

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A SPECIAL USE PERMIT TO ALLOW THE DEMOLITION OF ALL BUILDINGS AND STRUCTURES ONSITE INCLUDING TWO RESIDENTIAL BUILDINGS AND ACCESSORY STRUCTURES APPROXIMATELY 7,057 SQUARE FEET, AND A WAREHOUSE APPROXIMATELY 10,663 SQUARE FEET, THE REMOVAL OF TWENTY-EIGHT (28) ORDINANCE-SIZE TREES AND THIRTEEN (13) NON - ORDINANCE-SIZE TREES, AND THE CONSTRUCTION OF AN APPROXIMATELY 255,048-SQUARE FOOT MIXED USE BUILDING CONSISTING OF 233 100% AFFORDABLE HOUSING UNITS (EXCLUDING TWO MARKET RATE MANAGER'S UNITS) AND 1,780 SQUARE FEET OF GROUND FLOOR RETAIL WITH AN ALTERNATIVE PARKING ARRANGEMENT, AND QUALIFYING INCENTIVES UNDER THE STATE DENSITY BONUS LAW, ON AN APPROXIMATELY 2.09-GROSS ACRE SITE LOCATED ON THE WEST SIDE OF MERIDIAN AVENUE BETWEEN FRUITDALE AVENUE AND CURCI DRIVE (961-971 MERIDIAN AVENUE)

FILE NO. SP19-064

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on November 12, 2019, an application (File No. SP19-064) was filed by the applicant, Drew Walstrum, a representative of ROEM West, Inc., for a Special Use Permit to allow the demolition of all buildings and structures on-site including two residential buildings and accessory structures totaling approximately 7,057 square feet, and a warehouse totaling approximately 10,663 square feet, the removal of twenty-eight (28) ordinance-size trees and twelve non-ordinance-size trees, and the construction of an approximately 255,048-square foot mixed-use building consisting of 233 100% affordable housing units (excluding two market rate manager's units) and 1,780 square feet of ground-floor retail with an alternative parking arrangement, and qualifying incentives under the State Density Bonus Laws requesting a vehicle parking reduction and a reduced front setback from 10 feet to 7 feet along Meridian Avenue, on an approximately 2.09-gross acre site, on that certain real property situated in the R-M Multiple Residence Zoning District and located on the west side of Meridian Avenue between Fruitdale Avenue

and Curci Drive (961-971 Meridian Avenue), San José, which real property is sometimes referred to herein as the "subject property"); and

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

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Planning Commission conducted a hearing on said application on April 8, 2020, 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, "Meridian Apartment," dated March 25, 2020, 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 project site is located on the west side of Meridian Avenue between Fruitdale Avenue and Curci Drive (961-971 Meridian Avenue). The approximately 2.09-gross acre site is comprised of three parcels and is developed. There are currently two single-story, single-family houses, one single-story warehouse and two single-story accessory structures, 41 trees, and paved areas for parking. Existing vehicular access to the site is provided via four driveways along Meridian Avenue. The buildings are vacant but were formerly used for residential and storage purposes. The existing structures total approximately 20,000 square feet and all will be demolished. A small remnant of orchard land is found to the south of the residence at 971 Meridian Avenue.

Land uses to the north, west, and across Meridian Avenue to the east are residential; to the south of the project site are commercial uses and a senior living facility.

- 2. Project Description.** Special Use Permit to allow the demolition of all buildings and structures on site including two residential buildings, accessory structures, a warehouse, and removal of 28 ordinance-size trees and 13 non-ordinance-size trees,

for the construction of a 100% affordable housing (excluding two market rate manager's units) project with up to 233 multi-family residential apartment units with subterranean parking inclusive of an alternative parking design, and incentives to reduce the required front setback along Meridian Avenue, and reduce the amount of required vehicle parking, all on an approximately 2.09-gross acre site.

The 80-foot, six-story, mixed-use building consists of 1,780 square feet of ground floor commercial space, 233 residential units on floors 2-6, a second-level (podium) interior courtyard, one level of subterranean parking providing 172 parking spaces and surface level parking providing 118 parking spaces, for a total of 290 vehicle parking spaces, including 55 tandem parking spaces. Entry to the above-grade and below-grade parking is provided via one full-access driveway on the southern end of the project site on Meridian Avenue. The surface parking would serve the retail and residential uses; below-grade parking would serve the residential use exclusively.

3. General Plan Conformance.

The project site has an Envision San José 2040 General Plan designation of Neighborhood Community/Commercial and is within an Urban Village. This designation supports a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail and services and commercial/professional office development. Neighborhood/Community Commercial uses typically have a strong connection to and provide services and amenities for the nearby community and should be designed to promote that connection with an appropriate urban form that supports walking, transit use and public interaction.

The mixed-use (residential/commercial) project with 100% affordability can proceed within the Urban Village growth area consistent with Urban Village Planning Policy IP-5.12.

Urban Village Planning IP-5.12: Residential projects that are 100% affordable and deed-restricted by a public entity for a period not less than 55 years, can proceed within an urban village ahead of a Growth Horizon, or in a village in a current Horizon that does not have a Council-approved plan, if the project meets the following criteria:

- a. The project does not result in more than 25% of the total residential capacity of a given Urban Village being developed with affordable housing ahead of that Village's Growth Horizon. For Villages with less than a total housing capacity of 500 units, up to 125 affordable units could be developed, however, the total number of affordable units cannot exceed the total planned housing capacity of the given Village.
- b. The development is consistent with the Urban Village Plan for a given Village, if one has been approved by the City Council.

- c. Development that demolishes and does not adaptively reuse existing commercial buildings should substantially replace the existing commercial square footage.
- d. The project is not located on identified key employment opportunity sites, which are sites generally 2 acres or larger, located at major intersections and for which there is anticipated market demand for commercial uses within the next 10 to 15 years.
- e. Affordable housing projects built in Villages under this policy would not pull from the residential Pool capacity.

Analysis: The project is a mixed-use (residential/commercial) building consisting of 233 affordable residential units (except for two manager units) and 1,780 gross square feet of ground-floor retail space. Through its design, the project supports walking, transit use and public interaction. Given project site's overlays (i.e., Local Transit Urban Village, Priority Development Area), and its commercial component, the project is aligned with the goals of the Neighborhood/Community Commercial designation. The Neighborhood Community Commercial designation supports a floor area ratio (FAR) of up to 3.5 (1 to 5 stories). The project includes a six-story building with a FAR of 2.74. Therefore, the project does not exceed the maximum floor area ratio.

Based on General Plan Policy IP-5.12, the project can proceed ahead of the Southwest Expressway Urban Village Plan because it includes a 100% affordable housing project. The Southwest Expressway Urban Village does not have an approved Plan; however, the General Plan projects this area to have a planned dwelling unit growth capacity for 2,668 dwelling units pursuant to Appendix 5 of the General Plan and the project would not result in more than 25% of the total residential capacity of the Urban Village. The project does not require the demolition of commercial buildings and based on the San José Market Overview and Employment Lands Analysis, this urban village has a short-term retail development potential, the subject site specifically, is not considered a key employment opportunity site. The Southwest Expressway Urban Village growth area only has a planned job capacity of 750 jobs.

General Plan Strategies and Policies

The project is consistent with the following key General Plan policies:

- a. Major Strategy #5 – Urban Village: The Urban Village Major Strategy promotes the development of Urban Villages to provide active, walkable, bicycle-friendly, transit-oriented, mixed-use urban settings for new housing and job growth attractive to an innovative workforce and consistent with the Plan's environmental goals. The General Plan establishes the Urban Villages concept to create a policy framework to direct most new job and housing growth to occur within

walkable and bike friendly Urban Villages that have good access to transit and other existing infrastructure and facilities.

Analysis: The subject site is within the Southwest Expressway Urban Village Plan growth area. The project would have a density of 112 dwelling units per acre, would be located approximately 1/3 mile from the Fruitdale Light Rail Transit (LRT) Station, and would provide 26 short-term bicycle parking spaces and 37 long-term bicycle parking spaces. This development with ground floor retail would facilitate an active environment consistent with the environmental goals of the General Plan and this Major Strategy.

- b. Major Strategy #3 - Focused Growth: The Focused Growth Major Strategy plans for new residential and commercial growth capacity in specifically identified "Growth Areas" (Urban Villages, Specific Plan areas, Employment Areas, Downtown) while the majority of the City is not planned for additional growth or intensification. The strategy focuses new growth into areas of San José that will enable the achievement of economic growth, fiscal sustainability, and environmental stewardship goals, while supporting the development of new, attractive urban neighborhoods.

Analysis: The subject site is located in an Urban Village growth area, located approximately 1/3 of a mile from the Fruitdale LRT Station; growth areas are identified as areas of San José that will enable economic growth, fiscal sustainability, and environmental stewardship. Consistent with the Focused Growth strategy, the project would develop 233 residential units and approximately 1,780 square feet of commercial square feet in the urban village growth area.

- c. Growth Areas Goal LU-2: Focus new growth into identified Growth Areas to preserve and protect the quality of existing neighborhoods, including mobile home parks, while establishing new mixed use neighborhoods with a compact and dense form that is attractive to the City's projected demographics i.e., a young and senior population, and that supports walking, provides opportunities to incorporate retail and other services in a mixed-use format, and facilitates transit use.

Analysis: The six-story mixed-use project consists of 231 affordable apartment units, 2 manager units (market rate), and ground-floor retail in a Growth Area (Southwest Expressway Urban Village). The ground-floor retail is designed with an interior height of 18 feet, all parking is sited away from the public right-of-way frontage, and other active uses, including a gym and community room, are located along Meridian Avenue to encourage a positive interface between pedestrians and the building; creating transparencies and attractive spaces supports walking and alternative modes of transit as well as enhances the quality of the existing neighborhood.

- d. Growth Area Policy LU-2.1: Provide significant job and housing growth capacity within strategically identified "Growth Areas" in order to maximize use of existing or planned infrastructure (including fixed transit facilities), minimize the environmental impacts of new development, provide for more efficient delivery of City services, and foster the development of more vibrant, walkable urban settings.

Analysis: The project development is in line with the General Plan's Growth Area policy in that it is a mixed-use project which provides 1,780 square feet of ground floor commercial space and is sited within 1/3 of a mile from the Fruitdale LRT Station, and would provide 15-foot wide sidewalks. Together, these project components will minimize the environmental impacts of new development and foster a walkable urban setting. The project includes a condition of approval which specifically requires the project to incorporate measure(s) to encourage public transit use to maximize and anticipate existing and planned transit infrastructure.

- e. Efficient Use of Residential and Mixed Use Land Use Policy LU-10.3: Develop residentially- and mixed-use-designated lands adjacent to major transit facilities at high densities to reduce motor vehicle travel by encouraging the use of public transit.

Analysis: The mixed-use project (residential/commercial) is providing the minimum bicycle parking for the retail and residential uses and is located approximately 1/3 of a mile from the Fruitdale LRT station. In addition, two local bus routes (Routes 25, 64B)) serve the mixed-use project. The project applicant is requesting a parking reduction incentive under the Density Bonus Law on the basis that it is 100% affordable and located within 0.5 mile of a major transit stop. As discussed above, the project includes a condition of approval (Condition Number 48) which specifically requires the project to incorporate measure(s) to encourage public transit use to maximize and anticipate existing and planned transit infrastructure. Measures could include an onsite public transit coordinator, public transit passes, and/or a bike share program. Altogether, the reduction in vehicle parking and the availability of alternative transportation options will encourage the use of public transit.

- f. Social Equity and Diversity - Goal H-1: Provide housing throughout the 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.
- g. Social Equity and Diversity Policy H-1.2: Facilitate the provision of housing sites and structures across location, type, price, and status as rental or ownership that respond to the needs of all economic and demographic segments of the

community including seniors, families, the homeless and individuals with special needs.

- h. Social Equity and Diversity Policy H-1.9: Facilitate the development of housing to meet San José's fair share of the County's and region's housing needs.
- i. Affordable Housing – Goal H-2: Preserve and improve San José's existing affordable housing stock and increase its supply such that 15% or more of the new housing stock developed is affordable to low, very low and extremely low income households.
- j. Affordable Housing Policy H-2.2: Integrate affordable housing in identified growth locations and where other housing opportunities may exist, consistent with the Environs San José 2040 General Plan.

Analysis for H-1, H-1.2, H-1.9, H-2, H-2.2: The project would increase the affordable housing stock within the City by providing a 100% affordable housing development and two market rate manager's units. The mixed-use project includes 233 units within the Southwest Expressway Urban Village, a planned Growth Area in the City. The project includes residential amenities such as an interior courtyard and garden, community room, and gym – all of which cater to a diverse population. Excluding two market rate units reserved for managers, the remaining 231 units are deed-restricted and affordable to households that earn between 30% and 80% or lower of the Area Medium Income (AMI).

- k. Social Equity and Diversity Policy H-1.17: Identify, assess, and implement potential tools, policies, or programs to facilitate new supply of housing that is affordable to lower-income workers and residents in key Growth Areas, such as in Urban Villages, priority development areas, and in transit locations.

Analysis: Priority Development Areas are considered geographic areas with their own corresponding height restrictions which supersede the height maximums in their respective parcel-specific zoning districts. The intent of the additional height allowance is to densify and give affordable housing projects, such as the subject project, the ability to maximize the lot area and provide more residential units. The subject site is in an Urban Village growth area, located within 1/3 of a mile of an existing rail station (Fruitdale Light Rail Station). Because of its location and overlays, the maximum allowable building height is 120 feet (otherwise, it would be 45 feet). The subject affordable housing project, measuring 80 feet in height, would increase the affordable housing stock in a key development area and is consistent with this General Plan policy.

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

- m. Parking Strategies Policy TR-8.6: Allow reduced parking requirements for mixed-use developments and for developments providing shared parking or a comprehensive TDM program, or developments located near major transit hubs or within Urban Villages and other Growth Areas.
- n. Connections, Goal CD-3, CD-4.6: Support cohesive and architecturally distinctive urban development along Grand Boulevards and include such design elements as enhanced landscaping; attractive lighting; wide, comfortable sidewalks; area identification banners; and harmonious building scale features.

Analysis for TR-4.1, TR-8.6, and CD-4.6: The six-story mixed-use project is a dense development in the Southwest Expressway Urban Village growth area. As discussed above, the project is served by several public transit options, including a light rail station and three bus lines. The project is a transit-oriented development as it is a mixed-use, multifamily project located in the Vasona Light Rail Development Corridor where the Fruitdale LRT Station is served by the Mountain View-Winchester LRT line. In order to provide 231 affordable residential units, the applicant has requested a parking reduction available under the State Housing Density Bonus and Incentives Law and an alternate parking design. The project is located on Meridian Avenue which is designated a Grand Boulevard in the General Plan and the project would provide a 15-foot sidewalk. The project has been designed to ensure an attractive project along a Grand Boulevard, including wider sidewalks and landscaping and proper façade articulation.

4. Residential Design Guidelines (Mixed Use Residential projects) Conformance

The Residential Design Guidelines were developed to assist in the design, construction, review, and approval of residential development in San José.

Building Design

The six-story building massing is punctuated by recessed vertical panels (black plaster) and windows and broken up by horizontal stone trim to distinguish between the base, middle and top. The façade is further articulated through variegation (brick veneer, black and beige plaster, painted metal), a stone base, and black metal railing that projects slightly off the building face. The project building is stylistically consistent and presents a continuous rhythm with adorned fenestration (parallel vinyl windows with canvas canopies), and encased sills to bring definition to the fourth and fifth floor story windows. The open-air theme from the second-level interior courtyard is carried on through the roof, resulting in an H-shaped cutout in the center of the building, bringing breathing room from within.

Mechanical equipment is concealed behind the parapet and then setback from a wood-framed screen on the roof.

Pedestrian Orientation

Although the overall network of sidewalks and crosswalks in the project area provides limited connectivity, the project would improve the pedestrian orientation by providing a 15-foot sidewalk with tree wells, active uses on the ground floor, including ground-floor retail space, and Code-required bicycle parking. Attention to façade articulation, complementary colors and materials and attractive landscaping, including three street trees, will enhance the pedestrian experience along the project frontage and will ultimately connect with the rest of the Urban Village as it is developed.

Open Space

Per the Residential Design Guidelines, private open space should be provided at a minimum of 60 square feet per unit with a minimum dimension of 6 feet. Common open space should be provided at a minimum of 100 square feet per unit. The project includes 233 dwelling units which would require a total of 23,300 square feet of common open space and 13,980 square feet of private open space. The project includes 30,772 square feet of common open space which includes a community room, gym, computer room, and open-air podium courtyard; and 14,516 square feet of private decks. The courtyard would be in the interior portion of the building on the second floor (podium) and therefore, its use and location would provide privacy for future residents and would not interfere with vehicular traffic.

Landscaped Areas

Per the Guidelines, fences and walls should be no more than 7 feet high, except when adjacent to incompatible uses, or when they are required for sound attenuation. To the south of the project site is a daycare use which is adjacent to the principal driveway. With the daycare use taken into consideration, the project includes the construction of an 8-foot concrete panel wall with screening vines along the site's southern boundary to buffer the daycare use from the project use. To the north and west of the project site are other residential uses – these edges are being treated with a combination of tall trees, screening vines, and an 8-foot tall concrete wall. Along the south and west areas of the property are terraced vegetable gardens, permeable paving, turf, drought-tolerant groundcover and planters (for stormwater management), which are separated from vehicle activity by a gate.

Parking Design

In addition to surface parking, the project includes one level of subterranean parking. Entry to the above-grade and below-grade parking is provided via one full-access driveway on the southern end of the project site on Meridian Avenue. The surface parking would serve the retail and residential uses; below-grade parking would serve the residential use exclusively. The 118 surface parking spaces are sited behind the active ground floor uses and therefore, the parking area is properly screened while still conveniently located to support the commercial use.

5. Zoning Ordinance (Title 20) Conformance

State Density Bonus Law (California Government Code Section 65915)

The State Density Bonus Law, pursuant to California Government Code Sections 65915-65918 and codified locally in Chapter 20.190 of the San José Municipal Code, is a mechanism that provides private development an opportunity to be granted waivers or concessions from development requirements in order to incentivize the development of affordable and senior housing. The State law code section allows reduced parking, reduced setback and minimum square footage requirements, and the ability to donate land for development of affordable housing to earn a density bonus. Cities and counties are required to grant a density bonus and other incentives or concessions to housing projects which meet one of the following conditions:

- At least 5% of the housing units are restricted to very low income residents.
- At least 10% of the housing units are restricted to lower income residents.
- At least 10% of the housing units in a for-sale common interest development are restricted to moderate income residents.
- The project donates at least one acre of land to the city or county for very low income units, and the land has the appropriate general plan designation, zoning, permits and approvals, and access to public facilities needed for such housing.

Pursuant to State law, waivers may be requested for a project that includes at least 30% of the units reserved for lower income residents.

The project is a 100% affordable project (excluding the two market rate manager's units) and is restricted to low- and moderate-income residents (as defined by the Area Median Income [AMI] table). Per the project applicant's incentives request letter dated March 26, 2020, the following development incentives are requested:

- a. A reduction in the amount of required vehicle parking. The Municipal Code requires a total of 389 vehicle parking spaces for the mixed-use project. The project applicant requests that parking be calculated using the reduced parking calculation in Table 20-290 of the Municipal Code which requires between 0.25 to 0.5 parking space per unit. With the application of the reduced parking ratio, the project would require 113 vehicle parking spaces instead of 389 spaces.
- b. A 7-foot setback along Meridian Avenue in lieu of the required 10-foot setback.

The ability to build the project with a reduced front setback and reduced vehicle parking would allow the development of 231 affordable units on site. As explained in the letter from ROEM, Inc. dated 3/26/20, by granting these incentives, the development would be able to not only provide 233 residential units, but also ensure that they are reasonably sized and have usable common open space.

Analysis: The R-M Multiple Residence Zoning District requires a 10-foot front setback. Adhering to this front setback would preclude much of the ground-floor retail space and significantly reduce the square footage of the community room amenity space provided at the front of the building.

As identified above, a development incentive for required vehicle parking is requested to bring the 389-parking space requirement down to a total of 113 parking spaces. According to the Transportation Analysis Memo dated 3/5/20, the residential component of the project would meet the residential screening criteria for being 100% restricted affordable units in a Planned Growth Area within ½ mile of high-quality transit and meeting the minimum transit supportive project density of 35 units per acre. When a project passes the screening criteria, it is expected to result in a less-than-significant VMT impact. The project provides 290 vehicle parking spaces (including 55 tandem spaces). Therefore, with the inclusion of the incentives for parking, the project is consistent with the Zoning Code.

Pursuant to Section 20.190.100, the project applicant has entered into a Regulatory Agreement with the City. In addition, Chapter 20.190.090 requires any project with a Density Bonus or an Incentive to make the following findings:

- a. The Housing Development is eligible for a Density Bonus and any Incentives, waivers or modifications requested.

Analysis: The project is a 100% affordable housing (excluding the two market rate manager's units) project for households earning between 30% and 80% AMI), as defined in Section 65915 of the Government Code for the State of California, and is therefore eligible for incentives/concessions/waivers available under the State Density Bonus Law for affordable housing projects.

Section 20.190.060.B.1 of the City of San José Zoning Code outlines a parking development incentive. Consistent with Table 20-290, the project is requesting a parking space reduction to require a total of 276 vehicle parking spaces in lieu of the required 389 parking spaces. Pursuant to City of San José Zoning Code Section 20.190.060.B.2, a development incentive to reduce the front setback area is requested to require a 7-foot setback in lieu of the required 10-foot setback.

- b. If the Density Bonus is based all or in part on donation of land, a finding that all the requirements for a land transfer Density Bonus that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.

Analysis: The project does not include a donation of land or land transfer.

- c. If the Density Bonus or Incentive request is based all or in part on the inclusion of a Child Care Facility, a finding that all the requirements for a Child Care Facility Density Bonus that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.

Analysis: *The project is not and does not include a Child Care Facility.*

- d. If the Incentive request is for a Mixed-Use development, a finding that all the requirements for a Mixed-Use Incentive development approval that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.

Analysis: *Although the project is a mixed-use (residential/commercial) development with 100% affordable units (with the exception of two market rate manager's units) and 1,780 square feet of commercial space, the project is not requesting a development incentive to allow mixed use because R-M Zoning District and the General Plan allow affordable mixed-use developments, as further described in this Resolution.*

- e. If the Incentive includes a request for approval of condominium conversion, a finding that all the requirements for a condominium conversion Incentive that are specified in the State Housing Density Bonuses and Incentives Law have been or will be met.

Analysis: *The project does not include a request for condominium conversion.*

Land Uses

Pursuant to Zoning Ordinance Section 20.120.110, the existing R-M Multiple Residence Zoning District is non-conforming with the NCC Neighborhood/Community Commercial land use designation. However, the General Plan allows this project to move forward. The subject site is designated NCC Neighborhood Community Commercial and is within the Southwest Expressway Urban Village growth area which does not have an Urban Village Plan adopted yet. However, the project is consistent with the General Plan's Urban Village Policy IP-5.12 which allows 100% affordable housing projects to be developed ahead of the adoption of an Urban Village Plan.

The R-M Multiple Residence Zoning District allows multi-family and mixed-use (residential/commercial) uses. Specifically, the purpose of the R-M Multiple Residence Zoning District is to reserve land for the construction, use and occupancy of higher density residential development and higher density residential-commercial mixed-use development. In the R-M Multiple Residence Zoning District, alternative parking arrangements are permitted with a Special Use Permit.

Development Regulations

The project conforms to the R-M Multiple Residence Zoning District Development Standards enumerated in Section 20.30.200 and as demonstrated in the table below, except for the requested waiver with respect to the front setback, as detailed above.

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	Required	Project
Front (Meridian Avenue)	10 feet minimum	7 feet , Density Bonus Incentive
Side, Interior	5 feet minimum	5 feet
Rear	25 feet	31 feet
Building Height	120 feet maximum	80 feet maximum

The six-story, 80-foot-tall project conforms with the 120-foot maximum height permitted pursuant to Section 20.85.020.D.

Parking

The subject meets the criteria under the State Density Bonus Law and therefore, can request additional incentives/waivers available under Chapter 20.190 of the San José Municipal Code which implements the requirements of the State Housing Density Bonuses and Incentives Law. The project applicant has requested in writing in a letter dated March 26, 2020, for a reduced parking incentive as shown in the table below.

Vehicle Parking:

Pursuant to Zoning Code Section 20.190.060.B.1, the reduced required parking ratios for Affordable Restricted Units are shown in the table below.

Unit Type	Number of Restricted Units	Parking Ratio	Number of Parking Spaces
Low Income			
0 – 1 Bedroom	67	0.25 per unit	17 required
2 -3 Bedroom	164	0.5 per unit	82 required
4 or more Bedroom Unit			
Total Affordable Units	231		
Total Required			99 Required
Total Provided			290 Provided

The two 3-bedroom manager units would be required to provide parking based on the Multiple Dwelling parking table (Table 20-210) in Chapter 20.90 of the San José Municipal Code, or 6 spaces. Vehicle parking for the 1,780 square foot retail use would be calculated 1 space per 200 square feet for a total retail parking requirement of 8 parking spaces. By granting the parking reduction, the project would be required to

provide 113 residential parking spaces and 8 retail parking spaces; 121 vehicle parking spaces in total. The project provides 290 vehicle parking spaces: 172 parking spaces in a subterranean garage and 118 spaces on the surface parking lot. The total parking would include 55 tandem parking spaces an alternative parking design with 55 tandem parking spaces. Therefore, the project would meet the vehicle parking requirement.

Bicycle Parking:

The mixed use project would require one bicycle parking space for every four units plus two short term bicycle parking spaces and one long term bicycle parking space for the retail. Consistent with the requirements, the project would provide 63 bicycle parking spaces.

Use	Ratio for Bicycle Parking	Required	Bicycle Parking Provided
Multiple Dwelling Units (233)	1 per 4 units	59	
Retail	1 per 3,000 square feet or minimum of 2 short-term parking and 1 long-term parking; a minimum of three motorcycle parking spaces shall be provided for each use	3	
TOTAL		62	63

Motorcycle Parking:

Pursuant to Section 20.90.350 and Table 20-250, the mixed use project would require one motorcycle parking space for every four units and one motorcycle parking space for every 20 code required retail commercial parking spaces. The project would require a minimum of 60 parking spaces (59 for the residential units and one for the retail space). Consistent with the requirements, the project would include 60 motorcycle parking spaces in the subterranean parking garage.

Alternative Parking Design

Pursuant to Section 20.90.200 in the San José Municipal Code, an alternative parking arrangement is requested to accommodate the provided 290 parking spaces on-site. The project's below and above-grade off-street parking spaces would include 55 tandem parking spaces in addition to 235 standard parking spaces. As shown on the approved project plans, 35 tandem parking spaces would be located in the subterranean parking level and sited on the east end and towards the center of the parking area and on the ground level, 20 tandem spaces would be located on the southern center aisle. The alternative parking design would allow the project to be designed to best accommodate the project applicant's anticipated needs for the operation the project, especially the residential component.

Performance Standards (Noise and Air Quality)

Table 20-85 of Section 20.30.700 establishes the maximum noise level in decibels at a property line for any residential or non-residential use. The maximum noise level is 55 decibels for any residential or non-residential use.

According to the Initial Study and Noise and Vibration Analysis prepared for the project, project-generated traffic noise impacts, mechanical equipment, truck deliveries, and the residential open space areas (courtyards and garden area) would generate the most operational noise for the mixed-use project. As shown in the approved project plans, the project includes an 8-foot pre-cast concrete panel with screening vines around the perimeter of the project site. The wall would contain much of the noise generated on-site and would be incorporated into the project as a condition of approval. Overall, the Noise and Vibration Analysis concluded the noise generated by these activities would not exceed the performance standards.

To minimize noise generated by mechanical equipment, the project would include a permit condition to ensure all mechanical equipment selected for the site meets the City's noise level requirement at the property line.

Tree Removals (SJMC Title 13.28):

Pursuant to Chapter 13.32 (Tree Controls), Section 13.32.030, of the San José Municipal Code a tree removal permit is required when the removal of a live tree is required. Pursuant to Section 13.32.030 (B), removal of trees is allowed with a development permit based on the following finding that the location of the tree with respect to an improvement unreasonably restricts the economic development of the parcel in question.

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Tree Replacement Ratios							
Circumference of Tree to be Removed	Type of Tree to be Removed ²						Provided
	Native	Non-Native	Orchard	Min. Size of Each Replacement Tree	Total No. of Trees to be removed	Required	
38 inches or more	5:1	4:1	3:1	15-gallon	29	116	
19 up to 37 inches	3:1	2:1	none	15-gallon	10	20	
Less than 19 inches	1:1	1:1	none	15-gallon	2	2	
					41	136	316

² x:x = tree replacement to tree loss ratio
³Ordinance-sized tree
Notes: Trees greater than 38 inches in 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 Tree Removal Permit is required for removal of trees of any size.
A 38-inch tree equals 12.1 inches in diameter.
One 24-inch box tree = two 15-gallon trees.

***Analysis:** Twenty-eight (28) ordinance-size trees and thirteen (13) non-ordinance-size trees will be removed to construct the project as described above. The Arborist Report prepared by HMM on January 18, 2019 provides a tree quantity summary which shows a total of 41 trees on-site. The dominant species include *Betula pendula* (6), *Cedrus deodara* (6), and *Ligustrum lucidum* (4). The majority of the trees including a native tree (*ponderosa* pine), per the arborist's observations, are crowded, structurally unsound, and have irregular canopies due to years of poor maintenance. Trees identified in the arborist report to be in good to moderate health (white birch, date palms, olive trees, and cedar trees) could be rehabilitated with proper care, however, these trees are located within the building footprint and would not be able to be maintained in their current location. Seven trees outside of the building footprint, on the northern property line, due to their size would be in conflict with the emergency vehicle access and therefore, cannot be preserved and incorporated into the project.*

All 41 trees required for removal would impede the development as described above. The project would be conditioned to replace the removed trees using the ratios in the table above (see Condition Number 25) and would therefore, not decrease the overall number of trees in the urban forest. The project applicant is providing the equivalent of 316 trees on-site, which exceeds the 136 replacement trees required.

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6. City Council Policy Conformance

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

Consistent with Council Policy 6-30 (Public Outreach Policy for Pending Land Use and Development Proposals), an onsite notice (24-inch x 36-inch sign) was posted on the subject property and Staff was available to respond to questions and concerns from neighbors regarding the project. Furthermore, a community meeting was held to discuss the project on Thursday, October 24, 2019 at the San José City Community College. Five members of the public were in attendance for the meeting and Staff addressed comments/concerns. Notices for the hearing were mailed to property owners and tenants within 500 feet of the project site.

7. Environmental Review.

An Environmental Impact Report (EIR) (State Clearinghouse Number 2019050006) was prepared by the Director of Planning, Building and Code Enforcement for the Meridian Apartments Project (SP19-064) in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines. The Initial Study prepared for this project concluded that implementation of the project would result in a significant impact on a historic resource; therefore, an EIR was prepared which focused the analysis on Cultural Resources.

The EIR determined that demolition of the residence at 971 Meridian Avenue, a candidate City Landmark structure, would be a significant and unavoidable impact. Even though mitigation measures that include documentation, relocation, and salvage would lessen the impact, but the residence and its historic connection to the current location would be lost. Therefore, the impact would be significant and unavoidable.

Mitigation measures were also developed to lessen the following impacts to less than significant levels: exposure of sensitive receptors to toxic air contaminants, disturbance and/or destruction of migratory nesting birds, exposure of workers to residual contamination from previous industrial operations at the project site, exposure of sensitive receptors to construction noise, and damage to adjacent structures from construction vibration.

Standard Permit Conditions are also required to ensure no impacts occur during construction and operation of the project. These Standard Permit Conditions include best management practices for construction related air quality impacts, compliance with the Santa Clara Valley Habitat Plan, compliance with the California Building Code for seismic safety of the project building, erosion control during construction activities, protection of unknown subsurface resources, protection of construction workers from hazards related to asbestos containing materials and lead-based paint, water quality impacts during construction, and impacts to public facilities.

The DEIR evaluated four alternatives to the proposed Project, including two No Project alternatives and two Preservation alternatives. The No Project – No Development Alternative would avoid all project impacts, including the significant and unavoidable impact to a potential historic resource of significance to the City of San José. However, CEQA requires that when the no-project alternative is the environmentally superior alternative, another alternative shall be identified as the environmentally superior alternative. The Preservation Alternative – Reuse of Single-Family Residence No. 2 would meet the project objectives and avoid the significant and unavoidable impact of the project. This alternative would provide local-serving retail along with high-density affordable housing on an infill parcel located near transit which aligns with the City's Envision San José 2040 General Plan and Urban Village goals. Therefore, this alternative is the environmentally superior alternative.

The City Council adopted and made a Statement of Overriding Considerations that this Project has eliminated or substantially lessened all significant effects on the environment where feasible, and finds that the remaining significant unavoidable impact of the Project is acceptable in light of the economic and social considerations noted below, because the benefits of the Project outweigh the significant unavoidable impact of the Project. The City Council finds that the overriding considerations set forth below constitutes a separate and independent ground for finding that the benefits of the Project outweigh its significant unavoidable environmental impact and is an overriding consideration warranting approval of the Project. These matters are supported by evidence in the record that includes, but is not limited to, the Envision San José 2040 General Plan and to development in a future Urban Village.

- This project would provide 231 100-percent affordable dwelling units at various levels of area median income (AMI) levels and two manager units as shown below. In addition to the dwelling units, the project includes 1,780 square feet of community serving retail
- By replacing two single-family houses with 233 dwelling units, the project would provide the highest density and best use of the project site for its current location.
- The project site is located along Meridian Avenue and a block away from Fruitdale Avenue, both major thoroughfares that are served by several bus lines. The project site is also within 0.5 mile from the Fruitdale Light Rail Transit station.
- The development also includes on-site amenities for the residents including a computer room, fitness center, and two outdoor courtyards, and provides on-site parking for vehicles and bicycles, both for the residential component and the retail component of the project.

Based on the above benefits, the project would meet the strategies and goals of the Envision San José 2040 General Plan and Urban Village criteria of locating high density development on infill sites near transit corridors, activating Meridian Avenue by providing ground floor retail, and promoting bicycling by providing bicycle parking. Most importantly, the project would be providing 233 much needed affordable housing units in a transit rich location.

The City Council weighed each of the above benefits of the proposed Project against its significant unavoidable impact identified in the EIR, and determined that these benefits outweigh the adverse environmental effect of the Project and, therefore, further determined that the adverse environmental effect is acceptable and overridden.

The Draft EIR was circulated for public review for 45 days consistent with CEQA Guidelines Section 15132 starting on February 3, 2020 and ending on March 18, 2020. No comments were received from the public that pertained to the adequacy of the Draft EIR, or required any changes to the Draft EIR. Therefore, the Draft EIR is the Final EIR for this project.

8. Special Use Permit Findings

To make the Special Use Permit findings, the City Council must determine that:

- a. The special use permit, as approved, is consistent with and will further the policies of the general plan and applicable specific plans and area development policies; and

Analysis: As noted above, this Special Use Permit is for a 100 percent affordable mixed-use housing project (excluding two market rate manager's units) and is consistent with the General Plan Land Use Designation of NCC Neighborhood Community Commercial (with an Urban Village overlay), the Urban Village Policy IP-5.12, and other General Plan Strategies and Policies. The project supports affordable housing policies with its 231 deed-restricted residential units to households earning 80 percent or less of the Average Median Income (AMI). The project fronts a Grand Boulevard (Meridian Avenue) and is located 1/3 of a mile from the Fruitdale Lightrail Station.

- b. The Special Use Permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the project; and

Analysis: As described above, the project complies with the height, performance standards, bicycle parking, motorcycle parking, and rear and side setbacks. Pursuant to Section 20.190.060, the project applicant requested two development incentives to facilitate the development of the affordable housing project since these Development Standards will have the effect of physically precluding the construction of a Housing Development at the density permitted by the Affordable Housing Density Bonuses and Incentives Chapter. In a letter dated March 26, 2020 from ROEM, Inc. to the City of

San José Department of Planning, Building and Code Enforcement, the project applicant requested a reduced front setback (to allow 7 feet in lieu of the required 10 feet), and a reduction in the amount of vehicle parking (from Code-required 398 vehicle parking spaces to 121 spaces), in order to construct the 100% affordable mixed-use project. With the implementation of the density bonus incentives, the project conforms to the Zoning Code.

- c. The special use permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency; and

Analysis: Consistent with Council Policy 6-30 (Public Outreach Policy for Pending Land Use and Development Proposals), an onsite notice (24-inch x 36-inch sign) was posted on the subject property and Staff was available to respond to questions and concerns from neighbors regarding the project. Furthermore, a community meeting was held to discuss the project on Thursday, October 24, 2019 at the San José City Community College. Five members of the public were in attendance for the meeting and Staff addressed comments/concerns. Notices for the hearing were mailed to property owners and tenants within 500 feet of the project site.

Consistent with Council Policy on the Preservation of Historic Landmarks, the project was presented for early referral comments to the Historic Landmarks Commission on June 5, 2019. Although the project site is not listed on the City of San José Register of Historic Resources, California's Historic Resources Inventory, or the National Register of Historic Places, the residence at 971 Meridian Avenue meets the criteria of a candidate City Landmark. It is the policy of the City that candidate or designated landmark structures, sites or districts be preserved whenever possible. Per the requirements of the Policy on the Preservation of Historic Landmarks, the project was required to give early public notification of the project to demolish a candidate landmark (Historic Landmarks Commission and community meeting), prepare an environmental document regarding opportunities for preservation/project alternatives (EIR: Meridian Apartments Project), and provide justification for the demolition of a candidate landmark structure (Statement of Overriding Considerations).

Consistent with Council Policy 6-32 (Green Building Ordinance), the project would be required (see Condition Number 41) to submit a Leadership in Energy and Environmental Design (LEED), Green Point, or Build It Green checklist during the building permit process.

Consistent with Council Policy 4-3 (Lighting: Outdoor Lighting on Private Developments), the project would use energy-efficient lighting that is fully shielded, down-lit and unobtrusive.

Consistent with Council Policy 6-29 (Post-Construction Urban Runoff Management), the project would implement post-construction Best Management Practices (BMP) and Treatment Control Measures (TCM) In addition, the project is designed consistently with the specific design guidelines for post construction TCM because it

replaces and adds at least 10,000 square feet or more of impervious surfaces.

Consistent with Council Policy 5-1 (Transportation Analysis Policy): The residential component of the project would meet the residential screening criteria for a 100% restricted affordable project in a Planned Growth Area, meeting minimum density requirements and located within ½ mile of high-quality transit. The retail component of the project would meet the screening criteria under local serving retail (100,000 square feet or less).

d. The proposed use at the location requested will not:

- a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
- b. Impair the utility or value of property of other persons located in the vicinity of the site; or
- c. Be detrimental to public health, safety, or general welfare; and

Analysis: The project would not affect the utility or value of surrounding properties in the neighborhood because the project is a mixed-use development (residential/commercial) in R-M Multiple Residence Zoning District surrounded by residential and commercial uses. This project could serve as a catalyst for future development given its density and pedestrian-friendly design in a designated Growth Area (i.e., Urban Village). The deed-restricted affordable housing units would increase the availability of affordable housing in the City and would further the overarching housing goals in the General Plan. All impacts identified in the environmental document will be mitigated and conditioned to have a less than significant impact on the public health, safety, and/or general welfare of residents.

e. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate the use with existing and planned uses in the surrounding area; and

Analysis: The project site is an approximately 2.09 gross acres. The site's size would support the development of a mixed-use project consisting of 233 affordable units (excluding 2 manager units), 1,780-square feet of retail space, two levels of parking, and integrate proper fencing and landscaping to buffer the project and its activities. As described, the project applicant is requesting an alternate parking design for a portion of the vehicle parking spaces to accommodate an additional 55 tandem parking spaces to best utilize the site's space. An 8-foot concrete masonry wall and screening vines and trees would be incorporated along the property line (excluding frontage) to integrate the project with the adjacent existing residential and commercial uses.

f. The proposed site is adequately served:

- a. By highways or streets of sufficient width and improve necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
- b. By other public or private service facilities as are required.

Analysis: The site is adequately served by streets and public service facilities. The subject site is served by Meridian Avenue and existing VTA transit services including bus and light rail lines. As identified above, the project is located near two local bus routes (25 and 64b). The Fruitdale LRT Station is located within 1/3 of a mile from the project site. The Fruitdale LRT Station is served by the Mountain View-Winchester LRT line and provides access to the Diridon Transit Center.

Water services to the project site would be supplied by the San José Water Company. Wastewater would be treated at the San José-Santa Clara Regional Wastewater Facility. The stormwater drainage system would be maintained and managed by the City of San José. Finally, all residential solid waste would be sent to the Newby Island Sanitary Landfill.

- g. 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 affect on adjacent property or properties.

Analysis: The project would incorporate measures to address noise and air quality impacts during construction. The project would implement site design measures, such as creating new pervious areas, adding landscaping around walkways, sidewalks, and source control measures such as use of efficient irrigation systems, covered trash and recycling containers, and providing an interior parking structure to properly manage stormwater onsite. As identified above, noise from the vehicular activity on the south end of the project site would be minimized by integrating an 8-foot masonry wall along this edge of the property. Trash removal activity occurring on the north side of the project site, adjacent to residential use, and would be screened by an 8-foot concrete panel wall. Per Section 9.10.550 of the San José Municipal Code, vehicles used to collect or transport garbage shall be maintained in such a manner as to meet or exceed vehicle emission standards promulgated by the State of California. Therefore, trash removal should not have an unacceptable negative affect on adjacent properties.

4. Alternative Parking Arrangement

In addition to any other findings required for a Special Use Permit, the City Council may approve such off-street parking facilities arrangements only upon making the following findings, as specified in Section 20.90.200 in the San José Municipal Code:

- a. The number of off-street parking spaces provided in such parking facilities adequately meets the parking requirements of the individual buildings and uses as specified in this Chapter 20.190 of this title.

Analysis: Code-required parking for the uses is 389 parking spaces. The project applicant has requested a reduction based on the State Density Bonus Law incentives as discussed above which would reduce the parking requirement to 126 spaces. The project is providing 290 vehicle parking spaces for the residential and commercial uses and would include the construction of a below-grade parking level to support the parking. The provided 290 parking spaces would exceed the density bonus required 113 parking spaces and would adequately meet the parking requirements. With the construction of the basement parking level, the project design utilizes tandem parking to make the most of the parking lots space and would make financial sense for the project. The tandem spaces would be reserved for the 2-3 bedroom units to better serve households with two vehicles. The 290 vehicle spaces provided by the project would adequately serve the retail and residential components.

- b. It is reasonably certain that the parking facility shall continue to be provided and maintained at the same location for the service of the building or use for which such facility is required, during the life of the building or use.

Analysis: The tandem parking arrangement would be maintained and operated for the life of the project. Because the parking is composed of two underground levels of parking and surface parking beneath the building, it is a fixed and permanent use. Furthermore, although the inclusion of the incentives would reduce required vehicle parking to 113 spaces, 290 parking spaces are being provided and will be managed by the onsite property management per Condition Number 38.

- c. The parking facility is reasonably convenient and accessible to the buildings or uses to be served.

Analysis: The 55 tandem parking spaces would serve the residential use and are conveniently accessible to residents via the primary driveway on the ground-floor as well as on the subterranean level.

5. Site Development Permit Findings

To make the Site Development Permit findings pursuant to San José Municipal Code Section 20.100.630, the City Council must determine that:

- a. The Site Development Permit, as approved, is consistent with and will further the policies of the General Plan and applicable specific plans and area development policies.

Analysis: See discussion above for Special Use Permit findings above. The project is consistent with the General Plan land use designation, strategies, goals, and policies.

- b. The Site Development Permit, as approved, conforms with the Zoning Code and all other provisions of the San José Municipal Code applicable to the project.

Analysis: See discussion above for Special Use Permit finding number 2.

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

Analysis: See discussion above for Special Use Permit findings above. The project is consistent with applicable City Council policies.

- d. The interrelationship between the orientation, location, and elevation of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

Analysis: The six-story mixed-use project would be the first of its kind along Meridian Avenue (between Curci Drive and Fruitdale Avenue). The 100% affordable development would serve as a catalyst for future development in the Southwest Expressway Urban Village growth area and is consistent with the General Plan goals for development in growth areas. The pedestrian-oriented building with ground floor retail serves as an attractive project that has been designed to complement walkable, transit-oriented development.

- e. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

Analysis: The project would front Meridian Avenue, a Grand Boulevard, which serves as a north-south connector. The project building is stylistically consistent with the closest tall building on Curci Drive (a senior living facility) which is four stories in height with a fifth-story faux tower on the corner of Curci Drive and Meridian Avenue, in that it follows a square orientation with adorned fenestration with complementary colors (beige, painted metal, black railing) and interior openings for light and air to penetrate. Mechanical equipment is concealed behind the parapet and then setback from a wood-framed screen on the roof so that it is aesthetically harmonious with its surroundings.

- f. 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 affect on adjacent property or properties.

Analysis: See discussion above for Special Use Permit findings. The project would not have an unacceptable negative affect on the adjacent property or properties.

- g. Landscaping, irrigation systems, walls, and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

Analysis: As shown on the plan set, the landscaping, irrigation systems, all walls and fences, utility, and trash facilities would be used to reduce operational outdoor private space noise and provide privacy for the project's residential open space and adjacent sites. By incorporating landscaping and treating the site edges to better integrate with the adjacent uses, the project would improve the appearance of the neighborhood and its appearance from Meridian Avenue.

h. Traffic access, pedestrian access and parking are adequate.

Analysis: Entry to the above-grade and below-grade parking is via a one full-access driveway on the southern end of the project on Meridian Avenue. The 290 vehicle spaces would provide adequate parking to serve the residential and commercial uses. The driveway on the north would serve loading and trash removal pick up activities. Pedestrian access, as shown on the plan set, would be available along the building frontage on Meridian Avenue and from stairs and elevator within the parking garage.

6. Evaluation Criteria for Demolition

Chapter 20.80.460 of the San José Municipal Code establishes evaluation criteria for issuance of a permit to allow for demolition. These criteria 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.

- 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: As noted above, the project includes the demolition of all buildings and structures on site. The demolition would facilitate a 233-unit mixed-use project (excluding 2 manager units) and would help provide much needed affordable housing in the City. Rehabilitation or reuse of the existing buildings would not be feasible because currently there are two single family residences and a warehouse on three

separate parcels which does not achieve the project density. The project is in the R-M Multiple Residence Zoning District which is intended for higher density development. The project is surrounded by multiple dwelling and commercial uses and would therefore, not be incompatible with the surrounding neighborhood. Additionally, the project, per the General Plan, is located within the Southwest Expressway Urban Village Growth Area in the City which encourages dense, mixed-use, pedestrian-oriented development.

As discussed above, the residence at 971 Meridian Avenue and the associated fruit orchard meet the eligibility criteria for City Landmark status as defined in Section 13.48.110.H of the San José Municipal Code having significance under the "Horticulture Expansion" context and the "Spanish Colonial Revival" context. Because all structures, including the eligible City Landmark structure, will be demolished, an Environmental Impact Report was prepared and includes a Statement of Overriding Considerations; in order to allow the full development of the project, preservation of the Candidate structure is not feasible. Mitigation measures identified in the environmental document (MM CUL-1.1-1.2) would require the applicant to document the residence at 971 Meridian Avenue in accordance with the guidelines established for the Historic American Building Survey; salvage or relocate the building/building materials; and have a qualified historian create a permanent interpretive program, exhibit, or display of the history of the property onsite.

7. Tree Removal Findings

Chapter 13.32 of the San José Municipal Code establishes at least one of the following required findings must be made for issuance of a Live Tree Removal Permit for ordinance-size trees. Findings are made for the project based on the findings related to General Plan, Zoning Ordinance and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in the resolution.

- a. That the tree affected is of a size, type and condition, and is in such a location in such surroundings, that its removal would not significantly frustrate the purposes of this chapter as set forth in Section 13.32.10; or
- b. That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question; or
- c. 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.

Analysis: With regard to finding b., above, all 41 trees identified for removal would impede the development as they are within the project's footprint and construction area. To accommodate the dense mixed use affordable project, the trees require removal. The project would be conditioned to replace the removed trees using with

the City's Standard Tree Replacement ratios and would therefore, not significantly frustrate the purpose of the City's Tree Removal controls.

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

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of 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 Special Use and Site Development Permit (hereafter collectively, "Permit") within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the permittee:
 - a. Acceptance of the Permit; 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 Permit shall automatically expire four (4) 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 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 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 Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.
5. **Conformance to Plans.** The development of the site shall conform to the approved Permit plans entitled, "Meridian Apartment," dated revised on March 25, 2020, 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. **Scope and Use Authorization of the Permit.** Subject to all conditions herein, this Permit allows the construction of an approximately 255,048-square foot mixed-use, 6-story building consisting of: 233 100% affordable housing units (excluding two manager's units) and 1,780 square feet of ground-floor commercial space with 290 vehicle parking spaces, including an alternative parking arrangement, with qualifying incentives under the State Density Bonus Laws for a reduction in the front setback along Meridian Avenue from 10 feet to 7 feet, and a reduction in vehicle parking requirement from 389 spaces to 113 spaces, in accordance with the approved development plans.
7. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local, state and federal laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as conditioned.
8. **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.

9. **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.
10. **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.
11. **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.
12. **Loitering.** Loitering shall not be allowed in the public right-of-way adjacent to the subject site.
13. **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.
14. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the approved plan set.
15. **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.
16. **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.
17. **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.
18. **Emergency Vehicle Access.** The project will be required to meet standard permit conditions for emergency vehicle access.
19. **No Generators Approved.** 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.

20. **Reclaimed Water.** The project shall conform to Chapters 15.10 and 15.11 of the San José Municipal Code for use of reclaimed water and shall include an irrigation system designed to allow for the current and future use of reclaimed water for all landscaping.
21. **No Extended Construction Hours.** This Permit does not allow any construction activity on a site located within 500 feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.
22. **Hours of Use.** The hours of use for outdoor common space areas and the interior areas of the residential community building will be limited between 6:00 a.m. and 10:00 p.m. daily. Amplified sound will not be allowed in these areas.
23. **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. Interior construction activities that do not generate any audible noise impacts at residential properties are allowed on Saturdays between 9:00 a.m. and 5:00 p.m.
24. **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.
25. **Timing of Tree Removals.** Trees that are required to be removed to accommodate new development shall not be removed until the related Public Works Grading Permit has been issued.

The trees removed by the project would be replaced according to tree replacement ratios required by the City, as provided in Table 4.4-1 below.

Table 4.4-1: Tree Replacement Ratios				
Circumference of Tree to be Removed ¹	Type of Tree to be Removed ²			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more ³	5:1	4:1	3:1	15-gallon container
19 – 38 inches	3:1	2:1	None	15-gallon container
Less than 19 inches	1:1	1:1	None	15-gallon container
¹ As measured 4.5 feet above ground level ² x:x = tree replacement to tree loss ratio ³ Ordinance-sized tree Notes: Trees greater than or equal to 38 inches in 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 Tree Removal Permit is required for removal of trees of any size. A 38-inch tree is 12.1 inches in diameter. One 24-inch box tree = two 15-gallon trees.				

- a. The species of trees to be planted shall be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.
 - b. If replacement trees cannot be fully planted on the subject project site, the project proponents shall make payment to the City to plant any additional trees within the City boundary prior to the issuance of any building permits.
26. **Window Glazing.** Unless otherwise indicated on the Approved Plan, all windows belonging to the ground-floor retail space shall consist of a transparent glass.
27. **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.
28. **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.
29. **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.
30. **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.
31. **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.
32. **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.
33. **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.

34. **Mechanical Equipment.** The location of mechanical equipment (AC Units) shall be located as shown on the approved plans and shall be screened from view.
35. **Utilities.** All new on-site telephone, electrical, and other overhead service facilities shall be placed underground.
36. **Permit Adjustment Required.** Prior to the issuance of any Building Permit, the permittee must obtain a Permit Adjustment for:
- i. Outdoor Lighting: Outdoor lighting that is consistent with the Outdoor Lighting on Private Developments and City of San José Interim Lighting Policy Broad Spectrum Lighting (LED) for Private Development.
 - ii. Back-up Generator: A back-up generator must meet the following:
 - i. Be enclosed within the building
 - ii. Be consistent with the Municipal Code Section 20.80.2030:
 - 1) Operation of a temporary stand-by or backup power generation facility, by definition, shall not exceed a maximum time period of four (4) consecutive months in any twelve (12) month period.
 - 2) Testing of generators is limited to 7:00 a.m. to 7:00 p.m., Monday through Friday.
37. **Lot Line Adjustment.** Prior to the issuance of any building permit, the applicant shall complete and have approved by the City a Lot Line Adjustment to merge the lots.
38. **On-site Property Management.** As a condition of approval, the project is required to provide 24-hour, on-site property management.
39. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
40. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the project must comply with the 2016 California Fire Code.
41. **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.

42. **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.* This permit file number, SP19-064 shall be printed on all construction plans submitted to the Building Division.
 - b. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - c. *Emergency Address Card.* The project Permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance begins 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.
 - e. *Project Addressing Plan.* Prior to issuance of any Building Permit, the following requirements shall be met to the satisfaction of the Chief Building Official: The project Permittee shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial). The addressing plan should include proposed street names for the streets (as referenced on an approved tentative map) and the type of addressing (i.e., individual street addresses as compared to unit number off of a primary street).
 - f. *Street Number Visibility.* Street numbers of the buildings shall be easily visible at all times, day and night
 - g. *Other.* Such other requirements as may be specified by the Chief Building Official.
43. **Common Area Landscaping.** All landscaping in common areas shall be maintained by the Homeowner's Association or other similar entity.
44. **Street Trees.** Street trees, as shown on Approved Plans, shall be planted on the street frontage. A permit for planting street trees shall be obtained from the City Department of Transportation, Trees and Landscaping Section, (408) 794-1900.
45. **Fence Standards.** Fences shall be erected in accordance with the standards established on the Approved Plans. Changes to the approved fencing shall comply with Section 17.24 of the City of San José Municipal Code.
46. **Interior Noise Standard for Residential Development.** The permittee shall prepare final design plans that incorporate building design and acoustical treatments to ensure compliance with State Building Codes and City noise standards. A project-specific

acoustical analysis shall be prepared to ensure that the design incorporates controls to reduce interior noise levels to 45 dBA DNL or lower within the residential units. The permittee shall conform with any special building construction techniques requested by the City's Building Department, which may include sound-rated windows and doors, sound-rated wall constructions, and acoustical caulking.

47. Construction-Related Noise. Noise minimization measures include, but are not limited to, the following:

- a. Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
- b. Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- c. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- d. Prohibit unnecessary idling of internal combustion engines.
- e. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- f. Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- g. Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- h. Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- i. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- j. Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

- k. Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

48. Additional Transit Measures: Prior to issuance of any Building Permits, permittee and the Director of PBCE and/or designee shall coordinate and determine cost-effective project design features or programmatic elements to encourage alternative modes of transportation to and from the site. These design features or programming may include, but are not limited to, the following:

- a. Development of a transit use incentive program for tenants, such as on-site distribution of passes or subsidized transit passes for local transit system (participation in the region-wide Clipper Card or VTA SmartPass system will satisfy this requirement).
- b. Implementation of a car-share program on-site.
- c. Implementation of an information packet and assigned transit manager to provide transit information for all new residents to the site. The information packet and manager could provide information such as education regarding alternative transportation options near the site.
- d. Provide a bicycle-share program or free use of bicycles on-site that is available to all tenants of the site.
- e. Unbundled parking.

Such alternative mode of transportation measure(s) shall be required with a Major Permit Adjustment application if the measure(s) will not jeopardize the financial feasibility of the project.

49. Conformance to MMRP. This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program (MMRP) approved for this development by City Council Resolution No. .

50. Standard Environmental Conditions.

a. Air Quality

- i. Water active construction areas at least twice daily or as often as needed to control dust emissions.
- ii. Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.

- iii. Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - iv. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
 - v. Pave new or improved roadways, driveways, and sidewalks as soon as possible.
 - vi. Lay building pads as soon as possible after grading unless seeding or soil binders are used.
 - vii. Replant vegetation in disturbed areas as quickly as possible.
 - viii. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
 - ix. Minimize idling times either by shutting off equipment 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).
 - x. Provide clear signage for construction workers at all access points.
 - xi. Maintain and properly tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
 - xii. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.
- b. Biological Resources:** The trees removed by the project would be replaced according to tree replacement ratios required by the City, as provided in Table 4.4-1 below.
- i. 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 Director of Planning, Building and Code Enforcement or the Director's designee for review and shall complete subsequent forms, reports, and/or studies as needed. The Habitat Plan supporting materials can be viewed at <https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan>.
- c. Cultural Resources:** The following Standard Permit Condition is required to avoid impacts to yet unknown subsurface cultural resources.
- i. Subsurface Cultural Resources. If 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 Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall 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. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials. The project applicant shall implement the recommendations of the qualified archaeologist.

The following measures shall be applied to the project to reduce and/or avoid impacts to human remains:

- ii. 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. If human remains are discovered 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 Director of Planning, Building and Code Enforcement or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (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. 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 48 hours after being given access to the site;
 - 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: The following Standard Permit Condition is required to avoid seismic and seismic-related impacts.

- i. To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.
- ii. All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- iii. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- iv. Ditches shall be installed, if necessary, to divert runoff around excavations and graded areas.

The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices will ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

The following measures shall be applied to development of the project site to reduce and/or avoid impacts to paleontological resources:

- v. If vertebrate fossils are discovered during construction, all work on the site shall stop immediately and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossils so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall

be submitted to the Director of Planning, Building and Code Enforcement or Director's designee.

- e. **Hazards and Hazardous Materials:** The project shall implement the following measures to reduce impacts related to lead-based paint and asbestos:
- i. In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be constructed prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials and/or lead-based paint.
 - ii. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with California Division of Occupational Safety and Health (Cal/OSHA) Lead in Title 8, CCR, Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
 - iii. All potentially friable asbestos-containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, 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.
 - vi. Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers.
 - 1) Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
 - 2) During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring, and dust control.

- 3) Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.

f. Hydrology and Water Quality: Best Management Practices to prevent stormwater pollution and minimize potential sedimentation shall be applied to project construction, including but not limited to the following:

- 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 shall be suspended during periods of high winds.
- iii. All exposed or disturbed soil surfaces shall 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 shall be watered or covered.
- v. All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.
- vi. All paved access roads, parking areas, staging areas, and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- vii. Vegetation in disturbed areas shall 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 shall be installed if requested by the City.
- ix. The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

g. Public Services: In accordance with California Government Code Section 65996, the developer shall pay a school impact fee to the School District, to offset the increased demands on school facilities caused by the project.

The project shall conform to the City's Park Impact Ordinance and Parkland Dedication Ordinance. The following Standard Permit Condition is included to reduce impacts to park and recreational facilities:

- i. 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.

51. Inclusionary Housing Ordinance Requirements: The above referenced development is subject to the City's Inclusionary Housing Ordinance (IHO). The IHO provides waivers/exemptions for certain developments from its affordable housing obligations, if the development meets certain criteria. However, whether an exemption is claimed or not, the permittee must submit an Affordable Housing Compliance Plan Application, and the application processing fee to the Housing Department as part of the application for First Approval and comply with any terms imposed in the Plan.

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

52. 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 Building permits, whichever occurs first, the permittee will be required to have satisfied all of the following Public Works conditions. The applicant 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>.

53. 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.

54. Urban Village Plan: This project is located within the future Southwest Expressway Urban Village per the Envision San Jose 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 to promote job growth.

55. **Grand Boulevard:** This project fronts Meridian Avenue which is designated as one of the seven Grand Boulevards per the Envision San Jose 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.

56. **Grading/Geology:**

- a. A grading permit is required prior to the issuance of a Public Works Clearance.
- b. All on-site storm drainage conveyance facilities and earth retaining structures 4 foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2013 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10-year storm event.
- c. If the project hauls 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 a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
- d. Because this project involves a land disturbance of one or more acres, the applicant 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.
- e. A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit. The report should include, but is not limited: foundation, earthwork, utility trenching, retaining and drainage recommendations.

57. **Shoring:**

- a. Shoring plans will be required for review and approval as part of the Grading Permit for this project.
- b. If tie-backs are proposed in the Public right-of-way as a part of the shoring operation, a separate Revocable Encroachment Permit must be obtained by the Developer or Contractor and must provide security in the form of a CD or Letter of Credit, in the amount of \$100,000. All other shoring will not be allowed to encroach more than 12" within the public right-of-way (i.e. soldier beams).

- c. If tie-backs are proposed for use along the adjacent properties (APN numbers: 284-03-027/034/043/012 and 284-49-C01) agreements between the Applicant and the adjacent property owners will need to be secured, executed and provided to the Public Works Project Engineer prior to approval of the Grading Permit for this project.
58. **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.
- a. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed for conformance with City Policy 6-29.
 - b. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
59. **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).
60. **Flood Zone D:** The project 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.
61. **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.
62. **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 the chapter.
63. **Undergrounding:**
- a. The In-Lieu Undergrounding Fee shall be paid to the City for all frontage(s) adjacent to Meridian Avenue prior to issuance of a Public Works Clearance. 100 percent of the base fee in place at the time of payment will be due. Currently, the 2019 base fee is \$489 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record's City Average Cost Index for the previous year. The project will be required to pay the current rate in effect at the time the Public Works Clearance issued.

- b. The Director of Public Works may, at his discretion, allow the developer to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to Meridian Avenue. Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.

64. Site Utilization Plan and Revocable Encroachment Permit (Street/Sidewalk Closures): At the Implementation stage, Developer shall provide to the Public Works Project Engineer a Site Utilization Plan with the application of a Revocable Encroachment Permit for any sidewalk and lane closures to support the onsite construction activities.

- a. The following should be included with the Site Utilization Plan and Revocable Permit application, but are not limited to:
 - 1. **Site Utilization Plan and Letter of Intent:** The site utilization plan should provide a detailed plan of the location of the temporary facilities within the boundary of the construction site. The Letter of Intent should provide a description of operations of the site as well as the reasons for the sidewalk/lane closures and why the activities/uses within the Public right-of-way cannot occur within the construction site. These include the use of the right of way for temporary facilities and activities, etc. The letter must also provide a detailed discussion if covered pedestrian walkways are infeasible (ex. Swinging loads over the sidewalk are not safe for pedestrians).
 - 2. **Multi-Phased Site-Specific Sketches:** These sketches should show the phased closures during the course of construction with a provided timeframe estimate of when each phase would be implemented. These sketches should include the type and location of the work to be accomplished within the right-of-way. The exhibit should show in detail the vehicular and/or pedestrian diversion route that shows the appropriate safety equipment such as barricades, cones, arrow boards, signage, etc.
- b. Permittee shall minimize the potential impact to vehicular and pedestrian traffic by:
 - 1. Implementing the closures at the time the onsite activities dictate the need for the closure.
 - 2. Minimizing the closure timeframes to accomplish the onsite tasks and implement the next phase of the closure as outlined in condition 70.a.2 above.
- c. If the lane and parking closures are a part of the Revocable Permit Application, Developer shall submit Downtown Lane Closure and Tow Away Permit Applications to DOT. These applications may be obtained at: <http://www.sanjoseca.gov/index.aspx?NID=3713> . Developer shall contact DOT at (408) 535-8350 for more information concerning the requirements of these applications.

65. Street Improvements:

- a. Construct curb, gutter, and 15-foot sidewalk with tree wells at the back of curb.
- b. Driveway width to be 26 feet.
- c. Permittee shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the project frontage.
- d. Dedication and improvement of the public streets shall be to the satisfaction of the Director of Public Works.
- e. 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.

66. Electrical:

- a. 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.
- b. Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
- c. Provide clearance for electrical equipment from driveways, and relocate driveway or electrolier. The minimum clearance from driveways is 10 feet in commercial areas and 5 feet in residential areas.
- d. Provide clearance for electroliers from overhead utilities and request clearance from utility companies. Clearance from electrolier(s) must provide a minimum of 10 feet from high voltage lines, 3 feet from secondary voltage lines; and 1 foot from communication lines.

67. Street Trees:

- a. 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 street tree plantings. Street trees shown on this permit are conceptual only.
- b. Show all existing trees by species and diameter that are to be retained or removed. Obtain a street tree removal permit for any street trees that are over 6 feet in height that are to be removed.

68. Revocation, Suspension, Modification. This Special Use Permit and Site Development Permit may be revoked, suspended or modified by the City Council 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 Special Use Permit or Site 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**.

ADOPTED this ____ day of _____, 2020, 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.

Your Reference:

Chicago Title Company

EXHIBIT A

LEGAL DESCRIPTION

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

Parcel One:

Beginning at a point in the center line of Meridian Road, distant thereon 30.94 feet Southerly from the Northeasterly corner of that certain 16.59 acre tract of land described in the Deed from Salvatore La Barbera, et ux, to Peter A. Barbera, et al, dated July 10, 1947 and recorded November 26, 1947 in [Book 1452, Official Records, at Page 263](#); running thence Southerly along the said center line of Meridian Road 112.00 feet to a point distant thereon 160.00 feet Northerly from the Southeasterly corner of said 16.59 acre tract; running thence Westerly and parallel with the Northerly line of the said 16.59 acre tract, 153.00 feet; running thence Northerly and parallel with the said center line of Meridian Road, 112.00 feet; running thence Easterly and parallel with the Northerly line of said 16.59 acre tract, 153.00 feet to the Point of Beginning.

APN: 284-03-015

Parcel Two:

Beginning at a point in the centerline of Meridian Road, (66 feet wide) at the Northeasterly corner of that 6 acre tract of land described in the Deed from Charles E. Parks, et ux, to Fannie F. Caldwell, dated September 23, 1880 and recorded in [Book 57 of Deeds, at Page 133](#); thence Westerly along the Northerly line of said 6 acre tract, 220 feet to the point of intersection thereof with an Easterly line of that certain parcel of land described in the Deed from Salvatore LaBarbera, et ux, to Peter A. LaBarbera, et al, recorded November 26, 1947 in [Book 1452 of Official Records, at Page 263](#); thence along said Easterly and a Southerly line of said last described parcel of land, North 160 feet and East 220 feet to a point in the centerline of said Meridian Road; thence South along said centerline, 160 feet to the Point of Beginning.

APN: 284-03-016

Parcel Three:

Beginning at a stake marked P.M. 2 standing at the Southwesterly corner of the one acre tract conveyed by Charles E. Parks et ux to James Madden et al by deed dated April 26, 1880 and recorded in [Liber 55 of Deeds, Page 232](#), Records of Santa Clara County, California, and being on the Northerly line of a right of way Thirty (30) feet wide known as McKinley Avenue, thence South 89° 30' West and along the Northerly line of said right of way 10.46 chains to a stake marked G. K. standing at the Southeasterly corner of the 20 acre tract conveyed by Edward H. Lenox to James H. Kelly by Deed recorded on September 12, 1873 in [Liber 30 of Deeds, Page 317](#), Records of Santa Clara County, California; thence North 0° 8' West, 11.28 chains to a stake marked S. I. standing at the Southwesterly corner of the 9.02 acre tract conveyed by Charles E. Parks et ux, to Edwin H. Snedaker, by Deed dated October 26, 1880 and recorded in [Liber 57 of Deeds, Page 334](#), Records of Santa Clara County, California; thence East 20.92 chains to the center of the Meridian Road, and the Southeasterly corner of the 7.018 acre tract conveyed by Charles E. Parks et ux to Charles Oeckel by Deed dated December 1, 1882 and recorded in [Liber 65 of Deeds, Page 578](#), Records of Santa Clara County, California; thence Southerly along the center line of the Meridian Road, 4.59 chains to the Northeasterly corner of the Six acre tract conveyed by Charles E. Parks et ux to Fannie F. Caldwell by Deed dated September 23, 1880 and recorded in [Liber 57 of Deeds, Page 133](#), Records of Santa Clara County, California; thence West 10.46 chains to the Northwesterly corner of said Six acre tract; thence South 6.69 chains to the place of beginning, and containing 16.59 acres, and being a portion of Los Coches Rancho, and being the same premises deeded to Salvatore La Barbera by Paola Volpe, Teresa Volpe, Pasquale Belardi and Carmela Belardi by Deed dated December 22, 1919 and recorded December 22, 1919 in Book 499 of Deeds Page 432.

Excepting therefrom that portion of said land lying within the following described Parcels A and B:

Parcel A:

CLTA Preliminary Report Form (Modified 11/17/06)
IPrelm (DSI Rev. 9/13/16)

Your Reference:

Chicago Title Company

**EXHIBIT A
(Continued)**

Beginning at a point in the center line of Meridian Road, distant thereon 30.94 feet Southerly from the Northeasterly corner of that certain 16.59 acre tract of land described in the Deed from Salvatore La Barbera, et ux. to Peter A. Barbera, et al, dated July 10, 1947 and recorded November 26, 1947 in [Book 1452, Official Records, at Page 263](#); running thence Southerly along the said center line of Meridian Road 112.00 feet to a point distant thereon 160.00 feet Northerly from the Southeasterly corner of said 16.59 acre tract; running thence Westerly and parallel with the Northerly line of the said 16.59 acre tract, 153.00 feet; running thence Northerly and parallel with the said center line of Meridian Road 112.00 feet; running thence Easterly and parallel with the Northerly line of said 16.59 acre tract, 153.00 feet to the point of beginning.

Parcel B:

Beginning at a point in the centerline of Meridian Road, (66 feet wide) at the Northeasterly corner of that 6 acre tract of land described in the Deed from Charles E. Parks, et ux, to Fannie F. Caldwell, dated September 23, 1880 and recorded in [Book 57 of Deeds, at Page 133](#), thence Westerly along the Northerly line of said 6 acre tract, 220 feet to the point of intersection thereof with an Easterly line of that certain parcel of land described in the Deed from Salvatore La Barbera, et ux, to Peter A. La Barbera, et al, recorded November 26, 1947 in [Book 1452 of Official Records, at Page 263](#); thence along said Easterly and a Southerly line of said last described parcel of land; North 160 feet and East 220 feet to a point in the centerline of said Meridian Road; thence South along said centerline, 160 feet to the point of beginning.

Also excepting therefrom that portion of said Land lying Westerly of the most Easterly boundary of Tract 7451 and its extension.

APN: 284-03-049