

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING A VESTING TENTATIVE MAP, SUBJECT TO CONDITIONS, TO MERGE SIX PARCELS INTO ONE PARCEL AND RESUBDIVIDE THE MERGED PARCEL INTO NO MORE THAN TWO PARCELS, ON AN APPROXIMATELY 20.08-GROSS ACRE SITE LOCATED ON THE EAST SIDE OF SARATOGA AVENUE BETWEEN BLACKFORD AVENUE AND MANZANITA DRIVE (700 SARATOGA AVENUE)

FILE NO. PT18-049

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. PT18-049) was filed by the applicant, Joe Kirchofer, on behalf of AvalonBay Communities, Inc., with the City of San José for a Vesting Tentative Map to merge six parcels into one parcel and subdivide the merged parcel into no more than two parcels on an approximately 20.08-gross acre site, on that certain real property situated in the R-M(PD) Planned Development Zoning District and located on the east side of Saratoga Avenue between Blackford Avenue and Manzanita Drive (700 Saratoga Avenue, San José, which real property is sometimes referred to herein as the “subject property”);

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 May 22, 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 "Avalon West Valley", dated April 3, 2019, 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 is located on the east side of Saratoga Avenue between Blackford Avenue and Manzanita Drive. The existing project site is developed with 873 residential apartment units within 28 buildings. The project includes three parking garages and surface parking spaces. The residential buildings are clustered in groups with landscaped courtyards and two pools totaling 30,652 square feet of residential common open space. Additionally, the site has a 20,040-square foot residential amenity and leasing building, a 22,170-square foot outdoor amenity and pool area, and a tennis court/sports court space on the top of the parking garage located on the southeast corner of Blackford Avenue and Saratoga Avenue. Fourteen driveways provide access to the project site: seven on Blackford Drive, two on Saratoga Avenue, and five on Manzanita Drive.

Commercial, residential, and institutional uses surround the project site. Schools and single-family and multifamily residences are located to the project's east. Commercial/office buildings are located to the property's north. West of the site is developed with a commercial plaza (Mitsuwa Marketplace), single-family residences, and single-family residences which have been converted to commercial/office land uses. South of the project site are single-family residences.

The project site is located within the Saratoga Avenue Urban Village boundary area. The Saratoga Avenue Urban Village is a Horizon 3 urban village and currently it does not have an approved urban village plan.

2. **Project Description.** The Vesting Tentative Tract map would merge the six existing parcels into one and resubdivide the merged parcel into two parcels. One parcel would contain the mixed use "Avalon Building" and surface parking lot. The other parcel would include the remainder of the site. The parcels would be separate parcels; no covenant of easements would be required.

The project would allow the construction of 302 residential units in two buildings (the Avalon Building and Manzanita Building) for a combined total of 1,175 residential units on site. Additionally, the project would include 17,800 square feet of commercial retail space and a stand-alone parking garage. The 28 residential buildings with 873 units would remain on-site as well as the parking garage along the northeast portion of the project site.

The project would demolish the garage located on the southeast corner of Saratoga Avenue and Blackford Avenue, the leasing/amenity building and pool area directly south of the garage, the garage located along Manzanita Avenue, and associated surface parking lots. The project would include the removal of 133 ordinance-size trees and 103 non-ordinance size trees to accommodate the development. The parking garage along Blackford Avenue would remain.

The Avalon Building, located at the northwest corner of the property, would be a seven-story, mixed-use building with 247 residential units, 17,800 square feet of retail space on the ground floor, and 406 parking spaces. Of the 406 parking spaces, 369 parking spaces would be provided within the building and 37 surface parking spaces would be located within the new surface parking lot south of the Avalon Building. The residential units would be located on floors two to seven of the 83-foot tall building. Retail would be located in the northern and northwestern portions of the building, along the Saratoga Avenue and Blackford Avenue street frontages. The Avalon Building would include residential common open space amenities including a fitness room, club room, courtyard with a pool, roof deck and dog park totaling approximately 25,355 square feet of common open space. Vehicular access to the Avalon Building would be along the existing driveway cut on Saratoga Avenue and Blackford Avenue. Pedestrian access to the commercial and residential uses would be available along Saratoga Avenue and Blackford Avenue.

The existing parking garage located at the center and southern portion of the site along Manzanita Drive would be demolished and replaced with a new stand-alone garage and a three-story residential building with 55 residential units. The Manzanita Building would be approximately 45 feet in height. On-site amenities for the Manzanita Building would include an outdoor courtyard, club room, fitness room, and an outdoor pool area located on the ground floor of the building.

The stand-alone parking garage would be located immediately northeast of the Manzanita building. The 35-foot-tall parking garage would provide 742 parking stalls in three levels of above-grade parking and one level of below-grade parking. Vehicular access to the Manzanita Building and new parking garage would be from a single driveway along Manzanita Drive. The building frontage and pedestrian access to the Manzanita Building would be taken off Manzanita Drive.

The project includes two public plazas, the Saratoga Plaza and the Palm Plaza. The Saratoga Plaza, located at the corner of Saratoga Avenue and Blackford Avenue, is designed to provide a public amenity space which engages with the ground floor retail along the Avalon Building's street frontage. The 8,085-square foot Saratoga Plaza includes unique paving to define the public area, a variety of seating options including moveable furniture, a built-in counter along the planter, and picnic benches, an art sculpture, featured pottery, and landscaping. The Palm Plaza, located along the Avalon Building's Saratoga frontage, includes unique paving, raised planter seating, moveable furniture, and stringed lighting. The Palm Plaza is approximately 3,975 square feet. (See Exhibit I, Sheet 6.9.0, Public Plaza Concepts).

Pursuant to Section 20.100.450 of the San José Municipal Code, the project is conditioned to allow extended construction hours for weekend construction on Saturdays from 9 a.m. to 5 p.m., twice a month and up to 10 days of 24-hour construction to allow concrete pours.

- 3. General Plan Conformance.** The project site has an Envision San José 2040 General Plan designation of Mixed Use Neighborhood and Urban Residential. The Mixed Use Neighborhood designation is on the majority of the site and is where the new construction is proposed. The Mixed Use Neighborhood designation supports residential densities up to 30 dwelling units per acre as well as commercial and mixed use developments which are integrated into the surrounding neighborhood. The Urban Residential General Plan designation is on the eastern portion of the site where the existing Buildings 1, 2, and 3 are located. New development is not proposed on this portion of the site. The Urban Residential designation supports medium residential development and a broad range of commercial uses with densities between 30 and 95 dwelling units per acre.

The project is also within the boundaries of the Saratoga Avenue Urban Village growth area. The Saratoga Avenue Urban Village planning process has not commenced and is not anticipated to do so in the near future; therefore, to move ahead of an urban village plan, the project is applying under the “Signature Project” General Plan Policy (IP-5.10) to allow the residential density and height. As analyzed below, the project conforms to the requirements of a “Signature Project”. These development projects are a catalyst for the implementation of the General Plan Urban Village strategy.

The project is also consistent with the following General Plan Major Strategies and Policies as identified and analyzed below.

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.

Analysis: The project is located within the Saratoga Avenue Urban Village, which is a growth area as identified in the Envision San José 2040 General Plan. The project is consistent with this Major Strategy as it fully utilizes an underdeveloped portion of an existing multifamily development for a denser mix-use development. The project would capitalize on the site’s existing multifamily use without displacing any existing residential units. The mixture of residential, commercial, and publicly-accessible open space would accommodate a growing population while providing access to neighborhood amenities.

- 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 Signature Project is a mixed-use project with the density and commercial uses oriented on the corner of Saratoga Avenue and Blackford Avenue. The project includes public plazas which are designed to attract the public to utilize the commercial ground floor spaces and activate the public sphere through the inclusion of outdoor seating, lighting, and landscaping. The mix of uses would encourage residents inside and outside of the development to patronize the commercial uses.

3. Major Strategy #6 - Streetscapes for People: Design streets for people, not just cars, and to support a diverse range of urban activities and functions. Develop important roadways as Grand Boulevards to connect multiple neighborhoods and act as urban design elements at a citywide scale. Promote the ongoing development of main streets to foster community identity and walkability, recognizing that they serve as important destinations for retail and other activities within neighborhood areas.

Analysis The project has building frontage along Saratoga Avenue (a General Plan designated Grand Boulevard), and two neighborhood streets, Manzanita Drive and Blackford Avenue. The project incorporates a 7-foot setback from the sidewalk easement along Saratoga Avenue allowing the Avalon building to interact with the street and pedestrian activity to spill out onto the public realm. The corner of Blackford Avenue and Saratoga Avenue includes the Saratoga public plaza, which would serve as a focal point at the intersection and foster community identity and walkability. The Avalon building includes multiple public entrances off the public streets and landscaping to facilitate a multitude of non-vehicular modes of travel such as walking, bicycle, and public transit.

4. 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: A combination of multifamily and single-family developments surround the project site. The project would retain all 873 existing residential units on-site to minimize displacement of existing residents. This project would provide 302 new residential units, consisting of 26 studios, 141 one-bedroom units and 135 two-bedroom units. The project would add to the existing diversity of housing on the site and in the area. The development would enhance the existing site through added on-site amenities including the two public plazas, a residential dog park, and two new amenity spaces within the proposed Manzanita and Avalon buildings.

5. 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.
6. 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 RM Multiple Residence Zoning District. To develop the site as a Signature Project, the project requires a Planned Development Zoning District. Development Standards have been prepared for the project that will guide development on the site.

7. 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.
8. Implementation Policy IP-2.11: Provide a “Pool” of residential unit capacity which may be allocated to allow entitlement of residential projects within Urban Village Areas not included within the current Plan Horizon. The pool is initially established as 5,000 units, and may be replenished as part of a General Plan Major Review. The 5,000-unit Pool is not additional capacity to the General Plan’s planned housing yield, but instead is drawn from the respective Urban Village’s planned housing yield when utilized. Projects receiving allocation must conform to the Land Use/Transportation Diagram and advance the goals and policies of the respective Urban Village Plan. Preparation of an Urban Village plan for the subject Urban Village is necessary prior to allocation of these units unless the project qualifies as a Signature Project in a future Horizon Urban Village.

Analysis: The project is within the Saratoga Avenue Urban Village growth area, a Horizon 3 Urban Village. The Envision San José 2040 General Plan allocates this urban village growth area a dwelling unit capacity of 1,115 dwelling units. To date, 89 dwelling units have been entitled. The project would utilize 307 units of the remaining 1,026 dwelling unit capacity. As described in further detail below, the project is a Signature Project which would utilize the provided “Pool” of residential units capacity allocated to allow residential projects for Urban Village Areas not included within the current plan horizon. The residential “Pool” has 4,505 residential units remaining in capacity, enough to support the project.

9. 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.

Analysis: The project would maximize the use of existing infrastructure on-site since it is intensifying an existing developed site within a growth area. In addition to the added residential density, the project would add a mixed-use component to the residential site with 17,800 square feet of commercial ground floor space. The public plazas surround the commercial space to foster a vibrant and walkable urban setting. The new commercial space would add additional retail options to the Saratoga Avenue and Blackford Avenue intersection which has the active Mitsuwa Marketplace shopping center across the street.

10. 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 existing 19.46 gross acre site is developed with 873 multifamily residential units and has an existing density of 44.86 dwelling units per acre. The project capitalizes on the underutilized portions of the site to provide additional housing and commercial square footage. The project would bring the site's overall density to 60.64 dwelling units per acre to be consistent with the General Plan's goals of targeting density in identified growth areas.

11. Attractive City Policy, CD-1.9: Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas place commercial and mixed-use building frontages at or near the street-facing property line with entrances directly to the public sidewalk, provide high-quality pedestrian facilities that promote pedestrian activity.

Analysis: The project would provide 300 bicycle parking spaces to accommodate bicycle use for the residents, employees, and visitors throughout the three new buildings (Avalon Building, Manzanita Building, and new garage). The Avalon building would front the property lines with residential and commercial entrances along Blackford Avenue and Saratoga Avenue. The parking garage and surface parking lot would direct commercial tenant customers into the public plaza and sidewalk spaces. The Manzanita building would locate the active ground floor uses, such as the club room, fitness room, and courtyard, along Manzanita Drive. The new parking structure would be located at the center of the site, away from the street frontages. The project would consolidate the four existing driveways serving the garage on Manzanita Drive into one driveway serving the new garage; this would enhance pedestrian safety as reducing the number of driveways will reduce circulation conflicts between vehicles and pedestrians.

12. Function Policy, CD-2.4: Incorporate public spaces (squares, plazas, etc.) into private developments to encourage social interaction, particularly where such spaces promote symbiotic relationships between businesses, residents, and visitors.

Analysis: The Saratoga Plaza, located at the corner of Saratoga Avenue and Blackford Avenue at the Avalon Building, would be used for gathering and outdoor seating. The space would include landscaping and an art installation on the corner. The Palm Plaza, located along Saratoga Avenue and the Avalon Building, could also be used for gathering and outdoor seating. The site would include raised planter seating and stringed lighting to create a sense of place. The Palm Plaza has been designed to function as an extension of the residential amenity space stretching from the stairs along the courtyard plaza to the public sidewalk. Both plazas would be designed with a variety of seating options to encourage visitors to the commercial tenant spaces.

13. Urban Village Planning, IP-5.10: Allow non-residential development to proceed within Urban Village areas in advance of the preparation of an Urban Village Plan. In addition, a residential, mixed-use “Signature” project may also proceed ahead of preparation of a Village Plan. A Signature project clearly advances and can serve as a catalyst for the full implementation of the Envision San José 2040 General Plan Urban Village strategy. A Signature project may be developed within an Urban Village designated as part of the current Plan Horizon, or in a future Horizon Urban Village area by making use of the residential Pool capacity. A residential, mixed-use Signature Project may proceed within Urban Village areas in advance of the preparation of an Urban Village Plan if it fully meets the following requirements:

- 1) Conforms to the Land Use / Transportation Diagram. Within the Urban Village areas, Signature Projects are appropriate on sites with an Urban Village, residential, or commercial Land Use / Transportation Diagram land use designation.
- 2) Incorporates job growth capacity above the average density of jobs/acre planned for the developable portions of the entire Village Planning area and, for portions of a Signature project that include housing, those portions incorporate housing density at or above the average density of dwelling units per acre planned for the entire Village Planning area.
- 3) Is located at a visible, prominent location within the Village so that it can be an example for, but not impose obstacles to, subsequent other development within the Village area.

Additionally, a proposed Signature project will be reviewed for substantial conformance with the following objectives:

- 4) Includes public parklands and/or privately maintained, publicly-accessible plazas or open space areas.

- 5) Achieve the pedestrian friendly design guideline objective identified within this General Plan.
- 6) Is planned and designed through a process that provided a substantive opportunity for input by interested community members.
- 7) Demonstrates high-quality architectural, landscape and site design features.
- 8) Is consistent with the recommendations of the City's Architectural Review Committee or equivalent recommending body if the project is subject to review by such body.

Analysis: The project satisfies the criteria for a Signature Project as specified in the General Plan. The project is located within the boundaries of the Saratoga Avenue Urban Village, on a site with a Mixed Use Neighborhood land use designation. The project is required to provide a minimum of 17,800 square feet of commercial uses to meet the employment square footage requirements of the Signature Project. The Planned Development Zoning would require a minimum of 17,800 square feet of commercial uses which the project would provide on the ground floor of the Avalon Building. Therefore, the project satisfies point 2 of the Signature Project General Plan policy.

Pursuant to General Plan Appendix 5, the Saratoga Boulevard Urban Village boundary is 159 gross acres with a planned housing growth of 1,115 residential units equaling an average residential density of 7 dwelling units per acre required for projects. The project is proposing a density of 60.6 dwelling units per acre (based on 1,180 dwelling units and 19.46 acres) which satisfies the housing density required by this General Plan policy. As part of the conditions of approval for the Planned Development Permit, the commercial/office component must be constructed before or concurrently with the residential component. This is a requirement and the developer would not be able to occupy the residential portion of the project before the completion of the commercial component.

The project site is also considered a visible, prominent location as it is located along a General Plan Grand Boulevard (i.e., Saratoga Avenue) and is of a substantial size of approximately 20 acres. Development of the site would not constrain future development of adjacent parcels, as development of the site would not create small remnant parcels. Rather, the project is being proposed as an infill project to an existing multifamily development.

The project is also providing approximately 12,060 square feet of publicly-accessible, privately-maintained open space that can be accessed by future residents, surrounding residents, and businesses. This publicly-accessible, privately-maintained open space would be privately owned and maintained. The project achieves the pedestrian-friendly design guidelines and demonstrates high-quality architecture, landscaping, and site design features, as described below.

The City of San José has held two publicly-noticed community meetings for the project. The first community meeting was on April 26, 2018, and it discussed the Planned Development Zoning and Planned Development Permit on file and the Notice of Preparation for the Environmental Impact Report. The second community meeting was held on February 6, 2019, and discussed the Planned Development Rezoning, Planned Development Permit, and Tentative Map. Approximately 55 community members attended the first community meeting and approximately 30 community members attended the second community meeting. Both community meetings were publicly noticed at a radius of 1,000 feet. The applicant has also held several outreach meetings with existing tenants and the surrounding neighborhood to discuss the project.

The project demonstrates high-quality architecture, landscaping, and site design features. The three buildings are unique but contain elements that qualify for a project with high-quality architectural value, including but not limited to: substantial changes in building plane, strategic use of material, variation in roof line, high-quality materials, appropriate form and massing, and high-quality ground-floor commercial spaces with depths of at least 45-feet and interior heights of approximately 18 feet. Placing the mixed use building “Avalon Building” at the corner of Blackford and Saratoga Avenue (which is considered a Grand Boulevard) is appropriate as commercial uses and higher-intensity residential uses help activate, engage, and add interest to Saratoga Avenue. Placing Residential Building, “Manzanita Building” along Manzanita Drive and the parking garage is appropriate as the mass and scale of these buildings are reduced and have a better transition to the lower intensity existing residential uses on Manzanita Drive. The landscape design incorporates a number of elements that would help activate the privately-maintained, publicly-accessible space and provides for a number of different activities that can be conducted in this open space area.

Lastly, the project has incorporated design changes as recommended through the Urban Design Review process. The project emphasized the corner element of the Saratoga Building and introduced canopies and articulated the corner. The project simplified the façade material palette to create a unified design that incorporates materials that blend well together. The project has also incorporated ground-floor commercial depths of at least 45 feet. The new garage has incorporated additional screening mechanisms along its eastern and western façades, consistent with the direction provided in the Urban Design Review process.

- 3. Zoning and Planned Development Zoning Conformance.** The project site is in the RM Multiple Residence Zoning District. The R-M Multiple Residence Zoning District will serve as an adequate base zoning district. As part of the “Signature Project”, the site was rezoned from the R-M Multiple Residence General Zoning District to a R-M(PD) Multiple Residence Planned Development Zoning District.

General Plan Implementation Policy IP-8.5 allows the Planned Development Rezoning process to be utilized if the Planned Development Rezoning process would better conform to the General Plan goals and policies than a conventional zoning district. The subject site's rezoning to a R-M(PD) Multiple Residence Planned Development Zoning District complies best with the "Signature Project" policy and the surrounding area.

The R-M(PD) Multiple Residence Planned Development Zoning District has three Subareas (Subarea A, Subarea B, and Subarea C). As a whole, the Planned Development Rezoning would allow up to 1,180 residential units (including the existing residential units) and a minimum of 17,800 square feet of commercial floor area. The project would be required to provide an average of 150 square feet per unit of private and common residential open space. The project would provide an average of 160.5 square feet of private and common residential open space, separate from the provide privately-maintained, publicly accessible space.

Subarea A, at the corner of Blackford Avenue and Saratoga Avenue allows a residential mixed-use development. Commercial uses would be required to conform to the uses identified in the Planned Development Zoning and the development can construct up to 252 residential units. The Planned Development Permit would construct 247 residential units and 17,800 square feet of commercial square feet.

Subarea B would be located along the proposed development footprint of the Manzanita residential building and new garage. Subarea B would allow up to 55 residential units and permitted uses of the R-M Multiple Residence Zoning District. Subarea C would encompass the remainder of the site and would allow the permitted uses of the R-M Zoning District. The Planned Development Permit would construct a 55-unit residential building and a 742-parking space garage

Subarea A would have a height limitation of 92 feet. Subarea B and C would have a height limitation of 45 feet. All subareas would allow height exceptions of up to 17 feet permitted for roof top appurtenances, such as roof structures, housing stairways, elevators, mechanical equipment, screening, and ventilation.

Within all subareas, all permitted, conditional, and special uses shall require the approval of a Planned Development Permit. The Planned Development Zoning District would require a minimum 7-foot setback along the sidewalk easement from Saratoga Avenue, a minimum 14-foot setback along the sidewalk easement from Blackford Avenue, and a minimum 10-foot setback along the sidewalk easement from Manzanita Avenue. These setbacks would ensure compatibility with the surrounding neighborhood context.

Additionally, the project is required to provide a minimum of 12,000 square feet of publicly accessible, open plaza areas, separate from the required residential open space requirements. The privately-owned, publicly-accessible open space at Saratoga Avenue and Blackford Avenue is required to remain open to the public and

would not be permitted to decrease in size. The Planned Development Permit development would meet the setback and height requirements and includes two public plazas totaling 12,060 square feet.

Vehicle, motorcycle, and bicycle parking would be required pursuant to the parking standards and requirements of the San José Municipal Code. The project is required to provide 1.25 parking spaces per studio and one-bedroom units, 1.7 parking spaces per two-bedroom unit, and 1 parking space per 400 square feet of commercial floor area, for a total of 1,651 parking spaces. Floor area is defined as 85% of the total gross floor area of a building. Subarea A would allow up to 20% of the required residential parking within the Subarea to be allocated as “flex spaces” during the on-site commercial uses’ hours of operation. “Flex spaces” are shared vehicle parking spaces available as parking for commercial patrons during business hours and available for residential use during all non-business hours.

Pursuant to Section 20.90.220 of the San José Municipal Code, a parking reduction of up to 20% may be authorized for a development which provides all the required bicycle parking and is located in an Urban Village area. The project has a 7.5% parking reduction which would require only 1,527 parking spaces. The project, located in the Saratoga Avenue Urban Village would provide the required 300 bicycle spaces.

Pursuant to Section 20.100.450 of the San José Municipal Code, the Planned Development Permit proposes extended construction hours to allow weekend construction on Saturdays from 9 a.m. to 5 p.m., twice a month and up to 10 days of 24-hour construction to allow concrete pours. The construction hours allow a more efficient construction schedule and would reduce the overall construction timeline.

- 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. This project is pedestrian scaled by placing the building within close proximity of the sidewalk, providing canopies on the Avalon Building, and ground floor entrances for all building. Both residential buildings utilize a variety of colors and materials that complement their location in the multifamily development and site context.

The mixed-use Avalon Building, along the prominent corner of Saratoga Avenue and Blackford Avenue, contains 17,800 square feet of ground floor commercial space. The commercial space on the ground floor has a minimum 18-foot height. The Blackford Avenue and Saratoga Avenue frontages are lined within transparent storefront windows and canopies which distinguish the building’s entrances and provide a shade structure. The use of dark porcelain tile establishes a strong base on the ground floor of the Avalon Building. The middle of the building is defined by lighter colors and materials and a pattern of recessed residential balconies. The building has a varying roofline with the use of a roof deck trellis, changes in height among the different volumes of the building, and the use of a corner element piece.

The Manzanita Building is located along Manzanita Drive and interfaces with existing one-story residential uses. The building is 45 feet in height. The building incorporates common design characteristics of the surrounding neighborhood including the use of siding panels and pitched rooftop. The residential courtyards and residential balconies provide articulation along Manzanita Drive. Additionally, the Manzanita Building is lined with trees which continues the tree lined design and intensity of the existing multifamily development's frontage along Manzanita Drive.

The new garage's eastern and western elevations are shielded with a combination of green walls and printed mesh screens panels. The parking garage would be surrounded by bio treatment planted areas and several trees, which will provide additional screening of the parking garage.

- 7. Environmental Review.** The City of San José, as the lead agency for the project, prepared a Draft Environmental Impact Report (DEIR), which was circulated for public review and comment from December 21, 2018 to February 11, 2019. A First Amendment to the DEIR was prepared to provide responses to public comments submitted during the public circulation period and revisions to the text of the DEIR. The First Amendment together with the DEIR constitute the Final Environmental Impact Report (FEIR) for the proposed project.

The DEIR found that the project would not result in any significant unavoidable impacts. Therefore, a Statement of Overriding Considerations is not required. The DEIR identified impacts resulting from the project to air quality from construction activities, biological resources and hazardous materials. With implementation of the mitigation measures specified in the Mitigation Monitoring and Reporting Program prepared for the project, these impacts are reduced to less than significant levels.

The DEIR was circulated for a 52-day period from December 21, 2018 to February 11, 2019. The City received six written comment letters during the public comment period. Comments were submitted by one individual and five agencies and organizations, as shown below:

- Igor Yevelev – Community Member
- Native American Heritage Commission
- Santa Clara Valley Water District
- The County of Santa Clara Roads and Airports Department
- Santa Clara Valley Transportation Authority,
- Lozeau Drury LLP (representing Laborers International Union of North America, Local Union No. 270)

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Issues raised in these comment letters include the following:

- Minor correction to the timeframe of when a Most Likely Descendant should make a recommendation
- Traffic intersection to be study
- ADA design
- Existing neighborhood disagreements, cleanliness, and unresponsiveness
- Biological resources and sensitive habitat

The City responded to all comments received on the DEIR and incorporated them into the First Amendment to the DEIR. The First Amendment, taken together with the Draft SEIR, constitutes the Final EIR. The DEIR and First Amendment to the DEIR are available for review on the project page on the City's Active EIRs website at: <http://sanjoseca.gov/index.aspx?NID=6069>.

In accordance with CEQA Guidelines Section 15088, the First Amendment to the DEIR for the project includes written responses to all comments received during the public review period for the DEIR. As required by Section 15132 of the CEQA Guidelines, the responses in the First Amendment to the DEIR address significant environmental points and comments on the content and adequacy of the EIR. The responses and comments provide clarification and refinement of information presented in the DEIR and, in some cases, correct or update information in the DEIR. No significant new information has been added to the EIR since publication of the DEIR.

FINDINGS

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

1. **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 described above, the project is consistent with the General Plan goals, policies, and land use designation. The project complies with the General Plan goals and policies related to Major Strategies, design, Growth Areas, among others. The project site is physically suitable for the project and proposed density in that the development intensity is encouraged and envisioned within the Saratoga Avenue Urban Village growth area. Furthermore, the project site does not contain any historic resources or sensitive habitats or wildlife. The project is required to improve the public sidewalks on development frontages.

- 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 Council 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. The site is physically suitable for the proposed development in that the proposed residential density is in conformance with the Urban Village Plan's Signature Project policy. 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 would be required to improve Saratoga Avenue, Blackford Avenue, and Manzanita Drive's sidewalks.

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 “Avalon West Valley” dated April 3, 2019, 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. PD17-027 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. **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.
8. **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.
9. **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.
10. **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.
11. **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. PD17-027 has expired and all appeals have been exhausted.
12. **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 Facility will cause the total sewage treatment demand to meet

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

13. **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.
14. **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.
15. **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.

16. **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.
17. **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. .
18. **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 (PD17-027).
19. **Revocation, Suspension, Modification.** This Vesting Tentative Map is subject to revocation, suspension or modification for violation of any of its provisions or condition.

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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. PDC17-056 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.

ALL OF LOT 9, AS SHOWN UPON THAT CERTAIN MAP ENTITLED, "MAP OF THE CROSSMAN SUBDIVISION, "WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON JULY 17, 1903 IN BOOK F-3 OF MAPS, AT PAGE 17.

EXCEPTING THEREFROM ALL THAT PORTION THEREOF LYING WITHIN THAT CERTAIN 7.765 ACRE TRACT OF LAND DESCRIBED IN THE DEED FROM BOTILDA J. HANSON AND IRENE L. HANSON TO MORELAND SCHOOL DISTRICT OF SANTA CLARA COUNTY, STATE OF CALIFORNIA, DATED OCTOBER 13, 1960, RECORDED OCTOBER 14, 1960 IN BOOK 4950 OFFICIAL RECORDS, PAGE 91, SANTA CLARA COUNTY RECORDS, AS FOLLOWS:

BEGINNING AT AN IRON PIPE SET IN THE NORTHERLY LINE OF LOT 6 OF THE CROSSMAN SUBDIVISION, FORMERLY THE VALENTINE TRACT, THE MAP FOR WHICH IS FILED IN BOOK F-3 OF MAPS AT PAGE 17, SANTA CLARA COUNTY RECORDS, SAID IRON PIPE ALSO BEING IN THE SOUTHERLY LINE OF TRACT NO. 176, ENTITLED "FIRST NATIONAL BANK OF SAN JOSE- SUBDIVISION "B", THE MAP FOR WHICH IS FILED IN BOOK 5 OF MAPS, AT PAGES 42 AND 43, SANTA CLARA COUNTY RECORDS, SAID IRON PIPE BEING SOUTH 89 DEGREES 20' 12" WEST 421.01 FEET ALONG THE NORTHERLY LINE OF SAID LOT NO. 6 AND THE SOUTHERLY LINE OF SAID TRACT NO. 176 FROM THE NORTHEAST CORNER OF SAID LOT NO. 6 OF THE CROSSMAN SUBDIVISION; THENCE LEAVING SAID NORTHERLY AND SOUTHERLY LINES AND RUNNING PARALLEL AND DISTANT 421.00 FEET WESTERLY, MEASURED AT RIGHT ANGLES TO THE EASTERLY LINE OF LOT NO. 6 OF SAID CROSSMAN SUBDIVISION SOUTH 0 DEGREES 18' 40" EAST 411.73 FEET TO A POINT IN THE NORTHERLY LINE OF THAT CERTAIN TRACT OF LAND DESIGNATED AS PARCEL 2, CONVEYED BY ANNIE J. VAN ARSDELL TO MARTIN MORGIN AND MARIE MORGIN, HIS WIFE, BY DEED RECORDED IN BOOK 2073 AT PAGE 550, SANTA CLARA COUNTY OFFICIAL RECORDS; THENCE ALONG THE NORTHERLY LINE OF SAID MORGIN NORTH 89 DEGREES 46' 20" WEST 74.61 FEET TO A 4 X 4 POST AT THE COMMON CORNER FOR LOTS 8 AND 9 IN THE WESTERLY LINE OF LOT NO. 6 OF SAID CROSSMAN SUBDIVISION AND THE NORTHWEST CORNER OF SAID PARCEL CONVEYED TO MORGIN; THENCE ALONG THE LINE DIVIDING LOTS 8 AND 9 IN SAID CROSSMAN SUBDIVISION SOUTH 88 DEGREES 24' 40" WEST 738.48 FEET; THENCE LEAVING SAID DIVIDING LINE AND RUNNING PARALLEL WITH THE EASTERLY LINE OF LOT NO. 6 IN SAID CROSSMAN SUBDIVISION NORTH 0 DEGREES 18' 40" WEST 422.50 FEET TO AN 1" IRON PIPE SET IN THE NORTHERLY LINE OF LOT NO. 9 IN SAID SUBDIVISION; SAID IRON PIPE ALSO BEING IN THE SOUTHERLY LINE OF TRACT NO. 176 ABOVE REFERRED TO; THENCE ALONG THE NORTHERLY LINE OF LOTS 9 AND 6 IN SAID CROSSMAN SUBDIVISION AND THE SOUTHERLY LINE OF SAID TRACT NO. 176, NORTH 89 DEGREES 20' 12" EAST 812.92 FEET TO THE IRON PIPE AT THE POINT OF BEGINNING AND BEING A PORTION OF LOTS 6 AND 9 OF THE CROSSMAN SUBDIVISION ABOVE REFERRED TO IN THE QUITO RANCHO.

AND, EXCEPTING THEREFROM THE FOLLOWING AREA 1:

BEGINNING AT THE NORTHWESTERLY CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE DEED FROM MORELAND SCHOOL DISTRICT OF SANTA CLARA COUNTY TO SAN JOSE COUNTRY CLUB APARTMENTS RECORDED DECEMBER 6, 2000 IN DOCUMENT NO. 15486398, OFFICIAL RECORDS, SAID CORNER BEING ON THE EASTERLY LINE OF THAT CERTAIN PARCEL DESCRIBED IN THE DEED FROM WILSHIRE WEST DEVELOPMENT COMPANY TO SAN JOSE COUNTRY CLUB APARTMENTS RECORDED JUNE 17, 1969 IN BOOK 8570, PAGE 667, OFFICIAL RECORDS OF SANTA CLARA COUNTY.

THENCE ALONG THE COMMON BOUNDARY LINE BETWEEN SAID PARCEL RECORDED IN DOCUMENT NO. 15486398 AND SAID PARCEL RECORDED IN BOOK 8570, PAGE 667, SOUTH 0° 19' 10" EAST, 392.50 FEET;

THENCE LEAVING SAID COMMON LINE ALONG THE SOUTHERLY LINE OF SAID PARCEL RECORDED IN BOOK 8570 AT PAGE 667, SOUTH 88° 24' 10" WEST, 9.39 FEET;

THENCE ALONG A LINE PARALLEL WITH AND DISTANT 9.39 FEET WESTERLY FROM SAID COMMON BOUNDARY LINE NORTH 0° 19' 10" WEST, 392.65 FEET;

DISTANCE OF 304 FEET MORE OR LESS, TO THE POINT OF BEGINNING AND BEING A PORTION OF LOT 8 AS SAID LOT IS SHOWN UPON THE MAP HEREINABOVE REFERRED TO.

AND ALSO EXCEPTING THEREFROM THE FOLLOWING AREA 2:

BEGINNING AT THE SOUTHEASTERLY CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE DEED FROM MORELAND SCHOOL DISTRICT OF SANTA CLARA COUNTY TO SAN JOSE COUNTRY CLUB APARTMENTS RECORDED DECEMBER 6, 2000 IN DOCUMENT NO. 15486398, OFFICIAL RECORDS, SAID CORNER BEING ON THE EASTERLY LINE OF THAT CERTAIN PARCEL DESCRIBED IN THE DEED FROM WILSHIRE WEST DEVELOPMENT COMPANY TO SAN JOSE COUNTRY CLUB APARTMENTS RECORDED JUNE 17, 1969 IN BOOK 8570 AT PAGE 665, OFFICIAL RECORDS OF SANTA CLARA COUNTY;

THENCE ALONG THE WESTERLY PROLONGATION OF THE SOUTHERLY LINE OF SAID PARCEL RECORDED IN DOCUMENT NO. 15486398, OFFICIAL RECORDS SOUTH 88° 24' 10" WEST, 9.39 FEET;

THENCE ALONG A LINE PARALLEL WITH AND DISTANT 9.39 FEET WESTERLY FROM THE COMMON BOUNDARY LINE BETWEEN SAID PARCEL RECORDED IN DOCUMENT NO. 15486398 AND SAID PARCEL RECORDED IN BOOK 8570 AT PAGE 665, NORTH 0° 19' 10" WEST, 203.82 FEET TO THE NORTHERLY LINE OF LAST SAID PARCEL;

THENCE ALONG SAID NORTHERLY LINE NORTH 88° 24' 10" EAST, 9.39 FEET;

THENCE ALONG LAST SAID COMMON BOUNDARY LINE SOUTH 0° 19' 10" EAST, 203.82 FEET TO THE POINT OF BEGINNING OF AREA 2.

PARCEL FOUR:

PARCEL C AS SHOWN IN THAT CERTAIN LOT LINE ADJUSTMENT PERMIT RECORDED JANUARY 28, 2002 AS INSTRUMENT NO. 16076204, OFFICIAL RECORDS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING A PORTION OF THAT CERTAIN PARCEL DESCRIBED IN THE DEED RECORDED OCTOBER 11, 1960 IN BOOK 4946 AT PAGE 392 AND A PORTION OF THAT CERTAIN PARCEL DESCRIBED IN THE DEED RECORDED OCTOBER 14, 1960 IN BOOK 4950 AT PAGE 91, OFFICIAL RECORDS OF SANTA CLARA COUNTY AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF SAID PARCEL DESCRIBED IN THE DEED RECORDED IN BOOK 4946 AT PAGE 392, OFFICIAL RECORDS;

THENCE ALONG THE SOUTHERLY LINE THEREOF NORTH 88 DEGREES 24' 40" EAST 120.03 FEET;

THENCE ALONG A LINE PARALLEL WITH AND DISTANT 120.00 FEET EASTERLY FROM THE WESTERLY LINE OF SAID PARCEL DESCRIBED IN SAID DEED RECORDED IN BOOK 4946 AT PAGE 392 AND ALONG THE NORTHERLY PROLONGATION THEREOF NORTH 0 DEGREES 18' 40" WEST 594.38 FEET TO THE SOUTHERLY LINE OF THAT 30 FEET WIDE PARCEL CONVEYED TO R & B DEVELOPMENT COMPANY, A PARTNERSHIP, IN THE DEED RECORDED SEPTEMBER 11, 1970 IN BOOK 9049, PAGE 541, OFFICIAL RECORDS, SANTA CLARA COUNTY;

THENCE ALONG SAID SOUTHERLY LINE SOUTH 89 DEGREES 20' 12" WEST 120.00 FEET;

THENCE ALONG THE WESTERLY LINE OF THE AFOREMENTIONED PARCEL DESCRIBED IN THE DEED RECORDED IN BOOK 4950 AT PAGE 91 AND CONTINUING ALONG THE WESTERLY LINE OF SAID PARCEL DESCRIBED IN THE DEED RECORDED IN BOOK 4946 AT PAGE 392, OFFICIAL RECORDS, SOUTH 0 DEGREES 18' 40" EAST 596.32 FEET TO THE POINT OF BEGINNING.

FIRST NATIONAL BANK OF SAN JOSE SUBDIVISION "B" WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON MARCH 3, 1941 IN BOOK 5 OF MAPS, AT PAGES 42 AND 43.

PARCEL SEVEN:

ALL THAT CERTAIN PORTION OF TANBARK STREET LYING WITHIN THE CITY OF SAN JOSE AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE WESTERLY TERMINUS OF THE NORTHERLY LINE OF TANBARK STREET (30 FEET WIDE) AS SHOWN UPON THAT CERTAIN RECORD OF SURVEY MAP FILED FOR RECORD IN THE OFFICE OF THE COUNTY RECORDER, SANTA CLARA COUNTY, CALIFORNIA, ON JUNE 4, 1969, IN BOOK 254 OF MAPS, AT PAGE 40, SAID POINT OF BEGINNING BEING ALSO THE NORTHWESTERLY CORNER OF THAT CERTAIN PARCEL OF LAND CONVEYED FROM MORELAND SCHOOL DISTRICT OF SANTA CLARA COUNTY TO THE CITY OF SAN JOSE BY DEED DATED JANUARY 14, 1964 AND FILED FOR RECORD ON JANUARY 30, 1964 IN BOOK 6365 OF OFFICIAL RECORDS, AT PAGE 271, RECORDS OF SANTA CLARA COUNTY, CALIFORNIA; THENCE ALONG SAID NORTHERLY LINE OF SAID TANBARK STREET NORTH 89 DEGREES 19' 20" EAST 496.68 FEET TO THE SOUTHWESTERLY CORNER OF LOT 39, AS SAID LOT 39 IS SHOWN UPON THAT CERTAIN MAP ENTITLED, "TRACT NO. 176 THE FIRST NATIONAL BANK OF SAN JOSE - SUBDIVISION B," WHICH MAP WAS FILED FOR RECORD IN BOOK 5 OF MAPS, AT PAGES 42 AND 43, RECORDS OF SANTA CLARA COUNTY, CALIFORNIA; THENCE AT RIGHT ANGLES TO SAID NORTHERLY LINE OF TANBARK STREET SOUTH 0 DEGREES 40' 40" EAST 30.00 FEET TO A POINT IN THE SOUTHERLY LINE OF TANBARK STREET; THENCE ALONG SAID SOUTHERLY LINE SOUTH 89 DEGREES 19' 20" WEST 496.68 FEET TO THE WESTERLY TERMINUS OF SAID SOUTHERLY LINE AT THE SOUTHWESTERLY CORNER OF SAID LANDS CONVEYED TO THE CITY OF SAN JOSE; THENCE ALONG THE WESTERLY TERMINUS OF TANBARK STREET AND THE WESTERLY LINE OF SAID LANDS CONVEYED TO THE CITY OF SAN JOSE NORTH 0 DEGREES 19' 10" WEST 30.00 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE EASTERLY 1 FOOT OF THE ABOVE DESCRIBED PROPERTY.

APN: 299-37-024-00(Affects Parcels Five and Six)
299-37-026-00(Affects Parcel Seven)
299-37-030-00(Affects Parcel Two)
299-37-031-00(Affects Parcel Four)
299-37-032-00(Affects Parcel One)
299-37-033-00(Affects Parcel Three)