RESOLUTION NO. ___________

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING A PLANNED DEVELOPMENT PERMIT, SUBJECT TO CONDITIONS, TO ALLOW AN INCREASE IN STUDENT POPULATION, CREATE A CUSTOM PARKING REQUIREMENT, ALLOW AN AFTER-SCHOOL EVENING ACADEMIC PROGRAM UNTIL 8:00 P.M., AND ALLOW A REDESIGN OF A PREVIOUSLY APPROVED PARKING LOT, DRIVEWAY LOCATIONS, AND OUTDOOR RECREATION SPACE FOR AN EXISTING SCHOOL, (DOWNTOWN COLLEGE PREPARATORY) ON A 3.4 GROSS ACRE SITE, LOCATED AT THE SOUTHEAST CORNER OF MONTEREY HIGHWAY AND EAST ALMA AVENUE (1402 MONTEREY HIGHWAY)

FILE NO. PD16-035

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on November 14, 2016, an application (File No. PD16-035) was filed by the applicant, Jennifer Andaluz, on behalf of Downtown College Preparatory for a Planned Development Permit to: 1) allow an increase in student population; 2) reduced parking requirement; 3) allow an after-school evening academic program until 8:00 p.m.; and 4) allow redesign of a previously approved parking lot, driveway locations, and outdoor recreation space on a 3.4 gross acre site, on that certain real property situated in the CIC(PD) Planned Development Zoning District and located on the southeast corner of Monterey Highway and East Alma Avenue (1402 Monterey Highway, 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

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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 May 24, 2017, 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 recommendation 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 fDCP Alma at 1402 Monterey Highway, last revised May 15, 2017, 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 development plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

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Council Agenda: 06-13-2017
Item No. 10.3c
DRAFT – Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.
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 property is located at the southeast corner of East Alma Avenue and Monterey Highway on an approximately 3.4 gross acre site. There are three existing buildings on site that were previously used for a lumber yard. The three buildings totaled 81,498 square feet in size. Also, there are 92 existing parking spaces, and a fenced outdoor storage area. Surrounding land uses include a restaurant and industrial offices to the north; a retail shopping center to the south; a retail shopping center, warehousing, and distribution to the east; and a restaurant, a motel, and a social service center to the west.

2. **Project Description.** A Planned Development Permit to allow an increase in student population at Downtown College Preparatory (DCP), to create a custom parking requirement for the existing school, to allow a redesign of a previously approved parking lot, to alter the existing driveway locations, to create outdoor recreation space, and to allow an after school evening academic program until 8:00 PM for high school students on a 3.4 gross acre site.

   An approximately 29,000 square foot outdoor recreation area is proposed for the site, along with other site amenities such as outdoor seating areas, and a garden classroom area. The project would include an increase of 43 middle school students (from 528 to 571 students), a decrease of 55 high school students (from 709 to 654 students), and a new population of 300 high school students in the evening NextGen program that will operate between 1:30 p.m. and 7:30 p.m. The number of staff would remain at 45. The hours of operation for the school would be from 6:50 a.m. to 7:00 p.m., with staggered start and end times for the middle school and the two high school programs (high school day program and the after-hours/evening NextGen program).

   The proposed Planned Development Zoning District would allow an increase in student population at Downtown College Preparatory from the current allowed maximum population of 1,237 students during the regular school hours to 1,225 students during regular school hours and 300 students during the evening school hours, while at the same time, reducing the number of parking stalls required to 92 spaces, which is beyond a 50% reduction that is permitted in the Zoning Ordinance. Of the 92 parking spaces, a maximum of 28 spaces would be allowed for student parking. The remaining 64 parking spaces would be for staff and visitors.
3. **Parking Reduction.** The current Zoning Ordinance requires the school use to have 187 parking spaces. However, the permittee is requesting a 62% reduction in the number of parking spaces required for a total of 92 onsite spaces. The support for this Planned Development Zoning and Planned Development Permit is based on the unique socioeconomic status and school model of the Downtown College Preparatory students. Based on data provided by the school, the majority of students that attend DCP take public transportation, walk/ride bikes, or take district-provided bus transportation to school. The data provided by DCP shows that of the existing 709 high school students, 512 are currently of legal driving age. Of those 512 students, nine current have driver's licenses and drive to school. This is a very unique situation for a high school. DCP, or any school that wishes to operate or continue to operate on this site should DCP choose to leave this site, will be required to operate under the same assumptions related to parking that DCP operates under now. Otherwise, a rezoning and/or amendment to this PD Permit are required. The nine students who currently drive their own vehicles to school make up just 1.75% of the driving age population at the school. If this percentage increases in the future where the 92 parking spaces cannot accommodate all uses on the school site, the findings for this Planned Development Zone and Permit are no longer valid. This zoning is only being contemplated because the current need for parking spaces is extremely low.

Given the maximum number of 92 spaces on site, a maximum of only 28 spaces will be allotted for students and the remaining 64 parking spaces for staff and visitors.

4. **General Plan Conformance.** The subject site is designated Combined Industrial/Commercial on the Envision San José 2040 General Plan Land Use/Transportation Diagram. This category allows a significant amount of flexibility for the development of a varied mixture of compatible commercial and industrial uses, including hospitals and private community gathering facilities, particularly in areas on the boundary between commercial and industrial uses. This designation also specifies that while the designation potentially accommodates a wide variety of uses, more specific guidance should be provided through the application of the Zoning Ordinance in order to establish use and form standards. The subject site is located in an area with a broad mix of industrial and commercial uses, within close proximity (roughly 150 feet) to residential areas. Due to this existing broad range of surrounding uses, the proposed school would add to the variety of uses consistent with this land use designation. Furthermore, the Zoning Ordinance implements the General Plan, identifying secondary schools as conditionally permitted uses within the existing Combined Industrial/Commercial Zoning District. While the zoning district will be changing if the Planned Development Zoning and Planned Development Permit are to be approved, the use and character of the site will be similar to what is currently allowable under the CIC Zoning District, which conforms to the Combined Industrial/Commercial land use designation. The development standards for the Planned Development Permit will restrict the use so that only
Downtown College Preparatory can operate on this site under this Planned Development Zoning District under the current school model with extremely low parking demand. Any other use or change in use would have to rezone to alter the approved Development Standards.

In addition to conforming to the General Plan Land Use/Transportation Diagram designation, the project furthers the following General Plan goals and policies:

a. **Implementation Policy IP-1.7:** Use standard Zoning Districts to promote consistent development patterns when implementing new land use entitlements. Limit use of the Planned Development Zoning process to unique types of development or land uses which cannot be implemented through standard Zoning Districts, or to sites with unusual physical characteristics that require special consideration due to those constraints.

**Analysis:** The proposed Planned Development Zoning District is specifically to allow an increase in student population at Downtown College Preparatory from the current allowed population of 1,237 students during the regular school hours to 1,225 students during regular school hours and 300 students during the evening school hours, while at the same time, reducing the number of parking stalls required beyond the 50% reduction that is permitted in the Zoning Ordinance. A Planned Development Zoning District would not typically be allowed for such a dramatic reduction in parking. However, the student population that attends Downtown College Preparatory is very specific, and there is a reduced demand for parking on this campus. Based on the information provided by the school, the majority of the current middle and high school student population walks to school or they use public transportation. Approximately 60 middle school students get bused to school by San José Unified School District, 25 to 30 students ride bicycles to school, and the remaining middle school students get dropped off by private vehicles. There are only 512 students of legal driving age enrolled in the 2016-2017 school year. Of those 512 students, nine currently have driver’s licenses and drive to school. This is 1.75% of the driving-age population. This is a very rare phenomenon for a high school, but this demonstrates that there is little need for the 187 required parking spaces that would normally be required under the Zoning Ordinance. Even a reduction to 50%, which is permitted by the Zoning Ordinance, would leave a surplus of parking on site, taking away needed amenities for the school. In order to be able to provide the 62% reduction in parking, a traditional zoning district cannot be pursued, and a Planned Development Zoning District must be established in order to provide a reduced parking ratio for this site. Given that this Planned Development Zoning District is based on the uniqueness of the student population at this time, as the school grows, similar numbers of students that drive, take public transit, walk, get dropped off, and get bused in will need to be maintained.
Given the maximum number of 92 spaces on site, as the school grows, no more than 28 students (or 3% percent of the maximum high school student population in the combined day and evening programs) shall park in the parking lot on any given school day. Once the parking lot can no longer accommodate the staff and the 3% of student drivers, the school that is operating on site at the time this threshold is reached will be in violation of the Planned Development Zone Development Standards and this Planned Development Permit.

b. Implementation Policy IP-8.5: Use the Planned Development zoning process to tailor such regulations as allowed uses, site intensities and development standards to a particular site for which, because of unique circumstances, a Planned Development Zoning process will better conform to the General Plan goals and policies than may be practical through implementation of a conventional Zoning District. These development Standards and other site design issues implement the design standards set forth in the General Plan and design guidelines adopted by the City Council. The second phase of this process, the Planned Development permit, is a combined site/architectural permit and conditional use permit which implements the approved Planned Development Zoning on the property.

Analysis: The proposed Development Standards specifically restrict the use of this site to use by Downtown College Preparatory so that no other school that may not possess the same unique student population and car use demand can use the site without sufficient parking being provided. The number of students is also defined and limited in the Development Standards so that the school cannot grow beyond the site’s parking capacity for the 92 parking spaces on site. As noted above, the number of students that can park in the parking lot will be limited to 28 to help reduce the number of students that drive to school. The remaining spaces would accommodate staff and visitors on site. In addition, students and staff will be restricted from parking within a half mile of the school site in order to avoid parking spillage into the neighborhood from the school.

c. Education and Services Policy ES-1.14: Collaborate with school districts, the community, post-secondary institutions, businesses, and industry to ensure availability of necessary resources to meet student needs.

Analysis: The reduction in parking on the school site allows more amenities to be provided to the student population at Downtown College Preparatory. With more on-site amenities available to the students, the school can continue to be a successful institution that teaches the necessary skills for an underserved population within the project vicinity. The site modifications will allow Downtown College Preparatory to better serve the existing student population and those that will attend the school in the future.
d. **Education and Services Policy ES-1.3:** Encourage new schools, including public and private, to locate near populations which they serve.

*Analysis:* The majority of Downtown College Preparatory students come from households in close proximity to the project site as indicated by the school administrative staff. The relocation of the school last year to the current site was convenient for existing students, but also helpful to future students. In order to stay at this location, a change in the parking ratio is necessary so that the school can use the site to its fullest potential and provide more amenities to the students in the area.

e. **Education and Services Policy ES-1.7:** Support efficient use of land through consideration of smaller school sites and alternative school configurations (e.g., multi-story buildings, underground parking, placement of recreation space over parking areas or on rooftops) to support the needs of each community.

*Analysis:* The project site has demonstrated that the buildings on site are more than sufficient to accommodate the existing student body. However, there is still a need for on-site amenities that cannot be provided due to the existing parking requirement on the site. A reduction is needed to be able to provide the necessary gym space and outdoor space that will enrich the daily lives of the students. Given the lack of need for parking on campus, it would be a waste of a small site to require parking that will not be used. As such, this Planned Development Zoning District will allow a reduction in parking so that the school can more efficiently use its space.

f. **Land Use Policy LU-6.3:** When new uses are proposed in proximity to existing industrial uses, incorporate measures within the new use to minimize its negative impacts on existing nearby land uses and to promote the health and safety of individuals at the new development site.

*Analysis:* The school is currently adjacent to a railroad line and to Heavy Industrial land uses. Although the current adjacent uses (offices, warehouse, and distribution) are low impact, there are possibilities of more intensive uses being located next door. In addition, there are heavy industrial uses within 1,000 feet of the project site including a concrete batch plant and manufacturing. To minimize the possible impacts from nearby industrial uses, the majority of the school operations have been restricted to indoors and the main instruction takes place in Building A, which is shielded by Building B from the industrial uses. The buildings are being retrofitted with new air filtration systems. The anticipated outdoor activities will be for a short durations, but will still enhance the student life on campus.

g. **Parking Strategy Policy TR-8.6:** Allow reduced parking requirements for development providing shared parking or a comprehensive TDM program, or
developments located near major transit hubs or within Urban Villages and other Growth Areas.

Analysis: While the requested 62% reduction in parking exceeds the Zoning Ordinance’s allowable parking reduction, and the reduction in parking is being zoned for the site, the school is still providing a Transportation Demand Management Plan that will add to the already reduced number of parking lot users. The plan proposes that the school:

1) Continue to participate in district-provided busing;
2) Provide 50 VTA annual pass subscriptions for high school students as a lottery amongst the students;
3) Provide skateboard lockers so that it is more convenient to use skateboards as a mode of transportation;
4) Provide over 210 covered and secure bicycle parking spaces to entice staff and students to ride their bikes to school;
5) Provide preferential parking spaces for carpool/vanpool for teachers and students;
6) Provide showers and lockers for staff to encourage bike ridership;
7) Provide all staff members with VTA Annual passes;
8) Provide a free bike program for staff.
9) No student, staff, visitor, or any other person attending, visiting, or coming to the school shall park anywhere within one-half mile of the school site to avoid any parking impact to the adjacent and surrounding uses.

h. Noise and Vibration Policy EC-1.1: Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state and City noise standards and guidelines as a part of new development review.

Analysis: Per General Plan Table EC-1, the City’s exterior noise level objectives for school uses are from up to 60 dBA DNL to be considered “normally acceptable” and from 60 dBA DNL to 75 dBA DNL to be considered “conditionally acceptable.” A noise analysis was performed for the site as part of the Addendum to the Downtown College Preparatory Relocation Project Initial Study/Mitigated Negative Declaration (IS/MND) in May 2017. Ambient noise levels on the project site would be influenced primarily by automobile traffic. The General Plan states that current noise levels on the project site range from 65 to 70 dBA DNL near Monterey Highway. Based on estimated future traffic volumes associated with planned growth, the General Plan FEIR
concluded that ambient noise levels on the project site would continue to be 65 to 70 dBA DNL by 2035, which is within the conditionally acceptable limit of 60 to 75 dBA for school land uses.

Noise measurements were taken at the project site and combined with future estimated traffic volumes, including the project to determine the effect of ambient noise levels on the students. Based on the future noise condition, the outdoor garden/classroom would be exposed to traffic noise levels of 66 dBA DNL. At the recreational area between the buildings the noise levels would be 55 to 58 dBA DNL. As a result, the outdoor garden/classroom would exceed the City’s “normally acceptable” noise standards for schools but within the “conditionally acceptable range.” The recreational area would be within the City’s “normally acceptable” noise standards. These measurements confirmed that the proposed project would have a less than significant long-term noise impact on the nearby residential land uses, consistent with General Plan Policy EC-1.2.

General Plan Policy EC-1.1 allows for land uses to be permitted as “conditionally acceptable” after a detailed analysis of the noise reduction requirements and needed noise insulation features have been evaluated. To reduce the noise level at the outdoor garden/classroom to a “normally acceptable” level, the noise analysis recommended the construction of a six-foot noise barrier around the perimeter of the garden area. The barrier would need to be constructed from materials with a minimum surface weight of 3.0 pounds/square foot, such as a one-inch think wood fence boards, masonry block, or concrete, and be constructed so as not to have any cracks or gaps between barrier materials, or between the barrier and the ground. With the addition of the sound barrier, the noise levels at the outdoor garden/classroom would be reduced from 66 dBA DNL to 59 dBA DNL. This would be within the City’s “normally acceptable” noise level. However, due to site constraints, aesthetics, and public safety concerns, construction of the noise barrier is not being considered further and the administrative record supports the school site within the “conditionally acceptable” limits. The noise barrier will create public nuisance concerns related to graffiti, maintenance and repairs, and aesthetics and will add very little value in terms of reducing the noise level. Therefore, it is not supported as part of the project.

5. General Development Plan Conformance. The proposed project conforms to the approved General Development Plan, dated May 15, 2017 in the following manner:

a. Parking Requirement. The project proposes parking at the following parking ratios and amounts, with no tandem parking proposed:

i. Per the Development Standards, 92 parking spaces are required and 92
spaces are provided.

ii. Per the Development Standards, 210 bicycle parking spaces are required, and 220 parking spaces are provided.

b. **Setbacks and Height.** The General Development Plan provides for the following setbacks, and the proposed project conforms to these setbacks:

<table>
<thead>
<tr>
<th>CIC Development Standards</th>
<th>Proposed Project</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Front Setback</strong></td>
<td></td>
</tr>
<tr>
<td>15 feet</td>
<td>0 feet from Monterey Hwy. Building A: 80 feet from E. Alma Ave. Building B: 75 feet from E. Alma Ave. ** Accessory structures permitted in setback areas with review.</td>
</tr>
<tr>
<td><strong>Front Setback, Parking</strong></td>
<td></td>
</tr>
<tr>
<td>20 feet</td>
<td>10 feet from Monterey Hwy 10 feet from E. Alma Ave.</td>
</tr>
<tr>
<td><strong>Rear Setback</strong></td>
<td></td>
</tr>
<tr>
<td>0 feet from property line</td>
<td>0 feet from property line opposite of Monterey Hwy. 0 feet from property line opposite of E. Alma Ave.</td>
</tr>
<tr>
<td><strong>Rear Setback, Parking</strong></td>
<td></td>
</tr>
<tr>
<td>0 feet property line</td>
<td>0 feet from property line opposite of Monterey Hwy. 0 feet from property line opposite of E. Alma Ave.</td>
</tr>
<tr>
<td><strong>Maximum Height</strong></td>
<td></td>
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<tr>
<td>50 feet</td>
<td>50 feet with an additional 10 feet for architectural or mechanical equipment projections (including solar panels).</td>
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6. **Environmental Review.** The environmental impacts of the project have been analyzed and disclosed in compliance with the California Environmental Quality Act (CEQA).

An Addendum to the Downtown College Preparatory Relocation Project Initial Study/Mitigated Negative Declaration (File No. CP16-013, approved on April 27, 2016) (IS/MND) was prepared by the Department of Planning, Building and Code Enforcement for the subject Planned Development Rezoning and Planned Development Permit (File Nos. PDC16-050 & PD16-035). An Addendum was completed in compliance with the California Environmental Quality Act (CEQA) and reflects the City's independent judgment and analysis. The purpose of the Addendum was to describe the environmental impacts of the proposed project compared to the impacts of the previously approved project, as addressed in the 2016 IS/MND. This Addendum only addressed those resource areas which would be potentially affected which include: air quality, noise, and transportation. The Addendum concluded that
there have been no changes in circumstance in the project area that would result in new significant environmental impacts or substantially more severe impacts, and no new information has come to light that would indicate the potential for new significant impacts or substantially more severe impacts than were discussed in the 2016 IS/MND.

7. **Planned Development Permit Findings.** Chapter 20.100 of Title 20 of the San José Municipal Code establishes required findings for issuance of a Planned Development Permit.

i. The Planned Development Permit, as issued, is consistent with and furthers the policies of the general plan; and

   **Analysis:** As discussed in detail above, the proposed Planned Development Permit, which will effectuate the proposed Planned Development Zoning District, complies with the goals and policies of the General Plan.

ii. The Planned Development Permit, as issued, conforms in all respects to the planned development zoning of the property; and

   **Analysis:** As discussed in detail above, the referenced Development Standards provide the parameters that the Planned Development Permit must adhere to, and as discussed above, this Planned Development Permit conforms to the proposed Planned Development Zoning District.

iii. The Planned Development Permit, as approved, is consistent with applicable city council policies, or counterbalancing considerations justify the inconsistency; and

   **Analysis:** The Planned Development Permit is consistent with the proposed Development Standards, and complies with the land use designation of Combined Industrial/Commercial. The proposed project exceeds the “normally acceptable” noise standards as outlined in General Plan policy EC-1.1 by one decibel but is within the “conditionally acceptable” range. See discussion above.

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

   **Analysis:** The existing school operates out of two existing buildings on the site which have undergone minor façade changes that have updated the appearance of these former industrial use buildings. These architecture updates clearly identify the use of the site as a school.

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

Analysis: As stated above, the Addendum to the Downtown College Preparatory Relocation Project IS/MND concluded that there are no changes in circumstance in the project area that would result in new significant environmental impacts or substantially more severe impacts, and no new information has come to light that would indicate the potential for new significant impacts or substantially more severe impacts than were discussed in the 2016 IS/MND. The proposed Planned Development Rezoning would not have an unacceptable negative effect on any adjacent property or properties.

In accordance with the findings set forth above, a Planned Development Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby 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.

CONDITIONS

1. Acceptance of Permit. Per Section 20.100.290(B) of Title 20 of the San José Municipal Code, should the permittee fail to file a timely and valid appeal of this Planned Development Permit within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the permittee:
   a. Acceptance of the Planned Development Permit by the permittee; 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. This Permit shall automatically expire two 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. 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.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the permittee for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval 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. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.

5. **Use Authorization.** This Planned Development Permit authorizes the following use to be implemented on the property subject to the terms and conditions of this permit: A maximum enrollment of 1,525 students with 571 middle school students, 654 day program high school students, and 300 high school students in the NextGen afternoon/evening program.

a. The support for this Planned Development Zoning and Planned Development Permit is based on the unique socioeconomic status and school model of the Downtown College Prep students. Based on data provided by the school, the majority of students that attend DCP take public transportation, walk/ride bikes, or take district-provided bus transportation to school, as those students who are of legal driving age do not have the means to have a personal vehicle to use to drive to school. The data provided by DCP shows that of the existing 709 high school students, only 512 are currently of legal driving age. Of those 512 students, nine currently have driver's licenses and drive to school. This is a very unique situation for a high school. DCP, or any school that wishes to operate or continue to operate on this site should DCP choose to leave this site, will be required to operate under the school model with very limited parking demand. The nine current students who actually drive to school make up 1.75% of the driving age population at the school. If this percentage increases in the future and the 92 parking spaces cannot fully accommodate all of the uses on
site, the findings for this Planned Development Zone and Permit are no longer valid and the City can take any legal enforcement action under local and State law. This rezoning and PD Permit is only being contemplated because the current need for parking spaces is extremely low. Given the maximum number of 92 spaces on site, the proposed Planned Development Permit shall allow a maximum of 28 student parking spaces (or 3% percent of the maximum high school student population in the combined day and evening programs) can park in the parking lot on any given school day and the remaining parking spaces for staff and visitors.

6. **School Operation Schedule.** The school shall adhere to the following operating schedule:

- 6:50 a.m. to 7:20 a.m.: Breakfast (15 percent of middle school students to participate)
- 7:20 a.m. to 8:20 a.m.: Zero Period (50 high school students are anticipated to participate)
- 7:30 a.m.: Start of School - Middle School
- 8:30 a.m.: Start of School - High School
- 2:55 p.m.: End of School - Middle School
- 3:55 p.m.: End of School - High School (10 percent of high school students are anticipated to stay until 5:00 p.m. for after-school programs)
- 1:30 p.m.- 7:00 p.m.: NextGen program (300 high school students)

7. **Traffic Coordinator.** A minimum of one traffic coordinator shall always be provided on-site during the drop-off and pick-up times for the school. The traffic coordinator shall coordinate all drop-offs and pick-ups and address any traffic related issues.

8. **Transportation Demand Management Plan.** The following Transportation Demand Management Plans are required to be implemented at all times on site:

a. Continue to participate in the district-provided busing;

b. Provide 50 VTA annual pass subscriptions for high school students as a lottery amongst the students;

c. Provide skateboard lockers;

d. Provide over 210 covered and secure bicycle parking spaces;

e. Provide preferential parking spaces for carpool/vanpool spaces for students and staff;

f. Provide showers and lockers for staff to encourage bike ridership;

g. Provide all staff members with VTA Annual passes;

h. Provide a free bike program for staff.
i. No student, staff, visitor, or any other person attending, visiting, or coming to the school shall park anywhere within one-half mile of the school site to avoid any parking impact to the adjacent and surrounding uses.

9. **Conformance to Plans.** The development of the site shall conform to the approved Planned Development Permit plans entitled, "DCP Alma at 1402 Monterey Highway" dated May 15, 2017 on file with the Department of Planning, Building and Code Enforcement, as may be amended and approved by the Director of Planning, Building, and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24). The plans are referred to herein as the Approved Plan Set or approved plans.

10. **Subsequent Changes.** Any subsequent proposed site changes that do not increase the maximum enrollment of students or affect the use of the school shall be subject to the approval of Planned Development Permit Amendment.

11. **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.

12. **Lighting.** All new on-site, exterior, unroofed lighting shall conform to the City's Outdoor Lighting Policy and shall use fully cut-off and fully shielded, low-pressure sodium fixtures, unless otherwise approved with this project. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.

13. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.

14. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.

15. **Charter School Regulations.** The subject use and development shall be in full compliance with all California Department of Education laws, regulations, and policies regarding charter schools.

16. **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 the San José Municipal Code.

17. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage
container. Trash areas shall be maintained in a manner to discourage illegal dumping and drained to the sanitary sewer system.

18. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the approved plan set.

19. **Utilities.** All new on-site telephone, electrical, and other overhead service facilities shall be placed underground.

20. **Anti-Graffiti.** The permittee shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.

21. **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.

22. **Building and Property Maintenance.** The property owner shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.

23. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.

24. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set.

25. **Generators.** This permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.

26. **Construction Hours.** Construction 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.

27. **Street Cleaning and Dust Control.** During construction, the 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, the permittee shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.

28. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be
installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient landscape Standards for New and Rehabilitated Landscaping.

29. Irrigation Standards. The permittee shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set. The design of the system shall be approved and stamped by a California Registered Landscape Architect.

30. 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.

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

   a. Construction Plans. This permit file number, PD16-035, 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. Construction Plan Conformance. A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.

32. Environmental Conditions.

   a. Air Quality

      i. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.

      ii. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.

      iii. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

      iv. All vehicle speeds on unpaved roads shall be limited to 15 mph.
v. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

vi. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

vii. All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

viii. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall be respond and take corrective action within 48 hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations.

b. Cultural Resources. Consistent with Envision San José 2040 General Plan policies ER-10.2 and ER-10.3, the following standard permit conditions are included in the project to reduce or avoid impacts to subsurface cultural resources.

i. In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement shall be notified, and the archaeologist will examine the find and make appropriate recommendations 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 during monitoring would be submitted to the Director of Planning, Building and Code Enforcement.

ii. In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped. The Santa Clara County Coroner shall be notified and make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) immediately. Once the NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.
iii. If vertebrate fossils are discovered during construction, all work on the site will stop immediately until a qualified professional paleontologist can assess the nature and importance of the find and recommend appropriate treatment. Treatment may include preparation and recovery of fossil materials 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 proponent will be responsible for implementing the recommendations of the paleontological monitor.

c. Hydrology and Water Quality. Consistent with the Envision San José 2040 General Plan, standard permit conditions that shall be implemented to prevent stormwater pollution and minimize potential sedimentation during construction include, but are not limited to the following:

i. Utilize on-site sediment control BMPs to retain sediment on the project site such as perimeter silt fences, placement of hay bales, and sediment basins;

ii. Utilize stabilized construction entrances and/or wash racks;

iii. Implement damp street sweeping;

iv. Provide temporary cover of disturbed surfaces to help control erosion during construction; and

v. Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

d. Noise. Consistent with the San José Municipal Code and in accordance with the General Plan FEIR, particularly Policy EC-1.7, the project shall be required to implement the following measures as Standard Permit Conditions during all phases of construction on the project site:

i. Demolition and construction activities on- or off-site, within 500 feet of sensitive receptors, such as residential development, shall be restricted to the hours of 7 AM to 7 PM Monday through Friday, non-holidays only.

ii. Staging areas and construction material areas shall be located as far away as possible from adjacent land uses.

iii. All internal combustion engines for construction equipment used on the site shall be properly muffled and maintained.

iv. All unnecessary idling of internal combustion engines is prohibited.

v. All stationary, noise-generating construction equipment, such as air compressors and portable power generators, shall be located as far as practical from existing residences and businesses.
vi. The Director of Planning and residential neighborhoods within proximity of the project site shall be notified in writing by the developer of the construction schedule at least seven days prior to the start of construction.

vii. A noise disturbance coordinator shall be designated who is responsible for responding to complaints about construction noise. The telephone number of the disturbance coordinator shall be posted in a conspicuous place at the construction site and shall also be included in the notice sent to neighbors and the Director of Planning regarding the schedule.

33. 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 shall be required to have satisfied all of the following Public Works conditions. The permittee is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: http://www.sanjoseca.gov/index.aspx?nid=2246.

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:

i. A Traffic Report was prepared and approved for Downtown College Preparatory under planning permit CP16-013 by Hexagon Transportation Consultants, April 5, 2016, for a school with a total enrollment of 1,237 middle and high school students. A Public Works Memorandum, dated April 27, 2016, was provided to Planning detailing the conditioned requirements of the Traffic Report and is incorporated fully herein by this reference.

ii. PDC16-050 proposes an increase in enrollment by 300 students for an evening program. The evening program hours of operation are 1:30 pm to 7:00 pm. The increased enrollment for the evening program will not add additional traffic to the A.M. or P.M. peak hour. No additional traffic analysis is required.

iii. Drop-off and pick-up shall occur on the school site. Drop-off and pick-up is not allowed within the public right-of-way in any manner.

c. Grand Boulevard: This project fronts North First Street/Monterey Highway which is designated as one of the seven Grand Boulevards per the Envision San José 2040 General Plan. Grand Boulevards are identified to serve as major
transportation corridors for primary routes for VTA light-rail, bus rapid transit, standard or community buses, and other public transit vehicles.

d. **Grading/Geology:**
   
i. A grading permit is required prior to the issuance of a Public Works Clearance.

   ii. 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 2010 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.

   iii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.

   iv. 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.

   v. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.

   vi. A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit.

e. **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.

i. The project’s Stormwater Control Plan and numeric sizing calculations have been reviewed and this project will be in conformance with City Policy 6-29.

ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.

t. **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).

g. **Flood: Zone AH, Elevation 105.00’ North American Vertical Datum of 1988 (NAVD88)**
   i. Elevate the lowest floor of each structure above 105.00’ NAVD88 or floodproof to the same elevation.
   
   ii. An Elevation Certificate (FEMA Form 086-0-33) for each structure, based on construction drawings, is required prior to issuance of a building permit. Consequently, after the improvement is completed, an Elevation Certificate for each structure is required prior to issuance of an occupancy permit.
   
   iii. If the structures are to be floodproofed, a Floodproofing Certificate (FEMA Form 086-0-34) for each structure, floodproofing details, and if applicable, a Flood Emergency Operation Plan and an Inspection & Maintenance Plan are required prior to the issuance of a Public Works Clearance.
   
   iv. Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated above the base flood elevation or protected from flood damage.

h. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable prior to Public Works clearance.

i. **Undergrounding:** The In Lieu Undergrounding Fee was paid as conditioned under CP16-013. No in-lieu undergrounding fee is required.

j. **Street Improvements:**
   i. Restrict left turn movement from the outbound driveway to westbound Alma Avenue by installing channelizers along the centerline of Alma Avenue from Monterey Road to the east side property line.
   
   ii. Relocate directional signs at the project driveways to be at the back of walk and within the public right-of-way.
   
   iii. Permittee shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
iv. Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.

34. **Revocation, Suspension, Modification.** This Planned Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, 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, Chapter 20.100, Title 20 of the San José Municipal Code it finds:

a. A violation of any conditions of the Planned Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or

b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or

c. The use as presently conducted creates a nuisance.

In accordance with the findings set forth above, a Planned Development Permit to use the subject property for said purpose specified above is hereby **approved.**
EFFECTIVE DATE

The effective date of this Permit shall be the effective date of the Planned Development Zoning Ordinance for File No. PDC16-050 adopted on June 13, 2017 (the "Planned Development Zoning Ordinance") and shall be no earlier than the effective date of said Planned Development Zoning Ordinance.

ADOPTED this _____ day of ____________, 2017, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

________________________

SAM LICCARDO
Mayor

ATTEST:

________________________

TONI J. TABER, CMC
City Clerk
LEGAL DESCRIPTION

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

COMMENCING ON THE EASTERLY LINE OF THE ROAD LEADING FROM SAN JOSE TO MONTEREY KNOWN AS THE MONTEREY ROAD, AT A POINT WHERE THE SOUTHERN BOUNDARY LINE OF THE CITY OF SAN JOSE INTERSECTS SAID LINE OF ROAD;
AND FROM THENCE RUNNING ALONG SAID BOUNDARY LINE OF THE CITY OF SAN JOSE (WHICH IS PARALLEL WITH SAN FERNANDO STREET IN SAID CITY) NORTH 59° 45' EAST 11.22 CHAINS TO THE WESTERN LINE OF THE LAND OF THE SOUTHERN PACIFIC RAILROAD COMPANY;
AND THENCE ALONG SAID WESTERLY LINE SOUTH 33° EAST, 3.63 CHAINS TO STAKE;
THENCE SOUTH 59° 45' WEST AND PARALLEL TO THE AFORESAID CITY BOUNDARY LINE 10.92 CHAINS TO THE EASTERN LINE OF THE MONTEREY ROAD;
AND THENCE ALONG SAID LINE OF ROAD NORTH 38° 10' WEST, 3.64 CHAINS TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION OF LAND GRANTED TO THE STATE OF CALIFORNIA BY DEED FILED FOR RECORD IN THE OFFICE OF THE RECORDER, COUNTY OF SANTA CLARA ON SEPTEMBER 05, 1939 IN BOOK 948 AT PAGE 138, OFFICIAL RECORDS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PORTION OF THAT CERTAIN 4.0239 ACRE TRACT OF LAND CONVEYED BY ALFRED SEAL AND MABEL S. LAUMISTER, FORMERLY MABEL SEAL TO SOUTHERN LUMBER COMPANY, A CORPORATION, WHICH NAME IS ERRONEOUSLY SPELLED AND SHOULD BE SPELLED SOUTHERN LUMBER COMPANY, BY DEED DATED APRIL 29, 1910 AND RECORDED APRIL 29, 1910 IN BOOK 356 OF DEEDS AT PAGE 211, RECORDS OF SANTA CLARA COUNTY; SAID PORTION BEING MORE PARTICULARLY DESCRIBED AS:

THENCE ALONG THE NORTHWESTERLY LINE OF SAID TRACT OF LAND NORTH 59° 27' EAST 6.48 FEET TO A LINE PARALLEL TO AND 40 FEET NORTHEASTERLY, MEASURED AT RIGHT ANGLES FROM THE CENTER LINE OF SAID SURVEY;
THENCE ALONG SAID PARALLEL LINE, SOUTH 38° 40' EAST, 240.41 FEET TO THE SOUTHEASTERLY LINE OF SAID TRACT OF LAND;
THENCE ALONG SAID SOUTHEASTERLY LINE SOUTH 59° 27' WEST, 7.49 FEET TO THE MOST SOUTHERLY CORNER OF SAID TRACT OF LAND; THENCE ALONG THE NORTHERLY LINE OF MONTEREY ROAD, NORTH 38° 25' 41" WEST, 240.27 FEET TO THE POINT OF COMMENCEMENT.

ALSO EXCEPTING THEREFROM THAT PORTION OF LAND GRANTED TO THE STATE OF CALIFORNIA BY DEED FILED FOR RECORD IN THE OFFICE OF THE COUNTY OF SANTA CLARA ON FEBRUARY 08, 1952 IN BOOK 2362 AT PAGE 559, OFFICIAL RECORDS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST EASTERN CORNER OF THAT CERTAIN 0.039 ACRE TRACT OF LAND DESCRIBED IN THE DEED FROM SOUTHERN LUMBER COMPANY, A CORPORATION TO THE STATE OF CALIFORNIA, RECORDED SEPTEMBER 05, 1939 IN VOLUME 948, PAGE 138,
OFFICIAL RECORDS OF SANTA CLARA COUNTY; SAID POINT OF COMMENCEMENT BEING DISTANT NORTH 59° 27' EAST, 40.40 FEET FROM ENGINEER'S STATION 89°64.61 ON THE CENTER LINE OF THE DEPT. OF PUBLIC WORKS' SURVEY FOR THE RELOCATION OF THE STATE HIGHWAY BETWEEN SAN JOSE AND COYOTE, ROAD IV-SCL-2-B;
THENCE ALONG THE NORTHEASTERN LINE OF SAID TRACT NORTH 38° 40' WEST, 240.41 FEET TO THE SOUTHERN CORPORATE LIMITED LINE OF THE CITY OF SAN JOSE;
THENCE ALONG SAID CITY LIMIT LINE NORTH 59° 27' EAST, 40.41 FEET TO A LINE PARALLEL WITH AND 80.00 FEET NORTHEASTERLY, AT RIGHT ANGLES TO SAID CENTER LINE;
THENCE ALONG SAID PARALLEL LINE SOUTH 38° 40' EAST, 240.41 FEET TO THE NORTHWESTERLY LINE OF THAT CERTAIN 8.779 ACRE TRACT OF LAND DESCRIBED IN THE DEED FROM BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION TO MAYFAIR PACKING COMPANY, RECORDED AUGUST 23, 1940 IN VOLUME 1001, PAGE 87, OFFICIAL RECORDS OF SANTA CLARA COUNTY;
THENCE ALONG SAID NORTHWESTERN LINE, SOUTH 59° 27' WEST, 40.41 FEET TO THE POINT OF COMMENCEMENT.

ALSO EXCEPTING THEREFROM THAT PORTION OF LAND GRANTED TO THE CITY OF SAN JOSE, A MUNICIPAL CORPORATION BY DEED FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA ON APRIL 24, 1970 IN BOOK 8901 AT PAGE 11, OFFICIAL RECORDS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTHEASTERLY LINE OF ALMA AVENUE (80 FEET WIDE) AS SHOWN ON THAT CERTAIN RECORD OF SURVEY MAP FILED FOR RECORD IN THE OFFICE OF THE COUNTY RECORDER, SANTA CLARA COUNTY, CALIFORNIA ON APRIL 29, 1953 IN BOOK 43 OF MAPS, PAGE 14, ALSO BEING IN THE SOUTHERN CORPORATE LIMIT LINE OF THE CITY OF SAN JOSE, WITH THE NORTHEASTERLY LINE OF MONTEREY ROAD, AS SAID LINE WAS ESTABLISHED BY DEED FROM SOUTHERN LUMBER COMPANY, A CORPORATION TO STATE OF CALIFORNIA RECORDED FEBRUARY 08, 1952 IN BOOK 2362, PAGE 559 OF OFFICIAL RECORDS, SANTA CLARA COUNTY RECORDS;
THENCE SOUTHEASTERLY ALONG THE AFORESAID NORTHEASTERLY LINE OF MONTEREY ROAD, A DISTANCE OF 22.99 FEET TO A POINT OF CUSP WITH A TANGENT CURVE, CONCAVE NORTHEASTERLY WITH A RADIUS OF 20.00 FEET THROUGH A CENTRAL ANGLE OF 97° 57' 24"), AN ARC DISTANCE OF 34.19 FEET TO A POINT ON THE AFORESAID SOUTHEASTERLY LINE OF ALMA AVENUE;
THENCE SOUTHWESTERLY ALONG THE AFORESAID SOUTHEASTERLY LINE OF ALMA AVENUE, A DISTANCE OF 22.99 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION, CONTAINING APPROXIMATELY 118 SQUARE FEET.

APN: 477-07-012
ARB: 477-07-012