CITY OF MOUNTAIN VIEW RESOLUTION NO. SERIES 2019

A RESOLUTION CONDITIONALLY APPROVING A VESTING PRELIMINARY PARCEL MAP TO RECONFIGURE THE EXISTING LOT LINES

WHEREAS, an application was received from Prometheus Real Estate Group for a Vesting Preliminary Parcel Map to reconfigure three lots into three lots (including a future public park), merge three existing lots, and create one single lot at 525, 531, 555, 565, 569, and 769 East Evelyn Avenue (Application No. PL-2018-072); and

WHEREAS, on April 3, 2019, at a duly noticed public hearing, the Environmental Planning Commission considered this request and recommended the Vesting Preliminary Parcel Map be approved subject to the attached conditions of approval; and

WHEREAS, the Vesting Preliminary Parcel Map would not be detrimental to the public interest, health, safety, convenience, or welfare of the community because the project will be consistent with the policies included in the General Plan, and the Vesting Preliminary Parcel Map facilitates the construction of a new high-density residential project and associated improvements that can be fully served by the physical infrastructure and services provided within the City of Mountain View; and

WHEREAS, on April 30, 2019, the City Council held a public hearing on said request and received and considered all evidence presented at said hearing, including the attached conditions of approval;

NOW, THEREFORE, BE IT RESOLVED, pursuant to the Subdivision Map Act, that the City Council of the City of Mountain View finds:

- 1. An EIR was prepared for the project in conformance with the California Environmental Quality Act (CEQA) and circulated for public comments for the required 45 days, which ended on November 26, 2018. Staff received five comment letters on the Draft EIR and has provided a response to these comments in the Final EIR document. All significant impacts of the project have been mitigated to less than significant with the incorporation of mitigation measures and standard City conditions of approval.
- 2. That the Vesting Preliminary Parcel Map is in compliance with the provisions of CEQA with the certification of the 555 East Evelyn Avenue Residential Project Environmental Impact, and mitigation Monitoring and Reporting Program.

- 3. That pursuant to Section 66473.5 and Subsections (a) and (b) of Section 66474 of the Government Code, and Section 28.8 of the Mountain View City Code, the City Council hereby finds that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the General Plan Land Use Designation of High-Density Residential of the City, including all required elements therein applicable to said property.
- 4. That the Vesting Preliminary Parcel Map for reconfiguring three lots into three lots (including a future park site), is hereby approved subject to the subdivider's compliance with all of those conditions of approval (Exhibit A) as required and attached hereto and incorporated herein by reference.

TIME FOR JUDICIAL REVIEW:

The time within which judicial review of this decision must be sought is governed by California Code of Civil Procedure Section 1094.6 as established by Resolution No. 13850 adopted by the City Council on August 9, 1983.

JR/3/RESO 839-04-30-19r-2

Exhibits: A. Subdivision Conditions of Approval

B. Vesting Preliminary Parcel Map

SUBDIVISION CONDITIONS APPLICATION NO.: PL-2018-072 525, 531, 555, 565, 569, AND 769 EAST EVELYN AVENUE

- 1. **MAP SUBMITTAL:** File a parcel map for approval and recordation in accordance with the City Code and the California Subdivision Map Act prior to the issuance of any building permit for the property within the subdivision. All existing and proposed easements are to be shown on the map. Submit two black-line copies of the map to the Public Works Department for review together with all items on the Map Checklist concurrent with the Off-Site Improvement Plans.
- 2. **MAP DOCUMENTS:** Submit a subdivision guarantee, County Tax Collector's letter regarding unpaid taxes or assessments, and subdivision security if there are unpaid taxes or special assessments prior to the approval and recordation of the map.
- 3. **SOILS REPORT:** Soils and geotechnical reports prepared for the subdivision shall be indicated on the parcel map. Submit a copy of the report with the parcel map.
 - a. As required by the State Seismic Hazards Mapping Act, a project site-specific geotechnical investigation shall be conducted by a registered soils/geologist identifying any seismic hazards and recommending mitigation measures to be taken by the project. The applicant, through its registered soils engineer/geologist, shall certify the project complies with the requirements of the State Seismic Hazards Mapping Act. Indicate the location (page number) within the geotechnical report of where this certification is located or provide a separate letter stating such.
- 4. **PARCEL MAP APPROVAL:** When all subdivision-related materials and agreements have been completed, the original parcel map shall be signed and notarized by the owners and engineer/surveyors and submitted to the Public Works Department. The City will sign the map and provide a Xerox Mylar copy. The applicant's title company shall have the County Recorder's Office record the original and endorse the Xerox Mylar copy. The endorsed Xerox Mylar copy and PDF shall be returned to the Public Works Department within one week after recording the map.
- 5. **MAP PLAN CHECK FEE:** Prior to issuance of any building permits and prior to approval of the parcel map as applicable, the applicant shall pay the map plan check fee in accordance with Sections 28.27.b and 28.19.b of the City Code per the rates in effect at time of payment.
 - An initial map plan check fee based on the Public Works fee schedule shall be paid at the time of initial map plan check submittal.
- 6. **SUBDIVISION FEES:** Pay all subdivision fees due in accordance with the rates in effect at the time of payment prior to the approval of the parcel map.
- 7. **PARK LAND DEDICATION AND FEE:** Dedicate in fee 0.68 acre of public park land and pay the Park Land Dedication Fee to satisfy the remaining park requirement for the development in accordance with Chapter 41 prior to the issuance of any building permits and prior to approval of the parcel map.

Prior to the approval of the parcel map, the applicant shall: (1) provide a written report to disclose all known hazardous materials and contaminants on the park site to the City; (2) provide written approval by the Regional Water Quality Control Board (RWQCB) or other appropriate lead regulatory agency for the use of the site as a public park; (3) prepare a Site Management Plan (SMP) with specific protocols for the park construction, operation, and ongoing maintenance that must be reviewed and approved by the RWQCB. The applicant shall provide

funding for the implementation of the SMP on the park site based on a cost estimate prepared by the engineer of the SMP and as approved by the City prior to the approval of the parcel map; the City shall implement the SMP during park construction; (4) be responsible for removing or remediating hazardous material and contaminants found on the site, as identified in the written report provided to the City and as required by the SMP, so that the site is suitable for use as an open space park site; and (5) agree to protect, indemnify, and hold harmless City, its directors, officers, employees, and agents, from and against any environmental liability related to any hazardous substances caused by applicant's actions at the property, and any and all claims, demands, judgments, settlements, damages, actions, causes of action, injuries, administrative orders, consent agreements, and orders, liabilities, losses, penalties, and costs related to hazardous substances caused by applicant, including, but not limited to, any cleanup costs, remediation costs, and response costs, and all expenses of any kind whatsoever, including reasonable attorneys' fees and expenses, including, but not limited to, those arising out of loss of life caused by applicant; injury to persons, property, or business caused by applicant; or damage to natural resources in connection with the activities of applicant or its agents or contractors, and any of them, the foregoing being collectively referred to as "claims" which:

- a. Arise out of the actual, alleged, or threatened mitigation, spill, leaching, pouring, emptying, injection, discharge, dispersal, release, storage, treatment, generation, or disposal or escape of any hazardous substances onto or from the premises; or
- b. Actually or allegedly arise out of or in connection with the premises, the use, specification, or inclusion of any product, material, or process containing hazardous substances, the failure to detect the existence or proportion of hazardous substances in the soil, air, surface water, or groundwater, or the performance of or failure to perform the abatement of any hazardous substances source or the replacement or removal of any soil, water, surface water, or groundwater containing any hazardous substances; or
- c. Arise out of the breach of any covenant, warranty, or representation contained in any statement or other information given by applicant to City in connection with environmental matters; or
- d. Arise out of any enforcement or remedial action or any judicial or administrative action brought pursuant to any environmental law.

Applicant, its successors, and assigns, shall bear, pay, and discharge when and as the same become due and payable, any and all such judgments or claims for damages, penalties, or otherwise against City, as provided in this section, shall hold City harmless for those judgments or claims, and shall assume the burden and expense of defending all suits, administrative proceedings, and negotiations of any description with any and all persons, political subdivisions, or government agencies.

- 8. **WATER AND SEWER CAPACITY CHARGES:** The water and sewer capacity charges for residential connections are based on the number and type of dwelling units. There are separate charges for different types of residential categories so that the capacity charges reasonably reflect the estimated demand of each type of connection. The water and sewer capacity charges for nonresidential connections are based on the water meter size, and the building area and building use, respectively. Credit is given for the demand of the improvements that previously existed on the site. Fees need to be paid per the Public Works Fee Schedule prior to Public Works approving the parcel map.
- 9. **TRANSPORTATION IMPACT FEE:** The fee is applicable to all projects that submitted a formal planning application after July 1, 2018, or that are issued a building permit after January 1, 2021, per City Code (Chapter 43). The applicant shall pay the Transportation Impact Fee prior to issuance of any building permits and prior to the approval of the parcel map, as applicable. Residential category fees are based on the number of units. Retail/Service/Office/R&D/Industrial category fees are based on the square footage of the development. Credit is given for the existing site use(s), as applicable.

- 10. **STORM DRAINAGE FEE:** Prior to issuance of any building permits and prior to approval of the parcel map, the applicant shall pay the off-site storm drainage fee per Section 28.51 (b) and with the rates in effect at the time of payment.
- 11. **SANITARY SEWER FAIR SHARE CONTRIBUTION:** The Utility Impact Study by Schaaf & Wheeler, dated June 26, 2018, identified performance and capacity deficiencies at downstream segments of the City sanitary sewer system contributed by the development beyond the levels anticipated under the adopted General Plan. Prior to issuance of the building permit and approval of the parcel map, the applicant shall be required to pay a proportionate fair-share contribution to the City to upsize the sanitary sewer pipelines in the system to achieve appropriate performance and capacity.
- 12. **UTILITY EASEMENT AND APPROVALS:** Dedicate utility easements as required by the utility companies and as approved by the Public Works Director. All public utility easement dedications are to be shown on the parcel map. The subdivider shall submit two copies of the map to PG&E, AT&T (SBC), and Comcast for their review and determination of easement needs. The public utility easement dedications must be approved by the utility companies prior to the approval of the parcel map.
- 13. **EMERGENCY VEHICLE ACCESS EASEMENT:** Dedicate a 26' wide emergency vehicle access easement, as required by the Fire Protection Engineer.
- 14. PUBLIC ACCESS EASEMENT, COVENANTS, AND DEED RESTRICTIONS (CONNECTIONS THROUGH SITES): Prior to issuance of any building permits or approval of the parcel map, the owner shall dedicate a public access easement, covenants, agreements, and deed restrictions (PAE) over the proposed 26' emergency vehicle access easement across the property. Associated improvements within the PAE shall be constructed by the owner and approved by the City.

The dedication shall indicate that:

- a. Public access shall be granted for nonautomotive use;
- b. Owner shall maintain, inspect, and monitor the PAE improvements in good order, condition, and repair and in compliance with the Americans with Disabilities Act (ADA);
- c. The PAE shall run with the land and be binding upon any successors;
- d. If Owner shall fail to abide by PAE, Owner agrees to pay all reasonable costs and expenses incurred by City in enforcing the performance of such obligations;
- e. Owner agrees to defend and hold City, its officers, employees, agents, and volunteers, harmless from any liability for damage or claims for damage for personal injury, including, but not limited to, death and/or property damage caused by negligent acts, errors, or omissions in performance of services or operations under the Dedication, including maintenance operations performed on the PAE by Owner or Owner's contractors, subcontractors, agents, or employees.

A legal description and plat of: (1) the owner's property; and (2) the PAE area shall be prepared by the owner in accordance with the City's Legal Description and Plat Requirements and submitted to the City for review.

15. **PUBLIC UTILITY EASEMENT (PUE) DEDICATION:** Dedicate a 10' wide public utility easement (PUE) along project street frontage(s) for such use as sanitary sewer, water, storm drains, and other public utilities, including gas, electric, communication, and cable television facilities, as required by the Public Works Director. The property owner or Home Owners Association (HOA) shall maintain the surface improvements over the easement, and must not modify or obstruct the easement area in a manner contrary to the intent of the easement. The dedication

statement shall specify that the PUE be kept free and clear of buildings and other permanent structures/facilities, including, but not limited to, the following:

- Garages, sheds, carports, and storage structures;
- Balconies and porches;
- Retaining walls;
- C.3 bioretention systems; and
- Private utility lines running longitudinally within the PUE.
- 16. **PUBLIC IMPROVEMENTS:** Install or reconstruct standard public improvements that are required for the subdivision and as required by Chapters 27 and 28 of the City Code. These improvements include, but are not limited to: street overlay; new curb, gutter, sidewalk, and driveways along the project frontage on East Evelyn Avenue; landscaping and irrigation of the public landscape strip; median island improvements; water and sanitary sewer services; storm laterals; and joint utilities.
 - a. **IMPROVEMENT AGREEMENT:** The property owner must sign a Public Works Department improvement agreement for the installation of the public improvements prior to the issuance of the building permit and prior to approval of the parcel map. Sign a Public Works Department faithful performance bond (100 percent) and materials/labor bond (100 percent) or provide a letter of credit (150 percent) or cash security (100 percent) securing the installation and warranty of the off-site and on-site common improvements in a form approved by the City Attorney's Office. The surety (bond company) must be listed as an acceptable surety on the most current Department of the Treasury's Listing of Approved Sureties on Federal Bonds, Department Circular 570. This list of approved sureties is available through the Internet at: www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570_a-z.htm. The bond amount must be below the underwriting limitation amount listed on the Department of the Treasury's Listing of Approved Sureties. The surety must be licensed to do business in California. Guidelines for security are available at the Public Works Department. Any changes to the standard agreement will require an additional one- to three-week processing time with the City Attorney's Office.
 - b. **INSURANCE:** Provide a certificate of insurance and endorsement naming the City an additional insured from the entity that will sign the improvement agreement prior to the approval of the parcel map. The insurance coverage amounts are a minimum of Two Million Dollars (\$2,000,000) Commercial General Liability, One Million Dollars (\$1,000,000) Automobile Liability, and One Million Dollars (\$1,000,000) Workers' Compensation. The insurance requirements are available from the Public Works Department.
- 17. **OFF-SITE IMPROVEMENT PLANS:** Prepare off-site public improvement plans in accordance with Chapter 28 of the City Code, the City's Standard Design Criteria, Submittal Checklist, Plan Review Checklist, and the conditions of approval of the project. The plans are to be drawn on 24"x36" sheets at a minimum scale of 1" = 20'. The plans shall be stamped by a registered civil engineer and shall show all public improvements and other applicable work within the public right-of-way. A traffic control plan indicating, but not limited to, the work areas, delineators, signs, and other traffic control measures is required for work that impacts traffic on an existing street. Improvement plans (10 sets), an initial plan check fee and map plan check fee based on the Public Works fee schedule, Improvement Plan Checklist, and items noted within the checklist must be submitted together as a separate package concurrent with the first submittal of the building plans. The improvement plans must be approved and signed by the Public Works Department. After the plans have been signed by the Public Works Department, 10 black-line sets, 1 Xerox Mylar (4 mil) set of the plans, and CD with CAD file and PDF must be submitted to the Public Works Department prior to the approval of the parcel map. CAD files shall meet the City's Digital Data Submission Standards.

- 18. **INFRASTRUCTURE QUANTITIES:** Submit a completed construction cost estimate form indicating the quantities of the improvements with the initial submittal of the improvement plans. The construction cost estimate is used to estimate the cost of improvements and to determine the Public Works plan check and inspection fees. The construction cost estimate is to be prepared by the civil engineer preparing the improvement plans and stamped and signed.
- 19. UNDERGROUNDING OF OVERHEAD SERVICES: All new and existing electric, telephone, and cable television services serving the subdivision are to be placed underground (including transformers), with the exception of the existing on-site pad-mount capacitor cabinet located within the PG&E easement. Underground utility vaults that serve only the property shall be placed on-site and shall not encroach into the public right-of-way or easements. The undergrounding of the new and existing electric, telephone, and cable television services are to be completed prior to issuance of a Certificate of Occupancy for any new buildings within the subdivision.
- 20. **JOINT UTILITY PLANS:** Submit joint utility plans showing the location of the proposed electric, gas, telephone, and cable television conduits and vaults, including the existing and proposed conduit to the on-site cell tower. These plans shall be combined with and made part of the improvement plans. Dedicate public utility easements that are necessary for the common utility on the parcel map.
- 21. **JOINT UTILITY BOXES:** All new and existing utility boxes shall be placed underground, with the exception of the existing on-site pad-mount capacitor cabinet located within the PG&E easement. Underground utility vaults shall not encroach into the public sidewalk and must fit either entirely within the landscape strip or the public utility easement. Joint utility conduits and vaults shall not be allowed within the public park dedication; this condition of approval governs over the proposed design shown in the Planning application, including Sheet C4.0. The utility boxes/No. 7 transformers shall be relocated out of the future park so that they do not impact any of the trees designated to remain, landscaping, or streetscape along the East Evelyn Avenue frontage, to the satisfaction of the Public Works Director and Community Development Director.
- 22. **UTILITY MAINTENANCE:** On-site water, sanitary sewer, and storm drainage facilities shall be privately maintained.
- 23. **STORM DRAIN HOLD HARMLESS AGREEMENT:** Prior to the approval of the parcel map, sign a storm drain hold harmless agreement if there are any proposed on-site storm inlets with grates below the elevation of street curb to be connected to the City's storm drain system.
- 24. **SANITARY SEWER HOLD HARMLESS AGREEMENT:** Prior to the approval of the parcel map, if the sanitary sewer connection(s) inside the structure(s) is/are less than 1' above the rim elevation of the upstream sanitary sewer manhole, the owner shall sign an agreement to hold the City harmless against sewer surcharges or blockages that result in on-site damage.
- 25. **RETAINING WALL:** Retaining walls shall have a maximum height of 18", unless an exception is granted by the Community Development and Public Works Departments. Retaining walls along the perimeter of the subdivision shall be maintained by the property owner.
- 26. **SURFACE DRAINAGE RELEASE:** Provide a surface stormwater release for the lots that prevents the residential buildings from being flooded in the event the storm drainage system becomes blocked or obstructed.
- 27. **SURFACE DRAINAGE RELEASE:** Provide surface stormwater release for the lots that prevents the residential buildings from being flooded in the event the storm drainage system becomes blocked or obstructed. The drainage paths for the lots shall be designed such that the drainage paths do not cross the common property lines unless an exception is approved by the Public Works Department due to unavoidable circumstances (such as to provide

drainage to an existing Heritage tree).

- 28. **SUBDIVISION AND DESIGN CRITERIA PROVISIONS:** It is the applicant's responsibility to comply with relevant provisions of Chapter 28 of the City Code and with the City's Design Criteria for Common Green Developments and Townhouse-Type Condominiums.
- 29. **CONSISTENCY WITH OTHER APPROVALS:** This map shall be consistent with all requirements of the Planned Community Permit and the Development Review Permit, Application No. PL-2018-071. All conditions of approval imposed under that application shall remain in full force and effect and shall be met prior to approval of the parcel map.
- 30. **APPROVAL EXPIRATION:** If the map is not completed within twenty-four (24) months from the date of this approval, this map shall expire. The map is eligible for an extension of an additional twelve (12) months, provided the request for extension is filed by the applicant prior to the expiration of the original map. Upon filing a timely application for extension, the map shall automatically be extended for sixty (60) days or until the application for the extension is approved, conditionally approved, or denied, whichever occurs first.

JR/3/CDD 839-04-03-19SD

