

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A CONDITIONAL USE PERMIT TO ALLOW THE EXPANSION OF AN EXISTING 54,344-SQUARE FOOT STATE LICENSED BEHAVIORAL HEALTH HOSPITAL BY UP TO 59,365 SQUARE FEET, FOR A TOTAL AREA OF 113,709 SQUARE FEET, IN TWO PHASES, AND INCREASE THE NUMBER OF BEDS FROM 80 TO 168 PATIENT BEDS, WITH RELATED SITE MODIFICATIONS AND REMOVAL OF 15 ORDINANCE-SIZE TREES ON AN APPROXIMATELY 6.9-GROSS ACRE SITE, LOCATED ON THE SOUTHWEST CORNER OF SILICON VALLEY BOULEVARD AND EDEN PARK PLACE (455 SILICON VALLEY BOULEVARD)**

**FILE NO. CP18-029**

**WHEREAS**, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on November 17, 2017, an application (File No. CP18-029) was filed by the owner, David Katinsky of Acadia Healthcare, with the City of San José for a Conditional Use Permit to allow the expansion of an existing 54,344-square foot state licensed behavioral health hospital by up to 59,365 square feet, for a total area of 113,709 square feet, in two phases, and increase the number of patient beds from 80 to up to 168 patient beds, with related site modifications and removal of 15 ordinance-size trees on an approximately 6.9-gross acre site, on that certain real property situated in the CIC Combined Industrial/Commercial Zoning District and located on the southwest corner of Silicon Valley Boulevard and Eden Park Place (455 Silicon Valley Boulevard, San José, California, which real property is sometimes referred to herein as "subject property"); and

**WHEREAS**, the subject property is all that real property more particularly described in Exhibit "A," entitled "Legal Description," and depicted in Exhibit "B," entitled "Plat to Accompany Description," 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 plan for the subject property entitled "San José Behavioral health," dated February 15, 2019, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said development plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

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

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

After considering all 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 southwest corner of Silicon Valley Boulevard and Eden Park Place, at 455 Silicon Valley Boulevard. The subject site is currently developed with the subject 54,344-square foot one-story hospital building and is bounded by Coyote Creek and County

riparian lands, designated as Open Space, Parks, and Habitat, to the north and east, across Eden Park Place and Silicon Valley Boulevard commercial/industrial uses to the west, and a mix of commercial and industrial uses and a hotel to the south. Residential development is located approximately 942 feet to the northeast, beyond Hellyer Avenue and 1,155 square feet to the south, beyond U.S. Highway 101. The project site has two existing 30-foot wide access driveways from Eden Park Place, and one existing 30-foot wide driveway from Silicon Valley Boulevard, leading to a 119-space surface parking lot. Both Eden Park Place and Silicon Valley Boulevard are considered street frontages for the project site. A 20-foot wide fire access and service road loops along the periphery of the west and south property lines.

#### *Existing Facility Operation*

The existing facility provides in-patient and out-patient behavioral healthcare and substance use disorder and provides treatment to adolescents, adults, and seniors with short-term stays for patients in need of stabilization, with no permanent occupancy. Patients arriving at the facility are immediately escorted to a special examination room for further evaluation to determine whether they are to be admitted or discharged. The patients that are admitted are escorted by trained staff throughout the facility and the patients that are discharged are allowed to leave only with a family-member or arrangements are made for a taxi or ride-share pick-up service. The type of patients treated at the facility do not have a violent criminal history but suffer from depression, developmental and mental health disorders.

The hospital floor plans include patient rooms, physician offices, exam rooms, and support services within the existing building. The hospital currently has 80 employees, divided into three shifts per day. The staffing requirements for different units and groups include psychiatrists, medical technicians, nurses, counselors, and case managers (social workers and therapists). The hospital operates 24-hours a day, seven days a week. Security measures (locked doors) are used to prevent patients from exiting through the facility or patio doors.

- 2. Project Description.** On November 17, 2017, the applicant submitted an application for a Conforming Rezoning to rezone the site from the A(PD) Planned Development Zoning District to the CIC Combined Industrial/Commercial Zoning District and a Conditional Use Permit to expand an existing 54,344-square foot state licensed behavioral health hospital by up to 59,365 square feet, for a total area of 113,709 square feet, in two phases, and increase the number of patient beds from 80 to up to 168 patient beds, with related site modifications and removal of 15 ordinance-size trees and 26 non-ordinance size trees, on a 6.9-gross acre site.

#### *Phase I and II Construction*

The project will add 31,017 square feet and 53 additional beds in Phase I and 28,346 square feet and 35 additional beds in Phase II, for a total of 113,709 square feet and 168 patient beds. The project will facilitate a new enclosed outdoor patio area and a

covered, drop-off area on the north and west side in Phase I and will realign the drop-off canopy area on the eastern side in Phase II. The main driveway entrance will be from Eden Park Place.

The project will eliminate 17 parking spaces due to the facility expansion but will still provide surface parking for approximately 102 vehicles and eight bicycles, to meet the current parking and bicycle requirements. Site improvements would include new fencing, walls, walkways, and gates securing the building area, and new landscaping which includes planting of approximately 60 new 24-inch box trees, at the site's eastern and northern frontages along Silicon Valley Boulevard and Eden Park Place.

#### *Operational Plan*

The project will continue to include in-patient and out-patient behavioral healthcare and substance use disorder and provide treatment to adolescents, adults and seniors with short term stays for patients in need of stabilization, with no permanent occupancy. The expansion of the facility will add a new Adult Day Program (ADP) for non-medical treatment services to patients and a crisis stabilization unit (CSU) for patients needing urgent care. The type of patients treated at the facility will continue to be those who do not have a violent criminal history but suffer from depression, developmental and mental health disorders.

The hospital floor plans include new patient rooms, physician offices, exam rooms, and support services within the expansion area. The facility would bring in up to an additional 120 employees for a total of up to 200 employees, divided into three shifts per day. The staffing requirements for different units and groups would include psychiatrists, medical technicians, nurses, counselors, and case managers (social workers and therapists). The hospital will continue to operate 24-hours a day, seven days a week. Security measures (locked doors) would also continue to be used to prevent patients from exiting through the facility or patio doors.

#### *Planned Development Zoning background*

The existing Planned Development Zoning (File No. PDC88-138) was rezoned from the IP Industrial Park Zoning District to the A(PD) Planned Development Zoning District and approved at a Council public hearing on April 4, 1989, to allow an 80-bed short term psychiatric care facility. Rezoning the site to a Planned Development Zoning District at that time was considered because the hospital use was not a permitted or a conditionally permitted use for the IP Industrial Park Zoning District under the 1988 City of San José Zoning Ordinance. The hospital use was, however, considered as an appropriate Public/Quasi-Public (non-industrial) use under the prior Horizon 2000 General Plan land use designation of Industrial Park.

- 3. General Plan Conformance.** The subject site is designated Combined Industrial/Commercial on the Envision San José 2040 General Plan Land Use/Transportation Diagram. This designation allows a significant amount of flexibility for the mixture of commercial and industrial uses, including hospitals. The expansion

of the hospital will continue to be compatible with the General Plan land use designation of Combined Industrial/Commercial. The project also conforms to the following General Plan policies:

- a. Implementation Policy IP-1.6: Ensure that proposals to rezone and pre-zone properties conform to the Land Use/Transportation Diagram, and enhance Envision General Plan Vision, goals and policies.

*Analysis: Pursuant to Table 20-270 of the Zoning Ordinance, the CIC Combined Industrial/Commercial Zoning District conforms to the General Plan Land Use Designation of Combined Industrial/Commercial. The CIC Combined Industrial/Commercial Zoning District allows the behavioral hospital use with a Conditional Use Permit.*

- b. Implementation Policy IP-1.7: 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.
- c. Implementation Policy IP-8.2: Use the City's conventional zoning districts, contained in its Zoning Ordinance, to implement the Envision General Plan Land Use/Transportation Diagram. These districts include a range of allowed land uses, development intensities, and standards within major land use categories (residential, commercial and industrial) together with zoning districts for other land uses such as mixed-use and open space. The various ranges of allowed uses and development intensity correspond generally to the respective Envision General Plan land use designations, while providing greater detail as to the appropriate land uses and form of development.

*Analysis: The subject site was previously located in the A(PD) Planned Development Zoning District established with Zoning File No. PDC88-138, as discussed earlier. This zoning, approved on April 4, 1989, allowed a maximum 80-bed facility and a maximum 56,800 square feet of floor area. The project now requests an additional 88 beds (for a maximum 168 beds) and a total of 113,709 square feet of floor area. The expansion of the hospital would require a rezoning of the existing Planned Development Zoning District to allow an increase in the number of beds and exceed the maximum allowed square footage. The project is now being implemented through the standard zoning district of CIC Combined Industrial/Commercial, without requiring any deviation from the zoning district's development standards such as setbacks, height and off-street parking requirements. The CIC Combined Industrial/Commercial Zoning District conforms to the General Plan designation of Combined Industrial/Commercial for the site. A hospital use is allowed with a Conditional Use Permit under this zoning district.*

- d. Access to Medical Services Policy ES-6.2: Maintain and update the Envision General Plan Land Use Transportation/Diagram as necessary to provide sufficient opportunities for hospitals and medical care facilities to locate in San José. Consider locating health care and medical service facilities, including hospitals, in residential, commercial, Urban Village, mixed use, Downtown, Transit Employment Center, Combined Industrial/Commercial, Industrial Park, and Public/Quasi-Public designations.
- e. Access to Medical Services Policy ES-6.6: Encourage the location of health care facilities and hospitals in areas that are underserved and lack adequate health care facilities.

*Analysis: The project is an expansion of an existing behavioral health hospital providing in-patient and out-patient behavioral health and substance use disorder treatment to adolescents, adults and seniors. The facility does not contain an emergency room, perform surgeries, or provide other types of medical services. The subject site is located adjacent to an industrial park developed with a mix of commercial and office uses, and the one- and two-story building is compatible with the existing development in the surrounding area. The use conforms to the General Plan as a continued use providing behavioral health care services to a special needs group of people of the community.*

*The Santa Clara County Health records show a need for such behavioral health facilities in the community. The project would provide an additional 120 jobs for a total of up to 200 jobs for medical and support staff. Employees would work various shifts throughout the day. The project's psychiatric facility complements existing hospitals in the area and would expand the type and quality of mental healthcare services in the larger San José community.*

4. **Edenvale Area Development Policy.** The subject site is in Subarea 4 of the Edenvale Development Area. Under the Edenvale Area Development Policy (EADP), the site is allowed up to 120,208 square feet of Light Industrial/R&D development. The project has a floor-area ratio (FAR) of 0.37 (113,725 square feet), which is within the development square footage allowances of the EADP, including the maximum 0.4 FAR. Since the proposed project would not exceed the allowable FAR, the project would not be required to pay the Traffic Impact Fees (TIF). The Department of Public Works concluded in their Traffic Memo, dated January 23, 2019, that the hospital expansion would be in conformance with the Edenvale Area Development Policy.
5. **Zoning Code Compliance.** The project is in the CIC Combined Industrial/Commercial Zoning District. Pursuant to Section 20.50.100 of the San José Zoning Ordinance, a hospital requires a Conditional Use Permit within the CIC Combined Industrial/Commercial Zoning District.
  - a. *Setbacks and Height Requirements*  
The project expansion conforms to the setbacks and height requirements of the

CIC Combined Industrial/Commercial Zoning District as shown in Table 1.

<b>Minimum Building Setbacks</b>	<b>Required</b>	<b>Project</b>
Front (Silicon Valley Boulevard)	15 feet	100+ feet
Front (Eden Park Place)	15 feet	30 feet
Rear (south)	0 feet	50 feet
Rear (west)	0 feet	26 feet
<b>Maximum Height</b>	<b>50 feet</b>	<b>29 feet six inches</b>

**Table 1: Development Standards**

b. *Vehicle Parking Requirements*

Pursuant to Section 20.90.060 of the Zoning Ordinance, the total existing parking spaces are 119. The total required vehicle parking for the hospital expansion is 84 parking spaces, and a total of 102 total spaces will be provided, after site modifications and elimination of 17 parking spaces due to facility expansion. The site still exceeds the parking requirement by 18 spaces (see Table 2).

c. *Bicycle Parking Requirements*

Pursuant to Tables 20-190 and 20-250 of the Zoning Ordinance, the project will require eight parking spaces for bicycles. The project provides eight bicycle parking spaces, which meets the bicycle parking requirements (see Table 2).

<b>Land Use</b>	<b>Vehicle Parking Requirement</b>	<b>Total Required</b>	<b>Bicycle Parking Requirement</b>
Hospital, in-patient services	1 space per 2.5 beds	168 beds = 68 spaces	1 per 25 beds 168 beds = 7 spaces
Hospital, out-patient services	1 space per 250 square feet of floor area	3,808 square feet of net floor area = 16 spaces	1 per 4,000 square feet of floor area; 3,808 square feet = 1 space
<b>Total:</b>		<b>84 spaces</b>	<b>8 spaces</b>

**Table 2: Parking Requirements**

**6. Conditional Use Permit Findings.** Chapter 20.100 of Title 20 of the San José

Municipal Ordinance establishes required findings for issuance of a Conditional Use Permit. This City Council must conclude and find, based on the above facts and analysis that:

- 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 policy;

*Analysis: As discussed above, this Conditional Use Permit is consistent with the Combined Industrial/Commercial land use designation and furthers the General Plan policies related to the hospital use. The project was analyzed for conformance with the Edenvale Area Development Policy. The Department of Public Works concluded that the hospital expansion would be in conformance with the Edenvale Area Development Policy, per the Traffic Memo dated January 23, 2019. The project is not located in any Specific Plan.*

- 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 is in compliance with the regulations of the Zoning Ordinance and provisions of the San José Municipal Code. The expansion of the hospital use is permitted with a Conditional Use Permit in the CIC Combined Industrial/Commercial Zoning District. This project provides the required number of vehicle and bicycle parking spaces required for the hospital use per the Zoning Ordinance.*

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

*Analysis: There are no City Council Policies related to the hospital use. The project complies with the City Council Policy 6-30: Public Outreach Policy, and a notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site, plus the Basking Ridge Avenue neighborhood (located approximately 1,000 feet away from the property line on the northeast side of the project site) and posted on the City website. Pursuant to this policy and due to significant community interest, a community meeting was held on Tuesday, November 14, 2018, at Wyndham Garden hotel (399 Silicon Valley Boulevard), to receive public comment and address project related issues. This meeting was attended by about 10 residents and their questions and concerns were addressed at the meeting by the project applicant.*

*The concerns raised by the community members included justification for expansion of the hospital, the process of discharging the patients once the services were provided, any required security and police supervision, number of employees of the facility, number of patient beds and the reputation of the hospital. The applicant (Acadia Healthcare) addressed these issues at the community meeting*



*by confirming that the facility will add up to 88 beds for a total number of patient beds to be 168 and assured that the expansion of the hospital was necessary because there was a need based on recent California Hospital Association (CHA) Annual Report, produced in August of 2018. The applicant also assured that Acadia Healthcare cared for its reputation and made special arrangements for the discharge of their patients, either with a family member or an escorted pick-up service. They added that the grounds were under surveillance 24-hours a day, and that all inpatients were escorted with trained staff within the facility.*

*Additionally, the project is also consistent with Council Policy 6-29 for Post-Construction Urban Runoff Management, in that the project plans were reviewed by the Department of Public Works and determined to be consistent with the City's stormwater requirements. The project is also consistent with City Council Policy 4-3 for Outdoor Lighting on Private Developments, in that lighting will be directed downward onto the site and away from the Coyote Creek open space, across Eden Park Place, minimizing glare and off-site light spillage, as shown on the lighting information in the project plans, and photometric plan prepared for the project.*

- 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 the property of other persons located within the vicinity of the site; or
  - iii. Be detrimental to public health, safety or general welfare.

*Analysis: The new facility would be compatible with adjacent commercial and industrial uses, will continue to provide behavioral health services in the community and, as described above, will not negatively affect or impair the health, safety, morals, or welfare of persons already working or residing in the area. Once checked into the facility, patients remain within the facility and enclosed outdoor recreation areas. The outdoor patio is only used during the day from 9:00 a.m. to 7:00 p.m. The facility rooms rotate throughout the day to use the outdoor area. Security measures (locked doors) are used to prevent patients from exiting through the patio and facility doors. The building area is, thus, well-secured and the full operations plan provided by the applicant describes the management, security and operations of the facility. Patients discharged from the facility are released to a family member or a ride is arranged to get them home. No patient is released into the neighborhood without a plan to safely transport them home.*

*The facility provides 24-hour surveillance, a trained staff and a full security team that continuously patrols the grounds to prevent any suspicious activities on the grounds. This also extends assurance of safety for the security of staff, patients*

*and the surrounding community. The expansion of the hospital will not, therefore, alter or negatively impact the surrounding properties.*

- 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 areas; and

*Analysis: The 6.9-gross acre site is adequate in size to accommodate the expansion of buildings on the north western portion of the site during Phase I and north eastern portion of the site during Phase II. As stated in the zoning conformance section above, the number of parking spaces provided on-site will exceed the parking requirement for the expanded use. The use will also provide sufficient loading, circulation and on-site parking for patients, employees and visitors. The existing landscaping will be maintained along the periphery of the site and new landscaping will include a mix of trees, shrubs and groundcover which will be well-integrated with the design of buildings and with the overall uses on site.*

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

*Analysis: The project will continue to be accessed from existing driveways along Silicon Valley Boulevard and Eden Park Place. The site has a regional access from US Highway 101, State Route 85, and Monterey Road. Department of Public Works prepared a traffic memo dated January 23, 2019, which states that the project will add 49 a.m. and 26 p.m. peak hour trips. The existing facility and the project expansion together would be equivalent to 78,833 square feet which is less than the 120,208 square feet assessed for the site under Edenvale Area Development Policy (EADP). The existing facility and the project expansion together would be equivalent to 78,833 square feet which is less than the 120,208 square feet assessed for the site under Edenvale Area Development Policy (EADP). Since the project would not exceed the allowable FAR of 0.4 for Sub Area 4, the site is in conformance with the Edenvale Area Development Policy.*

- 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: An Initial Study Addendum was prepared for the project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines. Based on the environmental analysis, the project was determined to not have unacceptable negative effects on adjacent properties. The expansion of*

*the number of beds and floor area of the existing hospital on-site did not require any further analysis as it does not significantly increase any additional impacts to lighting, traffic, parking or noise.*

*The emergency ambulance drop-off and pick-up will not include the use of siren or lights anytime during the day or night so as not to cause noise disturbance to the surrounding community. The closest residential development is located approximately 942 feet to the northeast, beyond Hellyer Avenue, and 1,155 feet to the south, beyond U.S. Highway 101 from the project site. All outdoor recreation use will occur within an enclosed space during the day between the hours of 9:00 a.m. to 7:00 p.m., which will further prevent any noise disturbance during the night. All glare and lighting will be directed downward onto the site and away from the Coyote Creek open space trail located to the north and east across Eden Park Place.*

*Coyote Creek Trail, located to the northeast of the project site across Eden Park Place, connects to Silver Creek Valley Road, Yerba Buena Road, and Capitol Expressway. The project will not cause any obstruction to the trail. There were no additional traffic impacts resulting from the project expansion as stated in the Traffic Memo dated January 23, 2019. The site adequately meets storm water runoff requirements and grading and drainage requirements per the Department of Public Works Final Memo dated February 12, 2019.*

**7. Tree Removal Permit Findings.** After a site analysis was done pursuant to Chapter 13.32 of the San José Municipal Code, the following findings could be made:

- a. That the trees are of an affected size, type and condition, and are in such a location in such surroundings, that their removal would not significantly frustrate the purposes of Chapter 13.32.
- b. That the location of the trees with respect to the proposed improvement unreasonably restricts the economic development of the parcel in question.

*Analysis: In March of 2018, a certified arborist surveyed approximately 100 trees on and around the subject site. Per the Arborist Report dated March 13, 2018, a total of 41 existing trees, including 15 ordinance-size trees and 26 non-ordinance size trees, will be removed during both phases of construction to accommodate the construction of the hospital expansion and associated site improvements. The project will plant a total of 60 new 24-inch box trees on-site as replacement trees for the trees to be removed. The approved plan set, dated February 15, 2019, includes a detailed planting plan. During construction, adequate tree protection measures will be used to protect the roots and canopies of existing trees that remain on-site.*

**8. Commercial Design Guidelines.** The existing building consists of painted stucco walls with tile accents wrapped around the building exterior and a combination of flat

and clay tile sloping roofs. The building expansion will be compatible to the existing building style and design including materials and colors, in conformance with the City's Commercial Design Guidelines. The exterior of the building will be accentuated with standing seam metal blue roof panels, will be clad with a mix of painted concrete walls and clay tile base veneer, with tile accents and aluminum storefront columns and windows, which would provide an attractive finish.

The orientation, location and elevations of the building addition will conform with the Commercial Design Guidelines, and the overall project includes design elements that are compatible with the architecture and materials of buildings in the surrounding area.

- 9. Environmental Review.** Pursuant to CEQA Guidelines Section 15164, the City prepared an Addendum to the Edenvale Redevelopment Project Environmental Impact Report (EIR), certified by City Council Resolution No. 69699 on June 20, 2000; the Edenvale Redevelopment Project Supplemental EIR, certified by City Council Resolution No. 70021 on November 21, 2000; the Envision San José 2040 General Plan EIR, certified by City Council Resolution No. 76041 on November 1, 2011; and the Envision San José 2040 General Plan Supplemental EIR, certified by City Council Resolution No. 77617 on December 15, 2015, and Addenda thereto. Based on the analysis and conclusions in the Addendum, the project would not result in any new impacts not previously disclosed in these EIRs; nor would it result in a substantial increase in the magnitude of any significant environmental impact previously identified in the EIRs. The link to the posted Addendum is available here: <http://www.sanjoseca.gov/index.aspx?NID=6321>.

Although the project will not result in any new significant effects or an increase in the severity of an existing significant effect on the environment, revisions to standard measures and mitigation measures were made to reflect current General Plan policies and current protocols, which have been updated to incorporate applicable mitigations from the 2000 Edenvale FEIR, 2000 Edenvale SEIR, General Plan FPEIR and General Plan SEIR into the project. A related Mitigation Monitoring and Reporting Program ("Mitigation Monitoring and Reporting Program") was prepared that incorporates certain mitigation measures from the previously certified 2000 Edenvale FEIR, 2000 Edenvale SEIR, General Plan FPEIR and General Plan SEIR, which have been updated and refined to reflect the current regulatory context.

## 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 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 Conditional Use Permit shall automatically expire two years from and after the date of issuance hereof by the City Council, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the City Council. However, the Director of Planning may approve a Permit Adjustment/ Amendment to extend the validity of this Permit in accordance with Title 20 of the San José Municipal Code. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Certificate of Occupancy.** 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 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, "San José Behavioral Hospital" dated February 15, 2019, on file with the Department of Planning, Building and Code Enforcement, as may be amended subject to City approval, and to the San José Building Code (San José Municipal Code, Title 24). The approved plans are referred to in this Permit as the "approved plans" or "Approved Plan Set".

6. **Use Authorization.** This Conditional Use Permit allows, subject to all conditions herein, expansion of an existing 54,344-square foot state licensed behavioral health hospital by up to 59,365 square feet, for a total area of 113,709 square feet, in two phases, and increase the number of patient beds from 80 to up to 168 patient beds, with related site modifications and removal of 15 ordinance-size trees and 26 non-ordinance size trees on an approximately 6.9-gross acre site.
7. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
8. **Outdoor Patio Use.** Outdoor Patio use shall be limited to between 9:00 a.m. and 7:00 p.m.
9. **Security.** The site shall be under 24-hour surveillance. All patients that are admitted shall be escorted within the premises. All patients to be discharged shall be released with a family member or with an arranged ride share service.
10. **Noise.** Ambulance drop-off and pick-up shall not include the use of siren or lights on premises at any time, day or night.
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.
12. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local, state, and federal laws and regulations.
13. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
14. **Tree Removals.** Trees to be removed are as shown in the Approved plan set. The project proposes to remove 15 ordinance-size trees and 26 non-ordinance size trees and replaced with 60 24-inch box trees. Remaining trees shall be protected with a six-foot tall tree protective fencing to remain throughout the construction of the project. Trees may be removed upon issuance of a Public Works grading permit or a building permit for construction.
15. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final Approved Plan Set. Landscaped areas shall be maintained and watered, and all dead plant material is to be removed and replaced by the property owner. Irrigation is to be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
16. **Irrigation Standards.** The permittee shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms

to the Zonal Irrigation Plan in the Approved Plan Set and is consistent with the City of San José Landscape and Irrigation Guidelines.

17. **Trash.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
18. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.
19. **Anti-Graffiti.** The permittee shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
20. **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.
21. **Sign Approval.** No signs are approved at this time. All signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
22. **Outdoor Lighting.** All lighting shall conform to the City of San José's Outdoor Lighting Policy and be installed as indicated on the final Approved Plan Set.
23. **Fire Safety.** The permittee shall meet all requirements of the Fire Department at the Building Permit stage, including but not limited to the maximum occupancy of the facility.
24. **Generators.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
25. **Mechanical Equipment.** No new roof equipment is permitted with this Permit.
26. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
27. **Permittee Responsibility.** The permittee shall ensure that the uses authorized by this Permit are implemented in conformance with all of the provisions of this Permit.
28. **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.
29. **Fire Department Requirements.** The project shall conform to the requirements of the Fire Department at the building plan review stage to the satisfaction of the Chief Building Official and the Fire Chief.

**30. Building Division Clearance for Issuing Permits.** Prior to the issuance of any Building Permit, the following requirements shall be met to the satisfaction of the Chief Building Official:

- a. *Construction Plans.* This Permit file number, CP18-029 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 Hours.* Construction activities shall be limited to the hours between 7:00 am and 7:00 pm, Monday through Friday, unless permission is granted with a development permit or other planning approval.
- d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any Building Permit issuance, Building Permit plans shall conform to the approved Planning development permits and applicable conditions.

**31. Public Works Conditions.** Prior to the issuance of any Building permits, the permittee will be required to have satisfied all 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 link: <http://www.sanjoseca.gov/index.aspx?nid=2246>

- a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
- b. **Transportation:**
  - i. This project is in the Edenvale Area Development Policy area and a Local Transportation Analysis has been performed for this project based on 49 AM and 26 PM peak hour trips to address potential operational issues that may arise because of the project. The City concluded that the subject project will be in conformance with the Edenvale Area Development Policy and a determination for a negative declaration can be made with respect to traffic impacts. See separate Traffic memo dated 01/23/2019 for additional information.
    - a) The following are the project conditions in the 01/23/2019 Local Transportation Analysis memo:
      - (i) Provide signage indicating that only authorized vehicles are allowed to utilize the emergency vehicle access loop.



- (ii) Install red curb segments adjacent to the project driveways on Eden Park Place to prohibit parking.
- (iii) Coordinate with the City to determine if the addition of clean air vehicle parking spaces would be required to meet City parking code.
- (iv) Add at least three bicycle parking spaces to meet City's bicycle parking requirements.

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 2013 California Plumbing Code 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. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
- iv. Because this project involves a land disturbance of one or more acres, the permittee 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.
- v. 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 Peak Flow Control Measures:** The project is in a Hydromodification Management (HM) area and will create and/or replace one acre or more of impervious surface. The project must comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14) which requires demonstrating that post-project runoff is less than or equal to the estimated pre-project rates and durations.
  - i. The project's preliminary HM plan and sizing calculations have been reviewed.
  - ii. Final inspection and maintenance information for the HM controls must be included on the final HM plans.
- e. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
- f. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable prior to Public Works clearance.
- g. **Street Improvements:**
  - i. Construct 10-foot wide and 12-foot wide City standard attached sidewalk with tree wells at the back of curb along Eden Park Place and Silicon Valley Boulevard project frontages.
  - ii. Remove and replace existing wheel chair ramp with City standard wheel chair ramp at the southwest corner of Eden Park Place and Silicon Valley Boulevard.
  - iii. Construct City standard driveways along project frontages on Eden Park Place and Silicon Valley Boulevard.
  - iv. Permittee shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the project.
  - v. Driveway widths shall be 26 feet.
  - vi. Dedicate two feet in length along Eden Park Place project frontage to accommodate the 10-foot wide attached sidewalk.
  - vii. 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.
  - viii. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans. (To assist the Permittee in better understanding the potential cost implications resulting from these requirements, existing

pavement conditions can be evaluated during the Planning permit review stage. The Permittee will be required to submit a plan and the applicable fees to the Public Works Project Engineer for processing. The plan should show all project frontages and property lines. Evaluation will require approximately 20 working days.)

ix. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.

h. **Electrical:**

i. Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.

ii. Locate and protect existing electrical conduit in driveway and/or sidewalk construction.

iii. Provide clearance for electrical equipment from driveways, and relocate driveway or electrolier. The minimum clearance from driveways is 10 feet in commercial areas and 5 feet in residential areas.

i. **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 in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any street tree plantings. Street trees shown on the Approved Plan set are conceptual only.

**32. Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified, 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 shall be the effective date of the Conforming Rezoning

Ordinance for File No. C18-022 adopted on \_\_\_\_\_, 2019 (the “Combined Industrial/Commercial Zoning District Rezoning Ordinance”) and shall be no earlier than the effective date of said Rezoning Ordinance.

ADOPTED this \_\_\_ day of \_\_\_\_\_ 2019, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk

*NOTICE TO PARTIES*

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



EXHIBIT "A"  
PD ZONING TO CIC ZONING

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being all of Lot 2 as shown on that certain Parcel Map filed for record on June 21, 1989, in Book 601 of Maps, page 36, Santa Clara County Records, described as follows:

BEGINNING at the northwesterly corner of said Lot 2, being on the southerly line of Bernal Place;

Thence along said southerly line and the westerly line of Bernal Road the following five courses:

1. Thence South 66°54'41" East, 392.72 feet;
2. Thence along a tangent curve to the right, having a radius of 175.00 feet, through a central angle of 14°30'10" for an arc length of 44.30 feet;
3. Thence South 52°24'31" East, 398.66 feet;
4. Thence along a tangent curve to the right, having a radius of 30.00 feet, through a central angle of 86°06'50" for an arc length of 45.09 feet;
5. Thence along a reverse curve to the left, having a radius of 1,053.04 feet, through a central angle of 11°05'59" for an arc length of 204.00 feet;

Thence along the general southerly and westerly lines of said Lot 2, the following four courses:

1. Thence North 68°59'11" West, 397.03 feet;
2. Thence South 21°00'49" West, 66.83 feet;
3. Thence North 69°13'04" West, 416.50 feet;
4. Thence North 21°00'49" East, 441.08 feet, to the POINT OF BEGINNING.

Containing 6.91 acres, more or less.

*For assessment or zoning purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.*



R=30.00' L=45.09'  
Δ=86°06'50"

Δ=11°05'59"  
R=1053.04' L=204.00'

BERNAL ROAD 53'

BERNAL PLACE

S52°24'31"E 398.66'

N68°59'11"W 397.03'

LOT 1  
601-M-36

S21°00'49"W  
66.83'

R=175.00' L=44.30'  
Δ=14°30'10"

14'

30'

LOT 2  
601-M-36

S66°54'41"E 392.72'

N69°13'04"W 416.50'

LOT 3  
601-M-36

POB

N21°00'49"E 441.08'

PARCEL B  
561-M-30



1 IN. = 150 FT.

LEGEND

POB

POINT OF BEGINNING

SHEET 1 OF 1

Date: 2019-02-07

Designed: -

Drawn: RF

Checked: TG

Proj. Engr.:

522300



EXHIBIT "B"  
PLAT TO ACCOMPANY DESCRIPTION  
FOR REZONING PURPOSES

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

3-029)