

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT PERMIT TO ALLOW THE CONSTRUCTION OF AN APPROXIMATELY 24,785-SQUARE FOOT HOTEL WITH UP TO 48 ROOMS, AN ALTERNATIVE PARKING ARRANGEMENT (MECHANICAL LIFTS), A 20 PERCENT PARKING REDUCTION, VALET PARKING AND THE REMOVAL OF ONE NON-ORDINANCE SIZED TREE, ON AN APPROXIMATELY 0.25-GROSS ACRE SITE LOCATED AT THE NORTHEAST CORNER OF OAKLAND ROAD AND FAULSTICH COURT (APN 241-13-019)

FILE NO. PD18-042

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on October 9, 2018, an application (File No. PD18-042) was filed by the applicant, Alex Ross, on behalf of Ngo Nghi, with the City of San José for a Planned Development Permit to allow the construction of a five-story hotel with up to 48 rooms, an alternative parking arrangement (mechanical lifts), a 20 percent parking reduction, valet parking and the removal of one non-ordinance sized tree on an approximately 0.25-gross acre site, on that certain real property situated in the CIC(PD) Planned Development Zoning District and located at the northeast corner of Oakland Road and Faulstich Court (APN 241-13-019, 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,” 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, the Planning Commission conducted a hearing on said application on December 1, 2021, notice of which was duly given; and

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

WHEREAS, at said hearing, the Planning Commission made a recommendation to the City Council respecting said matter based on evidence and testimony; 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, the City Council gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing, this City Council received and considered the reports and recommendation of the Planning Commission and 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, "Comfort Inn & Suites" dated October 12, 2021, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

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

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

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

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

- a. **Site Description and Surrounding Uses.** The approximately 0.25-gross acre site is currently vacant and is accessed from one driveway off Faulstich Road and one driveway off Oakland Road.

The project site is surrounded by a mobile home park to the north and east and industrial uses to the west across Oakland Road and to the south across Faulstich Court.

- b. **Project Description.** The project would allow the construction of a five-story hotel with up to 48 rooms, an alternative parking arrangement (mechanical lifts), a 20 percent parking reduction, valet parking, an 8-foot concrete masonry wall, and the removal of one non-ordinance sized tree. The hotel will employ six employees.

The site is currently vacant and is to be accessed from one driveway off Faulstich Road and one driveway off Oakland Road. The project included a rezoning of the site from the CIC Combined Industrial/Commercial Zoning District to the CIC (PD) Planned Development Zoning District. The planned development rezoning was required so that the project can be developed at the density allowed by the General Plan, for step-backs in the building design where the project abuts residential, and to meet parking requirements.

- c. **General Plan Conformance.**

Land Use Designation

The subject site is designated in the City's General Plan as Combined Industrial/Commercial on the Land Use/Transportation Diagram of the Envision San José 2040 General Plan.

Density: Floor-Area Ratio (FAR) Up to 12.0 (1 to 24 stories)

This category allows a significant amount of flexibility for the development of a varied mixture of compatible commercial and industrial uses, including hospitals and private community gathering facilities. Properties with this designation are intended for commercial, office, or industrial developments or a compatible mix of these uses. This designation occurs in areas where the existing development pattern exhibits a mix of

commercial and industrial land uses or in areas on the boundary between commercial and industrial uses. Development intensity can vary significantly in this designation based on the nature of specific uses likely to occur in a particular area.

Analysis: The construction of the hotel is consistent with the General Plan Designation of Combined Industrial/Commercial, as the site is located near residential and industrial uses. The FAR requirement in the CIC General Plan designation is up to 12.0, and the hotel has a FAR of 2.28. The project is therefore, consistent with the allowed FAR and use.

The project is found to be consistent with the following goals and policies of the Envision San Jose 2040 General Plan:

- a. Policy IE-1.1 To retain land capacity for employment uses in San José, protect and improve the quantity and quality of all lands designated exclusively for industrial uses, especially those that are vulnerable to conversion to non-employment uses.
- b. Policy IE-1.2 Plan for the retention and expansion of a strategic mix of employment activities at appropriate locations throughout the City to support a balanced economic base, including industrial suppliers and services, commercial/retail support services, clean technologies, life sciences, as well as high technology manufacturers and other related industries.
- c. Policy IE-1.6 Plan land uses, infrastructure development, and other initiatives to maximize utilization of the Mineta San José International Airport, existing and planned transit systems including fixed rail (e.g., High-Speed Rail, BART and Caltrain), Light-Rail and Bus Rapid Transit facilities, and the roadway network. Consistent with other General Plan policies, promote development potential proximate to these transit system investments compatible with their full utilization. Encourage public transit providers to serve employment areas.
- d. Policy IE-2.7 Encourage business and property development that will provide jobs and generate revenue to support city services and infrastructure.

Analysis: For IE-1.1, IE-1.2, IE-1.6, IE-2.7: With this development, land for employment use is retained and development of additional employment would occur. The hotel would provide convenient hotel accommodations near Mineta San José International Airport for both pleasure and business travelers as well as neighborhood residents who may have out of town guests. A bike share program is provided for guests by the hotel to encourage multimodal travel. The hotel could add to the City's revenue stream as Transit Occupancy Taxes would be applied to guests and six jobs would be created.

- e. 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 IP-1.8: In order to accommodate development to occur at the density allowed by the General Plan, for setbacks in the building design adjacent to neighboring residential, and to meet parking requirements, the project requires a planned development rezoning. As discussed in the zoning section below, the front side and rear setbacks would be reduced and the height would be increased with the projects rezoning to allow for project accommodation on the site.

Zoning Ordinance Conformance

Land Use

When a PD permit has been implemented, the provisions of the permit prevail over the regulations of the base district zoning of the property (SJMC sec. 20.60.040.B).

This project included a rezoning from the CIC Combined Industrial/Commercial Zoning District to the CIC(PD) Planned Development Zoning District. The surrounding residential uses are primarily zoned R-MH; across Oakland Road sites are zoned Heavy Industrial and Industrial Park, while lands to the south are zoned Light Industrial.

The CIC Combined Industrial/Commercial zoning designation is intended for commercial or industrial uses, or a compatible mixture of these uses, that support the goals of the combined industrial/commercial general plan designation. The district allows for a broad range of commercial uses with a local or regional market, including big box retail, and a narrower range of industrial uses, primarily industrial park in nature, but including some low-intensity light industrial uses. Below is a comparison of the CIC Combined Industrial/Commercial Zoning District and the project's Planned Development Zoning District development standards.

The allowed uses would be the uses allowed in the CIC Combined Industrial/Commercial Zoning District of Title 20 of the SJMC, and as may be as amended in the future. Pursuant to SJMC Section 20.50.100, a hotel is a permitted use in the Combined Industrial/Commercial Zoning District. Food Services shall be permitted without the need for conditional or special use permit when provided in conjunction with a hotel or motel use with 60 or fewer guest rooms. All permitted, conditional and special uses shall require the approval of a Planned Development Permit or amendment.

When a Planned Development permit has been implemented, the provisions of the permit prevail over the regulations of the base district zoning of the property (SJMC sec. 20.60.040.B).

Setbacks and Height:

Setback and Height	CIC Combined Industrial/Commercial Zoning District Requirements	CIC(PD) Planned Development Zoning District Development Standards (Proposed)	Provided by Project
Front Building Setback (Oakland Road)	15 feet minimum	0 feet minimum	0 feet minimum
Front Parking and circulation for passenger vehicles (Oakland Road)	20 feet minimum	0 feet minimum	0 feet minimum
Front Building Setback (Faulstich Court)	15 feet minimum	0 feet minimum	0 feet minimum
Front Parking and circulation for passenger vehicles (Oakland Road)	20 feet minimum	0 feet minimum	0 feet minimum
East Side Building Setback	25 feet minimum from residential district	<ul style="list-style-type: none"> Above grade setback of 15'-0" min. from property line. Below grade setback of zero (0) Feet. 	15 feet 2 inches
East Side Setback Parking and circulation for passenger vehicles	25 feet minimum from residential district	0 feet minimum	0 feet minimum
Interior Rear Setback Building and Structures	25 feet minimum from residential district	<ul style="list-style-type: none"> Above grade setback of 25'-0" min. from property line. Awning setback encroachment, when attached to the building and having a min. of 2 sides open the awning structure may encroach up to the full depth of the setback (0'-0" setback) for an overall maximum width of the structure is not more than 22'-0". Below grade setback of zero (0) Feet. 	Above grade setback of 25'-0"; Below grade setback 0 feet
Rear Setback Parking and circulation for passenger vehicles Rear	25 feet minimum from residential district	0 feet minimum	0 feet minimum

Setback and Height	CIC Combined Industrial/Commercial Zoning District Requirements	CIC(PD) Planned Development Zoning District Development Standards (Proposed)	Provided by Project
Height	45 feet maximum	<ul style="list-style-type: none"> • Motels or Hotels shall not exceed 50 feet to top or roof or roof parapet from finished site grade. • Elevator shafts, roof equipment, and other non-habitable building elements may extend 10 feet past the maximum building height to a height of 60 feet. 	Building height is 50 feet; Elevator shaft 55 feet 6 inches.

As shown on the Planned Development Permit plan set, the project conforms with all required height and setback standards pursuant to the General Development Plan of the Planned Development Zoning District. The reduced setbacks, compared to the standard CIC Combined Industrial/ Commercial Zoning District would allow the project to achieve a density consistent with the General Plan Land Use Designation of Combined Industrial/Commercial, while allowing for stepbacks and better interface with the adjacent residential uses.

The project includes a rezoning from the CIC Combined Industrial/Commercial Zoning District to the CIC (PD) Planned Development Zoning District. The site is vacant, and to allow the project to be built at the FAR and number of stories/height allowed under the General Plan Designation, a Planned Development rezoning and permit is required. Additionally, the rezoning provides a buffer between the adjacent residential uses and the industrial uses along Oakland Road, and across Faulstich Court. The CIC Combined Industrial/Commercial Zoning District would require a greater front and rear setback. The rezoning allows the building’s massing to be pushed forward towards both Oakland Road and Faulstich Court away from the adjacent mobile home park. The rezoning also allows for stepbacks to the north and maintains a 15-foot setback on the east side at the ground level. improves the interface between the project and the adjacent residential uses. The hotel is five stories and the General Plan allows for 1 to 24 stories.

Noise: Pursuant to SPMC Section 20.50.300 Industrial use adjacent to a property used or zoned for residential purposes have maximum noise level of 55 decibels at the property line. A detailed acoustical study to evaluate the potential noise generated by building mechanical equipment and demonstrate the necessary noise control to meet the City’s 55 dBA DNL goal. Noise control features such as sound attenuators, baffles, and barriers shall be identified and evaluated to demonstrate that mechanical

equipment noise would not exceed 55 dBA DNL at noise-sensitive locations around the project site. The noise control features identified by the study is to be incorporated into the project.

Parking: Pursuant to SJMC Section 20.90.060, one stall is required per ten guest rooms and an additional one stall is also required.

Pursuant to SJMC Section 20.90.220(G) up to a 20 percent reduction in the required off-street parking is allowed for private instruction or personal enrichment; sororities, fraternities and dormitories occupied exclusively (except for administrators thereof) by students attending college or other educational institutions; SROs; efficiency living units; emergency residential shelters; residential care/service facilities; convalescent hospitals; hotels/motels; bed and breakfast inns; senior housing uses; recreation uses; gasoline service or charge stations when combined with other uses; and performing arts rehearsal space uses that may be approved with a development permit or a development exception if no development permit is required, provided that such approval is based upon the findings that the project is either within two thousand (2,000) feet of an existing or proposed bus or rail transit stop; or the use is clustered with other uses that share all parking spaces on a site.

SJMC Section 20.90.220.A.2 states that a reduction in the required off-street vehicle parking spaces for a structure or use of up to 10 percent or up to two off-street vehicle parking spaces, whichever is less, may be authorized with a development permit

This project has no more than 48 guest rooms and six employees, which equates to a required total of 54 parking spaces. A 20 percent parking reduction (10 stalls) is requested pursuant to SJMC Section 210.90.220.g and an additional two stall reduction is allowed pursuant to SJMC Section 20.90.A.2 for a total authorized reduction of 12 parking stalls. With these reductions, a total of 42 parking spaces are required and 42 are provided. Additionally, the property owner shall participate in the VTA SmartPass system for all employees and shall pay for employee participation in this system. Guests that take public transportation to the hotel shall receive a daily room discount up to \$10.00 for providing proof of use of public transportation to travel to the hotel. For employees only, the ownership shall provide for emergency use of a corporate transportation company (i.e.; Uber or Lyft) account for management to make available to employees who commute on alternate transportation. As discussed below, valet parking as well as car elevator and mechanical car lifts are project conditions.

The project requires 16 bicycle parking spaces total, consisting of five spaces for the 48 guest rooms and on additional space for a total of five bicycle parking spaces and 5 spaces for the reduction of two parking spaces pursuant to SJMC Section 20.90.220.A.2 for a total of 16 required bicycle parking spaces. The project requires

sixteen bicycle parking spaces, and 16 spaces are provided so the project is consistent with the parking standards.

Alternative Parking Arrangement

Pursuant to SJMC Section 20.90.220, parking facilities which accommodate the required number of spaces in an alternative parking design may be permitted.

The project uses an alternative parking arrangement that includes car lifts, a car elevator; cars are parked four deep and a valet service is provided to access the cars and to accommodate the on-site parking.

There is one car elevator and nine car lifts as shown on the approved plan sets. The car lifts are three deep and four standard parking spaces deep at the eastern end of the garage.

Based upon the project’s operations plan, two valet drivers will be employed during peak hours and one valet driver during non-peak hours. The usual wait time for guests for car pick up will be approximately 7-10 minutes and guests may request car pickup in advance. The hotel is to be 100% valet parked with the exception of the two accessible parking stalls.

Because there is a robust parking management and Transportation Demand Plan as discussed above, and the project provides the required amount of parking, the parking facilities alternative parking design is consistent with SJMC Section 20.90.220.

Tree Removal.

The City’s tree replacement ratio table is below.

Circumference of Tree to be Removed (measured at 4.5 feet above ground)	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or greater	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
less than 19 inches	1:1	1:1	none	15-gallon
x:x = tree replacement to tree loss ratio Note: Trees greater than 38-inch circumference shall not be removed unless a Tree Removal Permit or equivalent, has been approved for the removal of such tree. For Multi-Family Residential, Commercial, and Industrial properties, a permit is required for removal of trees of any size. A 38-inch in circumference equals 12.1 inches in diameter A 24-inch box tree can be used in lieu of two 15-gallon trees Single-Family and Two-dwelling properties may be mitigated at a 1:1 ratio				

Analysis: Based on the analysis in Section 3.4 of the IS/MND, there is only one non-ordinance sized lemon tree on the site that will be removed, and a total of one 15-gallon replacement tree is required. The project applicant is providing six 24-inch box trees which is consistent with the City's Tree Replacement standards.

d. Council Policies

Outdoor Lighting on Private Developments (Council Policy 4-3)

The project would be subject to Council Policy 4-3 and the City of San Jose Interim Lighting Policy Broad Spectrum Lighting (LED) for Private Development and a permit adjustment for outdoor lighting is a project condition. Outdoor lighting is to be reviewed through the permit adjustment process.

Public Outreach Policy for Pending Land Use and Development Proposals (Council Policy 6-30)

Under City Council Policy 6-30, the project is considered a standard development proposal. Following City Council Policy 6-30, the applicant has posted the on-site sign to inform the neighborhood of the proposed project. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

There was one public comment received on this project regarding lack of parking. Staff responded indicating there would be 42 parking spaces on-site. Additionally, a shuttle service, bike share program, guests that take public transportation to the hotel shall receive a daily room discount up to \$10.00 for providing proof of use of public transportation to travel to the hotel, and emergency use of a corporate Uber or Lyft account for employees who commute on alternate transportation will be provided.

e. Design Guidelines Consistency

The project includes a hotel use building and was evaluated under the City's Commercial Design Guidelines as the project was submitted prior to the adoption of the Citywide Design Guidelines. The guidelines relevant to this project are as follows:

A.5. Transitions between existing and new buildings should be gradual. The height and mass of new projects should not create abrupt changes from those of existing buildings.

C.2 *Interfaces*: Loading areas, access and circulation driveways, trash, and storage areas and rooftop equipment should be located as far as possible from adjacent residences and should never be located next to residential properties without fully mitigating their negative effects.

C.3 *Interfaces*: Adjacent residential and non-residential uses should be as segregated as is necessary to maintain a livable residential environment, by employment of masonry walls, landscaping, berms, building orientation, and activity limitations.

2.C.3 Structures: Variation in wall plane, roof line, detailing, materials, and siting may be used to prevent a monotonous appearance in buildings. Roof and wall plane variations including building projections bay windows and balconies are recommended to reduce scale and bulk.

Analysis: A.5-2.C.3: The project is consistent with the Architectural and Site Design Standards as the project includes stepbacks as well as façade and use of varying materials. The ground floor interface is raised one foot and awnings/other fenestrations are incorporated into the design. Additionally, the project is conditioned to be consistent with all design standards of File No. PDC18-032 allowing for consistency to be shown with the design standards.

As shown in the project plan set, the building would orient the primary façade toward the public street. The building provides variation in the wall plane, roof line, materials, and colors to avoid a monotonous appearance. Building materials include red brick, a glass curtain wall, and greenery. The building is stepped back from the residential uses to the north and pushed towards Oakland Road and Faulstich Court. Additionally, an eight-foot solid concrete wall is to run along the residential property lines to provide for separation of use.

- f. **California Environmental Quality Act.** The City of San José, as the lead agency for the project, prepared an Initial Study (IS) and Mitigated Negative Declaration (MND) for the subject rezoning and planned development permit. The Initial Study/Mitigated Negative Declaration was circulated for public comments between March 30, 2021 and April 19, 2021. One comment letter was received from Kanyon Consulting, LLC regarding tribal cultural resources. The comments in the comment letter did not result in any substantial changes to the project description, analyses, and/or impacts that was previously disclosed in the IS/MND. These comments are addressed in a formal Response to Comments document prepared by the Director of Planning, Building and Code Enforcement.

The Initial Study identified relevant mitigation measures for potential impacts to air quality during construction, nesting birds, contamination during construction, and operational noise impacts on nearby residential areas. In addition, standard permit conditions are made part of the permit approval. These standard permit conditions include best management practices for construction related air quality impacts, compliance with the Santa Clara Valley Habitat Plan, compliance with the California Building Code for seismic safety of the proposed building, erosion control during construction activities, protection of unknown subsurface resources, protection of construction workers from hazards related to contaminated soils, and impacts to public facilities. The mitigation measures are included in the Mitigation Monitoring and Reporting Program (MMRP) and both the mitigation measures and standard permit conditions are made a part of this permit.

The Initial Study concluded that the proposed project would not result in any significant and unavoidable environmental impacts, with implementation of identified mitigation

measures. Therefore, an EIR is not required, and an Initial Study/Mitigated Negative Declaration is the appropriate level of CEQA clearance for the project.

The entire IS/MND, Responses to Comments, and other related environmental documents are available on the Planning Department web site.

g. Planned Development Permit Findings

In order for the Planned Development permit to be approved, the Planning Commission must be able to make all required findings for a Planned Development Permit. SJMC Section 20.100.940 specifies the required findings for approval of a Planned Development Permit. These findings are made for the project based on the analysis related to consistency with the General Plan and Zoning Ordinance, compliance with CEQA, and subject to the conditions set forth in the Permit:

1. The planned development permit, as issued, is consistent with and furthers the policies of the general plan.

Analysis: As discussed in the General Plan conformance section above, the project is consistent with the General Plan land use designation of Combined Industrial/Commercial and the project meets the General Plan goals. The rezoning allows for the project to be built at the height and density allowed by the General Plan, and the density and building form are consistent with the existing surrounding residential and industrial developments. The hotel would provide employment opportunities and retain employment lands. The hotel would provide accommodation space for Mineta San José International Airport customers, nearby residents who may have out of town guests, and others. The guest rooms are subject to the payment of transient occupancy taxes which would add to the City's revenues. Additionally, a bike share program for guests would be provided by the hotel to encourage multi-modal transportation and other transportation demand measures described in the parking section above are to be provided. Therefore, the project furthers the goals of the General Plan.

2. The planned development permit, as issued, conforms in all respects to the planned development zoning of the property.

Analysis: As discussed in the Zoning Consistency section above, the project conforms in all respects to the Planned Development Zoning's General Development Plan. A hotel is an allowed use and the project structure is 50 feet in height and the elevator shaft is below the height maximums. The project is also consistent with the setback and parking requirements of the Planned Development Zoning District.

3. The planned development permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency.

Analysis: As noted above, this project is conditioned to be consistent with the, Outdoor Lighting on Private Developments Lighting on Private Property/Exception to the Outdoor Lighting Policy. A permit adjustment for outdoor lighting is a condition of the Planned Development Rezoning and Planned Development Permit.

The project is consistent with the City Council Policy 6-30 for Public Outreach. The project installed an on-site sign at the project site. Additionally, the public hearing notices were mailed to property owners and tenants within 500-foot radius of the project site and staff has been available to respond to comments.

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

Analysis: The project has been reviewed for conformance to the Commercial Design Guidelines. The site is currently vacant and there is only one building to be built on the site. As described above, the project building is cohesive, and is aesthetically harmonious in that the building materials shown in the attached plan sets are both differentiated and complimentary. The massing is pushed towards the corner of Oakland Road and Faulstich Court away from the adjacent mobile home park.

5. 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 effect on adjacent property or properties.

Analysis: The project will not have an unacceptable negative effect on adjacent property or properties. The project would be located on a site designated for commercial/industrial use and a hotel is proposed. The development is located in an urbanized area that is adequately served by all required utilities and public services, and the Stormwater Control Plan is in compliance with the City's stormwater policies that require low impact development stormwater treatment measures to minimize stormwater pollutant discharges. Construction activities would result in temporary noise, vibration, and dust impacts; however, standard permit conditions and mitigation measures are required in order to lessen these impacts. Standard permit conditions and best management practices are also required to ensure that no excessive dust, erosion, or drainage occurs during project construction. Hotel uses are not typically considered an odor-generating use and therefore no odor impacts are expected. Therefore, the project will not have unacceptable negative effects on adjacent properties.

The Oakland Road Comfort Suites Project Mitigated Negative Declaration and associated Mitigation Monitoring and Reporting Program were prepared for the

project in compliance with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. All potential environmental impacts will be mitigated to less than significant levels with the mitigation measures identified in the Mitigation Monitoring and Reporting Program. Therefore, the project will not have unacceptable negative effects on adjacent properties.

h. Alternative Parking Arrangement

In addition to any other findings required for a Special Use Permit, the City Council may approve such off-street parking facilities arrangements only upon making the following findings, as specified in SJMC Section 20.90.200 in the San José Municipal Code:

1. The number of off-street parking spaces provided in such parking facilities adequately meets the parking requirements of the individual buildings and uses as specified in this Chapter 20.190 of this title.

Analysis: As identified above, there are 48 rooms total and six employees, which requires 54 parking spaces. A 20 percent parking reduction (10 stalls) is requested pursuant to SJMC Section 20.90.220.G and an additional two stall reduction is also allowed pursuant to SJMC Section 20.90.A.2 for a total reduction in parking spaces of 12 spaces. Therefore, a total of 42 parking spaces are required and 42 are provided.

2. It is reasonably certain that the parking facility shall continue to be provided and maintained at the same location for the service of the building or use for which such facility is required, during the life of the building or use.

Analysis: As discussed in the parking section above, the lifts are conditioned to be maintained and operate as well as valet parking service for the life of the project. Additionally, based upon the parking management plan, a shuttle service as well as a bike share program is to be provided and are project conditions of approval in the Planned Development Zoning and Planned Development Permit.

3. The parking facility is reasonably convenient and accessible to the buildings or uses to be served.

Analysis: The project includes a car elevator with access on the first floor. Additionally, the valet service allows the desired car to be called for hotel customer convenience. Therefore, the finding above can be made. Additionally, a project condition of approval in the Planned Development Zoning and Planned Development Permit is includes timely repair of the car lift and/or elevator when out of service and/or when needed.

- i. Tree Removal Findings.** Chapter 13.32 of the San José Municipal Code establishes at least one of the following required findings must be made for issuance of a Live Tree Removal Permit for ordinance-size trees. Findings are made for the project based on the findings related to General Plan, Zoning Ordinance and CEQA conformance and for

the reasons stated below, and subject to the conditions set forth in the resolution.

- a. That the tree affected is of a size, type and condition, and is in such a location in such surroundings, that its removal would not significantly frustrate the purposes of this chapter as set forth in Section 13.32.010.

Analysis: As indicated above, there is one non-ordinance sized tree to be removed. Since the project is for a commercial use, although the tree is non-ordinance sized, a tree removal permit is needed to remove the tree. The tree is located in the drive aisle of the hotel. As such, as part of the proposed project, the tree will be removed and the above finding can be made. The project is conditioned to replace the tree. Additionally, one replacement tree is required and six 24-inch box trees are to be provided.

In accordance with the findings set forth above, a Planned Development Permit to use the subject property for the said purpose specified herein and subject to each and all the conditions hereinafter set forth, are hereby conditionally **granted**. This City Council expressly declares that it would not have approved these Permits except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Pursuant to Section 20.100.290(B) of the San José Municipal Code, should the permittee fail to file a timely and valid appeal of this Planned Development Permit (sometimes referred to herein as "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 Planned Development Permit by the permittee; and
 - b. Agreement by the permittee to be bound by, to comply with, and to do all things required of or by the permittee pursuant to all of the terms, provisions, and conditions of this Permit or other approval and the provisions of Title 20 of the San José Municipal Code applicable to such Permit.
2. **Permit Expiration.** This Planned Development Permit shall automatically expire four 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 Planned Development Permit . The date of issuance is the date this Planned Development Permit is approved by the City Council. However, the Director of Planning, Building and Code Enforcement may approve a Permit Adjustment to extend the validity of this Permit in accordance with Title 20 of the San José Municipal

Code. The Permit Adjustment must be approved prior to the expiration of this Planned Development 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. **Building Permit.** Obtainment of a Building Permit is evidence of acceptance of all conditions specified in this document and the permittee's intent to fully comply with said conditions.
5. **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.
6. **Use Authorization.** This Permit allows the construction of a five-story hotel with up to 48 rooms, parking reduction, an alternative parking arrangement (mechanical lifts), valet parking and the removal of one non-ordinance sized tree.
7. **Conformance to Plans.** The development of the site shall conform to the approved Planned Development Permit plans entitled, "Comfort Inn & Suites," received on August 12, 2021, 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 plans" or the "Approved Plan Set."

8. **Planned Development District Effectuated.** Once this Planned Development Permit is accepted, the use of territory not covered by the Permit shall only be land uses consistent with the Planned Development Zoning District (File No. PDC18-032) and only upon issuance of a Planned Development Permit for those uses
9. **Loading Activity Hours.** All loading activities shall be limited to the hours of 6:00 a.m. to 9:00 p.m.
10. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, and, state, and federal laws.
11. **Discretionary Review.** The City maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
12. **Affordable Housing Financing Plans.** The San José City Council (“City”) approved the Envision San Jose General Plan 2040 (“General Plan”) in 2011. The General Plan provides the framework for development located in San Jose.

The City has adopted a Commercial Linkage Fee Ordinance (San Jose Municipal Code Chapter 5.10) and Resolution, which may apply to this project. The City is also in the process of developing financing plans to help fund affordable housing and related amenities and services. Other 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); and/or (v) 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 on-going and there will continue to be other similar efforts to study various funding mechanisms for affordable housing.

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.

13. **Refuse.** All trash and refuse storage areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the trash or refuse container(s). Trash areas shall be maintained in a manner to discourage illegal dumping.
14. **Landscaping.** Planting and irrigation are to be provided by the Permittee, as indicated, on the final Approved Plans.

15. **Irrigation Standards.** Irrigation shall be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping, the City of San José Landscape and Irrigation Guidelines and the Zonal Irrigation Plan in the Approved Plans. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
16. **Certification.** Pursuant to San José Municipal Code, Section 15.11.1050 certificates of substantial completion for landscape and irrigation installation shall be completed by a licensed or certified professional and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
17. **Replacement Landscaping.** All landscaping removed with the construction of the project shall be replaced with similar landscaping in the immediate area. All landscaped replacement areas shall be automatically irrigated.
18. **Building and Property Maintenance.** The property owner or operator 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.
19. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.
20. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
21. **Wall.** The project Permittee shall maintain a minimum 8-foot high wall for separation of use along the northerly and easterly property lines. The wall is to be well maintained and of good condition.
22. **Required Vehicular, Motorcycle, and Bicycle Parking.** This project shall conform to the vehicular, motorcycle, and bicycle parking requirements of the Zoning Ordinance/approved Planned Development Zoning Development Standards, 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.
23. **No Generators Approved.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
24. **No Extended Construction Hours.** This Permit does not allow any construction activity on a site located within 500 feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.

25. **Performance Standards.** The permittee must comply with the Performance Standards of the CIC Combined Industrial/Commercial Planned Development Zoning District, as amended.
26. **Permit Adjustment Required.** This Permit shall not be effective unless prior to the issuance of any Building Permit or any certificate of occupancy, Permittee obtains a Permit Adjustment which addresses the following items to the satisfaction of the Director of Planning: Outdoor Lighting must be consistent with the City Council Policies on Outdoor Lighting.
27. **Operations.** For the life of the project, the permittee must comply with the approved Operations Plan, as may be amended.
28. **Parking Management.** The permittee must be in compliance with the Parking Plan Strategy and TDM Program for the life of the project, as may be amended.
29. **Implement Transportation Demand Management (TDM) Plan.** The Permittee shall implement all the following TDM measures included in the TDM plan dated August 10, 2021 for the life and use of the building. Any changes to the selected measures require the issuance of a Permit Adjustment or Amendment.
 - Develop a transit use incentive program for employees and guests, such as on-site distribution of passes or subsidized transit passes for local transit system (participation in the regionwide Clipper Card or VTA SmartPass system will satisfy this requirement).
 - Provide preferential parking with charging station for electric or alternatively-fueled vehicles.
 - Make available transportation during the day for emergency use by employees who commute on alternate transportation
 - (this service may be provided by access to company vehicles for private errands during the workday and/or combined with contractual
 - or pre-paid use of taxicabs, shuttles or other privately provided transportation).
 - Provide shuttle access to Caltrain stations.
 - Provide a bicycle share program or free use of bicycles on-site that is available to all guests of the site.
30. **Car Lift and Car Elevator Maintenance.** The car lift and car elevator must be maintained in good working order for the life of the project. Should the car lift and/or elevator be out of service, timely repair of the lift and elevator not to exceed 24-hours must occur. Timely repair of the car lift and/or elevator when out of service and/or when needed.

31. **Car Lift.** A permit adjustment is required if the type of car lift is to be other than what is shown on the approved plan set. Additionally, there shall be no reduction in the amount of parking spaces or change to circulation.
32. **Construction Disturbance Coordinator.** Rules and regulation pertaining to all construction activities and limitations identified in this Permit, along with the name and telephone number of a permittee-appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.
33. **Green Building Requirements.** This development is subject to the City's Green Building Ordinance for Private Sector New Construction as set for in Municipal Code Section 17.84. Prior to the issuance of any shell permits, or complete building permits, for the construction of buildings approved through the scope of this Permit, the Permittee shall pay a Green Building Refundable Deposit. In order to receive a refund of the deposit, the project must achieve the minimum requirements as set forth in Municipal Code Section 17.84. The request for the refund of the Green Building Deposit together with evidence demonstrating the achievement of the green building standards indicated in Municipal Code Section 17.84 shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.
34. **No Sign Approval.** Any signage shown on the Approved Plan Set are conceptual only. No signs are approved at this time. Any signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
35. **Conformance to Mitigation Monitoring and Reporting Program.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program (MMRP) approved for this development by City Council Resolution No. .

36. **Standard Environmental Permit Conditions**

a. Air Quality

Consistent with the BAAQMD CEQA Air Quality Guidelines, the project shall implement the following measures during all phases of construction on the project site, to reduce dust fall-out emissions:

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.

4. All vehicle speeds on unpaved roads shall be limited to 15 mph.
5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
6. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
7. Replant vegetation in disturbed areas as quickly as possible.
8. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
9. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Clear signage shall be provided for construction workers at all access points.
10. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
11. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The air district's phone number shall also be visible to ensure compliance with applicable regulations.

b. Biological Resources

Tree Replacement

The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table 12 below, as amended. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

Table 12: Tree Replacement Ratios				
Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon

Table 12: Tree Replacement Ratios				
Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
x:x = tree replacement to tree loss ratio Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size. A 38-inch tree equals 12.1 inches in diameter. A 24-inch box tree = two 15-gallon trees Single Family and Two-dwelling properties may be mitigated at a 1:1 ratio.				

Because the lemon tree on-site would be removed, one tree would be replaced at a 1:1 ratio. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building, and Code Enforcement (PBCE).

Santa Clara Valley Habitat Plan.

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

c. Cultural Resources

Subsurface Cultural Resources.

If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

Human Remains.

If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

1. The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
2. The MLD identified fails to make a recommendation; or
3. The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

d. Geology and Soils

1. To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.
2. All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.

3. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
4. Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
5. The Project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

Paleontological Resources.

If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement (PBCE) shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or Director's designee of the PBCE.

e. Hydrology and Water Quality

The following project-specific measures, based on RWQCB BMPs, have been included in the project to reduce construction and development-related water quality impacts. BMPs would be implemented prior to and during earthmoving activities on-site and would continue until the construction is complete and during the post-construction period as appropriate.

1. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
2. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
3. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
4. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
5. All trucks hauling soil, sand, and other loose materials shall be required to cover all trucks or maintain at least two feet of freeboard.

6. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
7. Vegetation in disturbed areas shall be replanted as quickly as possible.
8. All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City.
9. The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

f. **Noise**

Construction-Related Noise. Noise minimization measures include, but are not limited to, the following:

1. Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
2. Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
3. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
4. Prohibit unnecessary idling of internal combustion engines.
5. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
6. Utilize “quiet” air compressors and other stationary noise sources where technology exists.
7. Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the Project site.
8. Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
9. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.

10. Designate a “disturbance coordinator” who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
11. Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any onsite or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

Operation Noise

A qualified acoustical specialist shall prepare a detailed interior noise analysis outlining noise control measures that would ensure compliance with the General Plan and code-required 45 dBA DNL interior noise level standard. The study will review the final site plan, building elevations, and floor plans prior to construction and confirm building treatments necessary to reduce interior noise levels to 45 dBA DNL or lower, and address and adequately control noise from rooftop equipment on adjacent buildings, as necessary. This analysis should specify required sound ratings for glazing as well as any other modifications to the building envelope used to meet the interior noise level standard. Recommended treatments include, but are not limited to:

1. For all hotel guestrooms with a glass curtainwall, a window system with a minimum Outside-Inside Transmission Class (OITC) rating of OITC 29 shall be implemented.
2. All hotel guestrooms with punch windows would need a glass system with a minimum OITC 23.
3. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the Director of Planning, Building and Code Enforcement or the Director’s designee, along with the building plans and approved design, prior to issuance of a building permit.

37. 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, PD18-042 shall be printed on all construction plans submitted to the Building Division.
- b. *San Jose’s Natural Gas Infrastructure Prohibition and Reach Code Ordinances.* The City’s Natural Gas Infrastructure Prohibition and Reach Code

Ordinances apply to this project and all requirements shall be met. For more information, please visit www.sjenvironment.org/reachcode.

- c. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
- d. *Emergency Address Card.* The project Permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
- e. *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.
- f. *Project Addressing Plan.* Prior to issuance of a Building Permit, the following requirements shall be met to the satisfaction of the Chief Building Official: The project Permittee shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial). The addressing plan should include proposed street names for the streets (as referenced on an approved tentative map) and the type of addressing (i.e., individual street addresses as compared to unit number off of a primary street).
- g. *Other.* Such other requirements as may be specified by the Chief Building Official.

38. Bureau of Fire Department Clearance for Issuing Permits. Prior to the issuance of a Building Permit, the project must comply with the 2019 California Fire Code.

39. Public Works Clearance for Building Permit(s) or Map Approval: Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The 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: <http://www.sanjoseca.gov/index.aspx?nid=2246>.

40. Minor Improvement Permit: The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. The Minor Improvement Permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.

41. Transportation:

- a. This project is subject to the City's US-101/Oakland/Mabury Transportation Development Policy. The US-101/Oakland/Mabury Transportation Development Policy requires new residential and commercial developments that generate vehicular trips at either of the Policy Interchanges to pay a Traffic Impact Fee (TIF)

towards the upgrade of US-101/Oakland Interchange and construction of US-101/Mabury Interchange. The 2021 TIF is \$41,499 for each project peak hourtrip that travels through either the US-101/Oakland or US-101/Mabury

Interchanges. This fee is subject to an annual escalation on January 1st per the Engineering News-Record Construction Cost Index for San Francisco.

- b. A Local Transportation Analysis (LTA) has been performed for this project to evaluate the project's effect on transportation, access and related safety elements in the proximate area of the project. See separate Local Transportation Analysis Memo dated 3/10/21 for additional information. The following conditions shall be implemented:

- 1) Pay the US 101/Oakland Road/Mabury Road TDP Traffic Impact Fee based on four (4) PM peak hour trip. The 2021 fee for the I-280 and US101/Oakland/Mabury Interchange is \$41,499 per project peak-hour trip and is subject to an annual fee escalation on January 1.
- 2) Install signs notifying drivers of the one-way clockwise on-site circulation.
- 3) Install an ADA curb ramp at the northeast corner of Oakland Road/Faulstich Court.

42. Street Vacation: A street vacation is required in order to accomplish the land use plan as shown. The street vacation process requires further discretionary approval by the City Council and the project will be subject to this process prior to Public Works Clearance. In addition, the preliminary title report provided by the applicant indicates that the City of San José owns the subject street in fee. As a result, the property will be subject to a sale and disposition process, which may involve public auction. This process would not guarantee that the property would be sold exclusively to the Developer. Any sale of City property will be based on fair market value.

43. Grading/Geology:

- a. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
- b. All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the latest California Plumbing Code as adopted under the City of San Jose Municipal Code Section 24.04.100 or submit a stamped and signed

engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.

- c. 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.

44. 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.

- a. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this project will be in conformance with City Policy 6-29.
- b. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
- c. A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating that all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.

45. Stormwater Peak Flow Control Measures: The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).

46. Flood Zone AO, Depth 1':

- a. Elevate the lowest floor of hotel one foot or more above the existing highest adjacent grade to the proposed structure and floodproof the underground parking garage to the same elevation. For insurance rating purposes, the building's floodproofed design elevation must be at least one foot above the base flood elevation to receive rating credit.
- b. An Elevation Certificate (FEMA Form 086-0-33) for the proposed hotel structure, based on construction drawings, is required prior to issuance of a building permit. Consequently, an Elevation Certificate for each built structure, based on finished construction is required prior to issuance of an occupancy permit.

- c. A Floodproofing Certificate (FEMA Form 086-0-34) for the proposed underground parking garage, floodproofing details, and a Flood Emergency Operation Plan and an Inspection & Maintenance Plan are required prior to the issuance of a Public Works Clearance.
- d. Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated above the base flood elevation or protected from flood damage.
- e. Construction materials used below the depth of flooding must be resistant to flood damage.

47. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable prior to issuance of Public Works clearance.

48. **Street Improvements:**

- a. Construct 26-foot wide City standard driveway along Old Oakland Road project frontage.
- b. Construct 20-foot wide City standard driveway along Faulstich Court project frontage.
- c. Construct 10-foot wide attached sidewalk with 4-foot by 5-foot tree wells along Faulstich Court project frontage.
- d. Construct 12-foot wide attached sidewalk with 4-foot by 5-foot tree wells along Old Oakland Road project frontage. Provide approximately 1-foot wide street easement dedication along Old Oakland Road project frontage to accommodate the new sidewalk width.
- e. Construct new City Standard R-11 curb ramp at the northeast corner of Old Oakland Road and Faulstich Court.
- f. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
- g. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.

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

50. **Street Trees:**

- a. 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". In order to be consistent with the surrounding areas, street trees shall be installed in 12-foot by 12-foot tree wells along both the Oakland Road and Faulstich Court frontages. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.

- b. Show all existing trees by species and diameter that are to be retained or removed. Obtain a street tree removal permit for any street trees that are over 6 feet in height that are proposed to be removed.

51. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance. Nor shall the use adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area or be detrimental to public health, safety or general welfare. Any such nuisance shall be abated immediately upon notice by the City.

52. **Loitering Prohibited.** Loitering on the premises shall be prohibited.

53. **Anti-Graffiti.** The permittee shall remove all graffiti from buildings, fences, and wall surfaces within 48 hours of defacement.

54. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris:

- a. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage and shall include daily damp washing of all exterior walls and sidewalks along the project's frontage.
- b. Mechanical equipment used for outside maintenance, including blowers and street sweepers may not be used between 10:00 p.m. and 6:00 a.m. daily.

55. **Lighting.** No new on-site lighting is approved through issuance of this Permit.

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

- a. A violation of any conditions of the Planned Development 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**.

EFFECTIVE DATE

The effective date of this Planned Development Permit shall be the same as effective date of the Rezoning Ordinance for File No. PDC18-032 passed for publication on _____, 20__ (the "Zoning Ordinance") and shall be no earlier than the effective date of said Rezoning Ordinance.

ADOPTED this _____ day of _____, 20__, 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"
Legal Description

For APN/Parcel ID(s): NONE

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

A PORTION OF LOT 11, AS SHOWN UPON THAT CERTAIN MAP ENTITLED, "MAP OF ALISAL [TRACT NO. 1](#)", FILED FOR RECORD ON DECEMBER 2, 1910 IN BOOK 'N' OF MAPS, AT PAGE 16, SANTA CLARA COUNTY OFFICIAL RECORDS, SAID PORTION BEING "PARCEL ONE", "PARCEL TWO", AND "PARCEL NO. 3", AS SAID PARCELS ARE DESCRIBED IN THE GRANT DEED FROM ANGELI, ET UX TO THREE SISTERS RANCH ENTERPRISES AND FILED FOR RECORD ON AUGUST 27, 1985 IN [BOOK J439, PAGE 903](#) OF OFFICIAL RECORDS, SANTA CLARA COUNTY RECORDS, SAID PORTION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHWESTERLY LINE OF TOWNSEND AVENUE, 40 FEET IN WIDTH (NOW CALLED FAULSTICH COURT), AS SAID TOWNSEND AVENUE IS SHOWN ON SAID "MAP OF ALISAL [TRACT NO. 1](#)", WITH THE EASTERLY LINE OF MILPITAS ROAD (NOW CALLED OLD OAKLAND ROAD), AS SAID EASTERLY LINE IS DESCRIBED IN THE DEED FROM B. MARTINI, ET UX, TO THE STATE OF CALIFORNIA, AND FILED FOR RECORD ON APRIL 30, 1931 IN [BOOK 560, PAGE 561](#) OF OFFICIAL RECORDS, SANTA CLARA COUNTY RECORDS; THENCE ALONG LAST SAID EASTERLY LINE OF MILPITAS ROAD AND THE WESTERLY LINE OF SAID "PARCEL NO. 3", N. 15° 26' 56" W. 120.00 FEET TO THE SOUTHWEST CORNER OF "PARCEL 1" AS SAID "PARCEL 1" IS DESCRIBED IN THE GRANT DEED FROM OKU TO CITY OF SAN JOSE FILED FOR RECORD ON FEBRUARY 26, 1963 [BOOK 5918, PAGE 110](#) OFFICIAL RECORDS, SANTA CLARA COUNTY RECORDS; THENCE, PARALLEL WITH SAID TOWNSEND AVENUE, ALONG THE SOUTHEASTERLY LINE OF LAST SAID "PARCEL 1", N. 50° 23' 23" E. 10.97 FEET TO THE SOUTHEAST CORNER OF LAST SAID "PARCEL 1"; THENCE ALONG THE SOUTHERLY PROLONGATION OF THE EASTERLY LINE OF SAID "PARCEL 1", S. 15° 26' 56" E. 20.85 FEET TO THE BEGINNING OF CURVE; THENCE ON A TANGENT CURVE, WITH A RADIUS OF 50.00 FEET, DEFLECTING TO THE LEFT FROM LAST SAID COURSE, THROUGH A CENTRAL ANGLE OF 114° 09' 41", AN ARC DISTANCE OF 99.62 FEET TO A POINT DISTANT 20.00 FEET NORTHWESTERLY FROM AND MEASURED AT RIGHT ANGLES TO SAID NORTHWESTERLY LINE OF SAID TOWNSEND AVENUE (NOW CALLED FAULSTICH COURT); THENCE ALONG A LINE DRAWN PARALLEL AND DISTANT 20.00 FEET NORTHWESTERLY FROM AND MEASURED AT RIGHT ANGLES TO SAID NORTHWESTERLY LINE OF SAID TOWNSEND AVENUE, NO. 50° 23' 23" E. 45.30 FEET TO A POINT IN A LINE DRAWN PARALLEL TO THE EASTERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE DEED FROM JOSE MARTINI, ET AL, TO B. MARTINI FILED FOR RECORD ON MARCH 15, 1930 IN [BOOK 505, PAGE 479](#) OFFICIAL RECORDS, SANTA CLARA COUNTY RECORDS; LAST SAID POINT BEING THE WESTERLY CORNER OF "PARCEL 2" IN SAID GRANT DEED FROM OKU TO CITY OF SAN JOSE; THENCE ALONG LAST SAID PARALLEL LINE, BEING THE WESTERLY LINE OF SAID "PARCEL 2", S. 15° 26' 56" E., 21.92 FEET TO A POINT IN SAID NORTHWESTERLY LINE OF TOWNSEND AVENUE, 40.00 FEET IN WIDTH, AS SHOWN ON SAID "MAP OF ALISAL [TRACT NO. 1](#)", LAST SAID POINT ALSO BEING THE SOUTHERLY MOST CORNER OF SAID "PARCEL 2"; THENCE ALONG LAST SAID NORTHWESTERLY LINE OF TOWNSEND AVENUE, (NOW CALLED FAULSTICH COURT) BEING THE SOUTHWESTERLY LINE OF SAID AFORESAID "PARCEL TWO", AND AFORESAID "PARCEL ONE", S. 50° 23' 23" W., 133.50 FEET TO THE POINT OF BEGINNING.

SAID DESCRIPTION BEING THE SAME AS SHOWN IN THAT CERTAIN GRANT DEED RECORDED NOVEMBER 13, 1986 IN [BOOK J922, PAGE 1086](#) OF OFFICIAL RECORDS (#9028882)

SAID LAND IS ALSO DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST WESTERLY CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED AS

EXHIBIT "A"
Legal Description
(continued)

"PARCEL 2", CONVEYED BY OKU TO THE CITY OF SAN JOSE BY DOCUMENT RECORDED IN [BOOK 5918, PAGE 110](#) OF OFFICIAL RECORDS, SAID POINT ALSO LYING IN THE NORTHWESTERLY LINE OF FAULSTICH COURT (FORMERLY TOWNSEND AVENUE), 60 FEET WIDE; THENCE ALONG THE SOUTHWESTERLY LINE OF SAID CITY OF SAN JOSE PARCEL SOUTH 16° 16' 30" EAST 21.93 FEET TO A POINT IN THE SOUTHEASTERLY LINE OF LOT 11 AS SHOWN ON THE MAP OF THE ALISAL [TRACT NO. 1](#), FILED IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA IN BOOK "N" OF MAPS AT PAGE 16; THENCE ALONG SAID SOUTHEASTERLY LINE SOUTH 49° 30' 18" WEST 133.50 FEET TO A POINT ON THE NORTHEASTERLY LINE OF THAT CERTAIN PARCEL OF LAND CONVEYED BY MARTINI TO THE STATE OF CALIFORNIA BY DOCUMENT RECORDED IN [BOOK 560, PAGE 561](#) OF OFFICIAL RECORDS, SAID CORNER ALSO LYING IN THE NORTHEASTERLY LINE OF OLD OAKLAND ROAD, 100 FEET WIDE; THENCE ALONG SAID NORTHEASTERLY LINE NORTH 16° 16' 30" WEST 120.00 FEET; THENCE LEAVING SAID NORTHEASTERLY LINE NORTH 49° 30' 18" EAST 10.96 FEET TO THE MOST EASTERLY CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED AS "PARCEL 1" CONVEYED BY OKU TO THE CITY OF SAN JOSE BY DOCUMENT RECORDED IN [BOOK 5918, PAGE 110](#) OF OFFICIAL RECORDS; THENCE SOUTH 16° 16' 30" EAST 20.85 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 50.00 FEET, TANGENT TO THE PRECEDING COURSE, THROUGH A CENTRAL ANGLE OF 114° 13' 12", AN ARC DISTANCE OF 99.68 FEET TO A POINT ON A LINE PARALLEL WITH AND 30.00 FEET NORTHWESTERLY, MEASURED AT RIGHT ANGLES, OF THE CENTERLINE OF FAULSTICH COURT; THENCE ALONG SAID PARALLEL LINE NORTH 49° 30' 18" EAST 45.22 FEET TO THE POINT OF BEGINNING.

SAID DESCRIPTION BEING THE SAME AS SHOWN IN THAT CERTAIN GRANT DEED RECORDED AUGUST 24, 1988 IN [BOOK K653, PAGE 616](#) OF OFFICIAL RECORDS (#9808904).