

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT PERMIT TO ALLOW THE CONVERSION OF A MOBILE HOME PARK TO ANOTHER USE, THE DEMOLITION OF 111 MOBILE HOMES, RECREATION BUILDING (APPROXIMATELY 3,600 SQUARE FEET), A POOL (APPROXIMATELY 820 SQUARE FEET), 36 SHEDS (RANGING FROM 120 SQUARE FEET TO 400 SQUARE FEET), THE REMOVAL OF 144 ORDINANCE SIZE TREES, THE CONSTRUCTION OF AN APPROXIMATELY 2-ACRE NEIGHBORHOOD PARK AND 687 RESIDENTIAL UNITS (24 ROW HOME BUILDINGS, 6 FLAT BUILDINGS, AND ONE APARTMENT PODIUM BUILDING) ON AN APPROXIMATELY 15.7 GROSS ACRE SITE, LOCATED ON THE SOUTHWEST CORNER OF PRUNE WAY AND MAPLEWOOD AVENUE (555 SOUTH WINCHESTER BOULEVARD)

FILE NO. PD19-019

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on June 4, 2019, an application (File No. PD19-019) was filed by the applicant, Scott Hilk, on behalf of Pulte Homes Company, LLC, with the City of San José for a Planned Development Permit to allow the conversion of a mobile home park to another use, the demolition of 111 mobile homes, a recreation building (approximately 3,600 square feet), a pool (approximately 820 square feet), 36 sheds (ranging from 120 square feet to 400 square feet), the removal of 144 ordinance size trees, the construction of an approximately 2-acre neighborhood park and 687 residential units (24 row home buildings, 6 flat buildings, and one apartment podium building) on an approximately 15.7 gross acre site, on that certain real property situated in the R-M(PD) Planned Development Zoning District and located at the southwest corner of Prune Way and Maplewood Avenue (555 South Winchester Boulevard, San José, which real property is sometimes referred to herein as the “subject property”); and

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

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Planning Commission conducted a hearing on said application on December 4, 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 City's Planning Commission and City's Director of Planning, Building and Code Enforcement; and

WHEREAS, at said hearing, this City Council received in evidence a development plan for the subject property entitled, "Planned Development Permit Winchester Ranch Site Development," dated revised on November 18, 2019, said plan is on file in the

Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

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

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

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

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

1. **Site Description and Surrounding Uses.** The subject site, composed of one lot, is located at the southwest corner of Prune Way and Maplewood Avenue. The subject 15.7 gross-acre site is an existing 111-unit mobilehome park with a community recreation building, pool, and accessory facilities. The mobilehome park is surrounded by single family residences to the north; Highway 280 to the south; Winchester Boulevard and Winchester Mystery House to the east and single-family residences to the west. Olsen Drive and Winchester Boulevard provide access to the site.

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

2. **Project Description.** The project consists of the conversion of a mobilehome park to multi-family residential use, demolition of 111 mobilehomes and their associated carports, a recreation building (approximately 3,600 square feet), a pool (approximately 820 square feet), 36 sheds (ranging from 120 square feet to 400 square feet), and the construction of an approximately 2-acre neighborhood park, and 687 multi-family residential units (24 row home buildings, six flat buildings, and one apartment podium building). The row home and flat buildings consist of 320 condominiums and designed as for-sale units. Additionally, the flat buildings would feature the on-site relocation housing units for the current mobilehome owners and tenants who choose this option as their replacement housing. This replacement housing is described further below.

The apartment podium building consists of 367 apartment units and designed as for-rent units.

3. **General Plan Conformance.** The subject site has an Urban Residential land use designation on the General Plan Land Use/Transportation Diagram. This designation allows for medium density residential development and a broad range of commercial uses, including retail, offices, hospitals, and private community gathering facilities, within identified Urban Villages. The Urban Residential land use designation allows a density of 30-95 dwelling units per acre; the allowable density/intensity for mixed-use development will be determined using an allowable FAR (1.0 to 4.0)

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

- a. Social Equity and Diversity - Housing Goal H-1: Provide housing throughout our City in a range of residential densities, especially at higher densities, and product types, including rental and for-sale housing, to address the needs of an economically, demographically, and culturally diverse population.
- b. Social Equity and Diversity – Housing Policy H-1.1: Through the development of new housing and the preservation and rehabilitation of existing housing, facilitate the creation of economically, culturally, and demographically diverse and integrated communities.
- c. Social Equity and Diversity – Housing Policy H-1.3: Create new housing opportunities and preserve and rehabilitate the City’s existing housing stock to allow seniors to age in place, either in the same home, assisted living facilities, continuing care facilities, or other housing types within the same community.
- d. Social Equity and Diversity – Housing Policy H-1.20: Encourage all proposed conversions of mobilehome parks to other uses to include mitigation measures that provide displaced residents with housing options that are affordable once any short-term subsidy has elapsed.

Analysis: The project involves an increase in housing units that could accommodate for a diverse community, from 111 units to 687 units. The project contains a mix of for-sale units at the rear of the site, and rental housing within the podium apartment situated at the front of the site along Winchester Boulevard. The project also involves a variety of product types, such as four-story single unit row homes, four-story flats with two bedrooms on a single floor, and a variety of different bedroom units for rent within the podium building. Additionally, the project includes an on-site relocation housing program with a relocation impact report for seniors who currently reside in the mobilehome park.

- e. Social Equity and Diversity – Housing Policies H-1.11: Preserve existing mobile home parks throughout the City to reduce and avoid the displacement of long-term residents, particularly senior citizens, the disabled, low-income persons, and families with school-age children, who may be required to move from the

community due to a shortage of replacement mobile home housing, and to maintain a variety of individual choices of tenure, type, price, and location of housing.

Analysis: While the project does convert an existing mobilehome park, the project does reduce and/or avoid displacement of long-term residents by incorporating a Planned Development Permit subject to the conformance to the City's Municipal Code Chapter 20.180 on "Mobilehome Park Conversion to Any Other Use" and with the City Council 6-33 policy on "Conversion of Mobilehome Parks to Other Use." As explained in detail in the associated staff report, the written agreement between the Applicant and Association allows long-term residents the option of selling their mobilehome for an agreed upon price, relocating to new on-site housing consistent with their previous rental agreements or have been provided compensation for their mobilehomes, or accepting the relocation assistance and benefits. These rental agreements will be subject to the State Mobilehome Residency Law and the City's Mobilehome Rent Ordinance. The new rental agreements for Replacement Housing remain subject to protections provided under State and local law, as described within the Agreement. The Housing Department has reviewed and approved the Applicant's Housing Compliance Plan. Further, the proposed development would be subject to the City's Inclusionary Housing Ordinance and contribute to the future production of affordable housing, as required by conditions of approval set forth in this Planned Development Permit.

2. **Santana Row/Valley Fair Urban Village.** Additionally, the subject site is within the Santana Row/Valley Fair Urban Village Plan, which was adopted by City Council on August 7, 2017. On December 18, 2018, the Plan was shifted into Horizon 1 Urban Village by City Council through Resolution No. 78940. The Urban Village has a dwelling unit capacity of 2,635 units. To date, 773 units have been entitled. The project would utilize 687 units of the remaining 1,862-unit capacity. The project is not subject to the City Council adopted Urban Village Implementation and Amenity Framework (Implementation Framework). The Implementation Framework includes a provision that exempted residentially designated sites without a required commercial component.

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

- a. Pedestrian and Bicycle Friendly Environment Policy 3-20: New development should support and enhance the pedestrian and bicycle environment and provide greater connectivity to the overall network.
- b. Diversity of Housing Policy 3-23: Encourage a mix of for sale and rental housing units within the Urban Village area.
- c. Placemaking and Open Space Goal LU-7: New development should increase public spaces that serve existing and new residents.

- d. Placemaking and Open Space Policy 3-29: Ensure that new development provides convenient, walkable pedestrian connections through the site and to existing and planned open spaces.

Analysis: The development would provide a 20-foot wide sidewalk along the project's Winchester Boulevard street frontage and a pedestrian pathway throughout the entire site. Currently, Olsen Drive is fragmented and ends at the western side of the property and the eastern side of the property. As a result, there is no accessway from the western to the eastern side of the property through the project site. The Santana Row Valley Fair Urban Village Plan identifies a potential paseo for pedestrian and bike only access connecting Prune Way with Olsen Drive. The project includes a pedestrian and bike only access into the project and extends the path of the paseo throughout the northern property line to connect Olsen Drive, thereby enhancing pedestrian travel for existing and new residents for the area. Additionally, this pathway is embedded within an approximately two-acre neighborhood park situated at the northern part of the property that would serve existing and new residents. To date, the Department of Parks, Recreation, and Neighborhood Services (PRNS) has coordinated with the applicant and their landscape architect to conduct the first of three community meetings to solicit input from community members. In the meeting, staff reviewed the opportunities and constraints of the new park and facilitated a conversation to identify potential park programming and amenities to be included in the design. Moving forward, PRNS will continue to work closely with the applicant to prepare for the remaining two community meetings, targeted for early in 2020. These meetings are intended to provide residents the chance to review proposed concepts, provide more feedback, solicit potential park names, and review final proposed designs.

As described above in the General Plan policy section, the project incorporates a mix of for-sale and rental housing units within the Urban Village area. For sale units are available as four-story townhomes or four-story flats with two bedrooms on a single floor. The apartments are located in the podium building situated adjacent to Winchester Boulevard. Additionally, the apartment units are offered with a variety of bedrooms which would help accommodate a variety of tenants.

Santana Row Valley Fair Urban Village Plan Design

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

- a. Parking and Loading, Goal UD-13: Provide ample bicycle parking and pedestrian amenities to increase the comfort of non-motorized travelers.
- b. Quality Building Design Guideline DG-4: A minimum of one building entrance should be provided along each public street frontage.

Analysis: As detailed below in the parking zoning conformance section below, the development is providing over twice the amount of required bicycle parking and approximately 40 bicycle parking spaces are provided outside of buildings around the entire site. Additionally, the project is designed to have a main pedestrian entrance on Winchester Boulevard for the apartment building. Lobby entrances and large windows along the ground floor of the apartment building create an engaging, human-scale street experience. The project would provide sidewalk amenities and landscaping, including benches, throughout the site. The project would also incorporate an approximately two-acre park in the northern part of the property. The programming of park amenities would be concluded separately through the Parks Department, however additional pedestrian amenities would be provided such as a playground.

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

Analysis: The apartment building fronting Winchester Boulevard features large ground floor windows. The use of the ground floor windows and entryway results in no blank ground floor facades exceeding 20 feet in length. The building's parking, mechanical equipment, and trash rooms would be located within the building, away from the pedestrian right-of-way. One vehicle ingress driveway would provide access to the garage from Winchester Boulevard.

- g. Whole Building Design, Standard DS-7: Buildings shall maintain façade quality of architectural articulation and finishes on all sides of a building that are visible to the public. Some of the architectural features of the main

facade shall be incorporated into the rear and side elevations.

- h. Whole Building Design, Guideline DG-26: Building façades should be constructed of high quality and durable materials such as stone, brick, tile, wood, glass, and metal. Use of stucco shall be minimized and aluminum mesh is prohibited as a balcony material. Ground floor should use high quality material with texture.
- i. Whole Building Design, Guideline DG-29: Recessed and projected balconies should be introduced as part of a composition that contributes to the scale and proportion of the residential building façades.
- j. Whole Building Design, Guidelines DG-32: Incorporate usable outdoor terraces and rooftop gardens that overlook the street and provide visual interest

Analysis: The apartment podium building's design is modern/contemporary and uses a combination of wood siding, concrete, rusted metal cladding, glass, metal railing, brick, and stucco and are incorporated into the rear and side elevations as well. The balconies are projected and recessed which helps maintain the effect of the building's step-backs while creating usable terrace open space adjacent to the Winchester Mystery House. The project design steps the massing of the building back along Winchester Mystery House property line, creates a series of breaks that allow for breaks in height closest to the historic resource. As a result, the project capitalizes on the design's recesses to provide a variety of common residential open spaces. The remaining buildings on-site are four stories in height and range from three different styles that vary in color, material, and massing, with similar style balconies and units that have frontages toward the park.

- k. Compatibility of Building Height, Placement and Scale, Goal UD-7: Create an urban environment where new development steps down toward existing low-intensity residential uses and is built to the human-scale at the ground level.
- l. Compatibility of Building Height, Placement and Scale, Standard DS-9: New projects proposed within the Urban Village Plan over 55 feet in height must provide detailed visualizations of their proposed project that show what the project would look like from the street level, from different perspectives and distances, within the context of the neighborhood, including both current and proposed projects.
- m. Compatibility of Building Height, Placement and Scale, Guideline DG-35: Non-occupiable architectural features such as roof forms, chimneys, stairwells, and towers may project up to ten feet above the maximum height.

Analysis: The property is situated adjacent to low-intensity residential uses to

the north and west. The Development Standards reflect an increased setback area along the north and west perimeters for buildings depending on their height. The project features a pedestrian and bike trail and associated landscaping along the western perimeter, which extends through the northern perimeter along with an approximately two-acre park. As a result, the buildings situated closest to the northern and western property lines have a minimum approximately 55 feet of setback.

The development has a maximum building height of 82 feet, with non-occupiable architectural features projecting an additional 10 feet. Visualizations of the development are provided in the development plans. The visualizations provide a perspective of the project from 12 different vantage points. There are two views oriented southbound on Winchester Boulevard, which highlights the Winchester Mystery House and the new project in the background. There is also one view facing northbound on Winchester Boulevard and facing directly in front of the property of the project. The remaining eight visualizations represent the existing single-family neighborhood and the new development, along each of the following streets: Maplewood Avenue, Rosewood Avenue, Henry Avenue, Olsen Drive, and Kirkwood Drive. The visualizations demonstrate, from a pedestrian point of view, how the project would appear within the existing built environment.

- 4. Zoning and Planned Development Zoning Conformance.** The project site is in an A(PD) Planned Development Zoning District (File No. PDC75-095). This existing A(PD) Planned Development Zoning District would not permit the proposed development, as the current zoning is for a low-density residential to facilitate the existing mobilehome park and does not accommodate for increased density, taller buildings, and compatible setbacks. As part of the project, the site is proposed to be rezoned from a A(PD) Planned Development Zoning District to a R-M(PD) 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) Planned Development Zoning District complies best with the Santana Row Valley Fair Urban Village goals, policies, standards, and guidelines. The R-M(PD) Planned Development Zoning District requires greater minimum setbacks to single-family residential development in relation to height based on 45-degree daylight plane consistent with the requirements in the Santana Row Valley Fair Urban Village. The R-M(PD) Planned Development Zoning District would allow for uses that conform to the RM Multiple Residence Zoning District, as amended, which includes a higher density multi-family development. The project is consistent with the setbacks associated with

each property line and the 45-degree daylight plane requirement adjacent to the single-family neighborhood to the north and to the west of the site. The tallest building is the apartment podium building, which has a maximum height of approximately 82 feet, with projections as high as 88 feet. Projects are allowed to exceed the maximum building height by 10 feet.

Vehicle 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 for studio and one-bedroom units, 1.7 parking spaces per two-bedroom unit, 2 parking spaces per three-bedroom unit, and 0.15 parking spaces per additional bedroom beyond three bedrooms. The project is required to provide 1,045 parking spaces and the project would provide 1,172 parking spaces. A minimum of 172 bicycle parking spaces is required for the project and 407 bicycle parking spaces would be provided.

Mobilehome Park Conversion to any Other Use

The project includes the conversion of an existing mobilehome park to a multi-family residential development. The applicant has provided a copy of the Agreement between the Winchester Ranch Senior Homeowners Association (Designated Resident Organization) and the applicant, signed on June 25, 2019. The Agreement includes declarations and information on notice of intention to convert, relocation and purchase assistance, changes in circumstance, position of the association, and additional terms. In addition to the submittal requirements for a Planned Development Permit application, a supplemental application pursuant to Section 20.180.600 of the Zoning Ordinance must be submitted for a mobilehome park conversion of use and shall include the following:

- a. Satisfactory evidence that, at least 60 days prior to the date of filing such application, each mobilehome owner and mobilehome tenant within the proposed project site received written notice of intention to convert and that thereafter, each person applying for rental of a mobilehome or mobilehome lot within the proposed project site, prior to payment of any rent or deposit, received notice of intention to convert. In addition, satisfactory evidence of the posting of said notice at all entrances to the mobilehome park shall be submitted.

***Analysis:** The Planned Development Permit application was submitted to the City on June 4, 2019. The applicant submitted a proof of service for a Notice of Intention to Convert to each mobilehome owner, tenant, and the designated resident organization on August 27, 2019. The applicant also provided proof that the notice was posted at the entrances to the site in August 2019. The Notice included all the required information required by the Zoning Ordinance. Although the Notice was not provided to each owner, tenant, and the Designated Resident Organization at least 60 days prior to*

the filing of the Planned Development Permit application, the Agreement between the applicant and the Association states that the park owner did notify residents in April 2013 of the intention to convert the mobilehome park, which is well before the 60-day requirement. Additionally, the applicant and the Association have been in negotiations for several years and continue to meet monthly about the park conversion and the project details.

- b. A declaration that, after the date of filing such application, each person applying for rental of a mobilehome or mobilehome lot within the proposed project site prior to payment of any rent or deposit, shall receive, pursuant to Section 20.180.340 of the San José Municipal Code, written notification of intention to convert.

Analysis: The Applicant has provided a proof of service stating that each resident has received a Notice of Intention to Convert. This Notice has been posted at each entrance of the site and will be given to each person applying for rental of a mobilehome or lot within the project site prior to payment of any rent or deposit. This is also stated in the same Notice of Intention to Convert as described above.

- c. A statement detailing the current ownership of all improvements and underlying land; the name and address of each present mobilehome park resident within the project and identification of all residents under sixteen years, all residents sixty-two years and over, all residents with minor children, and all handicapped residents; square footage of each mobilehome lot; the current or last rental rate for each mobilehome lot and rental rate for the preceding two years; and the monthly space vacancy over the preceding two years of each mobilehome lot proposed to be converted.

Analysis: This list has been provided with each space and corresponding owner and/or leaser information. Each mobilehome with an associated carport is approximately 1,400 square feet and as described above in the background section, a total of 74 mobilehomes are occupied by residents. The remaining 37 are either owned by the applicant or the property owner. A summary of rental rates for the mobilehome lot is provided within the Relocation Impact Report.

- d. A timetable for conversion of the mobilehome park use.

Analysis: A timetable for the conversion and construction of the new development is contained within the Agreement. Based on the Agreement, approval of the project has been estimated to be between January 2020 and March 2020, with construction to begin thereafter.

- e. The appraised market value of each mobilehome lot and the in-place value of each mobilehome in the park. The appraisal is to be made no more than

ninety (90) days prior to submittal of the supplemental application. The appraiser shall be a tested, certified, and designated member of a nationally recognized appraisal association; shall be selected by the applicant and/or association; and shall be paid by the applicant and/or association to make the appraisal.

Analysis: The project applicant did not include an appraised market value of each mobilehome lot. However, the Agreement requires the appraisal to occur after Council approval of the development application. According to the Association, this requirement in the Agreement is to prevent staleness of the appraised value and was negotiated between the parties. Additionally, appraisals have to occur within 90 days of payment to further prevent staleness. The Agreement includes language that the mobilehomes shall be appraised at 100% of their in-place value as if the mobilehome park was not closing. This value will be incorporated within each corresponding Household Members relocation and assistance package. As stated further in the Agreement, the Applicant agrees to pay 100% of the in-place value of the mobilehome as if the Park were not closing. Additionally, comparable sales shall not include sales of mobilehomes in the mobilehome park that were completed after announcement of the intended park closure because such sales may represent depressed values, they are not to be included in any valuation. The Agreement further requires that the Applicant shall select an Appraiser from the City's pre-qualified list of Appraisers, shall be qualified to appraise mobilehomes, shall be familiar with the local market, and shall meet the minimums standards and qualifications established by the Conversion Ordinance.

- f. A description of how the financial aspects of transfers of mobilehomes and mobilehome lots have been handled for the preceding two years.

Analysis: Since 2015, the financial aspects of transfers of mobilehomes and mobilehome lots have been submitted to the Departments of Planning and Housing. A total of 32 transactions have been provided for review with a range of sales from \$135,000 to \$170,000. One transaction of sale is for \$60,000; however this was a purchase by the Applicant from the Property Owner.

Relocation and Purchase Assistance

Pursuant to Section 20.180.630 of the San José Municipal Code, the Planned Development Permit shall include a condition requiring a plan of relocation and purchase assistance for mobilehome owners and mobilehome tenants within the proposed project. Such a plan may include: providing a list of available mobilehome lots in the four-county area; providing estimates from two mobilehome moving companies; providing moving expenses for furniture and personal

belongings within the four-county area; payment for physically moving a mobilehome to new site; a 24-month rent subsidy for residents who move to a multiple or two-family dwelling; payment of the difference between current space rent and replacement site space rent for 24 months; purchase of mobilehome at in-place value as determined by an appraiser; and extended leases or rental agreements for owners and tenants who are handicapped, and/or aged sixty-two or over, and/or of low income, and/or owners or tenants with minor children.

***Analysis:** To supplement the Agreement with details on Relocation and Purchase Assistance, Paragon Partners, Ltd (Relocation Specialist) submitted a draft Relocation Impact Report, dated October 18, 2019 on behalf of the Applicant. A final Relocation Impact Report will continue to be developed after the approval of this project, to include the Certified Appraiser analysis and additional information to supplement the relocation package, which would be beyond City and State requirements, as needed. This report addresses the availability of adequate replacement housing in nearby mobilehome parks, as well as alternative forms of available replacement housing. This report also outlines the Program of Relocation and Purchase Assistance proposed by the Applicant, in accordance with State and City regulations, in order to mitigate the impacts that the closure of the Park would have upon the displaced residents. As described further below in the City Council Policy Conformance section, this report meets and exceeds the suggested contents from the Zoning Ordinance.*

5. City Council Policy Conformance. *City Council Policy 6-33: Conversion of Mobilehome Parks to Other Uses*

As described in detail in the associate staff report, City Council directed staff to prepare a Council Policy to further clarify the provisions in Chapter 20.180 of the Municipal Code and provide additional guidance for the review of applications of mobilehome park conversions to other uses. The City Council policy was initially adopted on February 23, 2016, with amendments in May 16, 2017.

The Policy included Guiding Principles that should be used in reviewing and considering mobilehome conversion applications and proposed conversions of mobilehome parks to other uses (conversions), should only be approved when findings can be made that the following guiding principles are furthered by such approval:

1. Make adequate provision for the housing needs of all economic segments of the community;
2. Facilitate resident ownership of mobilehome parks, while recognizing the need for maintaining an adequate inventory of rental space within mobilehome parks;
3. Provide a reasonable balance between mobilehomes and other types of housing;

4. Inform prospective conversion purchasers regarding the physical conditions of the structures and land offered for purchase; and
5. Reduce and avoid the displacement of long-term residents, particularly senior citizens, people with disabilities, those who are of low-income, and families with school-age children, who may be required to move from the community due to a shortage of replacement mobilehome housing.

Analysis: The project incorporates replacement housing on-site for all residents in the mobilehome park, regardless of age, income, or residents with disabilities. This mobilehome park is a senior mobilehome park where residents are at least 55 years old. In addition to this replacement housing, the project is also subject to the City's Inclusionary Ordinance and will contribute to the future production of affordable housing. According to the Relocation Impact Report, the region contains 136 existing mobilehome parks and the report includes an inventory of all adequate rental space within the surrounding mobilehome parks. There is no application on file for the conversion of an existing mobilehome park to a condominium mobilehome park or to a community mobilehome park; however, the Applicant and the Association have an Agreement for the conversion of the existing mobilehome park into a multi-family residential complex. The Applicant is aware of the physical conditions of the existing structures and land available for purchase.

Section 2 of the Council Policy 6-33 states that in evaluating whether a satisfactory program of relocation and purchase assistance has been provided the following considerations should be taken into account:

- a. The appraiser should be selected from a pre-qualified list of appraisers with at least five (5) years of experience provided by the City. When the mobilehome park owner hires an appraiser, the mobilehome park owner should select an appraiser who is acceptable to the Designated Resident Organization(s). The mobilehome park owner should notify the Designated Resident Organization(s) of the mobilehome park owner's proposed appraiser before conducting appraisals and provide an opportunity for the Designated Resident Organization(s) to object to the proposed selection of appraiser. If a Designated Resident Organization(s) rejects the mobilehome park owner's proposed appraiser, the Designated Resident Organization(s) should provide a list of at least three appraisers that are acceptable to the Designated Resident Organization(s) to the mobilehome park owner. In the event more than one such Designated Resident Organization objects, the Designated Resident Organizations must jointly provide a single list of at least three appraisers to the mobilehome park owner.
- b. Appraisals should list in-place value of mobilehomes, both current and prior to any public discussion or communication regarding sale or conversion of the mobilehome park.

Analysis for a and b: As outlined in the Agreement, the project does not include an appraised market value of each mobilehome lot, as the Agreement requires the appraisal to occur after Council approval of the development application. This requirement in the Agreement is to prevent staleness of the appraised value. Additionally, appraisals have to occur within 90 days of payment to further prevent staleness. As an alternative, the Agreement includes language that the mobilehomes shall be appraised at 100% of their in-place value as if the mobilehome park was not closing. This value will be incorporated within each corresponding Household Members relocation and assistance package. As stated further in the Agreement, the Applicant agrees to pay 100% of the in-place value of the mobilehome as if the Park were not closing. Additionally, comparable sales shall not include sales of mobilehomes in the mobilehome park that were completed after announcement of the intended park closure because such sales may represent depressed values, they are not to be included in any valuation.

- c. The mobilehome park owner should hire a relocation specialist selected by the mobilehome park owner from a pre-qualified list provided by the City to prepare the Relocation Impact Report (RIR) who is acceptable to the Designated Resident Organization(s). The mobilehome park owner should notify the Designated Resident Organization(s) of the mobilehome park owner's proposed relocation specialist before the relocation specialist commences work and provide an opportunity for the Designated Resident Organization(s) to object to the proposed selection of the relocation specialist(s).

Analysis: As outlined in the Agreement, the relocation specialist is Paragon Partners, Ltd and accepted by all parties.

- d. No unjust or unreasonable evictions should have occurred and no residents should have been coerced to sell without relocation benefits.
- e. All sales occurring after the delivery of notice of intention pursuant to Section 20.180.340 but before the application is filed should include a signed statement acknowledging that by selling the unit prior to the filing of the application, the mobilehome owner is waiving the benefits under the program of purchase and relocation assistance. The mobilehome owner may not waive benefits for renters occupying the units.

Analysis for d and e: The Applicant has provided all financial transactions for the past two years under the requirements of the Supplemental Application as indicated above in the Zoning Conformance section. As described above, the Agreement provides an option as a lump sum buyout before City Council approval with no relocation package if the resident does not want to be provided with a relocation package depending on if the resident chooses to stay on-site or relocation off-site.

No evidence has been presented that would indicate unjust or unreasonable evictions. Staff has not received written statements from the public or heard at the Community Meetings held for this project about unjust or unreasonable evictions. Additionally, the Association has indicated that that they have not received any complaints. Furthermore, the Agreement outlines eligibility and interim purchases with statements that no other form of relocation assistance will be offered or paid. The Association has been represented by the Law Foundation throughout the negotiation process related to the Agreement.

- f. For any eligible mobilehome owner whose home cannot be relocated to a comparable mobilehome park in the City of San Jose or relocated to another mobilehome park chosen by the mobilehome owner, the program of relocation and purchase assistance should provide for the purchase of the mobilehome at 100% of its in-place value consistent with Section 20.180.630.2.e as determined by the selected appraiser.

Analysis: The Program of Relocation and Purchase Assistance as implemented by the Agreement incorporates 100% of the mobilehome in-place value as if the mobilehome park was not closing. As stated further in the Agreement, the Applicant agrees to pay 100% of the in-place value of the mobilehome as if the Park were not closing.

- g. A program of relocation and purchase assistance should provide payments for the costs of relocation and purchase assistance listed in the contents of the RIR that are applicable in each resident's circumstances. The Applicant should include a fair and transparent process for appeal of the determination of applicable assistance in the RIR, including but not limited to consideration of appraisals and reports by appraisers who may be hired by the Designated Resident Association and provide advance notice to the residents of such process.

Analysis: The Program of Relocation and Purchase Assistance and the Relocation Impact Report outlines an appeal process that the Applicant and the Association have agreed to and discusses payments for costs of relocation and purchase assistance, such as providing estimates and moving assistance, which would be provided in each Household Member's individualized assessment.

- h. A program of relocation and purchase assistance should provide sufficient subsidies and other measures to allow residents to find other adequate, safe housing priced at a level that does not create a housing burden. This City Council Policy incorporates the definition of housing costs resulting in undue burden in the City of San Jose's Housing Element for 2014-2023; housing costs that do not create a housing burden are housing costs that do not exceed 30% of gross income.

Analysis: Consistent with Section 20.180.430 2(c) and 2(d), the Relocation Impact Report states that residents relocating to a space at another mobilehome park, a Rent Differential payment shall be made based on the difference between the base rent and utilities at their current space, and any increased space rent at their replacement mobilehome park. This monthly differential will be offered for a 24-month period and paid to the resident in a lump sum. Residents who relocate to another form of comparable rental property shall receive a this Rent Subsidy payment based on the difference between their current space rent in the Park, and any increased rent at the replacement housing. The increased replacement rent will be limited to the most recent RentCafe.com-calculated average apartment rental rate in the City of San Jose for a comparable apartment with the same number of bedrooms as the resident's mobilehome, per the home's original plan.

- i. A program of relocation and purchase assistance should provide for payment of the costs to reinstall or replace any accessibility improvements made to a resident's mobilehome and surrounding area such as wheelchair ramps, lifts, and grab-bars. Such payments should be provided to displaced residents who made such accessibility improvements.

Analysis: The Agreement states that the Program of Relocation and Purchase Assistance shall include the costs to reinstall or replace any accessibility improvements, as applicable.

- j. A program of relocation and purchase assistance should include relocation specialist services including on-site meetings with the residents to assist them in evaluating, selecting and securing housing in a comparable park or other comparable housing. It should also include technical assistance related to the leasing or purchasing of replacement housing, referral to affordable housing resources, assistance in making arrangements to move personal property and belongings and transportation of residents who are unable to drive to prospective replacement housing.

Analysis: As discussed in the Program of Relocation and Purchase Assistance and Relocation Impact Report, the individual assessments provided at on-site meetings with the Relocation Specialist will provide assistance in finding alternative housing through condos/townhomes for sale and apartments for rent availability at comparable costs to all interested residents.

- k. It is desirable that conversion projects with proposed residential uses contain housing that is affordable to all income levels of existing residents and provide a first priority opportunity to purchase or rent such units to existing residents. Units with rents and purchase prices restricted by recorded covenants will be considered desirable for mitigation of relocation impacts to lower-income residents.

Analysis: The project includes on-site replacement housing for all residents should they choose the option. Residents who elect replacement housing would be relocated to an apartment unit once the new project is completed. The rent would remain the same and all applicable mobilehome protection laws would apply to the tenancies. Rent increases are currently capped at 3% pursuant to the Mobilehome Rent Ordinance.

Standards for the contents of the Relocation Impact Report (RIR)

Section 3 of Council Policy 6-33 states that in evaluating whether the Relocation Impact Report is provided is consistent with a satisfactory program of relocation and purchase assistance, the following considerations should be taken into account:

- a. The Relocation Impact Report should identify space vacancies and units for sale, including price and space rent, and required purchaser income (if available) in the Santa Clara, Alameda, San Mateo, and Santa Cruz counties (the four counties) and should indicate which, if any, may be subject to rent stabilization ordinances. The list should also include any mobilehome park specifically requested by a resident mobilehome owner within a 100-mile radius of the subject mobilehome park and for each such mobilehome park, the space-rents, whether the park is rent-stabilized and the qualifications for residency in each mobilehome park (e.g., age restrictions, no pets, minimum income), whether the mobilehome park has any available space and will accept mobilehomes being relocated and, if so, any restrictions such as size and age, on the relocated mobilehomes that would be accepted.

Analysis: The Relocation Impact Report includes a summary of research in vacancies within the four-county area. Contact was made with 122 parks out of 136 parks identified. No available mobilehome spaces were discovered. A complete list of comparable space rent is provided in Attachment D of the report. A complete list of mobilehomes for sale is provided in a separate Attachment F of the report.

- b. The Relocation Impact Report should indicate number of residents in the following categories: earning less than 30% Area Median Income (AMI), 50% AMI and 80% AMI, disabled under State or Federal definitions or by declaration of the resident; senior citizens; and families with minor children. This information should be obtained via a confidential questionnaire sent by the park owner to each mobilehome owner and resident of the park on a form provided by the City. The questionnaires shall be kept separate from the rest of the RIR materials and shall not be included in the overall RIR sent to each mobilehome owner and resident. The identity of each mobilehome owner and resident and his or her responses shall be kept confidential and used only to determine the relocation assistance to be provided to a particular mobilehome owner or

resident. If a questionnaire contains insufficient information, the City may seek the information directly from the mobilehome owner and resident. The City shall be entitled to reimbursement for any such costs if the park owner failed or refused to obtain such information.

Analysis: Staff reviewed and approved the confidential questionnaire sent to each resident. The Relocation Impact Report provides a summary of results while maintaining confidentiality and lists the number of residents in each AMI category.

- c. The Relocation Impact Report should discuss space-rent affordable for residents in the above 80% AMI and the various lower-income categories, assuming that space rent plus typical mobilehome mortgage does not exceed 30% of income.

Analysis: The Relocation Impact Report discusses research results on spaces to rent within the four-county area and the Relocation Specialist was unable to find any spaces to relocate residents mobilehomes.

- d. The RIR should indicate the difference between the actual cost of housing available to the residents in the four counties (actual market rent) and the Federal Department of Housing and Urban Development's (HUD) fair market rent, and if this difference is more than 5%, the RIR should adjust the subsidies to reflect actual market rent. The rent subsidy should be the difference of rent paid by the resident in the mobilehome park and any higher rent for either a space at another mobilehome park if the mobilehome is relocated, or rent for comparable housing if the resident moves to other rental housing.

Analysis: The Relocation Impact Report provides details that are consistent with this section. For residents that choose to relocate, the increased replacement rent will be limited to the most recent RentCafe.com-calculated average apartment rental rate in the City of San Jose for a comparable apartment with the same number of bedrooms as the resident's mobilehome, per the home's original plan. This limit may be increased in instances where there is more than a 5% difference between the actual market rent for lot spaces and rentals, and the Fair Market Rent limits defined by HUD.

- i. The Relocation Impact Report should include a discussion of measures available to ensure residents have options to relocate to housing that will be affordable once the rent subsidy is no longer available. Such measures might include provision of affordable housing (rental or for-sale) in the proposed conversion project, provision of additional mileage and other benefits needed for a move outside of the four counties, and phasing of resident relocation to allow residents to find new housing within their means.

Analysis: The Relocation Impact Report discusses relocation advisory services, which includes referrals to possible replacement sites, assistance with filling

out rental applications, and the assurance that residents select the option that best meets long-term housing and financial needs, particularly after rental subsidies and other relocation benefits have been exhausted. The Program of Relocation and Purchase Assistance and the Relocation Impact Report discusses relocation assistance as a complete package where the Relocation Specialist works with individual residents to develop a plan based on what each personal needs and circumstances. Each package would determine permanent affordable replacement housing from the beginning, consisting of either permanent on-site replacement housing or permanent off-site housing. Should a resident choose off-site housing with a rent subsidy, the Relocation Specialist would work with the resident to find a permanent off-site housing location, and the package would include moving assistance to the off-site comparable replacement housing, in addition to the replacement of accessibility improvements if needed.

- m. The Relocation Impact Report should list the other mobilehome parks that are in the closure/conversion process in the four counties and their size. The Relocation Impact Report should also list the mobilehome parks that have closed in the period commencing six months prior to the notice of intention in the four counties, and the outcomes (e.g., new city of residence, rent and space rent) for the former residents of those closed mobilehome parks.

Analysis: The Relocation Impact Report states that this park closure will be the first for the City of San José. The Relocation Impact Report also discusses closure of the outcomes of the Blue Bonnet Mobile Home Park in the City of Sunnyvale.

- n. At a minimum, the RIR should include the following information with monetary values determined by the selected appraiser:
 - i. A description of new use(s) for the subject site including, but not limited to appraisals of the mobilehome park site with the proposed uses on-site, and appraisal of the highest and best use of the mobilehome park site;
 - ii. A timetable with phases of relocation of existing residents and development of the new project delineated for conversion of the subject mobilehome park to another use;
 - iii. A legal description of the mobilehome park; and
 - iv. The number of spaces in the mobilehome park.
 - v. For each space in the mobilehome park:
 - 1. The size in square feet, type (e.g., single-wide, recreational vehicle, stick-built), number of bedrooms, manufacturer, and date of manufacture of the mobilehome on the space, or if space is unoccupied indicate date of last occupation;

2. The number of occupants of the mobilehome and their length of residency in the mobilehome park;
3. The total monthly space rent currently charged for each space with detail showing the space rent, utility charges, and any other charges paid by the resident to the park owner;
4. The in-place value the mobilehome would have if the mobilehome park were not being closed;
5. Any improvements to the mobilehome, including but not limited to patios, porches, pop-out rooms and any recent major improvements to the home, including but not limited to a new roof or new siding;
6. Any information available to the mobilehome park owner concerning any disability or special need of the occupants, which may be kept confidential by the City.
7. An appraisal of the mobilehome park site if continued in use as a mobilehome park;
8. An appraisal of the mobilehome park site if used for the highest and best use allowable under the existing General Plan land use designation for the subject site;
9. If the appraiser identifies lack of maintenance, or deterioration of the subject mobilehome park that negatively affects the value of a mobilehome, the appraiser should determine the value of the home with an upward adjustment in value as needed to eliminate the negative effect in value caused by the lack of maintenance or deterioration.
10. The purchase price of mobilehomes with similar size, age and number of bedrooms in comparable mobilehome parks including rent-controlled mobilehome parks. For this purpose, "comparable mobilehome park" means a mobilehome park that is similar in size, age, condition, and amenities to the mobilehome park that is proposed for closure, is located within a community similar to that in which the subject mobilehome park is located, and has similar access to community amenities such as the job market where a displaced resident is employed, schools, shopping, medical services, recreational facilities, and transportation.

Analysis: As described above, the appraisal would occur after the project has been approved and as such the Relocation Impact Report does not currently provide all of these details on each mobilehome. However, the Program of Relocation and Purchase Assistance does include information on what the Appraiser needs to accomplish when

selected. Additionally, appraisals have to occur within 90 days of payment to further staleness. In addition to the Agreement stating that the Applicant shall pay 100% of the in-place value of the mobilehome, the Appraiser will include any added value of the mobilehome, such as an accessory structure. Additionally, the Appraiser shall determine the value of each home with an upward adjustment to eliminate any negative effect in value caused by the overall condition of the Park.

- o. The Relocation Impact Report should also enumerate the costs of obtaining other comparable housing for rent and for sale, including but not limited to the purchase price of comparable condominiums and the costs of moving into a comparable house or comparable apartment, including such items as first months' rent, security deposits and higher mortgage and Homeowner Association fee payments or rent of the comparable housing. The moving costs should include the cost to move furniture and personal belongings, temporary lodging, moving insurance, and the appraised value of personal property that cannot be reasonably relocated.

Analysis: The Relocation Impact Report does include a list of homes for sale and homes for rent, in addition providing moving assistance.

- p. The Relocation Impact Report should also include estimates from two moving companies acceptable to the Designated Resident Association that are licensed and bonded to move mobilehomes on public streets and highways, of the cost of moving each mobilehome in the mobilehome park up to a maximum distance of 100 miles, including transportation to the new site identified by the resident, the cost of permits, and tearing down and setting up the mobilehome at the new location, including the cost of any upgrades to comply with applicable Federal, State, and local building, plumbing, electrical, housing, mobilehome park, accessibility, and health and safety regulations, and the cost of moving any improvements, including but not limited to patios, porches and pop-out rooms, reinstallation, replacement or reconstruction of blocks, skirting, shiplap siding, porches, decks and awnings, earthquake bracing if necessary, insurance coverage during transport, and utility hook-ups, and any upgrades required by the mobilehome park or State or local law.

Analysis: The Program of Relocation and Purchase Assistance and the Relocation Impact Report state that the Applicant shall provide residents with assistance from professional moving services. Additionally, the Relocation Impact Report provides costs from two qualified moving companies. The Applicant shall provide residents with the assistance of professional moving services. Moving assistance to Interim and Replacement housing shall include packing and moving services and shall include the unpacking of personal property if the resident desires such assistance. These moving services shall

also be provided to all residents who permanently relocate outside of the Park. Off-site moves shall be limited to the cost of moving within a 100-mile radius of the Park. Moving services shall be provided for each transitional move for residents relocating to Interim Housing prior to ultimately moving into Replacement Housing. Specific moving needs and requirements will be determined on an individual basis during a personal assessment and interview with each resident.

City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals

Under City Council Policy 6-30, the project is considered a large development proposal. Following City Council Policy 6-30, the applicant has posted the on-site sign to inform the neighborhood of the proposed project. Two formally noticed community meetings were held to discuss the project on Thursday, March 21, 2019 and Monday, August 26, 2019 at the Cypress Community Center. Approximately 80 members of the public were in attendance for the first meeting and 40 members of the public were in attendance for the second meeting. Comments received during the community meeting and project review are further discussed later in this report, in the Public Outreach section. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

- 6. Residential Design Guidelines.** The project complies with the Residential Design Guidelines as the development has been designed for the pedestrian at the ground level and providing an interesting architectural aesthetic, as described above. This project provides a series of complete walking paths around the entire project site and incorporates a walkway and bicycle trail from across the entire side on the northern side, that completes a pedestrian pathway from one end of the neighborhood to another. Furthermore, reduced building setbacks are appropriate to higher-density housing types in growth areas to reinforce the planned urban character of the neighborhood.

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

The project provides an approximately two-acre park, 42,082 square feet of common open space for the apartments, and 33,365 square feet of common open space for the for-sale units. A minimum of 60 square feet of private residential open space will be provided for the majority of units. This is consistent with the residential design guidelines standard that encourages the provision of a minimum of 60 square feet of private open space and 100 square feet of common open space per unit. The provided common open space will take advantage of the project's many opportunities for common outdoor terraces, pedestrian pathways,

and the adjacent park along the northern perimeter.

- 7. Environmental Review.** The City of San José, as the lead agency for the proposed project, prepared a Draft Environmental Impact Report (DEIR), which was circulated for public review and comment from August 30, 2019 to October 15, 2019. A First Amendment to the DEIR was prepared that provided 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 following discussion outlines the environmental impacts discussed in the DEIR.

Identified Significant Unavoidable Impacts – Impacts to the Winchester House Setting and Construction Noise

The DEIR found that the project would result in significant and unavoidable impacts due to changes in the historic setting of the adjacent Winchester House and construction noise impacts on adjacent residences.

The project evaluated in the DEIR includes an apartment building with five levels of residences over two stories of podium parking at the eastern portion of the project site, immediately south of the Winchester House and grounds. This apartment building includes six “fingers” above the podium parking that reach within 15.5 feet of the northern property line adjoining the shared property line with the Winchester House. A Historic Resources Project Assessment (Appendix D) found that although the project would not have a direct physical impact on the Winchester House, the design of the project would have a significant impact on the setting of the Winchester House for the following reasons:

Setting: The project does not provide a compatible setting to the Winchester House and grounds, as the proximity, massing, and dimensions of the project, coupled with the lack of open space and landscaping, would diminish the sense of space that currently exists on the Winchester House grounds. The project is at least twice as tall as the Winchester House and will block views of the mountains from the Winchester House grounds.

Design: The scale of the project may overwhelm the Winchester House by overshadowing it, and no landscaped open space buffer is proposed to make the building compatible with the design and setting of historic resource.

Feeling: The feeling of surrounding open space on the Winchester House grounds, which gives the feeling of the historic resource being part of a larger property, would be lost with development of the project.

Association: The project would significantly impact the integrity of association of the Winchester House with the agricultural past of its surroundings due to the reduction in open space and landscaping.

In addition, the DEIR identified a significant impact as the project would conflict with General Plan Policy LU-13.8, which requires new development adjacent to a designated landmark to be designed to be sensitive to the character of the landmark. In addition to the reasons stated above, the project would conflict with this policy because the project would shade portions of the Winchester House and outbuildings (including a greenhouse) during the winter months.

No feasible mitigation would reduce these impacts to a less than significant level absent a redesign of the project. The applicant proposes to retain seven trees adjacent to the Winchester House property and along the project's frontage with Winchester Boulevard, but this is not sufficient to reduce the impact of the project on the setting of the Winchester House. The DEIR evaluated six alternatives to the project, including three preservation alternatives that would reduce identified impacts to the Winchester House setting. These alternatives would either relocate the podium apartment building approximately 380 feet to the west, relocate the podium building approximately 10 feet to the south (closer to the I-280 on-ramp), or reduce the height of the three easternmost "fingers" of the podium building to four stories. The City Council certified the FEIR and adopted the Preferred Alternative, as further explained in detail in the separate City Council FEIR resolution.

The DEIR also identified a significant and unavoidable impact as major noise-generating construction activities consisting of demolition, site preparation, grading, and excavation will exceed 12 months in close proximity to adjacent residents. Because the project will be constructed in two phases, the length of resident's exposure to construction noise will be approximately 3.5 years.

A Statement of Overriding Considerations is required for this project for the identified significant and unavoidable impacts. The Statement of Overriding Considerations sets forth how the benefits of the project outweigh its significant adverse environmental impact. Specifically, it finds that the significant, unavoidable impacts of the project are acceptable because: i) the project will be phased to allow existing mobile-home park residents to remain on site during and after project construction; ii) the project will provide an approximately 2.0-acre neighborhood-serving park in a neighborhood with limited parks; iii) the project will support General Plan Major Strategies #3 to promote focused growth in City designated growth areas such as the Santana Row/Valley Fair Urban Village; iv) the project will support General Plan policies to focus high-density residential development in locations in proximity to high-frequency transit, such as the existing bus service and the proposed Bus Rapid Transit (BRT) service along Stevens Creek Boulevard; and v) the project will advance Envision San Jose 2040 General Plan goals for complete communities, with high-density residential in close proximity to existing and future commercial/retail uses.

Environmental Impacts and Mitigation Measures

As part of the certification of the Final EIR, the City Council adopted a related Mitigation Monitoring and Reporting Program (MMRP) for the project (Resolution No. [REDACTED]). As described in the DEIR and the MMRP, the following mitigation measures apply to the project:

Air Quality – The applicant must prepare a construction operations plan demonstrating that all diesel-powered off-road equipment operating on site for more than two days will meet U.S. Environmental Protection Agency (EPA) Tier 4 standards or equivalent. Implementation of these measures would reduce the temporary community health impact to a less than significant level.

Noise – Limitation on types and use of construction equipment and preparation of a construction vibration monitoring plan would reduce vibration-related construction impacts to adjacent structures (including the Winchester House and outbuildings) to a less than significant level. A construction noise logistics plan will be required to address construction noise impacts to neighboring residents. However, as discussed above, due to the length of major noise-generating construction activities, this impact is significant and unavoidable.

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. Tree protection measures are required to protect the 11 ordinance-sized trees from damage or removal during construction, including the cork oak along the project's Winchester Boulevard frontage.

Hazardous Materials – Due to the potential for residual agricultural chemicals, a Site Management Plan and worker Health and Safety Plan must be approved by the appropriate regulatory agency prior to the issuance of grading permits.

CEQA Alternatives

As required under CEQA, the DEIR evaluated two No-Project alternatives and two Reduced Development alternatives. 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 mobilehome park.

No Project – Existing Residential Neighborhood Land Use Designation Alternative: The No Project – Existing Residential Neighborhood Land Use Designation Alternative assumes a project is built consistent with the sites' Residential Neighborhood General Plan Land Use/Transportation Diagram

designation. Assuming an overall maximum density of eight dwelling units per acre, such a development would result in approximately 126 units (a net increase of 15 units over the existing mobilehome park).

Single Phase Construction Alternative: The Single-Phase Construction Alternative would not change the project design, but would construct the entire project in one phase instead of two phases to reduce the length of time residents are exposed to construction noise. This alternative would reduce total construction time by approximately half of the 3.5 years anticipated for the current project.

The DEIR evaluated three preservation alternatives to reduce impacts to the Winchester House, as follows:

Relocation of Podium Building to the West: This preservation alternative would relocate the seven-story podium apartment building approximately 380 feet west of the proposed location and locate four of the four-story “flat” buildings to the eastern portion of the site to the south of the Winchester House. Such an alternative would place reduced height buildings adjacent to the Winchester House grounds and would provide a landscaped buffer between the buildings and the northern property line to reduce impacts to the setting of the Winchester House.

Relocation of Podium Building to the South: This preservation alternative would shift the seven-story podium apartment building approximately 10 feet south from its proposed location, which would increase the distance between the Winchester House and podium building to approximately 25 feet. This would increase distance between the building and Winchester House grounds, reducing some of the identified impacts.

Reduced Height of Podium Building: This preservation alternative would reduce the height of the three easternmost “fingers” of the podium apartment building to four stories. This alternative would reduce the massing of the building at the locations adjacent to the Winchester House, which would reduce impacts to the setting of the Winchester House to a less than significant level.

The environmentally superior alternative is the No Project – Existing Residential Neighborhood Land Use Designation Alternative. This alternative would have a shorter construction timeframe and would not result in cancer risk and levels of annual particulate matter less than 2.5 microns (PM_{2.5}) in excess of BAAQMD thresholds during construction. In addition, impacts to biological resources, hazardous materials, and cosmetic damage to the Winchester House and to the adjacent residences would be the same or less than with the project assuming demolition of the existing structures and removal of all trees on-site would still occur. Finally, as development under this alternative would occur at a lower density, any new buildings would likely be no more than two-stories, avoiding the

significant and unavoidable impacts to the setting of the Winchester House. However, this alternative would not meet any of the Project objectives as it would result in a low-density residential development of a similar density to the existing mobilehome park.

Circulation and Public Comments

The DEIR was circulated for a 45-day period from August 30, 2019 to October 15, 2019. The City received 18 written comment letters during the public comment period. Comments were submitted by 12 individuals and the following agencies and organizations: San Jose Historic Landmarks Commission, California Department of Transportation (Caltrans), California Department of Toxic Substances Control (DTSC), Santa Clara Valley Transportation Authority, City of Santa Clara, and Stevens Creek Advisory Group/Winchester Neighborhood Action Coalition. Issues raised in these comment letters include, but are not limited to the following:

- a. Impacts to the Winchester House setting due to size and massing of development and removal of trees;
- b. Adequacy of soil testing in the Phase I, II, and updated Phase II Environmental Site Assessment;
- c. Traffic congestion on Winchester Boulevard and Stevens Creek Boulevard;
- d. Affordable housing;
- e. Size and use of the proposed park;
- f. Vehicle access to and from the site onto Winchester Boulevard;
- g. Pedestrian and bicyclist safety;
- h. Overflow parking in adjacent residential neighborhoods;
- i. Height and massing of the proposed development;
- j. Construction noise and air quality impacts to adjacent residents;
- k. Coordination of Traffic Study with City of Santa Clara;
- l. Emergency access to the site, especially during peak hours;

Revised Project Design Consistent with the Reduced Height of Podium Building Alternative

In response to comments on impacts to the setting of the Winchester House, the applicant elected to revise the project design consistent with the Reduced Height of Podium Building preservation alternative. Specifically, the revised design would remove two of the three seven-story “fingers” adjacent to the Winchester House grounds, reduce the height of one finger from seven to four-stories, extend the

seven-story portion of the podium building towards Winchester Boulevard, and increase the massing of the building on the western portion of the building to the south of the Santana West site. This design reduces the bulk and massing of the podium building at locations adjacent to the Winchester House grounds. The podium building will still be seven stories along the southern portion of the site facing I-280, but the distance between the seven-story portion of the building and the Winchester House grounds would increase by approximately 40 to 70 feet. As evaluated in the Reduced Height of Podium Building preservation alternative, the increase in distance between the tallest portions of the podium building and the Winchester House grounds would reduce the identified impacts to the setting of the Winchester House to a less than significant level. Therefore, the revised project plans dated November 18, 2019, show the Reduced Height of Podium Building preservation alternative as the project approved by the City Council.

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 DEIR, 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/activeeirs>.

EIR Recirculation Unnecessary

The comments received do not identify substantive inadequacies in the DEIR 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 DEIR 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 DEIR is not "significant" unless the DEIR 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 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; therefore, the EIR does not need to be recirculated.

- 8. Planned Development Permit Findings:** Chapter 20.100 of the San José Municipal Code establishes evaluation criteria for the issuance of a Planned Development Permit.

These criteria are applied to the project based on the above-stated findings related to General Plan, Zoning and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in the proposed permit. In order to make the Planned Development Permit findings pursuant to Section 20.100.720 of the San José Municipal Code, the City Council determines that:

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

Analysis: As described above, the project is consistent with and will further the policies of the General Plan.

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

Analysis: As discussed in the zoning conformance section, the Planned Development Permit conforms in all respects to the proposed R-M(PD) Planned Development Zoning of the property, including uses, design, setbacks, height, and parking.

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

Analysis: As described in the City Council Policy section above, the project is consistent with the City Council Policy 6-33 on Conversion of Mobilehome Parks to Other Uses. The policy supplements the ordinance in providing clarifications on requirements for a satisfactory Program of Relocation and Purchase Assistance as well as contents to supplement requirements for the Relocation Impact Report. Each of these sections are presented above with analysis on how the provided Program of Relocation and Purchase Assistance and Relocation Impact Report is consistent with each section. The project is also consistent with the City Council Policy on Public Outreach. Two formally noticed community meetings were held to discuss the project on Thursday, March 21, 2019 and Monday, August 26, 2019 at the Cypress Community Center. Approximately 80 members of the public were in attendance for the first meeting and 40 members of the public were in attendance for the second meeting. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

- d. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible, and aesthetically harmonious; and

Analysis: As described above, the interrelationship between the orientation, location, mass and scale of the building's volume and elevations is appropriate, compatible, and aesthetically harmonious. The apartment building closest to

Winchester Boulevard has the highest heights and the project transitions to lower heights, such as four-stories maximum in height, with greater setbacks adjacent to the single-family neighborhood. The architectural styles, color, and attention to detail are complementary along all façades of the buildings throughout the site. The project continues the pattern of protruding and recessing with each building and window components along each elevation. On the apartment building, the combination of the warm-color wood material blends nicely with the cooler concrete building materials. The balcony railings allow the volume of the building to be appreciated rather than hidden behind a solid material. The use of brick and concrete at the building's base gives a strong ground floor presence.

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

Analysis: *As discussed below, an Environmental Impact Report (EIR) was prepared for the Winchester Ranch Project in compliance with CEQA and the CEQA Guidelines. The project's impacts are discussed in the CEQA section below. Based on the findings of the EIR and as discussed below, the project was found to have no unacceptable negative effects in terms of noise, vibration, dust, drainage, erosion, stormwater runoff or odor on adjacent properties. Noise and ground vibration related to construction and demolition are the only anticipated to be temporary and mitigation measures would be implemented to reduce any negative effects. Best management construction practices would be implemented to reduce the construction impact on the neighborhood, as included as standard environmental conditions for the project.*

- f. In addition to the findings required pursuant to San José Municipal Code Section 20.100.940, a planned development permit may be issued for a mobilehome park conversion of use only if the director or planning commission finds that the applicant has provided a satisfactory program of relocation, rental assistance, purchase assistance or other assistance pursuant to Section 20.180.630 of the San José Municipal Code to mitigate the conversion on displaced mobilehome owners and mobilehome tenants.

Analysis: *Pursuant to Section 20.180.630, the Planned Development Permit contains a condition of approval that requires a plan of relocation and purchase assistance for mobilehome owners and mobilehome tenants within the proposed project (Condition #8). The project substantially conforms to the required components of the relocation and purchase assistance as outlined in Section 20.180.630 and in addition to the City Council Policy 6-33 that further clarifies what a satisfactory program should contain. Therefore, as described above in the zoning conformance and City Council Policy section, the project is consistent with providing a satisfactory program of relocation, rental assistance, and purchase*

assistance as needed.

9. Tree Removal Findings: Chapter 13.32 of the San José Municipal Code establishes required findings for a Tree Removals which findings are made for the Project based on the above-stated findings related to General Plan, Zoning and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in this Permit. In order to make the Tree Removal findings pursuant to Section 13.32.100 of the San José Municipal Code and recommend approval to the City Council, Planning Commission must determine that:

- a. That the condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal; or
- b. That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question.

Analysis: The project would remove 144 ordinance-sized trees and 284 non-ordinance size trees. The trees proposed to be removed are located either within the proposed building footprint, within the park area, or within necessary driveways. The trees proposed for removal could not be preserved because the project must satisfy the densities of the Urban Residential General Plan designation. Preservation of the trees would create a building footprint that would not be conducive to the growth envisioned in this area. Staff notes, the project will be preserving eleven large trees, with several of them being located close to the Winchester Mystery House, including one large Cork Oak tree close to Winchester Boulevard. A total 511 trees at the size of 24-inch box are required to be replanted. Pursuant to the project landscaping plan, a total of 865 trees will be replanted on-site consistent with the City's tree replacement ratios.

10. Demolition Findings: Pursuant to Section 20.80.460 of the San José Municipal Code the following criteria have been considered by the Director of Planning to determine whether the benefits of permitting the demolition of the existing building outweighs the impacts of demolition:

- a. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
- b. The failure to approve the permit would jeopardize public health, safety or welfare;
- c. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood.
- d. The approval of the permit should maintain the supply of existing housing stock in the City of San José;
- e. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;

- f. Rehabilitation or reuse of the existing building would not be feasible; and
- g. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

Analysis: Based on the Historic Resources Assessment Report by Archives & Architecture, the recreation building and other related ancillary structures located on-site are not on the historic inventory list and are eligible as Structures of Merit but do not qualify as City Landmarks. The demolition of the existing buildings would not result in the creation or continued existence of a nuisance, blight, dangerous condition or public health and safety issue; however, the demolition would help implement the General Plan by furthering Major Strategy # 3 and # 5 along with a number of other General Plan policies. The demolition of the existing buildings would facilitate the construction of a higher density residential project with 687 units. Re-use or rehabilitation of the building would not be practical given the location of each mobilehome and the nature of the existing mobilehome park. The existing units proposed for removal would be replaced by the project's 687 new units, increasing the City of San José housing stock. The surrounding uses are a mixture of residential and commercial uses; the proposed project use would be compatible with the existing uses in the area. While the proposed project is not compatible with the immediate surrounding area in terms of scale, the project is consistent with what is envisioned in the Santana Row Valley Fair Village Plan, in terms of densification, massing, and build-out.

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

CONDITIONS

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

José Municipal Code applicable to such Permit.

2. **Permit Expiration.** The Planned Development Permit shall automatically expire two (2) years from and after the date of issuance hereof by the City Council, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the City Council. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20 of the San José Municipal Code. The Permit Adjustment/Amendment must be approved prior to the expiration of this Planned Development Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Planned Development Permit shall be deemed acceptance of all conditions specified in this permit and the permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.
5. **Conformance to Plans.** The development of the site shall conform to the approved Planned Development Permit plans entitled, "Planned Development Permit Winchester Ranch Site Development," dated revised on November 18, 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 Plan Set."

6. **Planned Development District Effectuated.** Once this Planned Development Permit is accepted, the use of land covered by the Permit shall only be land uses consistent with the Planned Development Zoning District and only upon issuance of a Planned Development Permit for those uses.
7. **Scope and Use Authorization of the Planned Development Permit.** Subject to all terms and conditions herein, this Planned Development Permit allows the conversion of a mobile home park to another use, the demolition of 111 mobile homes, recreation building (approximately 3,600 square feet), a pool (approximately 820 square feet), 36 sheds (ranging from 120 square feet to 400 square feet), and the construction of an approximately 2-acre neighborhood park, and 687 residential units (24 row home buildings, 6 flat buildings, and one apartment podium building), and an approximately 2-acre park on an approximately 15.7-gross acre site.
8. **Plan of Relocation and Purchase Assistance.** Pursuant to San José Municipal Code Section 20.180.630, permittee has submitted and the City has approved a plan for relocation and purchase assistance for mobilehome owners and mobilehome tenants. The plan is entitled "Winchester Ranch Senior Homeowners Association and Pulte Homes: Agreement Regarding Mobilehome Park Conversion" and dated June 25, 2019 and is incorporated fully herein by reference. The project shall be in full compliance with the approved plan and San José Municipal Code Section 20.180.630.
9. **Compliance with Local and State Laws.** The subject mobilehome conversion, construction, and use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject mobilehome conversion, construction, or use is conducted in such a manner as to violate any applicable law.
10. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code.
11. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance or that adversely affects the peace, health, safety, morals or welfare of persons residing or working in the surrounding area or be detrimental to public health, safety or general welfare. Any such nuisance shall be abated immediately upon notice by the City.
12. **Mechanical Equipment.** No roof-mounted or other exterior mechanical equipment shall be located within 120 feet of a residential property line unless a Sound Engineer has certified that noise levels from such equipment will not exceed 55 dBA at the residential property line. All roof mounted mechanical equipment shall be screened

from view.

13. **Window Glazing.** Unless otherwise indicated on the approved plan, all ground floor windows shall consist of a transparent glass
14. **Generators.** This permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
15. **Bicycle Parking Provisions.** This project shall provide a combination of short term uncovered bike parking as well as long term covered parking consistent with the requirements noted in the Zoning Ordinance.
16. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.
17. **Anti-Graffiti.** During construction, the permittee shall remove all graffiti from buildings, walls and other surfaces within 48 hours of defacement. Upon project completion and/or transfer of ownership, the property owner, and/or Maintenance District shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
18. **Loitering.** Loitering shall not be allowed in the public right-of-way adjacent to the subject site.
19. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
20. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the approved plan set.
21. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
22. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
23. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set. Any change in building colors and materials shall require a Permit Adjustment.
24. **Affordable Housing.** The permittee must execute and record their City Affordable Housing Agreement memorializing the City's Inclusionary Housing Ordinance (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.

- a. 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.
- b. 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.
- c. No Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the IHO and Affordable Housing Agreement are met.
- d. The existing property located at 555 South Winchester Blvd is subject to the City's Mobilehome Park Conversion to Ownership or to Any Other Use Ordinance, Chapter 20.180, and Council Policy 6-33, titled Conversion of Mobilehome Parks to Other Use. In addition are state law requirements set forth under California Government Code Section 66427.4 as well as California Civil Code Section 798.56(g) related to notice requirements.

25. Building Division Clearance for Issuing Permits. Prior to the issuance of any Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:

- a. Construction Plans. The permit file number, PD19-019, shall be printed on all construction plans submitted to the Building Division.
- b. Americans with Disabilities Act. The permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA), including paths of travel connecting all buildings on the site.
- c. Emergency Address Card. The permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
- d. Street Number Visibility. Street numbers of the buildings shall be easily visible at all times, day and night.
- e. Construction Plan Conformance. A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.

26. Construction and Demolition Hours. Construction, demolition, and grading activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday. This includes the staging of equipment and construction personnel. The construction

hours shall be printed on all plans for the project used to construct the project.

27. **Construction Disturbance Coordinator.** Rules and regulation pertaining to all construction activities and limitations identified in this Permit, along with the name and telephone number of a Permittee-appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.
28. **Demolition of Structures.** No demolition permits may be issued prior to the submittal of foundation or structural building permits. Demolition Permits may be issued prior to the Final Map approval.
29. **Landscaping.** Planting and irrigation are to be provided as indicated on the approved plans. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced. Permanent irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
30. **Landscaping Maintenance.** The permittee shall maintain on-site landscaping areas and landscaping areas along the public right-of-way areas/streets to the satisfaction of the Director of Public Works.
31. **Irrigation Standards.** The permittee shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San José Landscape and Irrigation Guidelines. The design of the system shall be approved and stamped by a California Registered Landscape Architect prior to Certificate of Occupancy.
32. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
33. **Street Cleaning and Dust Control.** During construction, permittee shall damp sweep the public and private streets within and adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, permittee shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.
34. **Recycling.** Scrap construction and demolition material should be recycled. Integrated Waste Management staff can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
35. **Lighting.** All exterior lighting shall be as shown on the approved plans. On-site, exterior, unroofed lighting shall conform to the Outdoor Lighting Policy. Lighting shall

be designed, controlled and maintained so that no light source is visible from outside of the property.

36. **Fencing.** Fence height and materials shall be as shown on the approved plans. Changes to the approved fencing shall require review by the Director of Planning, Building, and Code Enforcement.
37. **Garage Parking Spaces for Attached Residential Unit Projects.** All garage parking spaces shown on the Approved Plans are to be used only for parking of residential unit vehicles and shall be kept free and clear of all obstructions. No conversion of any garages to living space, storage, or any other use is permitted.
38. **Homeowner's Association.** A Homeowner's Association shall be established for maintenance of all common areas, including driveways/courtyards, landscaping and the community amenity area. A copy of this Permit, the accompanying Approved Plans, any approved Amendments or Adjustments to the Permit, and a complete set of approved building and all improvement plans shall be provided to the Homeowner's Association by the Permittee no later than 30 days upon completion.
39. **Green Building Requirements.** This development is subject to the City's Green Building Ordinance for Private Sector New Construction as set for in Municipal Code Section 17.84. Prior to the issuance of any shell permits, or complete building permits, for the construction of buildings approved through the scope of this Permit, the Permittee shall pay a Green Building Refundable Deposit. In order to receive a refund of the deposit, the project must achieve the minimum requirements as set forth in Municipal Code Section 17.84. The request for the refund of the Green Building Deposit together with evidence demonstrating the achievement of the green building standards indicated in Municipal Code Section 17.84 shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.
40. **Utilities.** All new on-site telephone, electrical, and other overhead service facilities shall be placed underground.
41. **FAA Clearance**
 - a. Prior to the issuance of any Building Permit, the permittee shall obtain from the Federal Aviation Administration (FAA) a "Determination of No Hazard" for the highest building point. The permittee shall initiate the required FAA review by filing a "Notice of Proposed Construction or Alteration" (FAA Form 7460-1) for the building high point. The technical data on the FAA form should be prepared by a licensed civil engineer or surveyor using NAD83 latitude/longitude coordinates out to hundredths of seconds and NAVD88 elevations rounded off to next highest foot.
 - b. The permittee shall comply with any condition set forth in an FAA Determination of No Hazard, including expiration date. If the FAA determination requires a

subsequent filing of a "Notice of Actual Construction or Alteration" (FAA Form 7460-2) upon completion of construction, such filing shall occur prior to City issuance of any certificate of occupancy (temporary or final).

42. Conformance to MMRP. This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program approved for this development by City Council Resolution No. [REDACTED].

43. Standard Environmental Permit Conditions

a. Air Quality

- i. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be water two times per day.
- ii. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- iii. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- iv. All vehicle speeds on unpaved roads shall be limited to 15 mph.
- v. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- vi. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- vii. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- viii. Post a publicly visible sign with the telephone number and person to contact regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- ix. Air filtration shall be installed in the proposed buildings. Air filtration devices shall be rated MERV16 or higher for portions of the site that have annual PM2.5 exposure above 1.15 µg/m3 (calculated as all units on the western half of the project site, within 55 feet of the southern property line) and MERV13 or higher for all other portions of the site. To ensure adequate health protection to

sensitive receptors (i.e., residents), all fresh air circulated into the dwelling units shall be filtered.

- x. An ongoing maintenance plan for the buildings' heating, ventilation, and air conditioning (HVAC) air filtration system shall be required. The plan shall be approved by the City's Supervising Environmental Planner in the Department of Planning, Building and Code Enforcement prior to issuance of occupancy permits. Maintenance records must be available for review by the City upon request.
- xi. Ensure that the use agreement and other property documents include the following: (1) require cleaning, maintenance, and monitoring of the affected buildings for air flow leaks, (2) assurance that new owners or tenants are provided information on the ventilation system, and (3) include provisions that fees associated with owning or leasing a unit(s) in the building include funds for cleaning, maintenance, monitoring, and replacements of the filters, as needed.

b. Biological Resources

- i. **Tree Replacement.** The removed trees shall be replaced according to tree replacement ratios required by the City, as provided in Table 1 below, as amended.

Table 1: Tree Replacement Ratios				
Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon

x:x = tree replacement to tree loss ratio
 Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size.
 A 38-inch tree equals 12.1 inches in diameter.
 A 24-inch box tree = two 15-gallon trees
 Single Family and Two-dwelling properties may be mitigated at a 1:1 ratio.

- ii. The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
- iii. If replacement trees cannot be fully planted on the project site, the project proponent shall make payment to the City for funding to plant any additional

trees within the City boundary prior to the issuance of any building permits. These funds will be used for tree planting and maintenance of planted trees for approximately three years. The project proponent shall provide the payment receipt for “off-site tree planting” to the Planning Project Manager prior to issuance of any building permit.

- iv. The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant shall submit a SCVHP Coverage Screening Form or Nitrogen Deposition Only Application Form (if no land cover fees apply) to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement for review and shall complete subsequent forms, reports, and/or studies as needed.

c. Cultural Resources

- i. Documentation. Prior to the demolition of any Structure of Merit, the structure shall be photo-documented to an archival level consisting of selected views of the building to the following standards:
 - i. Cover sheet
 - 1. The documentation shall include a cover sheet identifying the photographer, providing the address of building, common or historic name of the building, date of construction, date of photographs, and photograph descriptions.
 - ii. Lenses - No soft focus lenses. Lenses may include normal focal length, wide angle and telephoto.
 - iii. Filters – Photographer’s choice. Use of a polarized screen is encouraged.
 - iv. View - Perspective view-front and other elevations. All photographs shall be composed to give primary consideration to the architectural and/or engineering features of the structure with aesthetic considerations necessary, but secondary.
 - v. Lighting - Sunlight is usually preferred for exteriors, especially of the front facade. Light overcast days, however, may provide more satisfactory lighting for some structures. A flash may be needed to cast light into porch areas or overhangs.
 - vi. Technical - All areas of the photograph must be in sharp focus. The project applicant shall coordinate the submission of the photo-documentation, including the original prints and negatives, to History San José. Digital photos may be provided as a supplement to the above photo-documentation, but not in place of it. Digital photography shall be recorded on a CD and shall be submitted with the above documentation.

The above documentation shall be accompanied by a transmittal stating that the documentation is submitted as a Standard Measure to address the loss of the historic resource which shall be named and the address stated and coordinated with the City's Historic Preservation Officer.

- ii. Relocation or Salvage. Prior to demolition, the City will offer each of the buildings for relocation. The City's "offer for relocation" will be placed in a newspaper of general circulation, posted on a website, and posted on the sites for a period of no less than 30 days. In the event that relocation is not possible, prior to demolition the structure and site shall be retained a reasonable period of time as determined by the Director of Planning, Building and Code Enforcement and made available for salvage to the general public and companies facilitating the reuse of historic building materials.
- iii. In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Supervising Environmental Planner and Historic Preservation Officer of the Department of Planning, Building and Code Enforcement will be notified, and a qualified archaeologist will examine the find. The archaeologist will 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. If the finds do not meet the definition of a historical or archaeological resources, no further study or protection is necessary prior to project implementation. If the find(s) does meet the definition of a historical or archaeological resource, then it should be avoided by project activities. Project personnel should not collect or move any cultural material. Fill soils that may be used for construction purposes should not contain archaeological materials.
- iv. If avoidance is not feasible, adverse effects to such resources should be mitigated in accordance with the recommendations of the archaeologist. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery would be submitted to Supervising Environmental Planner and Historic Preservation Officer of the Department of Planning, Building and Code Enforcement and the Northwest Information Center.
- v. If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Supervising Environmental Planner of the City of San José

Department of Planning, Building, and Code Enforcement and the qualified archaeologist, who will then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American.

- vi. If the remains are believed to be Native American, the Coroner will contact the NAHC within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts.
 - vii. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
 - 1. The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 24 hours after being notified by the NAHC.
 - 2. The MLD identified fails to make a recommendation; or
 - 3. The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.
- d. Geology and Soils
- i. All excavation and grading work will be scheduled in dry weather months or construction sites will be weatherized.
 - ii. Stockpiles and excavated soils will be covered with secured tarps or plastic sheeting.
 - iii. Ditches will be installed, if necessary, to divert runoff around excavations and graded areas.
- e. Hazards and Hazardous Materials
- i. In conformance with state and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building to determine the presence of ACMs and/or lead-based paint.
 - ii. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings would be disposed of at landfills that meet acceptance criteria for the waste being disposed.
 - iii. All potentially friable ACMs shall be removed in accordance with NESHAP guidelines prior to building demolition or renovation that may disturb the

materials. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8 of CCR, Section 1529, to protect workers from asbestos exposure.

- iv. A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
 - v. Materials containing more than one percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.
- f. Hydrology and Water Quality
- i. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
 - ii. Earthmoving or other dust-producing activities would be suspended during periods of high winds.
 - iii. All exposed or disturbed soil surfaces would be watered at least twice daily to control dust as necessary.
 - iv. Stockpiles of soil or other materials that can be blown by the wind would be watered or covered.
 - v. All trucks hauling soil, sand, and other loose materials would be covered and all trucks would be required to maintain at least two feet of freeboard.
 - vi. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites would be swept daily (with water sweepers).
 - vii. Vegetation in disturbed areas would be replanted as quickly as possible.
 - viii. All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system may also be installed at the request of the City.
- g. Noise and Vibration
- i. Mechanical equipment shall be selected and designed to reduce impacts on surrounding uses to meet the City's 55 dBA noise level requirement at the property line of nearby noise-sensitive land uses. A qualified acoustical consultant shall be retained to review the mechanical noise equipment to determine specific noise reduction measures needed to reduce noise to comply with the City's Municipal Code noise level requirements. Noise reduction measures could include, but are not limited to, selection of equipment that emits low noise levels and installation of noise barriers, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the

nearest receptors. Other alternate measures include locating equipment in less noise-sensitive areas (such as along the building façades farthest from adjacent neighbors). The equipment and a letter from the reviewing acoustical consultant confirming conformance with the 55 dBA standard must be reviewed and approved by the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement prior to issuance of building permits for structures adjacent to residential uses

- ii. Residential units on the southern building façades of the condominiums and flats nearest the freeway and the podium building shall require a wall assembly with a sound transmission class (STC)80F 81 rating of 56 and windows and doors with a minimum STC rating of 43 to meet the interior noise threshold of 45 dBA DNL.
- iii. Provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for all residential units on-site, so windows can be kept closed at the occupant's discretion to control interior noise and achieve the interior noise standards

h. Population and Housing

- i. The project shall pay school impact fees pursuant to Government Code Section 65996.
- ii. The project shall pay the applicable PDO/PIO fees. The project's PDO/PIO fees would be used for neighborhood serving elements (such as playgrounds/tot-lots and basketball courts) within 0.75 mile of the project site, and/or community serving elements (such as soccer fields and community gardens) within a three-mile radius of the project site, consistent with General Plan Policies PR-2.4 and PR-2.5.

44. Public Works Clearance for Building Permit(s) or Map Approval: Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of any Building permits, whichever occurs first, the permittee shall be required to have satisfied all of the following Public Works conditions. The permittee is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following link:

<http://www.sanjoseca.gov/index.aspx?nid=2246>.

- a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.

- b. **Transportation:** A Transportation Analysis has been performed for this project based on 261 AM and 319 PM peak hour trips. The City concluded that the subject project will be in conformance with the City of San Jose Transportation Analysis Policy (Council Policy 5-1) and a determination for a negative declaration can be made with respect to traffic impacts. See separate Traffic memo dated 10/08/19 for additional information. The project is conditioned the following improvements:
1. Construct or provide an equivalent contribution towards the improvements at the following intersections which include but are not limited to the following:
 - a) Stevens Creek Boulevard and Winchester Boulevard
 - i. Remove existing pedestrian islands on the southeast and southwest corners of Stevens Creek Boulevard.
 - ii. Reduce the curb radius on the southeast and southwest corners. This will require re-grading of the existing pavement and modification/relocation of existing storm drain system.
 - iii. Perform a major signal modification which may include but is not limited to:
 - a) Removal of existing poles and installation of two (2) new signal poles with mast arms at both corners
 - b) Installation of two (2) new 1-B poles at both corners.
 - c) New street lights pending lighting calculation.
 - d) Installation of two (2) Iteris Next video detection cameras.
 - e) Associated equipment for deployment of adaptive signal timing.
 - b) Stevens Creek Boulevard and Monroe Street
 - i. Narrow the southbound lanes and install a pedestrian refuge island.
 - ii. Provide bicycle route markings across Stevens Creek Boulevard.
 2. Construct one (1) right-in only driveway from Winchester Boulevard to Charles Cali Drive and one (1) full-access driveway at Olsen Drive.
 3. Conform to the I-280/Winchester Boulevard Transportation Development Policy, which requires payment of a traffic impact fee per PM peak hour trip generated by the project through the Policy Interchange. The fee shall be prorated per PM peak hour trip and paid prior to the issuance of Public Works clearance for each Building Permit.
- c. **Urban Village Plan:** This project is located in Valley Fair/Santana Row, a designated Urban Village per the Envision San José 2040 General Plan. Urban Villages are designed to provide a vibrant and inviting mixed-use setting to attract pedestrians, bicyclists, and transit users of all ages and to promote job growth.

- d. **Grand Boulevard:** This project fronts South Winchester Boulevard which is designated as one of the seven Grand Boulevards per the Envision San José 2040 General Plan. Grand Boulevards are identified to serve as major transportation corridors for primary routes for VTA light-rail, bus rapid transit, standard or community buses, and other public transit vehicles.
- e. **Grading/Geology:**
 - 1. A grading permit is required prior to the issuance of a Public Works Clearance.
 - 2. All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2013 California Plumbing Code or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
 - 3. If the project will haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of any grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
 - 4. Because this project involves a land disturbance of one or more acres, the permittee is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
 - 5. A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit. This report should include, but is not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations.
- f. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
 - 1. The project's Stormwater Control Plan have been reviewed and this project will be in conformance with City Policy 6-29.

2. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
- g. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
- h. **Flood: Zone D,** the project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
- i. **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 issuance of Public Works clearance.
- j. **Parks:** This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose 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 for Dedication of Land" and/or "Schedule of Fees and Credits" contained within in the chapter.
- k. **Street Improvements:**
 1. Remove the existing cul-de-sac and construct new cul-de-sac along Olsen Drive. Dedication of the cul-de-sac is required.
 2. Construct 10-foot wide attached sidewalk with tree wells along the Olsen Drive project frontage.
 3. Construct a 26-foot wide driveway along Olsen Drive per City standard detail R-6.
 4. Remove existing curb, gutter, and sidewalk and construct a 20-foot wide attached sidewalk with tree wells along the South Winchester Boulevard project frontage. A 10-foot wide street dedication is required.
 5. Construct a 20-foot wide driveway along South Winchester Boulevard per City standard detail R-6.
 6. Provide adequate turn-around space for trucks at the terminus of Maplewood Avenue, Rosewood Avenue, and South Henry Avenue. Dedication of the turn-around space is required.
 7. Provide east-west bike/pedestrian connectivity from Prune Way to Olsen Drive.
 8. Remove and replace broken, uplifted curb and gutter as well as broken, uplifted, or non-ADA compliant sidewalk along project frontage

9. Permittee shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 10. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
 11. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
 - l. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
 - m. **Street Trees:** The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
 - n. **Private Streets:**
 1. Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.
 2. The plan set includes details of private infrastructure improvements. The details are shown for information only. Final design shall require the approval of the Director of Public Works.
 - o. **Referrals:** This project should be referred to the California Department of Transportation Caltrans for review. Please contact the Caltrans Regional Project Manager for Santa Clara County at (510) 622-0767.
40. **Revocation, Suspension, Modification.** This Planned Development Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council, as applicable, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2 of Chapter 20.100 of Title 20 of the San José Municipal Code it finds:
- a. A violation of any conditions of the Planned Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or

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

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

EFFECTIVE DATE

The effective date of this Permit (File No. PD19-019) shall be the effective date of the Planned Development Rezoning Ordinance for File No. PDC18-037 passed for publication on January 14, 2020 (the "Planned Development Rezoning Ordinance") and shall be no earlier than the effective date of said Planned Development Rezoning Ordinance.

ADOPTED this _____ day of _____, 20__, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

NOTICE TO PARTIES

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

Exhibit "A"

Legal Description

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

BEGINNING AT THE POINT OF INTERSECTION OF THE WESTERLY LINE OF WINCHESTER BOULEVARD, FORMERLY SANTA CLARA - LOS GATOS ROAD, AS SAID LINE WAS ESTABLISHED BY PARCEL 1-A IN THAT CERTAIN FINAL ORDER OF CONDEMNATION ENTERED ON APRIL 4, 1963 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SANTA CLARA, IN THAT CERTAIN ACTION ENTITLED, "THE PEOPLE OF THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE DEPARTMENT OF PUBLIC WORKS, PLAINTIFF, VS. CHARLES J. CALI, ET AL, DEFENDANTS", CASE NO. 134825, A CERTIFIED COPY OF WHICH ORDER WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON APRIL 4, 1963 IN BOOK 5969 OFFICIAL RECORDS, PAGE 661, WITH A NORTHERLY LINE OF THAT CERTAIN 30.40 ACRE TRACT OF LAND DESCRIBED IN THE DEED FROM CHARLES J. CALI TO CHARLES J. CALI ET UX, DATED MARCH 19, 1953, RECORDED MARCH 24, 1953 IN BOOK 2605 OFFICIAL RECORDS, PAGE 204, SANTA CLARA COUNTY RECORDS; THENCE FROM SAID POINT OF BEGINNING SOUTH 0° 40' 07" WEST ALONG SAID WESTERLY LINE OF WINCHESTER BOULEVARD FOR A DISTANCE OF 110.42 FEET; THENCE SOUTHWESTERLY ALONG AN ARC OF A CURVE TO THE RIGHT, TANGENT TO THE PRECEDING COURSE, WITH A RADIUS OF 50.00 FEET, THROUGH A CENTRAL ANGLE OF 84° 25' 44", FOR AN ARC DISTANCE OF 73.68 FEET TO A POINT IN THE NORTHERLY LINE OF JUNIPERO SERRA FREEWAY (STATE HIGHWAY), AS SAID LINE WAS ESTABLISHED BY THE FINAL ORDER OF CONDEMNATION ABOVE REFERRED TO; THENCE SOUTHWESTERLY ALONG SAID NORTHERLY LINE OF JUNIPERO SERRA FREEWAY FOR THE FOLLOWING COURSES AND DISTANCES: SOUTH 85° 05' 51" WEST 335.98 FEET; THENCE ALONG AN ARC OF A CURVE TO THE LEFT, TANGENT TO THE PRECEDING COURSE, WITH A RADIUS OF 4053.00 FEET, THROUGH A CENTRAL ANGLE OF 2° 19' 06", FOR AN ARC DISTANCE OF 164.00 FEET; THENCE SOUTH 84° 46' 26" WEST 710.02 FEET; THENCE SOUTH 84° 41' 23" WEST 299.89 FEET; THENCE SOUTH 84° 03' 45" WEST 50.63 FEET TO THE POINT OF INTERSECTION THEREOF WITH THE WESTERLY LINE OF SAID 30.40 ACRE TRACT ABOVE REFERRED TO; THENCE NORTH 0° 05' WEST ALONG SAID WESTERLY LINE OF THE 30.40 ACRE TRACT FOR A DISTANCE OF 695.61 FEET TO THE NORTHWESTERLY CORNER THEREOF; THENCE NORTH 89° 59' EAST ALONG A NORTHERLY LINE OF SAID 30.40 ACRE TRACT FOR A DISTANCE OF 820.05 FEET TO AN ANGLE CORNER THEREIN; THENCE SOUTH 0° 07' EAST ALONG AN EASTERLY LINE OF SAID 30.40 ACRE TRACT FOR A DISTANCE OF 348.18 FEET TO AN ANGLE CORNER THEREIN; THENCE NORTH 89° 56' EAST ALONG A NORTHERLY LINE OF SAID 30.40 ACRE TRACT FOR A DISTANCE OF 772.12 FEET TO THE POINT OF BEGINNING.

APN: 303-38-001