

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A SPECIAL USE PERMIT TO ALLOW THE CONTINUED USE AND PHASED RENOVATION OF A PRIVATE ELEMENTARY SCHOOL (PRESCHOOL THROUGH 8TH GRADE), INCLUDING DEMOLITION OF 30,100 SQUARE FEET OF EXISTING BUILDINGS, RELOCATION OF PORTABLE BUILDINGS AND OTHER STRUCTURES, THE ADDITION OF NEW AND MODIFIED BUILDINGS TOTALING 82,040 SQUARE FEET, INCLUDING A 15,000-SQUARE FOOT EVENT CENTER, GENERAL SITE IMPROVEMENTS, AND THE REMOVAL OF 4 ORDINANCE-SIZE TREES AND 8 NON-ORDINANCE TREES WITH NO INCREASE IN THE STUDENT POPULATION (MAXIMUM ENROLLMENT OF 425 STUDENTS), ON A 9.13-GROSS ACRE SITE LOCATED ON THE NORTHEAST CORNER OF TRINIDAD DRIVE AND AKIO WAY (6835 TRINIDAD DRIVE)

FILE NO. SP19-023

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on June 26, 2019, an application (File No. SP19-023) was filed by the applicant, Olaf Jorgensen, a representative of A Gifted Education, Inc., for a Special Use Permit to allow the continued use and phased renovation of a private elementary school (preschool through 8th grade) with outdoor school uses within 150 feet of residentially-zoned properties on public land owned by the San José Unified School District, including the demolition of 30,133 square feet of existing buildings, relocation of portable buildings and other structures, the addition of new and modified buildings totaling 82,040 square feet, including a 15,000-square foot multi-purpose room, general site improvements, and the removal of 4 ordinance-size trees and 8 non-ordinance trees without increasing the maximum student population of 425 students, on an approximately 9.13-gross acre site, on that certain real property situated in the Public/Quasi-Public Zoning District and located

on the northeast corner of Trinidad Drive and Akio Way (6835 Trinidad Drive), 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 Title 20 of the San José Municipal Code, this City Council conducted a hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, this City Council gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

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

WHEREAS, at said hearing, this City Council received in evidence a development plan for the subject property entitled, “Almaden Country Day School – Event Center & Master Plan,” revised date April 21, 2020, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

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

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

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

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

1. Site Description and Surrounding Uses.

The Almaden Country Day School (ACDS) is a private elementary school located in a residential area in the Almaden Valley area of San José. The project site is located on the northeast corner of Trinidad Drive and Akio Way and abuts Greystone Park on the north. The San José Unified School District owns the subject approximately 9.13-gross acre site. However, it has been leased to A Gifted Educated, Inc. for the ACDS campus since 1982 and serves students in preschool through 8th grade with a maximum enrollment of 425 students and maximum staff of 77. Historically, the project site has been used as a school. Prior to use as ACDS's campus, the site was Henderson Elementary School which was part of the San José Unified School District.

The school site is developed and consists of several single-story buildings, including portable buildings totaling 65,886 square feet. Paved areas and walkways, landscaping, and paved parking lots make up the rest of the campus. The school operates Monday through Friday, 7 a.m. to 6 p.m. with before school care starting at 7 a.m. and after school care offered from 3 p.m. to 6 p.m. After school sports and clubs start at 3:15 and end at 6 p.m.

On Akio Way (south side of site), the school fronts single- and two-story homes. Approximately seventy-five percent of this frontage is fenced with a 4-foot galvanized chain link fence; single-story portable buildings are visible through sparse vegetation along the fencing. At the intersection of Akio Way and Trinidad Drive, sidewalks, lawns and a parking lot buffer the school buildings from the street. The school site can be accessed via two driveways on Trinidad Drive (west entrance/exit) and a midblock driveway, approximately 150 feet from the Trinidad Drive intersection, on Akio Way (south entrance/exit).

Except for the adjacent 4.7 gross acre park (Greystone Park) to the north of the site, single-family residences surround the project site. Camden Avenue further to the north and Almaden Expressway further to the south provide regional access to the site.

2. Project Description.

The project is a Special Use Permit to allow the continued use and phased renovation of a private elementary school (preschool through 8th grade) with outdoor school uses within 150 feet of residentially-zoned properties on public land owned by the San José Unified School District. Phased improvements in the Master Plan include: Demolition of 30,133 square feet of existing buildings, relocation of portable buildings and other structures, the addition of new and modified buildings totaling 82,040 square feet, including a 15,000-square foot event center, general site improvements, the removal of 4 ordinance-size trees and 8 non-ordinance-size trees on an approximately 9.13-gross acre site located on the northeast corner of Trinidad Drive and Akio Way (6835 Trinidad Drive). Implementation of the Master Plan would result in an increase in vehicle parking from 77 spaces to 86 spaces. Typical school operation hours will remain the same (7 a.m. to 6 p.m.), with new event center hours established as Monday through Saturday, 7 a.m. to 10 p.m. and Sunday 8 a.m. to 8 p.m., or until midnight in accordance ~~with the~~ with the notification of Special Events and activities condition. Condition Number 46.

Phase I

Construction of Phase 1 would occur over a period of 12 to 15 months and would include the demolition of a 970-square foot campus building, relocation of portable buildings (learning center and classrooms) to the north side of the campus, construction of a 15,000-square foot single-story multi-purpose building along the Akio Way frontage, and a new driveway entrance along Akio Way, on the southeast corner of the site. The new driveway entrance would change the existing on-site vehicle access and vehicle and pedestrian circulation pattern.

Inbound school motor vehicle traffic would enter the site from the new southeast driveway entrance and exit onto Trinidad Drive during Phase 1 of the Master Plan. The Akio Way frontage will also include a 5.5-foot sidewalk, 6.5-foot park strip with new trees, and ~~preserve the existing 4-foot tall~~ a new chain link fence.

Phase 2

Phase 2 includes demolition of approximately 12,000 square feet of buildings and the construction of a two-story, approximately 23,500 square foot, middle school and administration building on the southwest side of the project site.

Phase 3

Phase 3 includes demotion of approximately 13,500 square feet of buildings and the construction of a two-story elementary school building, approximately 21,600 square feet at the northwest of the project site and addition of an outdoor amphitheater and courtyard in the center of the campus.

Phase 4

Phase 4 includes demolition of approximately 4,000 square feet of buildings and the construction of an approximately 6,000-square foot auditorium, located north of the event center near the eastern property boundary and additional paved parking for a total of 86 on-site spaces on the southeast end of the campus.

All phases of the development include pervious and impervious site improvements.

The full buildout of the Master Plan would take 5 to 15 years, depending on school funding. The project applicant shall be required to apply for Planning Permit Amendment pursuant to the Zoning Code for each subsequent phase of this Special Use Permit consistent with the Master Plan. Should the development change, the project applicant would require a Special Use Permit Amendment or new Special Use Permit as required by the Zoning Code.

3. General Plan Conformance.

The project site has an Envision San José 2040 General Plan designation of Public/Quasi-Public. This designation supports public land uses including schools, libraries, corporation yards, colleges, water treatment facilities, convention centers, governmental offices, and homeless shelters. The Almaden Country Day School, an educational use, is consistent with the Public/Quasi-Public land use designation and complements the surrounding Residential Neighborhood designation. With the adoption of the Public/Quasi-Public rezoning, the project site will be in conformance with its Public/Quasi-Public designation.

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 project is located on a site that is within walking distance from many single-family residences. The private elementary school (preschool and kindergarten through 8th grades) complements the nearby Bret Harte middle school and Leland High School for a continuity in educational learning. The Master Plan improvements, such as an auditorium and event center, provide an opportunity for the school to be host to other activities and events that benefit the community.

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

Analysis: The project would modernize the school's facilities and provide educational spaces for high-quality learning and play. Because the school buildings have not been upgraded since the opening of the school in 1982 and portable buildings are currently

being used to substitute as classrooms, the project improvements would promote and raise the energy efficiency of the site. The school currently coordinates with children's sports leagues for sport games and the site would continue to be a community-building location and opportunity for the neighborhood.

Educational Policy ES-1.7: Support efficient use of land through consideration of smaller school sites and alternative school configurations (e.g. multi-story buildings, underground parking, placement of recreation space over parking areas or on rooftops) to support the needs of each community.

Analysis: *The project would build upon an existing school campus to continue providing an educational use within the City. Physical changes to the site under the Master Plan would be carried out in four phases and would not expand the capacity or enrollment of the school.*

Private Community Gathering Facilities Policy VN-5.1: Promote private community gathering facilities within Urban Villages and other areas near residents to serve neighborhoods and to contribute toward the development of vibrant, walkable places.

Analysis: *The project will have widened sidewalks and incorporate a plant strip to enhance the walking experience along Akio Way. The school desires to open its doors to allow access to its spaces to promote private community gatherings that serve the surrounding neighborhood.*

Noise and Vibration Policy EC-1.2: Minimize the noise impacts of new development on land uses sensitive to increased noise levels (Categories 1, 2, 3 and 6) by limiting noise generation and by requiring use of sound attenuation measures such as acoustical enclosures and sound barriers, where feasible. The City considers significant noise impacts to occur if a project would:

- a. Cause the DNL at noise sensitive receptors to increase by five dBA DNL or more where the noise levels would remain "Normally Acceptable"; or
- b. Cause the DNL at noise sensitive receptors to increase by three dBA DNL or more where noise levels would equal or exceed the "Normally Acceptable" level.

Analysis: *According to the Noise Study, prepared by MIG, Inc. in January 2020, for the environmental review, the project's operational noise levels do not result in noise levels that would increase the ambient noise environment by more than 3.0 DNL at any nearby/sensitive receptor.*

Consistent with this policy, sound attenuation measures are planned as part of the school's future phased development. As part of the Master Plan, an 8-foot concrete/masonry wall will be installed along-on the eastern property line along the length abutting the area immediately adjacent to the parking lot to reduce potential noise resulting from the operation of the future parking lot.

4. Commercial Design Guidelines (Institutional uses) Conformance

The Commercial Design Guidelines were developed to assist in the design, construction, review, and approval of commercial development in San José.

Building Design

The majority of the existing single-story buildings circle a central play area with portable buildings located on the southeast quadrant of the campus. Under the Master Plan, one 970-square foot portable building will be demolished and two other portable buildings closest to the Akio Way frontage will be relocated to the north side of the campus and in their place a 15,000-square foot, single-story event center and 5,935-square foot auditorium will be constructed. Additionally, the Master Plan includes a two-story administration/school building for the middle school and a two-story elementary school building. Because the full build-out of the Master Plan is anticipated to be completed in phases over the next 5 to 15 years, current plans reflect Phase 1 construction and demolition and conceptual building footprints for the subsequent three phases.

Phase 1

The multi-purpose building's façade on Akio Way consists of a back-of-the-building aesthetic with exit doors, horizontal metal panel banding along the midsection, and upper windows segmented into four sets of three with a motorized shade system to control potential glare. On its north face (front), the building is articulated through large windows and openings, stone texture base, pops of metal paneling detail, and gradual transitions in building height. Major entries and openings are sited inwardly, away from residential uses. Colors and materials would complement the existing warm color story: tan, beige and white trim used for school buildings.

Mechanical equipment is concealed behind parapet wall.

The Commercial Design guidelines recommend one and one-half feet of setback from residential for each foot of building height. The event center would measure up to 31 feet and 4 inches in height at its tallest point (north elevation) and be set back from the adjacent residential uses by more than 100 feet.

Beyond Phase 1, the buildings are conceptual but will adhere to the development standards described here. The phase-specific building design will be reviewed through subsequent permit Adjustments and/or Amendment(s). No building footprint is located within the buffer recommended in the Design Guidelines.

Outdoor Uses

The outdoor school uses would continue similarly to the existing school operations. Outdoor school uses including recess, physical education classes, after-school sports practices, and activity generated by the multi-purpose building and are sited away

from residential uses. Buildings with potential to generate the most noise and activity have main entrances located internally towards the school.

Landscaped Areas

The existing landscaping areas would be enhanced under the Master Plan; the frontage along Akio Way will be improved upon by the addition of eight 36-inch trees. Other landscaping, including the 9 replacement trees, throughout the school would serve for beautification and stormwater management purposes. The existing 4-foot fence on Akio Way will be preserved-replaced and a new 8-foot concrete/masonry wall will be erected along the eastern property boundary along the length abutting the area immediately adjacent to the parking lot. The swath of lawn on the southeast intersection of Trinidad Drive and Akio Way would be segmented to augment the school's visibility under the Master Plan.

Parking Design

There are 77 existing parking spaces on-site. An existing 43-space parent/staff/visitor parking lot is located on the Trinidad Drive parking lot (west) with ingress and egress driveways on Trinidad Drive. Thirty-four (34) staff and visitor parking spaces are available on the eastern parking lot.

After the completion of Phase 1, the maximum vehicle queue from the drop-off area would be able to be stored within the school site. With the completion of the development anticipated in the Master Plan, vehicular access to the school site during the school's peak hours would be split between two parking lots/drop-off areas: the Trinidad Drive/west parking lot/drop-off area and the Akio Way/east parking lot/drop-off area. New parking areas will also meet the parking design guidelines and provide a break between car parking spaces with a park strip.

5. Zoning Ordinance (Title 20) Conformance

Land Uses

Pursuant to Zoning Ordinance Section 20.120.110, the PQP-Public/Quasi-Public Zoning District allows publicly serving uses such as schools.

Development Regulations

The existing school conforms to the R-1-5 development standards: 20-foot front setback, 20-foot rear setback, and maximum height of 35 feet. The project conforms to the PQP Public/Quasi-Public Zoning District Development Standards enumerated in Section 20.40.200 and as demonstrated in the table below. The new buildings under the Master Plan are set back from the front (Akio Way and Trinidad Drive) more than 24 feet (PQP has a 10-foot minimum front setback), and approximately 35 feet from the rear setback (PQP has a 10-foot minimum rear setback) and the tallest building (event center) is 31 feet and 4 inches (PQP allows a maximum of 65 feet).

Project Development Standards			
	Front Setback (two frontages, Akio and Trinidad)	Rear Setbacks	Height
PQP Standards	10 feet; less than 10 feet if established in approved development permit	10 feet; less than 10 feet if established in approved development permit	65 Feet (MAX)
Provided by Project	24.5 feet	Approximately 35 feet for relocated portable buildings; 135 feet for event center building on east	31 feet, 4 inches

The project would continue to remain consistent with the development standards of the prior R-1-5 Zoning District, so as to remain complementary to the surrounding residential uses.

Parking

This project is subject to parking standards in Chapter 20.90 of the San José Municipal Code.

Vehicle Parking:

Pursuant to Section 20.90.060 of the Zoning Ordinance, the required parking for a school is one parking space per teacher, plus one parking space per employee. The school has 28 teachers and up to 49 employees for which 77 parking spaces are required. There are 77 existing parking spaces on site. After Phase I, the existing number of parking spaces would be maintained and queued vehicles contained on-site. The MIG traffic circulation review report found new site access on Akio Way is projected to improve operating conditions along Akio Way by providing additional queue storage capacity on site, resulting in the elimination of standing vehicular queues along westbound Akio Way. With the completion of the improvements under the Master Plan, the school would provide a total of 86 parking spaces which meets the minimum required 77 spaces. The phased improvements would not trigger the need for more parking spaces since the enrollment and staffing would remain the same.

Bicycle Parking:

An elementary school is required to have bicycle parking at the ratio of 1 bicycle parking space per 10 full-time employees and 6 bicycle spaces per classroom. With the implementation of the Master Plan, the ACDS campus would consist of 37 classrooms compared to the existing 34 classrooms which would require 230 bicycle spaces. Student enrollment and total number of staff will not increase. Bicycle parking shall be provided per Condition Number 49 the bicycle condition and accommodated onsite. Approved plans show bicycle parking sited on the northwestern quadrant of

the campus and enclosed bicycle parking located within the elementary school building.

Motorcycle Parking

Pursuant to Section 20.90.350 and Table 20-250, the school use is exempt from the motorcycle parking requirement.

Performance Standards (Noise)

As shown in Table 20-85 of Section 20.30.700 of the Zoning Ordinance, the decibel level for any residential or non-residential use on a property shall not exceed 55 dBA at the property line unless approved through a Special Use Permit. The Zoning Ordinance's noise limitation is a measurement of a single noise level at any given moment, which is different than the General Plan's noise policy which measures a project's average noise level.

Although the project site is surrounded by residential uses (sensitive noise receptors), the site's eastern boundary specifically is the most sensitive because it shares a property line with single-family residences (along Winterset Way).

A noise study was prepared by the noise consultant for the project, MIG, Inc., to analyze the existing ambient noise levels of the site and anticipated noise levels that would be generated by the project's operation. The noise study found that the project would not increase the ambient noise levels at adjacent residential receptors by more than 3 dBA DNL or more, and therefore would not exceed applicable noise thresholds as stated in General Plan Policy EC-1.2. There was found to be a negligible increase in expected ambient noise conditions for the new project because the project's multipurpose building would allow existing outdoor noise generating activities to be moved indoors. The project does not increase student enrollment, so traffic conditions and student activities were found to be similar as existing conditions.

Tree Removals

Pursuant to Chapter 13.32 (Tree Controls), Section 13.32.030 of the San José Municipal Code, a tree removal permit is required for removal of a live tree from the project site.

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Tree Replacement Ratios ¹							
Circumference of Tree to be Removed ²	Type of Tree to Be Removed			Min. Size Each Replacement Tree	Total Number of Trees to Be Removed	Required	Provided
	Native	Non-Native	Orchard				
38 inches or more ³	5:1	4:1	3:1	15-gallon	4	16	
19 up to 37 inches	3:1	2:1	none	15-gallon	6	12	
Less than 19 inches	1:1	1:1	none	15-gallon	2	2	
TOTAL					12	30	29
¹ x:x = tree replacement to tree loss ratio ² As measured 4.5 feet above ground level ³ Ordinance-sized tree Notes: Trees greater than 38 inches in 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 Tree Removal Permit is required for removal of trees of any size. A 38-inch tree equals 12.1 inches in diameter. One 24-inch box tree = two 15-gallon trees							

Analysis: The project would remove 4 ordinance-size trees and 8 non-ordinance size trees under Phase I to facilitate the event center development and new driveway. The trees range in size from 8.5 inches to 98 inches in circumference. All the trees to be removed are located within the development's footprint. More than fifty percent of the onsite tree stock will be preserved.

A total of nine 36-inch box Sycamore trees and one 24-inch Western redbud tree would be provided in the right-of-way along the Akio Way frontage on-site which is equivalent to 29 replacement trees. The project requires 30 replacement trees, with the remaining tree provided through the in-lieu replacement fee. Trees not mitigated through on-site plantings may be replaced with an in-lieu fee to the Department of Transportation, for future planting elsewhere in the city.

6. City Council Policy Conformance

Pursuant to Council Policy 6-30 Public Outreach, the project used a 500-foot mailing radius to notice for a community meeting (October 16, 2020) and the City Council hearing (May 12, 2020). The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

7. Environmental Review.

Under the provisions of Section 15302 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), the Special Use Permit 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. CEQA Guidelines Section 15302 Replacement or Reconstruction, Class 2, covers the replacement or reconstruction of an existing school where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. The subject project includes renovations and improvements that will replace school structures with other school structures on the same site as the structure being replaced and will have substantially the same purpose and capacity as the structure replaced. The school is not proposing to increase the student population.

CEQA Guidelines Section 15300.2 provides exceptions to the use of Categorical Exemptions where the use of a Categorical Exemption is prohibited under certain circumstances. The City has considered the project's applicability to all of the exceptions under Section 15300.2. An analysis of each of these exceptions in reference to this specific project is provided below.

- (a) Location. Class 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located. Section 15300.2(a) states that a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. The site is located in an urbanized area, fully developed with an existing school. The project would renovate the existing school and would not increase enrollment. For the reasons mentioned in the Analysis above, the project would not be considered to be a sensitive environmental site.
- (b) Cumulative Impact. Based on the above analysis, there is no evidence of a potential significant cumulative impact on the environment from the project. The project is a renovation of the existing school site to create an updated campus. Temporary impacts due to project construction will be reduced by the incorporation of Standard Permit Conditions to be implemented as each phase of construction for resource areas such as air quality, biological resources, hazards, hydrology, and noise. Additional elements from the project description have been incorporated into the permit and initial study as Conditions of Approval to ensure the reduction of temporary and operational impacts. Based on the assessment, the project would result in temporary construction effects and a Noise Assessment prepared by MIG., Inc., in January 2020 was conducted to evaluate noise effects of the full operations. The noise study found that the implementation of the Master Plan under full build out would not increase ambient noise levels at nearby sensitive receptors by more than 3 dBA DNL, and therefore would not be a potentially significant impact on a project-level or cumulatively. Ambient noise levels were found not to increase by more than 3 dBA DNL because the proposed multipurpose building would allow existing outdoor noise-generating activities to take place indoors, and because there is no proposed increase in student enrollment to significantly increase traffic and operational noise

levels. Therefore, these modifications would not incrementally contribute to any other environmental resource such as traffic, noise, or biological resources.

- (c) Significant Effect. The site is developed with an existing school. The existing and continued use and project structures are consistent with the surrounding neighborhood. Based on the analysis above, the redevelopment and continued operation of the site would not result in significant effects under applicable thresholds for each CEQA resource area. The project would not result in any significant effects on the environment due to unusual circumstances. The project does not have any unusual circumstances that would negatively impact the environment.
- (d) Scenic Highways. The site is not visible or located near designated State scenic highways and would not result in damage to scenic resources.
- (e) Hazardous Waste Sites. The project site is not included on any list compiled pursuant to Section 65962.5 of the Government Code.
- (f) Historical Resources. The project is not a historical resource and is not located in a historical conservation area. Therefore, the project would not adversely change the significance of a historical resource.

Conclusion: The project site is within an urbanized area with existing conditions to sewer, water, and electricity service. The project site is not within close proximity to any rivers or waterways. The renovation and remodel of the existing Almaden Country Day School would occur over a phased period of approximately 15 years for full build-out. There is no increase in enrollment or staff capacity. The school would not involve the use of significant amounts of hazardous substances. As discussed above, the project would not result in significant impacts to applicable resources such as transportation, noise, and biological resources. As the project would partially replace the existing school structures with new buildings located on the same site with the same function and capacity, the project qualifies for Categorical Exemption Class 2, as defined in Section 15302 of the CEQA Guidelines.

8. Special Use Permit Findings

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

Analysis: As explained above, the project is consistent with the General Plan designation and policies in that the project is a private elementary school (preschool through the 8th grades) that would provide additional educational options within the City's boundaries for the local community. The project would improve upon an existing school site and bring the school use into further

compliance with the addition of expanded sidewalks, sound attenuation measures, minimum vehicle and bicycle parking, and energy-efficient buildings.

- b. The special use permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the project; and

Analysis: As discussed above, the project conforms with the general development standards for PQP Public/Quasi-Public Zoning District in terms of height, setbacks, parking, and noise standards.

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

Analysis: As described above, the project used a 500-foot mailing radius to notice for a community meeting (October 16, 2020) and the City Council hearing (May 12, 2020). Therefore, noticing practices are consistent with Council Policy 6-30: Public Outreach Policy. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

- d. The proposed use at the location requested will not:

- i. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
- ii. Impair the utility or value of property of other persons located in the vicinity of the site; or
- iii. Be detrimental to public health, safety, or general welfare; and

Analysis: As discussed above, the Almaden Country Day School (ACDS) is currently located on the project site and has been in operation since 1982. Prior to ACDS, Henderson Elementary School was located on the project site and the site is presently owned by the San José Unified School District. Therefore, historically the project area has had an educational use and will continue as a school. The project conforms with the Public/Quasi-Public designation and includes improvements to the project site to modernize the campus and extend its longevity.

When the school becomes operational, the project applicant shall prepare a Transportation Analysis, included as a condition of approval, to address any potential traffic-related issues from the surrounding neighborhood. The Special Use Permit caps the maximum student enrollment at 425 students and is not expected to generate additional traffic per the circulation and operations analysis conducted by Hexagon Transportation Consultants. The noise study (MIG, Inc., conducted in January 2020, with final memo produced in April 2020) did not anticipate noise impacts. The noise study found the project would not increase the ambient noise levels at adjacent residential receptors by more than 3 dBA DNL or more, and therefore would not exceed applicable noise thresholds as stated in General Plan Policy EC-1.2. There report did find a negligible increase in expected

ambient noise conditions for the new project because the proposed multipurpose building would allow existing outdoor noise generating activities to be moved indoors, and the project would not increase student enrollment so traffic conditions and student activities were found to be similar to existing conditions. The multipurpose building/event center and the auditorium were specific uses within the school that were taken into consideration in both studies for their potential to exceed ambient noise levels and/or generate traffic. Neither study supported the conclusion that these uses would intensify either noise or traffic. Per the Operations Plan, the event center would be available for use by other groups/members of the community; however, any event would be limited to the hours specified in the Municipal Code (no use past midnight) and would be further restricted by permit conditions that specifies the number of special events per calendar year. Additionally, ACDS will continue to notify nearby residences of any events extending into the evening hours and designate a contact person to address complaints.

As discussed above, typical operation hours are Monday through Friday, from 7 a.m. to 6 p.m., with certain events such as evening drama performances and weekend Little League games and tournaments taking place outside normal business hours (Monday-Friday events from 7 a.m. to 10 p.m.; Saturday events from 8 a.m. to 10 p.m. and Sunday events from 8 a.m. to 8 p.m., with weekend hours extended to midnight with notification of special events and activities to adjacent residences). For these reasons, the project is not anticipated to adversely affect the community, impair the value of the adjoining properties, or be detrimental to public health, safety, or welfare.

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

Analysis: The existing site provides adequate vehicle and bicycle parking. The Master Plan development would provide adequate bicycle and vehicle parking, as described above. The existing landscaping areas would be enhanced under the Master Plan; the frontage along Akio Way will be improved by the addition of eight large-canopy trees. Other landscaping throughout the school would serve for beautification and stormwater management purposes. New parking areas will also meet the parking design guidelines and provide a buffer between car parking spaces with a park strip approximately every four spaces. The existing 4-foot fence on Akio Way will be ~~preserved-replaced~~ and a new 8-foot concrete/masonry wall will be erected along the eastern property boundary extending the length of the adjacent parking lot. The 9.13-gross acre site is of adequate size and shape to accommodate the required yards, walls, fences, parking, and landscaping features for the project.

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

Analysis: *The school site can be accessed via two driveways on Trinidad Drive (west entrance/exit) and a midblock driveway on Akio Way, approximately 150 feet from the Trinidad Drive (south entrance/exit). Camden Avenue to the north and Almaden Expressway to the south provide regional access to the site. The new driveway entrance would change the on-site vehicle access and vehicle and pedestrian circulation pattern. In a traffic circulation and operations analysis dated December 9, 2019, Hexagon Transportation Consultants examined potential traffic operations issues. The study determined that because student enrollment is not expected to increase, no additional traffic is projected to be generated with the implementation of the new driveway entrance on Akio Way. Furthermore, the traffic report found that potential traffic generated by events in the new multi-purpose building and auditorium are not expected to exceed current conditions because the events will likely take place after peak hours. Nonetheless, a Local Transportation Analysis (LTA) is a condition of approval to ensure that it complies with all applicable transportation policies and regulations. The LTA could not be performed prior to approval of the project because current traffic patterns do not reflect actual conditions due to the County of Santa Clara Department of Public Health shelter-in-place order issued on March 16, 2020, updated March 31, 2020; and State of California Executive Order N-33-20 issued on March 19, 2020. Traffic patterns are anticipated to return to normal volumes this fall when schools are back in session – only then, can the LTA capture accurate volume and speed studies for future traffic calming measures. The project site is an existing school and is adequately served by utilities and public service facilities.*

- g. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: *As discussed above, the project occurs in an urbanized area that is adequately serviced by all required utilities and public services. The project has a stormwater control plan to ensure property drainage of the site and school uses are not anticipated to produce negative odors.*

Additionally, this project meets the criteria for a categorical exemption. Per the CEQA Guidelines, Section 15302 Replacement or Reconstruction, covers this project because it includes the replacement or reconstruction of an existing school where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. The relocation and construction of buildings and the vehicle and pedestrian circulation patterns under the Master Plan were accounted for in technical studies required for the project (circulation and operations analysis and noise study). Both studies supported the conclusion that these uses would not intensify either noise or traffic levels. To reduce noise generated by vehicle activity on the southeast part of campus, the project is providing an 8-foot concrete/masonry wall on the east property line and would be required to provide a noise study for each construction phase of the Master Plan.

Therefore, the environmental impacts of the project will not have an unacceptable negative affect on adjacent properties.

9. Evaluation Criteria for Demolition

Chapter 20.80.460 of the San José Municipal Code establishes evaluation criteria for issuance of a permit to allow for demolition. These criteria are made for the project based on the above-stated findings related to General Plan, Zoning and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in the Resolution.

- 1. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;*
- 2. The failure to approve the permit would jeopardize public health, safety or welfare;*
- 3. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;*
- 4. The approval of the permit should maintain the supply of existing housing stock in the City of San José;*
- 5. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;*
- 6. Rehabilitation or reuse of the existing building would not be feasible; and*
- 7. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.*

Analysis: *The demolition of the on-site structures would facilitate the construction of renovated and updated buildings compatible with the surrounding neighborhood. Criteria 1 and 2 are not applicable because the school does not*

present a blight or dangerous condition and the approval of the permit would not exacerbate an existing nuisance, blight or dangerous condition; and failure to approve the permit would prevent the modernization of the campus, but it would not jeopardize public health, safety or welfare. The demolition would maintain the supply of existing housing stock, as no residential units would be eliminated with the project. There are no historic structures on-site and rehabilitation of the existing structures would be impractical as the goal is to update and modernize the school site. Criteria 7 is not applicable because there is an application for a replacement building on file.

10. Tree Removal Findings

Chapter 13.32 of the San José Municipal Code establishes at least one of the following required findings must be made for issuance of a Live Tree Removal Permit for ordinance-size trees. Findings are made for the project based on the findings related to General Plan, Zoning Ordinance and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in the resolution. In order to make the Tree Removal findings pursuant to Section 13.32.100 of the San José Municipal Code, the City Council must determine that:

- 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.
- b. That the location of the tree with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question;

Analysis: The project would remove 4 ordinance size trees and 8 non-ordinance size trees under Phase I to facilitate the event center development and new driveway. The trees range in size from 8.5 inches to 98 inches in circumference. All the trees to be removed are located within the development's footprint.

A total of nine 36-inch box Sycamore trees and one 24-inch Red rosebud tree would be provided along the Akio Way frontage. ~~on-site.~~ The project would require 30 replacement trees and the project would provide an equivalent to 29 replacement trees, not including street trees. Trees not mitigated through on-site plantings could be replaced with an in-lieu fee to the Department of Transportation for future planting elsewhere in the city.

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

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B) of Title 20 of the San José Municipal Code, should the permittee fail to file a timely and valid appeal of this Special Use Permit(hereafter, "Permit") within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the permittee:
 - a. Acceptance of the Permit; 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.** The Permit shall automatically expire four (4) years from and after the date of issuance hereof by the City Council, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the City Council. However, the Director of Planning, Building and Code Enforcement may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20 of the San José Municipal Code. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** ~~The project site and buildings are is owned by the San José Unified School District. The school buildings to be constructed by the Permittee under this Permit will also be owned by the San José Unified School District. The pPermittee (ACDS) has elected to go through the building permit process with the Californiahave the Division of State Architect (DSA), who has jurisdiction over building permit review and issuance for California public K-12 schools-review building permits. Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official DSA for the structures described or contemplated under this PermitPermittee shall be deemed acceptance of all conditions specified in this permit and the permittee's agreement toshall fully comply with all of said the conditions set forth in this Permit. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.~~
4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Regional Wastewater Facility represented by approved land uses

in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.

5. **Conformance to Plans.** The development of the site shall conform to the approved Permit plans entitled, "Almaden Country Day School - Event Center & Master Plan," dated revised on April 21, 2020, 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 Plan Set."
6. **Scope and Use Authorization of the Permit.** Subject to all conditions herein, this Permit allows the continued use and phased renovation of a private elementary school (preschool through 8th grade) with outdoor school uses within 150 feet of residentially-zoned properties on public land owned by the San Jose Unified School District, including the demolition of 30,133 square feet of existing buildings, relocation of portable buildings and other structures, the addition of new and modified buildings totaling 82,040 square feet, including a 15,000-square foot event center, general site improvements, and the removal of 4 ordinance-size trees and 8 non-ordinance size trees without increasing the maximum student population of 425 students, on an approximately 9.13-gross acre site. Subsequent phases or changes to the phases of the master plan shall obtain a Permit Amendment to the satisfaction of the Director of Planning.
7. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local, state and federal laws. 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 conditioned.
8. **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 Title 20 of the San José Municipal Code.
9. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance or that adversely affects 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.

10. **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.
11. **Anti-Graffiti.** During construction, the permittee shall remove all graffiti from buildings, walls and other surfaces within 48 hours of defacement. Upon project completion and/or transfer of ownership, the property owner, and/or Maintenance District shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
12. **Loitering.** Loitering shall not be allowed in the public right-of-way adjacent to the subject site.
13. **Refuse.** All existing and proposed trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
14. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the approved plan set.
15. **Sign Approval.** No new signs are approved at this time. All signs shall be subject to review and approval by the Director of Planning, Building and Code Enforcement through a subsequent Permit Adjustment.
16. **Building and Property Maintenance.** The property owner or management company 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.
17. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set. Any change in building colors and materials shall require a Permit Adjustment.
18. **Emergency Vehicle Access.** The project will be required to meet standard permit conditions for emergency vehicle access.
19. **No Generators Approved.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
20. **Reclaimed Water.** The project shall conform to Chapters 15.10 and 15.11 of the San José Municipal Code for use of reclaimed water and shall include an irrigation system designed to allow for the current and future use of reclaimed water for all landscaping.

21. 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.

22. Hours of Use. The hours of use for outdoor common space areas and the interior areas of the ~~residential community building school campus shACDS campus wia~~ will be limited between 6:00 a.m. and 10:00 p.m. daily. ~~Amplified sound will not be allowed in these areas.~~

23. Construction and Demolition Hours. Construction, demolition, and grading activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday. This includes the staging of equipment and construction personnel. The construction hours shall be printed on all plans for the project used to construct the project. Interior construction activities that do not generate any audible noise impacts at residential properties are allowed on Saturdays between 9:00 a.m. and 5:00 p.m.

~~**24. Demolition of Structures.** No demolition permits may be issued prior to the submittal of foundation or structural building permits. Demolition Permits may be issued prior to the Final Map approval.~~

~~**25-24. Timing of Tree Removals.**~~ Trees that are to be removed to accommodate new development shall not be removed until the related ~~Public Works Grading Permit DSA building permit~~ has been issued.

The trees removed by the project would be replaced according to tree replacement ratios required by the City, as provided in Table 4.4-1 below.

Table 4.4-1: Tree Replacement Ratios				
Circumference of Tree to be Removed ¹	Type of Tree to be Removed ²			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more ³	5:1	4:1	3:1	15-gallon container
19 – 38 inches	3:1	2:1	None	15-gallon container
Less than 19 inches	1:1	1:1	None	15-gallon container
¹ As measured 4.5 feet above ground level ² x:x = tree replacement to tree loss ratio ³ Ordinance-sized tree Notes: Trees greater than or equal to 38 inches in 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 Tree Removal Permit is required for removal of trees of any size. A 38-inch tree is 12.1 inches in diameter. One 24-inch box tree = two 15-gallon trees.				

- i. Since four (4) ordinance size trees and eight (8) non-ordinance size trees will be removed, a total of thirty (30) 15-gallon replacement trees are required to

be planted. A total of nine 36-inch box Sycamore trees and one 24-inch Red rosebud tree would be provided along the Akio Way frontage, on-site.

- ii. In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:
- iii. Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

26-25. Landscaping. Planting and irrigation are to be provided as indicated on the approved plans. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced. Permanent irrigation is to be installed in accordance with Part 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.

27-26. Landscaping Maintenance. The permittee shall maintain on-site landscaping areas and landscaping areas along the public right-of-way areas/streets to the satisfaction of the Director of Public Works.

28-27. Certification. Pursuant to San José Municipal Code, Section 15.10.486, certificates of substantial completion for landscape and irrigation installation shall be completed by licensed or certified professionals and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.

29-28. Street Cleaning and Dust Control. During construction, permittee shall damp sweep the public and private streets within and adjoining the project site each working day sufficient to remove all visible debris and soil. On-site areas visible to the public from the public right-of-way shall be cleaned of debris, rubbish, and trash at least once a week. While the project is under construction, permittee shall implement effective dust control measures to prevent dust and other airborne matter from leaving the site.

30-29. Recycling. Scrap construction and demolition material should be recycled. Integrated Waste Management staff can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.

31-30. Lighting. All proposed exterior lighting shall be as shown on the approved plans. On-site, New on-site, exterior, unroofed lighting shall conform to the Outdoor Lighting Policy. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.

32.31. Fencing. Fence height and materials shall be as shown on the approved plans. Changes to the approved fencing shall require review by the Director of Planning, Building, and Code Enforcement.

33.32. Mechanical Equipment. The location of mechanical equipment (HVAC) shall be located as shown on the approved plans and shall be screened from view.

34.33. Utilities. All new on-site telephone, electrical, and other overhead service facilities shall be placed underground.

35.34. Permit Adjustment Required. Prior to the issuance of any DSA Building-building Permit, the permittee must obtain a Permit Adjustment for:

- a. Outdoor Lighting: Outdoor lighting that is consistent with the Outdoor Lighting on Private Developments and City of San José Interim Lighting Policy Broad Spectrum Lighting (LED) for Private Development.
- b. Back-up Generator: A back-up generator must meet the following:
 - i. Be enclosed within the building
 - ii. Be consistent with the Municipal Code Section 20.80.2030:
 - 1) Operation of a temporary stand-by or backup power generation facility, by definition, shall not exceed a maximum time period of four (4) consecutive months in any twelve (12) month period.
 - 2) Testing of generators is limited to 7:00 a.m. to 7:00 p.m., Monday through Friday.

36.35. 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.

37.36. Bureau of Fire Department Clearance for Issuing Permits. Prior to the issuance of any Building Permit, the project must comply with the 2016 California Fire Code.

~~**38. Green Building Requirements.** This development is subject to the City's Green Building Ordinance for Private Sector New Construction as set for in Municipal Code Section 17.84. Prior to the issuance of any shell permits, or complete building permits, for the construction of buildings approved through the scope of this Permit, the Permittee shall pay a Green Building Refundable Deposit. In order to receive a refund of the deposit, the project must achieve the minimum requirements as set forth in Municipal Code Section 17.84. The request for the refund of the Green Building Deposit together with evidence demonstrating the achievement of the green building standards indicated in Municipal Code Section 17.84 shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension~~

~~is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.~~

Building Division 37. Division of the State Architect Clearance for Issuing Permits. Prior to the issuance of any Building Permit, the following requirements must be met to the satisfaction of the ~~Chief Building Official~~ Planning, Building, and Code Enforcement Department:

~~39-37.~~ ÷

- a. *Construction Plans.* This permit file number, SP19-023 shall be printed on all construction plans submitted to the ~~Building Division~~ DSA.
- 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 begins with the initial plan check submittal to the DSA. ~~Building Division~~. Prior to any building permit issuance by the DSA, building permit plans shall conform to the approved Planning development permits and applicable conditions.
- e. *Street Number Visibility.* Street numbers of the buildings shall be easily visible at all times, day and night
- f. *Other.* Such other requirements as may be specified by the Chief Building Official.

~~40-38.~~ **Street Trees.** Street trees, as shown on Approved Plans, shall be planted on the street frontage. A permit for planting street trees shall be obtained from the City Department of Transportation, Trees and Landscaping Section, (408) 794-1900.

~~39.~~ **Fence Standards.** Fences shall be erected in accordance with the standards established on the Approved Plans. Changes to the approved fencing shall comply with Section 17.24 of the City of San José Municipal Code.

~~41-40.~~ **Construction-Related Noise.** Noise minimization measures include, but are not limited to, the following:

- a. Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
- b. Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.

- c. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- d. Prohibit unnecessary idling of internal combustion engines.
- e. 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.
- f. Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- g. Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
- h. Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
- i. 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.
- j. Designate a “disturbance coordinator” who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
- k. Limit construction to the hours of 7:00 a.m. to 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.

42.41. Number of Students and Staff. This school shall be limited to a maximum of 425 students and 80 teachers/staff.

43.42. Weekday Hours. Daily arrival and pick-up of students shall occur no earlier than 7:00 a.m. and no later than 6:00 p.m., respectively. All other weekday activity shall begin no earlier than 7:00 a.m. and end no later than 10:00 p.m., unless adjacent residences are notified per the After-hours notification of Special Events and activities condition. Condition No. 46.

44.43. Weekend Activities. Weekend activities utilizing the Event Center/Multi-Purpose Building and Auditorium may only occur between 8:00 a.m. and 10 p.m. on Saturday and end at 8:00 p.m. on Sunday, unless adjacent residences are notified per **Condition No. 46** the After-hours notification of Special Events and activities condition. At no time, shall any event go past midnight.

45.44. After-hours notification of Special Events and activities. ACDS shall provide adjacent residences written notification of any event/ activity that occurs outside of the operation hours identified above at least 7 business days in advance of the event/activity. Additionally, ACDS shall list special events on the school website. At no time, shall any event go past midnight.

46.45. Special Events. The school may have up to ten (10) special events per calendar year. Special events are defined as events with assemblages of people exceeding 200 persons at school site at any given time, except regularly scheduled Annual Events listed in the School Events Calendar which take place regularly every school calendar year (i.e. graduation ceremonies, open houses, Pumpkin Carving Day, and Thanksgiving Feast). Special events on weekends shall begin no earlier than 8 a.m. and end no later than 10 p.m. on Saturday and end no later than 8 p.m. on Sunday. Special events on weekdays shall begin no earlier than 7:00 a.m. and end no later than 10:00 p.m., unless adjacent residences are notified per the After-hours notification of Special Events and activities condition. ~~Condition No. 46~~. At no time, shall any event go past midnight. Vehicle parking for special events shall be accommodated on-site. As part of the school's ongoing coordination efforts, a schedule of special events shall be provided to the neighborhood.

47.46. Neighborhood Coordination. A neighborhood liaison shall be designated for the school and contact information (name, phone, email) shared with the neighborhood. The neighborhood liaison shall work with the neighborhood and address any noise, parking, traffic, or other related concerns.

48.47. The bicycle parking shall be provided on-site at 1 per 10 full-time employees plus 6 per classroom (Kindergarten-8th grade).

49.48. STANDARD ENVIRONMENTAL CONDITIONS

a. Air Quality

1. The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:
 - i. Water active construction areas at least twice daily or as often as needed to control dust emissions.
 - ii. Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.

- iii. Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- iv. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- v. Pave new or improved 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. Replant vegetation in disturbed areas as quickly as possible.
- viii. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- ix. Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
- x. Maintain and properly tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
- xi. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

b. Biological Resources

1. 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 would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at www.scv-habitatagency.org.

c. Cultural Resources

1. 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

2. 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. a. 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. b. The MLD identified fails to make a recommendation; or
 - iii. c. The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.
3. Paleontological Resources. If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning

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

d. Geology and Soils

1. To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.
2. All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
3. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
4. Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
5. The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

e. Hazards and Hazardous Materials

1. Asbestos and Lead Based Paint.

- i. 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 (ACMs) 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.
- vi. Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers.
 - 1) Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
 - 2) During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.

- 3) Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.
2. The project shall adhere to the recommendations of the Phase I Environmental Site Assessment prepared by Cornerstone Earth group on May 8, 2018 that are already incorporated as part of the project prior to the issuance of any grading or ground disturbing activities.

f. Hydrology and Water Quality

1. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
2. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
3. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
4. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
5. All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.
6. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
7. Vegetation in disturbed areas shall be replanted as quickly as possible.
8. All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
9. The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

g. Noise

1. Consistent with City of San José General Plan Policy EC-1.7, the ACDS and/or its designated contractor shall prepare a Construction Noise Logistics Plan (CNLP) prior to the start of any construction activities for each Phase associated with the ACDS Campus Master Plan, as is included as part of the project description.

Prior to any construction activities associated with Phase 2 of the Campus Master Plan, the ACDS shall install a six-foot (minimum) tall permanent, concrete barrier along the entire portion of the project's southeastern parking lot, as is shown on the final site plan.

50. Public Works Clearance: Prior to the approval of any ~~Public Works permits~~ any building permits by DSA, the ~~P~~permittee shall be required to have satisfied all of the following Public Works conditions. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <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:**

1. In alignment with State of California Senate Bill 743 (SB743), the City of San José Policy, Transportation Impact Policy - Council Policy 5-3 has been replaced with a new Transportation Analysis Policy - Council Policy 5-1. Council Policy 5-1 replaces the transportation impacts threshold from Level of Service (LOS) under Council Policy 5-3 to Vehicle Miles Traveled (VMT). The new Transportation Analysis Policy has been in effect since March 29, 2018.
2. A Local Transportation Analysis (LTA) shall be completed and approved by City prior to the issuance of any building permit. Transportation Analysis (TA) reports are prepared to ensure that new development projects comply with all applicable transportation policies and regulations. Council Policy 5-1, Transportation Analysis Handbook and other transportation analysis resources can be found at the Development Services website:
<https://www.sanjoseca.gov/your-government/departments-offices/transportation/planning-policies/vehicle-miles-traveled-metric>.

c. **Grading/Geology:**

1. A grading permit is required prior to the issuance of a Public Works Clearance.
2. 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 2019 California Plumbing Code or

- submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
3. If the project hauls 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.
 4. 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.
 5. 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.
1. Project owner shall ensure the project site has adequate area(s) allocated/reserved to accommodate stormwater/hydromodification management (HM) facilities necessary for ultimate buildout of the project site.
 2. Post-project impervious surfaces shall not exceed pre-project conditions for the Master Plan site. Project shall ensure appropriate reservation of project area and ensure feasibility for construction and function of the appropriate HM facilities, if the project is determined to be subject to HM requirements.
 3. The project's Stormwater Control Plan and numeric sizing calculations must be in conformance with City Policy 6-29 during implementation.

4. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
5. A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating that all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.
6. A design of the pervious pavement by a Licensed Geotechnical Engineer shall be submitted prior to the issuance of a Public Works Clearance.
- e. **Stormwater Peak Flow Control Measures:** The project is located in a Hydromodification Management (HM) area and will create and/or replace one acre or more of impervious surface, but does not increase the total amount of impervious surface over the pre-project condition. The project is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14) which requires demonstrating that post-project runoff is less than or equal to the estimated pre-project rates and durations.
- f. **Flood Zone D, X, and AE:** The subject development parcel is situated within multiple flood zones (Zone D, X, and AE). There are no City floodplain requirements for Zone D and X. Based on preliminary review of the site plan, it appears that construction activities will be in Zone D and X only. Revise the plan to show all flood zone boundaries. If any development work occurs in Zone AE, additional floodplain review will be required.
- 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. **Street Improvements:**
Phase 1:
 1. Remove and replace curb, gutter, and sidewalk along Akio Way project frontage (approximately 380 feet) with an approximately 12-foot wide detached City Standard sidewalk. This includes a 0.5-foot wide curb, 6.5-foot wide park strip, and a 5-foot wide sidewalk along Akio Way project frontage.
 2. Reconstruct three (3) handicap ramps at the intersection of Akio Way and Trinidad Drive.
 3. Reconstruction/realignment of the easterly handicap ramp at the intersection of Akio Way and Winterset Way may be required.

4. Construct a stop control at Akio Way at the intersection of Trinidad Drive/Akio Way and Winterset Drive/Akio Way if required by the Director of Public Works. Conduct a stop warrant analysis as required by the Director of Public Works.
5. Construct bulb outs at the intersection of Trinidad Drive/Akio Way and Winterset Drive/Akio Way as required by the Director of Public Works. Conduct a traffic calming study as required by the Director of Public Works.

Subsequent Phases:

1. Remove and replace curb, gutter, and sidewalk along entire Trinidad Drive project frontage with an approximately 12-foot wide detached City Standard sidewalk section. This includes a 0.5-foot wide curb, 6.5-foot wide park strip and a 5-foot wide sidewalk. An approximately 4-foot wide street easement dedication may be required for the new sidewalk width.
2. Driveways width for one-way circulation shall be 16 feet wide.
3. Permittee shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the project frontage.
4. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
5. 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.
 - i. **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.
 - j. **Street Trees:** The locations of the street trees shall 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 the park strip. Obtain a DOT street tree planting permit for any street tree plantings. Street trees shown on this permit are conceptual only.

51. Affordable Housing Financing Plans. The San José City Council ("City") approved the Envision San José General Plan 2040 ("General Plan") in 2011. The General Plan provides the framework for development located in San José.

- a. The City is in the process of developing financing plans to help fund affordable housing and related amenities and services. The financing plans may include the

creation of a (i) Community Facilities District(s); (ii) Enhanced Infrastructure Financing District(s); (iii) Property Based Improvement District(s); (iv) Mitigation Impact Fee program(s); (v) Commercial linkage fee program(s); and/or (vi) other financing mechanisms or combination thereof. For example, the City Council has directed City staff to complete studies and make recommendations related to commercial impact fees to help fund affordable housing. These efforts are ongoing and there will continue to be other similar efforts to study various funding mechanisms for affordable housing.

- b. By accepting this Permit including the conditions of approval set forth in this Permit, permittee acknowledges it has read and understands all of the above. Permittee further agrees that prior to the issuance of any DSA building permit, the project shall be subject to, fully participate in, and pay any and all charges, fees, assessments, or taxes included in any City Council approved financing plans related to affordable housing, as may be amended, which may include one or more of the financing mechanisms identified above

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

- a. A violation of any conditions of the Permit was not abated, corrected or rectified within the time specified on the notice of violation; 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 Special Use Permit to use the subject property for said purpose specified above are hereby **approved**.

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EFFECTIVE DATE

The effective date of this Permit shall be the effective date of the Rezoning Ordinance for File No. CP19-026 passed for publication on _____ (the "Rezoning Ordinance") and shall be no earlier than the effective date of said Rezoning Ordinance.

ADOPTED this ____ day of _____ 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

NOTICE TO PARTIES

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

EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 701-07-016

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

PARCEL ONE:

BEGINNING at a point in the center line of Almaden Road (60 feet wide) at the Southeasterly corner of that certain parcel of land conveyed by Emma C. Melanson to Arthur J. Melanson by deed recorded August 16, 1937, in [Book 840 of Official Records, page 133](#), Santa Clara County; thence from said point of beginning along the Easterly line of said parcel conveyed to Melanson North 6° 00' East 1,270 feet to the TRUE POINT OF BEGINNING of this description; thence from said true point of beginning at right angles to said Easterly line North 84° 00' West 605.00 feet; thence at right angles North 6° 00' East 720.00 feet; thence at right angles South 84° 00' East 605.00 feet to a point in the Easterly line of the aforesaid parcel conveyed to Melanson; thence along said Easterly line South 6° 00' West 720.00 feet to the true point of beginning of this description, and being a portion of Pueblo Tract No. 2, San Jose City Lands.

EXCEPTING THEREFROM that portion thereof conveyed to Arthur J. Melanson by Deed recorded December 13, 1965 in [Book 7209 of Official Records, page 140](#), and being more particularly described as follows:

BEGINNING at the Southeasterly corner of that certain 10 acre parcel of land described in Deed from Arthur J. Melanson to the San Jose Unified School District recorded November 23, 1962 in [Book 5801 of Official Records, page 624](#), Santa Clara County Records, said point also being on the Easterly line of that certain Parcel of land described in the Deed from Emma C. Melanson to Arthur J. Melanson recorded August 16, 1937 in [Book 840 of Official Records, at page 133](#), Santa Clara County Records; thence leaving said Easterly line of said parcel conveyed to Arthur J. Melanson, at right angles along the Southerly line of said 10 acre parcel of land North 84° 49' West, 605.00 feet to the Southwesterly corner thereof; thence at right angles along the Westerly line of said 10 acre parcel of land North 5° 11' East, 479.75 feet; thence leaving said Westerly line South 81° 04' East, 606.30 feet to a point on said Easterly line of said parcel conveyed to Arthur J. Melanson; thence along said Easterly line South 5° 11' West, 440.10 feet to the Point of Beginning.

PARCEL TWO:

BEGINNING at the Northeasterly corner of that certain 10 acre parcel of land described in Deed from Arthur J. Melanson to the San Jose Unified School District recorded November 23, 1962 in [Book 5801 of Official Records, at page 624](#), Santa Clara County Records, said point also being on the Easterly line of that certain Parcel of land described in the Deed from Emma C. Melanson to Arthur J. Melanson recorded August 16, 1937 in [Book 840 of Official Records, at Page 133](#), Santa Clara County Records; thence leaving said Point Beginning and said Easterly line of said parcel conveyed to Arthur J. Melanson, at right angles, along the Northerly line of said 10 acre parcel of land North 84° 49' West, 605.00 feet to the Northwesterly corner thereof; thence along the Northerly prolongation of the Westerly line of said 10 acre parcel of land North 5° 11' East, 365.20 feet; thence leaving said prolongation along a tangent curve to the left, with a radius of 450.00 feet through a central angle of 12° 28' 33", for an arc length of 97.99 feet; thence parallel with said Northerly line of said 10 acre parcel of land South 84° 49' East, 602.75 feet to a point on said Easterly line of said parcel conveyed to Arthur J. Melanson; thence along said Easterly line South 2° 35' 55" West, 285.60 feet and South 5° 11' West, 177.10 feet to the Point of Beginning.

Assessor's Parcel No. 701-07-016