

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

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A SPECIAL USE PERMIT TO ALLOW PRIVATE SECONDARY SCHOOL USE OF AN EXISTING SINGLE-FAMILY RESIDENCE AND DETACHED GARAGE ON AN APPROXIMATELY 0.39-GROSS ACRE SITE, LOCATED ON THE WEST SIDE OF PLUMMER AVENUE, APPROXIMATELY 360 FEET SOUTHEASTERLY OF CURTNER AVENUE (2267 PLUMMER AVENUE)**

**FILE NO. SP22-014**

**WHEREAS**, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on May 26, 2022, an application (File No. SP22-014) was filed by the applicant, Presentation High School, with the City of San José for a Special Use Permit to allow the conversion of an existing single-family residence and detached garage for use by a private secondary school on an approximately 0.39-gross acre site, on that certain real property situated in the PQP Public/Quasi-Public Zoning District and located on the west side of Plummer Avenue, approximately 360 feet southeasterly of Curtner Avenue (2267 Plummer Avenue, San José, which real property is sometimes referred to herein as the “subject property”); and

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

**WHEREAS**, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Planning Commission conducted a hearing on said application on March 22, 2023, 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 the 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, 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 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 development plan for the subject property entitled, "Special Use Permit 2267 Plummer Ave" dated October 11, 2022, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

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

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

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

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

- 1. Site Description and Surrounding Uses.** The project site (“site”) is located on the westerly side of Plummer Avenue, approximately 360 feet southeasterly of Curtner Avenue (2267 Plummer Avenue), adjacent to the Presentation High School campus. The approximately 0.39-gross acre site is currently developed with a ranch-style house (approximately 3,850 square feet) and detached garage (approximately 1,331-square feet), both built in 1961. All surrounding uses are single-family residential except for the school campus to the south.
- 2. Project Description.** On March 11, 2022, an application for a General Plan Amendment, File No. GP22-007, and a Conforming Rezoning, File No. C22-022, were filed Presentation High School, owner of the subject site, to change the General Plan Land Use Designation of the approximately 0.39-gross acre site from Residential Neighborhood to Public/Quasi-Public and to change the zoning from R-1-8 Single-Family Residential to Public/Quasi-Public. On May 26, 2022, the applicant filed for a Special Use Permit, File No. SP22-014 to allow the conversion of the structures previously described to secondary school use. A Special Use Permit and is required for said use in the Public/Quasi-Public Zoning District.

The project does not include any demolition or construction. The applicant proposes to use the existing house for administrative offices and one meeting room, while the existing detached garage will serve as a workshop for the school’s robotics club. The main activity in the workshop will be light assembly of robotics projects using machine tools and hand tools, while robotics practice and demonstration will take place exclusively in the existing driveway, which will not be used for vehicle parking or circulation. Robotics practice will not take place on sidewalks, roads, streets, or parking areas. The proposed hours of use for the administrative offices and meeting room are 7:00 a.m. to 11:00 p.m. daily, while the hours for the workshop will be 3:00 p.m. to 9:00 p.m. Monday through Friday and 9:00 a.m. to 8:00 p.m. on weekends.

The request does not entail a change in the maximum student enrollment (850 students) or number of school staff (110) established by File No. SP18-008, a Special Use Permit granted to Presentation High School in 2020 to allow the demolition of almost 60,000 square feet of school buildings for the construction of approximately 106,000 square feet of school buildings to be built in four phases, on its adjacent campus located at 2281 Plummer Avenue.

- 3. General Plan Conformance.** The subject site currently has an Envision San José

2040 General Plan designation of **Residential Neighborhood**. As described above, the project includes a General Plan Amendment (File No. GP22-007) to amend the designation to **Public/Quasi-Public**. The Public/Quasi-Public designation is used to designate “public land uses, including schools, colleges, corporation yards, homeless shelters, permanent supportive housing, libraries, fire stations, water treatment facilities, convention centers and auditoriums, museums, governmental offices, and airports. This category is also used to designate lands used by some private entities, including private schools, daycare centers, hospitals, public utilities, and the facilities of any organization involved in the provision of public services such as gas, water, electricity, and telecommunications facilities that are consistent in character with established public land uses. The appropriate intensity of development can vary considerably depending on potential impacts on surrounding uses and the particular use developed on the site.”

The project is consistent with the following key General Plan policy:

Education Goal ES-1: Promote the operation of high-quality educational facilities throughout San José as a vital element to advance the City’s Vision and goals for community building, economic development, social equity, and environmental leadership.

*Analysis: The subject site is improved with a single-family residence that was previously used as living space and abuts the Presentation High School campus. The Public/Quasi-Public General Plan land use designation of the subject site enables Presentation High School, which has provided educational services in San José for more than 50 years, to expand administrative and office and meeting space and provide a workshop for robotics club activities, including assembly and practice. Robotics is an activity offered by schools to provide students with hands-on activities that enhance their science, technology, engineering and mathematics (STEM) curricula.*

- 4. Zoning Ordinance Consistency.** The subject site is located within the R-1-8 Single-Family Residential District. As described above, the project also includes rezoning of the subject site to the PQP Public/Quasi-Public Zoning District, for which consistency is analyzed below.

- a. Land Use. Pursuant to San José Municipal Code Section 20.40.100, the PQP Public/Quasi-Public Zoning District is a conforming zoning district to the Public/Quasi-Public General Plan Designation. The PQP Public/Quasi-Public District is intended to provide for publicly serving uses including schools, colleges, research institutions, libraries, fire stations, water treatment facilities and other similar institutional land uses.

*Analysis: Private secondary school uses are permitted in the Public/Quasi-Public Zoning District with a Special Use Permit, pursuant to Section 20.40.100.*

- b. Development Regulations. The project is required to comply with the following development standards of the PQP Public/Quasi-Public Zoning District pursuant to Section 20.40.200 and Section 20.90.060 of the Municipal Code.

Development Standard	Requirement	Project
Minimum Lot Area	6,000 square feet	16,988 square feet
Minimum Front Setback	10 feet	54 feet
Minimum Side Setback	10 feet	3 feet
Minimum Rear setback	10 feet	4 feet
Maximum Height	65 feet	16 feet

*Analysis: The existing house and detached garage will remain on-site with no change to floor area or exteriors.*

- c. Vehicular Parking. The Presentation High School Master Plan approved under File No. SP18-008 requires a minimum of 280 vehicle parking spaces and 381 bicycle parking spaces.

*Analysis: The school provides 283 vehicle parking spaces and 381 bicycle parking spaces on the adjacent campus and other nearby properties owned by the school, including St. Christopher Church located adjacent to the school playing fields. The project will not increase student enrollment or staffing and therefore no additional vehicle parking is required. The existing driveway on the subject site will not be used for parking or vehicle circulation.*

- d. Noise. Pursuant to Section 20.40.600 of the Municipal Code, the sound pressure level generated by any use or combination of uses on a property shall not exceed 55 decibels at the property line adjacent to a property used or zoned for residential purposes or 60 decibels at the property line adjacent to a property used or zoned for a non-residential use.

*Analysis: There will be minor interior improvements of the existing structures (painting, electrical work) but no demolition, construction, or exterior improvements that would generate noise exceeding permitted levels. Use of the property for administrative functions would occur between the hours of 7:00 a.m. to 11:00 p.m. daily, will take place entirely indoors, and will not involve activities that generate exterior noise. Use of the detached garage structure by the robotics club will take place intermittently between the hours of 3:00 p.m. and 9:00 p.m. on weekdays and 9:00 a.m. and 8:00 p.m. on weekends and will include machining and assembly. As concluded in the Addendum to the MND, the project will not result in the installation of any new mechanical equipment such as heating, ventilation and air conditioning systems that could increase noise levels and robotics club activities will be subject to the City's noise*

*standard of 55 decibels at any residential property line. Moreover, pursuant to the conditions of this Special Use Permit, amplified sound systems will be prohibited.*

- 5. Senate Bill 330 Consistency.** The Housing Crisis Act of 2019 (SB 330) limits the way local governments may reduce the capacity for residential units that can be built on properties that allow housing, including actions such as down-zoning; changing general or specific plan land use designations to a less intensive use; reductions in height, density, or floor area ratio; and other kinds of increased requirements. An exception to this is that the intensity of residential uses on a property may be reduced if changes in land use designations or zoning elsewhere ensure “no net loss” in residential capacity within the jurisdiction.

There are two parts to the SB 330 calculation: General Plan residential capacity and Zoning District residential capacity. An increase in residential capacity at the General Plan level may be used to offset a General Plan amendment that decreases residential capacity if they are concurrently approved. Any increase in residential capacity in the Zoning District may be used to offset rezonings that decrease residential capacity if they are concurrently approved. Also, zoning residential calculations are based on theoretical and average residential densities in the City for zoning districts where no residential density limit is specified, while General Plan residential calculations are based on allowable densities in the General Plan.

Approval of the General Plan Amendment File No. GP22-007 would change the General Plan land use designation of the subject site from Residential Neighborhood (8 DU/AC, or 3 units for the subject site) to Public/Quasi-Public (0 DU/AC, or 0 units for the subject site) and result in a decreased of residential capacity in the City by 3 units. The decrease in residential capacity would be offset by an increase of residential capacity of 96 units resulting from General Plan Amendment File No. GP22-008 if approved concurrently, for a total increase of residential capacity of 93 units. Therefore, if General Plan Amendment File No. GP22-008 is also approved by the City Council, there will be no net loss of residential capacity associated with General Plan Amendment File No. GP22-007.

Approval of the conforming rezoning (File No. C22-022) would change the subject site from R-1-8 Single Family Residence Zoning District (8 DU/AC, or 3 units for the subject site) to PQP Public/Quasi-Public Zoning District (100 DU/AC, or 39 units for the subject site) and result in an increase in residential capacity by 36 units. This increase in residential capacity would offset the decrease of residential capacity of 29 units from the Conforming Rezoning File No. C22-014, if approved concurrently, for a total increase of residential capacity by 7 units. With the increase of residential capacity of 120 units from the Conforming Rezoning File No. C22-023, if approved concurrently, the overall total residential capacity would increase be 127 units.

SB330 states that a site's allowed intensity and uses are to be considered based on the regulations in effect on January 1, 2018. Although the general plan and the zoning ordinance currently allow permanent supportive housing in the Public/Quasi-

public general plan and zoning designations, this use was added to the Envision 2040 General Plan in December 2019. However, the PQP-Public Quasi Public zoning district allowed residential care facilities prior to January 1, 2018, and were built at an average density of 100 DU/AC. Therefore, the density for the Public/Quasi-Public uses is considered as 0 DU/AC for General Plan amendments calculations but 100 DU/AC for zoning calculations.

## 6. City Council Policy Consistency.

The project is subject to City Council Policy 6-3, Public Outreach Policy for Pending Land Use Development Proposals and City Council Policy 6-11, Conversion of Residential Structures to Non-Residential Uses.

Under City Council Policy 6-30, the project is a standard development. Standard development projects are required to provide Early Notification by website and email to property owners and tenants within a 1,000-foot radius, and by on-site signage. The applicant posted an on-site sign on the frontage of the subject site on July 15, 2022. On September 12, 2022, the City hosted a virtual community meeting on the General Plan Amendment, Rezoning, and Special Use Permit. The hearing and community meeting notices were sent to all owners and tenants within 1,000 feet of the project site. Staff contact information was published on the posted Notice of Development sign located on the project frontage and on the mailing notices. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

City Council Policy 6-11, which establishes use and design criteria for conversions of structures from residential use to non-residential use. The policy states the following requirements:

### Use Compatibility

1. Non-residential uses permitted in residential neighborhoods must conform to the zoning code and must conform to the General Plan. Such uses will have to conform to the same use and design standards as are applied to commercial uses in commercial neighborhoods, and also should have the following characteristics:
  - a. The new use should be compatible with the residential structure. Generally, light office uses and small neighborhood services are compatible with converted houses.
  - b. The new use should be compatible with the adjoining neighborhood and should not pose nuisance problems with nearby residential and/or office uses. Business hours should be limited to normal day time business hours.

### Circulation Parking

1. Vehicular circulation shall take place on site; backing into the street is not

allowed.

2. When possible, parking should be placed in the rear of the structure. When parking must be placed in the front of the structure, parking areas must be kept out of the front 15 feet of the property and should not exceed 50% of the front setback area.

#### Occupancy

1. New occupancies in converted houses should be limited to one business enterprise (with one business entrance) for structures under 2,000 square feet of gross leasable area. This will help eliminate overcrowding, proliferation of signs, elimination of landscaping, excessive on-site parking and overflow onto the street.

#### Landscaping

1. Landscaping shall be installed in areas not designated for parking and circulation.
2. Parking areas must have edge landscaping and be screened from public view.

#### Architecture

1. The conversion's remodeling should be architecturally compatible with the neighborhood and shall upgrade or at least be consistent with the basic architecture of the structure.
2. Signs should be consistent with the form and materials of the building. Illuminated signs are not permitted when adjacent to existing residential uses. Signs shall be limited to one per business, shall not exceed 4 square feet in size and must be attached to the structure. Window signs are not allowed.
3. Mechanical equipment shall be screened from public view and sited so as not to cause noise impacts on adjacent properties.
4. Garbage enclosures shall be provided in rear yard areas.

The existing buildings will be maintained and converted to school office and robotics club use, with only robotics practice taking place outdoors exclusively on the existing driveway. The project's conformance with the General Plan and the Zoning Code is described in sections 1 and 2 above. There will be no vehicular parking or circulation on site, as all parking for the school is provided at the adjacent campus and other off-site locations specified in the Special Use Permit for the Master Plan. Presentation High School will be the only occupant of the project site. All areas except for the driveway are landscaped and that landscaping will remain in place. The existing structures will not undergo any exterior changes, there will be no signs installed, any additional mechanical equipment will be screened from view, and trash containers will be provided at the rear of the property.



**7. California Environmental Quality Act.** The City of San José, as the lead agency for this project, prepared an Addendum to the Initial Study/Mitigated Negative Declaration (IS/MND) for the Presentation High School Master Plan Project (File No. SP18-008 and State Clearinghouse No. 2020050509). The Addendum analyzes the project modifications, which consist of a General Plan Amendment, Rezoning, and conversion of the property from single-family use to school use under a Special Use Permit and finds that the modified project would not result in new or substantially more severe significant impacts than disclosed in the IS/MND. Therefore, no subsequent EIR or Negative Declaration is required pursuant to CEQA Guidelines Section 15162 and an Addendum to the IS/MND pursuant to CEQA Guidelines Section 15164 has appropriately been prepared.

## **8. Permit Findings.**

**Special Use Permit Findings.** To make the Special Use Permit findings pursuant to San José Municipal Code Section 20.100.820, the City Council must determine that:

- a) The special use permit, as approved, is consistent with and will further the policies of the general plan and applicable specific plans and area development policies; and

*Analysis: The project includes an amendment to the General Plan to change the land use designation of the subject property to Public/Quasi-Public on the Envision San José 2040 General Plan Land Use/Transportation Diagram. The Public/Quasi-Public designation is used to designate lands used by some private entities, including private schools, that are consistent in character with established public land uses. Presentation High School has operated on the adjacent site for several decades, serving families in the surrounding neighborhood and throughout San José. Allowing the school to expand operations to the project site would further General Plan Goal ES-1 by creating additional space for the school's administrative functions and the student robotics club, which requires both indoor and outdoor space for its activities.*

- b) The special 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 consistent with and conforms to the Zoning Ordinance and all other provisions of the San José Municipal Code, including development standards, parking standards, and performance standards. The existing structures on the subject site are legal non-conforming with regard to the side setbacks, providing setbacks of three feet and four feet in lieu of the 10 feet required, however the applicant does not propose to make any changes to the floor area or exteriors.*

*As previously mentioned, 283 vehicle parking spaces are provided on the adjacent Presentation High School campus and other nearby properties owned by the school, as well as off-site at St. Christopher Parish and School under a 15-*

*year parking and field use agreement. Once the Presentation High School Master Plan is fully built out, all required parking spaces will be provided on-site. Because the project does not entail any increase in student enrollment or staff, no additional parking is required. The project is therefore consistent with the parking requirements.*

*Finally, with regard to noise, the project uses on site, including administrative and student robotics club functions, will take place largely indoors and would not generate exterior noise exceeding permitted levels. Some robotics practice will take place on the driveway pad in the interior of the site and along the southerly property line abutting the school campus. Furthermore, the permit conditions prohibit the use of amplified sound outdoors, so that the project will be consistent with performance standards for properties abutting residential uses.*

- c) The special use permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency; and

*Analysis: The project is subject to City Council Policy 6-30, Public Outreach Policy for Pending Land Use Development Proposals. The applicant posted an on-site sign on the frontage of the subject site on July 15, 2022. On September 12, 2022, the City hosted a virtual community meeting on the General Plan Amendment, Rezoning, and Special Use Permit. The hearing and community meeting notices were sent to all owners and tenants within 1,000 feet of the project site. Staff contact information was published on the posted Notice of Development sign located on the project frontage and on the mailing notices. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.*

*The project is also subject to City Council Policy 6-11, Conversion of Residential Structures to Non-Residential Uses, which establishes use and design criteria for such conversions. The policy states that light office and small, neighborhood uses are compatible with converted houses, which matches the proposed uses for the subject site. The administrative and robotics club activities will not generate nuisances that would affect surrounding residential uses. All existing structures and landscaping on the site will remain, also consistent with the policy.*

- d) The proposed use at the location requested will not:
- i. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
  - ii. Impair the utility or value of property of other persons located in the vicinity of the site; or
  - iii. Be detrimental to public health, safety, or general welfare; and

*Analysis: The project does not entail any new construction, nor will there be any increase in student enrollment or the number of staff on-site, so there will be no*

*new traffic impacts. Ongoing operations will consist of administrative functions inside the existing house, while the garage will be converted to a workshop for light assembly of robotics projects using machine tools and hand tools. As stated in the operations plan for the site, the only outdoor activity planned is robotics practice, which will take place on the driveway abutting the school campus to the south.*

*Robotics club activities will take place from 3:00 p.m. to 9:00 p.m. on weekdays and 9:00 a.m. to 8:00 p.m. on weekends. As described in the Addendum to the Mitigated Negative Declaration, noise impacts will be less than significant and intermittent, as machine use and robotics practice in the driveway are just two of the activities engaged in by club members, who also prepare mechanical designs and compete at off-site events. Pursuant to Section 20.40.600 of the Zoning Code, the school use is required to maintain noise levels below 55 decibels at any shared property line with a property used or zoned for residential purposes.*

- 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 the use with existing and planned uses in the surrounding area; and

*Analysis: The project does not include new construction and the only improvements will be to the interior of the existing structures. There will be no change to the existing yards, fences, and landscaping. The existing driveway will be maintained, although it will not be used for parking, as all parking for the school is provided on the adjacent campus and off-site at St. Christopher Parish and School.*

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

*Analysis: The project will not change the existing traffic patterns in the neighborhood associated with Presentation High School, since there will be no increase in student enrollment or the number of staff on-site. Furthermore, there will be no vehicle circulation between the high school campus and the subject site. Students and staff will use the existing sidewalk on Plummer Avenue to circulate on foot between the subject site and the campus.*

- 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: The project does not entail any construction or changes to existing landscaping. The anticipated activities will occur largely indoors and include administrative functions and robotics club activities that are not associated with nuisance impacts such as vibration, dust, runoff, or odors. Therefore, it will not have any significant impacts regarding noise, vibration, dust, drainage, erosion, stormwater runoff, or odors.*

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

## **CONDITIONS OF APPROVAL**

1. **Acceptance of Permit.** Per San José Municipal Code Section 20.100.290(B), should the Permittee fail to file a timely and valid appeal of this Special Use Permit within the applicable appeal period, such inaction by the Permittee shall be deemed to constitute all of the following on behalf of the Permittee:
  - a. Acceptance of the 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 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire four (4) years from and after the date of issuance hereof by the City Council, if within such time period, the proposed use of the site or the construction of buildings (if a Building permit is required) has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the City Council. However, the Director of Planning, Building and Code Enforcement may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved Special Use Permit plans entitled, "Special Use Permit 2267 Plummer Ave" dated October 11, 2022, 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 "Approved Plan Set."

4. **Tree Protection Standards.** The Permittee shall maintain the trees and other vegetation shown to be retained in this project and as noted on the Approved Plan Set. Maintenance shall include pruning and watering as necessary and protection from construction damage.
5. **Use Authorization.** This Permit allows private secondary school use of the existing single-family house for school administrative functions from 7:00 a.m. to 11:00 p.m. daily and use of an existing detached garage and any outdoor areas on the subject site for student club activities from 3:00 p.m. to 9:00 p.m. Monday through Friday and 9:00 a.m. to 8:00 p.m. on weekends, in accordance with the Operations Plan. Amplified sound is prohibited outdoors and the buildings shall be adequately insulated to prevent sound from emanating outside.
6. **Parking.** Vehicle parking or circulation, as well as loading/unloading of vehicles, are not permitted in the driveway of the project site.
7. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City of San José.
8. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, state, and federal laws.
9. **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.
10. **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.
11. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.
12. **Utilities.** All new on-site telephone, electrical, and other service facilities shall be placed underground.
13. **Anti-Graffiti.** All graffiti shall be removed from buildings and wall surfaces, including job sites for projects under construction, within 48 hours of defacement.
14. **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.
15. **No Sign Approval.** No signs are approved at this time. Any signs shall be subject to review and approval by the Director of Planning, Building and Code Enforcement through a subsequent Permit Adjustment.

16. **Building and Property Maintenance.** The property shall be maintained in good visual and functional condition. This shall include, but not be limited to, all exterior elements of the buildings such as paint, roof, paving, signs, lighting, and landscaping.
17. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
18. **Mechanical Equipment.** The location and type of mechanical equipment shall be as shown on the Approved Plans and shall be screened from view. Changes to the mechanical equipment requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning, Building and Code Enforcement.
19. **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.
20. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to issuance of Building permits, the Permittee will be required to have satisfied all of the following Public Works conditions. The Permittee is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <https://www.sanjoseca.gov/your-government/departments-offices/public-works/development-services>
  - a. **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.
  - b. **Transportation:** A Traffic Analysis ("TA") was performed by Hexagon Transportation Consultants for the Presentation High School Master Plan project in association with Project Permit SP18-008. The projected traffic for this project was reviewed and found to be within that analysis as no new students or faculty will be added to the previously approved amount.
  - c. **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 and source controls to minimize stormwater pollutant discharges.
  - d. **Stormwater Peak Flow Control Measures:** The project is located in a Hydromodification Management (HM) area. However, the project will not create and/or replace one acre or more of impervious surface. Therefore, the project

does not need to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14) which requires HM projects to demonstrate that post-project runoff does not exceed estimated pre-project runoff rates and durations.

- e. **Flood Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
  - 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 issuance of Public Works clearance.
  - g. **Street Improvements:**
    - i. Remove and replace broken, uplifted curb and gutter as well as broken, uplifted, or non-ADA compliant sidewalk along project frontage.
    - ii. Improvement of the public streets shall be to the satisfaction of the Director of Public Works.
  - h. **Street Trees:** Replace any missing street trees in park strips along Plummer Avenue and match existing trees per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects." Obtain a street tree planting permit from the Department of Transportation for any proposed tree plantings.
21. **Revocation, Suspension, Modification.** This 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 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**.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
MATT MAHAN  
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.*