

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING A SITE DEVELOPMENT PERMIT, SUBJECT TO CONDITIONS, TO ALLOW THE DEMOLITION OF AN EXISTING GAS STATION BUILDING AND FUELING DISPENSERS, THE REMOVAL OF SIX ORDINANCE-SIZE TREES, THE CONSTRUCTION OF A 4-STORY, 90-ROOM HOTEL, AND THE UTILIZATION OF TRANSPORTATION DEMAND MANAGEMENT (TDM) MEASURES TO REDUCE THE PARKING REQUIREMENTS BY 50 PERCENT ON A 0.61 GROSS ACRE SITE LOCATED AT THE NORTHEAST CORNER OF SOUTH DE ANZA BOULEVARD AND VIA VICO (1090 SOUTH DE ANZA BOULEVARD)**

**FILE NO. H16-032**

**WHEREAS**, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on September 7, 2016, an application (File No. H16-032) was filed by the applicant, Jerry Kwok, as owner of Cupertino De Anza Hospitality LLC, with the City of San José for a Site Development Permit to allow the demolition of an existing gas station building and fueling dispensers, the removal of six ordinance-size trees, the construction of a 4-story, 90-room hotel, and the utilization of Transportation Demand Management (TDM) measures to reduce the parking requirements by 50 percent on a 0.61 gross acre site, on that certain real property situated in the CP Commercial Pedestrian Zoning District and located at the northeast corner of South De Anza Boulevard and Via Vico (1090 South De Anza Boulevard, 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 is attached hereto and made a part hereof by this reference as if fully set forth herein; and

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

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

**WHEREAS**, at said hearing this City Council received and considered the reports and recommendations of the City's Director of Planning, Building and Code Enforcement; and

**WHEREAS**, at said hearing, this City Council received in evidence a plan for the subject property entitled "Hampton Inn," last revised May 24, 2018, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said development plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

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

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

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

1. **Site Description and Surrounding Uses.** The site is located on the northeast corner of South De Anza Boulevard and Via Vico (1090 South De Anza Boulevard), within the South De Anza Boulevard Urban Village Growth Area. The site currently has an existing gas station with a gas station building, 8 fueling pumps, canopy, two gasoline underground storage tanks (one 20,000-gallon and one 15,000-gallon) and a car wash. The site has driveway access directly from both South De Anza Boulevard and Via Vico. The existing gas station facility operates 24 hours a day, 7 days a week.

To the north of the property is a neighborhood shopping center with commercial retail, restaurant and a swim school. The commercial shopping center continues east of the

project. Approximately 200 feet further east is a two-story multi-family residential apartment complex. To the southeast of the property are two-story townhomes and south of the property is commercial retail and a café across Via Vico. Across South De Anza Boulevard, west of the property are restaurants within a small shopping center.

2. **Project Description.** The proposed project would demolish the existing gas station building, car wash, fueling dispensers and canopy, and remove the two gasoline underground storage tanks; remove six ordinance-size trees; and construct a 51,279-square foot hotel that would include 90 guestrooms, a lobby, fitness area, breakfast and food prep area, meeting room, and linen/laundry area. The hotel would have approximately 10 to 20 employees in shifts each day. The proposed height of the four-story hotel would be approximately 55 feet, 3 inches at the higher parapet, 51 feet, 10 inches at the lower parapet, and 61 feet at the proposed tower at the southwest corner of the building at the street intersection. The project would also include one level of underground parking with 51 vehicle parking spaces, including three Americans with Disabilities Act (ADA) accessible spaces, and would have 12 bicycle parking spaces.

The project also includes a Transportation Demand Management Plan (TDM) to allow for a 50 percent reduction in parking spaces. The TDM proposes a valet program that would use tandem parking to increase the amount of parking spaces from 51 to 79.

3. **General Plan Conformance.**

The subject site has a designation of Neighborhood/Community Commercial on the Envision San José 2040 General Plan Land Use/Transportation Diagram. 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 proposed project is consistent with this land use designation because it would facilitate a 90-room hotel, which is a commercial use that generates jobs and transit occupancy tax revenue. The proposed project would replace the existing commercial use of a gas station with the commercial use of a hotel. The proposed project will provide a commercial service to the area by providing overnight accommodations for business travelers and visitors to further bolster San José as travel destination.

The subject site is also within the South De Anza Boulevard Urban Village Area (Horizon 3). Urban Village Areas are designated for future development as Urban Villages, in accordance with an Urban Village Plan. There is no specific date to begin planning efforts for this Urban Village. The General Plan promotes Urban Villages as vibrant, walkable, mixed-use urban communities that are bicycle and transit-friendly. The proposed project is consistent with General Plan and Urban Village policies in that the project proposes an intense development on a commercial property within an Urban Village Area and includes active ground-floor uses to activate the street, while

still maintaining the relationship and appropriate interface with the surrounding community.

The project is consistent with the following goals and policies of the General Plan:

- a. Implementation Policy IP-1.1: Use the Envision General Plan Land Use/Transportation Diagram designations to indicate the general intended land use, providing flexibility to allow for a mix of land uses, intensities and development forms compatible with a wide variety of neighborhood contexts and to designate the intended roadway network to be developed over the timeframe of the Envision General Plan. Use the Zoning designation to indicate the appropriate type, form and height of development for particular properties.
- b. Implementation Policy IP-8.2: Use the City's conventional zoning districts, contained in its Zoning Ordinance, to implement the Envision General Plan Land Use/Transportation Diagram. These districts include a range of allowed land uses, development intensities, and standards within major land use categories (residential, commercial and industrial) together with zoning districts for other land uses such as mixed-use and open space. The various ranges of allowed use and development intensity correspond generally to the respective Envision General Plan land use designations, while providing greater detail as to the appropriate land uses and form of development.

*Analysis: The proposed rezoning conforms to the Land Use/Transportation Diagram designation of Neighborhood/Community Commercial. The rezoning of the property would remove the Planned Development Zoning District that was approved on December 20, 2013 and replace it with a zoning district that is conventional and conforms to the Land Use/Transportation Diagram of the General Plan. The CP Commercial Pedestrian Zoning District provides greater flexibility and allows for a greater variety of uses. The CP Commercial Pedestrian Zoning District allows for offices, restaurants, hotels, recreation and other retail activities.*

- c. Commercial Goal LU-4: Establish commercial uses that maximize review to the City and provide employment for its residents in order to achieve fiscal sustainability and our desired jobs per employed resident ratio.
- d. Commercial Policy LU-4.1: Retain existing commercial uses that maximize revenue to the City and provide employment for its residents in order to achieve fiscal sustainability and our desired jobs per employed resident ratio.
- e. Commercial Policy LU-4.3: Concentrate new commercial development within 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.

- f. Fiscally Sustainable Land Use Framework Policy FS-3.3: Promote land use policy and implementation actions that increase the ratio of Jobs to Employed Residents to improve our City's fiscal condition, consistent with economic development and land use goals and policies. Maintain or enhance the City's net total employment capacity collectively through amendments made to this General Plan in each Annual Review process.

*Analysis: The proposed project would replace the existing commercial use of a gas station with the commercial use of a hotel. The project is a 90-room hotel, which is a commercial use that will generate approximately 10 to 20 jobs and transit occupancy tax revenue. The proposed project will provide a commercial service to the area by providing overnight accommodations for business travelers and visitors to further bolster San José as travel destination. The proposed project is appropriately located within a growth area with access to public transportation.*

- g. Urban Village Design Goal CD-7: Create thriving, attractive Urban Villages that reflect unique urban characteristics of an area and provide complete neighborhoods for residents, workers, and visitors.
- h. Urban Village Design Policy CD-7.1: Support intensive development and uses within Urban Villages, while ensuring an appropriate interface with lower-intensity development in surrounding areas and the protection of appropriate historic resources.

*Analysis: The project proposes a development on a commercial property within an Urban Village Area and includes active ground-floor uses (i.e., breakfast area, meeting rooms, and hotel lobby) to activate the street, while still maintaining the relationship and appropriate interface with the surrounding community. The project is four stories and does not directly interface with any residential uses, but is surrounded by commercial uses. The project is appropriately distanced from any residential use. A 1.5-foot setback is provided per foot of height to nearest residential use, which is approximately 80 feet away. The building is oriented to provide activity, light and massing away from residential properties. The highest point of the project is located in the southwest corners, the further point from any residential use. The eastern property line nearest the residential use is slightly lower and naturally screened by tall redwood trees to shield the building and provide privacy.*

#### 4. Zoning Ordinance Compliance.

**Land use.** Pursuant to Section 20.40.100 of the San José Municipal Code, a hotel or motel is a permitted use in the CP Commercial Pedestrian Zoning District.

**Setbacks.** The proposed building conforms to the development regulations of the CP Commercial Pedestrian Zoning District. There are no front, side or rear setback minimums, and a 10-foot front setback maximum is required pursuant to Section 20.40.200 of the San José Municipal Code. Section 20.40.290 of the San José

Municipal Code allows a zero-foot rear setback for properties abutting a commercial or less restrictive district. The proposed building maintains a 20-foot rear setback and abuts a commercial district at the rear property line and maintains a zero front and side setback. Therefore, the project setbacks are in compliance with the zoning ordinance conforms to the required setbacks.

**Height.** The South De Anza Boulevard Urban Village allows for a maximum building height of 120 feet. The proposed height of the four-story hotel would be approximately 55 feet and 3 inches at the higher parapet, 51 feet and 10 inches at the lower parapet, and 61 feet at the proposed tower at the southwest corner of the building. Therefore, the project height is in compliance.

**Parking.** Pursuant to Section 20.90.060 of the San José Municipal Code, the hotel requires one parking space per room or suite, plus one space per employee. The total number of hotel rooms is 90 and the hotel would have 10 employees per shift; therefore, 100 parking spaces are required. However, pursuant to Section 20.900.220(A) of the San José Municipal Code, the project initially applied for a 50 percent reduction in the number of parking spaces. Section 20.900.220(A) allows for a reduction in the number of parking spaces if the “structure or use is located within two thousand feet of a proposed or an existing rail station or bus rapid transit station, or an area designated as a neighborhood business district, or as an urban village, if the structure or use provides bicycle parking spaces in conformance with the requirements of Table 20-190 in the Municipal Code, and if the project implements a total of at least three TDM measures.” Because the project is located within the South De Anza Boulevard Urban Village Area, meets the bicycle parking requirement with 12 bicycle parking spaces, and will implement an approved TDM plan, the project is allowed to reduce the number of parking spaces by 50 percent, or from 100 required spaces to 50 spaces.

The project initially proposed 51 parking spaces. However, due to concerns from the public of the project being under-parked, the project will provide an additional 28 parking spaces through tandem and valet parking, for a total of 79 parking spaces, for an overall reduction of 21 percent. Therefore, based on the above analysis, the project abides by the required parking and parking reduction requirements of the San José Municipal Code.

**Transportation Demand Management (TDM) Plan.** A Transportation Demand Management plan (“TDM Plan”) has been submitted and approved for this project. The TDM Plan dated September 15, 2017 entitled “1090 South De Anza Boulevard Hotel” prepared by RYS Architects, is on file with the Department of Public Works and is incorporated fully herein by this reference. Based on the TDM measures included in the approved TDM Plan, the project shall meet the 50 percent parking reduction requirement. The project is required to submit an annual monitoring report (and pay associated administrative cost for City’s time to review), which measures the effectiveness of the approved TDM plan, in a form approved by the Director of Public

Works. The report shall be provided to the City on or before each June 30<sup>th</sup> for the reporting period of the prior calendar year. Additional TDM measures, or changes to existing TDM measures, may be required at the discretion of the Director of Public Works if the TDM measures are not effective in reducing the parking demand by a minimum of 50 percent.

The project shall also implement control measures to prohibit any parking in the adjacent and surrounding neighborhoods, businesses, and areas. Permittee shall ensure no person working, visiting or using the project site in any manner create any parking impact to the surrounding neighborhoods, businesses, and areas.

Permittee shall also implement the following TDM measures for the life of the project:

- (a) Six long-term and six short-term bicycle parking spaces.
- (b) A transit incentive program for employees. Including reimbursement for fares to and from work and a pre-tax credit.
- (c) Free shuttle service for guests to and from Mineta International Airport and two pre-selected destinations around San José, potentially Santana Row and Downtown.
- (d) Use of ride-sharing coupons during high occupancy days for non-driving guests or employees.
- (e) Bike rental for local travelers including employees and guests.
- (f) Provide onsite TDM Coordinator (minimum 8 hours per day) to monitor and implement the TDM measures, including providing information packets on transportation options, implementing a car share/ride share program, and monitoring parking demand. The TDM Coordinator shall have comprehensive knowledge of local transit, trip planning services, car share services, private shuttles, as well as local contact for car sharing service.
- (g) Establish an up-to-date TDM services on their website. The site should give Information on local transit, car sharing services and how guests can get and manage their visit. The TDM Coordinator shall manage and continuously update the website.

**5. Commercial Design Guidelines.** The Commercial Design Guidelines state that hotels and motels should be stylistically consistent and should not create a nuisance for adjoining residential properties, and outlines specific building setbacks, site organization and building design guidelines to reduce and avoid any potentially adverse impacts.

**Location and Setback.** The Commercial Design Guidelines discourages placing hotels and motels adjacent to any future or existing residential uses, and encourages a one-and-a-half-foot setback for every foot of building height from any existing or future residential use. The proposed building is not abutting any residential use and is

surrounded by commercial use on all property lines. The nearest residential homes are located southeast of the project site, across Via Vico, and are approximately 80 feet from the property line. The proposed building is consistent with the guideline of one and half feet of setback for each foot of building height and is appropriately distanced (51 feet high x 1.5 feet equals 76.5 feet in setback) approximately 80 feet from the nearest residential use. Further, the proposed project is oriented to provide activity, light and massing away from residential properties. The highest point of the project (55 feet, 3 inches tall) is located in the southwest corners, the farthest point from any residential use. The eastern property line nearest the residential use is lower (51 feet, 10 inches tall) and naturally screened by tall redwood trees to shield the building and provide privacy.

**Site Organization.** The Commercial Design Guidelines for site organization emphasize the street frontage and encourages buildings to be the primary interface with the sidewalk, not the parking lots. Consistent with the guidelines, the building is the primary interface with the sidewalk and parking will be located underground where it will not be visible from the street level. The project will enhance the public area by providing larger sidewalks, street trees and adequate lighting. The project also incorporates a loading and drop-off zone for ease of check-in with circulation that does not interfere with the public right-of-way or the residential neighborhood. The loading and drop-off zone is located in front of the hotel, off of South De Anza Boulevard, a six-lane major arterial roadway, to prevent congestion and impact to the adjacent neighborhood along Via Vico.

**Building Design.** The Commercial Design Guideline for building design emphasize screening and promote a stylistically consistent design to prevent over-emphasis of just the front façade. The proposed building has a consistent style represented on all sides and engages the street frontage with active ground-floor uses that promotes a lively pedestrian atmosphere. All mechanical equipment, including the swimming pool, and all stairways and walkways are shielded from the public right-of-way and are incorporated into the building to reduce any noise and/or visual impacts. Further, the building is screened by the large redwood trees on the adjacent property along the eastern side of the site, in order to ensure privacy and limit any visual impact. Lastly, the building façade incorporates changes in materials, textures and colors to provide interesting and attractive architecture.

Based on the above analysis, the project is consistent with the Commercial Design Guidelines.

- 6. Environmental Review.** An Initial Study/Mitigated Negative Declaration (IS/MND) entitled "1090 S. De Anza Boulevard Hotel Project" was prepared by the Director of Planning, Building, and Code Enforcement for the subject Rezoning and Site Development Permit. The IS/MND was completed in compliance with the California Environmental Quality Act (CEQA), as amended, to reflect an independent judgment and analysis of the project.



The IS/MND identified potentially significant environmental impacts and determined that the proposed project would not have a significant effect on the environment. The environmental issues addressed in the IS/MND included potential impacts to biological resources and hazards and hazardous materials. Mitigation measures are included for both of these resource areas to reduce the potentially significant project impacts to a less-than-significant level. These mitigation measures include conducting pre-construction bird surveys, clearing violation clearances, sampling organochlorine pesticides and pesticide-based metals, and preparing a Site Management Plan. The mitigation measures and associated compliance methods are included in the Mitigation Monitoring and Reporting Program.

The IS/MND was initially circulated from August 25, 2017 to September 14, 2017, but was extended to September 25, 2017, for a 31-day review period, per the request of the neighborhood. A total of 46 comment letters were received during the public review period and three comments after the end of the review period. The comments were predominantly from the residential community in opposition to the project. The comments focused on: neighborhood parking and traffic concerns from increased congestion due to the new hotel use, tree removals of the existing redwood trees along Via Vico on the project site, aesthetics impacts due to proposed height and impacts to view sheds, air and noise pollution, and hazardous materials during construction and operation.

The responses to these comments were posted online on the Planning website available for public review. Additionally, a Final IS/MND was prepared that incorporated corrections or additional text discussed in the responses to comments. The comments and responses do not require any “substantial revisions” to the IS/MND as defined in the CEQA Guidelines Section 15073.5. No new unavoidable significant impacts have been identified and no mitigation measures or project revisions must be added in order to reduce the effect to less-than-significant levels. Accordingly, recirculation of the IS/MND is not required.

The IS/MND identified that the implementation of the project would not result in any significant effects to the environment. The circulated draft and final IS/MND, associated appendices, response to comments, and other related environmental documents are available on the Planning website at: <http://www.sanjoseca.gov/index.aspx?nid=5674>.

## **7. Site Development Permit Findings**

In order to make the Site Development Permit findings pursuant to San José Municipal Code Section 20.100.630, the City Council must determine that:

- a) 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: The site is designated Neighborhood/Community Commercial on the Envision San José 2040 General Plan Land Use/Transportation Diagram, which supports a very broad range of commercial activity. The project site is also within the South De Anza Boulevard Urban Village Area. As discussed in the General Plan Conformance section above, the Site Development Permit is consistent with the designation of Neighborhood/Community Commercial. The Site Development Permit, as approved, will further Community Design Policy 7.1 and related policies pertaining to supporting intensive economic development within Urban Villages, as analyzed above. Therefore, this finding can be made.*

- b) 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 Conformance section above, the proposed hotel is permitted in the CP Commercial Pedestrian Zoning District and also meets the development standards of this district. Therefore, this finding can be made.*

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

*Analysis: The proposed project is consistent with all applicable City Council policies. Compliant with Council Policy 6-30: Public Outreach Policy, a notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website. Further, there were multiple meetings held with community members and developers. Therefore, this finding can be made.*

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

*Analysis: The proposed building will occupy the site in its entirety. No additional buildings exist or are proposed. The various uses on site have been carefully designed to be mutually compatible and aesthetically harmonious. For example, the breakfast area is designed to be viewed on the corner to activate the public right-of-way and provide an interesting and lively pedestrian environment, and the pool and outdoor lounge of the building are enclosed by the building to ensure privacy and limit any ambient noise. Therefore, this finding can be made.*

- e) 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 discussed in the Commercial Design guidelines section below, the proposed project is not abutting any proposed or existing residential use. The proposed building is adequately designed with regard to height and setback to be harmonious with the existing character of the neighborhood by providing a one-and-a-half-foot setback per foot of height from any proposed or existing residential*

*use. Further, the proposed building has an overall consistent design on all elevations with quality architecture that enhances the aesthetics of the existing neighborhood and is naturally screened by existing redwood trees. Therefore, this finding can be made.*

- f) 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: The site has an existing gas station and car wash, which would be replaced by a four-story, 90-room hotel. The proposed project would marginally induce more vehicle trips, 4 a.m. peak hour trips and 14 p.m. peak hour trips, than the existing gas station; however, the increase in traffic would not have an unacceptable negative impact on adjacent properties or nearby intersections, as analyzed in the Initial Study/Mitigated Negative Declaration prepared for the project (August 2017). The construction of the building would cause a temporary increase in ambient noise which would be reduced through the limited construction hours and other measures included in the Standard Permit Conditions for the project. The project is also proposing to remove six ordinance-size trees from the property in accordance with the City's standard replacement ratio and will be subject to additional tree protection measures for the existing trees which are included in the conditions of approval. The proposed project has been evaluated to be in compliance with the City's stormwater requirements and provides on-site bio-treatment features. Therefore, this finding can be made.*

- g) 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: As discussed above in the Commercial Design Guidelines section, the proposed project is appropriately designed to upgrade the appearance of the neighborhood. The design of the proposed building is consistent and provides changes of color, materials and textures to create an attractive and interesting appearance. The proposed project incorporates their heating, ventilation and air conditioning within the building, and encloses all plumping and trash facilities to upgrade the appearance of the neighborhood. Therefore, this finding can be made.*

- h) Traffic access, pedestrian access and parking are adequate.

*Analysis: The subject site is adequately served by the adjacent public streets and can be directly accessed from South De Anza Boulevard, a major arterial and secondary access from Via Vico, a residential street. The Department of Transportation reviewed the on-site circulation of traffic and the Transportation Demand Management plan and finds that the project is sufficiently accessible. No*

*issues were found with regards to the driveway or access to the underground parking. Therefore, this finding can be made.*

**8. Required Tree Removal Permit Findings.** In order to make the Live Tree Removal Permit findings pursuant to San José Municipal Code Section 13.32.100, the City Council must determine that;

- a) That the tree affected is of a size, type and condition, and is in such a location in such surroundings, that its removal would not significantly frustrate the purposes of this chapter as set forth in Section 13.32.010; or
- b) That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question; or
- c) That the condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal; or

*Analysis: Six onsite redwood trees are located within the new building footprint of the proposed structure and may interfere with utility service or impact the safety of the building. Preservation of the trees would not be feasible within the context of the development because the existing trees would further constrain an already limited site and would unreasonably restrict the economic development of the entire parcel. The development would adhere to the standard conditions required for the tree removals including replacement and contribution to Department of Transportation. Therefore, this finding can be made.*

## **9. Demolition Permit Evaluation Criteria**

Under the provisions of Section 20.80.460 of the San José Municipal Code, prior to the issuance of any development permit, which allows for the demolition, removal or relocation of a building, the following shall be considered to determine whether the benefits of permitting the demolition, removal or relocation outweigh the impacts of the demolition, removal or relocation:

- a) The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;

*Analysis: Not Applicable. The existing gas station is operational and would not create or continue the existence of a nuisance, blight or dangerous conditions.*

- b) The failure to approve the permit would jeopardize public health, safety or welfare;

*Analysis: Not applicable, as the current gas station does not jeopardize public health, safety or welfare and is operational.*

- c) The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;

*Analysis: As discussed in the Site Development Permit section above, the permit will facilitate a project that is compatible with the surrounding development.*

- d) The approval of the permit should maintain the supply of existing housing stock in the City of San José;

*Analysis: Not applicable as the project does not require the removal of housing units.*

- e) Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;

*Analysis: As analyzed in the IS/MND, the gas station building has been determined to have no historical significance; therefore, preservation of the building is not warranted.*

- f) Rehabilitation or reuse of the existing building would not be feasible; and

*Analysis: The gas station building is not compatible with the new development and cannot feasibly be reused or repurposed to meet the objectives of the project, which are to construct a modern hotel.*

- g) The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

*Analysis: Not applicable.*

**10. Transportation Demand Management Evaluation Criteria.** Under the provisions of Section 20.90.220 of the San José Municipal Code, prior to the issuance of any project that requires a TDM program:

- a) The decision maker for the project application shall first find in addition to other required findings that the project applicant has demonstrated that it can maintain the TDM program for the life of the project, and it is reasonably certain that the parking shall continue to be provided and maintained at the same location for the services of the building or use for which such parking is required, during the life of the building or use; and

*Analysis: Based upon the design features of the project and the TDM plan provided, it is reasonably demonstrated that the applicant can maintain the reduced parking through programs which encourage car sharing, bike sharing, and overall reduced car usage. Incentives will be provided to employees to use transit and other TDM program features developed to reduce parking demand.*

- b) The decision maker for the project application also shall first find that the project applicant will provide replacement parking either on-site or off-site within reasonable walking distance for the parking required if the project fails to maintain a TDM program.

*Analysis: If the TDM program fails, a Site Development Permit Amendment would be required to address the increased parking demand by installing parking lifts. The system could potentially have two vehicles per parking space on a portion of the garage. The garage height could be adjusted to include an additional one to two feet to allow for installation. The TDM program may also be adjusted to reflect increased demand, which may include adding additional shuttle services or increasing the incentives for alternative modes of transportation.*

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 **approved**. This City Council expressly declares that it would not have granted this permit and determination except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use permitted hereby.

#### **CONDITIONS:**

1. **Acceptance of Permit.** Per Section 20.100.290(B) of the San José Municipal Code, should the permittee fail to file a timely and valid appeal of this Site Development Permit within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the permittee:
  - a. Acceptance of the Site Development Permit by the permittee; and
  - b. Agreement by the permittee to be bound by, to comply with, and to do all things required of or by the permittee pursuant to all of the terms, provisions, and conditions of this Permit or other approval and the provisions of Title 20 of the San José Municipal Code applicable to such Permit.
2. **Permit Expiration.** This Site Development Permit shall automatically expire two (2) years from and after the date of issuance hereof by the City Council, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the City Council. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit in accordance with Title 20 of the San José Municipal Code. The Permit Adjustment must be approved prior to the expiration of this Permit.
3. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the permittee for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said

Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.

4. **Conformance to Plans.** The development of the site shall conform to the approved Site Development Permit plans entitled, "Hampton Inn," dated May 24, 2018 on file with the Department of Planning, Building and Code Enforcement, as may be amended and approved by the Director of Planning, Building, and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24). The plans are referred to herein as the "approved plans" or the "Approved Plan Set."
5. **Certificate of Occupancy.** The permittee shall obtain a Certificate of Occupancy. Procurement of a Certificate of Occupancy from the Building Official for the structures described or contemplated under this Permit shall be deemed acceptance of all conditions specified in this Permit and the permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
6. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws, regulations and required permits. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance.
7. **Conformance to MMRP.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program (MMRP) approved for this development by City Council Resolution No. \_\_\_\_\_.
8. **Standard Environmental Conditions:**
  - a. **Air Quality.** Consistent with the BAAQMD CEQA Air Quality Guidelines, the project shall implement the following measures during all phases of construction on the project site, to reduce dust fall-out emissions:
    - All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
    - All haul trucks transporting soil, sand, or other loose material off-site shall be covered.

- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
  - All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
  - Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- b. **Biological Resources.** The removed trees would be replaced according to tree replacement ratios required by the City. In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the City's Environmental Supervising Planner, prior to issuance of a development permit:
- The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.
  - Identify an alternative site(s) for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building, and Code Enforcement. Contact the Department of Parks, Recreation & Neighborhood Services (PRNS) Landscape Maintenance Manager for specific park locations in need of trees.
  - Donate \$300 per mitigation tree to the Department of Transportation for in-lieu off-site tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting shall be provided to the Planning Project Manager prior to issuance of a development permit.



The project is subject to applicable Habitat Plan conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permit. The project permittee shall submit a Santa Clara Valley Habitat Plan Coverage Screening Form to the Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement for review and will complete subsequent forms, reports, and/or studies as needed.

- c. **Cultural Resources.** In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement shall be notified, and the archaeologist will examine the find and make appropriate recommendations prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery during monitoring would be submitted to the Director of Planning, Building and Code Enforcement.
- Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped. The Santa Clara County Coroner shall be notified and make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) immediately. Once the NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.
  - If vertebrate fossils are discovered during construction, all work on the site will stop immediately until a qualified professional paleologist can assess the nature and importance of the find and recommend appropriate treatment. Treatment may include preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project proponent would be responsible for implementing the recommendations of the paleontological monitor.
- d. **Geology and Soils.** Prior to the issuance of any site-specific grading or building permits, a design-level geotechnical investigation shall be prepared and submitted to the City of San José Public Works Department for review and confirmation that the proposed development fully complies with the California Building Code and the requirements of City of San José Ordinance No. 25015 and Building Division Policy No. SJMC 24.02.310-4-94. The report shall determine the project site's surface

geotechnical conditions and address potential seismic hazards, such as seismicity, expansive soils, and liquefaction. The report shall identify building techniques appropriate to minimize seismic damage. In addition, the following requirement for the geotechnical and soils report shall be met:

- Analysis presented in the geotechnical report shall conform to the California Division of Mines and Geology recommendations presented in the “Guidelines for Evaluating Seismic Hazards in California.

e. **Hazards and Hazardous Materials.** To ensure conformance with state and local laws related to asbestos and lead-based paint, the following must be adhered to:

- In conformance with state and local laws, a visual inspection/pre-demolition survey, and sampling, if warranted based on observations, shall be conducted prior to the demolition of onsite buildings to determine the presence of asbestos-containing materials and/or lead-based paint.
- Prior to demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations (CCR) 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 waste being disposed.
- All potentially friable asbestos-containing materials shall be removed in accordance with National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines prior to any building demolition or renovation that may disturb the materials. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8 of the CCR, Section 1529, to protect workers from exposure to asbestos.
- A registered asbestos abatement contractor shall be retained to remove and dispose of asbestos-containing materials identified in the asbestos survey performed for the site in accordance with the standards stated above.
- Materials containing more than one percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one percent asbestos shall be completed in accordance with BAAQMD requirements (see BAAQMD Regulation 11, Rule 2, Asbestos Demolition, Renovation and Manufacturing).

f. **Hydrology and Water Quality.** The following conditions shall be implemented to prevent stormwater pollution and minimize potential sedimentation during construction.

- Utilize onsite sediment control BMPs to retain sediment on the project site.
- Utilize standardized construction entrances and/or wash racks.

- Implement damp street sweeping.
  - Provide temporary cover of disturbed surfaces to help control erosion during construction.
  - Provide permanent cover to stabilize the disturbed surfaces after construction is complete.
- g. **Noise.** The City's standard for interior noise levels in residences, hotels, motels, residential care facilities, and hospitals is 45 dBA DNL. The project shall include appropriate site and building design, building construction and noise attenuation techniques in new development to meet this standard. For sites with exterior noise levels of 60 dBA DNL or more, an acoustical analysis following protocols in the City-adopted California Building Code is required to demonstrate that development projects can meet this standard. The acoustical analysis shall base required noise attenuation techniques on expected Envision General Plan traffic volumes to ensure land use compatibility and General Plan consistency over the life of this plan. A design-level acoustical analysis will be completed at the building permit stage as a routine step, in conformance with the Building Code, to document the noise attenuation measures necessary to reduce interior noise to 45 dBA DNL or lower prior to the issuance of building permits.

Consistent with the, General Plan Policy EC-1.7 and Municipal Code, the project proposes to implement the following standard measure to reduce construction-related noise impacts to a less than significant level:

- Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
- Construct solid plywood fences around ground-level construction sites adjacent to operational businesses, hotels, and other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines should be strictly prohibited.
- 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. Temporary noise barriers could reduce construction noise levels by 5 dBA.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.

- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
  - 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.
  - A temporary noise control blanket barrier could be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.
  - Pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
  - Consider the use of "acoustical blankets" for receptors located within 100 feet of the site during pile driving activities.
  - Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will 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 in it the notice sent to neighbors regarding the construction schedule.
9. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
10. **Outdoor Storage or Uses.** No outdoor storage or uses are allowed or permitted unless otherwise shown on the approved plans.
11. **Outdoor Security.** Outdoor security shall be provided by a surveillance system that maintains a recording for a minimum of thirty days.
12. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance. Nor shall the use adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area or be detrimental to public health, safety or general welfare. Any such nuisance shall be abated immediately upon notice by the City.
13. **Refuse.** All trash areas shall be effectively screened from view and covered, and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
14. **Anti-Graffiti.** The permittee shall remove all graffiti from buildings, fences, and wall surfaces within 48 hours of defacement.

15. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris.
16. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
17. **Colors and Materials.** All building colors and materials are to be as specified on the Approved Plan Set.
18. **Street Cleaning and Dust Control.** During construction, the permittee shall sweep and wash down the public streets each working day. In any on-site area visible to the public from the public right-of-way, the site shall be clean of debris, rubbish and trash at least once a week. The permittee shall implement effective dust control measures to prevent dust and other airborne matter from leaving the construction site.
19. **Construction Hours.** Construction shall be limited 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. Interior construction that is not audible at the adjacent property lines is permitted on Saturday and Sunday between 9:00 a.m. and 6:00 p.m.
20. **Landscaping.** Planting and irrigation shall be provided by the permittee for all landscaped areas as indicated on the final Approved Plan Set. Landscaped areas shall be improved as per the final plans, maintained and watered and all dead plant material shall be removed and replaced by the property owner. Irrigation shall be installed in accordance with the State Model Water Efficient Landscape Ordinance Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
21. **Irrigation Standards.** The permittee shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that shall conform to the Zonal Irrigation Plan in the Approved Plan Set. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
22. **Certification.** Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
23. **Recycling.** It is required that scrap construction and demolition debris be recycled instead of disposing of it in a landfill. An infrastructure exists within San José to accommodate such recycling efforts. Integrated Waste Management staff can provide assistance on how to recycle construction and demolition debris from the project, including information on where to conveniently recycle the material. Additional information may be found at <http://www.sjrecycles.org/construction-demolition/cddd.asp> or by contacting the Commercial Solid Waste Program at (408) 535-8550.

24. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
25. **Police Issues.** The permittee shall maintain a liaison with the Police Department to effectively control crime, gang, drug and other police problems which may arise from the operation between 12:00 midnight and 6:00 a.m.
26. **Building Clearance for Issuing Permits.** Prior to the issuance of any Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
  - a. **Construction Plans.** This permit file number, H16-032, 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. **Emergency Address Card.** The permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
  - d. **Construction Conformance.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, permittee shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms to all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
27. **Fire Department Requirements.** The project shall conform to the requirements of the Fire Department at the building plan review stage to the satisfaction of the Chief Building Official and the Fire Chief.
28. **Storm Water Stenciling.** All drain inlets shall be labeled “No Dumping-Flows to Bay.” Please contact the City of San José, Department of Public Works, at (408) 277-5161 to obtain free stencils.
29. **Protection of Storm Drains.** No hazardous materials, paint, rinse water, or construction sediments or debris shall be allowed to enter the public right-of-way or any storm drain inlet.
30. **Public Works.** 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/index.aspx?nid=2246>.

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:**

- i. A Traffic Impact Analysis has been performed for this project based on 4 AM and 14 PM peak hour trips. Applying credit from the existing gas station use, the subject project will be in conformance with the City of San José Transportation Level of Service Policy (Council Policy 5-3) and a determination for a negative declaration can be made with respect to traffic impacts. See separate Traffic memo dated 05/04/18 for additional information.
- ii. An approved Transportation Demand Management (TDM) plan is required to allow a 50 percent parking reduction as part of the project's Conditions of Approval for Planning Permit H16-032.
- iii. The City of Cupertino has required a \$10,000 contribution for signal timing and infrastructure improvements along De Anza Boulevard. This payment is required prior to issuance of any building permit.
- iv. **Transportation Demand Management (TDM) Plan.** A Transportation Demand Management plan ("TDM Plan") has been submitted and approved for this project. The TDM Plan dated September 15, 2017 entitled "1090 South De Anza Boulevard Hotel" prepared by RYS Architects, is on file with the Department of Public Works and is incorporated fully herein by this reference. Based on the TDM measures included in the approved TDM Plan, the project shall meet the 50 percent parking reduction requirement. The project is required to submit an annual monitoring report (and pay associated administrative cost for City's time to review), which measures the effectiveness of the approved TDM plan, in a form approved by the Director of Public Works. The report shall be provided to the City on or before each June 30<sup>th</sup> for the reporting period of the prior calendar year. Additional TDM measures, or changes to existing TDM measures, may be required at the discretion of the Director of Public Works if the TDM measures are not effective in reducing the parking demand by a minimum of 50 percent.

The project shall also implement control measures to prohibit any parking in the adjacent and surrounding neighborhoods, businesses, and areas. Permittee shall ensure no person working, visiting or using the project site in

any manner create any parking impact to the surrounding neighborhoods, businesses, and areas.

Permittee shall also implement the following TDM measures for the life of the project:

- a. Six long-term and six short-term bicycle parking spaces.
- b. A transit incentive program for employees. Including reimbursement for fares to and from work and a pre-tax credit.
- c. Free shuttle service for guests to and from Mineta International Airport and two pre-selected destinations around San José, potentially Santana Row and Downtown.
- d. Use of ride-sharing coupons during high occupancy days for non-driving guests or employees.
- e. Bike rental for local travelers including employees and guests.
- f. Provide onsite TDM Coordinator (minimum 8 hours per day) to monitor and implement the TDM measures, including providing information packets on transportation options, implementing a car share/ride share program, and monitoring parking demand. The TDM Coordinator shall have comprehensive knowledge of local transit, trip planning services, car share services, private shuttles, as well as local contact for car sharing service.
- g. Establish an up-to-date TDM services on their website. The site should give Information on local transit, car sharing services and how guests can get and manage their visit. The TDM Coordinator shall manage and continuously update the website.

The project shall also implement control measures to prohibit any parking in the adjacent and surrounding neighborhoods, businesses, and areas. Permittee shall ensure no person living, working, visiting or using the project site in any manner shall create any parking impact to the surrounding neighborhoods, businesses, and areas.

- c. **Urban Village Plan:** This project is located in a designated Urban Village per the Envision San José 2040 General Plan. Urban Villages are designed to provide a vibrant and inviting mixed-use setting to attract pedestrians, bicyclists, and transit



users of all ages and to promote job growth.

- d. **Grand Boulevard:** This project fronts De Anza Boulevard which is designated as one of the seven Grand Boulevards per the Envision San José 2040 General Plan. Grand Boulevards are identified to serve as major transportation corridors for primary routes for VTA light-rail, bus rapid transit, standard or community buses, and other public transit vehicles.
- e. **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 2013 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10-year storm event.
  - iii. A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit.
- f. **Shoring:**
  - i. Shoring plans will be required for review and approval as part of the Grading Permit for this project.
  - ii. If tie-backs are proposed in the Public right-of-way as a part of the shoring operation, a separate Revocable Encroachment Permit must be obtained by the Permittee or Contractor and must provide security, in the form of a CD or Letter of Credit, in the amount of \$100,000. All other shoring will not be allowed to encroach within the public right-of-way (i.e. soldier beams).
  - iii. If tie-backs are proposed for use along the adjacent property(ies) (APN's 372-25-021) agreements between the permittee and the adjacent property owner(s) will need to be secured, executed and provided to the Public Works Project Engineer prior to approval of the Grading Permit for this project.
- g. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes

site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.

- i. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this project will be in conformance with City Policy 6-29.
  - ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
- h. **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).
- i. **Flood: Zone X:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone X is an area of moderate or minimal flood hazard. Zone X is used on new and revised maps in place of Zones B and C. There are no City floodplain requirements for Zone X.
- j. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable prior to Public Works clearance.
- k. **Reimbursement:** The permittee will be required to reimburse the City for costs advanced for the construction of street improvements along De Anza Boulevard in accordance with City Ordinance No.19663.
- l. **Undergrounding:** Commercial Street and Oakland Road are designated streets and are subject to the In-Lieu Undergrounding fee. The In-Lieu Undergrounding fee is a percentage of the intensification of the project and shall be paid to the City for all frontage adjacent to Commercial Street and Oakland Road prior to issuance of a Public Works Clearance. One hundred percent of the base fee in place at the time of payment will be due. Currently, the 2018 base fee is \$485 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record's City Average Cost Index for the previous year. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued (based on 2018 rate, the fee is approximately \$288,090).
- m. Street Improvements:**
- i. Construct 15-foot sidewalk with tree wells at back of curb along South De Anza Boulevard to City and ADA standards. An approximate 5-foot wide street easement dedication will be required.
  - ii. Construct 10-foot sidewalk along Via Vico to meet City and ADA standards. One-way driveways shall be 20 feet wide.
  - iii. Close unused driveways.

- iv. Reconstruct handicap ramp at the northeast corner of Via Vico and South De Anza Boulevard to meet City and ADA standard.
- v. Permittee shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
- n. **Assessment:** This project proposes a hotel use. The City of San José on September 30, 2008, implemented a special tax for Convention Center Facilities District (CCFD) No. 2008-1 for all existing hotel properties with the intent that future hotel properties would participate as well. The special tax was authorized to be levied on hotel properties for the purpose of paying for the acquisition, construction, reconstruction, replacement, rehabilitation and upgrade of the San José Convention Center. The special tax is levied and collected in addition to and in a manner similar to the City's Transient Occupancy Tax. The special tax may not be apportioned in any tax year on any portion of property in residential use in that tax year, with the understanding that transient occupancy of hotel rooms is not residential use. The base special tax is 4% of gross rents and may be subject to an additional special tax up to 1% of gross rents. All new hotel properties within San José are encouraged to annex into the CCFD. Please contact Public Works at (408) 535-6831 to coordinate the annexation process.
- o. **Electrical:**
  - i. 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.
  - ii. Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
- p. **Site Utilization Plan and Revocable Encroachment Permit (Street/Sidewalk Closures):** At the Implementation stage, Developer shall provide to the Public Works Project Engineer a Site Utilization Plan with the application of a Revocable Encroachment Permit for any proposed sidewalk and lane closures to support the onsite construction activities.
  - i. The following should be included with the Site Utilization Plan and Revocable Permit application, but are not limited to:
    - 1. **Site Utilization Plan and Letter of Intent:** The site utilization plan should provide a detailed plan of the location of the temporary facilities within the boundary of the construction site. The Letter of Intent should provide a description operations of the site as well as the reasons for the sidewalk/lane closures and why the activities/uses that are proposed within the Public right-of-way can't occur within the construction site. These include the use of the right of way for temporary facilities and activities such

as man lifts, baker tanks, staging area, concrete pumping activities, etc. This would also provide a discussion as to the reasons why covered pedestrian walkways will not be provided (e.g., swinging loads over sidewalk not safe for pedestrians).

2. **Multi-Phased Site Specific Sketches:** These sketches should show the phased closures during the course of construction with a provided timeframe estimate of when each phase would be implemented. These sketches should include the type and location of the work to be accomplished within the right-of-way. The exhibit should show in detail the vehicular and/or pedestrian diversion route that shows the appropriate safety equipment, such as barricades, cones, arrow boards, signage, etc.
- ii. Permittee shall minimize the potential impact to vehicular and pedestrian traffic by:
    1. Implementing the closures at the time the onsite activities dictate the need for the closure.
    2. Minimizing the closure timeframes to accomplish the onsite tasks and implement the next phase of the closure as outlined in condition p.ii.2 above.
  - iii. If proposed lane and parking closures are a part of the Revocable Permit Application, Permittee shall submit Downtown Lane Closure and Tow Away Permit Applications to DOT. These applications may be obtained at: <http://www.sanjoseca.gov/index.aspx?NID=3713>. Permittee shall contact DOT at (408) 535-8350 for more information concerning the requirements of these applications.

q. **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 cutouts 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. The City does not support the use of Eucalyptus leucoxylon (or any Eucalyptus) as a street tree in tree wells. Consult the City Arborist for other street tree options.

**31. Revocation, Suspension, Modification.** This Site Development Permit may be revoked, suspended or modified by the Planning Commission, or the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after

a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:

- a. A violation of any conditions of the 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 shall be the effective date of the Conforming Rezoning for File No. C16-041 adopted on \_\_\_\_\_, 2018 (the “Commercial Pedestrian Zoning District Ordinance”) and shall be no earlier than the effective date of said Planned Development Zoning Ordinance.

ADOPTED this \_\_\_ day of \_\_\_\_\_ 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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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.*

**ORDER NO. : 0616011729-SL**

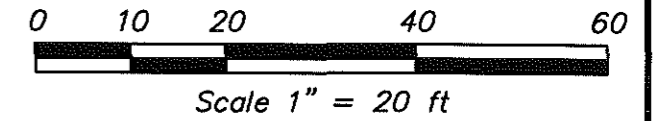
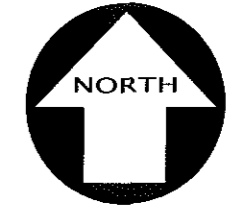
**Legal Description**

The land referred to is situated in the County of Santa Clara, City of San Jose, State of California, and is described as follows:

Parcel 1, as shown on the Parcel Map, Map filed on August 22, 1973, Map Book 329, at page(s) 6, Santa Clara County Records.

APN: 372-25-015

Property address: 1090 S. De Anza Blvd. San Jose, CA 95129



**PROJECT DATA**

**OWNER/DEVELOPER:**

CUPERTINO DE ANZA HOSPITALITY, LLC.  
ATTN: JERRY KWOK  
P.O. BOX 466  
CUPERTINO, CA, 95015  
408-507-3291

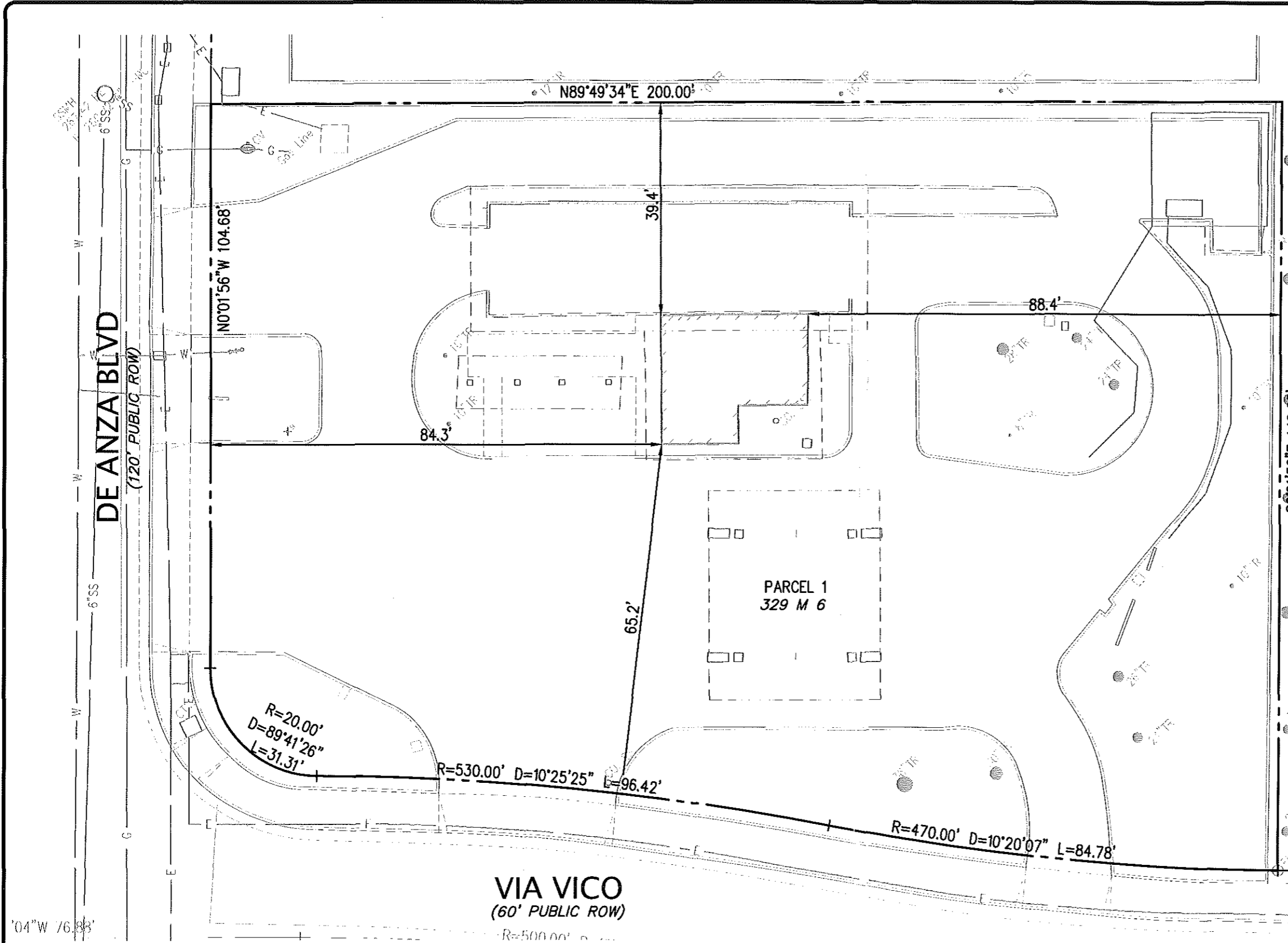
**CIVIL ENGINEER:**

KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS, INC  
ATTN: PETER M. BERNARD  
R.C.E. 69625 EXP. 06-30-2018  
2850 COLLIER CANYON ROAD  
LIVERMORE, CA. 94551  
PH: (925) 245-8788



*Peter M. Bernard*

C 16-041



V:\2015\A15714\Exhibits\A15714-PD.dwg 8-29-16 05:23:37 PM bsutrosky

**KIER & WRIGHT**  
CIVIL ENGINEERS & SURVEYORS, INC.  
2850 Collier Canyon Road Phone (925) 245-8788  
Livermore, California 94551 Fax (925) 245-8796

**PLAT EXHIBIT B**  
**1090 S. DE ANZA BLVD.**

SAN JOSE, CALIFORNIA

|         |                 |
|---------|-----------------|
| DATE    | AUGUST 17, 2016 |
| SCALE   | 1"=20'          |
| BY      | P. BERNARD      |
| JOB NO. | A15714          |
| SHEET   | 1 OF 1          |

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.