RESOLUTION NO.____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT PERMIT TO ALLOW THE CONSTRUCTION OF ONE NEW TWO-STORY, APPROXIMATELY 10,720-SQUARE-FOOT CHURCH EDUCATION BUILDING CONTAINING ALTERNATING USES OF A RELIGIOUS SCHOOL, PRESCHOOL, LANGUAGE SCHOOL, AND A PRIVATELY-OPERATED COMMUNITY CENTER, INCLUDING OUTDOOR USES, APPROXIMATELY 50 FEET FROM A RESIDENTIALLY-ZONED PROPERTY, AND AN APPROXIMATELY 1,950-SQUARE-FOOT AUXILIARY BUILDING THROUGH THE DEMOLITION OF AN APPROXIMATELY 3,563-SQUARE-FOOT CHURCH EDUCATION BUILDING AND FOUR SINGLE-FAMILY HOUSES AND ONE ACCESSORY BUILDING AND THE REMOVAL OF SIX TREES (TWO ORDINANCE-SIZE AND FOUR NON-ORDINANCE-SIZE) ON AN APPROXIMATELY 1.17-GROSS-ACRE SITE LOCATED BETWEEN NORTH FOURTH AND NORTH FIFTH STREET, APPROXIMATELY 220 FEET NORTHERLY OF JACKSON STREET (639-645 NORTH FIFTH STREET AND 620-642 NORTH FOURTH STREET) (APNS 249-41-075, -009, AND -022 THROUGH -025)

FILE NO. PD23-016

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on August 17, 2023, Steven Onishi of San José Buddhist Church Betsuin, the owner of the site, filed a Planned Development Permit application (File No. PD23-016) with the City of San José to allow the construction of one new two-story, approximately 10,720-square-foot church education building containing alternating uses of a religious school, preschool, language school, and a privately-operated community center, including outdoor uses approximately 50 feet from a residentially-zoned property, and an approximately 1,950-square-foot auxiliary building through the demolition of an approximately 3,563-square-foot church education building and four single-family houses and one accessory building and the removal of six trees (two ordinance-size and

four non-ordinance-size) on an approximately 1.17-gross-acre site, on that certain real property situated in the PQP(PD) Planned Development Zoning District and located between North Fourth and North Fifth Streets, approximately 220 feet northerly of Jackson Street (639-645 North Fifth Street and 620-642 North Fourth Street) (the "subject property"); and

WHEREAS, a legal description of the subject property is attached as Exhibit "A" and depicted in the parcel map attached as Exhibit "B," which are incorporated by reference; and

WHEREAS, at a duly noticed public hearing on July 9, 2025, the Planning Commission considered public comments and all evidence and testimony received at the public hearing regarding the Project and recommended that the City Council approve the Project; and

WHEREAS, this City Council received and considered the reports and recommendations of the City's Planning Commission and City's Director of Planning, Building, and Code Enforcement and conducted a duly noticed public hearing on the Project, giving all persons full opportunity to be heard and to present evidence and testimony; and

WHEREAS, at said hearing, this City Council received in evidence a plan for the subject property entitled, "LOTUS PRESCHOOL AND CLASSROOM REPLACEMENT" dated November 5, 2024, and last revised January 10, 2025; said plan is on file in the Department of Planning, Building and Code Enforcement, is available for inspection, and is incorporated by reference; and

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

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

The foregoing recitals are hereby incorporated by reference as if fully set forth herein, and after considering evidence presented at the public hearing the City Council finds that the following are the relevant facts and findings regarding this Project:

1. **Site Description and Surrounding Uses.** The subject property is located in an eligible historic district (the Japantown National Register and City Landmark Districts) between North Fourth and Fifth Streets, approximately 220 feet northerly of Jackson Street (639-645 North Fifth Street & 620-642 North Fourth Street). The approximately 1.17-gross acre site currently has six lots and is developed with a church education building (constructed in 1950), four single-family houses (constructed in the 1900s), and one accessory building. Access to each existing lot is from driveways off of Fourth or Fifth Street, depending on the frontage of the lot. Surrounding land uses include single-family and multifamily residences to the north, south, and west (across Fourth Street). The main building of the San José Buddhist Church Betsuin is to the east across Fifth Street.
2. **Project Description.** The Project is to allow the construction of one new two-story, approximately 10,720-square-foot church education building containing alternating uses of a religious school, preschool, language school, and a privately-operated community center, including outdoor uses approximately 50 feet from a residentially-zoned property, and an approximately 1,950-square-foot auxiliary building through the demolition of an approximately 3,563-square-foot church education building and four single-family houses and one accessory building and the removal of six trees (two ordinance-size and four non-ordinance-size) on an approximately 1.17-gross-acre site located between North Fourth and North Fifth Streets, approximately 220 feet north of Jackson Street (639-645 North Fifth Street and 620-642 North Fourth Street). The site, including the parking lot, will also be utilized for community events, including the annual Obon Festival.

   In conjunction with the Planned Development Permit, the Project also includes a Planned Development Rezoning, File No. PDC23-104, and a Vesting Tentative Map, File No. T23-016. The Planned Development Rezoning rezones the site from the PQP Public/Quasi-Public Zoning District and R-M Multiple Residence District to the PQP(PD) Planned Development Zoning District, and the Vesting Tentative Map combines six existing parcels totaling 1.07 gross acres into a single lot.
3. **Envision San José 2040 General Plan Consistency**. This Project site has both a Public/Quasi-Public and Residential Neighborhood land use designation in the Envision San José 2040 General Plan Land Use/Transportation Diagram.

   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. Private community gathering facilities, including those used for religious assembly or other comparable assembly activity, are also appropriate on lands with this designation. The appropriate intensity of development can vary considerably depending on potential impacts on surrounding uses and the particular Public/Quasi-Public use developed on the site. There is no minimum or maximum Floor Area Ratio (FAR) in this designation.

The Residential Neighborhood designation is applied broadly throughout the city to encompass most of the established, single-family residential neighborhoods, including both the suburban and traditional residential neighborhood areas which comprise the majority of its developed land. The intent of this designation is to preserve the existing character of these neighborhoods and to strictly limit new development to infill projects which closely conform to the prevailing existing neighborhood character as defined by density, lot size and shape, massing and neighborhood form and pattern. Private Community Gathering Facilities compatible with the surrounding residential neighborhood are also supported under this land use designation. The designation allows a density of 8 dwelling units per acre (du/ac), up to 16 du/ac in some cases, and a maximum FAR of 0.7.

Analysis: A private community gathering facility, such as a church, is allowed in both the Public/Quasi-Public and Residential Neighborhood designations. All construction is located entirely on the Public/Quasi-Public portion, and is a church education building, which features a preschool (daycare center), a language school, and a privately-operated community center. Each of these uses is consistent with the Public/Quasi-Public designation and can be located on the portion of the site with a PQP-based zone pursuant to General Plan Policy IP-1.4, as analyzed below.

The Project is consistent with the following key General Plan policies:

Vibrant Neighborhoods (Cultural Opportunities) Policy VN-4.2: Encourage the availability of diverse cultural spaces and places throughout the community that can be used for arts and cultural education, rehearsals, production, performance, and other programming.

Analysis: This Project includes a private community center space and multipurpose room which can be used for cultural education and other programming for the community.

Vibrant Neighborhoods (Private Community Gathering Facilities) Policy VN-5.3: Encourage Private Community Gathering Facilities as a primary or secondary dual- or multi-use with other activities.

Analysis: This Project includes a private community gathering facility (community center and church (Sunday school)), but also includes other uses, including a day care and language school (private instruction).

Land Use Policy LU-13.1: Preserve the integrity and fabric of candidate or designated Historic Districts.

Analysis: The Project includes contributing structures to the eligible Japantown National Register and City Landmark Districts. While the Project includes demolition of these structures, the integrity of these districts is preserved through a permanent commemorative interpretive program. The Project use would be in conformance with the cultural aspects of the historic districts, including the continuation of Japanese religious and cultural programming.

Implementation (Land Use/Transportation Diagram) Policy IP-1.4: For contiguous properties in single ownership that have multiple land use designations, the boundary between designations may be an undulating or "wavy" line. When such boundary occurs on the Land Use/Transportation Diagram it means that some flexibility may be allowed in the location of the designated uses. The same general land area and allocation of uses should be maintained, but the designated uses may be relocated on the site if they are compatible with surrounding land use designations, and do not impact the viability of developing the rest of the site. This policy also applies to a single property with multiple land use designations.

Analysis: This Project consists of six parcels, one of which is designated Public/Quasi-Public (approximately 0.44 gross acres), while five are designated Residential Neighborhood (totaling approximately 0.73 gross acres). Policy IP-1.4 allows for the reconfiguration of the land use designations, while maintaining the same land area. Consistent with Policy IP-1.4, the Planned Development Zoning retains the same area allocation for each of the two designations, allowing the PQP zoning (PQP-designated) portion to extend across the southern property line. This encroachment is compensated for by extending an R-M-zoned (RN-designated) portion of the lot to take the remainder of the parcel. As a result, the church education building will be constructed in the PQP-based Portion 1 of the parcel, occupying the entire parcel length from Fourth to Fifth Street. Should the owner wish to do so in the future, the implementation of this policy allows residential uses to be implemented in the northern portion of the site, while constraining the church education building to the southern portion of the site, as contemplated by the General Plan.

Implementation (Zoning) Policy IP-8.5: Use the Planned Development zoning process to tailor such regulations as allowed uses, site intensities and development standards to a particular site for which, because of unique circumstances, a Planned Development zoning process will better conform to Envision General Plan goals and policies than may be practical through implementation of a conventional Zoning District. These development standards and other site design issues implement the design standards set forth in the Envision General Plan and design guidelines adopted

by the City Council. The second phase of this process, the Planned Development permit, is a combined site/architectural permit and conditional use permit which implements the approved Planned Development zoning on the property.

Analysis: The Planned Development zoning process is required in this case to implement IP-1.4. Since the site already has conforming zones to the General Plan Land Use/Transportation Diagram for each parcel, the reallocation of land area must be done through a Planned Development zoning to allow the mix of uses in the building, as the contemplated language school use is not allowed in an R-M zone. The Planned Development zoning process has been tailored to the site and the proposal by allowing the Project to locate the church education building on the south side of the lot, and allowing the site to be laid out in a manner that supports the proposed uses, including proposed community events.

4. Zoning Ordinance Consistency

The Project includes a rezoning from the PQP Public/Quasi-Public and R-M Multiple Residence zoning districts to the PQP(PD) Planned Development Zoning District.

Land Use

Chapter 20.60 of the San José Municipal Code allows a Planned Development Zoning District to be established through ordinance, including regulations for allowed uses and development standards. The Planned Development zoning can be effectuated through a valid Tentative Map or Planned Development Permit. Per Section 20.60.040.B of the Zoning Code, when a PD permit has been implemented, the provisions of the permit prevail over the regulations of the base district zoning of the property. The base PQP Public/Quasi-Public zoning district of the proposed PQP(PD) Planned Development Zoning District adopts the more permissive zoning of the overall Project site.

Per the general development plan, Portion 1 of the site allows permitted, special, and conditional uses of the PQP Public/Quasi-Public Zoning District. The new church education building is within Portion 1 of the parcel. All uses proposed for the building (church/religious assembly; day care center; private instruction, personal enrichment; and privately-owned community center) are either permitted or allowed with a Special Use Permit in the PQP Public/Quasi-Public Zoning District pursuant to Table 20-90 (Section 20.40.100), and therefore, a Planned Development Permit is required to allow these uses pursuant to Section 20.100.910. Additionally, the Project includes outdoor uses (including a play area and outdoor garden and courtyard) within 150 feet of residentially-zoned property and therefore requires a Special Use Permit in the PQP zone (Section 20.40.520). Section 20.40.250 includes a list of prohibited outdoor uses in PQP and commercial zoning districts, none of which are proposed in this Project; therefore, the Planned Development Permit also covers the requested outdoor uses.

Per the general development plan, Portion 2 of the site allows permitted, special, and conditional uses of the R-M Multiple Residence Zoning District, as well as parking,

loading, and circulation (ingress and egress) for any uses located in Portion 1 of the site. Portion 2 of the parcel includes parking and circulation for the site, as well as a portion of the garden, plaza, and preschool play area, all of which are ancillary uses to the site and allowed in the R-M zone.

Development Regulations

The height and setbacks for the Planned Development Zoning are listed in the table below, matching the PQP or R-M zoning standards in the Zoning Code, as amended. The table compares the existing PQP or R-M Standards per Sections 20.40.200 or 20.30.200, respectively, of the Zoning Code, and the proposed PQP(PD) Planned Development Zoning District development standards. Per Section 20.60.040.B of the Zoning Code, when a PD permit has been implemented, the provisions of the permit prevail over the regulations of the base district zoning of the property. The table also shows Project compliance with the proposed standards.

Standard	**Existing Zoning District Requirements**	**PQP(PD) Planned Development Zoning District Development Standards**	**Project Compliance with PD Standards**
Front (Fifth St.)	PQP: 10 feet min. R-M: 10 feet min.	10 feet min.	26 feet
Front (Fourth St.)	PQP: 10 feet min. R-M: 10 feet min., 60 feet for accessory structures	10 feet min., 60 feet for accessory structures in Portion 2	10 feet; 60.5 feet to accessory structure
Side (north)	R-M: 5 feet min., no setback for accessory structures	Portion 2: 5 feet min., no setback for accessory structures	4 feet to accessory structure
Side (south)	PQP: 10 feet min. R-M: 5 feet min.	Portion 1: 10 feet min.	10 feet
Height	120 feet*	120 feet*	26.5 feet

* The allowed height at the site is 120 feet pursuant to Section 20.85.020.B, as the site is within the downtown frame area.

Analysis: As shown on the Planned Development Permit PD23-016 Plan Set, the Project conforms with all required height and setback standards pursuant to the general development plan of the PQP(PD) Planned Development Zoning District.

Transportation Demand Management and Vehicle Parking:

Under Table 20-190 (Section 20.90.060), a daycare is considered a Commute-End Use (CEU), and a church/religious school, language school, and community center

are all considered Visit-End Uses. The Project includes a total of 12,670 square feet of floor area, with the preschool (daycare center) occupying 3,310 square feet.

Analysis: This Project is exempt from Transportation Demand Management (TDM) requirements as per Section 20.90.900.B.2 as projects with fewer than 10,000 square feet of commute-end uses and fewer than 100,000 square feet of visit-end uses are exempt from the requirements of Part 9, Section 20.90.900 of Chapter 20.90 of the San José Municipal Code.

Off-Street Parking Exceptions:

The Project includes 50 parking spaces in a surface parking lot accessed from North Fifth Street. As described below, the location of the parking requires exceptions to Sections 20.90.120.A and B of the San José Municipal Code, regarding off-street vehicle spaces in setback areas. Additionally, the surface of the rear portion of the parking lot is designated as gravel, and therefore must be treated and maintained in a manner consistent with Section 20.90.140 of the San José Municipal Code, as conditioned in this Planned Development Permit.

Section 20.90.120.A: No off-street vehicle parking space or off-street loading space shall be located within any side or front setback area required by other provisions of this title unless otherwise explicitly allowed or the director finds that the location of the off-street vehicle parking space or off-street loading space within the front or side setback area will not adversely affect surrounding development and issues a development permit or a development exception if no development permit is required.

Analysis: The off-street vehicle parking spaces are located within the front setback areas on both Fourth and Fifth Streets, and within the side setback to the north. However, it is found that the location of these parking spaces will not adversely affect surrounding development, in that the parking lot is for a church education building and its associated uses, the parking within the Fifth Street front setback meets the Citywide Design Standards, the parking within the Fourth Street front setback cannot be accessed from Fourth Street, and the side setback to the north is approximately four feet (one foot less than the setback), and the building and parking lot are not to be used overnight.

Section 20.90.120.B: No setback for any vehicle parking area consisting of six or more parking spaces located in, or adjoining, any residential district shall be less than the front setback, and corner side setback, if any, of the adjoining residential lot or parcel, unless the director finds that the location of the off-street vehicle parking space or off-street loading space within the front setback or corner side setback area will not adversely affect surrounding development and issues a development permit or a development exception if no development permit is required.

Analysis: The off-street vehicle parking spaces are located within the front setback areas of the adjoining parcels on both Fourth and Fifth Streets. However, it is found that these parking spaces will not adversely affect surrounding development, in that

the edge of the drive aisle is approximately 20 feet from the nearest lot line on Fifth Street, the front setback to the first space on Fifth Street meets the Citywide Design Standards, and the parking lot cannot be accessed from Fourth Street.

Bicycle Parking:

Table 20-190 of Section 20.90.060 requires bicycle parking spaces for each of the proposed uses.

Use	Bicycle Parking Required	Criteria	Spaces Required
Church/Religious Assembly	1 per 60 fixed seats or 1 per 450 square feet designed for assembly	No fixed seating 4,497 SF	10 spaces *(at least 8 short-term)*
Day care center	1 per 10 full-time employees and children	30 children and 2 FTE	4 spaces *(at least 1 long-term)*
Private instruction, personal enrichment	1 per 10 students and full-time employees	Maximum of 102 students, no FTE	11 spaces *(at least 9 short-term)*
Community center	1 per 60 fixed seats, plus 1 per 3,000 square feet of area without seating but designed for meeting or assembly by guests, plus 1 per 5,000 square feet of outdoor area developed for recreational purposes	No fixed seating 9,360 SF for meeting Approx. 14,000 SF for recreational purposes	7 spaces *(at least 6 short-term)*

The highest bicycle parking requirement comes from the private instruction (language school) use, which requires 11 bicycle parking spaces (at least nine of which must be short term). Additionally, per Section 20.90.060.B, two short-term and one long-term space are required for a non-residential use, matching the highest required long-term bicycle parking requirement (for the day care center). Therefore, a total of 11 bicycle

spaces are required, nine of which must be short-term, and one of which must be long-term.

Analysis: Ten short-term and two long-term bicycle spaces are included at the Project site, and the Project meets the requirement.

Two-Wheeled Motorized Vehicle Parking

Pursuant to Section 20.90.350.A, two-wheeled motorized vehicle parking shall be provided at a rate of 2.5% of standard vehicle parking required, so long as ten or more parking spaces are provided. As 50 vehicle parking spaces are provided, two two-wheeled motorized vehicle parking spaces are required.

Analysis: Two two-wheeled motorized vehicle parking spaces are included at the Project site and the Project meets the requirement.

Noise

This Project is subject to the performance standards in Sections 20.30.700 and 20.40.600 of the Municipal Code. Specifically, the Project is subject to the noise standards in Table 20-85 and Table 20-105. In both tables, the maximum noise level in decibels at the property line adjacent to a property used or zoned for residential purposes is 55 decibels.

Analysis: A noise study was prepared for the Project by P. Sanders Acoustics, LLC (Phil Sanders) on June 19, 2024. The study found that new mechanical equipment can be mitigated to 54 dB at both the north and south property lines through adequate mitigation, including location and screening to the south, east, and west. Due to the location of the play yard, the estimated maximum noise level at both the north and south property lines is also 54 dB, which complies with the noise requirements. Therefore, with implementation of the mitigation measures and standard environmental conditions included in the Project conditions of approval in this Planned Development permit, the Project meets the noise requirements of the San José Municipal Code.

5. San José Design Guidelines Consistency

Citywide Design Guidelines and Standards Consistency

This Project is subject to relevant Citywide Design Standards, except when exceptions, concessions, or waivers have been granted. This Project is granted the following exceptions under Section 1.1.2 of the Citywide Design Guidelines and Standards, as further described and analyzed below:

Section 2.3.6, Standard S4. Provide a five-foot-wide pedestrian walkway, at minimum, to connect buildings and parking or other walkways for at least every 200 feet.

Analysis: The Project does not provide any pedestrian walkways across the two-row parking lot every 200 feet.

Section 2.3.8, Standard S1. Select trees which at maturity create a tree canopy cover that shades a minimum of 50 percent of each on-site surface parking area, common open space at the ground floor, and Privately-owned (and maintained) Public Open Space.

Analysis: The Project shades 35% of the parking lot, including the drive aisles, and does not meet the Standard requiring a minimum of 50% shade for the parking area.

Section 2.3.8, Standard S3. Designate 700 cubic feet of noncompacted soil for small trees, 1400 cubic feet of non-compacted soil for medium trees, and 2100 cubic feet of noncompacted soil for large trees to allow trees to reach their maturity. Structural soil systems, soil cells, or continuous trenches are example of ways to reach to the above soil volumes.

Analysis: The Project does not meet this requirement due to the need for pedestrian connections across the site and the amount of proposed hardscape (parking lot area and plaza) necessary for community events such as the Obon festival. As a result, the amount of space available for softscaping, including area for noncompacted soil around trees, is insufficient to meet this Standard.

Section 2.3.8, Standard S9. Provide at least a five-foot-wide landscape buffer at the side and rear property lines and a five-foot-tall solid wall/concrete fence at the shared property lines where Commercial or Mixed-Use General Plan land use designations abut Residential General Plan land use designations.

Analysis: The Project provides a clearance for emergency access along the southern property line, resulting in a landscape buffer of less than five feet, which does not meet the Standard.

Section 3.3.1, Standard S1. Articulate all building façades facing a street or public open space for at least 80 percent of each façade length. Articulate all other building façades for at least 60 percent of each façade length.

Analysis: The shed building at the southern corner of the site is not articulated, as it is a plain, unadorned shed structure with minimal architectural elements due to its small size, and therefore does not meet the Standard.

Exception Analysis:

Based on the Project plans and design standard exception request, there is no physical constraint or unique situation which make it infeasible to comply with each design standard above; therefore, these exceptions are granted based on the following findings. Findings 1, 2, and 4 are made for the entire Project as a whole, with no individual justification for each exception request; Finding 3 includes individual justification for each section.

1. The project advances the Major Strategies of Chapter 1 of the General Plan.

   Analysis: The Project advances Major Strategies #2 (Form Based Plan) and #3 (Focused Growth) as per the following.

   Form Based Plan: The Project site follows the allowed land uses, form, and character of the site, as allowed by the Public/Quasi-Public designation and Implementation Policy IP-1.4. The remainder of the site, designated Residential Neighborhood, does not include physical development, and can be used in the future to continue to build out the Japantown neighborhood at appropriate densities.

   Focused Growth: While the Project site is not within a growth area, the development fits in with the existing Japantown neighborhood pattern and enhances the neighborhood character. The Project replaces an existing church education building with a new and larger building, but does not change the traffic patterns of the existing site, and continues to provide the Japantown community with community space, facilities, and services.

2. The project is consistent with the Values and Guiding Principles of Section 1.2.1 of the Design Guidelines.

   Analysis: The Project is consistent with the Values and Guiding Principles of the Design Guidelines, as per the following.

   Health and Active Design: The Project features a new sidewalk along the 5th Street frontage, providing improved connections from the site to other areas of Japantown and incorporates bicycle facilities throughout the site.

   Well-Designed Development: The Project features high-quality architecture, adhering to many of the Citywide Design Guidelines, and its design thoughtfully reflects and responds to the existing neighborhood and historic district.

   Identity and Culture: This Project reflects the Japantown area in its design by incorporating cultural elements, including a garden and courtyard area on-site. Additionally, the Project is designed to support existing cultural events, such as the Obon Festival, as well as existing and recurring cultural classes, including religious and language classes.

3. The project achieves the stated Rationale of the section of the Design Guidelines as set forth for each applicable Standard; and

   Section 2.3.6, Vehicular Parking Placement and Surface Parking Design. Surface parking areas should not interfere with walkability and urban vitality.

   Analysis: The Project limits itself to one driveway entry for parking and two parking aisles, therefore limiting its impact on walkability on both frontages. The layout of the Fifth Street frontage, especially including the garden area, lends itself to urban vitality by creating active space on the street.

Section 2.3.8, Landscaping and Stormwater Management. Create welcoming places and enhance the quality of the environment with sustainable landscaping areas.

Analysis: The Project uses hardscape in order to create a garden and courtyard area next to the building. Additionally, the site is planned to be used for the Obon Festival, and therefore, would be able to create a welcoming place through its transformation for the event; the Standards within this section would not allow enough hardscape for this to occur.

Section 3.3.1, Façade Design and Articulation. Design buildings with attractive, timeless, and sophisticated contemporary architecture.

Analysis: The main building meets all Standards in this Project; the rear shed structure does not, but still is designed in a manner with a sloped roof and architectural lines that allow it to be appealing for a small accessory structure.

4. There are counterbalancing considerations that justify the inconsistency.

   Analysis: This site includes a multipurpose church education building which reflects and furthers the culture of Japantown, and is designed to host a major cultural event, the Obon Festival, and therefore, such counterbalancing considerations can be made to justify the inconsistency with the Citywide Design Guidelines.

The Project complies with the following key Citywide Design Standards:

Section 2.2.1, Standard S4. Locate curb cuts at least 20 feet away from publicly-accessible open spaces and 50 feet away from pedestrian and bicycle entrances, except within porte-cochères and for sites with less than 60 feet of street frontage.

Analysis: The curb cut is located about 55 feet from the pedestrian entrance to the site.

Section 2.3.6, Standard S3. Screen at least 75 percent of surface parking from primary streets, secondary streets, public open spaces, and adjacent sites with Mixed-Use and Residential General Plan land use designations using landscaping or three-foot-tall architectural elements that (a) utilize the same materials, colors, and lighting fixtures as the site or building façades on the property for at least 75 percent of the area, or (b) are covered with landscaping or public art for at least 75 percent of the total length along public open spaces, primary streets, and secondary streets.

Analysis: On the Fifth Street frontage, the parking is screened from adjacent streets through the use of landscaping, including trees and shrubs. Additionally, a five-foot solid wood fence will be used to screen the parking lot from the Fourth Street frontage and the residentially-designated parcels to the north.

Section 3.1.3, Standard S3. Use historic materials that match nearby historic buildings on at least 25 percent of a street, paseo or public open space facing façade and on

10 percent of other façades that are visible from the public realm. Historic materials include masonry, brick, limestone, terra cotta, cast stone, mosaic, concrete, and wood (trim, finishes, and ornament only).

Analysis: The Project includes cement plaster to be consistent with the main San Jose Buddhist Church Betsuin, across Fifth Street. The provided fiber cement board, which is similar to and molded to look like cement plaster, for approximately 90% of non-windowed exteriors.

Section 3.3.1, Standard S1. Articulate all building façades facing a street or public open space for at least 80 percent of each façade length. Articulate all other building façades for at least 60 percent of each façade length.

Analysis: The main building is in conformance with this Standard through articulation with architectural lines on the front and rear and a rhythmic window and door pattern on the sides.

6. City Council Policy Consistency

City Council Policy on the Preservation of Historic Landmarks

Staff followed the City Council Policy on the Preservation of Historic Landmarks, resulting in this Project being referred to the Historic Landmarks Commission for its March 6, 2024 meeting for comment under early referral because the Project impacts the integrity of an eligible historic district (the eligible Japantown National Register District and eligible Japantown City Landmark District) through the demolition and construction of structures within the eligible districts.

Three commenters spoke on the Project at the HLC meeting. One commenter noted that the church has been a key organization for cultural preservation in Japantown through their support for other organization and hosting the Obon Festival. Another commenter spoke as the granddaughter of the family which formerly resided at 624 North Fourth Street, one of the buildings to be demolished; she stated that her grandparents were lifelong members of the Church and intended for the Church to use the property in any way they deemed appropriate. Another commenter spoke on behalf of PAC*SJ, and stated that PAC*SJ is always in support of finding solutions to move buildings or reuse materials whenever feasible, but noted that after a site visit, it became more apparent why the structures were deemed to be contributors to the district rather than individually significant buildings.

Commissioner comments focused on questions for the properties to be demolished, the relationship to the community, including the Japanese American Museum of San José, the practicability of reuse of the existing building, feasibility of parking alternatives, and an interpretive display to allow the structures to continue to be a portion of the site. Commissioners concluded with suggestions that the houses should be retained on site and incorporated into the Project design due to their significance, or otherwise relocated.

These comments from the public and the commissioners were received by staff, and mitigation measures included in the Mitigated Negative Declaration include the offers for relocation and salvage of the existing buildings and a requirement for an interpretive exhibit or display.

City Council Policy 6-14: Child Care Policy

This Project includes a preschool, and is therefore subject to Council Policy 6-14, Child Care Policy. This Project is consistent with the following relevant criteria in the policy:

a. Facility Location

1) New Child Care Centers are encouraged on developed school sites and in conjunction with church uses.

Analysis: This preschool is within the church education building.

2) New Child Care Centers are encouraged in the transitional or mixed use areas at the margins of homogenous neighborhoods as long as the health and safety of the children is protected, and compatibility with proximate uses assured.

Analysis: The preschool is situated in a transitional area, adjacent to single-family, multifamily, commercial, and institutional uses. The preschool is compatible with proximate uses, with a play area located in the middle of the lot, and the health and safety of the children can be protected through the school's operations plan, which indicates that there will be a chain of custody from any child's guardian and a staff member at pick-up and drop-off.

b. Traffic and Circulation

1) Access to new Child Care Centers to pickup and drop-off children should not negatively impact off-site traffic flow by causing on-street stacking or stopping.

Analysis: There is a large parking lot on-site for pick-up and drop-off operations, and the operation of the site would not impact off-site traffic flow. The Project site includes 50 parking spaces, and the Transportation Analysis, prepared by Hexagon Transportation Consultants, Inc. and dated August 29, 2024, finds that approximately three parking spaces would be required at peak pick-up or drop-off periods. The parking space requirement is conditioned within this Planned Development Permit.

2) New Child Care Centers should provide adequate vehicular driveways and sufficient turn-around areas for adequate on-site circulation.

Analysis: Adequate vehicular driveways and sufficient turn-around areas are available in the parking lot area at the rear of the site for on-site circulation.

c. Parking and Drop-off

1) Parking areas should not be located in the front or side setback areas.

Analysis: The required parking area reserved for drop-off/pick-up (i.e., the three parking spaces required by the Transportation Analysis) shall be conditioned to be outside of the side setback area.

2) Child Care Centers should provide adequate short-term parking to accommodate child drop-off areas, which are not located in the public right-of-way.

Analysis: The Transportation Analysis found that three spaces would be adequate to meet peak drop-off/pick-up demand, where 50 parking spaces are provided. Therefore, based on the provided parking and projected turnover rate, there is adequate short-term parking provided for all times of day.

d. Site Design

1) New Child Care Centers should be on sites that are able to adequately accommodate the physical requirements of on-site circulation, parking, play areas and setbacks. [The City's] experience has found that this is normally at least a 10,000 square foot parcel or site.

Analysis: This site is 1.17 gross acres, greater than 10,000 square feet.

2) New Child Care Centers should install a minimum 6-foot high fence around the active outdoor play areas for child security. A wall may be required to minimize potential impacts from outdoor play and parking areas to surrounding residential uses.

Analysis: A six-foot-high playground fence will be erected around the active outdoor play areas. As the play area is in the middle of the site, it would have minimal noise impacts to surrounding residential uses and eliminate potential accidental damage to nearby properties due to play.

3) New Child Care Centers proximate to residential neighborhoods should locate play areas away from adjacent residences as much as possible.

Analysis: The play area is located in the middle of the lot, across two parking aisles and a driveway from residences to the north and on the other side of the education building from residences on the south.

e. Operation

1) To minimize adverse impacts to adjacent residences, Child Care Centers adjacent to residential neighborhoods should operate only from 6:00 a.m. to 7:00 p.m., Monday through Friday.

Analysis: The operations plan states that the preschool operates from 7:00 a.m. to 6:00 p.m., Monday to Friday.

2) New Child Care Centers are required to meet the noise standards of the Zoning Ordinance and should meet the City's noise standards as specified in the

adopted San José 2020 General Plan. A noise study may be required for Child Care Centers proximate to residential neighborhoods to evaluate noise levels and identify appropriate mitigation.

Analysis: A noise study found that the play yard activities will result in a maximum noise level at the north and south (residential) property lines is 54 dB, which is below the City's 55 dB noise maximum at residential property lines.

City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals

Under City Council Policy 6-30, the Project is a standard development. Standard development projects are required to provide Early Notification by website and e-mail to property owners and tenants within a 500-foot radius, and by on-site signage. Following City Council Policy 6-30, the required on-site sign has been posted at the site since June 10, 2024, to inform the neighborhood of the Project. No community meeting was required or held for this Project. The staff report is posted on the City's website, and staff has been available to respond to questions from the public. As this Project includes a rezoning, the Project was also noticed in compliance with AB 2904.

7. California Environmental Quality Act.

The City of San José, as the lead agency for the project, prepared an Initial Study/Mitigated Negative Declaration (IS/MND) in full compliance with CEQA. The IS/MND was circulated for public review and comment from May 5, 2025 through May 28, 2025. Three formal letter was received during the public circulation period, from the Santa Clara Valley Water District, the Amah Mutsun Tribal Band of San Juan Bautista, and Pacific Gas & Electric Company. The comment letters did not result in any substantial changes to the project description, analyses, and/or impacts that was previously disclosed in the IS/MND. These environmental comments are addressed by staff in a formal Response to Comments document.

The IS/MND identified relevant mitigation measures for potential impacts related to construction equipment, nesting birds, historic structures (including a historic resource assessment and impact analysis), archaeological deposits, soil contamination, and construction noise and vibration impacts on adjacent buildings and businesses. In addition, standard permit conditions are made part of the permit approval. These standard permit conditions include best management practices for controlling dust and exhaust during construction, tree replacement, compliance with the Habitat Plan, uncovering buried archaeological or historic resources and human remains during construction activities, preventing impacts from lead-based paint and asbestos during demolition activities, preventing stormwater pollution during construction, managing mechanical equipment noise, and interior noise levels. 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 IS/MND, Response to Comments, and other related environmental documents are available on the Planning web site at: https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/negative-declaration-initial-studies/san-jose-buddhist-church-betsuin-expansion

8. Planned Development Permit Findings. Section 20.100.940 of the Zoning Ordinance specifies the required findings for approval of a Planned Development Permit:

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

Analysis: As analyzed in the General Plan Consistency section above, the Project is consistent with the Public/Quasi-Public and Residential Neighborhood land use designations per the General Plan, including relevant goals and policies. This includes consistency with policies regarding sites with multiple General Plan designations, vibrant neighborhoods, and Planned Development Zonings.

Most specifically, the planned development permit is consistent with General Plan policy IP-1.4, which allows some flexibility in the boundary between designations for a property with multiple land use designations, so long as the same general land area and allocation of uses be maintained. Certain requested uses, such as private instruction (language school), are only allowed in the Public/Quasi-Public designation, but the building footprint extends into the Residential Neighborhood designation. Therefore, the Planned Development Zoning for this Project divides the parcel into two portions, one based on the PQP Public/Quasi-Public Zoning District, and one based on the R-M Multiple Residence, with the education building included entirely in the PQP-based portion. These portions do not match the boundaries of the General Plan Land Use/Transportation Diagram; however, the land area allocated to each of the portions in the Planned Development Zoning do match the land area of the General Plan designations. Therefore, this Planned Development Permit is consistent with General Plan policy IP-1.4 in that it is on a site with multiple land use designations, and the same general land area and allocation of uses are maintained for the site, and the northern portion of the site can continue to be developed for residential uses.

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

Analysis: As analyzed in the Zoning Consistency section above, the Project is consistent with the PQP(PD) Planned Development Zoning District Development Standards. The Project is consistent with the allowed uses, setback, height, and parking requirements of the Planned Development Standards and the General Development Plan.

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

Analysis: As discussed under the City Council Policy Consistency section above, the Project conforms to the City Council Policy on the Preservation of Historic Landmarks, Council Policy 6-14 (Child Care Policy), and City Council Policy 6-30 (Public Outreach Policy for Pending Land Use and Development Proposals).

d. 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; and

Analysis: The main building on the site is on the southern side of the parcel, along the property line, and closer to Fifth Street. It is a two-story building, 26.5 feet in height, with exteriors primarily made of fiber cement board. A shed structure is near the Fourth Street frontage, clad with the same materials, and approximately 17 feet in height at the top of its shed roof. The two structures are compatible and aesthetically harmonious with each other in that they are clad in the same material and designed with the same style, while the shed serves as an auxiliary building to the main structure. The remainder of the site includes a garden, courtyard, play area, and parking. Each of these is supportive of at least one of the requested uses, as the garden and courtyard would support the community center use, while the play area would support the preschool.

e. 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: All construction activity and its impacts, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor, would be temporary. Standard environmental conditions, best management practices and mitigation measures are included in the permit conditions, requiring dust control, minimizing vehicle exhaust, preventing stormwater pollution from site runoff, and reducing mechanical noise.

9. Demolition Findings. Per Section 20.80.460 of the Municipal Code, prior to the issuance of any Development Permit which allows for the demolition, removal or relocation of a Building, the approval authority shall determine whether the benefits of permitting the demolition, removal or relocation outweigh the impacts of the demolition,

removal or relocation. In making such a determination, the following factors shall be considered:

a. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;

b. The failure to approve the permit would jeopardize public health, safety or welfare;

Analysis (a and b): The property contains no nuisance, blight, or dangerous conditions. It would be speculative to conclude that failure to approve the permit would result in the creation of nuisance, blight, or dangerous conditions, or jeopardize the public health, safety, or welfare.

c. The approval of the permit should facilitate a project that is compatible with the surrounding neighborhood;

Analysis: The approval of the permit facilitates a project compatible with the surrounding neighborhood, in that it is a new church education building replacing an existing church education building which has been in the neighborhood since the late 1930s. The Project footprint expands, but the Project will provide improved screening between the Project site and neighboring properties upon construction.

d. The approval of the permit should maintain the supply of existing housing stock in the City of San José;

Analysis: Approval of the permit does not affect the supply of existing housing stock in the City of San José. The existing houses to be demolished have been vacant or used for purposes other than residential for approximately 25 years. Therefore, no existing occupied housing stock is lost or gained through this proposal.

e. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;

f. Rehabilitation or reuse of the existing building would not be feasible; and

Analysis (e and f): The buildings are within a district of historical significance, but are not able to be preserved as part of the redevelopment. Specifically, the main classroom building cannot be renovated due to changes in building codes, as it is unable to meet current requirements because of its original construction and subsequent renovations. The new building, circulation, and landscaping occupy the entire site footprint, and the new building and storage facilities are intended to replace the existing facilities on the same site.

Additionally, a Historic Resources Evaluation was conducted by TreanorHL, dated October 30, 2024, which found that each of the buildings to be demolished is not

individually eligible for listing on the California Register of Historic Resources, and is not eligible to be a San José City Landmark under the specified criteria,

g. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

Analysis: A replacement building would be approved, and this Planned Development Permit includes a stipulation that the existing buildings could not be demolished prior to submittal of a building or grading permit for the replacement building.

10. Tree Removal Findings. Chapter 13.32 of the San José Municipal Code establishes at least one of the required findings must be made for issuance of a Live Tree Removal Permit for ordinance-size trees.

a. That the condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal.

Analysis: Two ordinance-size trees (a Coast Redwood and a Holly Oak) are to be removed from the site according to the criteria above. Specifically, Tree #7, a Coast Redwood, conflicts with the proposed play area for the preschool, which is required to be in that specific area due to circulation and state requirements. Therefore, the tree can be removed for the preservation of public safety, specifically that of the children in the play area. Tree #8, a Holly Oak, is located in the side setback of the building-side property line near North Fourth Street, and is within an area required for fire access. Therefore, it can be removed to ensure public safety and facilitate emergency services to the site.

Four non-ordinance-size London Plane trees can be removed without findings. All of these trees have a circumference between 19 and 38 inches. Additionally, two street trees (trident maples) are to be removed but are not covered under the scope of this application.

The City's Tree Replacement ratio is shown below. As all trees but the Coast Redwood are non-native, the equivalent of 17 15-gallon replacement trees is required. The Project plans indicate the planting of 49 15-gallon trees to comply with the tree replacement requirement.

An offsite tree replacement in-lieu fee, at $775 per tree, will be incurred if the required tree replacement is not met. Proof of tree replacement planting is required. The Permittee shall provide appropriate evidence such as, but not limited to, photographs and/or receipts to the City's Planning Project Manager of the replacement tree to verify compliance with the tree mitigation requirement. Such evidence shall be sent to the Planning Project Manager, as conditioned in this Planned Development Permit.

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

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

If there is insufficient area on the Project site to accommodate the required replacement trees, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement or Director's designee. Changes to an approved landscape plan requires the issuance of a Permit Adjustment or Permit Amendment.

- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the Project site.
- Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of building permit(s), in accordance with the City Council approved Fee Resolution in effect at the time of payment. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

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

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per San José Municipal Code Section 20.100.290(B), should Permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the Permittee shall be deemed to be 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 Planned Development Permit shall automatically expire two (2) years from and after the date of issuance hereof by the City Council, if within such time period, the proposed use of the site or the construction of buildings (if a Building Permit is required) has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the City Council. However, the Director of Planning, Building and Code Enforcement may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.

3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Permit shall be deemed acceptance of all conditions specified in this Permit and the Permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described in the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.

4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José - Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José - Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval

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

5. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved Planned Development Permit plans entitled, "LOTUS PRESCHOOL AND CLASSROOM REPLACEMENT" dated November 5, 2024 and last updated January 10, 2025, 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."
6. **Demolition Permit.** A demolition permit may be issued for the existing church education building, single-family houses, and accessory structure only upon the submittal of a complete Public Works Grading Permit application or the submittal of a complete Building Permit application for new construction.
7. **Polychlorinated Biphenyls.** The project shall submit a Polychlorinated Biphenyls (PCB) Screening Assessment Form to the City of San José and comply with applicable abatement procedures prior to the issuance of the demolition permit for the existing two-story classroom building.
8. **Planned Development District Effectuated.** This Planned Development Permit effectuates the Planned Development Zoning as reflected in the Permit's Approved Plan Set and the corresponding legal description.
9. **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.
10. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, 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. **Refuse.** All trash and refuse storage areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the trash or refuse container(s). Trash areas shall be maintained in a manner to discourage illegal dumping.

13. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.
14. **Utilities.** All new on-site telephone, electrical, and other service facilities shall be placed underground.
15. **Anti-Graffiti.** All graffiti shall be removed from buildings and wall surfaces, including job sites for projects under construction, within 48 hours of defacement.
16. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts, and garbage.
17. **No Sign Approval.** Any signage shown on the Approved Plan Set is conceptual only. No signs are approved at this time. Any signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
18. **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.
19. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
20. **Reserved Parking.** In conjunction with the Transportation Analysis, the project shall reserve three parking spaces for drop-off/pick-up when the preschool is operating. These reserved spaces shall not be within the side setback area.
21. **Maintenance of Gravel Parking Area.** The project includes a gravel-covered parking aisle and spaces. The surface of this area shall be maintained in such a manner as to provide a mud-free and dustless surface.
22. **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.
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 would require the permittee to secure appropriate permits and conform to the regulations of Title 20 of the Municipal Code.
24. **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.
25. **Timing of Tree Removals.** Trees that are proposed for removal to accommodate new development shall not be removed until the related complete Public Works Grading Permit Application or Building Permit Application has been filed.

26. **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. Prior to the removal of any tree on the site, all trees to be preserved shall be permanently identified by metal numbered tags. Prior to issuance of the Grading Permit or removal of any tree, all trees to be saved shall be protected by chain link fencing, or other fencing type approved by the Director of Planning. Said fencing shall be installed at the dripline of the tree in all cases and shall remain during construction. No storage of construction materials, landscape materials, vehicles or construction activities shall occur within the fenced tree protection area. Any root pruning required for construction purposes shall receive prior review and approval and shall be supervised by the consulting licensed arborist. Fencing and signage shall be maintained by the Permittee to prevent disturbances during the full length of the construction period that could potentially disrupt the habitat or trees.
27. **Tree Replacement Enforcement.** Failure to plant trees in conformance with the approved plan set may be subject to in-lieu fees for trees not planted.
28. **Verification of Payment and/or Planting of Replacement Tree(s).** After payment of the in-lieu fee and/or the planting of required replacement trees on-site, the permittee shall provide appropriate evidence such as, but not limited to, photographs and/or receipts to the Planning Project Manager to verify compliance with the mitigation requirements. Such evidence shall be uploaded to www.sjpermits.org using these instructions: (1) how to set up an account: https://www.sanjoseca.gov/business/development-services-permit-center/online-permits-at-sjpermits-org, and (2) how to upload https://www.sanjoseca.gov/home/showpublisheddocument/88853/638088605255430000. Such evidence shall also be e-mailed to the Planning Project Manager and labeled File No. PD23-016.
29. **Replacement Tree Failure.** On-site tree replacement trees that fail within three years after planting shall be promptly replaced.
30. **Landscaping.** Planting and irrigation are to be provided by the Permittee, as indicated, on the final Approved Plans.
31. **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, as applicable. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
32. **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, as applicable.

33. **Use Authorization.** This Permit allows the following uses on the site: church/religious assembly (including but not limited to a religious school); day care center (including but not limited to a preschool); private instruction, personal enrichment (including but not limited to a language school); and a privately-operated community center on an approximately 1.17-gross-acre site. This Permit also allows outdoor uses approximately 50 feet from residential zoning districts.

34. **Noise Control.** Sound from the preschool use shall be contained within the buildings and the buildings shall be adequately insulated to prevent excessive sound from emanating outside. Adequate HVAC (air conditioning) shall be provided to allow all doors and windows on the subject site to remain closed during the operation and activities of the site. Maximum noise levels emanating from the interior any of the facilities shall not exceed 55 decibels (dBA) at the adjacent residential property line and 60 decibels (dBA) at non-residential property lines. Outdoor noise levels shall conform to the Performance Standards of the Zoning Code, as may be amended.

35. **Bureau of Fire Prevention Clearance for Issuing Permits**. Prior to the issuance of a Building Permit, the project must comply with the 2019 California Fire Code, or as may be amended or updated by the City.

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

    a. *Construction Plans.* This Permit file number, PD23-016, shall be printed on all construction plans submitted to the Building Division.

    b. *Americans with Disabilities Act.* The permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).

    c. *Emergency Address Card.* The project Permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.

    d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any Building Permit issuance, Building Permit plans shall conform to the approved Planning development permits and applicable conditions.

    e. *Other*. Such other requirements as may be specified by the Chief Building Official.

29. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the Project, including information on available haulers and processors.

30. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract Map by the Director of Public Works, or the issuance of Building permits, whichever occurs first, 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: http://www.sanjoseca.gov/devresources.

    a. **Construction Agreement**: The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.

    b. **Transportation**: 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 11/22/2024 for additional information. *The Local Transportation Analysis Memo contains the following conditions:*

        i. Implement red curb along the North 5th Street project frontage between the north property boundary and the existing midblock crosswalk to ensure adequate sight distance.

        ii. Designate the western parking stalls along the drive aisles farthest from the building for daycare employees, to ensure parking spaces closest to the building entrance are available for student drop-off/pick-up.

    c. **Grading/Geology**:

        i. A grading permit is required prior to the issuance of a Public Works Clearance.

        ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the latest California Plumbing Code as adopted under the City of San Jose Municipal Code Section 24.04.100 or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.

        iii. If the Project proposes to haul more than 10,000 cubic yards of cut/fill to or from the Project site, a haul route permit is required. Prior to issuance of a

grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.

iv. Because this project involves a land disturbance of one or more acres, the permittee is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.

v. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.

d. **Stormwater Runoff Pollution Control Measures**: This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.

i. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this project will be in conformance with City Policy 6-29.

ii. Final inspection and maintenance information on the post-construction treatment control measures must be included on the final Stormwater Control Plan.

e. **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).

f. **Flood: Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.

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

h. **Undergrounding:**

i. The In-Lieu Undergrounding Fee shall be paid to the City for all frontage(s) adjacent to North 4th Street & North 5th prior to issuance of a Public Works Clearance. 100 percent of the base fee in place at the time of payment will be due. Currently, the 2025 base fee is $622 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record's City Average Cost Index for the previous year. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued.

ii. The Director of Public Works may, at his discretion, allow the developer to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to North 4th Street & North 5th. Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.

i. **Street Improvements**:

i. Remove and replace broken, uplifted curb and gutter as well as broken, uplifted or non-ADA compliant sidewalk along the N. 4th Street project frontage.

ii. Remove and replace curb, gutter and sidewalk along the N. 5th Street project frontage with a 20' wide ADA compliant detached sidewalk. This includes a 0.5' curb, 9.5' wide park strip, and a 10' wide sidewalk.

iii. Close unused driveway cut(s).

iv. Proposed westerly driveway width along N. 5th Street to be 26' wide per City Standard Detail R-5.

v. Proposed driveway for loading zone along N. 5th Street to be 12' wide per City Standard Detail R-5.

vi. Developer shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the project frontage.

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

viii. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.

j. **Sanitary**: The project is required to submit plan and profile of the sewer mains with lateral locations for final review and comment prior to construction.

k. **Storm**: Construct a new 15” RCP storm main extension along N. 4th Street from the northerly existing storm drain manhole as there is currently no storm main along the project frontage. The storm main extension will be approximately 524’. A new storm drain manhole will need to be constructed to provide the proposed lateral connection from the onsite catch basin.

l. **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.

m. Street Trees: The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current “Guidelines for Planning, Design, and Construction of City Streetscape Projects”. Street trees shall be installed in park strip. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.

31. **Housing – Commercial Linkage Fee.** All Commercial Linkage Fee (CLF) obligations for this project have been met, and the CLF Satisfaction Plan has been submitted and approved. There are no further CLF conditions required for this project.

32. **Conformance to Mitigation Monitoring and Reporting Program (MMRP).** This project shall conform to all applicable requirements of the MMRP approved for this development by City Council Resolution No._____.

33. **Standard Environmental Conditions.**

a. **Air Quality**

i. Water all exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) two times per day.

ii. Cover all haul trucks transporting soil, sand, or other loose material off-site.

iii. Remove all visible mud or dirt track out onto adjacent public roads at least once per day using wet power vacuum street sweepers. The use of dry power sweeping is prohibited.

iv. Limit all vehicle speeds on unpaved roads to 15 miles per hour (mph).

v. Pave all new roadways, driveways, and sidewalks as soon as possible.

vi. Lay building pads as soon as possible after grading unless seeding or soil binders are used.

vii. Suspend all excavation, grading, and/or demolition activities when average wind speeds exceed 20 mph.

viii. Wash off all trucks and equipment, including their tires, prior to leaving the site.

ix. Treat unpaved roads providing access to sites located 100 feet or further from a paved road with a six- to 12-inch layer of compacted layer of wood chips, mulch, or gravel.

x. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to no more than two minutes (A five-minute limit is required by the state airborne toxics control measure [Title 13, Sections 2449(d)(3) and 2485 of the California Code of Regulations]). Provide clear signage that posts this requirement for workers at all access points to the site.

xi. Maintain and properly tune all construction equipment in accordance with the manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.

xii. Post a publicly visible sign with the name and phone number of an on-site construction coordinator to contact regarding dust complaints. The on-site construction coordinator shall respond and take corrective action within 48 hours. The sign shall also provide the City's Code Enforcement Complaints email and number and the Air District's General Air Pollution Complaints number to ensure compliance with applicable regulations.

b. **Biological Resources**

i. **Tree Replacement**. Trees removed for the project shall be replaced in accordance with the City's Tree Replacement Ratios, as set forth below.

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
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. x:x = tree replacement to tree loss ratio A 24-inch box tree = two 15-gallon trees				

1) Six trees on-site would be removed. One tree would be replaced at a 5:1 ratio, one tree would be replaced at a 4:1 ratio, and the remaining four trees

would be replaced at a 2:1 ratio. The project would be required to plant a total of 17 trees.

2) In the event that a project site does not have sufficient area to accommodate the required tree replacement, one or more of the following may be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement. Changes to an approved landscape plan requires the issuance of a Permit Adjustment or Permit Amendment:

   a. The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the Project site.

   b. Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of grading permit(s), in accordance with the City Council approved Fee Resolution in effect at the time of payment. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

ii. **Santa Clara Valley Habitat Plan**. The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant shall submit the Santa Clara Valley Habitat Plan Coverage Screening Form (https://www.scv-habitatagency.org/DocumentCenter/View/151/CoverageScreeningForm?bidId=) to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of all applicable fees prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan.

c. **Cultural Resources**.

i. 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.

ii. 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:

i. The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.

ii. The MLD identified fails to make a recommendation; or

iii. The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

d. **Geology and Soils**.

i. All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.

ii. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.

iii. Ditches shall be installed to divert runoff around excavations and graded areas if necessary.

iv. If dewatering is needed, the design-level geotechnical investigations to be prepared for individual future development projects shall evaluate the underlying sediments and determine the potential for settlements to occur. If it is determined that unacceptable settlements may occur, then alternative groundwater control systems shall be required.

v. Paleontological Resources. If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, the 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 Permittee shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or the Director's designee.

e. **Proof of Enrollment in SJCE.** Prior to issuance of any Certificate of Occupancy for the project, the occupant shall provide to the Director of the Department of Planning, Building, and Code Enforcement, or Director's designee, proof of enrollment in the San José Clean Energy (SJCE) TotalGreen program (approximately 100 percent carbon free power) assumed in the approved environmental clearance for the project in accordance with CEQA. If it is determined the project's environmental clearance requires enrollment in the TotalGreen program, neither the occupant, nor any future occupant, may opt out of the TotalGreen program.

f. **Hazards and Hazardous Materials.**

i. Asbestos and Lead-Based Paint. In conformance with state and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP).

ii. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.

iii. All potentially friable asbestos-containing materials shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.

iv. A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.

v. Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

g. **Hydrology and Water Quality.**

i. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.

ii. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.

iii. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.

iv. Stockpiles of soil or other materials that can be blown away by the wind shall be watered or covered.

v. All trucks hauling soil, sand, and other loose materials shall be required to cover all trucks or maintain at least two feet of freeboard.

vi. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).

vii. Vegetation in disturbed areas shall be replanted as quickly as possible.

viii. All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City.

ix. The project Permittee shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

h. **Construction-Related Noise**.

i. Pile Driving is prohibited.

ii. Limit construction hours to between 7:00 a.m. and 7:00 p.m. Monday through Friday for any on-site 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.

iii. Construct solid plywood fences around ground level construction sites adjacent to operational business, residences, or other noise-sensitive land uses.

iv. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.

v. Prohibit unnecessary idling of internal combustion engines.

vi. 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.

vii. Utilize "quiet" air compressors and other stationary noise sources where technology exists.

viii. Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to adjacent land uses and nearby residences.

ix. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.

x. Designate a "noise disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator will 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.

34. **Adequate Sight Distance.** The project shall provide adequate sight distance at the project driveway by implementing red curb along the North 5th Street project frontage between the north property boundary and the existing midblock crosswalk.

35. **Noise Mitigation.** The project shall select and locate mechanical equipment and/or implement noise barriers to reduce property line noise to no more than 55 dB maximum.

36. **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; or

b. A violation of any City ordinance or state law was not abated, corrected or rectified within the time specified on the notice of violation; or

c. The use as presently conducted creates a nuisance.

In accordance with the findings set forth above, a permit to use the subject property for said purpose specified above is hereby approved.

EFFECTIVE DATE

The effective date of this Planned Development Permit shall be the same as effective date of the Rezoning Ordinance for File No. PDC23-104 passed for publication on _____, 2025 (the "Zoning Ordinance") and shall be no earlier than the effective date of said Rezoning Ordinance.

ADOPTED this ___ day of ____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

_____
MATT MAHAN
Mayor

ATTEST:

_____
TONI J. TABER, MMC
City Clerk

NOTICE TO PARTIES

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

EXHIBIT A
LEGAL DESCRIPTION

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

PARCEL ONE:

Portions of Lot 160, Block 15, White's Additions, as shown on the Map entitled "City of San Jose, copied from the original Map drawn by Sherman Day, City Engineer", which Map was filed for record in the Office of the Recorder, County of Santa Clara, State of California, in Book "A" of Maps, at Pages 72 and 73 and being more particularly described as follows:

Beginning at a point on the Southwesterly line of Fifth Street, formerly Main Street, distant thereon Northwesterly 183 feet 4 inches Northwesterly from the point of intersection of said Southwesterly line of Fifth Street with the Northwesterly line of Jackson Street; thence along said Southwesterly line of Fifth Street Northwesterly 45 feet 10 inches; thence at right angles Southwesterly 137 feet 6 inches; thence at right angles Southeasterly 45 feet 10 inches; thence at right angles Northeasterly 137 feet 6 inches to the point of beginning.

APN: Portion 249-41-075

PARCEL TWO:

Portions of Lot 160, Block 15, White's Additions, as shown on the Map entitled "City of San Jose, copied from the original Map drawn by Sherman Day, City Engineer", which Map was filed for record in the Office of the Recorder, County of Santa Clara, State of California, in Book "A" of Maps, at Pages 72 and 73 and being more particularly described as follows:

Beginning at a point on the Southwesterly line of Fifth Street, distant thereon Northwesterly 229 feet 2 inches from the point of intersection of said Southwesterly line of Fifth Street with the Northwesterly line of Jackson Street; thence along said Southwesterly line of Fifth Street Northwesterly 45 feet 10 inches; thence at right angles Southwesterly 137 feet 6 inches; thence at right angles Southeasterly 45 feet 10 inches; thence at right angles Northeasterly 137 feet 6 inches to the point of beginning.

APN: Portion 249-41-075

PARCEL THREE:

Portions of Lot 160, Block 15, White's Additions, as shown on the Map entitled "City of San Jose, copied from the original Map drawn by Sherman Day, City Engineer", which Map was filed for record in the Office of the Recorder, County of Santa Clara, State of California, in Book "A" of Maps, at Pages 72 and 73 and being more particularly described as follows:

Beginning at a point on the Southwesterly line of Fifth Street, distant thereon Northwesterly 274 feet 3 inches from the point of intersection of said Southwesterly line of Fifth Street with the Northwesterly line of Jackson Street; thence along said Southwesterly line of Fifth Street Northwesterly 45 feet 10 inches; thence at right angles Southwesterly 137 feet 6 inches; thence at right angles Southeasterly 45 feet 10 inches; thence at right angles Northeasterly 137 feet 6 inches to the point of beginning.

APN: Portion 249-41-075

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

EXHIBIT A
(Continued)

PARCEL FOUR:

Portion of Lot 161, in Block 15, of White's Addition to the City of San Jose, as shown upon that certain Map entitled "City of San Jose, as shown upon that certain Map entitled City of San Jose, copies from the original Map drawn by Sherman Day, City Engineer", which Map was filed for record in the Office of the County of Santa Clara, State of California, in Book "A" of Maps, at Pages 72 and 73, and more particularly described as follows:

Commencing at a point on the Southwestern line of Fifth Street, distant thereon 320 feet 10 inches Northwesterly from the Northwestern line of Jackson Street; thence running Southwesterly and parallel with the Northwestern line of Jackson Street, 137.5 feet to the Southwesterly line of Lot 161, in Block 15, as shown upon the above Map; thence Northwesterly and parallel with the Southwestern line of Fifth Street and along he Southwestern line of said Lot 161, 45 feet 10 inches; thence Northeasterly and parallel with the Northwestern line of Jackson Street, 137.5 feet to the Southwesterly line of Fifth Street; thence Southwesterly along said line of Fifth Street 45 feet 10 inches to the point of beginning.

APN: 249-41-009

PARCEL FIVE:

Beginning at a point on the Easterly line of Fourth Street distant thereon Northerly 183 1/3 feet from point of intersection of Northerly line of Jackson Street with Easterly line of Fourth Street; thence Northerly along said Easterly line of Fourth Street 46 10/10 feet; thence at right angles Easterly 137 ½ feet; thence at right angles Westerly 137 ½ feet to a point of beginning.

Being a portion of Block 15 of White's Addition in the City of San Jose

APN: 249-41-022

PARCEL SIX:

Beginning at a point on the Easterly line of Fourth Street, distant thereon 230 feet 2 inches Northerly from the point of intersection of the Easterly line of Fourth Street with the Northerly line of Jackson Street; thence running Northerly and along the Easterly line of Fourth Street 44 feet 10 inches; thence at right angles Easterly and parallel with the Northerly line of Jackson Street, 137.50 feet; thence running at right angles Southerly and parallel with the Easterly line of Fourth Street 44 feet 10 inches; thence running at right angles Westerly and parallel with the Northerly line of Jackson Street 137.50 feet to the point of beginning.

Being a portion of Lot 155 in Block 15 of the White's Addition to the City of San Jose.

APN: 249-41-023

PARCEL SEVEN:

Portion of Lot 156, in Block 15, White's Addition in the City of San Jose, as shown upon that certain Map entitled "City of San Jose, copied from the Original Map drawn by Sherman Day, Civil Engineer", which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, in Book "A" of Maps, at Pages 72 and 73, and more particularly described as follows:

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

EXHIBIT A
(Continued)

Commencing at a point on the Easterly line of Fourth Street, distant 275 feet Northerly from the Northerly line of Jackson Street; thence running Easterly parallel with Jackson Street 137 ½ feet; thence at right angles Northerly parallel with Fourth Street 45 10/12 feet; thence at right angles Westerly parallel with Jackson Street 137 ½ Feet to the Easterly line of Fourth Street; thence at right angles Southerly along said line of Fourth Street 45 10/12 feet to the place of beginning.

APN: 249-41-024

PARCEL EIGHT:

Beginning at a point in the Easterly line of Fourth Street, distant thereon North 320 feet and 10 inches from the point of intersection of the Northerly line of Jackson Street with the Easterly line of Fourth Street; thence Northerly along said line of Fourth Street, 45 feet and 10 inches; thence at a right angle Easterly and parallel with the Northerly line of Jackson Street, 137 feet and 6 inches; thence at a right angle Southerly and parallel with the Easterly line of Fourth Street, 45 feet and 10 inches; thence at a right angle Westerly 137 feet and 6 inches to the point of beginning.

Being a portion of Block 15 of White's Addition in the City of San Jose.

APN: 249-41-025

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

EXHIBIT B

20 0 5 10 20
SCALE: 1 INCH = 20 FEET

NOTES

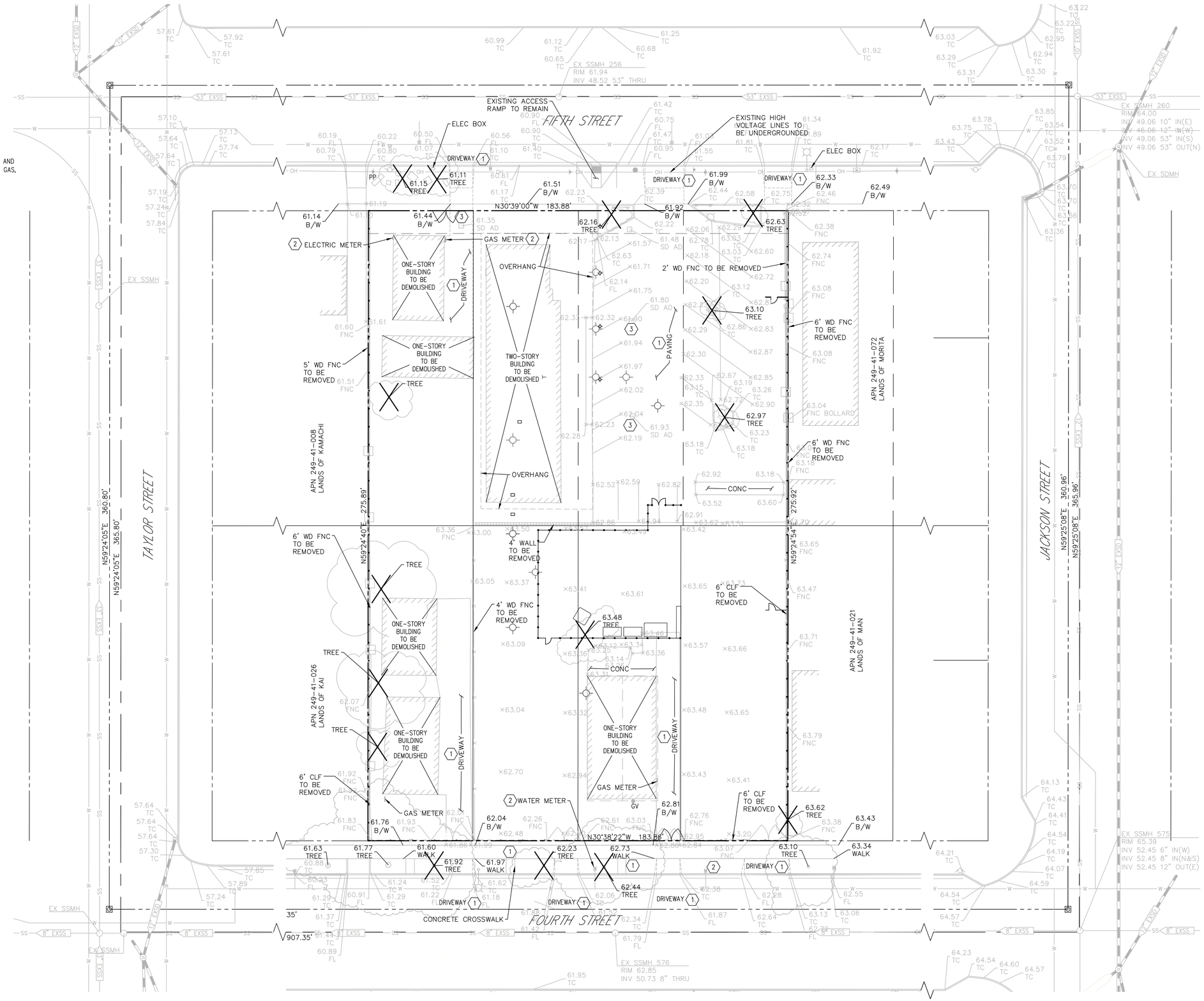
1. ALL EXISTING HARDSCAPE IMPROVEMENTS (AC PAVEMENT, CONCRETE WALKS, CURBS, PLANTERS, ETC.) TO BE DEMOLISHED AND REMOVED
2. ALL EXISTING UTILITY CONNECTIONS TO SITE TO BE PROPERLY DISCONNECTED AND CAPPED OFF IN COORDINATION WITH THE APPLICABLE SERVICE PROVIDER (I.E. GAS, ELECTRICAL, COMMUNICATIONS, WATER, ETC.)
3. EXISTING ONSITE STORM COLLECTION SYSTEM TO BE REMOVED ENTIRELY.
4. EXISTING ONSITE SANITARY COLLECTION SYSTEM TO BE REMOVED ENTIRELY.

LEGEND

EXISTING	DESCRIPTION
	BOUNDARY
	PROPERTY LINE
	CENTER LINE
	CURB, GUTTER & SIDEWALK
EXSS SS	SANITARY SEWER PIPE & MANHOLE
EXSD	STORM DRAIN PIPE & MANHOLE
EXWT W	WATER MAIN & VALVE
	CURB INLET
	FIELD INLET
	FIRE HYDRANT
	POWER POLE
	ELECTROLIER
	SURVEY MONUMENT
	SIGN
	ACCESS RAMP
	EXISTING TREE TO BE REMOVED

ABBREVIATIONS

BLDG	BUILDING
CATV	CABLE TELEVISION
CB	CATCH BASIN
CLF	CHAIN LINK FENCE
CO	CLEAN OUT
COMM	COMMUNICATION
CONC	CONCRETE
COR	CORNER
ELEC	ELECTRICAL
EP	EDGE OF PAVEMENT
FH	FIRE HYDRANT
GV	GAS VALVE
IF	IRON FENCE
MH	MANHOLE
N	NORTH
OVHG	OVERHANG
PP	POWER POLE
PL	PROPERTY LINE
SS	SANITARY SEWER
SD	STORM DRAIN
STLT	STREET LIGHT
UTIL	UTILITY
WM	WATER METER
WT	WATER
WV	WATER VALVE
WF	WOOD FENCE



aedis architects
San Jose, CA 95113
tel: (408)-300-5160
fax: (408)-300-5121

CONSULTANT
LANGAN
Langan Engineering and Environmental Services, Inc.
1 Almaden Boulevard, Suite 590
San Jose, CA 95113
T: 408.283.3600 F: 408.283.3601 www.langan.com

LOTUS PRESCHOOL AND CR REPLACEMENT

639 N. 5TH ST., SAN JOSE, CA 95112

PRELIMINARY SUBMITTAL

PROJECT NUMBER:
PDC22-104
PD23-016

SHEET
EXISTING CONDITION AND DEMOLITION PLAN

REVISIONS
No. Description Date

SCALE
1" = 20'

DATE
2025-01-10

AEDIS JOB #
2021026

SHEET #
C1

002-D

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