

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A SITE DEVELOPMENT PERMIT TO ALLOW THE DEMOLITION OF AN EXISTING APPROXIMATELY 8,015-SQUARE-FOOT COMMERCIAL BUILDING AND THE REMOVAL OF SIX NON-ORDINANCE SIZE TREES, AND THE CONSTRUCTION OF A NEW APPROXIMATELY 7,488-SQUARE FOOT COMMERCIAL BUILDING AND MINOR SITE IMPROVEMENTS ON AN APPROXIMATELY 0.79-GROSS-ACRE SITE, LOCATED ON THE NORTHEAST CORNER OF BLOSSOM RIVER DRIVE AND BLOSSOM HILL ROAD (1009 BLOSSOM HILL ROAD) (APN 458-14-023)

FILE NO. H22-027

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on July 1, 2022, an application (File No. H22-027) was filed by Matthew Johnson of Halle Properties, LLC, on behalf of property owner The Steve Hongdur Lin & Carol Yao Lin Revocable Trust, with the City of San José for a Site Development Permit to allow the demolition of an existing approximately 8,015-square foot commercial building (formerly Pier 1 Imports) and the removal of six non-ordinance size trees for the construction of a new approximately 7,488-square foot commercial building (proposed America's Tire) and minor site improvements on an approximately 0.79-gross-acre site, on that certain real property situated in the CG Commercial General Zoning District and located on the northeast corner of Blossom River Drive and Blossom Hill Road (1009 Blossom Hill Road, APN 458-14-023, 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" and depicted in Exhibit "B," entitled "Plat Map," which are attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the City Council conducted a Public Hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, the City Council gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing, the City Council received in evidence a plan for the subject property entitled, "Preliminary Improvement Plans for America's Tire San José" dated May 25, 2023, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

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

WHEREAS, this City Council has heard and considered the testimony presented to it at the public hearing, and has further considered written materials submitted on behalf of the Project applicant, City staff, and other interested parties;

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

After considering evidence presented at the public hearing, the City Council finds that the following are the relevant facts and findings regarding this proposed Project:

1. **Site Description and Surrounding Uses.** The subject site consists of an approximately 0.79-gross-acre parcel located at the northeast corner of Blossom River Drive and Blossom Hill Road (1009 Blossom Hill Road, APN 458-14-023). The 0.79-gross-acre site is currently occupied by a vacant, approximately 8,015-square-foot commercial building, formerly Pier 1 Imports, and associated parking lot. The site is located within the CG Commercial General Zoning District. The site is bounded by a public eating establishment to the north, a commercial shopping center to the south

across Blossom Hill Road, a vacant commercial building to the east, and the Guadalupe River Trail to the west across Blossom River Drive. Multifamily residences are located approximately 350 feet to the north. The site is accessed by one driveway along Blossom Hill Road and a second driveway along Blossom River Drive.

2. **Project Description.** The Project consists of a Site Development Permit to allow the demolition of an existing approximately 8,015-square foot commercial building and the removal of six non-ordinance size trees for the construction of a new approximately 7,488-square foot commercial building and minor site improvements on an approximately 0.79-gross-acre site. The new commercial building will be located at the southwest corner of the site, fronting Blossom Hill Road and Blossom River Drive. The commercial building will be used for the sales and installation of tires and wheels for passenger vehicles. Five vehicle workstations facilitating the installation of tires and wheels will be located on the northern building façade. The Project will not conduct any outdoor sales. It is anticipated that 10 employees will be on site at any given time. Minor site improvements include landscaping, a new trash enclosure, and reconfiguring the existing surface parking lot. Thirty-two vehicle parking spaces exist on site. The project will remove eight vehicle parking spaces, leaving 24 vehicle parking spaces on site. Six non-ordinance-size trees will be removed from the site and replaced with ten 24-inch box trees. The commercial building will be located approximately 120 feet from the Guadalupe River to the west. The Project will not impact the existing driveways accessing the site.
3. **General Plan Conformance.** The site is designated Neighborhood/Community Commercial on the Land Use/Transportation Diagram of the Envision San José 2040 General Plan. This designation supports a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail and services and commercial/professional office development. The site is also located within the Oakridge Mall and Vicinity (Edenvale) Urban Village. This Urban Village does not have an approved plan to date. Commercial Projects that are consistent with all applicable General Plan and Zoning Code requirements can be developed at this time.

Analysis: The Project will establish a new commercial use on the property, replacing an existing vacant commercial building. The commercial use—a tire sales and installation facility—will include both neighborhood-serving retail and services, consistent with the uses supported by the Neighborhood/Community Commercial land use designation.

The Project is consistent with the following General Plan Goals and Policies:

1. Business Growth and Retention Policy IE-2.6: Promote retail development to the maximum extent feasible, consistent with other General Plan goals and policies, in order to generate City revenue, create jobs, improve customer convenience, and enhance neighborhood livability.

2. Commercial Lands Policy L-4.1: Retain existing commercial lands to provide jobs, goods, services, entertainment, and other amenities for San José's workers, residents, and visitors.
3. Commercial Lands Policy L-4.3: Concentrate new commercial development in identified growth areas and other sites designated for commercial uses on the Land Use/Transportation Diagram. Allow new and expansion of existing commercial development within established neighborhoods when such development is appropriately located and designed and is primarily neighborhood serving.
4. Neighborhood Serving Commercial Policy LU-5.1: In order to create complete communities, promote new commercial uses and revitalize existing commercial areas in locations that provide safe and convenient multi-modal access to a full range of goods and services.

Analysis: The Project will retain and revitalize existing commercial lands by constructing a new commercial building (proposed America's Tire) to replace an existing vacant commercial building. The Project will provide a new commercial use adjacent to existing commercial uses of similar scale within an identified growth area. The Project will create jobs and contribute to a more complete neighborhood by providing additional commercial services for nearby residents.

4. **Zoning Ordinance Compliance.**

The Project site was rezoned from the A(PD) Planned Development Zoning District to the CG Commercial General Zoning District.

Use Regulations

Pursuant to Table 20-90 in Section 20.40.100 of the Zoning Code, "Accessory installation, passenger vehicles and pick-up trucks" and "Sale, vehicle parts" are both permitted uses within the CG Commercial General Zoning District. Pursuant to Section 20.100.610.A.1, since the Project includes constructing a building, this Site Development Permit is the appropriate permit for the Project.

Development Standards

The Project conforms with all required setback and height requirements of the CG Commercial General Zoning District, outlined below.

Development Standard	Requirement	Provided
Minimum setback, front	15 feet	15 feet, 0 inches
Minimum setback, rear corner	0 feet	66 feet, 4 inches from the eastern rear property line 86 feet, 5 inches from the northern rear property line
Maximum height	65 feet	28 feet, 0 inches

Analysis: The subject site is a corner lot. Pursuant to Section 20.200.670.A.2, the subject lot has two front property lines as both street frontages exceed 150 feet. The two front property lines are along Blossom Hill Road and Blossom River Drive. The remaining two property lines are therefore considered rear property lines. The commercial building will be set back 15 feet from both Blossom Hill Road and Blossom River Drive, 66 feet, 4 inches from the eastern rear property line, and 86 feet, 5 inches from the northern rear property line. The commercial building will be 28 feet in height. Therefore, the Project conforms with the development standards of the CG Commercial General Zoning District.

Vehicle Parking

The Project is subject to the new parking ordinance, which went into effect on April 10, 2023. The applicant opted to comply with the new parking ordinance, even though the project was eligible to be reviewed under the old parking ordinance, as the project was submitted before it went into effect. The new parking ordinance is outlined in Chapter 20.90. While the new parking ordinance eliminated minimum parking requirements, specific uses require vehicle parking. Pursuant to Section 20.90.064.B, uses that include vehicle workstations require four vehicle parking spaces per vehicle workstation.

Analysis: The commercial building provides five vehicle workstations, requiring a total of 20 vehicle parking spaces on site. The Project provides 24 vehicle parking spaces, meeting this requirement. A Transportation Demand Management Plan is not required pursuant to Section 20.90.900.B.2.d., as the Project will construct less than 100,000 square feet of Visit End Uses.

Bicycle Parking

Use	Ratio	Employees	Required
Accessory installation, passenger vehicles and pick-up trucks	1 per 10 full-time employees	10 employees	1 space
Sale, vehicle parts	1 plus 1 per 10 full-time employees		2 spaces
Total Required			3 spaces
Total Provided			12 spaces

Analysis: Ten employees will be on site serving the commercial building. Therefore, a total of three bicycle parking spaces are required. The Project provides 12 bicycle parking spaces on site, meeting this requirement.

Two-Wheeled Motorized Vehicle Parking

Pursuant to Section 20.90.350.A, two-wheeled motorized vehicle parking shall be provided at a rate of 2.5 percent of vehicle parking provided.

Analysis: As the Project provides 24 vehicle parking spaces, one two-wheeled motorized vehicle parking space is required. The Project provides two two-wheeled motorized vehicle parking spaces, meeting this requirement.

Noise

The subject site is surrounded by non-residential uses on all sides. Pursuant to Table 20-105 of Section 20.40.600, the maximum noise level at adjacent non-residential property lines is 60 decibels. Multifamily residences are located approximately 350 feet to the north. Wood fencing surrounds the multifamily residences, which are separated from the Project site by vegetation and a commercial building operating as a public eating establishment. Therefore, the Project will not generate significant noise impacts to the nearby multifamily residences. Construction will be limited to between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday. Standard permit conditions pertaining to construction-related noise are included in this Site Development Permit.

5. Citywide Design Standards and Guidelines

Projects within the City of San José's Urban Growth boundary are subject to the Citywide Design Standards and Guidelines. The Project is consistent with the following standards of the Citywide Design Standards and Guidelines, last amended on October 4, 2022.

- 2.2.3: Services and Utilities Access and Location

- Standard 1: Provide a covered area for solid waste collection when it is located outside the building envelope.

Analysis: The Project provides a trash enclosure to the east of the commercial building. The trash enclosure is covered by a sloped steel roof. Therefore, the Project is consistent with this design standard.

- Standard 3: Screen all services and utilities located outside the building envelope that are within 30 feet of a public right-of-way.

Analysis: The trash enclosure is located within 30 feet of the public sidewalk along Blossom Hill Road. The Project will provide shrubs and groundcover between the trash enclosure and the sidewalk. Therefore, the Project is consistent with this design standard.

- 2.3.5: Bicycle Parking Placement

- Standard 2: Place bicycle parking so that bicyclists do not have to cross vehicular parking or drive aisles to enter the building.

Analysis: Twelve bicycle parking spaces will be installed on-site to meet the Project's bicycle parking requirements. Eight bicycle parking spaces will be located in front of the commercial building along Blossom Hill Road, and four bicycle parking spaces will be located in front of the building along Blossom River Drive. The location of the bicycle spaces allows bicyclists to park their bicycles without having to cross drive aisles or parking areas before entering the building. Therefore, the Project is consistent with this design standard.

- 2.3.6: Vehicular Parking Placement and Surface Parking Design

- Standard 1: For medium and large sites, place the first parking stall at least 30 feet away from the driveway when accessing a parking lot from a primary street to allow cars to stack on site rather than in the street.

Analysis: The Project will restripe the existing parking area. The first parking stall nearest the driveway along Blossom Hill Road is approximately 125 feet from the driveway. The first parking stall nearest the driveway along Blossom River Drive is approximately 85 feet from the driveway. Therefore, the Project is consistent with this design standard.

- Standard 3: Screen at least 75 percent of surface parking from primary streets, secondary streets, public open spaces, and adjacent sites with Mixed-Use and Residential General Plan land use designations using landscaping or three-foot-tall architectural elements that (at least one of the following):

- Utilize the same materials, colors, and lighting fixtures as the site or building façades on the property for at least 75 percent of the area.

- Are covered with landscaping or public art for at least 75 percent of the total length along public open spaces, primary streets, and secondary streets.

Analysis: Approximately 140 linear feet of the site's surface parking area faces the street, one hundred percent of which is screened with landscaping in the form of street trees, private trees, shrubs, and groundcover. Therefore, the Project is consistent with this design standard.

- 2.3.8: Landscaping and Stormwater Management – Exception Request
 - Standard 1: Select trees which at maturity create a tree canopy cover that shades a minimum of 50 percent of each on-site surface parking area, common open space at the ground floor, and Privately-owned (and maintained) Public Open Space.

Analysis: The Project includes planting trees that create a canopy cover shading less than 50 percent of the on-site surface parking area. Therefore, the Project is inconsistent with this design standard. An exception request, dated February 1, 2023, is requested per the following:

1. There is a physical constraint or unique situation that is not created by the Project applicant or property owner and is not caused by financial or economic considerations.

Analysis: The Project site consists of an existing commercial building and a surface parking lot. The Project will retain most of the surface parking lot area and restripe the existing spaces. The Project is implementing a bioretention basin to comply with the State of California's C.3 stormwater requirements. The bioretention basin requires the installation of storm drain lines throughout the surface parking lot area. As a result, there is not enough remaining surface parking lot area to construct additional landscape planters in locations where trees will further shade the parking lot.

2. Approving the waiver will not create a safety hazard or impair the integrity and character of the neighborhood in which the subject property is located.

Analysis: A reduction in in the shaded surface parking lot area will not create a safety hazard or impair the neighborhood's integrity. In addition, the Project will decrease the number of existing vehicle parking spaces on site from 32 to 24, reducing the amount of vehicle traffic within the site.

3. The proposed Project meets the intent of the design standard under consideration to the extent feasible.

Analysis: Ten 24-inch box trees will be planted on site, the maximum number that can be planted within the parking lot's existing landscape planters, while meeting appropriate spacing requirements.

6. **City Council Policy 6-30: Public Outreach Policy for Pending Land Use Decisions.** Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the proposed Project. On-site signs have been posted on the Project frontages since November 10, 2022. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the Project site and posted on the City's website. The staff report is also posted on the City's website. Staff has also been available to respond to questions from the public.
7. **Environmental Review.** Under the provisions of Section 15303(c) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), the Site Development Permit is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. Article 19 Categorical Exemptions includes a list of classes of Projects that have been determined not to have a significant effect on the environment and that are, therefore, exempt from the Provisions of CEQA. Section 15303, Class 3 Projects include "construction and location of limited numbers of new, small facilities or structures."

The Project will construct a new commercial building not exceeding 10,000 square feet located within an urbanized area. As discussed in the Zoning Ordinance Compliance section above, nearby multifamily residences located approximately 350 feet from the Project site are separated from the Project site by wood fencing, vegetation, and a commercial building operating as a public eating establishment. All construction activity and impacts related to the commercial building and associated site improvements, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor, will be temporary. Construction will be limited to between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday. Therefore, the Project will not result in significant impacts that will have an unacceptable negative affect on adjacent properties. The Project is subject to standard environmental conditions of approval and agency regulatory requirements as conditioned in this Site Development Permit.

8. **Site Development Permit Findings:** Section 20.100.630 of the San José Municipal Code specifies the required findings for the approval of a Site Development Permit.
 1. The Site Development Permit, as approved, is consistent with and will further the policies of the General Plan and applicable specific plans and area development policies.

Analysis: As discussed in the Envision San José 2040 General Plan Conformance section above, the Project is consistent with the General Plan land use designation of Neighborhood/Community Commercial. The Project will establish a new commercial use, retaining existing commercial lands and creating new jobs and services for nearby residents. The associated Conforming Rezoning is consistent with General Plan policies promoting consistency between the General Plan and the City's standard zoning districts.

2. The Site Development Permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the Project.

Analysis: As discussed in the Zoning Code Conformance section above, the new commercial building will be consistent with the minimum setback and maximum height requirements within the CG Commercial General Zoning District. The Project will install the required number of vehicle, bicycle, and two-wheeled motorized vehicle parking spaces.

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

Analysis: The Project complies with Council Policy 6-30: Public Outreach Policy for Pending Land Use and Development Proposals. An on-site sign describing the Project has been posted at the Project site visible to the public right-of-way since November 10, 2022. Notices for public hearing were mailed to property owners and tenants within a 500-foot radius of the Project site. Staff has been available to answer questions from the public.

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

Analysis: The new commercial building will be located at the street corner, fronting both Blossom River Drive and Blossom Hill Road. Vehicle parking will be located in the rear of the site, away from the public right-of-way. A new trash enclosure will be installed on-site within the surface parking lot and screened by new landscaping. Therefore, the uses on-site will be mutually compatible and aesthetically harmonious.

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

Analysis: As described in the Project Description section above, the Project site is surrounded by other commercial uses. These existing commercial uses consist of standalone single-story commercial buildings surrounded by surface parking lots, which share access with the Project site. The Project will continue this development pattern, while improving the site's landscaping by planting new trees,

shrubs, and groundcover. The Project will provide street improvements, including sidewalk widening and street tree planting, which are included as conditions of approval in this Site Development Permit. Therefore, on-site uses will be compatible with and aesthetically harmonious with adjacent development.

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

Analysis: Under the provisions of Section 15303(c) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), the Site Development Permit is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. Article 19 Categorical Exemptions includes a list of classes of Projects that have been determined not to have a significant effect on the environment and that are, therefore, exempt from the Provisions of CEQA. Section 15303, Class 3 Projects include “construction and location of limited numbers of new, small facilities or structures.”

The Project will construct a new commercial building not exceeding 10,000 square feet located within an urbanized area. As discussed in the Zoning Ordinance Compliance section above, nearby multifamily residences located approximately 350 feet from the Project site are separated from the Project site by wood fencing, vegetation, and a commercial building operating as a public eating establishment. All construction activity and impacts related to the commercial building and associated site improvements, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor, will be temporary. Construction will be limited to between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday. Therefore, the Project will not result in significant impacts that will have an unacceptable negative affect on adjacent properties. The Project is subject to standard environmental conditions of approval and agency regulatory requirements as conditioned in this Site Development Permit.

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

Analysis: The Project includes planting ten 24-inch box trees on-site to replace six non-ordinance-size trees. New landscaping will provide additional shade and will screen the site’s surface parking lot from the public right-of-way. Therefore, the Project will upgrade the appearance of the neighborhood.

8. Traffic and pedestrian access are adequate.

Analysis: The site is accessed by two driveways: one driveway along Blossom Hill Road and one driveway along Blossom River Drive. The location of these driveways will not change. As discussed in the Zoning Code Conformance section above, the Project complies with the vehicle, bicycle, and two-wheeled-motorized vehicle parking requirements of the new parking ordinance. Review of the Project by Public Works found that the Projected traffic for the Project will be minimal. No additional transportation analysis was required. To improve pedestrian access to the site, the Project will provide street improvements, including sidewalk widening and street tree planting, which are included as conditions of approval in the Site Development Permit.

9. **Demolition Permit Findings.** Section 20.80.460 of the San José Zoning Code requires the City Council to “determine whether the benefits of permitting the demolition, removal or relocation outweigh the impacts of the demolition, removal or relocation.” In making such a determination, the following shall be considered:

1. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
2. The failure to approve the permit would jeopardize public health, safety or welfare;
3. The approval of the permit should facilitate a Project that is compatible with the surrounding neighborhood;
4. The approval of the permit should maintain the supply of existing housing stock in the City of San José;
5. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
6. Rehabilitation or reuse of the existing building would not be feasible; and
7. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.
8. The permit applicant has provided evidence that either the existing Building or Structure is not a Multiple Dwelling or Mobilehome Park or that the permit applicant has complied with all relocation obligations under state and local law, including but not limited to the obligations in Chapters 17.20, 17.23 and 20.200 of the Municipal Code.

Analysis: The Project includes the demolition of an approximately 8,015-square-foot commercial building to construct an approximately 7,488-square-foot commercial building. Approving the demolition permit will not result in the creation or continued existence of a nuisance, blight, or dangerous condition. Failure to approve the permit will not jeopardize public health, safety, or welfare. As previously described, the new commercial building will be compatible with site's

surrounding commercial uses and is consistent with all applicable General Plan goals and policies, zoning code requirements, and design standards. The approval of this permit will not impact the supply of existing housing stock or sites and districts of historical significance. The commercial building was constructed in 1989 and is not identified as a historic structure on the City's Historic Resources Inventory.

The demolition will facilitate the construction of a new commercial building that would offer retail and vehicle parts installation services to the surrounding neighborhood. Given the scope of the project and the architectural design requirements for vehicle parts installation services, reuse of the existing structure will not be feasible. The demolition of the existing structure will not be approved until a grading or building permit is submitted, whichever comes first. The existing structure is not a Multiple Dwelling or Mobilehome Park.

10. **Tree Removal Permit Findings.** Section 13.32.100 of the San José Municipal Code in relevant part requires the City Council to make findings for issuance of a Live Tree Removal Permit for ordinance-size trees. These findings do not need to be made, as this Project will remove only non-ordinance-size trees. However, the Project will still be required to provide on-site replacement trees, pursuant to the table below:

Tree Replacement Ratios				
Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon
<p>x:x = tree replacement to tree loss ratio</p> <p>Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial, and Industrial properties, a permit is required for removal of trees of any size.</p> <p>A 38-inch tree equals 12.1 inches in diameter.</p> <p>A 24-inch box tree = two 15-gallon trees</p>				

Analysis: The Project includes the removal of six non-ordinance-size trees, including five Ash trees and one Chinese Lantern tree. All six trees are non-native species

and require replacement at a 2:1 ratio. Therefore, the Project requires 12 15-gallon or six 24-inch box replacement trees to be planted on site. Ten 24-inch box trees will be planted on site, meeting this requirement. The trees to be planted include four Desert Willows, two Chinese Lanterns, and four Island Oaks.

In accordance with the findings set forth above, a Site 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 **granted**. This City Council expressly declares that it would not have granted this Permit 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 conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the Permittee fail to file a timely and valid appeal of this Site Development Permit ("Permit") within the applicable appeal period, such inaction by the Permittee shall be deemed to constitute all of the following on behalf of the Permittee:
 - a. Acceptance of the Permit 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 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 four (4) years from and after the date of issuance hereof by the City Council, if within such time period, the proposed use of the site or the construction of buildings (if a 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, Building and Code Enforcement 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 in the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José

Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.

4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José - Santa Clara Regional Wastewater Facility- represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José - Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager makes a determination that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.
5. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved Site Development Permit plans entitled, "Preliminary Improvement Plans for America's Tire San Jose" dated May 25, 2023, on file with the Department 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 plans" or the "Approved Plan Set."
6. **Demolition Permit.** A demolition permit may be issued for the demolition of the existing approximately 8,015-square-foot commercial building only upon the submittal of a complete Public Works Grading Permit application or the submittal of a complete Building Permit application for new construction.
7. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance under State law, the City's Municipal Code, or other law and requirements. Any such nuisance must be abated immediately upon notice by the City.
8. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, state, and federal laws.
9. **Discretionary Review.** The City 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.

10. **Refuse.** All trash and refuse storage areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the trash or refuse container(s). Trash areas shall be maintained in a manner to discourage illegal dumping.
11. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.
12. **Utilities.** All new on-site telephone, electrical, and other service facilities shall be placed underground.
13. **Anti-Graffiti.** All graffiti shall be removed from buildings, signs, and wall surfaces, including job sites for Projects under construction, within 48 hours of defacement.
14. **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.
15. **No Sign Approval.** Any signage shown on the Approved Plan Set are conceptual only. No signs are approved at this time. Any signs shall be subject to review and approval by the Director of Planning, Building and Code Enforcement through a subsequent Permit Adjustment.
16. **Building and Property Maintenance.** The property shall be maintained in good visual and functional condition. This shall include, but not be limited to, all exterior elements of the buildings such as paint, roof, paving, signs, lighting, and landscaping.
17. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
18. **Mechanical Equipment.** The location and type of mechanical equipment shall be as shown on the Approved Plans and shall be screened from view. Changes to the mechanical equipment require the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning, Building, and Code Enforcement.
19. **No Generators Approved.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators will require a separate administrative Backup/Standby Generator Facility Permit and shall conform to the regulations of Title 20 of the Municipal Code.
20. **No Extended Construction Hours.** This Permit does not allow any construction activity on a site located within 500 feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.
21. **Construction Disturbance Coordinator.** Rules and regulations pertaining to all construction activities and limitations identified in this Permit, along with the name and telephone number of a Permittee-appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.

- 22. Timing of Tree Removals.** Trees that are proposed for removal to accommodate new development shall not be removed until the related complete Public Works Grading Permit Application or Building Permit Application has been filed.
- 23. Tree Protection Standards.** The Permittee shall maintain the trees and other vegetation shown to be retained in this Project and as noted on the Approved Plan Set. Maintenance shall include pruning and watering as necessary and protection from construction damage. Prior to the removal of any tree on the site, all trees to be preserved shall be permanently identified by metal numbered tags. Prior to issuance of the Grading Permit or removal of any tree, all trees to be saved shall be protected by chain link fencing, or other fencing type approved by the Director of Planning, Building and Code Enforcement. Said fencing shall be installed at the dripline of the tree in all cases and shall remain during construction. No storage of construction materials, landscape materials, vehicles or construction activities shall occur within the fenced tree protection area. Any root pruning required for construction purposes shall receive prior review and approval and shall be supervised by the consulting licensed arborist. Fencing and signage shall be maintained by the Permittee to prevent disturbances during the full length of the construction period that could potentially disrupt the habitat or trees.
- 24. Tree Replacement Enforcement.** Failure to plant trees in conformance with the approved plan set may be subject to in-lieu fees for trees not planted.
- 25. Verification of Payment and/or Planting of Replacement Tree(s).** After payment of the in-lieu fee and/or the planting of replacement trees on-site, the Permittee shall provide appropriate evidence such as, but not limited to, photographs and/or receipts to the Planning Project Manager to verify compliance with the mitigation requirements. Such evidence shall be uploaded to www.sjpermits.org using these instructions:
- a. How to set up an account: <https://www.sanjoseca.gov/business/development-services-permit-center/online-permits-at-sjpermits-org>, and
 - b. How to upload: <https://www.sanjoseca.gov/home/showpublisheddocument/88853/638088605255430000>. Such evidence shall also be e-mailed to the Planning Project Manager and labeled File No. H22-027.
- 26. Landscaping.** Planting and irrigation are to be provided by the Permittee, as indicated, on the final Approved Plans.
- 27. Irrigation Standards.** Irrigation shall 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, the City of San José Landscape and Irrigation Guidelines and the Zonal Irrigation Plan in the Approved Plans. The design of the system shall be approved and stamped by a California Registered Landscape Architect.

28. **Certification.** Pursuant to San José Municipal Code, Section 15.11.1050 certificates of substantial completion for landscape and irrigation installation shall be completed by a licensed or certified professional and included on the Landscape Sheets in the plan set submitted to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the Project.
29. **Replacement Landscaping.** All landscaping removed with the construction of the Project shall be replaced with similar landscaping in the immediate area. All landscaped replacement areas shall be automatically irrigated.
30. **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 No. H22-027 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 begins with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
 - d. *Other.* Such other requirements as may be specified by the Chief Building Official.
31. **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.
32. **Bureau of Fire Department Clearance for Issuing Permits:** Prior to the issuance of any Building Permit, the Project must comply with the California Fire Code as adopted by the City.
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 will 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/devresources>.
- a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public

Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.

- b. **Transportation:** This Project would not require a detailed CEQA transportation analysis, because the Project is expected to result in less-than-significant VMT impacts based on Table 1 (Screening Criteria for CEQA Transportation Analysis for Development Projects) of the Transportation Analysis Handbook 2020, as local-serving retail of 100,000 square feet of gross floor area or less without drive-through operations. Furthermore, the Projected traffic for the Project was reviewed and found to be minimal, and no additional transportation analysis is required.
- c. **Urban Village Plan:** This Project is located in the Oakridge Mall and Vicinity (Edenvale) Urban Village per the Envision San Jose 2040 General Plan. In order for this Project to establish an identity as an Urban Village, the Project will be required to provide 15-foot-wide sidewalks.
- d. **Grading/Geology:**
 - i. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
 - 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 latest California Plumbing Code as adopted under the City of San Jose Municipal Code Section 24.04.100 or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
 - iii. 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 report should also include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. 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.

- 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 shall 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.
 - iii. A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating that all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.
- f. **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 D:** The Project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
- 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.
- i. **Street Improvements:**
 - i. Construct 15-foot-wide City standard attached sidewalk (0.5-foot curb, 4.5-foot bioretention (where required for stormwater treatment), 0.5-foot curb, 9.5-foot sidewalk) with 4-foot by 5-foot tree wells behind back of curb along Blossom Hill Road Project frontage. The recommended street trees along Blossom Hill Road Project frontage is *Ulmus parvifolia* 'Emer II' spaced at 35 feet on center. Approximate 5-foot-wide public sidewalk easement will be required to accommodate the new sidewalk.
 - ii. Construct 10-foot-wide City standard attached sidewalk along Blossom River Drive Project frontage. The recommended street trees along Blossom River Drive Project frontage is *Quercus tomentella* spaced at 35 feet on center.

Approximate 2-foot-wide public sidewalk easement will be required to accommodate the new sidewalk.

- iii. Construct ADA directional curb ramp at the Blossom Hill Road/Blossom River Drive Project corner and include striping for a crosswalk from the northeast (Project) corner to the northwest corner.
- iv. Construct 32-foot-wide city standard driveway and path of travel extending the full 15-foot-wide sidewalk width along Blossom Hill Road Project frontage if not completed by others under separate permit (H21-020).
- v. Provide a not-to-exceed voluntary monetary contribution amount of \$75,000 towards future pedestrian rail crossing improvements at the VTA crossing.
- vi. Developer shall be responsible for adjusting existing utility boxes/vaults to grade, locating, and protecting the existing communication conduits (fiber optic and copper) along the Project frontage.
- vii. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
- viii. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
- j. **Electrical:** Existing electroliers along the Project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
- k. **Street Trees:**
 - i. The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire Project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
 - ii. Show all existing trees by species and diameter that are to be retained or removed. Obtain a street tree removal permit for any street trees that are over 6 feet in height that are proposed to be removed.

34. Standard Environmental Conditions:

- a. **Construction-related Air Quality.** The following measures shall be implemented during all phases of construction to control dust and exhaust at the Project site:

- i. Water all exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) two times per day.
 - ii. Cover all haul trucks transporting soil, sand, or other loose material off-site.
 - iii. Remove all visible mud or dirt trackout onto adjacent public roads at least once per day using wet power vacuum street sweepers. The use of dry power sweeping is prohibited.
 - iv. Limit all vehicle speeds on unpaved roads to 15 mph.
 - v. Pave all new roadways, driveways, and sidewalks as soon as possible.
 - vi. Lay building pads as soon as possible after grading unless seeding or soil binders are used.
 - vii. Suspend all excavation, grading, and/or demolition activities when average wind speeds exceed 20 mph.
 - viii. Wash off all trucks and equipment, including their tires, prior to leaving the site.
 - ix. Treat unpaved roads providing access to sites located 100 feet or further from a paved road with a 6- to 12-inch layer of compacted layer of wood chips, mulch, or gravel.
 - x. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to no more than 2 minutes (a 5-minute limit is required by the state airborne toxics control measure [Title 13, Sections 2449(d)(3) and 2485 of the California Code of Regulations]). Provide clear signage that posts this requirement for workers at all access points to the site.
 - xi. Maintain and properly tune all construction equipment in accordance with the manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
 - xii. Post a publicly visible sign with the name and phone number of an on-site construction coordinator to contact regarding dust complaints. The on-site construction coordinator shall respond and take corrective action within 48 hours. The sign shall also provide the City's Code Enforcement Complaints email and number and the Air District's General Air Pollution Complaints number to ensure compliance with applicable regulations.
- b. **Tree Replacement.** Trees removed for the Project shall be replaced at ratios required by the City, as stated in the Table below, as amended:

Tree Replacement Ratios				
Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon
<p>x:x = tree replacement to tree loss ratio</p> <p>Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size.</p> <p>A 38-inch tree equals 12.1 inches in diameter.</p> <p>A 24-inch box tree = two 15-gallon trees</p>				

- i. Six non-ordinance-size trees will be removed: five Ash and one Chinese Lantern. All six trees are non-native species and require replacement at a 2:1 ratio. Therefore, the Project requires 12 15-gallon or six 24-inch box replacement trees to be planted on site.
- ii. If there is insufficient area on the Project site to accommodate the required replacement trees, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement or Director's designee. Changes to an approved landscape plan requires the issuance of a Permit Adjustment or Permit Amendment
 1. The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the Project site.
 2. Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of building permit(s), in accordance with the City Council approved Fee Resolution in effect at the time of payment. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.
- c. **Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation

with a Native American Tribal representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall examine the find. The archaeologist in consultation with the Tribal representative shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to the Director of PBCE or the Director's designee, the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

- d. **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site, or any nearby area reasonably suspected to overlie adjacent remains. The Project Permittee shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance.
 - i. The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
 - ii. The MLD identified fails to make a recommendation; or
 - iii. The landowner or their authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.
- e. **Seismic Hazards:**
 - i. A Geotechnical Report shall be submitted, reviewed, and approved by the City Geologist. The Geotechnical Report shall determine the site-specific soil

- conditions and identify the appropriate design and construction techniques to minimize risks to people and structures, including but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with State of California guidelines for the preparation of seismic hazard evaluation reports (CGS Special Publication 117A, 2008, and the Southern California Earthquake Center report, SCEC, 1999). A recommended minimum depth of 50 feet should be explored and evaluated in the investigation. The City Geologist will review the Geotechnical Report and issue a Geologic Clearance.
- ii. All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
 - iii. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
 - iv. Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
 - v. The Project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.
 - vi. If dewatering is needed, the design-level geotechnical investigations to be prepared for individual future development Projects shall evaluate the underlying sediments and determine the potential for settlements to occur. If it is determined that unacceptable settlements may occur, then alternative groundwater control systems shall be required.
- f. **Paleontological Resources.** If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning, Building and Code Enforcement or the Director's designee shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of 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 Permittee shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee.

g. Asbestos and Lead-Based Paint.

- i. In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP).
- ii. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
- iii. All potentially friable asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
- iv. A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- v. Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

h. Construction-related Water Quality.

- i. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- ii. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- iii. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- iv. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- v. All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.
- vi. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).

- vii. Vegetation in disturbed areas shall be replanted as quickly as possible.
- viii. All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
- ix. The Permittee shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.
- i. **Construction-related Noise.** Noise minimization measures include, but are not limited to, the following:
 - i. Pile Driving is prohibited.
 - ii. Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential use.
 - iii. Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
 - iv. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
 - v. Prohibit unnecessary idling of internal combustion engines.
 - vi. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
 - vii. Utilize “quiet” air compressors and other stationary noise sources where technology exists.
 - viii. Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the Project site.
 - ix. Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
 - x. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.

- xi. Designate a “disturbance coordinator” who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

35. Revocation, Suspension, Modification. This Site Development Permit may be revoked, suspended, or modified by the City Council, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:

- a. A violation of any conditions of the Site Development Permit was not abated, corrected, or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance or State law was not abated, corrected, or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

In accordance with the findings set forth above, a permit to use the subject property for said purpose specified above is hereby approved.

EFFECTIVE DATE

The effective date of this Permit (File No. H22-027) shall be the effective date of the Conforming Rezoning Ordinance for File No. C22-075, passed for publication on [REDACTED], 2024 (the “Conforming Rezoning Ordinance”) and shall be no earlier than the effective date of said Conforming Rezoning Ordinance.

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ADOPTED this _____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

NOTICE TO PARTIES

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

Legal Description

PARCEL ONE:

ALL OF PARCEL 2, AS SHOWN UPON THAT CERTAIN MAP ENTITLED "PARCEL MAP BEING ALL OF PARCELS 1 AND 2 AS SHOWN ON THAT CERTAIN PARCEL MAP, FILED FOR RECORD IN BOOK 501 OF MAPS, AT PAGE 30, SANTA CLARA COUNTY RECORDS, WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA ON AUGUST 29, 1984 IN BOOK 533 OF MAPS, AT PAGE 26.

PARCEL TWO:

A NON-EXCLUSIVE EASEMENT AND RIGHT OF INGRESS, EGRESS AND USE FOR VEHICULAR AND PEDESTRIAN PASSAGE, AND PARKING ON AND ACROSS ALL ROADS, PARKING AREAS AND ACCESS ENTRIES TO AND FROM PUBLIC THOROUGHFARES AS SUCH ROADS, PARKING AREAS AND ENTRIES ARE LOCATED AND EXIST FROM TIME TO TIME ON SAID PARCELS 1, 3, 4 AND 5, AS SHOWN ON THE MAP HEREINABOVE REFERRED TO.

PARCEL THREE:

AN EASEMENT FOR THE CONSTRUCTION AND MAINTENANCE OF UNDERGROUND STORM WATER TRANSPORTATION PIPE LINES OVER AND ACROSS PARCELS 3 AND 4 OF PARCEL MAP RECORDED IN BOOK 533, PAGE 26, AS SET FORTH IN THE RECIPROCAL EASEMENT ATTACHED.

APN: 458-14-023

