

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING A VESTING TENTATIVE MAP, SUBJECT TO CONDITIONS, TO MERGE TWO PARCELS INTO ONE PARCEL AND TO RESUBDIVIDE THE PARCEL INTO NO MORE THAN 48 RESIDENTIAL CONDOMINIUM UNITS, 15 COMMERCIAL CONDOMINIUM UNITS AND ONE COMMON PARCEL ON AN APPROXIMATELY 0.47-GROSS ACRE SITE, LOCATED ON THE NORTH SIDE OF HEMLOCK AVENUE, APPROXIMATELY 120 FEET EASTERLY OF SOUTH BAYWOOD AVENUE (2881 HEMLOCK AND 376 SOUTH BAWWOOD AVENUE)

FILE NO. PT18-020

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on May 21, 2018, a concurrent application (File No. PT18-020) was filed by the applicant, Henry Cord for owner Yisrael 26, LLC, with the City of San José for a Vesting Tentative Map to merge two parcels into one parcel and resubdivide the parcel into no more than 48 residential condominium units, 15 commercial condominium units, and one common parcel on an approximately 0.47-gross acre site, on that certain real property situated in the CP(PD) Planned Development Zoning District and located on the north side of Hemlock Avenue, approximately 120 feet easterly of South Baywood Avenue (2881 Hemlock Avenue and 376 South Baywood Avenue, 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,” 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 concurrent applications on March 13, 2019, notice of which was duly given; and

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

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

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

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

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

WHEREAS, at said hearing, this City Council received in evidence a development plan for the subject property entitled "Vesting Tentative Tract Map", dated October 31, 2018, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested, and is attached hereto and made a part hereof by this reference as if fully set forth herein; and

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

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 subject site, composed of two lots, is located on the north side of Hemlock Avenue, approximately 120 feet easterly of South Baywood Avenue. An approximately 1,544-square foot single-family residence is located on the western portion of the site, and a 3,887-square foot dental office and parking lot are located on the eastern portion of the project site. South Baywood Avenue and Hemlock Avenue provide access to the site.

Commercial and residential uses surround the project site. A surface parking lot and parking structure are located to the north; residential and commercial uses are located to the west; a commercial building and duplex are located to the east; and a children's learning center and single-family tract houses are located to the south. A four-story apartment development is located immediately south of Hemlock Avenue, 200 feet southwest of the site. Stevens Creek Boulevard, a four-lane, two direction major arterial, is located approximately 520 feet north of the site.

The project site is located within the Santana Row/Valley Fair Urban Village Plan Area.

2. **Project Description.** The project consists of the demolition of the existing buildings on-site, the removal of seven ordinance-sized trees, and the construction of a mixed-use project with no more than 48 residential condominiums and approximately 18,495 square feet of commercial office space with no more than fifteen commercial condominium units on an approximately 0.47-gross acre site. The development will be a six-story, L-shaped building with an approximately 1,470-square foot rooftop residential open space area and two levels of subterranean parking with 67 off-street parking spaces, 26 bicycle parking spaces, and six motorcycle parking spaces. Commercial offices will be located on the first and second floors, and 48 residential condominium units will be located on the second through sixth floors. The development will provide a minimum of 4,852 square feet of residential common open space, including outdoor amenity space on the roof, second floor, and ground floor, and 3,576 square feet of private residential open space balconies.

The project includes a 50% parking reduction supported through the implementation of a Transportation Demand Management (TDM) Program. The project will implement several TDM measures, including an on-site Transportation Coordinator, bicycle programs, including an on-site cargo bicycle share program, transit subsidies such as VTA eco passes provided to both residents and commercial employees, commercial carpool/vanpool incentives, commercial flexible work schedules, and unbundled residential parking.

Vehicular access to the subterranean parking garage will be through an ingress/egress driveway located off Hemlock Avenue. Pedestrian access for both the commercial offices and the residential units will be available along both street frontages.

3. **General Plan Conformance.** The subject site has an Urban Village land use designation on the General Plan Land Use/Transportation Diagram. This designation supports a wide variety of commercial, residential, institutional, or other land uses, with an emphasis on establishing an attractive urban form in keeping with the Urban Village concept. Development within the Urban Village designation should conform to land use and design standards established with an adopted Urban Village Plan, which specifies how each Urban Village will accommodate the planned housing and job growth capacity.

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

1. Major Strategy #3- Focused Growth: Strategically focus new growth into areas of San José that will enable the achievement of City goals for economic growth, fiscal sustainability and environmental stewardship and support the development of new, attractive urban neighborhoods. A Major Strategy of the Envision General Plan is to focus new growth capacity in specifically identified "Growth Areas," while the majority of the City is not planned for additional growth or intensification.
2. Major Strategy #5- Urban Villages: Promote the development of Urban Villages to provide active, walkable, bicycle-friendly, transit-oriented, mixed-use urban settings for new housing and job growth attractive to an innovative workforce and consistent with the Plan's environmental goals.

Analysis: The project is a mixed-use development within the Santana Row/Valley Fair Urban Village boundary. Urban Villages are considered growth areas in the General Plan, and Urban Villages are intended to create higher-density housing growth along with a significant amount of job growth. The project is furthering General Plan Major Strategy #3 and #5 by developing a higher-density residential and commercial project as envisioned in the Santana Row/Valley Fair Urban Village.

3. 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 48 new residential units, consisting of 25 one-bedroom units and 23 two-bedroom units. The project would add to the existing diversity of housing in the area, which includes a mix of single-family homes, townhomes, and multifamily developments.

4. Implementation Policy IP-1.6: Ensure that proposals to rezone and pre-zone properties conform to the Land Use/Transportation Diagram and advance Envision General Plan vision, goals and policies.
5. 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.

Analysis: The project site is currently in the CG Commercial General Zoning District, which does not conform to the Urban Design standards set forth in the Santana Row/Valley Fair Urban Village with regards to land use requirements, setbacks, height, and design requirements. Development Standards for the project have been prepared as part of the Planned Development process.

6. Implementation Policy IP-2.9: Focus new residential development into specified Growth Areas to foster the cohesive transformation of these areas into complete Urban Villages. Allow immediate development of all residential capacity planned for the Growth Areas included in the current Plan Horizons.

Analysis: The project is within the Santana Row/Valley Fair Urban Village Plan. The Plan was adopted on August 7, 2017. On December 18, 2018, the Plan was shifted into Horizon 1 Urban Village by City Council through Resolution 78940. The Urban Village has a dwelling unit capacity of 2,635 units. To date, 725 units have been entitled. The project would utilize 48 units of the remaining 1,910 dwelling unit capacity. As described in the Urban Village Plan Section below, the project would conform and further the Urban Village's goals and policies, in addition to the General Plan's Land Use/Transportation Diagram as this project would meet the residential density and commercial floor area ratio minimums.

7. Growth Areas, LU-2.1: Provide significant job and housing growth capacity within strategically identified "Growth Areas" in order to maximize use of existing or planned infrastructure (including fixed transit facilities), minimize the environmental impacts of new development, provide for more efficient delivery of City services, and foster the development of more vibrant, walkable urban settings.
8. High Quality Housing and Great Places, H-3.2: Design high density residential and mixed residential/commercial development, particularly development located in identified Growth Areas, to:
 - Create and maintain safe and pleasant walking environments to encourage pedestrian activity, particularly to the nearest transit stop and to retail, services, and amenities.
 - Allow residents to conduct routine errands close to their residence, especially by walking, biking, or transit.
 - Integrate with surrounding uses to become a part of the neighborhood rather than being an isolated project.
 - Provide residents with access to adequate on- or off-site open space.

- Create a building scale that does not overwhelm the neighborhood.

Analysis: The project is within the Santana Row/Valley Fair Urban Village boundary, identified as a growth area by the General Plan. The residential mixed-use building would consist of 48 residential units and approximately 18,495 square feet of commercial office space on a site with existing City services and infrastructure. The project's density, at 104.3 dwelling units per acre, is higher than the average density of the surrounding area but is consistent with the allowed density of the Urban Village land use designation and the Santana Row/Valley Fair Urban Village growth area.

The project's location, near Santana Row, Valley Fair, and community amenities such as Frank M. Santana Park, would allow future residents and commercial tenants to conduct many of their daily activities through walking or bicycling. The project is designed to integrate into its surroundings; the design manipulates the massing to provide articulation and incorporates buffering landscaping, including vines planted on the second floor open space to be trained down the façade of the building along the shared interior lot lines with the corner lot to create a landscaping buffer. The project would provide adequate residential open space through a rooftop amenity area, other outdoor open spaces on the ground floor and second floor balcony, and the provision of private open space. Consistent with Urban Village design criteria, the building will step back from the residential properties along Hemlock Avenue to reduce the impact of the building's mass on the neighboring residential properties.

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

Analysis: The project's density will be 104.3 dwelling units per acre and a Floor Area Ratio (FAR) of 0.9 on an approximately 0.47-acre site. The project is a higher-density residential project, located within walking distance of Santana Row and Valley Fair, that is efficiently utilizing the land in a compact and dense form.

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

Analysis: The Planned Development Permit is providing approximately 18,495 square feet of commercial office space on the ground and second floor. Although the project is demolishing an existing 3,821-square foot, dental office building; the

new development will replace the demolished existing square footage and add approximately 14,674 square feet of net new commercial office space.

11. Parking Strategies, TR-8.6: Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Urban Villages and other Growth Areas.

Analysis: The project will implement a TDM plan to allow a 50% reduction of the required off-street parking spaces. Per Section 20.90.200 of the San José Municipal Code, a reduction in the required off-street vehicle parking spaces, of up to fifty percent, may be authorized for structures or uses that implement a total of at least three transportation demand management (TDM) measures, are located within an area designated as an urban village, and which bicycle parking spaces in conformance with the requirements of Table 20-90 of the Municipal Code.

The project site's Urban Village designation and proximity to commercial and retail rich-areas will support the parking reduction and encourage residents and office employees to walk and bicycle. The project will provide 26 bicycle parking spaces and pedestrian entrances to the building along all street frontages. Only one ingress and egress vehicle driveway will be provided to minimize vehicle conflicts with bicyclists and pedestrians.

12. Attractive City Policy, CD-1.17: Minimize the footprint and visibility of parking areas. Where parking areas are necessary, provide aesthetically pleasing and visually interesting parking garages with clearly identified pedestrian entrances and walkways. Encourage designs that encapsulate parking facilities behind active building space or screen parked vehicles from view from the public realm.

Analysis: The development includes a subterranean parking garage so that all on-site parking activities will be shielded from the surrounding neighborhood consistent with this Attractive City Policy.

- 4. Santana Row/ Valley Fair Urban Village.** The subject site is within the Santana Row/ Valley Fair Urban Village Plan, adopted by City Council on August 7, 2017; and the project site is within the Plan's Urban Village land use designation. This designation allows a density between 65 dwelling units per acre and 250 dwelling units per acre. The designation supports a wide range of commercial uses, including retail, sales, services, professional and general office, and residential uses in a mixed-use format. The Plan does not establish a maximum FAR for commercial or residential mixed-used projects; however, proposed projects should provide a commercial Floor Area Ratio based on the average commercial Floor Area Ratio for the entire Village at the time of a development proposal.

As stated above, the Santana Row/Valley Fair Urban Village is a Horizon 1 Urban Village. Residential and mixed-use developments in this Urban Village are subject to the Planned Housing yield of the Urban Village. The Santana Row/Valley Fair Urban

Village has a housing capacity of 2,635 dwelling units and 725 units have been entitled. The project will utilize 48 of the remaining 1,910 dwelling unit capacity.

The project is not subject to the City Council adopted Urban Village Implementation and Amenity Framework (Implementation Framework). The Implementation Framework includes a provision that exempts projects that submitted a complete application prior to the date of the City Council adoption of the Implementation Framework. The Implementation Framework was adopted by the City Council on May 22, 2018, after the Planned Development Rezoning application was submitted to the City for review.

The proposed project conforms to the following key Santana Row/Valley Fair Urban Village policies.

1. Vibrant Commercial Corridor Policy, 3-3: With the Mixed Use Commercial, Mixed Use Neighborhood, or Urban Village Land Use designations, existing commercial or industrial square footage shall be replaced with an equivalent commercial square footage in the new residential or residential mixed use development.

Analysis: The existing commercial office building on-site is approximately 3,821 square feet. This project would provide 18,494 square feet of commercial office space, equivalent to 0.9 commercial FAR.

2. Vibrant Commercial Corridor Policy 3-11: Residential mixed-use projects utilizing the residential pool must build the commercial and residential portions of the development concurrently.

Analysis: The mixed use building will be a vertical mixed-use building, resulting in the concurrent construction of both uses. As part of the Development Standards for the Planned Development Zoning, the commercial/office component must be constructed before or concurrently with the residential component.

The project conforms to the following key Goals, Standards, and Guidelines of the Santana Row/Valley Fair Urban Village Plan, Chapter 5 Urban Design. This chapter provides an overall urban design framework for development with the Village. The framework focuses on the Village's character and livability and strives for compatible higher-intensity developments which support existing neighborhoods.

1. Pedestrian- and Bicycle- Friendly Environment Goal LU-4: Foster a development pattern that supports the creation of a walkable dynamic environment and reduces motor vehicle travel by encouraging the use of other modes of travel.
2. Quality Building Design Guideline DG-4: A minimum of one building entrance should be provided along each public street frontage.
3. Parking and Loading, Goal UD-13: Provide ample bicycle parking and pedestrian amenities to increase the comfort of non-motorized travelers.

Analysis: The development will provide a 12-foot wide sidewalk along the project's Hemlock Avenue street frontage and a 15-foot wide sidewalk along the South Baywood Avenue Frontage. The project is designed to have pedestrian entrances on both street frontages for both the residents and commercial employees. The project has incorporated street-side landscaping and pedestrian lighting to soften the building's façade along the sidewalk. Lobby entrances and large windows along the ground floor create an engaging, human-scale street experience.

The project will provide sidewalk amenities and landscaping including benches. Additionally, the project will have 26 bicycle parking spaces, 18 long-term bicycles located on the first parking level in a secured bicycle room, and eight short term bicycle racks on the ground floor sidewalk. Coordination with Public Works for the bicycle rack location will be required as a condition of this project.

The project will include a 50% parking reduction with the implementation of a Transportation Demand Management (TDM) Plan. One of the goals of a TDM Plan is to promote more efficient utilization of existing transportation facilities and ensure new developments are designed to maximize the potential for sustainable transportation usage. The closest bus stop location to the project site is at the Stevens Creek Boulevard and Santana Row intersection, approximately 1,000 to 1,400 feet northwest of the project site, and is served by Express Route 323. The Valley Fair Transit Center is located within three-quarters of a mile of the project site adjacent to Westfield Valley Fair, along Forest Avenue. The Valley Fair Transit Center is served by two bus routes, Route 23 and Route 60. Some of the measures the development will utilize to support the 50% parking reduction and to encourage the reduction of motor vehicle travel include providing on-site bicycle programs, such as on-site cargo bicycle share programs, and providing transit subsidies to residents and commercial tenants, such as the VTA eco/Smart Pass, to encourage the use of alternate forms of transportation.

4. A Cohesive and Pedestrian-Oriented Village Goal UD-2: Support an engaging pedestrian environment along major pedestrian routes.
5. A Cohesive and Pedestrian-Oriented Village Guideline DG-2: All active frontage and pedestrian-oriented frontages:
 - a. Blank walls at the ground level should be no more than 20 feet in length
 - b. Building frontages should incorporate detailed articulation and entrances that are designed at the pedestrian scale
 - c. Loading docks and exposed parking should not be allowed
 - d. Utilities and vehicular access points should be minimized.

Analysis: The Santana Row/ Valley Fair Urban Village Plan designates the Hemlock Avenue and South Baywood Avenue project frontages as pedestrian-oriented frontages. Both project site frontages utilize large ground floor windows

along the street frontage. The use of the ground floor windows and entryways results in no blank ground floor façades exceeding 20 feet in length. The building's parking, mechanical equipment, and trash rooms will be located in the subterranean garage, away from the pedestrian right-of-way. One vehicle ingress and egress driveway will provide access to the subterranean parking garage, located along Hemlock Avenue.

6. Quality Building Design, Standard DS-3: The minimum floor-to-ceiling height of the ground floor commercial space shall be a minimum of 15 feet and preferably 18 to 20 feet.

Analysis: The building has a 15-foot ground floor height; in accordance with this standard.

7. Whole Building Design, Standard DS-7: Buildings shall maintain façade quality of architectural articulation and finishes on all sides of a building that are visible to the public. Some of the architectural features of the main facade shall be incorporated into the rear and side elevations.
8. Whole Building Design, Guideline DG-26: Building façades should be constructed of high quality and durable materials such as stone, brick, tile, wood, glass, and metal. Use of stucco shall be minimized and aluminum mesh is prohibited as a balcony material. Ground floor should use high quality material with texture.
9. Whole Building Design, Guideline DG-29: Recessed and projected balconies should be introduced as part of a composition that contributes to the scale and proportion of the residential building façades.
10. Whole Building Design, Guidelines DG-32: Incorporate usable outdoor terraces and rooftop gardens that overlook the street and provide visual interest

Analysis: The building's design is modern/contemporary and uses a combination of wood siding, concrete, aluminum metal panels, and stucco. The balconies are transparent, which helps maintain the effect of the building's step-backs while creating usable terrace open space. The project design steps the massing of the building back along the street frontages creating a series of modulating solid and void spaces. This design is incorporated along all sides of the project, with the greatest building step-backs along Hemlock Avenue. The project capitalizes on the design's recesses and flat roof to provide a variety of private and common residential open spaces.

11. Compatibility of Building Height, Placement and Scale, Goal UD-7: Create an urban environment where new development steps down toward existing low-intensity residential uses and is built to the human-scale at the ground level.
12. Compatibility of Building Height, Placement and Scale, Standard DS-8: Figure 5-2 [in the Urban Village Plan] establishes the Urban Village height limits which limits the height of the building to 65 feet (5 to 6 stories typical).

13. Compatibility of Building Height, Placement and Scale, Standard DS-9: New projects proposed within the Urban Village Plan over 55 feet in height must provide detailed visualizations of their proposed project that show what the project will look like from the street level, from different perspectives and distances, within the context of the neighborhood including both current and proposed projects.

14. Compatibility of Building Height, Placement and Scale, Guideline DG-35: Non-occupiable architectural features such as roof forms, chimneys, stairwells, and towers may project up to ten feet above the maximum height.

Analysis: The development will have a maximum building height of 65 feet with the elevator room and stairwell projecting an additional 8 feet 6 inches. Visualizations of the development are provided in the approved project development plans. The visualizations provide a perspective of the project from the intersection of Hatton Street and the existing parking lot's driveway, approximately 250 feet southwest of the site, the sidewalk on Hemlock Avenue approximately 120 feet east of the project site, from the western sidewalk along South Baywood Avenue approximately 100 feet north of the site. The visualizations demonstrate, from a pedestrian point of view, how the project will appear within the existing built environment.

15. Compatibility of Building Height, Placement and Scale, Standard DS-12: For buildings on Hemlock Avenue (between South Baywood Avenue and South Monroe Street), stories above 4 stories or 45 feet must step back so as not to intercept a 45-degree daylight plane inclined inward from the building edge.

Analysis: The building along Hemlock Avenue is designed so as not to intercept the 45-degree daylight plane inclined inward from the building edge. The 45-degree daylight plane requires that any portion of the building, above 4 stories or 45 feet in height, must step back so as not to intercept a 45-degree angle measured from the top of 45 feet inward from building's edge. On the fourth and fifth floors the building is stepped back a minimum of thirteen feet and six inches. The building is stepped back a minimum of twenty-six feet and three inches on the sixth floor. With the step-backs, the building will be in compliance with the required 45-degree daylight plan requirement. The design of the building allows the project to achieve the intensity required in the Urban Village while reducing its impact on the nearby residential property.

16. Compatibility of Building Height, Placement and Scale, Table 5-1 [in the Urban Village Plan]: Building 5-1 establishes the building placement and bulk standards:

- a. Front Setback, non-residential ground floor use: 0 to 10 feet.
- b. Front Setback, residential ground floor use: 2 to 5 feet.
- c. Street Side Setback: 0 to 10 feet

- d. Side Setback: 0 feet.
- e. Rear Setback: Minimum 10 feet.

Analysis: Along the project's Hemlock Avenue property line, the project is set back between 3 feet 8 inches and 5 feet. The project is set back 2 feet 4 inches along the South Baywood Avenue property line. The project's eastern property line is the rear property line; the building is set back ten feet from the eastern property line. The building is set back 0 to 5 feet on all other side property lines, consistent with Table 5-1 of the Santana Row/Valley Fair Urban Village.

- 5. Zoning and Planned Development Zoning Conformance.** The site is in the CP(PD) Planned Development Zoning District with an Urban Village General Plan land use designation.

Subject to the Development Standards adopted as part of the rezoning, the CP(PD) Planned Development would require conformance with the Santana Row/Valley Fair Urban Village, including the required setbacks, height, and 45-degree daylight plane, as described above.

Parking is required for the project pursuant to the parking standards and requirements of the San José Municipal Code. The project is required to provide 1.25 parking spaces per one-bedroom unit, 1.7 parking spaces per two-bedroom unit, and 1 parking space per 250 square feet of office floor area, for a total of 134 parking spaces. Floor area is defined as 85% of the total gross floor area of a building. Pursuant to Section 20.90.220 of the San José Municipal Code, a parking reduction of up to 50% may be authorized for a development which implements a minimum of three transportation demand management measures, provides all the required bicycle parking, and is located in an Urban Village area.

The project applicant requests a 50% parking reduction supported through the implementation of a TDM plan. The project applicant would implement several TDM measures, including an on-site Transportation Coordinator, bicycle programs including an on-site cargo bicycle share program, transit subsidies such as VTA eco/Smart Passes provided to both residents and commercial employees, commercial carpool/vanpool incentives, commercial flexible work schedules, and unbundled residential parking. With the implementation of the TDM and a 50% reduction, the project will provide 67 vehicle parking spaces in two levels of subterranean parking in lieu of the required 134 parking spaces. A minimum of 17 bicycle parking spaces and six motorcycle spaces would be required for the project; 26 bicycle parking spaces and six motorcycle parking spaces will be provided.

- 6. Residential Design Guidelines.** The project complies with the Residential Design Guidelines by being designed for the pedestrian at the ground level and providing an interesting architectural aesthetic, as described above. This project provides pedestrian scale by placing the building near the sidewalk and providing articulation and transparency along the ground floor. Furthermore, reduced building setbacks

are appropriate to higher-density housing types in growth areas to reinforce the planned urban character of the neighborhood.

The project incorporates a variety of materials, including cement, wood, metal, and stucco. The project includes a varied building façade, recessed and protruding windows, and balconies, which contribute to an interesting aesthetic and provide dimensionality to the building. The undulating façade will provide additional shadow lines to the building, adding architectural interest to its façade.

The project provides 3,576 square feet of private residential open space, an average of 74 square feet per unit. A minimum of 4,852 square feet of common residential open space will be provided, an average of 101 square feet per unit. This is consistent with the residential design guidelines standard that encourages the provision of a minimum of 60 square feet of private open space and 100 square feet of common open space per unit. The provided common open space will take advantage of the project's many opportunities for common outdoor balconies and terraces. Additionally, the project includes a rooftop garden open space area for residents to enjoy themselves outdoors. The roof deck is located on the western portion of the project site, set back at least 110 feet from the existing residences along Hemlock Avenue.

- 7. Environmental Review.** An Initial Study/Mitigated Negative Declaration (IS/MND) entitled "Hemlock Mixed-Use Project" was prepared and approved on December 10, 2018, by the Director of Planning, Building, and Code Enforcement for the subject Planned Development Rezoning, Planned Development Permit, and Tentative Map. The IS/MND was completed in compliance with the California Environmental Quality Act (CEQA), as amended, to reflect an independent judgment and analysis of the project. The documents were circulated for public review and comments from December 10, 2018 to January 9, 2019. Four formal comments/emails were received from the public during the public circulation period. The comments did not result in any substantial changes to the project description, analyses, and/or impacts that was previously disclosed in the IS/MND.

The IS/MND identified potentially significant environmental impacts and determined that with implementation of related mitigation measures, the project would not have a significant effect on the environment. The environmental issues that require mitigation are air quality, biological resources, hazards and hazardous materials, and noise. The IS/MND determined with the incorporation of mitigation measures would reduce any potentially significant project impacts to a less-than-significant level. The mitigation measures and associated compliance methods are included in the adopted Mitigation Monitoring and Reporting Program.

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FINDINGS

The City Council concludes and finds, based on the analysis of the above facts, that:

1. **Conformance with the Subdivision Ordinance and the Subdivision Map Act.** In accordance with San José Municipal Code (SJMC) Section 19.12.130, the City Council may approve the vesting tentative map if the City Council cannot make any of the findings for denial in Government Code Section 66474, and the City Council has reviewed and considered the information relating to compliance of the project with the California Environmental Quality Act and determines the environmental review to be adequate. Additionally, the City Council may approve the project if the City Council does not make any of the findings for denial in San José Municipal Code Section 19.12.220. San José Municipal Code Section 19.12.130 incorporates the findings for denial in Section 66474 of the Government Code, as set forth below.
 - a. The City Council finds that the proposed subdivision shown on the Vesting Tentative Map, subject to the conditions listed below and the requirements for project design and improvements is consistent with applicable General and Specific Plans of the City of San José, in that:

Analysis: As discussed in detail above, the proposed project is consistent with the General Plan.
 - b. The City Council has considered the proposed subdivision shown on the Vesting Tentative Map, with the imposed conditions, to determine whether to make any of the findings set forth in the subsections of Section 66474 of the Government Code of the State of California which states “A legislative body of a city or county shall deny approval of a vesting tentative map, or a parcel map for which a vesting tentative map was not required, if it makes any of the following findings:”
 - a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.
 - b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
 - c) That the site is not physically suitable for the type of development.
 - d) That the site is not physically suitable for the proposed density of development.
 - e) That the design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
 - f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.
 - g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use

of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

Analysis: As described above, based on review of the proposed subdivision, the Director of Planning of the City of San José does not make any such findings to deny the subject subdivision. The proposed map and the development's design are consistent with the San José Envision 2040 General Plan and the Santana Row/Valley Fair Urban Village Plan, as discussed above. The site is physically suitable for the proposed development in that the tract meets the minimum 750 square foot unit size for nonresidential condominiums and the proposed residential density is in conformance with the Urban Village Plan. The site is not located within a designated Federal Emergency Management Agency (FEMA) 100-year flood plan. The project site, as well as the surrounding area, are presently developed with structures and do not provide a natural habitat for either fish or wildlife. The proposed subdivision and subsequent improvements are not likely to cause serious public health problems. The project will be required to improve South Baywood Avenue and Hemlock Avenue and the project will be required to demonstrate that the common area will be retained as common area and maintained.

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

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Vesting Tentative Map.** Per Section 19.12.230, should the Subdivider fail to file a timely and valid appeal of this Vesting Tentative Map within the applicable appeal period, such inaction by the Subdivider shall be deemed to constitute all of the following on behalf of the Subdivider:
 - a. Acceptance of the Vesting Tentative Map by the Subdivider; and

- b. Agreement by the Subdivider to be bound by, to comply with, and to do all things required of or by the Subdivider pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 19 applicable to such Vesting Tentative Map.
2. **Expiration of Vesting Tentative Map.** This Vesting Tentative Map shall automatically expire 48 months from and after the date of issuance hereof by the Director of Planning of the City of San José. The date of issuance is the date this Vesting Tentative Map is approved by the City Council.
 3. **Development Rights - Vesting on Approval of Vesting Tentative Map.**
 - a. Per San José Municipal Code Section 19.13.070, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards described in Government Code Section 66474.2. However, if Section 66474.2 of the Government Code is repealed, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved.
 - b. Notwithstanding subsection 3.a., above, any permit, including a building permit, approval, extension, or entitlement may be made conditional or denied if any of the following are determined:
 - i. A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.
 - ii. The condition or denial is required, in order to comply with state or federal law.
 - c. The rights referred to herein shall expire if a final map is not approved prior to the expiration of the vesting tentative map as provided in Section 19.13.060. If the final map is approved, these rights shall last for the following periods of time:
 - i. An initial time period of one year. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, this one-year initial time period shall begin for each phase when the final map for that phase is recorded. All of said final maps or parcel maps must be recorded within the time period set forth in Section 19.13.060 or the vesting tentative map approval shall expire for those parcels for which final maps or parcel maps are not timely recorded.
 - ii. The initial time period set forth in 3.c.i. shall be automatically extended by any time used for processing a complete application for a grading permit if such processing exceeds thirty days from the date a complete application is filed.
 - iii. A subdivider may apply to the director for a one-year extension at any time before the initial time period set forth in 3.c.i expires. If the extension is denied, the subdivider may appeal that denial to the city council within fifteen (15) days.

- iv. If the subdivider submits a complete application for a building permit during the periods of time specified in 3.c.i. through 3.c.iii., above, the rights referred to herein shall continue until the expiration of that permit, or any extension of that permit.
4. **Conformance to Plans.** Development shall conform to the approved Vesting Tentative Map plans entitled “Aram Condominiums” dated October 31, 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 Vesting Tentative Map Plan Set).
5. **Compliance with Subdivision Ordinance.** The final map shall comply with all of the requirements for final maps in Chapter 19.16 of the San José Municipal Code and shall show and contain all of the data required by San José Municipal Code Section 19.16.110.
6. **Conformance with Other Permits.** The subject Vesting Tentative Map conforms to and complies in all respects with the Planned Development Permit File No. PD18-037 on which such Vesting Tentative Map is based. Approval of said Vesting Tentative Map shall automatically expire with respect to any portion of the lands covered by such Vesting Tentative Map on which a Final Map or Tract Map has not yet been recorded if, prior to recordation of a Final Map or Tract Map thereon, the Planned Development Permit for such lands automatically expires or for any reason ceases to be operative.
7. **Minimum Commercial Condominium Size.** The minimum commercial condominium size shall be 750 square feet.
8. **Common Interest Development**
 - a. The applicants, at their sole cost, shall prepare, submit for prior review and approval by the City, and record concurrently with the applicable parcel or final map, governing documents for the Common Interest Development that include sufficient provisions for governance, funding and capitalization, and enforcement mechanisms, including enforcement by the city, to insure that the common area continues to be adequately and safely maintained and repaired for the life of the common interest development and that such common area shall be retained for the use of all owners within the development. Prior to approval of the parcel or final map by the city, the applicant shall submit the proposed governing documents to the city for review for compliance with this condition.
 - b. The applicant shall, at its sole cost, prepare grant deeds for all mutual or reciprocal easement rights, which shall be reviewed by the city for compliance with the terms of Chapter 20.175 of the City of San José Municipal Code, and shall upon City approval be recorded concurrently with the approved parcel for Final Map.

9. Owner's Association.

- a. Prior to the issuance of any occupancy permit (temporary or final), an Owners Association shall be established for maintenance of all common areas, including pedestrian walkways, easements, and landscaping. The subdivider shall provide to the Owners Association a copy of the Vesting Tentative Map, the accompanying Plan Set, any approved Development Permit, Amendments, and Adjustments under Title 20 of the Municipal Code, and a complete set of approved building and all improvement plans within 30 days of completion of each construction phase.
- b. The subdivider shall, at its sole cost, prepare grant deeds for all mutual or reciprocal easement rights, which shall be reviewed by the city for compliance with the terms of the City of San José Municipal Code, and shall upon city approval be recorded concurrently with the approved parcel or final map
- c. The Transportation Demand Management Plan measures, as amended, shall be incorporated into the Owners Association agreement/CC&Rs.

10. Improvements. Pursuant to the Subdivision Agreement (hereinafter referred to as "Agreement"), the Subdivider shall, before approval and recording of the Final Map, improve or agree to improve all land within the subdivision and all land outside, but appurtenant to, the Subdivision shown on the Vesting Tentative Map for public or private streets, alleys, pedestrian ways and easements to the satisfaction of the Director of Public Works.

11. Improvement Contract. In the event subdivider has not completed the improvements required for his proposed subdivision at the time the final map is presented for approval, subdivider shall enter into a subdivision improvement agreement with the City of San José, in accordance with Section 19.32.130 of the San José Municipal Code, and provide the improvement security and insurance required therein.

12. Public Use Easements. Subdivider shall dedicate on the final map for public use easements for public utilities, emergency access, open space, streets, pedestrian ways, sanitary sewers, drainage, flood control channels, water systems, and parking in and upon all areas within the subdivision shown on the Vesting Tentative Map for the subdivision to be devoted to such purposes.

13. Conveyance of Easements. Subdivider shall convey or cause to be conveyed to the City of San José, easements in and upon all areas as shown on the Vesting Tentative Map outside the boundaries of, but appurtenant to, the subdivision. Should a separate instrument be required for the conveyance of the easement(s), it shall be recorded prior to the recordation of the Final Map. Such easements so conveyed shall be shown on the Final Map, together with reference to the Book and Page in the Official Recorder of Santa Clara County, where each instrument conveying such easements is recorded.

14. **Covenant of Easement.** Prior to the issuance of the final map, the Subdivider shall receive a covenant of easement for the reciprocal rights for shared parking, ingress, and egress.
15. **Final Map.** No Final Map or Tract Map shall be approved by City Council unless and until the appeal period for the development permit, City File No. PD18-037 has expired and all appeals have been exhausted.
16. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Subdivider shall constitute acknowledgement of receipt of notice by Subdivider that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.
17. **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 to the Department of Public Works prior to Public Works clearance.
18. **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 Vesting Tentative Map shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance.
19. **Affordable Housing.** 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 subdivider 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 subdivider 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. Subdivider 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.
20. **Parkland Dedication Ordinance.** This development is subject to the requirements of 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 the parkland dedication ordinance and the associated Fees and Credit Resolutions. Prior to approval of the Final Map or final building permits for this development, the subdivider shall enter a parkland agreement with the City to the satisfaction of the Director of Public Works in order to fulfill the requirements of the Parkland Dedication Ordinance.
21. **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. _____.
22. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the subdivider will be required to have satisfied all of the following Public Works conditions as described in the Planned Development Permit (PD18-037).
23. **Revocation, Suspension, Modification.** This Vesting Tentative Map is subject to revocation, suspension or modification for violation of any of its provisions or condition.

In accordance with the findings set forth above, a Vesting Tentative Map Permit to use the subject property for said purpose specified above, subject to conditions, is hereby **approved**.

EFFECTIVE DATE

The effective date of this Vesting Tentative Map shall be the same effective date of the Planned Development Rezoning Ordinance for File No. PDC18-009 adopted on _____, 2019 (the "Planned Development Zoning Ordinance") and shall be no earlier than the effective date of said Planned Development Rezoning Ordinance.

APPROVED and issued this _____ day of _____, 2019, 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.

EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 277-34-051

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

Parcel 3, as shown on that certain Parcel Map which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on June 29, 1978 in Book 421 of Maps at page(s) 35.

EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 277-34-023

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

LOT 32, AS DELINEATED UPON THAT CERTAIN MAP ENTITLED "TRACT NO. 238 WESTWOOD PARK UNIT NO. 2, SITUATION IN THE S.W. 1/4 OF SECTION OF 14, T.7 S.R. 1W., M.D.B. AND M.", FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON JANUARY 21ST, 1946 IN BOOK 8 OF MAPS, AT PAGE 17.