

## CANNERY

### Ordinance No. 5596

Ordinance of the Council of the City of Palo Alto Amending Section 18.08.040 of the Palo Alto Municipal Code (The Zoning Map) to Change the Classification of Property Located at 340-404 Portage Avenue from Multiple Family Residential (RM-30) to PC Planned Community Zone (PC-5596) for the Partial Demolition and Historic Restoration/Rehabilitation of the Cannery Building for Research and Development Use

The Council of the City of Palo Alto does ORDAIN as follows:

#### **SECTION 1.** Findings and Declarations.

(a) At the conclusion of a City Council ad hoc committee process and City Council pre-screening on August 1, 2022, SI 45, LLC, (“the Owner”) applied in the Fall 2022 to the City for approval of (1) a Development Agreement, (2) Comprehensive Plan Amendment, (3) Planned Community Zoning Ordinances, (4) Tentative Map(s), and (5) Major Architectural Review (the “Project”) for the 14.65 acre property at 200-404 Portage Avenue, 3040-3250 Park Boulevard, 3201-3225 Ash Street, and 278 Lambert Avenue (the “Project Site”).

(b) Unless context dictates otherwise, terms used in this Ordinance shall be defined and interpreted in a manner consistent with the Development Agreement adopted by Ordinance No. 5595 (the “Development Agreement”). All references in this ordinance to the Development Agreement are for informational purposes only; this ordinance does not affect the rights and obligations of the parties stated in the Development Agreement nor extend its applicability to the Subject Property beyond the terms stated in the Development Agreement.

(c) The Tentative Map associated with the Project, including exceptions and conditions of approval, approved by Record of Land Use Action No. 2023-03 (the “Tentative Map”) will merge the Project Site and create five (5) new parcels, including dedication of approximately 3.25 acres of the Project Site to the City for use as parkland and as the site of an affordable housing project. In part as a result of and to facilitate this dedication, existing and proposed uses on the other four (4) newly created parcels require Planned Community (PC) Zoning.

(d) The Architectural Review associated with the Project, including conditions of approval, approved by Record of Land Use Action No. 2023-03 include information on the existing and proposed improvements on the Project Site (the “Architectural Review”).

(e) The approved Tentative Map and the Architectural Review shall be known collectively as the “Project Plans” and incorporated herein by reference.

(f) This Ordinance is one of five (5) PC Planned Community Ordinances associated with the Project, and sets forth the permitted uses, required development standards, and required public benefits applicable solely and exclusively for 340-404 Portage Avenue (the “Subject Property”) as depicted and legally described on Exhibit A.

## CANNERY

(g) After study sessions on October 12, 2022 and October 26, 2022, the Planning and Transportation Commission (“PTC”), at its meeting of November 30, 2022, acted favorably on the Owner’s request for initiation of the Planned Community Zone process for the establishment of Planned Community Zone District No. PC-5596.

(h) The Project was considered by the Public Art Commission (“PAC”) on January 19, 2023, and the Palo Alto Bicycle Advisory Committee (“PABAC”) on February 7, 2023 and June 6, 2023.

(i) After a study session on January 12, 2022, the Historic Review Board (“HRB”), at its meeting of May 25, 2023, reviewed the Project design and recommended the City Council approve the Project, with certain recommended conditions and considerations.

(j) After a study sessions on December 15, 2022, January 19, 2022, and a public hearing on April 6, 2023, the Architectural Review Board (“ARB”), at its meeting of June 15, 2023, reviewed the Project design and recommended the City Council approve the Project, with certain recommended conditions and considerations.

(k) The PTC, after a duly noticed public hearing held on July 12 and July 26, 2023, considered the Environmental Impact Report (“EIR”), then reviewed the Project Plans and this Ordinance, and recommended that Section 18.08.040 (the Zoning Map) of the Palo Alto Municipal Code be amended to rezone the Subject Property to a new Planned Community zone, consistent with conditions included in the Planned Community zone related to allowable land uses and required development standards, and subject to provision of the public benefits outlined in this ordinance and recommended approval of the Tentative Map and Architectural Review.

(l) The Palo Alto City Council, after due consideration of the proposed Project, the analysis of the City staff, and the recommendations from the PAC, PABAC, HRB, ARB and PTC, certified the EIR and Mitigation Monitoring Program, and found that the proposed project and this Ordinance is in the public interest and will promote the public health, safety and welfare, as hereinafter set forth.

(m) The Council finds that (1) the Subject Property is so situated, and the use or uses proposed for the site are of such characteristics that the application of general districts or combining districts will not provide sufficient flexibility to allow for the Project; (2) development of the Subject Property under the provisions of the PC Planned Community District will result in public benefits not otherwise attainable by application of the regulations of general districts or combining districts, as set forth in Section (6)(c) hereof; and (3) the use or uses permitted, and the site development regulations applicable within the proposed district are consistent with the Palo Alto Comprehensive Plan (Goals, Policies, and proposed designation of Mixed Use for the Subject Property) as set forth in Record of Land Use Action No. 2023-03, and are compatible with existing and potential uses on adjoining sites or within the general vicinity.

## CANNERY

**SECTION 2.** Amendment of Zoning Map.

Section 18.08.040 of the Palo Alto Municipal Code, the “Zoning Map,” is hereby amended by changing the zoning of Subject Property from Multiple Family Residential (RM-30) to “PC Planned Community Zone 5596”.

**SECTION 3.** Project Description.

The Project as a whole is described in the Development Agreement and the Project Plans. With respect to the Subject Property, the project comprises the uses included in this Ordinance, depicted on the Project Plans, incorporated by reference, including the following components:

- (a) Construction of a one-level parking garage;
- (b) Demolition of approximately 84,000 square feet of the existing cannery building restoration, rehabilitation and maintenance of the remaining cannery building in accordance with the Development Agreement and Architectural Review.
- (c) Construction of an approximately 2,600 square foot retail/interpretive display space within the remaining cannery building and an adjacent outdoor seating area (“Retail Area”) in accordance with the Development Agreement and Architectural Review.

**SECTION 4.** Land Uses

- (a) The following land uses shall be permitted, subject to the limitations stated in Section 4(c):

- (1) Research and Development as defined in Palo Alto Municipal Code section 18.04.030(a)(123) as of the Effective Date of this Ordinance and set forth in full below:

“Research and development” means a use engaged in the study, testing, engineering, product design, analysis and development of devices, products, processes, or services related to current or new technologies. Research and development may include limited manufacturing, fabricating, processing, assembling or storage of prototypes, devices, compounds, products or materials, or similar related activities, where such activities are incidental to research, development or evaluation. Examples of “research and development” uses include, but are not limited to, computer software and hardware firms, computer peripherals and related products, electronic research firms, biotechnical and biomedical firms, instrument analysis, genomics, robotics and pharmaceutical research laboratories, and related educational development. Research and development may include the storage or use of hazardous materials in excess of the exempt quantities listed in Title 15 of the Municipal Code, or etiological (biological) agents up to and including Risk Group 3 or Bio Safety Level 3 classifications as defined by the National Institute of Health (NIH)

## CANNERY

or the Center for Disease Control (CDC). Higher classification levels of etiological (biological) agents are not allowed without express permission of the City Manager, Fire Chief, and Police Chief.

Related administrative uses such as finance, legal, human resources, management, marketing, sales, accounting, purchasing, or corporate offices; provisions of services to others on or off-site; and related educational uses may also be included provided they remain primarily supportive of the primary uses of “research and development” and are part of the same research and development firm.

- (2) Retail service or Retail-like uses, except Hotels, Theaters, Commercial nurseries, Auto dealerships, and liquor stores.
- (3) Multiple-family residential.
- (4) Public facilities, including display of interpretive materials regarding the history of the historic cannery building and use.

(b) The following land uses shall be conditionally permitted, subject to the limitations stated in Section 4(c):

- (1) Retail service or Retail-like uses excluded in Section 4(a)(2).

(c) Special limitations on land uses include the following:

- (1) A maximum of 140,174 square feet may be devoted to Research and Development (excluding an approximately 10,000 square foot exterior, covered area on the southwest corner of the building (“Covered Area”), which is currently used as an entry and outdoor seating area, parking, and screened storage, as depicted in Exhibit B. The Covered Area may remain in such use by the existing tenant as of the date of this Ordinance. Following termination of tenancy by the existing tenant, the Covered Area shall be converted such that it no longer meets the City’s then-existing definition of “Floor Area.”).
- (2) The Retail Area may be occupied by Retail or Retail-like uses per Section 4 (a) and (b), above, or Public Facility uses only and shall be subject to a recordable covenant governing public access to the historic interpretive materials provided onsite pursuant to the terms of the Development Agreement.

//

//

## CANNERY

**SECTION 5.** Site Development Regulations and Development Schedule(a) Development Standards:

Development standards for the Subject Property shall be those as set forth in the Project Plans.

(b) Historic Maintenance Covenant:

As provided in the Development Agreement, the Owner shall record a historic maintenance covenant, in a form acceptable to the City Attorney, to ensure maintenance of the Remaining Cannery in accordance with the Project Plans.

(c) Parking and Loading Requirements:

The Owner shall provide parking and loading as set forth in the Project Plans. The parking requirements are adopted in consideration of a Transportation Demand Management (TDM) Plan, which is attached hereto and incorporated herein by reference.

(d) Modifications to the Development Plan, Land Uses and Site Development Regulations:

Once the project has been constructed consistent with the approved Development Plan, any modifications to the exterior design of the Development Plan or any new construction not specifically permitted by the Development Plan or the site development regulations contained in Section 5 (a) – (c) above shall require an amendment to this Planned Community zone, except as provided in the recorded Historic Maintenance Covenant and/or Project Plans. Any use not specifically permitted by this ordinance shall require an amendment to the PC ordinance.

(e) Development Schedule:

The project is required to include a Development Schedule pursuant to PAMC §18.38.100. The approved Development Schedule is set forth in the Development Agreement.

**SECTION 6.** Public Benefits.(a) Public Benefits

Development of the Project Site under the provisions of the Development Agreement and PC Planned Community District will result in public benefits not otherwise attainable by application of the regulations of general districts or combining districts. The public benefits are provided by the Project as a whole and set forth in the Development Agreement.

(b) Monitoring of Conditions and Public Benefits:

Not later than three (3) years following expiration of the Development Agreement and every three (3) years thereafter, the Owner shall request that the City review the for

## CANNERY

compliance with the PC district regulations and the conditions of the ordinance under which the district was created, as applicable only to the Subject Property. The applicant shall provide adequate funding to reimburse the City for these costs. If conditions or benefits are found deficient by staff, the applicant shall correct such conditions in not more than 90 days from notice by the City. If correction is not made within the prescribed timeframe, the Director of Planning and Community Environment will schedule review of the project before the Planning and Transportation Commission and Council to determine appropriate remedies, fines or other actions.

**SECTION 7.** Environmental Review

An EIR for the Project was prepared in accordance with the California Environmental Quality Act. The City Council adopted Resolution No. 10123 certifying the adequacy of the EIR.

**SECTION 8.** Effective Date

This ordinance shall be effective on the thirty-first day after the date of its adoption (second reading).

INTRODUCED: September 12, 2023

PASSED: October 2, 2023

AYES: BURT, KOU, LAUING, LYTHCOTT-HAIMS, STONE, TANAKA, VEENKER

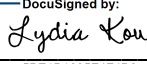
NOES:

ABSENT:

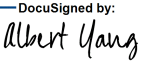
ABSTENTIONS:

ATTEST:

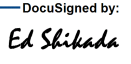
DocuSigned by:  
  
 8691CE5898F6400...  
 City Clerk

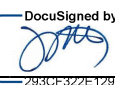
DocuSigned by:  
  
 5BE1B1635F4F4B6...  
 Mayor

APPROVED AS TO FORM:

DocuSigned by:  
  
 15B6C45220134DC...  
 Assistant City Attorney

APPROVED:

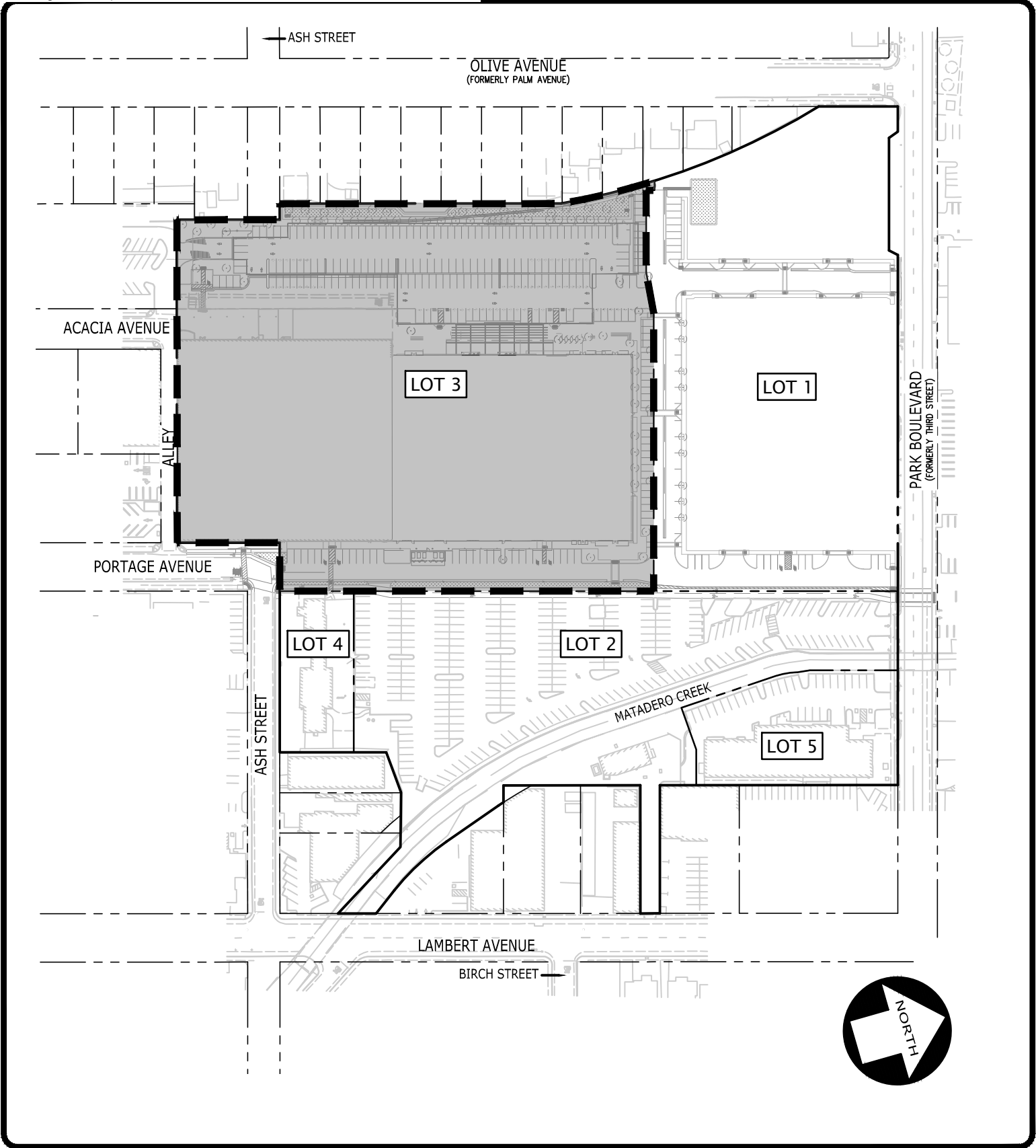
DocuSigned by:  
  
 F2DCA19CCC8D4F9...  
 City Manager

DocuSigned by:  
  
 293CF322E1294F6...  
 Director of Planning and Development Services

## CANNERY

Exhibit A: Subject Property Plat and Legal Description

Exhibit B: Covered Area



PALO ALTO		PORTAGE AVENUE - LOT 3		DATE	10/4/2023
		CALIFORNIA		SCALE	N/A
Exhibit A: Plat and Legal Description		 <b>KIER+WRIGHT</b> 3350 Scott Boulevard, Building 22 Santa Clara, California 95054 Phone: (408) 727-6665 <a href="http://www.kierwright.com">www.kierwright.com</a>		DR. BY	MC
				JOB	A10128-7
				SHEET NO.	3 OF 5

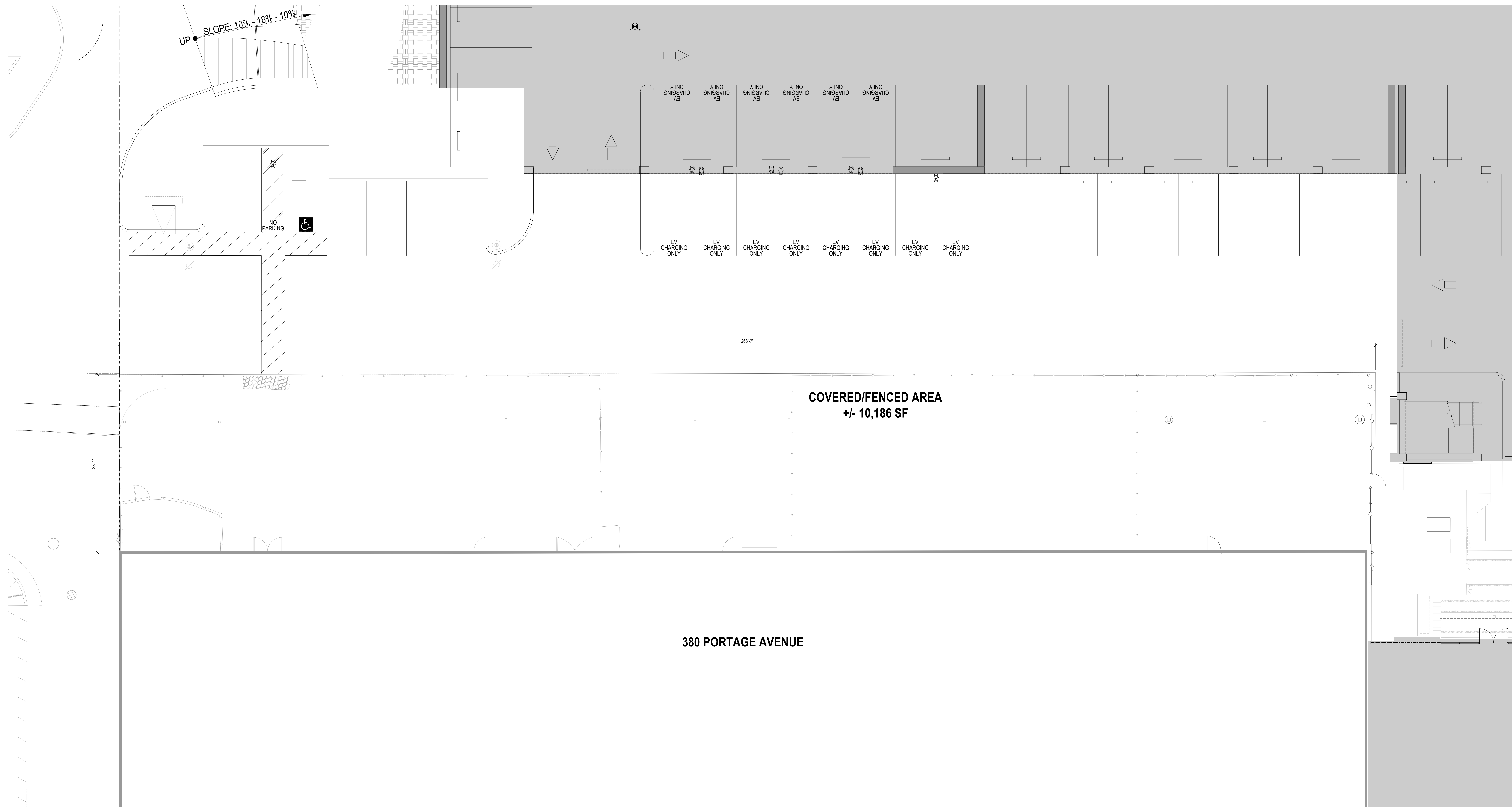


**LEGAL DESCRIPTION  
PROPOSED DEVELOPMENT LOT**

LOT 3:

ALL OF LOT 3, AS SHOWN ON THAT MAP FILED FOR RECORD IN THE OFFICE OF THE RECORDER  
OF THE COUNTY OF SANTA CLARA. STATE OF CALIFORNIA, ON \_\_\_\_\_, IN  
BOOK \_\_\_\_\_ OF MAPS, PAGES \_\_\_\_\_ SANTA CLARA COUNTY RECORDS.

[Planning Director to fill in blanks Following Recordation of the Final Map for the Property]



**EXISTING PARTIAL SITE PLAN**  
SCALE: 1/8" = 1'-0"

**Certificate Of Completion**

Envelope Id: 07E8FB9A02B6498F9C84622B6783F2C7

Status: Completed

Subject: DocuSign: Ordinance 5596 - Cannery

Source Envelope:

Document Pages: 10

Signatures: 5

Envelope Originator:

Certificate Pages: 2

Initials: 0

Vinhloc Nguyen

AutoNav: Enabled

250 Hamilton Ave

Envelopeld Stamping: Enabled

Palo Alto , CA 94301

Time Zone: (UTC-08:00) Pacific Time (US &amp; Canada)

Vinhloc.Nguyen@CityofPaloAlto.org

IP Address: 199.33.32.254

**Record Tracking**

Status: Original

Holder: Vinhloc Nguyen

Location: DocuSign

11/7/2023 9:30:14 AM

Vinhloc.Nguyen@CityofPaloAlto.org

Security Appliance Status: Connected

Pool: StateLocal

Storage Appliance Status: Connected

Pool: City of Palo Alto

Location: DocuSign

**Signer Events****Signature****Timestamp**

Albert Yang

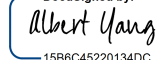
Albert.Yang@CityofPaloAlto.org

Assistant City Attorney

City of Palo Alto

Security Level: Email, Account Authentication  
(None)

DocuSigned by:

  
15B6C45220134DC...

Sent: 11/7/2023 9:32:59 AM

Viewed: 11/7/2023 10:49:03 AM

Signed: 11/7/2023 11:00:15 AM

Signature Adoption: Pre-selected Style

Using IP Address: 97.113.134.194

**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

Jonathan Lait

Jonathan.Lait@CityofPaloAlto.org

Interim Director Planning and Community

Environment

City of Palo Alto

Security Level: Email, Account Authentication  
(None)

DocuSigned by:

  
293CF322E1294F6...

Sent: 11/7/2023 11:00:17 AM

Viewed: 11/17/2023 12:44:02 PM

Signed: 11/17/2023 12:44:07 PM

Signature Adoption: Uploaded Signature Image

Using IP Address: 99.88.42.180

**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

Ed Shikada

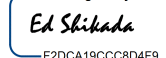
Ed.Shikada@CityofPaloAlto.org

Ed Shikada

City of Palo Alto

Security Level: Email, Account Authentication  
(None)

DocuSigned by:

  
F2DCA19CCC8D4F9...

Sent: 11/17/2023 12:44:08 PM

Viewed: 11/17/2023 4:21:12 PM

Signed: 11/17/2023 4:21:16 PM

Signature Adoption: Pre-selected Style

Using IP Address: 199.33.32.254

**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

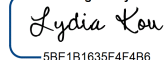
Lydia Kou

Lydia.kou@cityofpaloalto.org

Council Member

Security Level: Email, Account Authentication  
(None)

DocuSigned by:

  
5BE1B1635F4F4B6...

Sent: 11/17/2023 4:21:17 PM

Viewed: 11/18/2023 8:21:39 AM


Signed: 11/18/2023 8:22:10 AM

Signature Adoption: Pre-selected Style

Using IP Address: 50.204.42.240

**Electronic Record and Signature Disclosure:**

Not Offered via DocuSign

Signer Events	Signature	Timestamp
Mahealani Ah Yun Mahealani.AhYun@CityofPaloAlto.org Interim City Clerk Security Level: Email, Account Authentication (None)	<div> DocuSigned by:    8691CE5898F6400... </div> Signature Adoption: Pre-selected Style Using IP Address: 98.51.1.158	Sent: 11/18/2023 8:22:11 AM Viewed: 11/18/2023 5:20:27 PM Signed: 11/18/2023 5:20:43 PM

Electronic Record and Signature Disclosure:  
Not Offered via DocuSign

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	11/7/2023 9:32:59 AM
Certified Delivered	Security Checked	11/18/2023 5:20:27 PM
Signing Complete	Security Checked	11/18/2023 5:20:43 PM
Completed	Security Checked	11/18/2023 5:20:43 PM
Payment Events	Status	Timestamps