

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A CONDITIONAL USE PERMIT TO ALLOW THE DEMOLITION OF AN EXISTING 1,638-SQUARE-FOOT BUILDING AND THE CONSTRUCTION OF AN APPROXIMATELY 5,000-SQUARE-FOOT BUILDING TO SUPPORT THE CONSTRUCTION EQUIPMENT SALE AND LEASE USE ON SITE, AND THE RECONFIGURATION OF THE SITE LAYOUT ON THE APPROXIMATELY 0.94-GROSS-ACRE SITE, LOCATED ON THE NORTHWEST CORNER OF HAYES AVENUE AND BLOSSOM HILL ROAD RAMP (15 COTTLE ROAD) (APN: 690-02-003)

FILE NO. CP24-001

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on October 30, 2023, Olivia Bergin from HMH Inc. on behalf of the applicant, Sunbelt Rentals, Inc., filed an application (File No. CP24-001) with the City of San José (“City”) for a Conditional Use Permit to allow the demolition of an existing 1,638-square-foot building and the construction of an approximately 5,000-square-foot building to support the construction equipment sale and lease use on site, and the reconfiguration of the site layout on an approximately 0.94-gross-acre site (the “project”), on that certain real property situated in the LI Light Industrial Zoning District and located on the northwest corner of Hayes Avenue and Blossom Hill Road ramp (15 Cottle Road, APN 690-02-003)(the “subject property”); and

WHEREAS, the subject property is all that real property more particularly described in Exhibit "A," entitled “Legal Description, which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, on March 4, 2025, this City Council conducted a duly noticed public hearing on the Project, giving all persons full opportunity to be heard and to present evidence and testimony; and

WHEREAS, at said hearing, this City Council received in evidence a plan for the subject property entitled, "Conditional Use Permit, 15 Cottle Road, A Development by Sunbelt Rentals, Inc." dated revised January 28, 2025; said plan is on file in the Department of Planning, Building and Code Enforcement, available for inspection, and incorporated by reference; and

WHEREAS, this City Council has heard and considered the testimony presented 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:

The foregoing recitals are hereby incorporated by reference, and, 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 0.94-gross-acre site is located on the northwest corner of Hayes Avenue and Blossom Hill Road ramp. The site is currently developed with an approximately 1,683-square-foot building for supporting the construction equipment sale/lease on site, the outdoor construction equipment storage area, parking, and circulation. The site is surrounded by a mobile home park to the west and the south, single-family residential to the north across Hayes Avenue, a railroad track to the east across Hayes Avenue, and the Blossom Hill Road ramp to the southeast.
- 2. Project Description.** The project consists of a Conditional Use Permit application to allow the demolition of this existing 1,638-square-foot building and the construction of an approximately 5,000-square-foot building to support the construction equipment sale and lease use on site, and the reconfiguration of the site layout on this 0.94-gross-acre site. The existing site is a construction equipment sale/lease facility. There are no Planning or Building Permit records for the construction equipment sale/lease

use on the subject site. Construction equipment sale/lease use is allowed in the LI Light Industrial Zoning District with a Conditional Use Permit.

The Conditional Use Permit will allow the continued operation of the site as a construction equipment sale/lease facility, and the redevelopment of the site with a larger building and new site layout. The access to the site will remain from Hayes Avenue. The proposed building will be located along the western property line with a 15-foot-wide landscape buffer to the west, and the outdoor rental equipment storage/display area will be located to the east of the proposed building, closer to the roadways and train tracks. Parking will be provided to the east and south of the proposed building. An existing 6-foot-high masonry wall along the western and southern property lines separates the subject site and the mobile home park to the west and the south. The normal business hours will be from 7:00 AM to 5:00 PM Monday to Friday and 8:00 AM to 4:00 PM on Saturdays. Customer's pick up and drop off of construction equipment will occur during normal business hours.

- 3. General Plan Conformance.** The subject site has an Envision San José 2040 General Plan land use designation of LI Light Industrial. This designation is intended for a wide variety of industrial uses and excludes uses with unmitigated hazardous or nuisance effects. Warehousing, wholesaling, and light manufacturing are examples of typical uses in this designation. Office and higher-end industrial uses, such as research and development, are discouraged in order to preserve the scarce, lower cost land resources that are available for companies with limited operating history (startup companies) or lower cost industrial operations.

Analysis: The sale/lease of construction equipment is permitted with a Conditional Use Permit in the LI Zoning District. Therefore, the proposed project is consistent with the LI General Plan land use designation.

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

- a. Diverse and Innovative Economy Policy IE-1.1: To retain land capacity for employment uses in San José, protect and improve the quantity and quality of all lands designated exclusively for industrial uses, especially those that are vulnerable to conversion to non-employment uses.
- b. Industrial Lands Goal LU-6 - Industrial Preservation: Preserve and protect industrial uses to sustain and develop the city's economy and fiscal sustainability.
- c. Fiscal Sustainability Policy FS-2.3: 3 Encourage development of industrial areas and redevelopment of existing older or marginal industrial areas (e.g. areas which could support intensified employment activity), particularly in locations that facilitate efficient commute patterns. The use of redevelopment tax increment financing to provide necessary public improvements is one means of encouraging this economic development and revitalization.
- d. Fiscal Sustainability Policy FS-4.5: Maintain and expand the total amount of land with either a Light Industrial or Heavy Industrial designation. Do not add overlays

or other designations that would allow for non-industrial, employment uses.

Analysis for IE-1.1, LU-6, and FS-2.3 and 4.5: The project site is currently used for sale and lease of construction equipment. The proposed Conditional Use Permit will continue to allow this use with the construction of a larger building and site improvements to support this industrial business. The project will retain industrial use on-site and generate jobs; therefore, the project will be consistent with all these policies.

4. Zoning Ordinance Compliance.

The Project site was rezoned from the IP Industrial Park Zoning District to the LI Light Industrial Zoning District.

Use

The sale or lease of construction equipment requires a Conditional Use Permit pursuant to Table 20-110, Section 20.50.100. Incidental office up to 5,000 square feet is allowed per Section 20.50.125.A. The proposed building is to support the sale or lease of construction equipment and is 5,000 square feet. Therefore, the project complies with the requirements.

Development Standards

Setback

Per Notes 1 to 3 of Table 20-120 under Section 20.50.200, “front” refers to lot boundaries abutting streets, excluding freeways. “Side” refers to lot boundaries that do not abut streets or freeways. “Rear” refers to lot boundaries that do not abut streets or freeways. Hence, all the property lines along the public streets are the front lot lines and the two interior lot lines (western and southern lot lines) are either side or rear lot lines.

The project conforms with the following setback requirements in the LI Zoning District, except the building and parking side/rear setback requirement to the adjacent Mobile Home Park:

Setbacks in LI Zoning District	Minimum Required in feet	Proposed in Feet
<i>Front (to the street easement dedication lines)</i>		
Building	15	Minimum 60
Parking and circulation for passenger vehicles	20	40

<i>Interior Side/Rear (to the southern and western property lines)</i>		
Building and structures (adjacent to residential district)	25	Building Setback: <ul style="list-style-type: none"> • Western Property Line: 15* • Southern Property Line: 72 Structure Setback (Trash Enclosure) <ul style="list-style-type: none"> • Western Property Line: 50 • Southern Property Line: 50
Parking and circulation for passenger vehicles/trucks (adjacent to residential district)	25	Western Property Line: 20* Southern Property Line: 6.5*

*Per Zoning Code Section 20.50.240, the Director of Planning, Building and Code Enforcement may approve with a development permit, issued pursuant to Chapter 20.100, a side or rear setback of less than twenty-five feet in the LI or HI Zoning District, adjacent to a residence district, upon finding either that such a reduced setback will have no greater negative effect on the residential property than would the twenty-five-foot setback or that the reduced setback is not less than the setbacks required on the residential property.

The site is adjacent to a mobile home park to the west and the south. This mobile home park is located within a Planned Development Zoning District, File No. PDC76-047. PDC76-047 only establishes a minimum front setback on public streets; however, there is no minimum side or rear setback requirement. The existing mobile homes to the west of the site are approximately 5 to 7.5 feet from the subject site’s western property line. To the south of the project site is the garbage/storage area for the mobile home park. There are no mobile homes immediately adjacent to this southern property line. The nearest mobile home is approximately 50 feet from the site’s southern property line.

The proposed 15-foot building and 20-foot parking setback to the western property line is greater than the zero side/rear setback in this Planned Development Zoning District. It is also greater than the existing 5 to 7.5-foot mobile home setback to this shared property line. In addition, the project will maintain the 6-foot-high masonry wall on this property line and a new 15-foot landscape buffer with trees along this property line to minimize the impact on the mobile homes. The noise analysis dated June 19, 2024, prepared by Illingworth & Rodkin, Inc. analyzes the noise impact and concludes that with the 6-foot-high masonry wall, the predicted noise levels will be below 55 dBA at the residential property line. This meets the Zoning Code performance standards requirement as discussed in the noise section below. The project will not cause a

significant acoustical impact on the residences west of the site. Therefore, this setback reduction is granted.

The parking setback of 6.5 feet from the southern property line is greater than the zero side/setback requirement in the PDC76-047 Zoning District. The existing 6-foot-high masonry will remain, and trees will be planted along this shared property line to provide a buffer between the site and the mobile home park. Given that the site immediately to the south of the project site is for garbage/storage, not for residence use, the project will not have a negative impact on the mobile home park. Therefore, this setback reduction is granted.

Height

Pursuant to Table 20-120 under Section 20.50.200, the maximum building height is 50 feet in the LI district. The height of the project building is 25.5 feet. The project meets the height limit requirement.

Parking

- Vehicle Parking: The proposed use is an Other Use (OTH) and the building area is less than 30,000 square feet. Therefore, the project is exempt from the Transportation Demand Management Plan requirements per Section 20.90.900.B.2.d. The project will provide nine parking spaces.
- Bicycle Parking: Bicycle parking requirement is one space per 10,000 square feet of net floor area per Table 20-190 of Section 20.90.060, or a minimum of two short-term and one long-term bicycle parking space per Section 20.90.060.A.3, whichever is greater. Therefore, a total of three bicycle parking spaces are required. The project will provide two short-term spaces and one long-term space near the building entrance. The project meets the bicycle parking space requirement.
- Motorcycle parking: Motorcycle parking shall be provided at a rate of 2.5% of the number of vehicle parking spaces provided, pursuant to Section 20.90.350. No two-wheeled motorized vehicle parking spaces are required if ten or less vehicle parking spaces are provided. With nine proposed parking spaces, the project is not required to provide motorcycle parking spaces.

Lighting

Section 20.50.250 requires light fixture heights not to exceed eight feet when adjacent to residential uses unless the setback of the fixture from the property line is twice the height of the fixture. No ground-mounted light fixture shall exceed twenty-five feet in height. All lights shall be directed downwards.

Residential use is to the west of the project site. The proposed 21-foot-high ground-mounted light is more than 53 feet to the western property line, more than twice the height of the lighting fixture. The 12-foot-high wall-mounted light on the north façade is setback from the western property line 25.5 feet, and the 10-foot-high wall-mounted lights on the south façade have a minimum 20 feet setback to the western property line. All the lighting fixtures are directed downwards. The photometric plan shows the proposed lighting will not result in light spillage to the adjacent mobile home park. Therefore, the project complies with Section 20.50.250.

Noise

Pursuant to Section 20.50.300, the project cannot exceed a maximum noise level of 55 dB at the property lines of the adjacent mobile home park to the west and south of the project site.

Per the noise analysis dated June 19, 2024, prepared by Illingworth & Rodkin, Inc., the predicted noise levels are expected to be below 55 dBA at the residential property lines with the existing 6-foot-high masonry walls along these property lines. The project meets this performance standard.

5. Citywide Design Standards and Guidelines. The project is subject to the San Jose Citywide Design Standards and Guidelines (CDSG). The CDSG includes an exception process for design standards that cannot be met and establish findings in Section 1.1.2 of the CDSG that are required to be made by decision-makers in order to grant the requested design standard exceptions. These findings include:

- 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.
- 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.
- The proposed project meets the intent of design standard under consideration to the extent feasible.

The project architecture, massing, materials, and site plan have been determined to be consistent with all the applicable standards, with the following two requested exceptions:

- a. Section 2.3.8. S1: 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 POPOS (Privately Owned Public Open Spaces).

Analysis: This standard applies to the two proposed surface parking areas to the east and south of the proposed building. The proposed tree canopy coverage will be approximately 18.6%. The project does not meet this standard. An exception is requested.

The project is a construction equipment sale/lease facility that requires a substantial amount of paving area for construction equipment storage/display, customer loading and delivery, parking, and truck movement. Due to the irregular shape of the site, the vehicular hardscape areas have to remain clear to accommodate vehicular turning movements and trash truck turning movements. This limits areas for tree planting near the surface parking areas. This type of use and the lot shape are unique situations of the project that are not created by the project applicant or property owner and are not caused by financial or economic considerations. The project will still be fully landscaped with trees, plants, shrubs, and ground cover along the perimeter of the site. Approving the exception to this standard will not create a safety hazard or impair the integrity or character of the neighborhood. The proposed project also meets the intent of the design standard under consideration to the extent feasible.

All required findings can be made per the above analysis; therefore, this exception request is granted.

- b. Section 2.3.8, S10: Provide a landscape buffer of at least 10 feet at the side and rear property lines and a five-to seven-foot-tall solid wall/concrete fence where Industrial General Plan land use designations abut Residential General Plan land use designations.

Analysis: The property to the west and south of the site is designated Mobile Home Park on the 2040 General Plan Land Use Map. The project includes a 6.5-foot-wide landscape buffer along the southern property line. The project does not meet this standard. An exception is requested.

This standard intends to provide sufficient buffer to the residential designated sites from industrial uses and minimize the impacts on residential use. Per the General Development Plan of PDC76-047, the area to the south of the subject site is mapped as the garbage area in the mobile home park due to its location (edge of the mobile home park), shape (triangular shape), and size (not large enough to accommodate a standard mobile home). The nearest mobile home is more than 50 feet from this shared property line. This is a unique situation of the project that is not created by the project applicant or property owner and is not caused by financial or economic considerations. The site will be fully landscaped with trees, plants, shrubs, and ground cover along the perimeter of the site. Approving the exception to this standard will not create a safety hazard or impair the integrity or character of the neighborhood. The proposed project also meets the intent of the design standard under consideration to the extent feasible. The project will still maintain the existing 6-foot-high masonry wall on this property line, and trees will be planted within the proposed 6.5-foot landscape buffer.

All required findings can be made per the above analysis; therefore, this exception request is granted.

6. City Council Policy 6-30: Public Outreach Policy for Pending Land Use Decisions.

To inform the public of the project, staff followed Council Policy 6-30: Public Outreach Policy. Two on-site signs have been posted on the project's street frontages since January 24, 2024. 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 been available to respond to questions from the public.

7. Environmental Review.

Under the provisions of Section 15303 (c) New Construction or Conversion of Small Structures 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. CEQA Guidelines Section 15303 applies to projects that consist of small new construction, or the conversion of existing small structures from one use to another where only minor modifications are made to the exterior of the structure. CEQA Guidelines Section 15303 (c) includes the following criteria: A store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available, and the surrounding area is not environmentally sensitive.

The project site is within an urbanized area where all necessary public services and facilities are available. The project includes the demolition of an existing building that was built between 1889 to 1900. Per the review of the Department of Parks and Recreation (DPR) 523 form prepared by the historic consultant, GPA Consulting, dated April 23, 2024, this building is not a building of historical significance. The property is ineligible for listing on the National Register, California Register or City of San Jose Historic Resources Inventory. Therefore, the demolition of the building would not result in a significant cultural and resource impact. The proposed project includes one 5,000-square-foot building and will not involve the use of significant amounts of hazardous substances. The noise report concludes the project will not result in a significant noise impact on the adjacent mobile home park with the existing perimeter wall. Per the Public Works Final Memo dated October 28, 2024, the project will result in less-than-significant VMT impacts and the projected traffic for the project was found to be minimal. Therefore, CEQA Guidelines Section 15303(c) applies.

8. Conditional Use Permit Findings: Section 20.100.720 of the San José Municipal Code specifies the required findings for the approval of a Conditional Use Permit.

- a. The Conditional Use Permit, as approved, is consistent with and will further the policies of the general plan, applicable specific plans, and area development policies; and

Analysis: As explained in the General Plan Conformance section above, the project is consistent with the General Plan land use designation of LI Light Industrial and policies in that the project is an industrial project and continues to sustain industrial lands to develop the City's economic base.

- b. The Conditional Use Permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the project; and

Analysis: As discussed in the San José Municipal Code Conformance section above, the project meets the height, setback, bicycle parking, and performance standards requirements in the Light Industrial Zoning District. The project is also exempt from the TDM plan requirement.

- c. The Conditional Use Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency; and

Analysis: Council Policy 6-30: Public Outreach Policy was implemented to inform the public of the project. Two on-site signs have been posted on the project frontages since January 24, 2024. 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. Staff has also been available to respond to questions from the

- d. The proposed use at the location requested will not:

- i. Adversely affect the peace, health, safety, morals, or welfare of persons residing or working in the surrounding area; or
- ii. Impair the utility or value of property of other persons located in the vicinity of the site; or
- iii. Be detrimental to public health, safety, or general welfare; and

Analysis: The project site is surrounded by public streets and a mobile home park to the west and the south. As discussed in the Zoning Code Conformance Section above, the site is separated from the mobile home park by a 6-foot-high perimeter wall and landscape buffers with trees along the shared property lines. With the reconfiguration of the site operations, rental equipment will be relocated away from the western residential property line to the east side of the site, closer to the roadways to minimize impact on the mobile home residences. The equipment noise at nearby residences would be shielded by the new building and existing perimeter wall. The project would not cause a significant acoustical

impact on the residences west of the site, per the noise report. In addition, the site will be screened by new 6-foot-high metal fences and landscaping with a mix of grass and shrubs along street frontages. No late-night operation is allowed. Customer's pick-up and drop-off will occur during normal business hours. Exterior lighting is designed to minimize glare on the neighboring properties. For the reasons above, the proposed use will not adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or impair the utility or value of property in the vicinity of the site.

- e. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and

Analysis: The 0.94-gross acre site is sufficient to accommodate the new 5,000-square-foot building with landscape buffers to the adjacent mobile home park, parking spaces and circulation, the outdoor equipment area, and the trash enclosure.

- f. The proposed site is adequately served:
 - i. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use will generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use will generate; and
 - ii. By other public or private service facilities as are required.

Analysis: The site is within a developed area that is currently served by the necessary private and public facilities. Access to the site will be from Hayes Avenue. The site is within 5 minutes of walking distance to the bus stop for Santa Clara Valley Transportation Authority (VTA) bus route 68 located at Endicott Boulevard.

- g. 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: As stated above, the proposed development occurs in an urbanized area that is adequately serviced by all required utilities and public services, and the Stormwater Control Plan complies with the City's stormwater policies that require low-impact development stormwater treatment measures to minimize stormwater pollutant discharges. The entire site will be fenced around with masonry walls abutting the mobile home park area and metal fences along public streets. The noise level generated by the project will not exceed the Zoning Code requirement with the existing masonry walls separating the mobile home park. A Construction Disturbance Coordinator shall be appointed to address any construction-related

complaints. All construction activity will adhere to standard construction conditions, best management practices, and any regulatory agency requirements. The project will, therefore, not have an unacceptable negative impact on adjacent properties.

9. Site Development Permit Findings: Chapter 20.100 of Title 20 of the San José Municipal Code establishes required findings for issuance of a Site Development Permit, which findings are made for the project based on the above-stated findings related to General Plan, Zoning and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in this Permit.

- 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: See Conditional Use Permit Finding a above.

- 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: See Conditional Use Permit Finding b above.

- c. The site development permit, as approved, is consistent with applicable city council policies, or counterbalancing considerations justify the inconsistency.

Analysis: See Conditional Use Permit Finding c above.

- d. 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 project will locate the noise-generated outdoor use in the east of the site, closer to roadways and away from mobile home residences to the west. The building will be located along the western property line as a noise barrier to the mobile home park. The trash enclosure will be located to the south of the building and far from the public streets. In addition, the trash enclosure will be painted to match the primary building color. The building, the trash enclosure, and the outdoor construction equipment area are located in areas where they are functionally needed and are mutually compatible and aesthetically harmonious.

- 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: The site is surrounded by mobile home park residences to the west, single-family residential to the north across Hayes Avenue, and a railroad track to the east across Hayes Avenue. All the surrounding buildings are one-story high. The proposed building is 25.5 feet high, which is compatible with the surrounding buildings. The proposed materials, such as brick veneer, can be found in nearby

residential neighborhoods. The site will be enclosed by metal fences with ground cover and shrubs. The project will maintain the existing 6-foot masonry walls and provide new landscape buffers with trees separating the adjacent mobile home park. Therefore, the proposed building and its use on the site are compatible with and aesthetically harmonious with adjacent development or the character of the neighborhood.

- 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: See Conditional Use Permit Finding g above.

- 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 shown on the plan sets, the landscaping, all walls and fences, utilities, and trash facilities are sufficient to maintain and upgrade the appearance of the neighborhood. The project will provide landscaping and metal fences along the streets.

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

Analysis: The project site is accessible by a driveway along Hayes Avenue. The project will construct a standard 10-foot detached sidewalk with a minimum 4.5-foot-wide park strip and a 5-foot-wide sidewalk along Hayes Avenue and Blossom Hill Road. A 5-foot-wide pedestrian path connects the sidewalk at Hayes Avenue and the building entrance. The project also meets the bicycle parking requirement as discussed in the Zoning Conformance section.

10. Evaluation Criteria for Demolition. Chapter 20.80.460 of the San José Municipal Code establishes evaluation criteria for issuance of a permit to allow for demolition. These criteria are made for the project based on the above-stated findings related to General Plan, Zoning and CEQA conformance, for the reasons stated below, and subject to the conditions set forth in this Permit.

- a. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
- b. The failure to approve the permit would jeopardize public health, safety or welfare;
- c. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;
- d. The approval of the permit should maintain the supply of existing housing stock in the City of San Jose;

- e. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
- f. Rehabilitation or reuse of the existing building would not be feasible; and
- 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: The existing building on-site was constructed between 1889 to 1900 and is not a building of historical significance per the review of the Department of Parks and Recreation (DPR) 523 form prepared by the historic consultant, GPA Consulting, dated April 23, 2024. The property is ineligible for listing on the National Register, California Register or City of San Jose Historic Resources Inventory. The demolition of the building will not affect the City's housing stock since it is currently used to support construction equipment sale/lease. The demolition of the existing building will facilitate the construction of the project consistent with the General Plan and the Zoning District, as noted above, and is compatible with the surrounding uses as analyzed in this document. The demolition will not result in a nuisance, blight, or dangerous condition as the demolition will allow for the construction of the new building with the associated site improvements.

In accordance with the findings set forth above, a Conditional Use 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 Conditional Use 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 of the terms, provisions, and conditions of this Permit or other approval and the provisions of Title 20 of the San José Municipal Code applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire two (2) 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. **Use Authorization.** Subject to all conditions herein, this Permit allows construction equipment sales and lease on the subject site and the associated redevelopment of the site including the demolition of the existing building on site and the construction of a 5,000-square-foot building with the associated site improvements as shown on the approved plans.
6. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved Conditional Use Permit plans entitled, "Conditional Use Permit, 15 Cottle Road, A Development by Sunbelt Rentals,

Inc.” dated revised January 28, 2025, 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.”

7. **Demolition Permit.** A demolition permit may be issued for the existing building on site only upon the submittal of a complete Public Works Grading Permit application or the submittal of a complete Building Permit application for new construction.
8. **Window Glazing.** Unless otherwise indicated on the Approved Plans, all windows shall consist of a transparent glass.
9. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, state, and federal laws.
10. **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.
11. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City of San José.
12. **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.
13. **Utilities.** All new on-site telephone, electrical, and other service facilities shall be placed underground.
14. **Anti-Graffiti.** All graffiti shall be removed from buildings and wall surfaces, including job sites for projects under construction, within 48 hours of defacement.
15. **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.
16. **No Sign Approval.** Any signage shown on the Approved Plan Set is 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.
17. **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.
18. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.

19. **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.
20. **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.
21. **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.* Permit File No. CP24-001 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. *Other.* Such other requirements as may be specified by the Chief Building Official.
22. **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 or updated by the City.
23. **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 applicant will be required to have satisfied all of the following Public Works conditions. The applicant 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 may 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 2018, as local-serving retail project of 100,000 square feet of total gross floor area or less without drive-through uses and as small industrial infill of 30,000 square foot of gross floor area or less. Additionally, the projected traffic for the project was reviewed and found to be minimal. No additional transportation analysis is required.

c. Grading/Geology:

- i. A grading permit is required prior to the issuance of a Public Works Clearance.
- ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 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. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
- iv. 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.

d. 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.

- 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.

- e. **Stormwater Peak Flow Control Measures:** Although the project is located in a Hydromodification Management area, the project will not create and/or replace one acre or more of impervious surface; the project is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).

- f. **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.

- g. **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 issuance of Public Works clearance.

- h. **Undergrounding:**
 - i. The In-Lieu Undergrounding Fee shall be paid to the City for all frontages adjacent to Hayes Ave prior to issuance of a Public Works Clearance. 100 percent of the base fee in place at the time of payment will be due. Currently, the 2025 base fee is \$622 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.
 - ii. The Director of Public Works may, at his discretion, allow the developer to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to Hayes Ave. Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.

- i. **Street Improvements:**
 - a) **Hayes Ave:**
 - i. Construct a minimum 10' detached sidewalk with a minimum 4'-6" wide park strip and 5' wide sidewalk per CSJ standards along the Hayes Ave frontage. A public street easement dedication is required.
 - ii. Provide striping for two 10' wide travel lanes and two Class I 5' bike lanes in each direction along Hayes Ave.

- b) **Blossom Hill Rd:**
 - i. Construct a minimum 10' detached sidewalk with a minimum 4'-6" wide park strip and 5' wide sidewalk per CSJ standards along the Hayes Ave project frontage. A public street easement dedication is required.
 - ii. Install electrolier on Blossom Hill frontage.
- c) **Hayes Ave and Blossom Hill Rd- Endicott Blvd intersection:**
 - i. Construct a new directional ADA curb ramp at the project intersection corner with a minimum 6' wide opening for pedestrian ADA access.
 - ii. Construct a 24' minimum property line corner radius at the southeast corner of the property. A public street dedication is required.
 - iii. Implement a minor signal modification to install a new pedestrian push button that complies with Figure 4E-3 from CAMUTCD.
- d) Permittee shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
- e) Permittee 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.
- f) Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
- g) 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 across the project frontage have been evaluated and the installation of an electrolier along Blossom Hill is required. Additional street lighting requirements will be evaluated at the public improvement stage and will be included on the public improvement plans.
- k. **Street Trees:** 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 park strip. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.

24. 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. **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.

- c. **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.
- d. **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.

e. 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.

f. 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.
- g. **Construction-related Noise.** Noise minimization measures include, but are not limited to, the following:
- i. Pile Driving is prohibited.
 - ii. Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
 - iii. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
 - iv. Prohibit unnecessary idling of internal combustion engines.
 - v. 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.
 - vi. Utilize “quiet” air compressors and other stationary noise sources where technology exists.
 - vii. Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the Project site.
 - viii. 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.
 - ix. 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.

25. Revocation, Suspension, Modification. This Conditional Use 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 Conditional Use 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. CP24-001) shall be the effective date of the Conforming Rezoning Ordinance for File No. C23-115, passed for publication on _____, 2025 (the “Conforming Rezoning Ordinance”) and shall be no earlier than the effective date of said Conforming Rezoning Ordinance.

ADOPTED this _____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
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.

