

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING A VESTING SUBDIVISION MAP, SUBJECT TO CONDITIONS, TO SUBDIVIDE ONE PARCEL INTO SIX RESIDENTIAL CONDOMINIUM UNITS AND ONE COMMON PARCEL ON AN APPROXIMATELY 0.3-GROSS ACRE SITE, LOCATED ON THE WEST SIDE OF NORTH CAPITOL AVENUE, APPROXIMATELY 300 FEET SOUTHERLY OF BERRYESSA ROAD (967 NORTH CAPITOL AVENUE)

FILE NO. T18-048

WHEREAS, pursuant to the provisions of Chapter 19.12 of Title 19 of the San José Municipal Code, on October 30, 2018, a concurrent application (File No. T18-048) was filed by the applicant, Martin Quintana, with the City of San José for a Vesting Subdivision Map for six residential condominium units and one common area parcel on an approximately 0.3-gross acre site, on that certain real property situated in the R-M Multiple Residence Zoning District and located on the west side of North Capitol Avenue, approximately 300 feet southerly of Berryessa Road (967 North Capitol Avenue, San José, which real property is sometimes referred to herein as the “subject property”); and

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

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Planning Commission conducted a hearing on said concurrent applications on March 10, 2021, 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 the City's Director of Planning, Building and Code Enforcement; and

WHEREAS, at said hearing, this City Council received in evidence a development plan for the subject property entitled "Vesting Tentative Tract Map", dated June 20, 2020, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested, and is attached hereto and made a part hereof by this reference as if fully set forth herein; and

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

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

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

1. **Site Description and Surrounding Uses.** The subject site is surrounded by multi-family residential uses to the south and east, and commercial uses to the north and

west side of the subject site. The project is located along a Santa Clara Valley Transportation Authority (VTA) light rail line and is located approximately 850 feet from the Berryessa Light Rail station. The site has a driveway off North Capitol Avenue.

2. **Project Description.** The project consists of the subdivision of one parcel into six residential condominium units and one common area parcel on an approximately 0.3-gross acre site.
3. **General Plan Conformance.** The subject site has a Mixed Use Neighborhood land use designation on the General Plan Land Use/Transportation Diagram. This designation is applied to areas intended for development primarily with either townhouse or small lot single-family residences and, also to existing neighborhoods that were historically developed with a wide variety of housing types, including a mix of residential densities and forms. This designation supports commercial or mixed-use development integrated within the Mixed Use Neighborhood area. This designation should be used to establish new neighborhoods with a cohesive urban form, to provide transition between higher-density and lower-density neighborhoods, or to facilitate new infill development within an existing area that does not have an established cohesive urban character. Existing neighborhoods with this designation are typically characterized by a prevalence of atypical lot sizes or shapes and a parcel-by-parcel development pattern where small townhouse development may exist adjacent to more traditional single-family development or more intense multi-family development.

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

- a. Implementation Policy IP-1.1: Use the Envision General Plan Land Use / Transportation Diagram designations to indicate the general intended land use, providing flexibility to allow for a mix of land uses, intensities and development forms compatible with a wide variety of neighborhood contexts and to designate the intended roadway network to be developed over the timeframe of the Envision General Plan. Use the Zoning designation to indicate the appropriate type, form and height of development for particular properties.
- b. Implementation Policy IP-1.3: Ensure that proposals for redevelopment or significant intensification of existing land uses on a property conform to the Land Use / Transportation Diagram.

Analysis: The project consists of a multifamily residence development. The project is subject to the development standards of the Multiple Residence Zoning District. As described in further detail in the section below, the project conforms to the development standards of the zoning district. The project meets the use and density requirements of the Mixed Use Neighborhood land use designation. The project would have a density of approximately 20 dwelling units per acre in a neighborhood of multifamily residences with a mix of densities. The project complies with development standards of the R-M Multiple Residence Zoning District and the parking requirements for multifamily residences.

4. **Environmental Review.** Under the provisions of Section 15303(b) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), the Vesting Tentative Map Permit is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. CEQA Guidelines Section 15303(b) New Construction or Conversion of Small Structures, Class 3, consists of construction and location of limited numbers of new, small facilities or structures; installation of small equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. Examples of the exemption include but are not limited to a duplex or similar multi-family residential structure totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes, and similar structures designed for not more than six dwelling units. The project site is within an urbanized area with existing conditions to sewer, water, and electricity service.

The project site is not within close proximity to any rivers or waterways or is located in biological sensitive habitats. The project would not result in significant impact to applicable resources such as air quality, biological resources, cultural resources, hazards and hazardous materials, and noise. Furthermore, for the reasons mentioned above, the project would not result in significant impacts during construction or operation. As the project would result in the construction of a multi-family development with a maximum 6 dwelling units, the project qualifies for Section 15303(b) of the CEQA Guidelines.

Pursuant to Section 15300.2(f) of the CEQA Guidelines, a categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource. The existing residence is more than 50 years old (built in 1935). The City's Historic Preservation team reviewed and determined that the residence does not qualify as eligible for listing in the California Register of Historic Resources because its historic integrity would be based on the character of the surrounding area. Since the other surrounding buildings have been demolished, the individual structure does not qualify as a cultural resource.

FINDINGS

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

1. **Conformance with the Subdivision Ordinance and the Subdivision Map Act.** In accordance with San José Municipal Code (SJMC) Section 19.12.130, the City Council may approve the Vesting Tentative Subdivision Map if the City Council cannot make any of the findings for denial in Government Code Section 66474, and the City Council has reviewed and considered the information relating to compliance of the project with the California Environmental Quality Act and determines the environmental review to be adequate. Additionally, the City Council may approve the project if the City Council does not make any of the findings for denial in San José

Municipal Code Section 19.12.220. San José Municipal Code Section 19.12.130 incorporates the findings for denial in Section 66474 of the Government Code, as set forth below.

- a. The City Council finds that the proposed subdivision shown on the Vesting Tentative Map, subject to the conditions listed below and the requirements for project design and improvements is consistent with applicable General and Specific Plans of the City of San José, in that:

Analysis: As described in the General Plan section above, the project is consistent with the General Plan land use designation.

- b. The City Council has considered the proposed subdivision shown on the Vesting Tentative Map, with the imposed conditions, to determine whether to make any of the findings set forth in the subsections of Section 66474 of the Government Code of the State of California which states "A legislative body of a city or county shall deny approval of a vesting tentative map, or a parcel map for which a vesting tentative map was not required, if it makes any of the following findings:"
 - a) That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.
 - b) That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
 - c) That the site is not physically suitable for the type of development.
 - d) That the site is not physically suitable for the proposed density of development.
 - e) That the design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
 - f) That the design of the subdivision or type of improvements is likely to cause serious public health problems.
 - g) That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

Analysis: Based on review of the subdivision map, the City Council of the City of San José does not make any such findings to deny the subject subdivision. The subdivision of one parcel into six residential condominiums units and an associated common area space parcel is consistent with the General Plan goals, policies, and land use designation. The subject site is physically suitable to accommodate six attached residential condominium units. Furthermore, the project site does not contain any historic resources or sensitive habitats or wildlife. Since the existing residence is more than 50 years old, the City's Historic Preservation team reviewed and determined that the residence does not qualify as eligible for listing in the California Register of Historic Resources because its historic integrity would be based on the character of the surrounding area. Since the other surrounding buildings have been demolished, the individual structure does not qualify as a cultural resource. The proposed subdivision and subsequent improvements are not likely to cause serious public health problems. The project will be required to improve the sidewalk along North Capitol Avenue and the project will be required to demonstrate that the common area will be retained as common area and maintained by a homeowners association.

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

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Vesting Tentative Map.** Per Section 19.12.230, should the Subdivider fail to file a timely and valid appeal of this Vesting Tentative Map within the applicable appeal period, such inaction by the Subdivider shall be deemed to constitute all of the following on behalf of the Subdivider:
 - a. Acceptance of the Vesting Tentative Map by the Subdivider; and
 - b. Agreement by the Subdivider to be bound by, to comply with, and to do all things required of or by the Subdivider pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 19 applicable to such Vesting Tentative Map.
2. **Expiration of Vesting Tentative Map.** This Vesting Tentative Map shall automatically expire 30 months from and after the date of issuance hereof by the Director of Planning of the City of San José. The date of issuance is the date this Vesting Tentative Map is approved by the City Council.

3. Development Rights - Vesting on Approval of Vesting Tentative Map.

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

- 4. Conformance to Plans.** Development shall conform to the approved Vesting Tentative Map plans entitled "Vesting Tentative Map" dated October 31, 2018, on file with the Department of Planning, Building and Code Enforcement, as may be amended subject to City's approval, and to the San José Building Code (San José

Municipal Code, Title 24), as amended. The plans are referred to herein as the "Approved Vesting Tentative Map Plan Set).

5. **Compliance with Subdivision Ordinance.** The final map shall comply with all of the requirements for final maps in Chapter 19.16 of the San José Municipal Code and shall show and contain all of the data required by San José Municipal Code Section 19.16.110.
6. **Conformance with Other Permits.** The subject Vesting Tentative Map conforms to and complies in all respects with the Site Development Permit File No. H18-051 on which such Vesting Tentative Map is based. Approval of said Vesting Tentative Map shall automatically expire with respect to any portion of the lands covered by such Vesting Tentative Map on which a Final Map or Tract Map has not yet been recorded if, prior to recordation of a Final Map or Tract Map thereon, the Site Development Permit for such lands automatically expires or for any reason ceases to be operative.
7. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
8. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
9. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Subdivider shall constitute acknowledgement of receipt of notice by 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.
10. **Improvements.** Pursuant to the Subdivision Agreement (hereinafter referred to as "Agreement"), the Subdivider shall, before approval and recording of the Final Map,

improve or agree to improve all land within the subdivision and all land outside, but appurtenant to, the Subdivision shown on the Tentative Map for public or private streets, alleys, pedestrian ways and easements to the satisfaction of the Director of Public Works.

11. **Improvement Contract.** In the event subdivider has not completed the improvements required for his subdivision at the time the final map is presented for approval, subdivider shall enter into an improvement contract pursuant to Agreement with the City of San José, in accordance with Section 19.32.130 of the San José Municipal Code, and provide the bonds and insurance mentioned therein.
12. **Public Use Easements.** Subdivider shall dedicate on the final map for public use easements for public utilities, streets, pedestrian ways, sanitary sewers, drainage, flood control channels, water systems and slope easements in and upon all areas within the subdivision shown on the Vesting Tentative Map for the subdivision to be devoted to such purposes.
13. **Conveyance of Easements.** Subdivider shall convey or cause to be conveyed to the City of San José, easements in and upon all areas as shown on the Tentative Map outside the boundaries of, but appurtenant to, the subdivision. Should a separate instrument be required for the conveyance of the easement(s), it shall be recorded prior to the recordation of the Parcel or Final Map. Such easements so conveyed shall be shown on the Parcel Map, together with reference to the Book and Page in the Official Recorder of Santa Clara County, where each instrument conveying such easements is recorded.
14. **Distribution Facilities.** Subdivider shall, at no cost to the City, cause all new or replacement electricity distribution facilities (up to 40KV), telephone, community cable, and other distribution facilities located on the subject property to be placed underground.
15. **Demolition of Existing Buildings.** The existing structures on the subject site that would otherwise be situated on a property line or cause non-conformance to the required setbacks shall be demolished to the satisfaction of the Chief Building Official prior to the recordation of documents and maps that establish the changes to the location of property lines. A Demolition Permit is required from the Building Division to demolish the subject structures.
16. **Homeowner's Association and/or Maintenance District.** A Homeowner's Association or Maintenance District shall be established for maintenance of all common areas, including but not limited to, private streets, pedestrian walkways, easements, landscaping, and landscaping in the public right-of-way that is not already in a maintenance district. The Subdivider shall provide to the Homeowners Association a copy of the Vesting Tentative Map Permit, the accompanying Plan Set, any approved Amendments or Adjustments Development Permits, and a complete set

of approved building and all improvement plans within 30 days of completion of each construction phase.

17. **Final Map.** No Final Map or Tract Map shall be approved by City Council unless and until the appeal period for the development permit, City File No. H18-051 has expired and all appeals have been exhausted.
18. **Affordable Housing.** The project may be subject to the City's Inclusionary Housing Ordinance (IHO) or Affordable Housing Impact Fee (AHIF). If the development is subject to the referenced IHO or AHIF, the Subdivider must execute and record their Affordable Housing Agreement with the City prior to the issuance of any building permits, or any final approval of any final map.
 - a. The IHO and AHIF Resolution each exempt certain developments from affordable housing obligations, if the development meets certain criteria. However, whether an exemption is claimed or not, the subdivider must submit an Affordable Housing Compliance Plan Application, and the application processing fee to the Housing Department as part of the application for First Approval.
 - b. The Housing Department has reviewed and approved the Affordable Housing Compliance Plan for this project. Subdivider shall strictly comply with the approved Affordable Housing Compliance Plan for this project and any other applicable requirements of the IHO or AHIF.
 - c. If the project is subject to the AHIF, no building permit may issue until the AHIF is paid. No Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the AHIF Resolution are met.
 - d. If the project is subject to the IHO, no Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the IHO are met.
19. **Parkland Dedication Ordinance.** This development is subject to the requirements of either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San José Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San José Municipal Code,) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the formula contained within the parkland dedication ordinance and the associated Fees and Credit Resolutions. Prior to approval of the Final Map or final building permits for this development, the Subdivider shall enter a parkland agreement with the City to the satisfaction of the Director of Public Works in order to fulfill the requirements of the Parkland Dedication Ordinance.
20. **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 Subdivider will be required

to have satisfied all of the following Public Works conditions. The Subdivider 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: <http://www.sanjoseca.gov/devresources>.

- a. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. The Minor Improvement Permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
- b. **Transportation:** This project qualifies as a Small Infill Project because it would construct 25 single-family attached or less. This project would not require a detailed CEQA transportation analysis because the project is expected to result in less-than-significant VMT impacts based on Table 1 - Screening Criteria for CEQA Transportation Analysis for Development Projects (Transportation Analysis Handbook 2018, pg. 11).
- c. **Grading/Geology:**
 - a) A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
 - b) All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the latest California Plumbing Code as adopted under the City of San Jose Municipal Code Section 24.04.100 or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
 - c) A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit. This report should include, but is not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations.
 - d) Project shall conform to the City's Solid Waste Enclosure Guidelines (<https://www.sanjoseca.gov/home/showdocument?id=15629>). This includes covering all trash enclosures and connecting all drains within trash enclosures to the sanitary sewer system.

d. **Stormwater Runoff Pollution Control Measures:**

- i. 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 and source controls.
- ii. A design of the pervious pavement by a licensed Geotechnical Engineer shall be submitted prior to the issuance of a Public Works Clearance.

e. **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).

f. **Flood Zone: AO, Depth 1 Foot**

- a) Elevate the lowest floor of each unit to 2 feet or more above the existing highest adjacent grade to the proposed unit (depth of flooding plus 1 foot per 2016 CRC).
- b) An Elevation Certificate (FEMA Form 086-0-33) for each proposed unit, based on construction drawings, is required prior to issuance of a building permit. Consequently, an Elevation Certificate for each built unit, based on finished construction is required prior to issuance of an occupancy permit.
- c) Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated 2 feet or more above the existing highest adjacent grade to the proposed structure (depth of flooding plus 1 foot per 2016 CRC) or protected from flood damage.
- d) Construction materials used below the depth of flooding plus 1 foot must be resistant to flood damage.
- e) Provide vent openings for all enclosures below the depth of flooding (ex. crawlspaces, at-grade garages). The design must either be certified by a registered professional engineer or meet the following requirements:
 - i) Provide flood vent openings on at least two exterior walls of each enclosure to automatically equalize the lateral pressure of the floodwaters.
 - ii) Provide a minimum of two vent openings having a total net area of not less than one square inch per one square foot of enclosed area.
 - iii) The top of each opening shall be no higher than twelve inches above the exterior adjacent grade.

- g. **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.
- h. **Parks:** This residential project is subject to the payment of park fees in-lieu of land dedication under 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).
- i. **Undergrounding:** The In-Lieu Undergrounding Fee shall be paid to the City for all frontage(s) adjacent to Capitol 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 2021 base fee is \$532 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 is issued.
- j. **Street Improvements:**
 - i. Construct 12-foot wide detached sidewalk with 4.5-foot wide park strip along Capitol Avenue project frontage. Provide approximately 2-foot wide street dedication along Capitol Avenue project frontage to accommodate new sidewalk width.
 - ii. Construct 26-foot wide City Standard driveway along Capitol Avenue project frontage.
 - iii. Close unused driveway cut(s).
 - iv. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
- k. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
- l. **Street Trees:** The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in park strip. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only. The recommended street trees are Tristaniopsis laurina, planted 20 inches on center within park strip, or contact the City Arborist for alternatives.

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 proposed to be removed.

m. Private Streets:

- i. Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.
- ii. At the implementation stage, private street plans shall reflect the following:
 - 1) Provide profile of proposed private street.
 - 2) Provide crown or cross slope street for the private drive aisle to avoid the use of valley gutter. Valley gutter across circulation streets is not permitted. Standard hooded inlets shall be used.
 - 3) The cross slope of the private drive shall be 2% minimum.
- iii. Applicant to submit Geotechnical Report to support the use of Permeable Concrete Pavers for Private Street.

n. **Referrals:** This project should be referred to the Valley Transportation Authority.

21. Revocation, Suspension, Modification. This Vesting Tentative Map is subject to revocation, suspension or modification for violation of any of its provisions or condition.

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

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EFFECTIVE DATE

The effective date of this Vesting Tentative Map shall be the same effective date of the Rezoning Ordinance for File No. C18-030 adopted on _____, 2021 (the "Zoning Ordinance") and shall be no earlier than the effective date of said Rezoning Ordinance.

APPROVED and issued this _____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

NOTICE TO PARTIES

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

EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 254-29-019

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

BEGINNING AT AN IRON PIPE IN THE SOUTHWESTERLY LINE OF CAPITOL AVENUE DISTANT THEREON S. 41° 26' 30" E. 398 FEET FROM THE INTERSECTION OF SAID LINE OF CAPITOL AVENUE WITH THE SOUTHEASTERLY LINE OF BERRYESSA ROAD, SAID POINT OF BEGINNING BEING THE SOUTHEASTERLY CORNER OF THE 0.945 ACRE TRACT OF LAND CONVEYED BY THOMAS BECK, ET UX, TO L. E. HANCHETT BY DEED DATED JANUARY 9, 1906 AND RECORDED JANUARY 9, 1906 IN BOOK 302 OF DEEDS, AT PAGE 261 IN THE OFFICE OF THE RECORDER OF SAID COUNTY; THENCE ALONG SAID LINE OF CAPITOL AVENUE S. 41° 26' 30" E. 78.81 FEET TO A 1" IRON PIPE; THENCE LEAVING SAID LINE OF CAPITOL AVENUE AND RUNNING S. 46° 53' 30" W. 185 FEET TO AN IRON PIPE; THENCE PARALLEL WITH THE CENTER LINE OF CAPITOL AVENUE N. 41° 26' 30" W. 91.73 FEET TO AN IRON PIPE IN THE SOUTHEASTERLY LINE OF SAID 0.945 ACRE TRACT; THENCE ALONG SAID SOUTHEASTERLY LINE N. 50° 54' E. 185.07 FOOT TO THE POINT OF BEGINNING AND BEING A PORTION OF 500 ACRE LOT 62.

EXCEPTING THEREFROM THAT PORTION CONVEYED TO SANTA CLARA VALLEY TRANSPORTATION AUTHORITY IN DEED RECORDED NOVEMBER 27, 2000 IN INSTRUMENT NO. 15470552 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID FOSTER PARCEL; THENCE ALONG THE NORTHWESTERLY LINE OF SAID PARCEL, SOUTH 52° 13' 51" WEST, 37.95 FEET; THENCE LEAVING SAID NORTHWESTERLY LINE, SOUTH 41° 57' 54" EAST, 51.00 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 992.00 FEET; THENCE ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 01° 45' 44", FOR AN ARC LENGTH OF 30.51 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF SAID PARCEL; THENCE ALONG SAID SOUTHEASTERLY LINE, NORTH 48° 05' 51" EAST, 35.94 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL; THENCE LEAVING SAID SOUTHEASTERLY LINE, ALONG THE NORTHEASTERLY LINE OF SAID PARCEL, NORTH 40° 14' 09" WEST, 78.81 FEET TO THE POINT OF BEGINNING.