent to the Guadalupe River/Alviso Slough should be of an appropriate scale and character to enhance this

waterway as a public-oriented recreation resource and as a natural riparian corridor.

Analysis: The Alviso Master Plan has a height limit in this area of 90 feet, which the Planned Development Permit further limits the height to approximately 83 feet. As noted above, the building and garage locations are located at the interior of the site or adjacent to the existing rail line, away from existing waterways.

3. Industrial/Non-Industrial Relationship Objective: Setbacks and buffers should be established to protect environmental resources and “sensitive uses” from potential negative impacts of industrial use.

Analysis: The proposed use is not a typical industrial use, such as manufacturing and the storage of chemicals, that has operational effects on “sensitive uses.” The proposed office building and parking garage addition will not be storing, handling, disposing of, and/or using acutely hazardous materials. Moreover, the proposed project site is located outside of the Riparian Corridor, which is located west of the existing office buildings on the site, creating a buffer between the proposed project and the riparian areas.

4. Gateway Entrances Objective: Development located near Highway 237 along both sides of Gold Street, First Street, and Zanker Road should foster a “gateway” feel through building orientation, signs, trees, landscaping, and other features.

Analysis: The proposed Building 5 and garage addition will further enhance the overall America Center site. The constructed and entitled office buildings on the site have a high degree of visibility from State Route 237 and are designed to have a distinctive high-quality, “modern” architectural style that will support the image of a high-tech, high-quality office at Gold Street.

5. Community Character Policy 2: New development should reflect Alviso 's bayside character through the design of buildings and landscaping.
6. Lands Outside of the Village Area Design Objective: Given the high visibility of most of this area, development should be attractive and should fit in the context of the larger community; and should reflect some of the elements and materials of seaside styles to contribute to Alviso's sense of place.

Analysis: The America Center development is located on the former landfill and is outside the Alviso Village area. The Alviso Master Plan includes several design guidelines for projects located outside the Village area. The proposed buildings are consistent with the development standards in that the proposed Building 5 and parking garage are under 90 feet in height and would comply with the established setbacks, as discussed above. The building style is a simple form with softer colors compatible with the Bayfront area. The parking garage is located at the interior of the site adjacent to the railroad tracks. Landscaping

around the site is comprised of a simple plant palette and located primarily with the site area.

- 5. Zoning and Planned Development Zoning Conformance.** The proposed Building 5 and parking garage expansion is a permitted use under the approved rezoning and is consistent with the project's Development Standards related to use, setbacks, height, and open space requirements. The Planned Development Rezoning maintains the existing zoning of A(PD) Agriculture Planned Development Zoning District and includes the Land Use Plan and Development Standards allowed on the subject site including allowable land uses, setbacks, height and mitigations. The Development Standards will change slightly to allow the additional square footage, parking spaces and applicable mitigation measures. The allowable uses in the designated Commercial, Office, Research and Development area include professional and/or research and development offices and parking structure uses. All uses permitted under the IP Industrial, CO Commercial Office, and CP Commercial Pedestrian districts are also permitted. Day care, conferencing, dining rooms, personal business service retail, restaurants and satellite and broadcast reception facilities are also permitted. The proposed Development Standards require a minimum 40-foot separation between the other buildings on the America Center site and a minimum 20-foot setback from the east property line for the parking garage expansion. The maximum building height is 90 feet, consistent with the Alviso Master Plan. Parking is required to provide a minimum of 1 space per 250 net square feet.

Pursuant to the project's development standards, the proposed Building 5 is an office/R&D building that provides more than 40 feet of separation from all adjacent buildings and is 83 feet in height at the top of roof. The parking garage addition maintains the 20-foot east property line setback and is a maximum height of 54 feet. Parking required for Building 5 is 770 parking spaces, which is accommodated in the expansion of the parking garage. Therefore, the proposed development complies with the Development Standards of the proposed and existing Planned Development Zoning.

In addition, the proposed rezoning includes the removal of the area encompassed in PDC15-016, which was for the Hotel (Residence Inn) at the terminus of America Center Court. This area has its own Rezoning, Land Use Plan and Development Standards that were adopted as part of PDC15-016. The area proposed to be removed from the America Center Planned Development Zoning is shown in the Zoning Map included in the development plans.

- 6. Council Policy 6-34 Riparian Corridor Protection and Bird Safe Design.** Council Policy 6-34 (adopted in August of 2016) provides guidance, consistent with the General Plan, for protecting and restoring riparian habitat; limiting the creation of new impervious surface within Riparian Corridor setbacks; and encouraging bird-safe design in Bayland and riparian habitats of lower Coyote Creek north of SR 237. This policy supplements the regulations for riparian corridor protection already contained

within the Habitat Plan, Municipal Code, and other existing City policies that may provide for riparian protection and bird-safe design.

Specific guidance pertaining to setbacks, allowed activities, and materials and lighting in riparian areas are included within Council Policy 6-34. Further, bird-safe design guidelines for structures north of SR 237 advise that buildings:

- Avoid use of mirrors and large areas of reflective glass;
- Avoid use of transparent glass skyways, walkways, or entryways, free-standing glass walls, and transparent building corners;
- Avoid funneling open space to a building façade;
- Strategically place landscaping to reduce reflection and views of foliage inside or through glass;
- Avoid or minimize up-lighting and spotlights; and
- Turn non-emergency lighting off, or shield it, at night to minimize light from buildings that is visible to birds, especially during bird migration season (February through May and August through November).

Analysis: The project would respect the 100-foot riparian setback specified within of General Plan Policy ER-2.1, ER-2.2, ER-2.3 and Council Policy 6-34. Landscape plans would be in compliance with Policy ER-6.5. Mitigation measures MM BIO-1.1 and MM BIO-1.2 would be implemented consistent with General Plan Policy ER-4.4, ER-5.1, and ER-5.2. Bird-safe design features as noted above are included in the building and are reviewed by city staff as part of the overall design review process for consistency with City Council Policy 6-34 and Policy ER-7.1.

7. Planned Development Permit Findings: Chapter 20.100 of the San José Municipal Code establishes evaluation criteria for issuance of a Planned Development Permit. These criteria are applied to the project based on the above-stated findings related to General Plan, Zoning and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in the permit. The City Council determines that:

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

Analysis: As described above, the project is consistent with and furthers the policies of the General Plan and Alviso Master Plan.

2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development Zoning of the property;

Analysis: The Planned Development Permit conforms in all respects to the proposed development standards for the A(PD) Agriculture Planned Development Zoning of the property, including uses, setbacks and height.

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

Analysis: Pursuant to City Council Policy 6-30 Public Outreach, the Project applicant posted an on-site sign at the subject property, in accordance with the City Council Policy 6-30 on November 5, 2015 and a community meeting was held on October 16, 2016. In addition, the project is also consistent with City Council Policy 6-34 Riparian Corridor Protection and Bird Safe Design in that the proposed project includes View Dynamic Glass which provides varied tinting, Building 5 is located in the center of the site and no glass has been proposed on the parking garage expansion. Lastly, the project complies with City Council Policy 8-14 Post-Construction Hydrdromodification Management through the proposed stormwater treatment management system for the project site.

4. 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;

Analysis: The orientation, location, similar height, mass and scale of the proposed Building 5 is harmonious with the surrounding built buildings and will be constructed of high quality materials. Additionally, the parking garage expansion will be harmonious with the existing parking garage in that it will use the same materials and proportions.

5. The environmental impacts of the project, including, but not limited to aesthetics, air quality, noise, and transportation/traffic, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.

Analysis: A Subsequent Environmental Impact Report was prepared for the project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines. The proposed project CEQA impacts are discussed below. Non-CEQA related concerns are discussed in detail above.

- 8. Environmental Review.** A Draft Subsequent Environmental Impact Report (DSEIR) for the America Center Phase III Project was prepared by the Director of Planning, Building and Code Enforcement in accordance to CEQA. The DSEIR analyzed project level environmental impacts and discussed alternatives to the proposed project.

The America Center Phase III Project DSEIR is a Subsequent EIR to the previously certified Final Environmental Impact Report for the Legacy Terrace Development Planned Development Rezoning and Prezoning (Legacy Terrace FEIR), SCH# 99082004. The Legacy Terrace FEIR was adopted by City Council Resolution No. 69392 on February 15, 2000. The proposed project is within the boundaries of the Legacy Terrace site (renamed America Center prior to completion of the first phase of the project). The DSEIR provides an updated evaluation of the existing environmental

setting and identifies new significant environmental effects that were not previously identified in the Legacy Terrace FEIR.

Identified Significant and Unavoidable Impacts

The DSEIR identified the following significant, unavoidable impacts related to the proposed project that was identified in the previous Legacy Terrace FEIR:

- a) Aesthetics: views of the site from SR 237 and recreational trails in the vicinity.
- b) Air Quality: vehicle-related operational emissions of NOx.
- c) Noise: short-term, construction noise at sensitive residential receptors.
- d) Transportation/Traffic: mixed-flow lane freeway segment traffic at SR 237 between Great America Parkway and North First Street (PM peak hour).

Implementation of the proposed project would also result in the following new or substantially more severe significant impacts, which are significant and unavoidable.

- a) Transportation: impacts at the following locations:
 - i. Mixed-flow lane freeway segment impacts:
 - Eastbound SR 237 between Great America Parkway and North First Street (PM Peak Hour)
 - Eastbound SR 237 between North First Street and Zanker Road (PM peak hour)
 - Westbound SR 237 between I-880 and McCarthy Boulevard (AM peak hour)
 - Westbound SR 237 between McCarthy Boulevard and Zanker Road (AM and PM peak hours)
 - ii. High Occupancy Vehicle (HOV) lane freeway segment impacts:
 - Westbound SR 237 between I-880 and McCarthy Boulevard (AM peak hour)

Less than Significant Impact with Mitigation

The proposed project impacts listed below would be reduced to a less than significant level with mitigation:

- Air Quality: construction-related dust.
- Biological Resources: impacts to nesting birds and burrowing owls.
- Geology and Soils: differential settlement and seismicity.
- Hazards and Hazardous Materials: soil contamination and landfill gas.
- Hydrology and Water Quality: contaminated stormwater runoff.

- Transportation/Traffic: intersection impacts at Lafayette Street and the Gold Street Connector.

The proposed CEQA resolution, Mitigation Monitoring and Reporting Program (MMRP), and SEIR further explains in detail how these mitigations reduce each identified above to a less than significant level.

Alternatives

As required under CEQA, the DSEIR evaluated two no-project alternatives and one design alternative. These alternatives are as follows:

1. No Project – No Development Alternative: Under the No Project – No Development Alternative, the buildings and parking lots existing and under construction at the site would remain. Building 5 would not be constructed. The site would remain as zoned and approved for Buildings 1 through 4 and the parking garage.
2. No Project – Develop Under Current PD Zoning Alternative: The project site is currently designated Combined/Industrial Commercial in the City's General Plan and is located within a Planned Development zoning district. Under the current Planned Development zoning (PDC99-044), 900,000 square feet of development is allowed for the Commercial Office/R&D portion of the project site. Of that total, 867,762 square feet have been constructed or is currently under construction and 32,238 square feet of entitlement remains.

Under the current Planned Development zoning, a 32,238-square-foot office building could be constructed. A potential project under the No Project – Develop Under Current Planned Development Zoning Alternative would likely be one story and would occupy the footprint of the proposed Building 5. The building would likely not be visible from SR 237 and nearby recreational trails as it would be shielded on all sides by existing, much taller structures. Pile driving would still be required for a smaller Building 5 and parking garage extension.

3. Reduced Intensity Alternative: A Reduced Intensity Alternative would potentially allow for 55,000 additional feet of development resulting in an approximately 87,000-square foot, three-story Building 5 (assuming the same footprint as the proposed project and use of the remaining 32,238 square feet of yet unbuilt but entitled square footage at the site). The building would likely not be visible as it would be shielded on all sides by existing, much taller structures. It is unknown at this time the extent of pile driving that might be necessary for a three-story structure.

These alternatives were thoroughly discussed and evaluated in the DSEIR. The alternatives were rejected because (i) the alternatives do not maximize the full potential of the site; (ii) fully meet the economic goals and priorities of the City; and (iii) Building 5 would be located within the existing development, thereby minimizing visibility and impacts to the adjacent area, and the parking garage addition will

accommodate the additional parking needed for the development, reducing the amount of surface parking.

Circulation and Public Comments

The DSEIR was circulated for public review and comment for 45 days from June 12, 2017 to July 27, 2017. The City received a total of five written comment letters during the public circulation period. Comments received were from the California Department of Transportation (Caltrans); Santa Clara Valley Transportation Authority (VTA); Santa Clara Valley Audubon Society; MR Wolfe & Associates, P.C. on behalf of the Organizacion Comunidad de Alviso; and Steve Dunn, SteelWave, LLC. Issues raised in these comment letters include the following:

- Transportation analysis and impacts for project-generated traffic.
- Transportation improvements (Great America Parkway/State Route 237 and Lafayette Street/Gold Street Connector intersections).
- Traffic mitigation measures (MM TRA-1.1 and MM TRA(C)-1.2).
- Transportation Demand Management (TDM) program.
- Queuing analysis and queuing reductions.
- Traffic congestion impacts.
- Surrounding traffic improvements.
- Improvements to pedestrian and bicycle access.
- Bicycle parking and connectivity.
- Transit access and ridership.
- Impacts to potential sensitive archaeological sites and Native American consultation.
- Nitrogen deposition impacts.
- Air pollutant monitoring and toxic air contaminants.
- Greenhouse gas emissions assessment.

A First Amendment to the DSEIR was prepared that provided responses to the comments submitted during the public circulation period and revisions to the text of the DSEIR. The First Amendment together with the DSEIR constitute the Final Environmental Impact Report (FEIR) for the proposed project. The DSEIR and First Amendment to the DSEIR are available for review on the City's Active EIRs website at: <http://www.sanjoseca.gov/index.aspx?NID=5230>

EIR Recirculation Unnecessary

The comments received do not identify substantive inadequacies in the DSEIR or new previously unidentified significant impacts that require recirculation. The recirculation of an EIR is required when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review but before certification. "Information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of meaningful opportunity to comment on a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect (CEQA Guidelines Section 15088.5).

In accordance with CEQA Guidelines Section 15088, the First Amendment to the DSEIR for the project includes written responses to all comments received during the public review period for the DSEIR. As required by Section 15132 of the CEQA Guidelines, the responses in the First Amendment to the DSEIR address significant environmental points and comments on the content and adequacy of the EIR. The responses and comments provide clarification and refinement of information presented in the DSEIR and, in some cases, correct or update information in the DSEIR. No significant new information has been added to the DSEIR since publication of the DSEIR; therefore, the DSEIR does not need to be recirculated.

Prior to taking action on this Resolution, the City Council adopted a separate resolution certifying the Final SEIR, making certain findings concerning significant impacts, mitigation measures, and alternatives, and adopting a statement of overriding consideration for construction noise and adopting a mitigation monitoring and reporting program, all in accordance with the California Environmental Quality Act of 1970, as amended. The City Council Final SEIR resolution is fully incorporated herein by this reference.

CONDITIONS

1. **Acceptance of Permit.** Per Section 20.100.290(B) of Title 20 of the San José Municipal Code, should the permittee fail to file a timely and valid appeal of this Planned Development Permit within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the permittee:
 - a. Acceptance of the Planned Development Permit; and
 - b. Agreement by the permittee to be bound by, to comply with, and to do all things required of or by the permittee pursuant to all of the terms, provisions, and conditions of this Permit or other approval and the provisions of Title 20 of the San José Municipal Code applicable to such Permit.

2. **Permit Expiration.** The Planned Development Permit shall automatically expire two (2) years from and after the date of issuance hereof by the City Council, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the City Council. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20 of the San José Municipal Code. The Permit Adjustment/Amendment must be approved prior to the expiration of this Planned Development Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Planned Development Permit shall be deemed acceptance of all conditions specified in this permit and the permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the permittee for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval 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. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
5. **Conformance to Plans.** The development of the site shall conform to the approved Planned Development Permit plans entitled, "America Center," dated received on December 20, 2017, on file with the Department of Planning, Building and Code Enforcement, as may be amended subject to City's approval, and to the San José Building Code (San José Municipal Code, Title 24), as amended. The plans are referred to herein as the "Approved Plan Set".
6. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The

Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as conditioned.

7. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code.
8. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance or that adversely affects the peace, health, safety, morals or welfare of persons residing or working in the surrounding area or be detrimental to public health, safety or general welfare. Any such nuisance shall be abated immediately upon notice by the City.
9. **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.
10. **Anti-Graffiti.** During construction, the permittee shall remove all graffiti from buildings, walls and other surfaces within 48 hours of defacement. Upon project completion and/or transfer of ownership, the property owner, and/or Maintenance District shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
11. **Loitering.** Loitering shall not be allowed in the public right-of-way adjacent to the subject site.
12. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering the garbage container. No outdoor storage is allowed / permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
13. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
14. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
15. **Perimeter Fencing.** Fence height and materials shall be provided as shown on the approved plans. Changes to the approved fencing shall require review by the Director of Planning, Building, and Code Enforcement.
16. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set. Any change in building colors and materials shall require a Permit Adjustment.

- 17. Window Glazing.** Unless otherwise indicated on the approved plan, all windows shall consist of a transparent glass.
- 18. Building Division Clearance for Issuing Permits.** Prior to the issuance of any Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans.* The permit file number, PD15-053 shall be printed on all construction plans submitted to the Building Division.
 - b. *Americans with Disabilities Act.* The permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA), including paths of travel connecting all buildings on the site.
 - c. *Emergency Address Card.* The permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
 - e. *Project Addressing Plan.* Prior to issuance of any Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official: The permittee shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial).
 - f. *Adjust of easements and property lines.* The proposed parking garage addition is located over existing parcel lines. A lot merger or parcel map will be required to correct the parcel lines and the map should show all easements around Building 5. The map will need to be approved and recorded prior to issuance of building permit for the garage or Building 5.
- 19. Access Control.** When access control devices including bars, grates, gates, electric and/or magnetic locks, or similar devices which would inhibit rapid fire department emergency access to the building are installed, such devices shall be approved by the Chief. All access control devices shall be provided with an approved means for deactivation or unlocking by the Fire Department. Access control devices shall also comply with CFC/CBC Chapter 10 for exiting.
- 20. Security Gate Access.** All access control vehicle security gate(s) shall be a minimum of 20 feet clear width and may have a clear with of 14 feet for each direction of travel when split by median. Gates shall be recessed beyond the turning radius required by the San José Fire Department (SJFD) and without obstruction of any median island dividers. All gate installing shall be reviewed and approved prior

to construction. Electric gate operators must have UL 325 listing and it gate must comply with ASTM F2200.

21. Emergency Vehicle Access. Width, length, and grade of the fire apparatus access roads, streets, avenues, and the like. Every portion of all building exterior walls shall be within 150 feet of an access road. To the satisfaction of the Fire Chief, the fire access shall include the following:

- a. An approved all weather surface;
- b. Access road that are at least 20 feet wide;
- c. Dimensions with a minimum 13 feet, 6 inches vertical clearance;
- d. Load bearing designs that are maintained to support the loads of fire apparatus of at least 75,000 pounds;
- e. Maintain a minimum inside turning radius of 30 feet and an outside turning radius of 50 feet;
- f. Designs with approved provisions for turnaround of fire apparatus if access way has dead ends and is in excess of 150 feet;
- g. Maintain a maximum grade of 15 percent;
- h. Provision of a second point of access is required when a fire apparatus road exceeds 1,000 feet;
- i. Curbs are required to be painted red and marked as "Fire Lane - No Parking" under the following conditions: (show exact locations on plan)
- j. Roads, streets, avenues, and the like that are 20 feet wide to less than 26 feet wide measured from face-of-curb to face-of-curb shall have curbs on both sides of the road painted and marked
- k. Roads, streets, avenues, and the like that are 26 feet wide to less than 32 feet wide measured from face-of-curb to face-of-curb shall have one curb painted and marked.

22. Fire Hydrant Location & Spacing. The Fire Hydrant Location & Spacing shall meet the requirements of CFC Appendix C with City of San José Amendments. Show the location and spacing of the fire hydrants on the plans meeting the following general requirements.

- a. Determine the required number and spacing of fire hydrants per CFC Appendix C, Table C102.1; (or Refer to San José Fire Flow and Hydrant Policy <http://sanjoseca.gov/DocumentCenter/View/61703>). For the purposes of determining the required number and spacing of fire hydrants, no reduction in the Required Fire Flow is allowed even for buildings with sprinkler systems.

- b. Show the spacing of the fire hydrants along the fire apparatus access roads on the plans.
 - c. Demonstrate on plans that all exterior walls of the building(s) are within 400 feet from a fire hydrant. The distance should be calculated from a fire hydrant on a fire apparatus access road, as measured along the path of travel around the exterior of the building (and not by drawing a 400 feet radius around the fire hydrant).
23. **Available Fire Flow.** Provide a copy of the letter from the property's water company that indicates the Available Fire Flow in gallons per minute (gpm). Approval of Fire Hydrant Location & Spacing by SJFD is required before requesting Fire Flow data from the water company. Verify with the water company that a minimum of 1,000 gpm from a new proposed fire hydrant is available at minimum pressure of 20 psi.
24. **Fire sprinkler system** is required in all units and will be a deferred submittal after building permit is issued.
25. **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 shall be required to have satisfied all of the following Public Works conditions. The permittee is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/index.aspx?nid=2246>.
26. **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.
27. **Grading/Geology:**
- a) A grading permit is required prior to the issuance of a Public Works Clearance.
 - b) All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2013 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10-year storm event.

- c) 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.
- d) Because this project involves a land disturbance of one or more acres, the permittee is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
- e) The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- f) Since this is a landfill site, and is currently under the permitting power of the State of California, (LEA), there must be monitoring by the State of California Inspector regarding any alterations or penetrations into the soils on this site. Appropriate conditions regarding such will be included in any grading permit approvals.
- g) Provide a final Landfill Closure Soils Report:
 - i) Because this project rests upon a sanitary landfill site, a Landfill Closure Soils report specifically addressing the landfill closure, techniques to be used in driving piles through sanitary/solid waste, and mitigation measures which will prevent or mitigate migration of waste water into adjacent wetlands and creek areas must be submitted prior to issuance of a grading plan.
- h) Engineering Analysis:
 - i) Prior to issuance of any grading permits for individual site improvements, the permittee shall provide to the Local Enforcement Agency and the Department of Public Works a project-level, engineering analysis that addresses, in full and sufficient detail, the following elements of the final project design:
 - a) Landfill gas mitigation and monitoring systems, including structure monitoring and landfill perimeter monitoring system;
 - b) Landfill settlement/differential settlement;

- c) Seismic stability/foundation design;
 - d) Site surface drainage and final grading; and
 - e) Final landfill cap design, including landfill gas protection elements of the foundation design.
- i) Any other elements of the design as required by the Local Enforcement Agency (LEA) or Department of Public Works, including any specialized analysis that may be warranted by the City. The permittee shall bear the full responsibility for providing any such specialized analysis.

28. 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. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.

- a) The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this project will be in conformance with City Policy 6-29.
- b) Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
- c) A 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.

29. Transportation: A Traffic Impact Analysis was performed for this project based on 299 AM and 288 PM peak hour trips. As discussed in the SEIR and a traffic memo prepared by the Department of Transportation dated December 12, 2017, the proposed project would result in a cumulatively considerable contribution to traffic impacts at two San José intersections (Lafayette Street and Gold Street Connector, and Great America Parkway and Eastbound SR 237) based on cumulative impact criteria. Mitigation Measure MM TRA(C)-1.2 requires the permittee to pay a fair share amount, as determined by the Director of Public Works, to the City of San Jose Public Works Depositors Fund. See separate SEIR and the Traffic memo for additional information.

30. Flood: Zone X: Although the project site is located within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain, the property has been removed from the Special Flood Hazard Area (SFHA) by a Letter of Map Revision (LOMR). The property is now in Flood Zone X. Zone X is an area of

moderate or minimal flood hazard. There are no City floodplain requirements for zone X.

31. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable prior to Public Works Clearance.
32. **Municipal Water:** In accordance with City Ordinance #23975, Major Water Facilities Fee is due and payable. Contact San José Municipal Water Department at (408) 794-6769 for further information.
33. **Sanitary:** This project is within an area of San José which discharges through a sanitary sewer and pump system owned and operated by the City of Santa Clara. An agreement is currently in place which allows an expected discharge which will accommodate the proposed building and use. Any additional discharge or change in use shall require additional negotiation and amendment of the existing agreement.
34. **Referrals:** This project shall be referred to the California Department of Transportation (Caltrans) and Santa Clara Valley Water District.
35. **Conformance to Mitigation Monitoring and Reporting Program.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program (MMRP) approved for this development by City Council Resolution No. [REDACTED].

36. Standard Environmental Conditions:

1. AIR QUALITY.

- 1.1. Consistent with the 2017 BAAQMD CEQA Air Quality Guidelines, GP Policy MS-13.1, and current City requirements, the project shall implement the following standard permit conditions during all phases of construction on the project site, to reduce dustfall emissions:
 - All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered twice daily.
 - All haul trucks transporting soil, sand, and other loose material off-site shall be covered.
 - All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.
 - All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operations.
- Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

2. BIOLOGICAL RESOURCES.

2.1. Habitat Conservation Plan. Consistent with the General Plan FPEIR analysis on indirect impacts to sensitive serpentine habitats, the project will contribute to the Habitat Plan nitrogen deposition fee program. The permittee shall submit the Santa Clara Valley Habitat Plan Application for Nitrogen Deposition-Only Projects and the payment of the nitrogen deposition fees (based on a fee rate per new daily vehicle trip) to the Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement for review and approval prior to issuance of any grading permit.

3. CULTURAL RESOURCES.

3.1. Archaeological Resources Impacts. In the event that any significant cultural materials (including prehistoric or historic resources or vertebrate fossils) are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement shall be notified, and an archaeologist will examine the find and make appropriate recommendations regarding the significance of the find and appropriate mitigation. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery during monitoring would be submitted to the Director of Planning, Building, and Code Enforcement.

In the event that human remains are discovered during excavation and/or grading of the site, activities occurring within a 50-foot radius of the find shall be stopped. The Santa Clara County Coroner shall be notified and make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner will notify the NAHC

immediately. Once the NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.

3.2. Paleontological Resources Impacts. If vertebrate fossils are discovered during construction, all work on the site will stop immediately until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate treatment. Treatment may include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The permittee will be responsible for implementing the recommendations of the qualified professional paleontologist.

4. **GEOLOGY AND SOILS.**

4.1. Seismicity Impacts. Seismic hazards will be reduced by utilizing design and construction practices in accordance with seismic building criteria, as described in the current City of San José Building Standards Code and Fire Code. A design-level geotechnical investigation report addressing the potential hazards of liquefaction, lateral deformations for the Designed Based Earthquake, and seismic shaking shall be submitted to, reviewed and approved by the City of San José Geologist and City of San José Building Division prior to issuance of a Grading Permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (California Geological Survey Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999).

5. **HYDROLOGY AND WATER QUALITY.**

5.1. Water Quality Construction Impacts. The following project-specific measures, based on RWQCB BMPs, have been included in the project to reduce construction and development-related water quality impacts. BMPs would be implemented prior to and during earthmoving activities on-site and would continue until the construction is complete, and during the post-construction period, as appropriate:

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.

- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be required to cover all trucks or maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City.
- 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.
- A NPDES General Construction Storm Water Permit will be administered by the RWQCB. Prior to construction grading for the proposed land uses, the project proponent will file an NOI to comply with the General Permit and prepare a SWPPP which addresses measures that would be included in the project to minimize and control construction and post-construction runoff. Measures will include, but are not limited to, the aforementioned RWQCB BMPs.
- The certified SWPPP will be posted at the project site and will be updated to reflect current site conditions. Copies of the SWPPP shall be submitted to the City of San José Department of Public Works. The following measures shall be included in the SWPPP:
 - Preclude non-stormwater discharges to the stormwater system.
 - Incorporate effective, site-specific BMPs for erosion and sediment control during the construction and post-construction periods.
 - Cover soil, equipment, and supplies that could contribute pollution prior to rainfall events or monitor runoff.
 - Perform monitoring of discharges to the stormwater system.
 - When construction is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the SWRCB. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction stormwater management plan is in place as described in the SWPPP for the site.

- Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

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

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

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

//

//

//

//

//

//

//

//

//

//

//

EFFECTIVE DATE

The effective date of this Permit (File No. PD15-053) shall be the effective date of the A(PD) Planned Development Rezoning Ordinance for File No. PDC15-058 and shall be no earlier than the effective date of said Planned Development Rezoning Ordinance.

ADOPTED this _____ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

NOTICE TO PARTIES

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

LEGAL DESCRIPTION

PARCEL A

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

BEING ALL OF PARCEL A OF LOT LINE ADJUSTMENT FILE NO. AT12-006, AS SAID PARCEL IS DESCRIBED IN THAT CERTAIN GRANT DEED RECORDED APRIL 30, 2012 AS DOCUMENT NO. 21644398, OFFICIAL RECORDS OF SANTA CLARA COUNTY.

AND, TOGETHER WITH, THE FOLLOWING AREAS:

TRANSFER PARCEL 1:

BEING A PORTION OF PARCEL D, AS SAID PARCEL IS DESCRIBED IN SAID GRANT DEED, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL D;

THENCE ALONG THE WESTERLY LINE OF SAID PARCEL D, NORTH 3° 53' 26" EAST, 30.00 FEET;

THENCE SOUTH 85° 02' 36" EAST, 34.51 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID PARCEL D;

THENCE ALONG SAID SOUTHERLY LINE, SOUTH 53° 29' 51" WEST, 45.31 FEET TO THE POINT OF BEGINNING.

TRANSFER PARCEL 3:

BEING A PORTION OF PARCEL B, AS SAID PARCEL IS DESCRIBED IN SAID GRANT DEED, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING FROM THE MOST EASTERLY COMMON CORNER OF SAID PARCELS A & D;

THENCE ALONG THE EASTERLY LINE OF SAID PARCEL D, NORTH 36° 30' 09" WEST, 42.55 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 53° 29' 51" EAST, 315.95 FEET;

THENCE SOUTH 36° 30' 09" EAST, 1.56 FEET TO THE SOUTHERLY LINE OF SAID PARCEL B;

THENCE ALONG SAID SOUTH LINE, SOUTH 53° 29' 51" WEST, 315.95 FEET TO SAID EASTERLY LINE;

THENCE ALONG SAID EASTERLY LINE, NORTH 36° 30' 09" WEST, 1.56 FEET TO THE POINT OF BEGINNING.

TRANSFER PARCEL 5:

BEING A PORTION OF PARCEL B, AS SAID PARCEL IS DESCRIBED IN SAID GRANT DEED, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST EASTERLY COMMON CORNER OF SAID PARCELS A & B;

LEGAL DESCRIPTION

THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL B, SOUTH 53° 29' 51" WEST, 63.00 FEET;

THENCE NORTH 36° 30' 09" WEST, 67.32 FEET;

THENCE NORTH 53° 29' 51" EAST, 31.49 FEET;

THENCE NORTH 36° 30' 09" WEST, 2.11 FEET;

THENCE NORTH 53° 29' 51" EAST, 31.51 FEET;

THENCE SOUTH 36° 30' 09" EAST, 69.43 FEET TO THE POINT OF BEGINNING.

AND, EXCEPTING THEREFROM, THE FOLLOWING AREAS:

TRANSFER PARCEL 2:

BEING A PORTION OF PARCEL A, AS SAID PARCEL IS DESCRIBED IN SAID GRANT DEED, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING FROM THE SOUTHWEST CORNER OF SAID PARCEL D;

THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL D, NORTH 53° 29' 51" EAST, 45.31 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID SOUTHERLY LINE, NORTH 53° 29' 51" EAST, 40.70 FEET;

THENCE SOUTH 48° 57' 14" WEST, 37.46 FEET;

THENCE NORTH 85° 02' 36" WEST, 4.48 FEET TO THE POINT OF BEGINNING.

TRANSFER PARCEL 4:

BEING A PORTION OF PARCEL A, AS SAID PARCEL IS DESCRIBED IN SAID GRANT DEED, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE COMMON CORNER OF LOTS ONE AND FOUR, BEING THE SOUTHERLY TERMINUS OF THAT CERTAIN COURSE SHOWN AS "N 36° 30' 09" W 71.76 FEET" AS SAID LOTS AND COURSE ARE SHOWN ON THAT TRACT MAP NO. 10003, FILED FOR RECORD ON DECEMBER 22, 2008 IN BOOK 829 OF MAPS AT PAGES 39 THROUGH 45, OFFICIAL RECORDS OF SANTA CLARA COUNTY;

THENCE ALONG THE NORTHERLY LINE OF SAID LOT ONE AND ALSO BEING THE NORTHERLY LINE OF SAID PARCEL A, NORTH 36° 30' 09" WEST, 71.77 FEET;

THENCE SOUTH 53° 29' 51" WEST, 5.08 FEET;

THENCE SOUTH 36° 30' 09" EAST, 71.99 FEET;

LEGAL DESCRIPTION

THENCE NORTH 53° 29' 51" EAST, 308.27;

THENCE NORTH 36° 30' 09" WEST, 0.23 FEET;

THENCE SOUTH 53° 29' 51" WEST, 303.20 FEET TO THE POINT OF BEGINNING.

ALSO SHOWN AS "NEW PARCEL A" AS SAID PARCEL IS SHOWN IN THAT CERTAIN LOT LINE ADJUSTMENT PERMIT NO. AT15-046, RECORDED JANUARY 8, 2016, AS DOCUMENT NO. 23192480 OF OFFICIAL RECORDS OF SANTA CLARA COUNTY.

APN 015-45-049, 050

LEGAL DESCRIPTION

PARCEL C

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

BEING ALL OF PARCEL C OF LOT LINE ADJUSTMENT FILE NO. AT12-006, AS SAID PARCEL IS DESCRIBED IN THAT CERTAIN GRANT DEED RECORDED APRIL 30, 2012 AS DOCUMENT NO. 21644398, OFFICIAL RECORDS OF SANTA CLARA COUNTY.

AND, TOGETHER WITH, THE FOLLOWING AREAS:

TRANSFER PARCEL 7:

BEING A PORTION OF PARCEL B, AS SAID PARCEL IS DESCRIBED IN SAID GRANT DEED, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY COMMON CORNER OF SAID PARCELS B & C;

THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL C, SOUTH 36° 30' 09" EAST, 163.00 FEET;

THENCE SOUTH 53° 29' 51" WEST, 65.70 FEET;

THENCE NORTH 36° 30' 09" WEST, 163.00 FEET TO A POINT ON SAID SOUTHERLY LINE;

THENCE ALONG SAID SOUTHERLY LINE, NORTH 53° 29' 51" EAST, 65.70 FEET TO THE POINT OF BEGINNING.

TRANSFER PARCEL 8:

BEING A PORTION OF PARCEL B, AS SAID PARCEL IS DESCRIBED IN SAID GRANT DEED, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE COMMON CORNER OF PARCEL B AND C, BEING THE SOUTH EASTERLY CORNER OF SAID PARCELS C;

THENCE ALONG THE EASTERLY LINE OF SAID PARCEL C, NORTH 36° 30' 09" WEST, 22.26 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 53° 29' 51" EAST, 4.95 FEET;

THENCE NORTH 36° 30' 09" WEST, 509.66 FEET;

THENCE SOUTH 2° 45' 09" EAST, 8.92 FEET;

THENCE SOUTH 36° 30' 09" EAST, 502.25 FEET TO THE POINT OF BEGINNING.

AND, EXCEPTING THEREFROM, THE FOLLOWING AREAS:

TRANSFER PARCEL 6:

LEGAL DESCRIPTION

BEING A PORTION OF PARCEL C, AS SAID PARCEL IS DESCRIBED IN SAID GRANT DEED, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST EASTERLY CORNER OF SAID PARCEL C;

THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL C, SOUTH 53° 29' 51" WEST, 196.09 FEET;

THENCE NORTH 36° 30' 09" WEST, 2.34 FEET;

THENCE NORTH 53° 29' 51" EAST, 192.47 FEET;

THENCE NORTH 36° 30' 09" WEST, 19.91 FEET;

THENCE NORTH 53° 29' 51" EAST, 3.61 FEET TO A POINT ON THE EASTERLY LINE OF SAID PARCEL C;

THENCE ALONG SAID EASTERLY LINE, SOUTH 36° 30' 09" EAST, 22.26 FEET TO THE POINT OF BEGINNING.

TRANSFER PARCEL 9:

BEING A PORTION OF PARCEL C, AS SAID PARCEL IS DESCRIBED IN SAID GRANT DEED, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHERLY CORNER OF SAID PARCEL D;

THENCE ALONG THE EASTERLY LINE OF SAID PARCEL D, SOUTH 36° 30' 09" EAST, 35.00 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 53° 29' 51" EAST, 4.04 FEET;

THENCE SOUTH 36° 30' 09" EAST, 121.50 FEET;

THENCE SOUTH 53° 29' 51" WEST, 4.04 FEET TO A POINT ON SAID EASTERLY LINE;

THENCE ALONG SAID EASTERLY LINE, NORTH 36° 30' 09" WEST, 121.50 FEET TO THE POINT OF BEGINNING.

TRANSFER PARCEL 10:

BEING A PORTION OF PARCEL C, AS SAID PARCEL IS DESCRIBED IN SAID GRANT DEED, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST EASTERLY COMMON CORNER OF SAID PARCELS C & D;

THENCE ALONG THE NORTHERLY OF SAID PARCEL C, NORTH 36° 30' 09" WEST, 53.25 FEET;

THENCE NORTH 53° 29' 51" EAST, 30.04 FEET;

LEGAL DESCRIPTION

THENCE SOUTH 36° 30' 09" EAST, 53.25 FEET;

THENCE SOUTH 53° 29' 51" WEST, 30.04 FEET TO THE POINT OF BEGINNING.

ALSO SHOWN AS "NEW PARCEL C" AS SAID PARCEL IS SHOWN ON THAT CERTAIN LOT LINE ADJUSTMENT PERMIT NO. AT15-046 RECORDED JANUARY 8, 2016 AS INSTRUMENT NO. 23192480 OF OFFICIAL RECORDS OF SANTA CLARA COUNTY.

APN 015-45-052

Ai

250 Dollar Street
San Francisco, CA 94102
Phone: 415 955 1900
Fax: 415 955 1915

LANDSCAPE ARCHITECTURE

Peter Walker and Partners
Landscape Architecture
729 Mission Street
Berkeley, CA 94710
Phone: 510 849 9844
Fax: 510 849 9333

PLANNING

Brian Kargas Fouk
505 Third Avenue
Redwood City, CA 94063
Phone: 650 482 6300
Fax: 650 482 6399

ENGINEERING SERVICES

Emcon
1921 Ringwood Avenue
San Jose, CA 95131-1721
Phone: 408 453 7300
Fax: 408 437 9526

STRUCTURAL ENGINEERING

Treadwell+Roth
505 Montgomery Street, Suite 1200
San Francisco, CA 94111
Phone: 415 955 9040
Fax: 415 955 9041

MECHANICAL, ELECTRICAL, PLUMBING ENGINEERING

Alla Tech
97 E. Broken Road, Suite 300
San Jose, CA 95128-1032
Phone: 408 436 6900
Fax: 408 436 1311

TRAIL CONSULTANT

Kovac Engineering
1570 The Meadows, Suite 202
San Jose, CA 95128
Phone: 408 258 2529
Fax: 408 258 2570

CONSTRUCTION SERVICES

Middlebrook + Louie
71 Stevenson Street, Suite 210
San Francisco, CA 94105
Phone: 415 546 4900
Fax: 415 514 3880

REAL ESTATE

RETS

DESIGNER

LEGACY PARTNERS

101 Lincoln Center Drive
Foster City, CA 94404
Phone: 650 971 2200
Fax: 650 973 9824

The Enterprise Group
651 125 Avenue
San Francisco, CA 94118
Phone: 415 221 2534
Fax: 415 221 2548

CLIENT

LEGACY TERRACE

SITE DEVELOPMENT

CITY OF SAN JOSE
CALIFORNIA

DATE

July 14, 1999

Site Map

GENERAL DEVELOPMENT PLAN - EXHIBIT C

Scale
1" = 100'-0"

4

LEGEND
Proposed Five Foot Contour Intervals
Existing Contours

0 50 100 200 300



SAN TOMAS AQUINO CREEK

GREAT AMERICA PARKWAY

OPEN SPACE

RIVER COMMERCIAL

QUADALUPE RIVER

GOLD STREET

BLDG. C

BLDG. E

BLDG. B

BLDG. D

BLDG. A

PARKING STRUCTURE

108 ROOM HOTEL