

RESOLUTION NO.

A Resolution of the Planning Commission of the City of San José approving, subject to conditions, a Conditional Use Permit to allow the conversion of an approximately 3,016 square foot fire station into a veterinary clinic on a 0.47-gross acre site in the PQP Public/Quasi-Public Zoning District located at the north side of Aborn Road approximately 110 feet westerly of Serpa Drive (2525 Aborn Road).

FILE NO. CP17-027

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on January 26, 2017, an application (File No. **CP17-027**) was filed by the applicant, Jimmy Fong, with the City of San José for a Conditional Use Permit to allow the conversion of an approximately 3,016 square foot fire station into a veterinary clinic on a 0.47-gross acre site in the PQP Public/Quasi-Public Zoning District located at the north side of Aborn Road approximately 110 feet westerly of Serpa Drive (2525 Aborn Road, San José, which real property is sometimes referred to herein as the “subject property”); and

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

WHEREAS, pursuant to and in accordance with Chapter 20.100 of the San José Municipal Code, this Planning Commission conducted a hearing on said application, notice of which was duly given; and

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

WHEREAS, at said hearing this Planning Commission received and considered the reports and recommendation of the City’s Director of Planning, Building and Code Enforcement; and

WHEREAS, at said hearing, this Planning Commission received in evidence a plan for the subject property entitled, “Planning Application for Conditional Use Permit Land of Singh,” last revised October 6, 2017, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

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

WHEREAS, this Planning Commission has heard and considered the testimony presented to it at the public hearing, and has further considered written materials submitted on behalf of the project

P.C. Agenda: 09-13-17
Item No.: 4.d.

applicant, City staff, and other interested parties;

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

After considering evidence presented at the public hearing, the Planning Commission finds that the following are the relevant facts and findings regarding this proposed project:

Commented [TJ1]: Just make sure you copy and paste all the analysis and modifications from staff report to the resolution

1. **Site Description and Surrounding Uses.** The project is located on 2525 Aborn Road, at the north side of Aborn Road approximately 110 feet westerly of Serpa Drive. The project site contains an approximately 3,416-square foot former fire station (no longer in operation), and was approved for sale to the applicant by the City Council on June, 17, 2014. The City Council memo (see Exhibit C) indicated that applicable City departments, including Planning, Building, and Code Enforcement, Housing, and Parks, Recreation, and Neighborhood Services had no such current or intended future municipal use of the property. The property is surrounded by single-family residences, abuts a cul-de-sac along the rear property line, and has Aborn Street frontage.
2. **Project Description.** On April 17, 2017 the applicant applied to rezone the 0.47-gross acre subject site from the R-1-8 Single-Family Residence Zoning District to the PQP Public/Quasi Public Zoning District and then on June 30, 2017 the applicant submitted a Conditional Use Permit to convert the vacant fire station into a veterinary clinic. The project would allow the existing structure to be used for a veterinary clinic. Veterinary services would be conducted entirely inside the building and the clinic would be prohibited from providing boarding or grooming services. The conversion of the subject site includes significant interior modifications to the existing building with no significant exterior building changes and the closure of two additional driveways previously utilized for fire truck and rear site access. Closure to the rear access driveway would prohibit site access from a residential cul-de-sac, Pumpherston Court and limit circulation to Aborn Road, a major arterial street. In addition, the project would remove a small shed located in the parking area to accommodate three additional vehicle parking spaces.
3. **General Plan Conformance.** The subject property is designated as Public/Quasi Public on the General Plan Land Use/Transportation Diagram. Properties with this designation are intended for public land uses such as schools, fire stations, and museums. This category could also be used by some private entities, such as hospitals. In this case, a veterinary clinic is significantly similar to hospitals due to the nature of medical services that animal care typically provides. The proposed Public/Quasi Public Zoning District conforms to the Public/Quasi Public General Plan designation of the site and would allow a limited scope of publicly serving land uses and private uses, such as schools, daycare centers, and hospitals. The subject project of a veterinary clinic requires a Conditional Use Permit.

The proposed development is consistent with the General Plan land use designation and also consistent with the following General Plan Policies:

- a. Implementation Policy IP-1.1: Use the Envision General Plan Land Use / Transportation Diagram designations to indicate the general intended land use, providing flexibility to allow for a mix of land uses, intensities and development forms compatible with a wide variety of neighborhood contexts and to designate the intended roadway network to be developed over the timeframe of the Envision General Plan. Use the Zoning designation to indicate the appropriate type, form and height of development for particular properties.

Analysis: Rezoning to Public/Quasi-Public Zoning District would conform to the General Plan designation of Public-Quasi Public and facilitate the intention for public or private land uses in the area. The subject site was originally intended for a fire station that has since been vacant and sold from the city for a private use. Given that the subject site is less than one acre and in the middle of a large neighborhood, many public land uses that require large spaces would be incompatible due to site constraints and nearby residents. The proposed veterinary clinic is able to utilize the existing layout of the property, preserves the residential form and height of the structure, and provides compatible neighborhood services to the area.

- b. Implementation Policy IP-1.6: Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram and advance Envision General Plan vision, goals, and policies.

Analysis: The proposed PQP Public/Quasi-Public Zoning District conforms to the Envision San Jose 2040 General Plan Land Use/Transportation Diagram's designation of Public/Quasi-Public. Rezoning the subject property to the PQP Public/Quasi-Public would allow continued use of public or private uses that are the appropriate intensity and compatibility of development for the subject site and surrounding uses as envisioned under the General Plan.

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

Analysis: Consistent with this policy as analyzed above, the subject rezoning to the PQP Public/Quasi-Public Zoning District directly conforms to the General Plan's land use designation as listed in the Zoning Ordinance section 20.120.110 Table 20-270.

- d. Vibrant Neighborhoods Policy VN-1.1: Include services and facilities within each neighborhood to meet the daily needs of neighborhood residents with the goal that all San José residents be provided with the opportunity to live within a ½ mile walking distance of schools, parks and retail services.

Analysis: The proposed veterinary clinic would be located in the middle of a large neighborhood and therefore provides nearby veterinary services for family pets. The proximity to the neighborhood enables residents to walk to the subject site for the care and maintenance of their animal(s).

- e. Vibrant Neighborhoods Policy VN-1.3: Encourage the development and maintenance of compatible neighborhood retail and services within walking distance of residences as a means to promote the creation of "complete" neighborhoods.

Analysis: The project adapts to the existing residential nature of the structure and layout of the site, formerly used as a fire station, by proposing only interior changes to the main structure and thereby maintains the residential character of the neighborhood. Aside from the closure of the two additional driveways originally provided for unique fire truck access and the removal of the small shed from the rear of the property, the veterinary clinic project

would not change the exterior aesthetics of the existing neighborhood. Instead, the project promotes active use in a vacant building while providing a local service that facilitates medical care to family pets and therefore contributes to meeting the daily needs of nearby residents who can take advantage of walking to the subject site.

4. **Zoning Ordinance Compliance.** Section 20.120.110 of the City of San Jose Zoning Ordinance has listed the PQP Public/Quasi-Public Zoning District as a conforming zoning district for the Public/Quasi-Public General Plan land use designation.

The PQP Public/Quasi-Public Zoning District is intended to provide for publicly serving uses on lots that are designated Public/Quasi-Public on the General Plan Land Use/Transportation Diagram. This district may also accommodate private schools, daycare centers, hospitals, public utilities, and the facilities of any organization involved in the provision of public services such as gas, water, electricity, and telecommunications facilities that are consistent in character with established public land uses. The appropriate intensity of development can vary considerably depending on potential impacts on surrounding uses and the particular Public/Quasi-Public use developed on a site.

Analysis: The veterinary clinic is of appropriate intensity of development and adapts to the existing space by maintaining exterior elevations and layout of the subject site. All services would be provided during regular business hours, conducted entirely inside the building, and the clinic prohibited from grooming and boarding animals, unless overnight stay is a requirement of their medical care.

Land Use

Pursuant to Table 20-90 of the Zoning Ordinance, a Conditional Use Permit is required for veterinary clinics in the PQP Public/Quasi-Public Zoning Districts.

Parking

Pursuant to Table 20.190 of the Zoning Ordinance, a veterinary clinic requires one parking space per 250 square feet of floor area. The total floor area square footage is approximately 3,016 square feet and requires 11 parking spaces. The project provides 14 parking spaces.

5. **Conditional Use Permit Findings**

Section 20.100.720 of the Zoning Ordinance specifies the required findings for approval of a Conditional Use Permit. These findings are made for the project based on the analysis related to General Plan, Zoning and CEQA conformance and subject to the conditions set forth in the Permit.

- a. The Conditional Use Permit, as approved, is consistent with and will further the policies of the General Plan, applicable specific plans and area development policies.

Analysis: The project is not located in a specific plan and is consistent with the General Plan designation and policies as discussed in the above Envision San José 2040 General Plan Conformance section of the staff report. The project is located in the Evergreen-East Hills Development Policy (EEHDP) area. The EEHDP authorizes a total of 500 new residential units, 500,000 square feet of new retail development, and 75,000 square feet of new commercial office development within a specific area. In exchange for the development capacity described, EEHDP establishes a traffic impact fee (TIF) program to fund the required transportation mitigations. For the project, the TIF per 1,000 square feet of commercial or office development is \$13,569, and would need to be paid to the City prior to the issuance of

building permits as described in condition of approval 6(b) of the resolution. The current space remaining under this policy is 84,369 square foot of commercial and 24,611 square foot of office development.

- b. The Conditional Use Permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the project.

Analysis: The project involves a rezoning to the PQP Public/Quasi-Public Zoning District. The proposed veterinary clinic and the PQP Public/Quasi-Public Zoning District conforms to the allowed land use and parking as discussed in the above zoning ordinance section. The project is not proposing any significant architectural modifications to the existing building that would modify the height or building footprint.

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

Analysis: The proposed use conforms to City Council Policy 6-11 Design Criteria for Conversion of Residential Structures to Non-Residential Uses. Business hours are limited to normal daytime business hours. Vehicle circulation, parking, and trash enclosures are placed in the rear of the structure. The new occupancy is only one business enterprise and requires no exterior changes to the building. The parking area has landscaping along the edges and is screened from public view.

- d. The proposed use at the location requested will not adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or impair the utility or value of property of other persons located in the vicinity of the site; or be detrimental to public health, safety or general welfare.

Analysis: The proposed veterinary clinic at the subject site would occupy an existing building and is surrounded by residential developments with consistent site layout and massing. There are no proposed significant new construction with the exception of landscaping and minor architectural modifications and therefore it would not adversely affect the surrounding area. The project would be developed and conditioned to be kept clean, maintained, and landscaped.

- e. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas.

Analysis: The subject site is consistent with the existing setbacks and density of the surrounding uses and development. Existing fencing, trash enclosures, parking, loading facilities, and landscaping areas are adequate in size and either contribute to screening the applicable areas from view or are properly screened by being located at the rear of the site.

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

- g. *Analysis: The subject site is well-served and easily accessible from public streets as it is located along a major arterial street, Aborn Road. Given the size and scope of the project, the existing access would be sufficient for the proposed use.*

- h. 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: There would be limited impact regarding construction as it would be predominately interior modifications to an existing building. All veterinary services provided are to be conducted entirely inside the building during normal business hours and is prohibited from grooming and boarding animals, unless overnight stay is a requirement of their medical care. Therefore, there is no anticipated environmental negative effects on adjacent properties.

6. **Environmental Review.** Under the provisions of Section 15303 for New Construction or Conversion of Small Structure of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

The project involves a conforming rezoning to allow the conversion of the approximately 3,016 square feet fire station into a veterinary clinic. No exterior modifications to the structure is proposed and only minor alterations to the layout of the site is proposed. A small storage shed would be removed to allow for three additional parking spaces and two additional driveways initially required for fire truck access would be removed. The proposed use and changes would be considered a minor modification to an existing building structure. Therefore, a CEQA exemption can be issued under Section 15303.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. This Planning Commission expressly declares that it would not have approved 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 Section 20.100.290(B), should the permittee fail to file a timely and valid appeal of this Conditional Use Permit within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Conditional Use Permit by the permittee; and
 - b. Agreement by the permittee to be bound by, to comply with, and to do all things required of or by the permittee pursuant to all of the terms, provisions, and conditions of this Permit or other approval and the provisions of Title 20 of the San José Municipal Code applicable to such Permit.
2. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of issuance hereof by the Planning Commission, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Planning Commission. However, the

Director of Planning may approve a Permit Adjustment to extend the validity of this Permit in accordance with Title 20 of the San José Municipal Code. The Permit Adjustment must be approved prior to the expiration of this Permit.

3. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval 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. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
4. **Conformance to Plans.** The development of the site shall conform to the approved Conditional Use Permit plans entitled, "Planning Application for Conditional Use Permit Land of Singh," last revised October 6, 2017, on file with the Department of Planning, Building and Code Enforcement, as may be amended and approved by the Director of Planning, Building, and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24). The plans are referred to herein as the "approved plans" or the "Approved Plan Set."
5. **Use Authorization.** This Conditional Use Permit (CUP) authorizes the conversion of an approximately 3,016 square foot fire station to a veterinary clinic. This CUP does not allow services to be performed outside and grooming animals. In addition, boarding animals is not allowed unless overnight stay is a requirement of their medical care.
6. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/index.aspx?nid=2246>.
 - a. **Minor Improvement Permit:** The Public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This Minor Improvement Permit includes privately engineered plans, insurance, a surety deposit, and engineering and inspection fees.
 - b. **Transportation:** This project is located in the Evergreen East Hills Development Policy area and is required to pay a Traffic Impact Fee (TIF). The 2017 TIF per 1,000 square feet of commercial or office is \$13,569. This fee is subject to an annual escalation on January 1st per the Engineering News-Record Construction Cost Index for San Francisco. We conclude that the subject project will be in conformance with the Evergreen East Hills Development Policy and a determination for a negative declaration can be made with respect to traffic impacts. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued. Please note that there is limited commercial square footage remaining in the EEHDP. The project is not guaranteed commercial square footage

allocation until this planning permit (CP17-027) is approved. It is recommended that the project obtain approval as soon as possible to secure square footage allocation.

- c. **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).
 - d. **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.
 - e. **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.
 - f. **Municipal Water:** In accordance with City Ordinance #23975, Major Water Facilities Fee is due and payable. Contact Amado Valdez at (408) 794-6769 for further information.
 - g. **Undergrounding:** The In Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to Aborn road prior to issuance of a Public Works Clearance. Ten (10%) percent of the base fee in place at the time of payment will be due. Currently, the 2017 base fee is \$469 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.
 - h. **Reimbursement:** The developer will be required to reimburse the City for Costs advanced for the construction of street improvements along Aborn Road in accordance with City Ordinance #19663.
 - i. **Street Improvements:**
 - i. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
 - ii. Remove and replace broken, uplifted curb and gutter as well as broken, uplifted or non-ADA compliant sidewalk along project frontage.
 - iii. Close westerly driveway along Aborn Road and replace with City Standard sidewalk.
 - iv. Close driveway along Pumpherstons Court and replace with City Standard sidewalk.
 - v. Construct 16 ft. wide city standard driveway fronting Aborn Road along easterly project frontage.
7. **Shallow Soil Sampling.** A shallow soil investigation and testing shall be completed to determine if pesticides and pesticide based metal (arsenic and lead) contamination are present on the project site from historic agricultural use. If the results of the investigation show the soil exceeds regulatory environmental screening levels, then additional investigation and possibly mitigation will be required to protect construction workers, the environment and future site users. The results of the preliminary investigation shall be submitted to the PBCE for review and determination if the results are below the regulatory screening levels. If the results exceed regulatory screening levels, the applicant must further investigate and mitigate under regulatory oversight from the Santa Clara County Department of Environmental Health.
8. **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, CP17-027, 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 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 shall 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.
9. **Certificate of Occupancy.** The permittee shall obtain a Certificate of Occupancy. Procurement of a 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 by the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
10. **Recycling.** Scrap construction and demolition material shall be recycled. The permittee shall contact Integrated Waste Management staff at (408) 535-8550 for assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
11. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws, regulations and required permits. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined below.
12. **Site Lighting.** No additional outdoor lighting is approved with this permit. Any additional, outdoor lighting would require a Permit Adjustment.
13. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
14. **Building and Property Maintenance.** The property owner or operator shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
15. **Mechanical Equipment.** No new roof equipment shall be permitted with this Conditional Use Permit.
16. **Generators.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.

17. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance. Nor shall the use adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area or be detrimental to public health, safety or general welfare. Any such nuisance shall be abated immediately upon notice by the City.
18. **Anti-Graffiti.** The operator shall remove all graffiti from buildings, fences, and wall surfaces within 48 hours of defacement.
19. **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.
20. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
21. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:
- a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

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

APPROVED and issued this **23th day of January, 2018**, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

NICK PHAM
Chairperson

ATTEST:

ROSALYNN HUGHLEY
Interim Director of Planning, Building & Code Enforcement
Planning Commission Secretary

Commented [FS2]: Is it still signed by PC?

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.