



Planning, Building and Code Enforcement

CHRISTOPHER BURTON, DIRECTOR

June 18, 2025

4G Development & Consulting
(Hudson Brooks)
P.O. Box 270571
San Diego, California 92198

Dear Hudson Brooks:

RE: **Site Development Permit, File No. H24-046**, located on the **northwest corner of Race Street and West San Carlos Street (1301 West San Carlos Street & 255-263 Race Street; APNs: 261-42-059, -060, and -064).**

The enclosed is your copy of the Planning Director's action on this Site Development Permit.

This permit may contain one or more conditions, such as revised plans, which must be met within a specific deadline. If conditions are not met the permit will automatically expire. Please read your permit carefully!

The Planning Director's action taken on this permit or any of the conditions of this permit may be appealed by the applicant to the Planning Commission by filing a Notice of Appeal and a \$13,991.00 fee. The appeal must be submitted in person or by e-mail at planningtechs@sanjoseca.gov and presented on the Notice of Appeal form available from this department on or before **5:00 p.m, June 30, 2025**. If you have any questions, please contact the Project Manager, Jason Lee at (408) 535-3887 or by e-mail at jason.lee@sanjoseca.gov.

Sincerely,

Sylvia Do Fong,
Deputy

cc: The Zotta Family Trust; 1155 Yosemite Avenue; San José, CA 95126

Enclosures

JL:hg

SITE DEVELOPMENT PERMIT

FILE NO.	H24-046
LOCATION OF PROPERTY	Northwest corner of Race Street and West San Carlos Street (1301 West San Carlos Street & 255-263 Race Street; APNs: 261-42-059, -060, and -064)
ZONING DISTRICT	UV Urban Village
GENERAL PLAN DESIGNATION	Urban Village
PROPOSED USE	Site Development Permit to allow the construction of a one-story, approximately 5,139-square-foot quick-service restaurant with an outdoor patio and the removal of 20 ordinance-size trees on an approximately 1.09-gross-acre site.
ENVIRONMENTAL STATUS	Exempt pursuant to CEQA Guidelines Section 15332 for In-Fill Development Projects
APPLICANT ADDRESS	4G Development & Consulting (Hudson Brooks) P.O. Box 270571 San Diego, California 92198
OWNER ADDRESS	The Zotta Family Trust 1155 Yosemite Avenue San José, CA 95126

FACTS AND FINDINGS

The Director of Planning, Building, and Code Enforcement finds that the following are the relevant facts and findings regarding this proposed project:

1. **Site Description and Surrounding Uses.** The project site is located on the northwest corner of the intersection of West San Carlos Street and Race Street (1301 West San Carlos Street and 255-263 Race Street). There are three parcels on the site; the northernmost parcel is currently occupied by an approximately 3,817-square-foot commercial building, currently occupied by a restaurant and a hair salon. The other two parcels are vacant. The site is surrounded by commercial uses (auto sales) and single-family residential to the west, future multifamily to the north, commercial (auto sales, florist, and bicycle shop) and single-family

residential to the east across Race Street, and a supermarket to the south across West San Carlos Street.

2. **Project Description.** This Site Development Permit allows for the removal of 20 ordinance-size trees for the construction of an approximately 5,139-square-foot quick service restaurant with an outdoor patio on an approximately 1.09-gross-acre site.
3. **General Plan and West San Carlos Urban Village Plan Conformance.** The subject site has a land use designation of Urban Village on the Envision San José 2040 General Plan and the West San Carlos Urban Village Plan Land Use/Transportation Diagrams. Within the Urban Village Plan, the site is within the Mixed-Use Residential Character Area.

The Urban Village designation in the Mixed-Use Residential Character Area is a commercial designation which supports (but does not require) residential development only on parcels meeting a minimum size of 0.5 acres. Residential development along West San Carlos Street or Meridian Avenue should include pedestrian-oriented, ground-floor commercial uses that front the street. This designation also supports a broad range of commercial development including retail and office.

Analysis: This site is located within the Urban Village land use designation in the Mixed-Use Residential Character Area, as shown on the urban village plan, and this designation supports commercial uses, as per the description. This project is a commercial use within a commercial designation and a commercial zoning district. While residential uses would be allowed on this 1.09-gross-acre site after parcel aggregation, the designation does not require residential uses, and also supports standalone commercial development on the site. There is no required commercial density in the designation; while staff recognizes Policy LU-1.1 of the West San Carlos Urban Village Plan, which encourages new commercial development to be built with a floor area ratio (FAR) of 0.3 or greater, this is not a requirement within the designation, and therefore, projects are not required to have an FAR over 0.3.

Therefore, as this project proposes the construction of a retail building in a commercial designation and zoning district, on a site which does not require residential uses or have a required minimum FAR, this project is consistent with the Urban Village designation within the Mixed-Use Residential Character Area of the West San Carlos Urban Village Plan.

Staff has also evaluated the project against the Vision Elements of the West San Carlos Urban Village Plan, and found the project consistent with the intent of each of these elements.

Vision Element 1: A Well-Connected Neighborhood. The West San Carlos Urban Village will be a safe, accessible, and well-connected neighborhood for all people. Improvements to both the sidewalks and streets of the West San Carlos Urban Village are vital in order to create safer environments for all modes of transportation, especially pedestrians. Activating the sidewalk through higher intensity development and good urban design principles plays a large role in the pedestrian experience and the feeling of safety. Improvements to the sidewalk and street should also allow both residents and visitors better access to neighborhood goods and services.

Analysis: The existing 3,817-square-foot commercial building will remain and provide neighborhood connectivity to commercial uses and street activation along Race Street. The project will provide a 20-foot attached sidewalk on West San Carlos and a 15-foot attached sidewalk on Race Street. The project also includes a property corner radius dedication at the Race and San Carlos corner, an in-lieu contribution for intersection improvements

(including the bulb-out shortening the pedestrian distance across both San Carlos and Race, and in-lieu contributions along both San Carlos and Race for Class IV protected bike lanes). The project also must install red curb along any project driveways to ensure adequate sight distance and make bus stop improvements as directed by the Valley Transportation Authority (VTA). All of these requirements create safer environments for pedestrians and other modes of transportation, increase the feeling of pedestrian safety, and connect future residents of the Bellarmino Place development to the north of the site to neighborhood goods and services across San Carlos.

Vision Element 2: A Vibrant Business District. The West San Carlos Urban Village will include a diverse mix of thriving businesses that contribute to the quality of life for the surrounding communities. Encouraging job growth along the West San Carlos Corridor is an essential aim of this Plan. More neighborhood-supportive retail business will benefit the existing community and improve services for future residents. An increased number of jobs along the corridor also means a greater potential for people to live within a comfortable biking or walking distance to where they work, reducing the strain of auto congestion in San José while also promoting healthier lifestyles. New development, along with transportation improvements, can gradually transform West San Carlos Street into an attractive and even more vibrant business district where people want to shop and work.

Analysis: This project increases the number of jobs in that it retains the existing commercial building and provides additional jobs through a proposed neighborhood-supportive public eating establishment, within the West San Carlos corridor.

Vision Element 3: Community Pride of Place. The West San Carlos Urban Village will have attractive public spaces that create opportunities for social gathering, foster community spirit, and encourage pride of place. Easily accessible, quality public spaces are essential components of any vibrant and successful place, whether it is a residential neighborhood or a business district. This Plan affords important opportunities to improve existing public spaces while also bringing new public space to the West San Carlos Urban Village area. A priority is to bring great public spaces to the West San Carlos community, whether through widening sidewalks, creating a new City park, or infusing privately-owned, but publicly-accessible plazas into new developments.

Analysis: The project creates a low-barrier gathering space through the covered patio on the street corner, which can contribute to vibrancy within the urban village area. Additionally, the project widens sidewalks on both of its frontages.

Vision Element 4: A Memorable, Great Place. The West San Carlos Urban Village will build upon its unique identity to become an attractive and memorable San José destination. West San Carlos Street has an existing character that is genuinely unique and largely represents a development pattern from the 1940s and 1950s. An important aspiration is to build upon and enhance this character by incorporating mid-century design elements into future development and streetscape improvements. By also integrating thoughtful public art and public spaces that complement and reinforce this unique character, the West San Carlos Urban Village may be transformed into a truly memorable place and a San José destination.

Analysis: This project is conditioned to provide a mural on the San Carlos frontage, integrating public art into the project. The project also incorporates mid-century design elements through the use of CMU block on the façade, including a breeze-block-type design on the patio, and features a flat roof.

The project is consistent with the following key West San Carlos Urban Village Plan policies:

Land Use Policy LU-2.3: Prohibit surface parking lots in front of buildings.

Analysis: The front of the site is considered West San Carlos Street; the building is constructed up to the West San Carlos Street sidewalk and the existing building fronts Race Street, and there are no parking lots in front of either building.

Land Use Policy LU-2.6: Prohibit drive-through uses within the West San Carlos Urban Village.

Analysis: The project does not include a drive-through.

Parks, Plaza, and Public Art Policy P-3.3: Integration of public art should be considered when developing all areas of the Plan including commercial development.

Analysis: The project is conditioned to integrate public art through a mural on the West San Carlos façade of the building.

Urban Design Policy UD-3.3: Encourage the placement of ground-floor commercial space in new development especially along the street frontages of West San Carlos Street and South Bascom Avenue.

Analysis: The project includes the placement of ground-floor commercial space in a new development along the West San Carlos Street frontage.

Additionally, the project is consistent with the following key Urban Design Guidelines within the West San Carlos Urban Village Plan:

Building Form and Layout, Setbacks, Guideline 2: Encourage a front setback to achieve an 18-foot-wide pedestrian-activated commercial environment along the ground floor of development fronting onto West San Carlos Street.

Analysis: The project includes a street easement dedication on West San Carlos Street to achieve a 20-foot-wide pedestrian-activated environment at the ground floor, including tree wells and a commercial building with an entryway, transparent windows, and a mural along the street.

Ground Floor Interface, Ground Floor Articulation, Guideline 7: Discourage uninterrupted blank walls or façades. Where such blank walls are necessary, apply landscape screens, display boxes/ merchandise displays, light patterns, material variations, or other mitigation measures to enhance visual interest.

Analysis: The interior design of the building requires a blank wall on approximately half of the West San Carlos building elevation in order to avoid exposing the kitchen to the street. Therefore, the project is conditioned to include an enhanced entryway, transparent windows, and a mural as a mitigation to enhance visual interest on West San Carlos.

Ground Floor Interface, Building Character, Guideline 1: Reflect the unique mid-century identity and character of West San Carlos Street through architectural styling.

Analysis: The building reflects (but does not replicate) the mid-century identity of West San Carlos Street through the incorporation of CMU block on the project façade, the inclusion of a breeze-block-type design for the patio, and using a flat roof.

The project is also consistent with the following key General Plan policies:

Diverse and Innovative Economy Policy IE-6.2: Attract and retain a diverse mix of businesses and industries that can provide jobs for the residents of all skill and education levels to support a thriving community.

Analysis: The project retains and increases the number of jobs for residents of all skill and education levels.

Fiscal Sustainability Policy FS-3.3: Promote land use policy and implementation actions that increase the ratio of Jobs to Employed Residents to improve our City's fiscal condition, consistent with economic development and land use goals and policies.

Analysis: The project includes a revenue-generating use and increases the ratio of jobs to employed residents.

Land Use Policy LU-4.1: Retain existing commercial lands to provide jobs, goods, services, entertainment, and other amenities for San José's workers, residents, and visitors.

Analysis: This project retains the existing commercial uses, jobs, and services, while also adding a new public eating establishment.

Community Design Policy CD-2.3: Enhance pedestrian activity by incorporating appropriate design techniques and regulating uses in private developments, particularly in Downtown, Urban Villages, Main Streets, and other locations where appropriate.

- a. Include attractive and interesting pedestrian-oriented streetscape features such as street furniture, pedestrian scale lighting, pedestrian-oriented way-finding signage, clocks, fountains, landscaping, and street trees that provide shade, with improvements to sidewalks and other pedestrian ways.
- b. Strongly discourage drive-through services and other commercial uses oriented to occupants of vehicles in pedestrian-oriented areas.
- c. Provide pedestrian connections as outlined in the Community Design Connections Goal and Policies.
- d. Locate retail and other active uses at the street level.
- e. Create easily identifiable and accessible building entrances located on street frontages or paseos.
- f. Accommodate the physical needs of elderly populations and persons with disabilities.
- g. Integrate existing or proposed transit stops into project designs.

Analysis: This project includes the expansion of sidewalks on both the San Carlos and Race frontages, including expanded landscaping and street trees, helping to accommodate physical needs of all people; is not a drive-through use, requiring customers to enter the restaurant; creates pedestrian connections beyond the project site, including from residences north of the site on Race to the retail establishments across San Carlos; includes retail and active uses at street level with an easily identifiable accessible building entrance; and improves the nearby transit stop pursuant to the requirements of the Valley Transportation Authority (VTA).

4. **Zoning Conformance.** The project conforms in all respects to the provisions of Title 20 of the San José Municipal Code, including the development standards of the UV Urban Village Zoning District. The project is subject to the following regulations of the Zoning Ordinance:

- a. **Use:** The proposed use of the site is a public eating establishment, which is a permitted use in the UV Zoning District pursuant to Table 20-138 (Section 20.55.203).
- b. **Floor Area Ratio:** Pursuant to Section 20.55.040.B.2, the maximum floor area ratio for a project in the UV Zoning District is 10.0.

Analysis: The proposed FAR for this project is 0.19, which complies.

- c. **Height and Setbacks:** Maximum height and setback requirements for the UV zone are found in Table 20-136 (Section 20.55.100). The height and setbacks are evaluated below for new construction. The existing building was legally built and is to remain. Therefore, it is not evaluated.

<i>Setback</i>	<i>Required</i>	<i>Proposed</i>
Front (W. San Carlos)	10 feet max.	2 feet
Side, interior (west)	10 feet max.	10 feet
Rear, interior (north)	15 feet min.*	231 feet
Side, corner (Race)	10 feet max.	4 feet
<i>Height</i>	85 feet max.	Building: 25 feet Flagpole: 35 feet

* The 15-foot minimum setback is pursuant to the West San Carlos Urban Village Plan.

- d. **Transportation Demand Management:** A public eating establishment is considered a visit-end use in Table 20-90 (Section 20.90.060). Per Section 20.90.900.B.2.d, a Visit-End Use is exempt from providing a TDM plan if the new floor area constructed is 100,000 square feet or less. As the square footage of new construction is less than 100,000 square feet, the project is therefore exempt from providing a TDM plan. Nevertheless, the project includes up to 60 parking spaces. *The number of vehicle parking spaces will decrease to effectuate Condition 6, which requires the retention of the existing commercial building.*
- e. **Bicycle Parking:** The following bicycle parking is required for new construction as per Table 20-200 (Section 20.90.060):

<i>Use</i>	<i>Ratio</i>	<i>Number</i>	<i>Required</i>
Public eating establishment	1 per 50 seats or 1 per 800 square feet of dining area, whichever is greater	78 seats 1,449 square feet	2 spaces (short-term)
Incidental outdoor dining	1 per 50 seats	46 seats	1 space (short-term)

Pursuant to Section 20.90.060.B.5, at least 80% of bicycle parking spaces based on square footage shall be provided as short-term spaces. Additionally, per Section 20.90.060.B.3, a minimum of two short-term bicycle parking spaces and one long-term bicycle parking space shall be provided for the site. Therefore, a minimum of four bicycle parking spaces (three short-term and one long-term) is required.

Analysis: The plans indicate that five bicycle parking spaces (four short-term and one long-term) are provided and the project complies.

- f. **Two-Wheeled Motorized Vehicle Parking:** Per Section 20.90.350.A, the number of two-wheeled motorized vehicle parking is 2.5% of the amount of standard vehicle parking provided. As up to 60 standard vehicle parking spaces are provided, a total of two (2) two-wheeled motorized vehicle parking spaces are required. *The number of vehicle parking spaces will decrease to effectuate the condition requiring the retention of the existing commercial building.*

Analysis: Two spaces are provided and the project complies with these requirements.

- g. **Outdoor Dining:** Pursuant to Section 20.55.201.I, outdoor dining incidental to a public eating establishment shall be pursuant to and in compliance with Chapter 20.80, Part 10.5. Specifically, the project must comply with Section 20.80.895.
- i. Outdoor dining or other outdoor activity areas shall be designed to maintain necessary clearances for circulation and access to public right-of-way; and
- Analysis: The outdoor dining area is approximately 40 feet from interior circulation and does not obstruct the public right-of-way.*
- ii. In areas no longer used for parking, wheel stops and striping shall be removed; and
- Analysis: The outdoor dining area is new and not in an area used for parking.*
- iii. Circulation and drive aisles shall be modified as necessary to ensure continuous safe operation of the remaining parking and drive aisles; and
- Analysis: The outdoor dining area is new and does not require modification of circulation and drive aisles.*
- iv. Seating areas shall be differentiated from parking area through grade differentials (minimum 6 inches) or permanent barriers that are architecturally consistent with the site; and
- Analysis: The outdoor dining area is within a permanent canopy which is architecturally consistent with the site.*
- v. Driveways and curb cuts that are no longer utilized shall be removed; and
- Analysis: All unused driveways and curb cuts on the site will be removed pursuant to the Public Works conditions for the project.*
- vi. Chain link fencing is prohibited; and
- Analysis: No chain link fencing is proposed.*
- vii. Outdoor dining area or other outdoor activity areas must not have electrical cords that may cause injury; and
- Analysis: The outdoor dining area is within a permanent structure and will not have electrical cords which may cause injury.*
- viii. The existing facility must meet on-site bicycle parking requirements per Chapter 20.90, Part 2.5; and
- Analysis: The bicycle parking requirements for the site are met, pursuant to the Bicycle Parking section above.*
- ix. A maximum of fifty (50) seats and 800 square feet may be allowed per establishment; and

Analysis: The proposed outdoor dining area has 46 seats and has an area of 704 square feet, which complies.

- x. If the dining area or other outdoor activity area will include a temporary canopy larger than 700 square feet or a tent larger than 400 square feet in the outdoor dining area, it will also require a permit from the San José Fire Department; and

Analysis: The dining area does not include a temporary canopy.

- xi. For outdoor dining or other outdoor activity area outside of downtown that is within 150 feet of residentially zoned property, no amplified sound is allowed unless the outdoor dining or other outdoor activity area is completely separated from residentially zoned property by a non-residential building or by a minimum distance of one hundred feet that includes a public street with a minimum public right-of-way dimension of eighty feet. If the outdoor dining or other outdoor activity area is completely separated from residentially zoned property by a non-residential building or by a minimum distance of one hundred feet that includes a public street with a minimum public right-of-way dimension of eighty feet, amplified sound is permitted where it is not audible to adjacent sites; and

Analysis: The outdoor dining area is not within 150 feet of residentially zoned property.

- xii. For outdoor dining or other outdoor activity area that is not within 150 feet of a residential zoning district no amplified sound that is audible to adjacent sites with the exception of downtown. No amplified sound that is disturbing or unreasonably loud to persons on neighboring property shall be audible to adjacent sites in downtown; and

Analysis: The outdoor dining area is partially enclosed and will not include amplified sound audible to adjacent sites.

- xiii. The outdoor dining or other outdoor activity area shall not produce any noise that does not comply with the performance standards of the Zoning district it is situated within; and

Analysis: The performance standards of the UV Zoning District do not include any noise limits.

- xiv. Outdoor dining or other outdoor activities shall not operate between the hours of 12:00 midnight and 6:00 a.m.; where the outdoor dining and other outdoor activities is within 150 feet of a residential zoning district the use shall not operate between the hours of 9:00 p.m. to 7:00 a.m. on Monday through Thursday, and 10:00 p.m. to 7:00 a.m. on Friday through Sunday; and

Analysis: Late-night use has not been applied for on the property, and the use of the outdoor dining area will be limited to the operating hours of the restaurant.

- xv. The outdoor dining or other outdoor activity area is operated in a manner that does not create a private or public nuisance; and

Analysis: The outdoor dining area would not be operated in a manner that creates a private or public nuisance.

- xvi. Project must be in conformance with the relevant Airport Comprehensive Land Use Plan, where applicable.

Analysis: The project is not within an area subject to an Airport Comprehensive Land Use Plan.

- h. **Screening adjacent to Residentially-Zoned Properties:** Section 20.55.201.J requires that a non-residential use be effectively screened by a masonry wall or solid wooden fence five feet in height, except not more than four feet in the setback area from abutting public streets. This is applicable to the rear of the site, which borders a residential zone.

Analysis: The project includes a five-foot CMU wall to be constructed on the rear property line, bordering Bellarmino Place.

5. Citywide Design Standards and Guidelines

This project is subject to the Citywide Design Standards and Guidelines. The project has requested and been granted the following exceptions under Section 1.1.2 of the Citywide Design Standards and Guidelines:

- a. Section 2.2.2, Standard S2. Provide a maximum of one driveway on each street for corner parcels with over 200 feet of total street frontage.

Analysis: This project includes two driveways on the Race Street frontage, where the Standard only allows one. However, Condition 6 requires the submittal and approval of a Local Transportation Analysis to analyze site circulation reconfiguration to retain the existing building and reduce the number of parking spaces. The outcome of the LTA may result in a reduction in the number of driveways from two to one, and would therefore meet this Standard.

- i. There is a physical constraint or unique situation that is not created by the project applicant or property owner and is not caused by financial or economic considerations.

Analysis: Because the depth of the lot from the Race Street frontage is narrow and the necessary turning radius of service vehicles, including waste collection vehicles, is insufficient to allow a U-turn within the site, two driveways may therefore necessary to allow the proper circulation of the site in order to maintain the existing commercial building.

- ii. Approving the exception will not create a safety hazard or impair the integrity and character of the neighborhood in which the subject property is located.

Analysis: While a second driveway can be used by all vehicles, the driveway closest to West San Carlos will be limited to right-in/right-out turns to prevent unsafe turns to and from Race Street.

- iii. The proposed project meets the intent of the design standard to the extent feasible.

Analysis: To retain the existing commercial building, it may be unfeasible for the proposed project to meet the intent of the design standard, since more than one driveway is required on Race Street to be able to accommodate off-street loading at the project site.

The project conforms with the following key applicable design standards. Note that any Standard which is covered or otherwise in conflict with the Urban Design Guidelines of the West San Carlos Urban Village Plan cannot be applied to this project.

- b. Section 2.2.1, Standard S1. When developments have multiple entrances, locate them based on the following priority: public transit; primary streets; secondary streets; publicly-accessible open spaces; alleys or internal site circulation.

Analysis: The project includes two main entrances; one is at the Race and San Carlos corner, across Race Street from a Route 64B bus stop, and with entrances facing both primary streets; and a second is facing the parking lot (internal site circulation).

- c. Section 2.3.7, Standard S3. In General Plan Residential and Mixed-Use land use designations, the height of a lighting fixture must be: up to 12 feet, when the distance of the fixture from the adjacent residential property line is less than twice the height of the fixture; up to 25 feet, when the distance of the fixture from the adjacent shared property line is more than twice the height of the fixture; and up to 12 to 16 feet tall when adjacent to retail.

Analysis: The proposed lighting on the site is 12 feet tall adjacent to multifamily residential to the north and eight feet tall adjacent to single-family residential to the west; eight or 12 feet tall closest to the retail building; 12 feet tall along the right of way; and 25 feet tall in the middle of the parking lot, more than 50 feet from any residential property line. The location and height of proposed lighting fixtures will likely change to effectuate the Condition 6 requiring the retention of the existing commercial building. However, the height of light fixtures will not exceed the maximum allowable heights.

- d. Section 2.3.8, Standard S1. Select trees which at maturity create a tree canopy cover that shades a minimum of 50 percent of each on-site surface parking area, common open space at the ground floor.

Analysis: At maturity, the selected trees will cover 52% of the parking lot area, including both parking spaces and drive aisles. The location and number of proposed trees will likely change to effectuate the Condition 6 requiring the retention of the existing commercial building.

- e. Section 3.1.2, Standard S1. Buildings at street intersections with traffic signals, terminus points, and open spaces must include at least two of the following architectural features for a minimum of 20 percent of each building frontage along the street: corner plaza; articulated corner with vertical or horizontal projections; taller massing or exaggerated roof elements; building entrances with a minimum recess of three feet; and different façade treatments such as variations in materials and color.

Analysis: The project is at a street intersection with a traffic signal and includes taller massing and a variation in material along San Carlos, and an articulated corner with projections and different façade treatments along Race.

- f. Section 3.3.7, Standard S1. In General Plan growth areas, ground floor elevation fronting primary streets must have high quality materials and texture for at least 50 percent of the non-glass areas. High quality materials include (but are not limited to) stone, marble, granite, brick, tile, wood, terracotta, and steel.

Analysis: The building is made up of CMU block and metal for at least 50% of both the San Carlos and Race façades.

- g. Section 4.1.1, Standard S5. All ground floor commercial tenant spaces must be at least 45 feet deep for a minimum of 50 percent of primary street building façades, and at least 25 feet deep for a minimum of 50 percent of secondary street façades.

Analysis: The building contains an undivided commercial tenant space and is more than 45 feet deep facing San Carlos and more than 25 feet deep facing Race Street.

- h. Section 4.1.3, Standard S4. At the pedestrian level, mitigate blank walls that continue for more than 15 feet along primary streets and 30 feet along secondary streets by providing at least one of the following design treatments: architectural treatments such as reveals, projections, setbacks, indentations, lighting, awnings, etc.; [...] murals that are at least eight feet in any dimension and cover at least 75 percent of the blank wall area.

Analysis: The project includes a blank wall facing San Carlos in order to prevent exposing the kitchen to the street. This area includes some architectural reveals, a projection from the rooftop, and lighting; additionally, the project is conditioned to include a mural which is more than eight feet in both directions, covering more than 75% of the blank wall area.

- 6. **Environmental Review.** Under the provisions of Section 15332 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, the project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended.

15332. In-Fill Development Projects

Class 32 consists of projects characterized as in-fill development meeting the conditions described as follows:

- a. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations,
- b. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- c. The project site has no value as habitat for endangered, rare, or threatened species.
- d. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- e. The site can be adequately served by all required utilities and public service.

Analysis: The project is consistent with applicable General Plan and Zoning regulations and policies. The 1.09-gross-acre site is located within an urban area of San José. The site does not have any value as habitat for endangered, rare, or threatened species, and analysis conducted for the project concludes that the project would not result in significant effects related to traffic, noise, air quality, or water quality. Based on the discussion and findings in the above sections, the project is not anticipated to have a significant effect on the environment.

The project is therefore consistent with the criteria set forth for projects characterized as in-fill development per CEQA Guidelines Section 15332, as discussed above, and is found to be categorically exempt from CEQA under Guidelines Section 15332. This Site Development Permit includes standard environmental conditions of approval, in addition to conditions of approval regarding nesting bird surveys and soil sampling. Based on the analysis above, the project would not result in a significant environmental impact and qualifies for an exemption under CEQA Guidelines Section 15332.

7. **Site Development Permit Findings.** Chapter 20.100 of Title 20 of the San José Municipal Code establishes required findings for issuance of a Site Development Permit, which findings 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 this permit.

- a. The Site Development Permit, as approved, is consistent with and will further the policies of the General Plan and applicable Specific Plans and area development policies; and

Analysis: The permit retains an existing commercial building and allows the construction of a commercial building, which is consistent with the Urban Village land use designation, including within the Mixed-Use Character Area of the West San Carlos Urban Village Plan. As the project is a commercial building in a commercial designation with no required minimum commercial density requirement, it is consistent with the General Plan and the West San Carlos Urban Village Plan. It furthers policies of both the General and Urban Village Plans, including policies regarding the retention of commercial lands and jobs, and it incorporates street activation and pedestrian improvements, as outlined in the General Plan and the West San Carlos Urban Village Plan Conformance section above.

- b. The Site Development Permit, as approved, conforms with the Zoning Code and all other provisions of the San José Municipal Code applicable to the project; and

Analysis: The project is consistent with the development standards of the UV Urban Village Zoning District and provides the required bicycle and two-wheeled motorized vehicle parking, as analyzed in the Zoning Conformance section above. The project is exempt from Transportation Demand Management measures, as it is below the threshold for a Visit-End Use. Additionally, the project also complies with the requirements to provide an outdoor dining patio.

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

Analysis: The project is consistent with the City Council Public Outreach Policy. Due to the amount of public interest in the proposal, the project was designated a Significant Community Interest Proposal. On-site signs were posted on the property frontages, and a community meeting for the project was held on March 27, 2025, on Zoom, with 38 attendees. Public notices were mailed to property owners and tenants within 1,000 feet of the project site for both the community meeting and hearing, consistent with the requirements for a Significant Community Interest Proposal. Staff has been responsive to all comment received on the project.

- d. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

Analysis: The project includes construction of one building and surrounding landscape improvements. The site's uses are mutually compatible, as a building, outdoor dining patio, and a parking lot can be used for a public eating establishment. All building elevations are similar in color, material, articulation, and design and therefore consistent and aesthetically harmonious. The project is also compatible with the existing commercial building fronting Race Street, which would share a parking lot and commercial use.

- e. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

Analysis: The project is for a commercial use fronting West San Carlos Street, a commercial street. The proposed new buildings and structures are compatible with the nearby residential uses to the side and rear, as they are located at the front of the site, away from the residences. The buildings are compatible with adjacent commercial development because they are of a similar height, design, and use.

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

Analysis: The project is required to adhere to all applicable standard permit conditions related to reducing temporary and operational sources of noise and vibration, dust, and storm water runoff. A public eating establishment already exists on the site and the construction of another is not expected to be a source of significant odor and would not be expected to impact adjacent properties. The project would be required to comply with all City permits and policies related to erosion and storm water runoff. All construction activity and its impacts would be temporary and would be limited to between the hours of 7:00 am to 7:00 pm as conditioned in this Site Development Permit. For these reasons, the project is not anticipated to have an unacceptable negative effect on adjacent properties.

- g. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

Analysis: The project includes new landscaping, such as trees, shrubs, and grasses, including low-impact development measures such as self-retaining areas, along both the side and rear property lines of the site, as well as the Race Street frontage. A covered trash facility is provided within the site, and the project includes new CMU walls along the property lines. Additionally, the construction of a new building, landscaping, and a mural along the San Carlos frontage are sufficient to upgrade the appearance of the neighborhood, while the new landscaping along Race Street is sufficient to maintain the appearance of the neighborhood. However, the landscaping of the site, including the location, will change to implement Condition 6 requiring the retention of the existing commercial building, but any such change will be evaluated against the same guidelines as this project to ensure conformance with this finding.

- h. Traffic access, pedestrian access and parking are adequate.

Analysis: The project maintains existing facilities for vehicular access into the site from Race Street, while adding a new right-in/right-out driveway closer to San Carlos Street. Pedestrian access is provided by expanded sidewalks, and the structure on-site can be accessed from the street. The project also includes a property corner radius dedication at the Race and San Carlos corner, an in-lieu contribution for intersection improvements (including the bulbout shortening the pedestrian distance across both San Carlos and Race, and in-lieu contributions along both San Carlos and Race for Class IV protected bike lanes. The project also includes extended left-turn pockets to accommodate for additional queuing. Parking is no longer required by the Municipal Code, and the project

is exempt from providing a Transportation Demand Management plan due to its size. Some circulatory changes will be necessary to implement Condition 6, requiring the retention of the existing commercial building, but any such changes will require Public Works approval to ensure conformance with this finding.

8. Tree Removal Findings. Required findings for a tree removal permit are provided in Chapter 13.32.100.A of the San José Municipal Code, as follows:

- 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 the preservation of the public health or safety requires its removal.

Analysis: 20 ordinance-size trees are to be removed from the project site to accommodate the project, as supported by the project plans and an arborist report from Arbor Resources (David L. Babby), last updated February 5, 2025.

Trees 4 through 15 can be removed due to proximity to improvements and structures. Specifically, Trees 4 through 9 are within the sidewalk expansions requested by the City, and therefore are being removed based on the City's request for wider sidewalks. Trees 10 through 15 are within close proximity to required improvements within the project site, including required grading for the construction of the building, fire water lines, transformers, and a trash enclosure. The construction of the project, including grading, excavation, and compaction, will lead to root loss for these trees, and they will therefore not be able to survive the construction process for the project.

Trees 1 through 3 can be removed due to a combination of interference with utility services and poor health. These three trees are in the middle of the site, within an existing narrow planter. The arborist report states that they are in poor condition, as they have outgrown the planters, and because they have been previously topped, which has permanently impacted their structural integrity. Additionally, the trees are in a position where they would require the rerouting of utility lines, including storm drain lines, if they were to be retained. Therefore, the trees can be removed primarily due to poor health, including irreparable structures, and secondarily due to interference with utility services.

Trees 16 through 20 can be removed due to poor health. Specifically, Trees 16 through 19 were topped in the past, resulting in irreparable damage to their structural integrity, and each has large, decaying wounds. Additionally, Tree 19 has a large girdling root, which puts pressure on the tree trunk and restricts the tree's ability to convey water and nutrients to its canopy. The trunk of Tree 20 is embedded by a chain link fence across its entire length and therefore can be removed due to both its health and proximity to a fence (i.e. being within the fence) to be removed for landscaping purposes.

The ordinance-size trees to be removed include 13 Shamel ash trees, six olive trees, and one Tree-of-Heaven, all of which are non-native and to be replaced at a 4:1 ratio. No non-ordinance-size trees are being removed with this project. Therefore, the removal of these 20 trees requires the planting of 80 15-gallon replacement trees, or their equivalent. The project includes the planting of 24 on-site 24-inch box trees, equivalent to 48 15-gallon replacement trees. The additional 32 replacement trees will be fulfilled through the use of an in-lieu off-site replacement tree fee of \$775 per tree, or \$24,800 total.

In accordance with the findings set forth above, a Site Development Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **granted**. The Director of Planning, Building, and Code Enforcement expressly declares that it

would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per San José Municipal Code Section 20.100.290(B), should Permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the Permittee shall be deemed to constitute all of the following on behalf of the Permittee:
 - a. Acceptance of the Permit by the Permittee; and
 - b. Agreement by the Permittee to be bound by, to comply with, and to do all things required of or by the Permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire two (2) years from and after the date of issuance hereof by the Director, if within such time period, the proposed use of the site or the construction of buildings (if a Building Permit is required) has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Permit shall be deemed acceptance of all conditions specified in this Permit and the Permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described in the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant 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 and all associated development and improvements shall conform to the approved Site Development Permit plans entitled, "CHICK-FIL-A / RACE ST & SAN CARLOS (SAN JOSE)," last revised February 21, 2025, on file with the Department of Planning, Building and Code Enforcement ("Approved Plans"), and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
6. **Site Development Permit Amendment Required for Changes in Site Design.** A Site Development Permit Amendment shall be required for retaining the existing 3,817-square-foot commercial building and associated changes in site design, such as for site improvements (including but not limited to parking, circulation, landscaping, stormwater requirements, etc.). A Local Transportation Analysis shall be submitted and approved to the satisfaction of the Director of Public Works. Public Works and replacement tree conditions in the Site Development Permit Amendment shall supersede all applicable conditions in this permit. This shall be required prior to building permit issuance.
7. **Permit Adjustment Required for Changes in Building Entryway.** A Permit Adjustment shall be required for changes in the proposed building's entryway facing West San Carlos Street, which shall be redesigned to have increased visibility and further activate that street frontage. Examples to achieve an enhanced pedestrian-oriented interface include, but are not limited to, decreasing the building setback between the property line and the proposed double-doors facing West San Carlos Street and emphasizing that entrance with a prominent architectural element. This shall be required prior to building permit issuance.
8. **Window Glazing.** Unless otherwise indicated on the Approved Plan, all windows shall consist of a transparent glass. All windows along West San Carlos Street and Race Street shall consist of transparent glass.
9. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City of San José.
10. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, state, and federal laws.
11. **Discretionary Review.** The City maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
12. **Refuse.** All trash and refuse storage areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the trash or refuse container(s). Trash areas shall be maintained in a manner to discourage illegal dumping.
13. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.
14. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set.
15. **Mural.** A mural shall be provided covering the area designated on the Approved Plan Set prior to receipt of the Certificate of Occupancy for the building. The mural shall meet the requirements of the West San Carlos Urban Village Plan, with a minimum eight-foot by eight-foot dimension, or 75% of each dimension of the blank wall as hatched in the Approved Plan Set, whichever is larger. Proof of completion of the mural shall be e-mailed to the Planning Project Manager or Zoning Conformance Review planner prior to Certificate of Occupancy.

16. **Utilities.** All new on-site telephone, electrical, and other service facilities shall be placed underground.
17. **Anti-Graffiti.** All graffiti shall be removed from buildings and wall surfaces, including job sites for projects under construction, within 48 hours of defacement.
18. **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.
19. **No Sign Approval.** Any signage shown on the Approved Plan Set are conceptual only. No signs are approved at this time. Any signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
20. **Building and Property Maintenance.** The property shall be maintained in good visual and functional condition. This shall include, but not be limited to, all exterior elements of the buildings such as paint, roof, paving, signs, lighting, and landscaping.
21. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
22. **No Generators Approved.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators would require the permittee to secure appropriate permits and conform to the regulations of Title 20 of the Municipal Code.
23. **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.
24. **Construction Disturbance Coordinator.** Rules and regulations pertaining to all construction activities and limitations identified in this Permit, along with the name and telephone number of a Permittee-appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.
25. **Timing of Tree Removals.** Trees that are proposed for removal to accommodate new development shall not be removed until the related complete Public Works Grading Permit Application or Building Permit Application (not including a Demolition Permit) has been filed.
26. **Tree Protection Standards.** The Permittee shall maintain the trees and other vegetation shown to be retained in this project and as noted on the Approved Plan Set. Maintenance shall include pruning and watering as necessary and protection from construction damage. Prior to the removal of any tree on the site, all trees to be preserved shall be permanently identified by metal numbered tags. Prior to issuance of the Grading Permit or removal of any tree, all trees to be saved shall be protected by chain link fencing, or other fencing type approved by the Director of Planning. Said fencing shall be installed at the dripline of the tree in all cases and shall remain during construction. No storage of construction materials, landscape materials, vehicles or construction activities shall occur within the fenced tree protection area. Any root pruning required for construction purposes shall receive prior review and approval and shall be supervised by the consulting licensed arborist. Fencing and signage shall be maintained by the Permittee to prevent disturbances during the full length of the construction period that could potentially disrupt the habitat or trees.
27. **Tree Removal In-Lieu Fee.** Prior to the removal of trees without on-site replacement trees, the permittee shall pay the invoice for tree replacement in-lieu payment per Municipal Code

Section 13.32 for 32 15-gallon replacement trees. The fee shall be paid prior to Building Permit issuance or Grading Permit issuance, whichever comes first, according to the current adopted fee schedule.

28. **Tree Replacement Enforcement.** Failure to plant trees in conformance with the approved plan set may be subject to in-lieu fees for trees not planted.
29. **Verification of Payment and/or Planting of Replacement Tree(s).** After payment of the in-lieu fee and/or the planting of replacement trees on-site, the permittee shall provide appropriate evidence such as, but not limited to, photographs and/or receipts to the Planning Project Manager to verify compliance with the mitigation requirements. Such evidence shall be uploaded to www.sjpermits.org using these instructions: (1) how to set up an account: <https://www.sanjoseca.gov/business/development-services-permit-center/online-permits-at-sjpermits-org>, and (2) how to upload: <https://www.sanjoseca.gov/home/showpublisheddocument/88853/638088605255430000>. Such evidence shall also be e-mailed to the Planning Project Manager and labeled File No. H24-046.
30. **Replacement Tree Failure.** On-site tree replacement trees that fail within three years after planting shall be promptly replaced.
31. **Landscaping.** Planting and irrigation are to be provided by the Permittee, as indicated, on the final Approved Plans.
32. **Irrigation Standards.** Irrigation shall be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping, the City of San José Landscape and Irrigation Guidelines and the Zonal Irrigation Plan in the Approved Plans. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
33. **Certification.** Pursuant to San José Municipal Code, Section 15.11.1050 certificates of substantial completion for landscape and irrigation installation shall be completed by a licensed or certified professional and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
34. **Standard Environmental Conditions.**
 - a. **Construction-related Air Quality.** The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:
 - i. Water all exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) two times per day.
 - ii. Cover all haul trucks transporting soil, sand, or other loose material off-site.
 - iii. Remove all visible mud or dirt trackout onto adjacent public roads at least once per day using wet power vacuum street sweepers. The use of dry power sweeping is prohibited.
 - iv. Limit all vehicle speeds on unpaved roads to 15 mph.
 - v. Pave all new roadways, driveways, and sidewalks as soon as possible.
 - vi. Lay building pads as soon as possible after grading unless seeding or soil binders are used.
 - vii. Suspend all excavation, grading, and/or demolition activities when average wind speeds exceed 20 mph.
 - viii. Wash off all trucks and equipment, including their tires, prior to leaving the site.

- ix. Treat unpaved roads providing access to sites located 100 feet or further from a paved road with a 6- to 12-inch layer of compacted layer of wood chips, mulch, or gravel.
 - x. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to no more than 2 minutes (A 5-minute limit is required by the state airborne toxics control measure [Title 13, Sections 2449(d)(3) and 2485 of the California Code of Regulations]). Provide clear signage that posts this requirement for workers at all access points to the site.
 - xi. Maintain and properly tune all construction equipment in accordance with the manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
 - xii. Post a publicly visible sign with the name and phone number of an on-site construction coordinator to contact regarding dust complaints. The on-site construction coordinator shall respond and take corrective action within 48 hours. The sign shall also provide the City's Code Enforcement Complaints email and number and the Air District's General Air Pollution Complaints number to ensure compliance with applicable regulations.
- b. **Tree Replacement.** Trees removed for the project shall be replaced at ratios required by the City, as stated in the table below, as amended:

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

- i. Approximately 20 trees on-site would be removed. All 20 trees are non-native and have a circumference of greater than 38 inches. Thus, all trees would be replaced at a 4:1 ratio. The total number and size of replacement trees required to be planted on-site would be either 80 15-gallon trees or 40 24-inch box trees.
- ii. Prior to the issuance of building permit(s), the permittee shall pay Off-Site Tree Replacement Fee(s) to the City for 32 off-site replacement trees in accordance with the City Council approved Fee Resolution in effect at the time of payment.
- iii. If there is insufficient area on the project site to accommodate the required replacement trees, one or more of the following measures shall be implemented to the satisfaction of

the Director of Planning, Building and Code Enforcement or the Director's designee. Changes to an approved landscape plan requires the issuance of a Permit Adjustment or Permit Amendment:

- 1) The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.
 - 2) Payment of off-site tree replacement fee(s) to the City, prior to the issuance of building permit(s), in accordance to the City Council approved Fee Resolution in effect at the time of payment. The City shall use the off-site tree replacement fee(s) to plant trees at alternative sites.
- c. **Santa Clara Valley Habitat Plan.** The Project may be subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant shall submit the Santa Clara Valley Habitat Plan Coverage Screening Form (<https://www.scv-habitatagency.org/DocumentCenter/View/151/Coverage-Screening-Form?bidId=>) to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of all applicable fees prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at <https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan>.
- d. **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 in consultation with a Native American Tribal representative registered with the Native American Commission for the City of San Jose and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall examine the find. The archaeologist in consultation with the Tribal representative 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 the 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.
- e. **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with

the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

- i. The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
- ii. The MLD identified fails to make a recommendation; or
- iii. The landowner or their authorized representative rejects the recommendations of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

f. **Construction-related Water Quality.**

- i. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- ii. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- iii. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- iv. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- v. All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.
- vi. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- vii. Vegetation in disturbed areas shall be replanted as quickly as possible.
- viii. All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
- ix. 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. **Construction-related Noise.** Noise minimization measures include, but are not limited to, the following:

- i. Pile Driving is prohibited.
- ii. 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 use.
- iii. Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- iv. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- v. Prohibit unnecessary idling of internal combustion engines.

- vi. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- vii. Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- viii. Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
- ix. 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.
- x. 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.
- xi. 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.

34. Environmental Conditions of Approval

- a. **Soil Monitoring.** A Phase II ESA soil, soil gas and groundwater contamination investigation should be performed to thoroughly evaluate the conditions documented in the Phase I ESA. If the Phase II ESA shows contamination levels above regulatory environmental screening levels for commercial/industrial use, the project applicant shall obtain regulatory oversight from the Regional Water Quality Control Board, Department of Toxic Substances Control (DTSC) or Santa Clara County Department of Environmental Health to address the contamination. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified environmental consultant. The plan shall establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future occupants and visitors. The regulatory approved plan and evidence of regulatory oversight shall be provided to the Supervising Environmental Planner of the City of San José Planning, Building and Code Enforcement and the Environmental Compliance Officer in the City Environmental Services Department.
- b. **Nesting Birds.** Tree removal and construction shall be scheduled to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1 through August 31, inclusive.

If tree removals and construction cannot be scheduled outside of nesting season, a qualified ornithologist shall complete pre-construction surveys to identify active raptor nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities (February 1 through August 31, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period. During this survey, the ornithologist shall inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests.

If an active nest is found in an area that would be disturbed by construction, the ornithologist shall designate a construction-free buffer zone to be established around the nest. The buffer would ensure that raptor or migratory bird nests would not be disturbed during project construction.

Prior to the issuance of any grading or building permit, the project applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building, and Code Enforcement or the Director's designee.

35. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans.* This permit file number, H24-046 shall be printed on all construction plans submitted to the Building Division.
 - b. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - c. *Emergency Address Card.* The project Permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance begins with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
 - e. *Other.* Such other requirements as may be specified by the Chief Building Official.
36. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the project must comply with the 2019 California Fire Code, or as may be amended or updated by the City.
37. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the issuance of Building permits, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following:
<http://www.sanjoseca.gov/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:** This project meets the screening criteria of Local-Serving Retail for Vehicle Miles Traveled under Council Policy 5-1 which results in less-than-significant impacts for transportation. A Local Transportation Analysis (LTA) has been performed for this project to evaluate the project's effect on transportation, access and related safety elements in the proximate area of the project. See separate Local Transportation Analysis Memo dated 5/23/2025 for additional information. *The Local Transportation Analysis include the following conditions not otherwise included in part (k) below:*

- i. Extend the southbound left-turn pocket at the San Carlos Street/Race Street intersection by 50-feet to accommodate the additional queuing from project trips.
- ii. Provide two (2) 24-feet-wide driveways along Race Street.
- iii. Restrict the southernmost project driveway along Race Street to right-in/right-out (RIRO) movements.
- iv. Install approximately 20-feet (one-car length) of red curb north and south of the project driveways along Race Street to ensure adequate sight distance.
- c. **Urban Village Plan:** This project is located in a designated Urban Village per the Envision San Jose 2040 General Plan. Urban Villages are designed to provide a vibrant and inviting mixed-use setting to attract pedestrians, bicyclists, and transit users of all ages and to promote job growth.
- d. **Grand Boulevard:** This project fronts West San Carlos Street which is designated as one of the seven Grand Boulevards per the Envision San Jose 2040 General Plan. Grand Boulevards are identified to serve as major transportation corridors for primary routes for VTA light-rail, bus rapid transit, standard or community buses, and other public transit vehicles.
- e. **Grading/Geology:**
 - i. A grading permit is required prior to the issuance of a Public Works Clearance.
 - ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the latest California Plumbing Code as adopted under the City of San Jose Municipal Code Section 24.04.100 or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
 - iii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.
 - iv. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
 - v. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake

Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.

- f. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
 - i. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this project will be in conformance with City Policy 6-29.
 - ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
- g. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
- h. **Flood: Zone D.** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
- i. **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.
- j. **Undergrounding:** The In-Lieu Undergrounding Fee shall be paid to the City for all frontage(s) adjacent to Race Street prior to issuance of a Public Works Clearance. 100 percent of the base fee in place at the time of payment will be due. Currently, the 2025 base fee is \$622 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record's City Average Cost Index for the previous year. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued.
- k. **Street Improvements:**
 - i. Remove and replace curb, gutter, and sidewalk along Race Street project frontage with an ADA compliant 15' attached sidewalk section with tree wells located at back of curb. A Street Easement Dedication may be required.
 - ii. Remove and replace curb, gutter, and sidewalk along West San Carlos project frontage with an ADA compliant 20' attached sidewalk section with tree wells located at back of walk. A Street Easement Dedication may be required.
 - iii. Provide a property corner radius dedication at the project corner to achieve a minimum 24' corner radius per CSJ municipal code.
 - iv. Proposed driveway widths along Race Street to be 24' wide per City Standard Detail R-5.
 - v. Close unused driveway cuts.
 - vi. Provide in-lieu contribution for the future West San Carlos Urban Village Streetscape intersection improvements in the amount of \$375,000.00.
 - vii. Provide in-lieu contribution for the Class IV protected bike lane along the West San

Carlos and Race Street project frontages per the CSJ Better Bike Plan 2025 (\$144 per LF).

- viii. Developer shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the project frontage.
 - ix. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
 - x. 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.
 - l. **SNI:** This project is located within the Burbank/Del Monte SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.
 - m. **Sanitary:** The project is required to submit plan and profile of the sewer mains with lateral locations for final review and comment prior to construction.
 - n. **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.
 - o. **Street Trees:** The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at back of curb. If street tree locations conflict with existing utilities, developer shall be solely responsible for relocating or adjusting utilities as necessary to resolve the conflict. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
 - p. **Referrals:** This project should be referred to the Santa Clara Valley Transportation Authority (VTA).
38. **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.
39. **Housing. – Commercial Linkage Fee.** The Commercial Linkage Fee (CLF) satisfaction plan has been submitted and approved, and all obligations have been met. There are no further Commercial Linkage Fee (CLF) conditions required for this project.
40. **Revocation, Suspension, Modification.** This Site Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:
- a. A violation of any conditions of the Site Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or;
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified

- within the time specific on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

APPROVED and issued on this **11th day of June, 2025.**

Christopher Burton, Director
Planning, Building, and Code Enforcement



Deputy
Sylvia Do Fong