

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT PERMIT TO ALLOW THE CONSTRUCTION OF THREE SINGLE-FAMILY ATTACHED RESIDENCES ON AN APPROXIMATELY 0.2-GROSS ACRE SITE, LOCATED ON THE NORTHWEST CORNER OF SOUTH SECOND STREET AND MARTHA STREET (895 SOUTH 2ND STREET)

FILE NO. PD17-003

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on February 10, 2017, an application (File No. PD17-003) was filed by the applicant, Jia Yan Yuan, with the City of San José for a Planned Development Permit to allow the construction of three single-family attached residences on a 0.2-gross acre site, on that certain real property situated in the R-M(PD) Planned Development Zoning District and located on the northwest corner of South Second Street and Martha Street (895 South 2nd Street, San José, which real property is sometimes referred to herein as the “subject property”); and

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

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Planning Commission conducted a hearing on said application on July 25, 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 plan for the subject property entitled "Yuan 3 Attached New Single-Family Houses," **dated June 25, 2018**, 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 development plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

WHEREAS, said 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 AS FOLLOWS:

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 on the northwest corner of South Second Street and Martha Street at 895 South Second Street. The subject 0.2-gross acre site is currently vacant. There are one- and two-family residences located to the north, and east, across South Second Street, an auto tire outlet store to the west, across the rear alley, and an auto service shop to the south of the project site, across Martha Street.
- 2. Project Description.** The proposed project consists of the construction of three attached townhomes with customized development standards in the Victorian Neighborhood sub-area of the Martha Gardens Specific Plan area. Each residential unit would have individual ownership of the land, and each lot would be uniquely developed with individual yards and front entry porches oriented towards the street, similar to the existing pattern of single-family and duplex development in the neighborhood. Additionally, each attached unit would be offset and aligned with fenced yards and landscaping along Martha Street to further define and complement the existing neighborhood pattern. Each unit also includes two covered off-street parking spaces with individual driveways.
- 3. General Plan Conformance.** The project is designated as Mixed-Use Neighborhood on the Envision San José 2040 General Plan Land Use/Transportation Diagram. This designation has a density of up to 30 dwelling units per acre (30 DU/AC), and a FAR of 0.25 to 2.0 (1 to 3.5 stories). This designation applies to areas intended for development primarily with either townhouse or small lot single-family residences and also to existing neighborhoods that were historically developed with a wide variety of housing types, including a mix of residential densities and forms. This designation supports commercial or mixed-use development integrated within the Mixed-Use Neighborhood area. Existing neighborhoods with this designation are typically characterized by a development pattern where small townhouse development may exist adjacent to more traditional single-family development or more intense multi-family development.

Analysis: The project is consistent with the site's Envision San José 2040 General Plan Land Use/Transportation Diagram designation of Mixed-Use Neighborhood. The proposed three-unit attached townhome development on a small lot is allowed under this designation. The project proposes two-story attached residences with a density of 15 DU/AC and a FAR of 0.6, which is within the maximum allowable density of up to 30 DU/AC, height limitations of up to 3.5 stories and a FAR between 0.25 to 2.0 of the Mixed-Use Neighborhood General Plan designation.

In addition, the project is consistent with the following General Plan policies:

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

Analysis: This project features new housing units that would add to the existing diversity of housing in the area, which includes a mix of single-family homes, duplexes and multi-family units.

- b. 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. These development standards and other site design issues implement the design standards set forth in the Envision General Plan and design guidelines adopted by the City Council. The Planned Development permit, is a combined site/architectural permit and conditional use permit which implements the approved Planned Development zoning on the property.

Analysis: The R-M(PD)Planned Development Zoning District for the site allows the project to conform to the General Plan goals and policies and also creates new housing units that are compatible with the surrounding neighborhood, which is comprised of a mix of housing types and commercial uses.

As noted above, the site is located in the Martha Gardens Specific Plan area and Victorian Neighborhood sub-area. The approved Development Standards will allow the project to be consistent with the Martha Gardens Specific Plan with regards to neighborhood characteristics as defined by height, setbacks and street frontages, as further explained below.

While the General Plan Land Use/Transportation Diagram designation takes precedence over the Specific Plan in terms of land use and density, the Specific Plan provides additional guidance to define the land uses through its goals, policies and design guidelines.

4. Martha Gardens Specific Plan Area

The site is in the Martha Gardens Specific Plan area and, specifically, Victorian Neighborhood sub-area. The Martha Gardens Specific Plan establishes the framework for the redevelopment of this specific area of San José and intends new infill development to develop in a manner that forms a strong relationship and connection to the existing historic character and framework of the neighborhood. The Victorian Neighborhood Sub-Area comprises of properties located along South

Second and Third Street, primarily north of Martha Street, in the northwestern portion of the Specific Plan area. This sub-area is characterized by existing historic single-family Victorian homes, set back from the street with lawns and front porches. The main objective of the Specific Plan is to continue to recognize goals of preserving the historic character of the existing Victorian homes and design new projects to blend in with the neighborhood. Overall the proposed infill project conforms to the Specific Plan area and the Victorian Neighborhood sub-area, as discussed under the policy and urban design guidelines sections below.

The project is consistent with the following policy of the Specific Plan:

Specific Plan Area's Land Use Policy 2.4: Infill residential developments should complement and extend the fine-grained pattern and character of the Victorian homes and preserve and enhance the existing neighborhood.

Analysis: The proposed project is an infill development on a vacant site and would be built with a compatible scale, setbacks and height as the existing historic homes in the sub-area and with a similar palette of materials and a complementary level of detailing. The proposed development would be located on a smaller 0.2-gross acre site, is a smaller site surrounded by a mix of commercial and residential uses. The character of the existing neighborhood has a pattern of detached residences and duplexes to the north and east and a mix of commercial/industrial uses to the south and west. As such, the proposed development of three single-family attached residences on smaller lots would be unique but consistent with the neighborhood pattern of single-family and two-family homes.

As described above, each townhouse unit would have individual ownership of the land, and each lot would be uniquely developed with individual yards and front entry porches oriented towards the street, similar to the existing pattern of single-family and duplex development in the neighborhood.

Additionally, each attached unit would be offset and aligned with fenced yards and landscaping along Martha Street to further define and complement the existing neighborhood pattern.

Victorian Neighborhood Sub-Area Design Guidelines

The Martha Garden's Specific Plan provides Design Guidelines to guide residential development to ensure that the height, setbacks, open space, and site design and architecture of the proposed project are appropriate and compatible with the surrounding neighborhood.

Building Height and Massing

The Guidelines call for building height to be compatible with the adjacent historic houses. The maximum height allowed in the sub-area is thirty-five feet, or three floors. Non-habitable roof and architectural elements are allowed to exceed this

height by an additional ten feet to provide for special expressions that are compatible with the existing homes.

Analysis: The overall height and massing of the proposed project is compatible to the existing Victorian homes in the neighborhood. The project proposes a two-story attached residential development and an overall height of up to 30 feet, which matches or is below the height of the existing Victorian homes near the project site, which are one- and two-stories tall and range from approximately 20 feet to 35 feet in height. The two-story townhome development project has a maximum height of 29 feet five inches (29'-5") and conforms to the development standards of the R-M(PD) Planned Development Zoning District which allows a maximum height of up to 35 feet.

The second story is setback from the first story by approximately two feet to five feet, and the proposed building design includes a variegated roof style and slope, to relieve the appearance of second story mass. Therefore, the two-story attached townhomes are compatible in height and mass to the adjacent homes.

Setbacks and Open Space

Pursuant to the Design Guidelines, front and rear yards are the primary form of private and/or common on-site open space in the Sub-Area. The guidelines state that the front yards in new projects should be established to complement and extend the streetscape and landscape character of the neighborhood. The front yard and side yard setbacks should create a distinctive rhythm and cadence along the street that is an important aspect of the neighborhood's character. New multi-unit projects should provide a minimum of 100 square feet of usable private and/or common open space for each dwelling unit. The Guidelines call for the following specific setbacks:

Front Yards: Setbacks should conform to the front yards established by the existing historic Victorian houses along South Second and Third Streets. The current front yard setback along South Second and Third Streets is generally between twelve and twenty feet. New development should be set back in an equivalent manner to the adjacent property, or an average between two adjacent properties whichever is greater. Setbacks from Martha Streets should be a minimum of ten feet, and a maximum of twenty feet.

Side Yards: Infill development on existing single-family residential lots should employ interior side yard setbacks of at least five feet.

Encroachments: Within the front setback area, encroachments including stoops, porches, stairs, bay windows, etc. are permitted, as long as such encroachments do not constitute an inappropriate departure from the established front yard pattern on the block.

Analysis:

Front and side yards: Pursuant to the Design Guidelines, the project has a twelve-foot setback from the front property line along South Second Street, a thirteen-foot setback from the street side property line along Martha Street, a minimum 15-foot interior side setback at first floor and a minimum 17-foot interior side setback at second floor from the interior side property line, which conform to the Development Standards as well as the Victorian Neighborhood Sub-Area Design Guidelines requirement of minimum five feet.

Open Space: The interior side yards are the back yards for the townhomes and the minimum 15-foot depth allows the homes to have their private open spaces in their side yards. Each residence has a minimum 400 square feet of private open space, which meet the Victorian Neighborhood Sub-Area Design Guidelines requirement of a minimum 100 square feet.

Rear Yard: The rear yard area of the townhome units is adjacent to an alley, across from commercial and industrial land uses. The project proposes a 9'-6" setback at the first floor from the rear property line. The alley provides an additional separation of approximately 30 feet, so the reduced rear setbacks of the proposed development at 9'-6" does not negatively affect the identity and character of the project or neighborhood.

Encroachments: Each townhome unit features porches that encroach up to five feet within the front and street side setback areas, as permitted per the Development Standards and the Design Guidelines. This encroachment provides staggered street-facing facades and continues to maintain the minimum required front and street side yard building setbacks.

Building Orientation, Site Design and Street Frontage

New infill development on aggregated lots should be designed to extend the historic street frontage through the massing and design of the building frontage. The site layout is required to create compatible relationships between proposed residences on site and allow cohesive integration with the surrounding neighborhood. Front entries for new development should be oriented toward the street, and the entrances of new buildings should adopt the character of the Victorian homes by providing a transition between the street and the front door of the building in the form of a porch or front stoop.

Analysis: The project site plan and elevations indicate a strong street presence on both South Second Street and Martha Street through the use of well-articulated street-facing facade and entry porches. The project features sloped roofs, variation in building design, offset of building front facades and varied materials. As described above, the project conforms to the Victorian Neighborhood Sub-Area Design Guidelines. Pursuant to the guidelines, front porches of the proposed residences are

oriented towards adjacent public streets along both Martha Street and South Second Street, similar to adjacent Victorian homes to the north and east of the project site, which contributes towards the design and street pattern and provides a cohesive overall integration with the surrounding neighborhood.

Parking Requirements

The existing rear alleys should be maintained to provide parking and service access to the fronting properties. Direct garage access from the South Second and South Third Street frontages should be limited to those properties with no alley access.

Analysis: Each unit includes the required two-car attached garage spaces and optional two uncovered off-street guest parking spaces. Pursuant to the Design Guidelines, the project will maintain access for garage and two guest parking spaces from the rear alley for one of the three attached residences fronting Martha Street. The other two residences, which are located away from the alley, will have garage access from adjacent streets. The units will have sufficient driveway width and length to accommodate up to two optional guest parking spaces.

Architectural Treatment and Materials

The architectural character of the Victorian Neighborhood is well defined and rich in detail, color and articulation. These qualities should be preserved in the existing homes, and new infill development should adopt a similar level of richness in the treatment of building facades, material quality and finishes. To reflect the historic character of the area, projecting windowsills are strongly encouraged. Window placement should be composed within a façade to create a balanced and well-proportioned façade that provides visual interest along the street. Wood window construction is preferable to aluminum or vinyl alternatives and true divided lights should be employed where consistent with the building style.

New construction should carefully consider the vocabulary and character of the existing historic homes to establish an appropriate level of detail for facades, roof lines, windows, doors, porches and railings. New construction can be modern in design but should reflect the same richness in detailing and character found in the Victorian houses of the neighborhood.

Analysis: Pursuant to the Guidelines, the project achieves this goal through cohesive design and architectural style. The architectural character of the townhomes represents a traditional hip and gable roof style, with a mix of materials ranging from stone veneer at base to horizontal wood siding on exterior walls with asphalt shingle roofing; variation in roof pitch and wood window trims, sills and details of the building facades reflect compatibility with the historic homes in the neighborhood yet differ in use and application of materials.

5. Spartan/Keyes Strong Neighborhood Initiative (SNI)

This project is located within the Spartan/Keyes SNI area. The Strong Neighborhood Initiative (SNI) Plan promotes a vision for the residential areas of Spartan Keyes to be a safer, more livable, and unique neighborhood. The Spartan Keyes neighborhood consists largely of single-family residences with varied Architectural styles which include classic Victorians built from mid to the late 19th century and Craftsman-style bungalows built in the early 20th century. The proposed project consists of attached single-family townhomes that will contribute towards the uniqueness of the traditional architectural forms and will complement the existing neighborhood, as described above.

6. Zoning Ordinance Conformance

The site was rezoned from CN Commercial Neighborhood Zoning District to R-M(PD) Planned Development Zoning District, to accommodate the construction of three single-family attached residences on three small lots.

Analysis: The project conforms to the approved General Development Plan for the project, File No. PDC17-005, as discussed in Table 1 below.

Development Standards in the R-M(PD) Planned Development Zoning District	Minimum Required	Victorian Neighborhood sub-area requirement	Project
Lot Size (Minimum)	2,400 square feet	N/A	2,400 square feet
Front	12 feet	12 feet	12 feet
Side, interior-1 st floor	15 feet	Five feet	15 feet 5 inches
Side, interior-2nd floor	17 feet	Five feet	17 feet 5 inches
Side, corner	10 feet	10 feet	13 feet 3 inches
Rear, interior	Five feet	Five feet	9.5 feet
Rear, corner	Five feet	Five feet	9.5 feet
Height (Maximum)	35 feet	35 feet	29 feet five inches

Table 1: Setbacks and Height

- a. *Lot Size. The minimum lot size for each unit will be 2,400 square feet as shown in the approved plans.*
- b. *Setbacks. The attached townhomes will comply with the minimum required setbacks from the front, interior side and street side property lines pursuant to the approved Development Standards.*
- c. *Encroachments. Stairs, stoops, porches encroach up to five feet maximum, in conformance to the Development Standards.*

- d. *Parking. Each residence has a two-car attached garage which meets the required two covered parking spaces for each unit. Each unit also provides two optional uncovered guest parking spaces, accessed from driveways off of the alley and public streets.*

7. Planned Development Permit Findings

Chapter 20.100 of the San Jose 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. In order to make the Planned Development Permit findings pursuant to Section 20.100.720 of the San José Municipal Code and recommend approval to the City Council, Planning Commission must determine that:

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

Analysis: The proposed project is consistent with the General Plan Land Use/Transportation Diagram designation of Mixed-Use Neighborhood for the subject site. The project would have a density of 15 DU/AC and a FAR of 0.6, which is within the maximum allowable density of up to 30 DU/AC and a FAR between 0.25 to 2.0 of the Mixed-Use Neighborhood designation. The project conforms to the Housing Policy H-1.1 and Implementation Policy IP-8.5 of the General Plan, as discussed above. The project also conforms to the Land Use Policy 2.4 and Design Guidelines of the Martha Gardens Specific Plan Area and Victorian Neighborhood sub-area, as discussed above.

- b. 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 approved Development Standards of the R-M(PD) Planned Development Zoning (File No. PDC17-005) of the property, including uses, setbacks and height, as discussed above.

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

Analysis: The City Council has not adopted specific policy related to townhouse development.

- 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;

Analysis: The orientation, location, mass and scale of the proposed two-story

three-unit residential townhome development complements the surrounding neighborhood and will be compatible in height and scale to the adjacent one- and two-story residential homes. Additionally, the project is architecturally compatible with the surrounding homes through the use of similar materials such as horizontal wood siding, gable roof forms and stone base veneer. Since the site is a corner lot, all three residences will have street frontages with porch entry elements oriented towards public streets, creating a street presence similar to that found in the neighborhood. The residences each have two-car garages off of driveways accessed from public streets or the rear alley, which aligns with similar pattern of street or alley access for the adjacent buildings in the neighborhood.

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

Analysis: The project would not result in an increase in long-term operational noise levels and odors above the City's and regional agency's standards threshold for single-family residential development. Temporary noise and odor impacts from construction activities would be reduced to less than significant levels with implementation of standard conditions to reduce construction noise and odor. The project has been evaluated by the Department of Public Works for grading, drainage and stormwater requirements and was found to be in compliance as per the Final Public Works Memo dated February 5, 2018. The project will, therefore, not have any unacceptable negative effect on the adjacent properties.

8. **California Environmental Quality Act.** Under the provisions of Section 15303 of the State Guidelines for Implementation of the California Environmental Quality Act, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended (CEQA). CEQA exemption Section 15303(a) (New Construction or Conversion of Small Structures) consists of construction and location of limited numbers of new small facilities or structures, including the construction of up to three single-family residences. The proposed project is for three attached single-family residences and, therefore, conforms with this exemption.

In accordance with the findings set forth above, this 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 **approved**. The City Council expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all

persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the permittee:
 - a. Acceptance of the Permit by the permittee; and
 - b. Agreement by the permittee to be bound by, to comply with, and to do all things required of or by the permittee pursuant to all 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 Permit shall automatically expire two 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. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit.** Obtainment of a Building Permit is evidence of acceptance of all conditions specified in this document and the permittee's intent to fully comply with said conditions.
4. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
5. **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.

6. **Conformance to Plans.** The development of the site shall conform to the approved Planned Development Permit plans entitled, “Yuan 3 Attached New Single-Family Houses” dated June 25, 2018, 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 plans” or the “Approved Plan Set.
7. **Planned Development Zoning District Effectuated.** Once this Planned Development Permit is accepted, the use of land covered by the Permit shall only be land uses consistent with the Planned Development Zoning District and only upon issuance of a Planned Development Permit for those uses.
8. **Use Authorization.** This Planned Development Permit allows the construction of up to three attached single-family residences on a 0.2-gross acre site, in accordance with the approved development plans and uses consistent with the General Development Standards of the Planned Development Zoning District.
9. **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 defined above.
10. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend the landscape plans, structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
11. **Construction Hours.** Construction will be limited 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 uses.
12. **Trash.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.

13. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the approved plan set.
14. **Utilities.** All new on-site telephone, electrical, and other overhead service facilities shall be placed underground.
15. **Anti-Graffiti.** The permittee shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.
16. **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.
17. **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.
18. **Colors and Materials.** Each unit shall have three different siding and trim colors. All building colors and materials are to be those specified as shown on the Approved Plan Set. Color and material changes shall require approval of a Permit Adjustment.
19. **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 elements of the site such as paving, lighting and landscaping.
20. **Lighting.** All new on-site, exterior, unroofed lighting shall conform to the City's Outdoor Lighting Policy and shall use fully cut-off and fully shielded, low-pressure sodium. Any changes to the on-site lighting will require a Permit Adjustment. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.
21. **Generators.** This permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
22. **Tract Sales Office/Model Homes.** This permit does not include the approval of a tract sales office/model homes complex. Such use requires a Permit Adjustment approved by the Director of Planning.
23. **Green Building Requirements for Tier 1 Residential Development (<10 units).** This development is subject to the City's Green Building Ordinance for Private Sector New Construction. Prior to the issuance of any shell or complete building permits issued on or after September 8, 2009 for the construction of buildings approved through the scope of this permit, the permittee shall submit either a LEED or Build it Green building checklist for said buildings.

24. **Affordable Housing.** The developer has submitted an Affordable Housing Compliance Plan Application and Processing Fee. Housing has reviewed and accepted the Plan. The project may be subject to the City's Inclusionary Housing Ordinance (IHO) or Affordable Housing Impact Fee (AHIF). If the development is subject to the referenced IHO or AHIF, the permittee must execute and record their Affordable Housing Agreement with the City prior to the issuance of any building permits, or any final approval of any final map.
- a. The IHO and AHIF Resolution each exempt certain developments from affordable housing obligations, if the development meets certain criteria. However, whether an exemption is claimed or not, the permittee must submit an Affordable Housing Compliance Plan Application, and the application processing fee to the Housing Department as part of the application for First Approval.
 - b. The Housing Department has reviewed and approved the Affordable Housing Compliance Plan for this project. Permittee shall strictly comply with the approved Affordable Housing Compliance Plan for this project and any other applicable requirements of the IHO or AHIF.
 - c. If the project is subject to the AHIF, no building permit may issue until the AHIF is paid. No Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the AHIF Resolution are met.
 - d. If the project is subject to the IHO, no Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the IHO are met.
25. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to 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.
26. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans.* This permit file number, PD17-003, shall be printed on all construction plans submitted to the Building Division.
 - b. *Americans with Disabilities Act.* The permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - c. *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.

- d. *Project Addressing Plan.* Prior to issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official: The project permittee shall submit an addressing plan for approval for the subject development.
27. **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.
28. **Public Works Clearance.** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the permittee will be required to have satisfied all of the following Public Works conditions. The permittee is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/index.aspx?nid=2247>
- a. **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.
- b. **Transportation:** This project is exempt from the Level of Service (LOS) Policy, and no further LOS analysis is required because the project proposes less than 25 single-family attached units.
- c. **Grading/Geology:**
- i. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
 - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2013 California

- Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and shall be designed to convey a 10-year storm event.
- iii. 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 shall 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 shall be explored and evaluated in the investigation.
 - d. **Stormwater Runoff Pollution Control Measures:** This project shall 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 and source controls to minimize stormwater pollutant discharges.
 - e. **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).
 - f. **Flood Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
 - g. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable prior to Public Works clearance.
 - h. **Parks:** This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San José Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San José Municipal Code) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the formula contained within in the Subject Chapter and the Associated Fees and Credit Resolutions.
 - i. **Undergrounding:** The in-lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to South Second Street and/or Martha street prior to issuance of a Public Works Clearance. 100 percent of the base fee in place at the time of

payment will be due. Currently, the 2018 base fee is \$485 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record's City Average Cost Index for the previous year. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued.

j. **Street Improvements:**

- i. Remove and replace curb and sidewalk along South Second Street with City Standard curb, gutter and a 14-foot wide detached sidewalk section. This includes a 0.5-foot wide curb, 6.5-foot wide planter strip, and 7-foot wide sidewalk.
- ii. Remove and replace curb, gutter, and sidewalk along Martha Street with a 10-foot wide detached sidewalk section. This includes a 0.5-foot wide curb, 4.5-foot wide planter strip, and 5-foot wide sidewalk.
- iii. Proposed driveway widths along Martha Street to be a minimum of 16 feet per City Standard Detail R-5.
- iv. Removal and replacement of the existing alleyway driveway along Martha Street with a 24-foot wide driveway per City Standard Detail R-5.
- v. If the existing handicap ramp along the project frontage is damaged during construction activities the Development will be required to remove and replace the ramp with a directional ramp per City Standard Detail R-11.
- vi. 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.
- vii. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
- viii. 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.

- k. **Strong Neighborhoods Initiative (SNI):** This project is located within the Spartan/Keyes SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.

l. **Sanitary:**

- i. Construct a new 6-inch VCP sanitary main extension from the existing manhole located at the intersection of South Second Street and Martha Street across the project frontage as there is currently no sanitary main along Martha Street. The extension will be approximately 115 feet long.
- ii. The project is required to submit plan and profile of the private sewer lateral locations for final review and comment prior to construction.

- m. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
 - n. **Street Trees:** The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in the park strip. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
29. **Revocation, Suspension, Modification.** This Planned Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, 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.

EFFECTIVE DATE

The effective date of this Planned Development Permit shall be the same effective date of the Planned Development Zoning Ordinance for File No. PDC17-005 approved by City Council for publication of title on _____, 2018 (the "Planned Development Zoning Ordinance") and shall be no earlier than the effective date of said Planned Development Zoning Ordinance.

APPROVED 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.