

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 ON AN APPROXIMATELY 0.4-GROSS ACRE SITE LOCATED ON THE SOUTHEAST CORNER OF SOUTH 1ST STREET AND EAST REED STREET (600 SOUTH 1ST STREET) INTO ONE PARCEL AND TO SUBDIVIDE THE PARCEL IN ACCORDANCE WITH EITHER OF THE FOLLOWING OPTIONS: OPTION 1 IS A TOTAL OF NO MORE THAN 295 CONDOMINIUM UNITS INCLUDING A MAXIMUM OF 290 RESIDENTIAL CONDOMINIUM UNITS AND FIVE COMMERCIAL CONDOMINIUM UNITS; OR, OPTION 2 IS A TOTAL OF NO MORE THAN SIX CONDOMINIUM UNITS INCLUDING ONE RESIDENTIAL CONDOMINIUM UNITS AND FIVE COMMERCIAL CONDOMINIUM UNITS.

FILE NO. T18-001

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on January 18, 2018, a concurrent application (File No. **T18-001**) was filed by the applicant, Mark Tersini, on behalf of KT Urban, with the City of San José for a Vesting Tentative Map to merge two parcels on an approximately 0.4-gross acre site, on that certain real property situated in the DC Downtown Primary Commercial Zoning District and located on the southeast corner of South First Street and East Reed Street (600 South 1st Street, San José, which real property is sometimes referred to herein as the "subject property" and as more specifically defined hereinbelow) into one parcel and subdivide the parcel in accordance with one of the following options:

Option 1: No more than 295 condominium units including a maximum of 290 residential condominium units and a maximum of five (5) commercial condominium units; or

Option 2: No more than six (6) condominium units including one residential

condominium unit and a maximum of five (5) commercial condominium units; no more than five commercial condominium units; 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 October 23, 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 "Garden Gate Tower", dated, June 4, 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 project site, is located on the southeast corner of South First Street and East Reed Street in Downtown San José. The project site has a DC Downtown Primary Commercial Zoning District designation and a Downtown General Plan Land Use/Transportation Diagram land use designation. The property is bounded by South 1st Street to the west, East Reed Street to the north, and an unnamed alley on the east.

The project site is currently developed with two buildings and surface parking. Three driveways provide access to the site. An ingress and egress driveway from East Reed Street provides access to a parking lot serving the Pallesen Apartment building. An ingress only driveway from South 1st Street provides access to a parking lot serving the Pallesen Building. The egress only driveway is located on an unnamed alley connected to East Reed Street. The two existing buildings on the project site are listed in the City's Historic Inventory. The single-story brick office building (Pallesen Building) is identified as a City Structure of Merit, and the two-story residential building (Pallesen Apartments) is identified as eligible for the National Register, California Register, and local listing. Additionally, a neon road sign, located on the corner of East Reed Street and South 1st Street on the property, is also eligible for the National and California Historic Registers.

Commercial and residential uses surround the project site. A mixed-use building (SparQ), which is currently under construction, and hotel are located north of the site. West of the site is developed with a mixed-use building (The Pierce) and commercial building. South of the project site are commercial buildings and Highway 280. A vacant property and multifamily residences are located to the east.

- 2. Project Description.** The project applicant, Mark Tersini representing KT Urban, submitted the Special Use Permit and Tentative Map applications on January 9, 2018. If approved, the Special Use Permit and Tentative Map would allow the demolition of the existing on-site buildings, the removal of one (1) non-ordinance size tree, and the construction of a 27-story, high-rise residential tower.

Design

The project would be an approximately 283-foot-tall modern tower; the building's design would include a variety of textures and materials including brick, metal panels, perforated metal, concrete, and curtain wall glass. The building's floor plans would slightly taper long all sides and the floor plates would recess above the 22nd floor, helping to create a distinctive, not rectangular silhouette. The project's rooftop would be defined with a butterfly painted metal panel along the roof, a roof deck, and the relocation of the neon motel sign on the roof deck.

The ground floor retail space would be double height, single-story spaces built to the edge of sidewalk. The project proposes to incorporate the existing Pallesen Building's brick façade into a portion of the building ground floor design along South First Street to provide visual continuity of the existing building on the project site.

The project applicant is requesting the review and approval of two site use options; referred to as Option 1 and Option 2. The exterior of the building would not substantially change between the two options and both options are included in the project review and plan sets. The building design under Option 2 would look similar to Option 1 however, some of the balcony sizes and locations would change.

Option 1

Option 1 proposes a mixed-use project with a total of no more than 295 condominium units including a maximum of 290 residential condominium units and approximately 4,840 square feet total of commercial space subdivided into a maximum of five (5) commercial condominium units. The ground floor would include approximately 4,840 square feet of retail accessible along both East Reed Street and South 1st Street, a residential lobby accessible from East Reed Street, and a loading area accessible along the alley. The project would provide a total of 232 residential parking spaces with five accessible spaces, and eight electric vehicle charging stations. The parking garage would be located in four underground levels accessible from a right turn in on South 1st Street and three above-grade levels (levels 2-4) accessible through the alley off East Reed Street. Additionally, a bike room would be located on the first floor with 76 bicycle racks.

The project would consist of a mix of studio, one-bedroom, and two-bedroom units. The residential units would be located on floors five through 27. The project would provide 13,912 square feet of residential private open space on balconies. Of the 290 residential units, 230 units would have a balcony. Additionally, the project would provide 7,171

square feet of residential common open space on the 27th floor including an amenity room and roof deck with a pool.

Option 2

Option 2 proposes a mixed-use project including a co-living facility with a total of no more than six (6) condominium units including one (1) residential condominium unit for a co-living facility use with a maximum of 793 bedrooms and approximately 5,422 square feet of commercial space subdivided into a maximum of five (5) commercial condominium units. The ground floor would include approximately 5,422 square feet of retail accessible from East Reed Street and South 1st Street, the Co-Living lobby accessible from East Reed Street, and a loading area accessible along the alley. The project would provide a total of 124 unbundled residential parking spaces with three accessible spaces, and eight electric vehicle charging stations. The parking garage would be located in four underground levels accessible from the alley. Option 2 would not include any above grade parking. Additionally, a bike room would be located on the first floor with 183 bicycle racks.

The Co-Living Facility would consist of 793 bedrooms located on floors 2 through 26. The bedrooms would be an average size of 202 square feet. The maximum bedroom size, excluding the closet and bathroom area, would be 388 square feet and the minimum bedroom size, excluding the bathroom and closet would be 142 square feet. Some of the co-living facility's bedrooms would have their own restroom facility while others would utilize a shared restroom facility on the individual floor. Each unit would have a storage closet. Floors 2 through 26 would also include a laundry room, janitorial closet, common kitchen, and interior common space (including relaxing lounge areas and a media room). Additionally, the project would provide 10,738 square feet of common open space amenities with balconies along the shared common interior spaces and amenities on the 27th floor for the Co-Living Facility including a gym, lounge and roof deck with a pool.

3. General Plan Conformance. *General Plan Strategies and Policies*

1. Land Use Policy LU-1.1: Foster development patterns that will achieve a complete community in San José, particularly with respect to increasing jobs and economic development and increasing the City's jobs-to-employed resident ratio while recognizing the importance of housing and a resident workforce.

Analysis: The development of mixed-use residential uses in the Downtown area would foster a complete community with respect to putting people and amenities in an area where job growth is anticipated. As an identified Growth Area, Downtown is intended to be a place for people to live, work, and visit. In order to accomplish this goal, there needs to be more opportunities for people to physically live in Downtown, as well as for these residents and visitors to "live" in the sense that there are services and amenities within close proximity to make daily life convenient and enjoyable. Specifically, there are several large Downtown office

projects proposed near Plaza de Cesar Chavez, which is within a half mile of the project site, creating a need to locate more housing in the Downtown area. The project site is also approximately 1.4 miles from Diridon station, near VTA light rail stations and along several bus routes, making it a convenient location for residents who want to live near transit. Both Option 1 and 2 would create a complete community by providing housing options for residents in the area, and supporting those residents with amenities and services once they are in the area.

2. Land Use Goal LU-3: Strengthen Downtown as a regional job, entertainment, and cultural destination and as the symbolic heart of San José.
3. Land Use Policy LU-3.4: Facilitate development of retail and service establishments in Downtown, and support regional- and local-serving businesses to further primary objectives of the General Plan.
4. Land Use Policy LU-5.7: Encourage retail, restaurant, and other active uses as ground-floor occupants in identified growth areas and other locations with high concentrations of development.

Analysis: In order to mature into the great place envisioned by the General Plan, Downtown projects need to facilitate the growth of Downtown as a regional job center, as well as a place for residents to live. High-rise development is anticipated as a way to create this synergy between residents, workers, and visitors. As larger residential projects are built in Downtown, more people would be in the area, which would foster pedestrian activity, transit ridership, and increased social activity in the Downtown. With more residents in the Downtown area, the survivability of retail would increase, encouraging new retail services and amenities to locate in the area, which not only provides a benefit to the residents, but also the commercial and office uses in the area. With more amenities available to their employees, more businesses would want to move into the area, creating an environment that is an attractive place to live as well as work. The project's ground floor commercial condos, requested in Option 1 and Option 2, would be of the size necessary to support retail and restaurant uses, and the infrastructure being provided in these spaces would make it easy for these types of tenants to move into the project to provide these very important amenities to the residents and workers in the area.

5. Land Use Policy LU-3.1: Provide maximum flexibility in mixing uses throughout the Downtown Area. Support intensive employment, entertainment, cultural, public/quasi-public, and residential uses in compact, intensive forms to maximize social interaction; to serve as a focal point for residents, businesses, and visitors; and to further the Vision of the Envision San José 2040 General Plan.

Analysis: The project applicant is requesting review of two alternative use options. Option 1 would allow up to 295 condominium units including a maximum 290 multifamily residential condominium units and approximately 4,840 square feet of commercial space subdivided into a maximum of five (5) commercial

condominiums. The commercial space would be designed to be usable by a variety of commercial and retail uses. The multifamily residential units would range between studio to two-bedroom apartments providing multiple apartment living options. Option 2 would allow up to six (6) condominium units including one (1) residential condominium unit for a Co-Living Facility with a maximum of 793 bedrooms and approximately 5,422 square feet of commercial space subdivided into a maximum of five (5) commercial condominiums. The Co-Living Facility would have a combination of single-occupant and double-occupant bedrooms. The Co-Living Facility would provide a unique Downtown living opportunity for singles and pairs hoping to experience the Downtown and compact living lifestyle. Both options would support a variety of tenant uses and residential opportunities, adding to the Downtown amenities for residents, workers, and visitors.

6. Transportation Policy TR-4.1: Support the development of amenities and land use and development types and intensities that increase daily ridership on the VTA, BART, Caltrain, ACE and Amtrak California systems and provide positive fiscal, economic, and environmental benefits to the community.

Analysis: The project site is in close proximity to several transit options. VTA Bus Service San José downtown is served by many local bus routes. Within 1/3 mile of the project site, VTA Bus Routes 66, 68, 82, and 304 provides local and regional bus service for commuters between San José downtown and major transit destinations in Santa Clara County. Bus stops with benches, shelters, and bus pullout amenities are provided within 1/3 mile from the project site and in the downtown area. The free Downtown Area Shuttle (DASH) service provided by VTA also runs within the downtown area. This shuttle provides service from the San José Diridon Caltrain Station to San José State University, Convention Center, and LRT stations in the area. The pickup locations for DASH are located on San Carlos Street between First and Second Street and between Market and First Street, approximately 1/3 mile from the site.

VTA Light Rail Transit (LRT) Service operates the 42.2-mile light rail line system from south San José, downtown, and through the northern areas of San José, Santa Clara, Milpitas, Mountain View, and Sunnyvale. Within 1/3-mile walking distance from the project site, the closest VTA Light Rail station is at the San José Convention Center. The Mountain View-Winchester and Santa Teresa-Alum Rock light rail lines at this station. The Caltrain Service Commuter rail service between San Francisco and Gilroy is provided by Caltrain. The San José Diridon Station in downtown is approximately 1.4 miles from the project site which can be accessed by either biking or riding the free DASH shuttle. The Altamont Corridor Express (ACE) provides commuter passenger train service across the Altamont between Stockton and San José which terminates at the San José Diridon Station. The Amtrak Capitol Corridor trains stop at the San José Diridon station and provides access between Sacramento and the Bay Area.

Having either 290 residential units or 793 Co-Living bedrooms close to a variety of public transportation options encourages the use of transit and creates more opportunity for people to be car-free in the downtown area. Additionally, both project options would have unbundled parking requiring future residents to rent a parking space within building. Unbundled parking would encourage future residents to consider their need to have a car in Downtown.

Furthermore, the ground floor commercial space would provide residents and workers in the Downtown area with more amenities in proximity to where they live and work which encourage walking and bicycling rather than driving.

7. Community Design Policy CD-2.9: Encourage adaptable space that can be used for multiple employment or public/quasi-public purposes.

Analysis: The commercial condominium units that are part of each option would be conditioned to comply with Section 20.175.042 of the Zoning Ordinance, which requires the minimum unit size for nonresidential condominium units to be seven hundred fifty (750) square feet. This minimum size provides the flexibility for a variety of employment uses to move into the commercial tenant spaces in the project building.

8. Downtown Urban Design Policy CD-6.6: Recognize Downtown's unique character as the oldest part, the heart of the City, and leverage historic resources to create a unique urban environment there. Respect and respond to on-site and surrounding historic character in proposals for development.

Analysis: A historic resources analysis was completed for the on-site structures, which include the Pallesen Apartments, Pallesen Building, and the City Center Motel Sign, as part of the preparation of the Supplemental Environmental Impact Report (SEIR). As further described in the SEIR, the two-story Pallesen Apartments building located at 8 East Reed would be eligible for Candidate City Landmark Listing, and listing in the National Register of Historic Places (NRHP), California Register of Historical Resources (CRHR), and City of San José local register. The Pallesen Building is listed on the City's Historic Resources Inventory as a Structure of Merit but would not be eligible for the state or national registers. The City Center Motel Sign would be eligible for the state and national registers, as an excellent example of roadside vernacular design.

Both options of the project would retain the City Center Motel Sign on-site, but the sign would be relocated to the building's roof top. The relocation of the sign would remove it from the roadside but would ensure the Motel signage would not confuse visitors of the site. The project would also retain the façade of the Pallesen Building keeping in place its character-defining features, stabilizing the complete brick, tile, glass, parapet, and metal storefront assembly, and shifting it a few feet to the north and four feet further away from the street to accommodate the tower development including the driveway for the on-site parking.

Although the existing buildings and sign on-site have been identified as historic resources through the SEIR, the full retention of the two building and ground floor placement of the sign do not support commercial and retail uses at the ground floor without significant modification to the project design. Support of the project would thus be inconsistent with this land use policy for historic preservation. The demolition of the buildings and relocation of the sign have been identified as a significant impact in the SEIR. Mitigation for these impact include a HABS survey for the Pallesen Apartments which would document the historic structure. Additionally, the mitigation measure requires the project applicant to advertise the relocation of the structure for a minimum of sixty (60) days and would require a preservation plan for the Pallesen Building façade and a relocation plan for the relocated sign to be prepared by the project applicant and submitted to the City's Historic Preservation Officer for review and approval. Further discussion has been provided in the SEIR on the historical resources.

As explained above, the project is consistent with the General Plan in balancing a "complete community", maximizing commercial use on the ground floor, pedestrian and transit friendly project, and higher residential density.

9. Downtown Urban Design Policy CD-6.1: Recognize Downtown as the most vibrant urban area of San José and maximize development potential and overall density within the Downtown.
10. Downtown Urban Design Policy CD-6.2: Design new development with a scale, quality, and character to strengthen Downtown's status as a major urban center.
11. Downtown Urban Design Policy CD-6.6: Promote development that contributes to a dramatic urban skyline. Encourage variations in building massing and form, especially for buildings taller than 75 feet, to create distinctive silhouettes for the Downtown Skyline.

Analysis: The project has a Floor Area Ratio (FAR) of 24.0. Option 1 has a density of 693 units per acre and Option 2 would provide 793 Co-Living bedrooms. Both options would be very dense mixed-use projects. This amount of density would contribute to Downtown's growth as a vibrant urban area, and help the City actualize its vision for the Downtown core. The project has undergone extensive design review so that its scale, quality, and character strengthen Downtown's status as an urban center, as discussed in the Design Guidelines conformance section. The development would be a recognizable development from the sky and from below as it has a strong design presence, with an outdoor roof deck amenity area, and nighttime lighting features.

4. **Zoning Conformance.** The project is located in the DC Downtown Primary Commercial Zoning District, see attached Zoning District Map.

Height and Setbacks

Section 20.70.210 of the Municipal Code does not establish a minimum setback requirements for developments in the DC Downtown Primary Commercial Zoning District. The height of development in the Zoning District is only limited to the height limitations necessary for the safe operation of the San José International Airport and Federal Aviation Regulations Part 77. The project would be 283 feet in height. Conditions approval would require the project applicant to secure appropriate Federal Aviation Administration (FAA) and aviation clearances for the building's height prior to construction.

Use

The project site is in the DC Downtown Primary Commercial zoning district. This Zoning District permits mixed-use residential projects with the issuance of a Site Development Permit. Additionally, the creation of commercial condominiums requires a Special Use Permit pursuant to Section 20.175.040 of the San José Municipal Code. The Co-Living Facility use in Option 2 would also require a Special Use Permit to also consider the Co-Living Facility use pursuant to Section 20.80.290. This section outlines the co-living facility requirements. Option 2 meets the requirements of the Co-Living Facility as described below:

1. **Size (Section 20.80.290.b.1):** Excluding the closet and the bathroom area, the bedroom size must be at least one hundred (100) square feet in floor area if occupied by one (1) person, and one hundred fifty (150) square feet in floor area if occupied by two (2) persons. The average size of all of the bedrooms within a Co-Living Community shall be no greater than two hundred seventy-five (275) square feet and no bedroom may exceed four hundred (400) square feet.

Analysis: The project's bedroom sizes range from 142 square feet to 388 square feet in size, excluding the bathroom and closet. The average bedroom size is approximately 202 square feet. The project complies with this code section.

2. **Occupancy (Section 20.80.290.b.2):** Each bedroom shall be designed to accommodate a maximum of up to two (2) persons, along a lateral or loft configuration.

Analysis: The project has been designed with bedrooms to accommodate single and double occupancy rooms. The design and occupancy limitations are reflected in a project's condition of approval #7.

3. **Kitchens (Section 20.80.290.b.3):** A bedroom may contain partial kitchen facilities. If individual partial or complete bath facilities are not provided in a bedroom, common bath facilities must be provided in accordance with Subsection B of Section 17.20.290 of Title 17 of the San José Municipal Code.

- 4. Layout (Section 20.80.290.b.4):** Common full kitchen facilities must be provided to adequately serve the residents of the Co-Living Community and must serve six (6) or more bedrooms.

Analysis: Common bath facilities are provided on every floor to accommodate bedrooms without private bathrooms. The project has a common full kitchen on every floor. These kitchens would serve between 27-32 bedrooms.

- 5. External Entryway (Section 20.80.290.b.5):** No bedroom shall have a separate external entryway.

Analysis: All of the co-living units are accessed from internal corridors.

- 6. Interior Common Open Space (Section 20.80.290.b.6):** A Co-Living Community shall provide a minimum of 20 square feet of interior common space per bedroom, excluding janitorial storage, laundry facilities and common hallways. The interior common space may be located on different floors than the corresponding bedrooms.

Analysis: Option 2 has a total of 64,320 square feet of common space which averages to 81 square feet of common interior space per unit. Above and beyond the requirements, the project also provides 9,456 square feet of residential open space through the provision of an amenity lounge and the roof deck with a pool.

- 7. Closet (Section 20.80.290.B.7):** A closet or designated storage space, which could consist of furniture that provides storage, is required in every bedroom.

Analysis: Every co-living bedroom has a closet.

- 8. Cleaning Supply Storeroom/Utility Closet (Section 20.80.290.B.8):** A cleaning supply storeroom and/or utility closet with at least one (1) laundry tub with hot and cold running water must be provided on each floor of the facility.

Analysis: Each floor has a janitor room that includes a laundry tub.

- 9. Laundry Facilities (Section 20.80.290.b.9):** Laundry facilities must be provided in a separate room at the ratio of one (1) washer and one (1) dryer for every twenty (20) bedrooms or fractional number thereof.

Analysis: The project provides laundry rooms on every floor. The floors have a maximum of 32 bedrooms and provide a minimum of three washers and dryers per floor.

- 10. Housing (Section 20.80.290.b.10):** A Co-Living Community is subject to regulatory programs and requirements administered by the Department of Housing.

Analysis: With respect to those programs and requirements and the implementing regulations, each bedroom shall be considered a co-living dwelling unit, and the

heated common areas associated with the bedrooms would not be excluded from the determination of square footage.

- 11. Operations Management Plan (Section 20.80.290.b.11):** A Co-Living Community shall have an operations management plan. The operations management plan is subject to the approval of both the Director of Planning and the Director of Housing. The operations and management plan shall be adhered to during the operation of the Co-Living Community.

Analysis: The project applicant has submitted their Garden Gate Housing Compliance Plan for review by the Housing Department. As a Condition of Approval, Option 2 would be required to provide and comply with the Operations Management Plan approved by the Housing and Planning Department. The project would therefore comply with this code section.

- 12. Design Guidelines (Section 20.80.290.b.12):** A Co-Living Community shall conform to the design guidelines in Section 20.70.500. The project is subject to Downtown Design Guidelines and Residential Design Guidelines.

Analysis: Per the analysis in the Design Guidelines Section below, the project complies with this Code Section.

- 13. Transportation Demand Management Program (Section 20.80.290.b.13):** A Transportation Demand Management Program (TDM), in conformance with Section 20.90.220, shall be required for a Co-Living Community, regardless of whether a reduction in parking is requested.

Analysis: As discussed below, the project complies with this Code Section and Option 2 would be required to comply with the Transportation Demand Management Program for the life of the project. The TDM Plan includes the provision of transit passes to all residents and employees of the project, unbundled parking, and a TDM project coordinator.

Parking Requirements

In Option 1, residential units require one parking space per unit, and retail and commercial uses have no minimum parking requirement. Bicycle parking is required at one space per four units. Per the requirements, Option 1 requires 290 residential parking spaces and 73 bicycle parking space. The required parking for Option 2, the Co-Living Facility, is 0.6 parking space per bedroom pursuant to Table 20-140, Note 10 and 25 long-term bicycle parking spaces for the first 100 Co-Living bedrooms plus 0.20 parking spaces for every bedroom over 100. Additionally, two short-term parking spaces are required for every 100 bedrooms. Per the zoning requirements, the project would need to provide 476 vehicle parking spaces and 239 long term bicycle parking spaces and 16 short term bicycle parking spaces. Additionally, one long term and two short term bicycle parking spaces would be required for the commercial retail space.

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 a growth area. Additionally, the DC Zoning District permits further parking reductions. Section 20.70.330.B authorizes further parking reductions, up to 50%, for mixed-use projects in the Downtown Zoning Districts where the reduction would not adversely affect surrounding projects, the reduction would not be dependent upon public parking, and the project can demonstrate it can maintain its TDM for the life of the project and maintain the provided parking.

Option 1 proposes a 20% parking reduction to allow 232 parking spaces in lieu of 290 parking spaces. The project would provide the required bicycle parking. The closest Light Rail station is at the San José Convention Center within 1/3 mile (1,790 feet) of the site and existing buses have routes within ¼ mile of the project site. The project would utilize the 20% parking reduction and would provide 232 vehicle parking spaces and 76 bicycle parking spaces in compliance with the Municipal Code.

Option 2 proposes to utilize the 50% parking reduction as well as the additional 50% parking reduction permitted in Section 20.70.330.B. The Co-Living development (Option 2) would provide 124 vehicle parking spaces and 183 bicycle parking spaces comprised of 18 short term spaces and 180 long term spaces. The project would implement a TDM program with a transit pass program for all the retail employees and Co-Living facility tenants. Additionally, the project would designate an on-site TDM manager and develop a campaign to improve tenant awareness and participate in alternative transportation options. Finally, the project proposes to unbundle the parking for the Co-Living Facility which would require future tenants to rent a parking space. The project would not rely on public parking and would be conditioned to maintain the minimum code required parking (with reductions) and implementation of the TDM plan for the life of the project. The project's TDM includes analysis on the cost of the VTA SmartPass program which Eco passes and this cost has been factored into the project's annual budget. Therefore, the parking reduction for Option 2 would comply with the Municipal Code.

5. **Design Guidelines.** Downtown Design Guidelines Conformance Section 20.70.500 of the Zoning Ordinance requires that any project in the DC Downtown Primary Commercial Zoning District be subject to the design guidelines adopted by the City Council. The new Downtown Design Guidelines and Standards were adopted on April 23, 2019 and amended on May 21, 2019; these guidelines are applicable to any Planning application submitted after the Effective Date. The project was submitted on January 9, 2018 and is subject to the 2004 Downtown Design Guidelines. The project complies with the 2004 Downtown Design Guidelines, specifically in the following areas:

Urban Form and Massing

The Downtown Design Guidelines state that a project's massing should consider the larger physical context and urban form. The project site is located at an entry point into Downtown along South First Street. Plaza de César Chavez and the greater

downtown are located north of the site and south of the site is Interstate 280 and residential neighborhoods. In response to the location, the project's tower massing lightly steps down on the southern elevation. The building is carefully angled on the northwest corner meant to mimic the street angle north of the site where South 1st Street splits in to South Market Street and South First Street. The project considered its design on all views to and from the site, including the elevated freeway, the planes overhead, and the pedestrian experience. Horizontal and vertical reliefs were incorporated into the designs through façade treatments to further break down the building's massing.

Project Base/Street Wall

The Downtown Design Guidelines encourage the design of the base of buildings to allow for lasting social interaction at the ground through transparency and durable materials. Further, the Guidelines state that building frontage should appear safe, welcoming, and open to the general public.

The project's two street frontages have achieved the intent of the Guidelines by providing large, glass street frontages with building entrances along both East Reed Street and South 1st Street. The project's ground floor exterior has been designed to have a clear height to 20 feet from the ground plane at the corner of East Reed and South 1st Streets. The project reuses the Pallesen Building's storefront along South 1st Street as a unique ground floor space which breaks up the 140-foot South 1st Street's building frontage. Additionally, the project incorporates canopies and pedestrian lighting along the retail and residential lobby entrances to provide a protected covered entrance and well-lit night time experience as pedestrians and residents move in and out of the building. The building's ground floor would include materials such as retail storefront vision glass, a brick façade, a dark ground floor brick base along East Reed Street, and a painted metal louvers and panels. The mix of materials on the ground floor creates a warm feeling, inviting pedestrians and bicyclists into the space.

Architecture and Materials

The Guidelines encourage projects to consider the predominant attributes of the immediate neighborhood and reinforce desirable siting patterns, massing arrangements, and streetscape characteristics of nearby development. The architecture should integrate a top, middle, and base of buildings into one architectural statement.

The base of the building is defined by the varied height massing blocks on Levels 1 through 4. The middle is defined by the horizontal insets that occur at levels 11, 14, 17, and 21 on both options. The top is defined by the setback at the pool terrace and inset corner around the pool. The roof is distinctive through the use of the butterfly, roofline canopy of the outdoor pool space.

Glazed spandrel glass panels are used to create a vertical pattern on the tower. Darker

glazing is combined with inset balconies to enhance the visual look of the project site. The pattern created by the spandrel glass is similar to the vertical patterns on the multi-family Pierce building across First Street while the inset balconies would reflect the inset balconies on the upcoming multifamily "SparQ" building across East Reed Street. The building's ground floor dark bricks and the red painted metal panels woven through the building's base and top reflect the red roof attributes and ground floor designs of the nearby neighborhood including the commercial building located across South First Street from the project site and the City Center Motel, located on South Second and East Reed.

Building Crown

The Design Guidelines encourage the design of the tops of buildings to add to the city skyline for views to and views from each building. For buildings taller than 75 feet, the average floor plate (floor area for a level) for all stories above 75% of the building's total height shall not exceed 85% of the average size of the floor plates. This allows the tower to have a distinctive silhouette as the building increases in height.

The tower steps its mass down on the top south side of the building which adds some variation to the typical roof structure seen in high rises throughout the City. Consistent with the Design Guidelines, the roof level and levels 23-27 have an average floor plate of 81%. The building's roofline is defined by its outdoor residential amenity space for both options.

Option 1-Residential Design Guidelines

The Residential Design Guidelines state private open space should be provided at a minimum of 60 square feet per unit and common open space should be provided at a minimum of 100 square feet per unit. Residential open space requirements are intended to provide space for recreation and social activities. Projects in close proximity to parks can reduce their provided open space. The project is approximately 250 feet from Parque de los Pobladores and is also approximately ½ mile from the Guadalupe River Trail and Plaza de César Chávez. Option 1 is proposing to provide an average of 48.8 square feet of private open space residential space and an average of 24.7 square feet of common residential open space. Given the project's proximity to public open space and the urban nature of the project, the open space meets the intent of the residential guidelines.

6. **Environmental Review.** The City of San José, as the lead agency for the project, prepared a Draft Supplemental Environmental Impact Report (Draft SEIR) to the Downtown Strategy 2040 Environmental Impact Report (Resolution 78942), which was circulated for public review and comment from July 15, 2019 through August 29, 2019. A First Amendment to the Draft SEIR was prepared to provide responses to public comments submitted during the public circulation period and revisions to the text of the Draft SEIR. The First Amendment together with the Draft SEIR constitute

the Final Supplemental Environmental Impact Report (Final SEIR) for the project.

The following discussion outlines the environmental impacts discussed in the Draft SEIR.

Identified Significant Unavoidable Impacts

The Draft SEIR found that the project would result in significant unavoidable impacts to the on-site cultural resources including the City Center Motel Sign and Pallesen Apartment Building and the project would result in significant adverse changes to the adjacent South First Street Arts District (SOFA). Therefore, a Statement of Overriding Considerations is required. The Draft SEIR identified impacts resulting from the project to Biological Resources, Hazards and Hazardous Materials, and Noise. With implementation of the mitigation measures specified in the Mitigation Monitoring and Reporting Program prepared for the project, impacts to these resources are reduced to less than significant levels.

Environmental Impacts and Mitigation Measures

As part of the certification of the Final SEIR, the City Council approved a related Mitigation Monitoring and Reporting Program (MMRP) for the project. The following mitigation measures apply to the project as further explained in the Draft SEIR and MMRP:

- Biological Resources – If construction activities start during the migratory bird breeding season (February through August, inclusive), pre-construction surveys for nesting raptors or other migratory birds are required to reduce the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment impacts to less than significant levels.
- Cultural Resources—Prior to the issuance of any grading, demolition or building permits, the Pallesen Apartment building shall be documented in accordance with the Level III Historic American Building Survey (HABS). Additionally, the project applicant shall be required to advertise the availability of the Pallesen Apartment Building for relocation for a minimum period of 60 days. If the building is relocated, the City must determine the receiver site is suitable and a structural engineer should be engaged to determine the appropriate reinforcement needed during the building's move. The relocated building shall then be repaired and restored. If the Building cannot be relocated, the structure shall be made available for salvage for the reuse of historic building materials. A Preservation Plan shall be submitted to the City for the Pallesen Building's Façade reuse in the project and a Relocation Plan shall be prepared and submitted for the City Center Sign. A qualified archeologist is required to conduct a field inventory of the project site and submit a report outlining the results and recommendations; the project shall implement the recommendations of the report. If prehistoric or historic resources are encountered, all activity shall cease, and the archaeologist shall evaluate the

find(s) and provide appropriate recommendations regarding the disposition of the finds.

- **Hazardous Materials** – After demolition of the existing buildings, but prior to the issuance of grading permits, the project applicant shall conduct soil sampling and prepare a Site Groundwater Management Plan. If contaminated soils are found on site above established thresholds, the project applicant must enter into the Santa Clara County Department of Environmental Health's Voluntary Cleanup Program for remediation of contaminated soil. Prior to the start of construction, the project applicant shall obtain a discharge permit to dispose of the water collected during the dewatering process.
- **Noise** – Prior to the issuance of any grading permits, the project applicant shall submit a construction plan, vibration monitoring plan, and schedule that will identify potential construction hours, equipment, and activities. The Construction Vibration Monitoring Plan ("Plan") shall document existing conditions, conditions during construction and after construction. The Plan shall identify the sensitivity of on- and off-site structures, perform a survey for each structure within 50 feet of the constructions activities and development a monitoring and construction contingency plan. A report summarizing the result of the vibration monitoring process shall be submitted after the completion of each substantial phase of construction, as identified in the Monitoring Plan.

CEQA Alternatives

As required under CEQA, the Drat SEIR evaluated the No-Project alternative, a Pallesen Apartments Building Relocation alternative, and a Historic Structure Preservation alternative. Most of the environmental impacts of the project involved cultural resources (historic buildings); therefore, the alternatives were focused on exploring alternatives that would reduce these impacts. These alternatives are summarized as follows:

- **No Project – No Development Alternative:** The No Project – No Development Alternative assumes no redevelopment of the project site and would result in the retention of the existing buildings. There would be no construction with the No Project – No Development Alternative and therefore, would not result in any environmental impacts or mitigation measures.
- **Pallesen Apartments Building Relocation Alternative** – This alternative would be the same as the project with the exception that the Pallesen Apartments Building would be relocated off-site to another location within Downtown San José and the building would be preserved and used as an apartment building, similar to its current use. The Pallesen Building would continue to be demolished (with façade preservation) and the City Center Motel sign would continue to be relocated to the roof. This alternative would be the same for both options. Under this alternative, the project would avoid the significant and

unavoidable impact to the Pallesen Apartments Building but the impacts to the Pallesen Building and City Center Sign would remain the same. This alternative would meet all the project objectives for both options.

- Historic Structure Preservation--This alternative would maintain all three historic structures on-site in their current locations. The project would be a residential development designed around these structures. Under this alternative, the project would have approximately 5,000 square feet of development area and the site would be able to support a narrow building with a north-south orientation. The building would be three stories in height and would have approximately 1,500 square feet of retail with a total of three residential units and 8 parking spaces. By preserving the onsite historic structures, this alternative would avoid potential impacts on historic resources, because the existing buildings would continue in their current use in their original location. The project would also have an incrementally reduced impact on the increased urbanization and removal of historic structures in the SoFA and First Street Commercial historic core areas. Under this alternative the impacts on historical resources would be less than significant. The alternative would not fully meet the project's objectives to provide high-density development and maximize the use of an infill site.

Circulation and Public Comments

The Draft SEIR was circulated for a 45-day period from July 15 through August 29, 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:

- Bay Area Quality Management District
- Santa Clara Water District
- Kitty Moore, Community Member
- Aurelia Sanchez, Community Member
- Develin Creighton, Community Member

Issues raised in these comment letters include the following:

- Clarification on the Cortese List and Hazards and Hazardous Materials Section
- Air Quality: Consistency with the 2017 State Scoping Plan and Green Building Code Standards
- Parking and Circulation
- Request for one project rather than two options

- Construction Hours and Practices

The City responded to all comments received on the Draft SEIR and incorporated them into the First Amendment to the Draft SEIR. The First Amendment, taken together with the Draft SEIR, constitutes the Final EIR. The Draft SEIR and First Amendment to the Draft SEIR are available for review on the project page on the City's Active EIRs website at: <http://www.sanjoseca.gov/index.aspx?nid=6073>.

SEIR Recirculation Unnecessary

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

In accordance with CEQA Guidelines Section 15088, the First Amendment to the Draft SEIR for the project includes written responses to all comments received during the public review period for the Draft SEIR. As required by Section 15132 of the CEQA Guidelines, the responses in the First Amendment to the Draft SEIR 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 Draft SEIR 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 Draft SEIR; therefore, recirculation of the EIR is not required.

7. 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 both options for the proposed subdivision are shown on

the Vesting Tentative Map and, subject to the conditions listed below and the requirements for project design and improvements, are consistent with applicable General and Specific Plans of the City of San José, in that:

Analysis. As described above, based on review of the project subdivision, the Council of the City of San José does not make any such findings to deny the subject subdivision. The tentative map and the development's design are consistent with the San José Envision 2040 General Plan. The site is physically suitable for the development in that the project density is suitable for the site based on the allowances of the Downtown General Plan land use designation. 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 project subdivision and subsequent improvements would not create serious public health issues. The project would be required to improve the South First Street and East Reed Street sidewalks.

- b. The City Council has considered the proposed subdivision options as 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:"
 1. That the tentative map is not consistent with applicable general and specific plans as specified in Section 65451.
 2. That the design or improvement of the project subdivision is not consistent with applicable general and specific plans.
 3. That the site is not physically suitable for the type of development.
 4. That the site is not physically suitable for the project density of development.
 5. That the design of the subdivision or the improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
 6. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
 7. 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 subdivision.

Analysis: Based on review of the project subdivision and as discussed in detail above, the Council of the City of San José does not make any such findings to deny the subject subdivision in that: 1) the tentative map/project is consistent with

the General Plan as noted above; 2) the design of the units is consistent with the General Plan as it identifies the merger of parcels or lots to avoid building construction over parcel boundaries and the subdivision commercial condos are of adequate size to support development and they are located on the ground floor; 3) the project site is physically suitable for the development; 4) the project density is suitable for the site based on the density allowances of the Downtown General Plan designation; 5) the merger of parcels and subdivision into airspace condominium units in this urban setting would not cause any environmental damage or substantially injure fish or other wildlife habitat; 6) the merger of parcels and subdivision into airspace condominium units would not cause any public health issues; 7) the merger of the parcels and subdivision into airspace condominiums would not conflict with any public easements, as the project is providing all necessary public easements, and there is no public access through the site with this subdivision. The project is required to improve the public sidewalks on development frontages.

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 "Garden Gate Tower" dated June 4, 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 Special Use Permit File No. SP18-001 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 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. **Distribution Facilities.** Subdivider shall, at no cost to the City, cause all new or replacement electricity distribution facilities (up to 40KV), telephone, community cable, and other distribution facilities located on the subject property to be placed underground.
11. **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.

12. Owners' Association.

- a. An Owners' Association consisting of all residential and commercial condominium units shall be established prior to issuance of Certificate of Occupancy for maintenance of all common areas, including pedestrian walkways, easements, landscaping, parking, ingress and egress, emergency access, open space, and the like. The subdivider shall provide to the Owners' Association a copy of the Tentative Map Permit, the accompanying Plan Set, any approved Amendments or Adjustments to the Development Permit, 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.

13. Final Map. No Final Map or Tract Map shall be approved by City Council unless and until the appeal period for the development permit, File No. SP18-001 has expired and all appeals have been exhausted.

14. 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.

15. 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.

16. 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.

17. Affordable Housing. The development is subject to the City's Inclusionary Housing Ordinance (IHO) and each of the conditions below:

- a. The permittee must execute and record their City Affordable Housing Agreement memorializing the IHO obligations against the property and any contiguous property under common ownership and control prior to earliest of: issuance of any building permits, or approval of any parcel or final map.
- b. Permittee must strictly comply with each requirement of the approved Affordable Housing Compliance Plan, the Affordable Housing Agreement, and any other applicable requirements of the IHO.
- c. No building permit may issue until the Affordable Housing Agreement is recorded against the property. No building permit may issue except consistent with the requirements of the IHO and the proposed Plan to fulfill the affordable housing obligations.
- d. No Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all the requirements of the IHO and Affordable Housing Agreement are met.

18. Ellis Act. This project is subject to the requirements of the City's Ellis Act Ordinance. Prior to the issuance of a demolition permit, Planning staff should confirm with Housing Department, the Owner's completion of all relocation obligations, including the obligations under the Ellis Act Ordinance.

19. 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.

20. 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. _____.

21. 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 Special Use Permit (SP18-001).

22. 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**.

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.

LEGAL DESCRIPTION

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

PARCEL 1:

PARCEL A AS SHOWN ON LOT LINE ADJUSTMENT NO. AT 94-08-050, AS EVIDENCED BY DOCUMENT RECORDED DECEMBER 01, 1994 AS DOCUMENT NO. [12736242](#) OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF LOT 2 AND A PORTION OF LOT 3 IN BLOCK 62 AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP OF THE PART OF THE REED ADDITION TO THE CITY OF SAN JOSE" WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF SANTA CLARA COUNTY, CALIFORNIA ON MARCH 18, 1869 IN [BOOK C OF MISCELLANEOUS RECORDS AT PAGE 322](#) AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTHEASTERLY LINE OF REED STREET WITH THE NORTHEASTERLY LINE OF FIRST STREET, AS SAID STREETS ARE SHOWN UPON THE MAP ABOVE REFERRED TO; THENCE RUNNING SOUTHEASTERLY AND ALONG THE NORTHEASTERLY LINE OF FIRST STREET 115.24 FEET TO THE NORTHEASTERLY CORNER OF THE CERTAIN PARCEL OF LAND DESCRIBED IN THE DEED FROM LILLIE M. PALLSEN TO THE CITY OF SAN JOSE, A MUNICIPAL CORPORATION, DATED MAY 7, 1938, RECORDED MAY 9, 1938, IN [BOOK 876 OF OFFICIAL RECORDS, AT PAGE 219](#), SANTA CLARA COUNTY RECORDS; THENCE RUNNING NORTHEASTERLY AND ALONG THE NORTHWESTERLY LINE OF THE PARCEL OF LAND SO DESCRIBED IN THE DEED TO THE CITY OF SAN JOSE, 125.34 FEET TO THE SOUTHWESTERLY LINE OF AN ALLEY, AS SHOWN UPON THE MAP ABOVE REFERRED TO; THENCE RUNNING NORTHWESTERLY AND ALONG THE SOUTHWESTERLY LINE OF SAID ALLEY 115.24 FEET TO THE SOUTHEASTERLY LINE OF REED STREET; THENCE RUNNING SOUTHWESTERLY ALONG THE SOUTHEASTERLY LINE OF REED STREET 125.34 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM PORTIONS OF LOTS 3 AND 6 IN BLOCK 62 AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP OF THE PART OF THE REED ADDITION TO THE CITY OF SAN JOSE", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF SANTA CLARA COUNTY, CALIFORNIA ON MARCH 18, 1869 IN [BOOK C OF MISCELLANEOUS RECORDS AT PAGE 322](#) ANY MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTHEASTERLY LINE OF FIRST STREET DISTANT THEREON 75.41 FEET SOUTHEASTERLY FROM THE POINT OF INTERSECTION OF THE SOUTHEASTERLY LINE OF REED STREET WITH THE NORTHEASTERLY LINE OF FIRST STREET AS SAID STREETS ARE SHOWN UPON THE MAP ABOVE REFERRED TO; THENCE RUNNING SOUTHEASTERLY AND ALONG THE NORTHEASTERLY LINE OF FIRST STREET 39.83 FEET; THENCE RUNNING NORTHEASTERLY AND PARALLEL WITH SAID LINE OF REED STREET 125.34 FEET TO THE SOUTHWESTERLY LINE OF AN ALLEY AS SHOWN UPON THE MAP ABOVE REFERRED TO; THENCE RUNNING NORTHWESTERLY AND ALONG THE SOUTHWESTERLY LINE OF SAID ALLEY 39.83 FEET; THENCE NORTHWESTERLY AND PARALLEL WITH SAID LINE OF REED STREET 125.34 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

PARCEL B AS SHOWN ON LOT LINE ADJUSTMENT NO. AT 94-08-050, AS EVIDENCED BY DOCUMENT RECORDED DECEMBER 01, 1994 AS DOCUMENT NO. [12736242](#) OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PORTIONS OF LOTS 3 AND 6 IN BLOCK 62 AS SHOWN ON THAT CERTAIN MAP ENTITLED, "MAP OF THE PART OF THE REED ADDITION TO THE CITY OF SAN JOSE", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA COUNTY, CALIFORNIA ON MARCH 18, 1869 IN [BOOK C OF MISCELLANEOUS RECORDS AT PAGE 322](#) AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTHEASTERLY LINE OF FIRST STREET DISTANT THEREON 115.24 SOUTHERLY FROM THE POINT OF INTERSECTION OF THE SOUTHEASTERLY LINE OF REED STREET WITH THE NORTHEASTERLY LINE OF FIRST STREET AS SAID STREETS ARE SHOWN UPON THE MAP ABOVE REFERRED TO; THENCE RUNNING SOUTHEASTERLY AND ALONG THE NORTHEASTERLY LINE OF FIRST STREET 29.60 FEET; THENCE RUNNING NORTHEASTERLY AND PARALLEL WITH SAID LINE OF REED STREET 125.34 FEET TO THE SOUTHWESTERLY LINE OF AN ALLEY AS SHOWN UPON THE MAP ABOVE REFERRED TO; THENCE RUNNING NORTHWESTERLY AND ALONG THE SOUTHWESTERLY LINE OF SAID ALLEY 29.60 FEET; THENCE NORTHWESTERLY AND PARALLEL WITH SAID LINE OF REED STREET 125.34 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH PORTIONS OF LOTS 3 AND 6 IN BLOCK 62 AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP OF THE PART OF THE REED ADDITION TO THE CITY OF SAN JOSE", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF SANTA CLARA COUNTY, CALIFORNIA ON MARCH 18, 1869 IN [BOOK C OF MISCELLANEOUS RECORDS AT PAGE 322](#) AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTHEASTERLY LINE OF FIRST STREET DISTANT THEREON 75.41 FEET SOUTHEASTERLY FROM THE POINT OF INTERSECTION OF THE SOUTHEASTERLY LINE OF REED STREET WITH THE NORTHEASTERLY LINE OF FIRST STREET AS SAID STREETS ARE SHOWN UPON THE MAP ABOVE REFERRED TO; THENCE RUNNING SOUTHEASTERLY AND ALONG THE NORTHEASTERLY LINE OF FIRST STREET 39.83 FEET; THENCE RUNNING NORTHEASTERLY AND PARALLEL WITH SAID LINE OF REED STREET 125.34 FEET TO THE SOUTHWESTERLY LINE OF AN ALLEY AS SHOWN UPON THE MAP ABOVE REFERRED TO; THENCE RUNNING NORTHWESTERLY AND ALONG THE SOUTHWESTERLY LINE OF SAID ALLEY 39.83 FEET; THENCE NORTHWESTERLY AND PARALLEL WITH SAID LINE OF REED STREET 125.34 FEET TO THE POINT OF BEGINNING.

APN: 472-26-089 (Affects: PARCEL 2) and 472-26-090 (Affects: PARCEL 1)