

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A CONDITIONAL USE PERMIT TO ALLOW AN EXISTING HOTEL TO INCREASE THE NUMBER OF GUEST ROOMS FROM 505 GUEST ROOMS TO 515 GUEST ROOMS ON A 12.41 GROSS-ACRE SITE LOCATED ON THE NORTHWEST CORNER OF GATEWAY PLACE AND AIRPORT PARKWAY (2050 GATEWAY PLACE)**

**FILE NO. CP20-011**

**WHEREAS**, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on March 20, 2020, an application (File No. CP20-011) was filed by the applicant, HLT San Jose LLC, with the City of San Jose for a Conditional Use Permit to allow an existing hotel to increase the number of guest rooms from 505 to 515 through the conversion of meeting rooms and presidential suites on a 12.41 gross-acre site, on that certain real property situated in the IP Industrial Park Zoning District and located on the northwest corner of Gateway Place and Airport Parkway (2050 Gateway Place, San Jose, 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 “Parcel 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 application, 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 recommendation of the City's Director of Planning, Building and Code Enforcement; and

**WHEREAS**, at said hearing, this City Council received in evidence a development plan for the subject property entitled, "Doubletree by Hilton Hotel, San Jose Airport" dated May 18, 2020, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

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

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

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

After considering 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 project site is located on the northwest corner of Gateway Place and Airport Parkway. The subject 12.41-gross acre site is currently developed with a 505-guest room hotel and associated parking. The hotel has a UPS Store, a formal restaurant, and a casual restaurant within the building, as well as a pool on the roof deck.

Commercial office uses are to the west and south across Gateway Place, and Highway 101 is to the north. Across Airport Parkway to the east, there are commercial

office uses (Airport Plaza) and entertainment uses (Casino M8trix). Access to the site is from four driveways along Gateway Place and one driveway from Airport Parkway.

2. **Project Description.** A Conditional Use Permit to allow an existing hotel to increase the number of guest rooms from 505 to 515 through the conversion of meeting rooms and presidential suites on an approximately 12.41-gross acre site at 2050 Gateway Place.

The site is developed with a 505-room hotel and associated parking under previous Planned Development Permit No. PD79-063 approved by the Planning Director on 9/26/79 and Planned Development Permit No. PD96-076 approved by the Planning Director on 1/21/97. The hotel has a UPS Store, a formal restaurant, and a casual restaurant within the building, as well as a pool on the roof deck. Access to the site is from four driveways along Gateway Place and one driveway from Airport Parkway.

The hotel is oriented toward Gateway Place. The meeting rooms and presidential suites to be converted into additional guest rooms are on the second, ninth, and tenth floors of the building. There are no changes to the exterior of the building.

3. **General Plan Conformance.** The project site has an Envision San José 2040 General Plan land use designation of IP Industrial Park and is within the Rincon South Specific Plan Area and the North San José Development Policy Area. The IP Industrial Park designation is intended for a wide variety of industrial users such as research and development, manufacturing, assembly, testing and offices. Hotels are allowed within the North San Jose Development Policy Area through the City's discretionary review and permitting process.

*The project is consistent with the General Plan Industrial Park designation, as the hotel is within the North San José Development Policy Area, and a Conditional Use Permit is being requested, which is a discretionary permitting process.*

### **General Plan Policies**

The project is consistent with the following key General Plan goal and policies:

- a. Commercial Lands LU-4.1: Retain existing commercial lands to provide jobs, goods, services, entertainment, and other amenities for San José's workers, residents, and visitors.

*Analysis for LU-4.1: The existing hotel use will remain unchanged. The hotel employs up to 100 people and provides amenities for visitors to San José. The hotel is a commercial support use to the surrounding industrial and office businesses such as the card room (Casino M8trix) and the San José International Airport (0.5-mile away).*

- b. Industrial Lands LU-6.1: Prohibit conversion of lands designated for light and heavy industrial uses to non-industrial uses. Prohibit lands designated for industrial uses and mixed industrial-commercial uses to be converted to non-employment uses.

*Analysis for LU-6.1: The rezone of the parcel to IP Industrial Park ensures that the land will be retained for current and future employment uses.*

- c. Implementation Policy IP-1.8: Use standard Zoning Districts to promote consistent development patterns when implementing new land use entitlements. Limit use of the Planned Development Zoning process to unique types of development or land uses which cannot be implemented through standard Zoning Districts, or to sites with unusual physical characteristics that require special consideration due to those constraints.

*Analysis for IP-1.8: In addition to this Conditional Use Permit, the project includes rezoning from the PD Planned Development district to the IP Industrial Park district, which is the conforming district to the Industrial Park General Plan designation. This meets the General Plan policy and also brings the zoning into conformance with the General Plan for this parcel.*

### **Rincon South Specific Plan**

The Rincon South Specific Plan outlines a vision for the redevelopment of an area of San José that is almost fully developed with a large variety of land uses. The Rincon South area also acts as a conduit for large volumes of traffic related to Silicon Valley jobs, the Airport, and the presence of three freeways. In addition, the VTA Light Rail runs through the area, along North First Street. The project is consistent with the following key objectives of the Rincon South Specific Plan:

- a. Promote Economic Development

Objective: Protect and promote employment centers within Rincon South.

*Analysis: The project would preserve the existing hotel use within the plan area. The hotel employs up to 100 people, and the project would not result in any loss of employment.*

- b. Minimize Traffic Impacts and Encourage Transit Use

Objective: Provide a mix of land uses that reduce impacts upon the existing transportation infrastructure and maximizes utilization of light rail facilities and other alternate modes of transportation.

*Analysis: The subject site is less than half a mile to VTA light rail service along North 1st Street to both the Karina Court station and the Metro / Airport station. Additionally, the project includes an additional 40 bicycle parking spaces, which is consistent with the requirements.*

### **North San José Area Development Policy**

The North San José (NSJ) Area Development Policy establishes a policy framework to guide the ongoing development of the North San José area as an important employment center for San José. The North San José land area is a critical resource for San José in its continued efforts to grow industrial activity and to add

well-paying jobs within the City. The policy supports economic activity in the North San José area by encouraging the creation of up to 80,000 new jobs along the North San José First Street corridor.

The Policy provides for the development of regional or "Large Scale" commercial and hotel uses and provides capacity for the construction of new hotel rooms within the Policy area. The development and trip capacity available for regional retail and hotel uses is drawn from the pool of industrial development capacity included in the Policy. This capacity may not exceed 1,000 hotel rooms with no more than 250 rooms being developed in any given hotel except those sites designated as preferred hotel sites by the General Plan.

*Analysis: The project site is identified as a Transit-Oriented Site in Figure 2 of the Development Policy. The site is within 2,000 feet of the Karina Court Light Rail Station. An area wide traffic impact analysis was prepared as part of the NSJ Policy and the NSJ Environmental Impact Report (EIR). Traffic impacts were identified and resulted in area-wide traffic impact fees. Consistent with NSJ EIR and subsequent Addendum, this project is required to pay a traffic impact fee. This fee must be paid prior to issuance of Public Works Clearance.*

*This site is within the Preferred Hotel Sites Overlay of the General Plan and will have 515 guest rooms. Within the Development Policy Area, there are currently 614 hotel rooms entitled, leaving 386 hotel rooms remaining to reach the 1,000-room limit. Therefore, the project is consistent with the North San Jose Development Policy.*

- 4. Zoning Code Compliance.** The project is consistent with the development standards as set forth in the IP Industrial Park Zoning District. The Industrial Park zoning designation is an exclusive designation intended for a wide variety of industrial uses such as research and development, manufacturing, assembly, testing, and offices. The Industrial Park Zoning District would allow the property to be used and developed in accordance with the allowable uses in Table 20-120, including hotel use as a conditionally permitted use.

This Conditional Use Permit will allow the existing hotel to increase the number of guest rooms from 505 to 515 through the conversion of meeting rooms and presidential suites. The following summary outlines the development standards for IP Industrial Park Zoning District pursuant to Table 20-120 of Section 20.50.200 of the Zoning Ordinance:

Setback and Heights: The project will perform interior improvements to an existing hotel and does not propose any new construction that would encroach into the existing setback areas. Similarly, the project does not propose to construct any additional stories or add height to the existing structure.

The development standards for the IP Industrial Park Zoning District require a minimum 15-foot front setback to building and a minimum 25-foot front setback to

parking and circulation for passenger vehicles with zero-foot side and rear setbacks. The existing front setback to building is 89.5 feet, which exceeds the setback requirement. The existing front setback to parking and circulation is 10 feet, as built under the previous approvals PDC79-036 and PD79-063 permits. The rezoning from A(PD) to the IP zoning district, which is a part of this project, is a conforming rezoning to the IP General Plan land use designation. Therefore, the front setback to parking of 10 feet will be an existing legal non-conforming condition per Section 20.150 of the Zoning Code.

The maximum allowed height in the IP Zoning District is 50 feet. However, the site is under a Special Height Restriction area of 150 feet per 20.85.020.D Transit Areas of the Zoning Code. The previous PD Zone limited the height to 120 feet. The height of the existing hotel is 119 feet. This is consistent with the height limit for this site.

There would be no change in setbacks or height to the existing building. Any future redevelopment at the site would require conformance with the development standards for the IP Industrial Park Zoning District.

Therefore, the project is consistent with the setback and height requirements.

Parking Requirements:

*Vehicle:* Per Section 20.90.060, Table 20-190 of the Zoning Code, the required number of parking spaces is one space per guest room or suite, plus one per employee. With a total of 515 guest rooms and up to 100 employees, 615 parking spaces are required. The project has 731 existing vehicular at-grade parking spaces, 11 of which are being converted to 31 motorcycle parking spaces and 4 of which are being converted to 40 bicycle parking spaces as per the below requirements, resulting in 716 vehicular parking spaces provided. The parking is consistent with the requirements.

*Bicycle:* Per Section 20.90.060, Table 20-190 of the Zoning Code, the required number of bicycle parking spaces is one space plus one per ten guest rooms. With a total of 515 guest rooms, 53 spaces are required, and 13 spaces are existing. Therefore, the project includes an addition of 40 bicycle parking spaces, which is consistent with the requirements.

*Motorcycle:* Per Section 20.90.350, Table 20-250 of the Zoning Code, one motorcycle space per twenty code required auto parking spaces are required. Since there are 615 vehicle parking spaces required, a total of 31 motorcycle spaces are required. The project includes an addition of 31 motorcycle parking spaces. Therefore, the motorcycle parking is consistent with the requirements.

- 5. California Environmental Quality Act.** Under the provisions of Section 15301(a) Existing Structures of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), the project is 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 15301(a) applies to projects consisting of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The key consideration is whether the project involves negligible or no expansion of use.

*Analysis: The Director of Planning, Building and Code Enforcement approved a Statement of Exemption for the project on May 18, 2020. The project is an existing hotel and includes the conversion of existing meeting rooms and presidential suites into ten additional guest rooms for a total of 515 guest rooms. There will be no increase in square footage. Existing building setbacks and height will remain unchanged. The approval of the Conforming Rezone and Conditional Use Permit would not trigger any additional or expanded use of the project site. Further, none of the exceptions under CEQA Section 15300.2 apply to the project.*

*Cumulative traffic impacts were analyzed as part of the NSJ Policy and the NSJ EIR. Traffic impacts were identified and resulted in an area wide traffic impact fees. Consistent with NSJ EIR and subsequent Addendum, this project is required to pay a traffic impact fee. This fee must be paid prior to issuance of Public Works Clearance. Therefore, the project would not result in new or more significant traffic, noise, air, or water quality impacts beyond those identified in the NSJ EIR and subsequent Addendum.*

6. **Conditional Use Permit Findings.** Chapter 20.100 of the San José Municipal Code (SJMC) establishes required Findings for issuance of a Conditional Use Permit. These criteria are applied to the project based on the above-stated findings related to General Plan and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in the 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 described above, the project is consistent with the policies of the General Plan, Rincon South Specific Plan, and North San Jose Development Area Plan in that hotel use is consistent with the land use designation, the hotel is within the Preferred Hotel Sites Overlay, and the additional ten hotel rooms is within the 1,000-room total policy area capacity. The hotel use provides employment to residents and amenities to visitors, and the associated rezoning will bring the parcel's zone into conformance with the General Plan land use designation. The project will also be subject to the North San Jose Development Policy Area Traffic Impact Fees.*

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 above, the project consists of increasing the number of guest rooms at an existing hotel from 505 guest rooms to 515 guest rooms by converting existing meeting rooms and presidential suites. Hotel use is a conditionally permitted use in the IP Industrial Park Zoning District pursuant to Table 20-110 of Section 20.50.100. The project is consistent with the setbacks, height, and parking development standards of the IP Industrial Park Zoning District, with the exception of the front setback to parking and circulation, as discussed above, due to the rezoning of the site to the conforming zoning district (IP). The IP zoning district requires a 25-foot setback to parking and circulation from the front lot line. The existing condition is a 10-foot setback at this location. Therefore, this is an existing legal non-conforming condition per Section 20.150 of the Zoning Code. The project also includes the addition of 40 bicycle parking spaces and 31 motorcycle spaces to the site, which is consistent with the requirements.*

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

*Analysis: The project is consistent with the City Council policies on outreach as the on-site sign has been posted on the property since March 2020. Public hearing notices have been sent to property owners and occupants within 500 feet of the project site. Staff has also been available to answer questions from the public regarding the project and has received no public inquiries from the submittal of the project to the time of writing this resolution.*

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

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

*Analysis: As described above, the project includes interior improvements to an existing hotel with no changes to the square footage of the building. The project will have no impact on the utility or value of property near the site. Therefore, the project would not adversely affect, impair, or be detrimental to public health or welfare.*

- e. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and 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 project includes interior improvements to an existing hotel and does not include changes to the existing square footage of the building. There are no changes to the existing yards, walls, fences, loading facilities, landscaping, or other development features. The addition of bicycle parking and motorcycle parking are included in the project plans to meet the requirements of the IP Industrial Park Zoning District. The site is therefore adequate for the hotel use.*

f. The proposed site is adequately served:

- 1) By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
- 2) By other public or private service facilities as are required.

*Analysis: Access to the site would be from Gateway Place and Airport Parkway. The site is less than half a mile from both U.S. Highway 101 and State Route 87 on- and off-ramps. VTA light rail service along North 1st Street is approximately a half mile from the project site to both the Karina Court Light Rail station and the Metro / Airport Light Rail station. The site is currently served by all necessary private and public facilities. Therefore, the project is adequately served by streets, highways, and transit facilities.*

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 described above, the project is consistent with the general plan and the zoning designations and regulations. The project is an existing hotel and includes the conversion of existing meeting rooms and presidential suites into ten additional guest rooms for a total of 515 guest rooms. There will be no increase in square footage. Existing building setbacks and height will remain unchanged. As discussed above, the IP Industrial Park Zoning District allows hotel use through a Conditional Use Permit. The hotel use does not involve the use of significant amounts of hazardous substances. Since the construction of the project will take place within the interior of the hotel, there will be no impacts relating to stormwater, noise, air quality, or water quality.*

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 permitted hereby.

## CONDITIONS

1. **Acceptance of Permit.** Per Section 20.100.290(B) of Title 20 of the San José Municipal Code, should the permittee fail to file a timely and valid appeal of this Conditional Use 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 Conditional Use Permit; 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.** The Conditional Use Permit shall automatically expire four (4) 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, Building and Code Enforcement may approve a Permit Adjustment/Amendment 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 Conditional Use 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 Planned Development 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.
4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by permittee shall constitute acknowledgement of receipt of notice by permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José - Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José - Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water

Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager makes a determination that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.

5. **Conformance to Plans.** The development of the site shall conform to the approved Conditional Use Permit plans entitled, "Doubletree by Hilton Hotel, San Jose Airport" dated May 18, 2020, on file with the Department of Planning, Building and Code Enforcement, as may be amended subject to City's approval, and to the San José Building Code (San José Municipal Code, Title 24), as amended. The plans are referred to herein as the "Approved Plan Set".
6. **Use Authorization.** Subject to all conditions herein, this Permit allows a hotel use with up to 515 guest rooms as identified in the Approved Plans.
7. **Previous Permits Superseded.** This Permit supersedes and replaces the following previously issued permits: Planned Development Permit No. PD79-063 approved on 9/26/79 and Planned Development Permit No. PD96-076 approved on 1/21/97. All existing buildings and uses as permitted under the aforementioned permits may continue under this Permit.
8. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. 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, as conditioned.
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 Title 20 of the San José Municipal Code.
10. **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.
11. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering the garbage container. No outdoor storage is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.

12. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.
13. **Required Vehicular, Motorcycle, and Bicycle Parking.** This project shall conform to the vehicular, motorcycle, and bicycle parking requirements of the Zoning Ordinance, as amended. Any changes to the required vehicular, motorcycle, or bicycle parking requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning.
14. **No Generators Approved.** This Permit does not include the approval of any new stand-by/backup electrical power generation facility or changes to the existing facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
15. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance or that adversely affects 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.
16. **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.
17. **Anti-Graffiti.** During construction, the permittee shall remove all graffiti from buildings, walls and other surfaces within 48 hours of defacement. Upon project completion and/or transfer of ownership, the property owner, and/or Maintenance District shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
18. **Sign Approval.** No new signs or changes to the existing signs are approved at this time. All project signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
19. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
20. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the issuance of any Building permits, 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:  
<https://www.sanjoseca.gov/your-government/departments/public-works/-development-services>.

*Transportation:*

- a. An area wide traffic impact analysis was prepared as part of the North San Jose Area Development Policy, adopted June 2005. Traffic impacts were identified and resulted in an area wide traffic impact fees.
- b. Consistent with North San Jose EIR, this project is required to pay a traffic impact fee for additional trips generated by the project. The 2020 fee is \$16.45 per square foot of Industrial or Office/R&D buildings, \$4,838 per Hotel room, \$22.38 per square foot for Large Scale Commercial buildings and are subject to an annual escalation of 3.3% on July 1 and the next fee escalation will occur on July 1, 2020. This fee must be paid prior to issuance of Public Works Clearance. Credits for existing structures on site will be applied to the residential traffic impact fee consistent with the policy and will be prorated with each building permits issued.

**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. This permit file number, CP20-011, shall be printed on all construction plans submitted to the Building Division.
- b. Americans with Disabilities Act. The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
- c. Construction Plan Conformance. A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance begins with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.

**22. Affordable Housing Financing Plans.** The San José City Council ("City") approved the Envision San José General Plan 2040 ("General Plan") in 2011. The General Plan provides the framework for development located in San José.

- a. The City is in the process of developing financing plans to help fund affordable housing and related amenities and services. The financing plans may include the creation of a (i) Community Facilities District(s); (ii) Enhanced Infrastructure Financing District(s); (iii) Property Based Improvement District(s); (iv) Mitigation Impact Fee program(s); (v) Commercial linkage fee program(s); and/or (vi) other financing mechanisms or combination thereof. For example, the City Council has directed City staff to complete studies and make recommendations related to commercial impact fees to help fund affordable housing. These efforts are ongoing and there will continue to be other similar efforts to study various funding mechanisms for affordable housing.

- b. By accepting this Permit including the conditions of approval set forth in this Permit, permittee acknowledges it has read and understands all of the above. Permittee further agrees that prior to the issuance of any building permit, the project shall be subject to, fully participate in, and pay any and all charges, fees, assessments, or taxes included in any City Council approved financing plans related to affordable housing, as may be amended, which may include one or more of the financing mechanisms identified above.

**23.Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission or the City Council, as applicable, 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;
- 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**.

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**EFFECTIVE DATE**

The effective date of this Permit (File No. CP20-011) shall be the effective date of the Conforming Rezoning Ordinance for File No. C20-009, approved for publication on \_\_\_\_\_, 20\_\_ (the "Conforming Rezoning Ordinance") and shall be no earlier than the effective date of said Conforming Rezoning Ordinance.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
SAM LICCARDO  
Mayor

ATTEST:

\_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk

**NOTICE TO PARTIES**

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

## **EXHIBIT "A"**

**(City of San Jose)**

**Parcel One:**

All of Parcel 1 as shown upon that certain Map entitled, "Being all of Parcels "A", "B" and a portion of "D" and a portion of Pueblo Tract No. 1," which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on October 12, 1979 in Map Book 451 at Pages 17 and 18, Santa Clara County Records.

**Parcel Two:**

An easement for ingress and egress over the following Parcel of land, being a portion of that certain 15.242 acre + Parcel of land shown as Parcel 3 on that certain Parcel Map recorded in Book 451 of Maps at pages 17 and 18, Santa Clara County Records, being a strip of land of a uniform width of 5.00 feet, the Southeasterly line of which is described as follows:

Beginning at a point on the curved Northwesterly terminus of Gateway Place at the common dividing line between Parcels 1 and 3 as shown on said Map; thence leaving said Point of Beginning and running North 39° 47' 25" East 210.00 feet to the terminus of the line herein being described, said strip being bounded on the Southwest by said curved Northwesterly terminus of Gateway Place and on the Northeast by a line drawn at right angles to said common dividing line between Parcels 1 and 3.

Assessor's Parcel Number 230-01-048 and 230-01-049  
Joint Plant Numbers 230-01-026, 230-01-038 and 230-01-039



EXHIBIT "B"

OWNER'S CERTIFICATE

WE HEREBY CERTIFY THAT WE ARE THE OWNERS OF OR HAVE SOME RIGHT, TITLE OR INTEREST IN AND TO THE REAL PROPERTY INCLUDED WITHIN THE SUBDIVISION SHOWN ON THIS MAP AND THAT WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY TO PASS A CLEAR TITLE TO SAID PROPERTY AND WE CONSENT TO THE MAKING OF THIS MAP AND SUBDIVISION AS SHOWN WITHIN THE "BORDER" LINES AND TO THE RECORDING THEREOF. WE HEREBY OFFER FOR DEDICATION TO PUBLIC USE ALL STREETS AND PORTIONS OF STREETS NOT HERETOFORE EXISTING AS SHOWN ON THE HEREON MAP WITHIN SAID SUBDIVISION, AND ALSO DEEDS TO PUBLIC USE EASEMENTS FOR ANY AND ALL PUBLIC USES UNDER, UPON AND OVER SAID STREETS AND SAID PORTIONS THEREOF.

CROWN-SPIEKER-FRENCH #65, A LIMITED PARTNERSHIP

BY *John K. French*  
OWNER  
JOHN K. FRENCH, PARTNER

~~CROCKER CUSTODY CORPORATION, TRUSTEE~~

~~BY \_\_\_\_\_~~

**PARCEL MAP**

CONSISTING OF TWO SHEETS

BEING ALL OF PARCELS "A", "B" & A PORTION OF "D" AND A PORTION OF PUEBLO TRACT NO. 1 AS SHOWN ON THE PARCEL MAP RECORDED IN BOOK 300 OF MAPS AT PAGE 19.

AND LYING WITHIN THE  
**CITY OF SAN JOSE, CALIFORNIA**  
SCALE: 1"=100' OCTOBER 1979

STATE OF CALIFORNIA )  
COUNTY OF SANTA CLARA ) S.S.

ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 19\_\_\_\_  
BEFORE ME \_\_\_\_\_ A NOTARY PUBLIC IN  
AND FOR SAID COUNTY AND STATE PERSONALLY APPEARED  
AND \_\_\_\_\_

KNOWN TO ME TO BE THE \_\_\_\_\_  
AND \_\_\_\_\_ RESPECTIVELY OF THE  
CORPORATION THAT EXECUTED THE WITHIN INSTRUMENT,  
AND ALSO KNOWN TO ME TO BE THE PERSONS WHO EXECUTED  
THE WITHIN INSTRUMENT ON BEHALF OF THE  
CORPORATION THEREIN NAMED AND ACKNOWLEDGED TO  
ME THAT SUCH CORPORATION EXECUTED THE WITHIN  
INSTRUMENT PURSUANT TO IT'S BY-LAWS OR A RESOLUTION  
OF IT'S BOARD OF DIRECTORS.

NOTARY PUBLIC

STATE OF CALIFORNIA )  
COUNTY OF SANTA CLARA ) S.S.

ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 19\_\_\_\_  
BEFORE ME \_\_\_\_\_ A NOTARY PUBLIC IN  
AND FOR SAID COUNTY AND STATE PERSONALLY APPEARED  
AND \_\_\_\_\_

KNOWN TO ME TO BE THE \_\_\_\_\_  
AND \_\_\_\_\_ RESPECTIVELY OF THE  
CORPORATION THAT EXECUTED THE WITHIN INSTRUMENT,  
AND ALSO KNOWN TO ME TO BE THE PERSONS WHO EXECUTED  
THE WITHIN INSTRUMENT ON BEHALF OF THE  
CORPORATION THEREIN NAMED AND ACKNOWLEDGED TO  
ME THAT SUCH CORPORATION EXECUTED THE WITHIN  
INSTRUMENT PURSUANT TO IT'S BY-LAWS OR A RESOLUTION  
OF IT'S BOARD OF DIRECTORS, AS TRUSTEE.

NOTARY PUBLIC

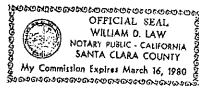
STATE OF CALIFORNIA )  
COUNTY OF SANTA CLARA ) S.S.

ON THIS 5<sup>th</sup> DAY OF October 1979, BEFORE  
ME \_\_\_\_\_ A NOTARY PUBLIC STATE OF CALIFORNIA,  
DULY COMMISSIONED AND KNOWN, PERSONALLY APPEARED  
John K. French

KNOWN TO ME TO BE ONE OF THE PARTNERS OF THE PARTNERSHIP  
THAT EXECUTED THE WITHIN INSTRUMENT, AND ACKNOWLEDGED  
TO ME THAT SUCH PARTNERSHIP EXECUTED THE SAME, AS OWNER.  
IN WITNESS WHEREOF I HAVE HERETO SET MY HAND AND AFFIXED  
MY OFFICIAL SEAL THE DAY AND YEAR IN THIS CERTIFICATE  
FIRST ABOVE WRITTEN.

William E. Law  
NOTARY PUBLIC

MY COMMISSION EXPIRES:  
March 16, 1980



STATE OF CALIFORNIA )  
COUNTY OF SANTA CLARA ) S.S.

ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 19\_\_\_\_  
BEFORE ME \_\_\_\_\_ A NOTARY PUBLIC IN  
AND FOR SAID COUNTY AND STATE PERSONALLY APPEARED  
AND \_\_\_\_\_

KNOWN TO ME TO BE THE PERSONS WHOSE NAME IS SUB-  
SCRIBED TO THE WITHIN INSTRUMENT, AND ACKNOWLEDGED  
TO ME THAT THEY EXECUTED THE SAME AS OWNERS.

NOTARY PUBLIC

SURVEYOR'S CERTIFICATE

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND WAS COMPILED FROM RECORD DATA AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AT THE REQUEST OF John K. French IN October 1979. I HEREBY STATE THAT THE PARCEL MAP PROCEDURES OF THE LOCAL AGENCY HAVE BEEN COMPLIED WITH AND THAT THIS PARCEL MAP CONFORMS TO THE APPROVED TENTATIVE MAP AND THE CONDITIONS OF APPROVAL THEREOF WHICH WERE REQUIRED TO BE FULFILLED PRIOR TO THE FILING OF THE PARCEL MAP.

Harry F. Admack, Jr.  
HARRY F. ADMACK, JR. R.E. 8395

CITY ENGINEER'S CERTIFICATE

THIS MAP CONFORMS WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE.

DATED: Oct 19, 1979  
A. R. TURTURICI CITY ENGINEER, R.C.E. 10051

BY: J. P. Carter DEPUTY

RECORDER'S CERTIFICATE

FILE NO. 6529000 FEE \$7.00 PAID  
FILED THIS 17<sup>th</sup> DAY OF October 1979 AT 3:00 P.M.  
IN BOOK 457 OF MAPS AT PAGE 19 AT THE REQUEST  
OF MARK THOMAS & CO. INC.

GEORGE A. MANN - COUNTY RECORDER

BY: Barbara Slone DEPUTY

CERTIFICATE OF ACCEPTANCE

I HEREBY ACCEPT FOR THE CITY OF SAN JOSE THE DEDICATION OF ALL EASEMENTS DEFERRED ON THIS MAP.

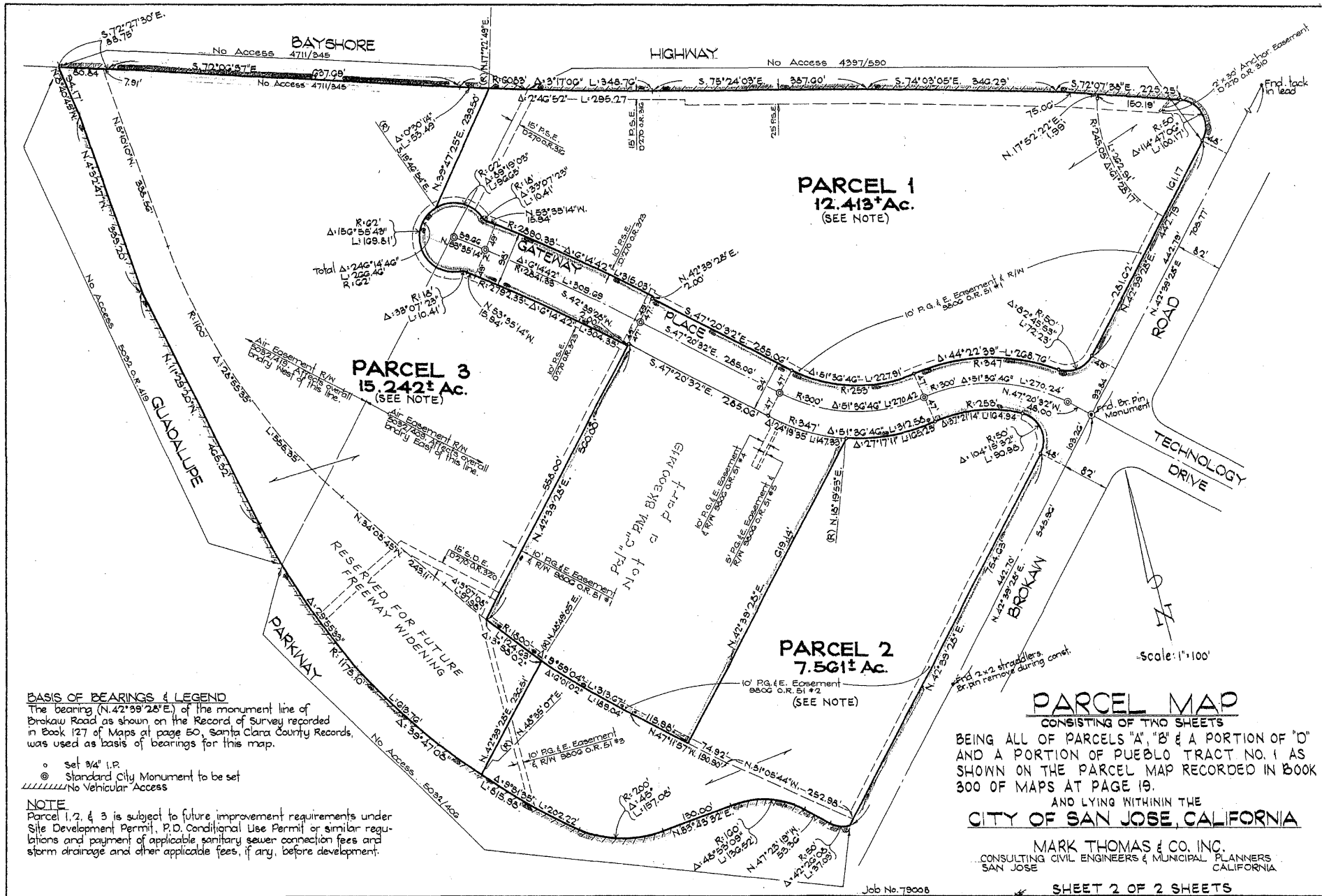
A. R. TURTURICI  
DIRECTOR OF PUBLIC WORKS BY: \_\_\_\_\_ DEPUTY



MARK THOMAS & CO. INC.  
CORPORATE TRUST, EASEMENT, ETC., A SUBDIVISION OF ANNECORP  
110 W. SAN PEDRO STREET, SAN JOSE, CALIF. 95110 • (408) 283-8700

Job No 79008

SHEET 1 OF 2 SHEETS



**BASIS OF BEARINGS & LEGEND**

The bearing (N.42°39'28"E.) of the monument line of Brokaw Road as shown on the Record of Survey recorded in Book 127 of Maps at page 50, Santa Clara County Records, was used as basis of bearings for this map.

- o Set 3/4" I.P.
- © Standard City Monument to be set
- ////// No Vehicular Access

**NOTE**  
Parcel 1, 2, & 3 is subject to future improvement requirements under Site Development Permit, P.D. Conditional Use Permit or similar regulations and payment of applicable sanitary sewer connection fees and storm drainage and other applicable fees, if any, before development.

October 12th, 1979 Book 451 of Maps Page 17 & 18 Fee \$ 7.00

EXHIBIT "B" (File Nos. C20-008; CP20-011)

451/18

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