RESOLUTION NO.________

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE
APPROVING A SPECIAL USE AND SITE DEVELOPMENT
PERMITS, SUBJECT TO CONDITIONS, TO ALLOW THE
DEMOLITION OF THE GREYHOUND BUS STATION AND
ASSOCIATED PARKING LOT, REMOVAL OF FIVE STREET
TREES, ALLOW THE CONSTRUCTION OF 708 RESIDENTIAL
UNITS WITH 13,974 SQUARE FEET OF GROUND FLOOR
RETAIL SPACE IN TWO HIGH RISE TOWERS (23 AND 24
STORIES, RESPECTIVELY) AND ALLOW THE DEVELOPMENT
OF 10 COMMERCIAL CONDOMINIUM UNITS, ALL OF WHICH
ARE LOCATED ON A 1.63 GROSS ACRE SITE AT THE
SOUTHEAST CORNER OF POST STREET AND SOUTH
ALMADEN AVENUE (70 SOUTH ALMADEN AVENUE)

FILE NO. SP16-021

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José
Municipal Code, on April 11, 2016, an application (File No. SP16-021) was filed by the
applicant, Mark Tersini for KT Urban, with the City of San José for a Special Use Permit
and Site Development Permit to allow the demolition of the Greyhound Bus Station, a
City of San José Landmark candidate, and associated parking lot, remove five street
trees, allow the construction of 708 residential units with 13,974 square feet of ground
floor retain space in two high rise towers (23 and 24 stories respectively), and allow the
development of 10 commercial condominium units all on a 1.63 gross acre site, on that
certain real property situated in the DC Downtown Primary Commercial Zoning District
and located at the southeast corner of Post Street and South Almaden Avenue (70
South Almaden Avenue, San José, California, which real property is sometimes herein
referred to 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

T-33237/1414119.doc
Council Agenda: 05-23-2017
Item No.: 10.2c
DRAFT – Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for
final document.
WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Historic Landmarks Commission conducted a hearing on said application on February 1, 2017, notice of which was duly given; and

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

WHEREAS, at said hearing, the Historic Landmarks Commission made a recommendation to include design options for the retention or partial retention of the Greyhound Bus Station to the Director of Planning, Building and Code Enforcement, respecting said matter based on evidence and testimony; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Planning Commission conducted a hearing on said application on May 10, 2017, notice of which was duly given; and

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

WHEREAS, at said hearing, the Planning Commission made a recommendation to the City Council respecting said matter based on evidence and testimony; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, this City Council conducted a hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, this City Council gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and
WHEREAS, at said hearing this City Council received and considered the reports and recommendation of the City's Historic Landmarks Commission, City’s Planning Commission, and 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 “Greyhound Site Condos and Mixed Use,” dated received on March 22, 2017, said development plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said development 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;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSÉ 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 1.63 gross acre site is comprised of four parcels: APNs 259-40-012, 259-40-014, 259-40-015, and 259-40-016. All four parcels make up the Greyhound Bus Station site. The Greyhound Bus Station was constructed in 1957. The 24,427 square foot station is currently vacant, as all Greyhound operations moved to Diridon Station in May 2016. The station remains standing with a large building overhang in the rear of the building and a large parking lot. Myth Tavern is located east of the project on a parcel directly adjacent to the project at the corner of South San Pedro Street and Post Street. This parcel is not part of the project. Four retail buildings and a closed hotel are immediately south of the project site. There are vacant lots to the north and south of the project site. The parking lot to the north is approved for a mixed-use residential tower with 182 residential units and 7,767 square feet of commercial uses. There are two office buildings to the west of the project site. The proposed project is also catty-corner across the South San Pedro and Post Street corner from the City Landmark Sunol Building (File No. HL01-129).

2. **Project Description.** On April 11, 2016, a Special Use and Site Development Permits and Vesting Tentative Map were filed for the property located at 70 South
Almaden Avenue (APNs 259-40-012, 014, 015, 016) to allow for the demolition of the existing Greyhound Bus Station, a Candidate City Landmark, and associated parking lot, to permit the removal of five street trees, and to allow for the construction of two residential towers (23 and 24 stories respectively) with a total of 708 residential rental units and 13,974 square feet of ground floor retail, and 10 commercial condominium units on a 1.63 gross acre site. Although the commercial condominium sizes have not been determined as the official square feet of each space will be dependent upon the individual tenants, the condominium size will range between 900 and 6,000 square feet. The Vesting Tentative Map is to allow the consolidation of four parcels into one parcel and then resubdivide into 708 condominium units and 10 commercial space. The project site has a DC Downtown Primary Commercial Zoning District designation and a Downtown General Plan Land Use/Transportation Diagram land use designation.

3. General Plan Conformance. The subject site has a land use designation of Downtown on the General Plan Land Use/Transportation Diagram. This designation supports office, retail, service, residential, and entertainment uses that enhance the "complete community" in Downtown and promotes bicycle circulation and increased transit ridership.

Residential projects within the Downtown designation should incorporate ground floor commercial uses. This designation does not have a minimum residential density range in order to facilitate mixed-use projects. This Special Use and Site Development Permits and Vesting Tentative Map would allow for the redevelopment of a large, underused site in the Downtown area for a mixed-use project that will bring both residential and retail uses to the Downtown area, facilitating the "complete community" anticipated for Downtown in the General Plan. The Downtown General Plan designation allows for a maximum of 800 dwelling units per acre with a maximum FAR of 30.0. The proposed project has a density of 436 dwelling units per acre, and an FAR of 13.4, making it consistent with this General Plan land use designation.

This project is also consistent with the following General Plan policies:

**Land Use Policy LU-1.1:** Foster development patterns that will achieve a complete community in San José, particularly with respect to increasing jobs and economic development and increasing the City's jobs-to-employed resident ratio while recognizing the importance of housing and a resident workforce.

**Analysis:** The development of more mixed-use residential uses in the Downtown area will foster a complete community with respect to putting people and amenities in an area where job growth is anticipated. As an identified Growth Area, Downtown is intended to be a place for people to live, work, and visit. In order to accomplish this goal, there needs to be more opportunities for people to physically live in Downtown, as well as for these residents and visitors to "live" in the sense that there are services and amenities within close proximity to make...
daily life convenient and enjoyable. Specifically, two large Downtown office projects were recently approved nearby, which are within .25 miles of the project site, creating a need to locate more housing in the Downtown area. The project site is also less than .5 mile from Diridon station, making it a convenient location for residents who want to live near transit. The proposed project is the type of development that will create a complete community by providing housing options for residents in the area, and supporting those residents with amenities and services once they are in the area.

**Land Use Goal LU-3:** Strengthen Downtown as a regional job, entertainment, and cultural destination and as the symbolic heart of San Jose.

**Land Use Policy LU-3.4:** Facilitate development of retail and service establishments in Downtown, and support regional- and local-serving businesses to further primary objectives of the General Plan

**Land Use Policy LU-5.7:** Encourage retail, restaurant, and other active uses as ground-floor occupants in identified growth areas and other locations with high concentrations of development.

**Analysis:** In order to mature into the great place envisioned by the General Plan, Downtown projects need to facilitate the growth of Downtown as a regional job center, as well as a place for residents to live. High-rise development is anticipated as a way to create this synergy between residents, workers, and visitors. As larger residential projects are built in Downtown, more people will be in the area, which will foster pedestrian activity, transit ridership, and increased social activity in the Downtown. With more residents in the Downtown area, the survivability of retail will increase, encouraging new retail services and amenities to locate in the area, which not only provides a benefit to the residences, but also the commercial and office uses in the area. With more amenities available to their employees, more businesses will want to move into the area, creating an environment that is an attractive place to live as well as work. The proposed project’s ground floor commercial condos will be of the size necessary to support retail and restaurant uses, and the infrastructure being provided in these spaces will make it easy for these types of tenants to move into the project to provide these very important amenities to the residents and workers in the area.

**Land Use Policy LU-3.1:** Provide maximum flexibility in mixing uses throughout the Downtown Area. Support intensive employment, entertainment, cultural, public/quasi-public, and residential uses in compact, intensive forms to maximize social interaction; to serve as a focal point for residents, businesses, and visitors; and to further the Vision of the Envision San Jose 2040 General Plan.

**Analysis:** The proposed project is creating 13,974 square feet of retail space, which can be used for a variety of uses. The size of the commercial
condominium units will be large enough to support a variety of tenant uses, adding to the Downtown amenities for residents, workers, and visitors.

Transportation Policy TR-4.1: Support the development of amenities and land use and development types and intensities that increase daily ridership on the VTA, BART, Caltrain, ACE and Amtrak California systems and provide positive fiscal, economic, and environmental benefits to the community.

Analysis: The project site is in close proximity to several transit options. There are 15 bus lines within a quarter mile of the project site; the Mountain View-Winchester and Alum Rock-Santa Teresa Light Rail stations are within a quarter mile of the project site; Diridon Station is within a half mile of the project site. Having 708 residential units so close to a variety of public transportation encourage the use of transit and creates more opportunity for people to be car-free in the downtown area. The additional ground floor retail space will provide residents and workers in the Downtown area with more amenities which will get people out of their cars.

Community Design Policy CD-2.9: Encourage adaptable space that can be used for multiple employment or public/quasi-public purposes.

Analysis: The proposed commercial condominium units will comply with Section 20.175.042 of the Zoning Ordinance, which requires the minimum unit size for nonresidential condominium units to be seven hundred fifty square feet. This minimum size provides the flexibility for a variety of employment uses to move into the commercial tenant spaces in the project building.

Historic Structures of Lesser Significance LU-13.2: Preserve candidate or designated landmark buildings, structures and historic objects, with first priority given to preserving and rehabilitating them for their historic use, second to preserving and rehabilitating them for a new use, or third to rehabilitate and relocate on-site. If the City concurs that no other option is feasible, candidate or designated landmark structures should be rehabilitated and relocated to a new site in an appropriate setting.

Analysis: A careful analysis was conducted to preserve the Greyhound Bus Station in some manner. As explained in the SEIR, it identifies design options that would minimize impacts to the Candidate City Landmark building. However, after careful analysis of various competing interest, including a "complete community", maximizing commercial use on the ground floor, pedestrian and transit friendly project, and higher residential density, staff determined the best option for the City would be to fully demolish the existing structure. The demolition will result in a significant and unavoidable environmental impact for which overriding considerations must be made by Council as part of certification of the SEIR.
Downtown Urban Design Policy CD-6.6: Recognize Downtown’s unique character as the oldest part, the heart of the City, and leverage historic resources to create a unique urban environmental there. Respect and respond to on-site and surrounding historic character in proposals for development.

Analysis: Although the existing structure has been identified as a possible candidate landmark through the SEIR, the retention of the building and façade do not support commercial and retail uses at the ground floor without significant modification to the proposed design. Support of the project proposal will thus be inconsistent with this land use policy for historic preservation. The proposed demolition of the structure has also been identified as a significant impact in the SEIR. Mitigation for this impact includes a HABS survey which will document the Greyhound structure, the construction method for the existing building and the previous use and significance of the site. Additionally, a condition of approval has been included in the resolution requiring the installation of elements reminiscent of the Greyhound Bus Station style of architecture and to include a mural in a Works Progress Administration (WPA) style or an art piece that represents the previous use. This condition will require that this mural be located within the lobby on the main rear wall. Although these requirements document and memorialize the architecture, the building’s use and the time period in San Jose’s history, they do not mitigate the impact to a less than significant level. Further discussion has been provided in the SEIR on the historical resource.

As explained above, the proposed project is consistent with the General Plan in balancing a “complete community”, maximizing commercial use on the ground floor, pedestrian and transit friendly project, and higher residential density.

Downtown Urban Design Policy CD-6.1: Recognize Downtown as the most vibrant urban area of San Jose and maximize development potential and overall density within the Downtown.

Downtown Urban Design Policy CD-6.2: Design new development with a scale, quality, and charter to strengthen Downtown’s status as a major urban center.

Downtown Urban Design Policy CD-6.6: Promote development that contributes to a dramatic urban skyline. Encourage variations in building massing and form, especially for buildings taller than 75 feet, to create distinctive silhouettes for the Downtown Skyline.

Analysis: The proposed project has an FAR of 13.4 and a density of 436 units per acre, making this a very dense mixed-use project given the FAA restrictions on height for the parcel. This amount of density will contribute to Downtown’s growth as a vibrant urban area, and help the City actualize its vision for the Downtown core. The project has undergone extensive design review so that its scale, quality, and character strengthen Downtown’s status as an urban center, as discussed in the Design Guidelines conformance section. The proposed
development will be a recognizable development from the sky and the below as it has a strong design presence and offers a unique two-tower approach to development in Downtown San José, which has typically been based on the single story tower concept.

4. Zoning Ordinance Compliance. The Project is consistent with the regulations of the Zoning Ordinance in the following manner:

a. Land Uses. Pursuant to Section 20.100.140 of the Zoning Ordinance, the proposed residential mixed-use towers are a permitted use in the DC Downtown Primary Commercial Zoning District when the underlying General Plan land use designation is Downtown with a Site Development Permit.

b. Concurrent Review. Pursuant to Section 20.100.140 of the Zoning Ordinance, whenever applications for the same site have been filed for one or more development permits, such development permits may be reviewed and acted on in a unified process. The unified process shall use the procedures required for the highest level permit or approval. As stated in the Zoning Ordinance, a Special Use permit is a higher level permit than a Site Development Permit. The Site Development Permit and Special Use Permit findings are made in a separate Resolution and the Vesting Tentative Map findings are made in this Resolution.

c. Setbacks and Height. The DC Downtown Primary Commercial Zoning District has no minimum setback requirements. Properties within this zoning district are not subject to height limits designated by the City, but are subject to the elevation restrictions prescribed under the Federal Aviation Administration (FAA) Regulations. The proposed project is consistent with the development standards in the DC Downtown Primary Commercial Zoning District as the project has zero setbacks. The proposed height of the project’s north tower is 242 feet above ground surface; the proposed height of the project’s south tower is 252 feet above ground surface. The project applicant has applied for a Determination of No Hazard with the FAA. No building permit will be issued unless the FAA issues a Determination of No Hazard approving the height of the project.

d. Parking Requirements. Residential units require one parking space per unit, and retail and commercial uses have no minimum parking requirement. The project would need to provide 708 residential vehicle spaces. However, the proposed project is within 2,000 feet of a light rail station, and can receive a 20% reduction in parking, thus requiring only 566 residential vehicle parking spaces. Table 20-140 of the San José Municipal Code requires that bicycle parking be provided at one space per four units for a total of 177 bicycle parking spaces. The proposed project provides 610 parking spaces, which reflects the 20% reduction allowed, and provides 180 bicycle parking spaces.
5. **Conformance with the Historic Preservation Ordinance Conformance (Chapter 13.48), City Council Policy on the Preservation of Historic Landmarks.** On February 1, 2017, the proposed project was referred to the Historic Landmarks Commission (HLC). The HLC is an advisory body to the Planning Director, Planning Commission, City Council and City Manager on the designation, acquisition, and preservation of historic landmarks and site, artifacts and other property of historic significance and value. In the historic report prepared for the SEIR, the Greyhound Bus Station (constructed in 1957) was identified as a potential historic resource based on the City's adopted criteria and could be eligible for the City's Historic Resources Inventory as a Structure of Merit and as a Candidate City Landmark, as it meets two of the eight criteria the HLC would consider when evaluating a potential landmark building. As such, the project was referred to the HLC by staff for discussion and input on the historic analysis presented in the Supplemental Environmental Impact Report (SEIR). For further details related to the HLC comments, please see discussions in the staff report and Final SEIR.

6. **Downtown Design Guidelines Conformance.** Section 20.70.500 of the Zoning Ordinance requires that any project in the DC Downtown Primary Commercial Zoning District be subject to the design guidelines adopted by the City Council. The proposed project was reviewed against the Downtown Design Guidelines for conformance related to urban form and massing, the project base/street wall, architecture and materials, and the building crown.

The project’s two-tower concept downplays the project’s mass in the existing urban context. The towers are approximately the same height as the proposed tower across the street and the existing offices to the west of the site, but they appear to be less bulky because they are thinner as there is podium level residential open space between the two structures. The narrow towers and associated glazing design coming from the base provides movement and interest in the towers providing a reduction in the apparent bulk and mass of the proposed towers. Additionally, the non-orthogonal shape of the towers gives some movement, providing different perspectives and views from the street.

The proposed site plans show balconies on the Post Street side overhang into the public-right-of-way by four feet. Per Ordinance No. 23917, which amended Section 13.36.080 of Chapter 13.36 of Title 13 of the San José Municipal Code, permanent components of a building may not encroach over the public-right-of-way. There have been discussions at the staff level about proposing changes to the Municipal Code on this issue. In the event the City Council approves a change to said ordinance to allow permanent encroachment into the public-right-of-way, then no changes will be required of the proposed site plans. However, in the event that at the time of Building Permit issuance, this ordinance has not been amended, the project applicant will have to apply for a Permit Adjustment or Amendment, depending on the scope of the changes to the proposed building, to redesign these balconies so
that they comply with the existing ordinance and to remove any encroachment into the public-right-of-way.

The project's three frontages achieve the intent of the Guidelines by providing large, glass street frontages with ample lighting, and outdoor seating to create a constant feeling of activity which translates to safe spaces. The mix of materials on the ground floor creates an inviting space for pedestrians.

The proposed project provides 20 foot high ground floor ceilings with some awnings and a 9 foot datum to provide a pedestrian scale and to further relate to the Sunol Building. The materials of the ground floor include natural stone and metal "wood" paneling to create an inviting and safe space.

The facades offer variation through a two glazing system approach and the main masses have the primary skin which is a smooth glass curtain wall system. The material is a modern take on the traditional glass and stone tower building. The vertical stacking of balconies, along with the strong banding of horizontal lines on the facades create a layering effect that lengthen the mass and provide architectural interest through additional shadow lines.

The narrow profiles of the towers and the stepping masses at the top of the towers add some variation to the typical roof structure seen in high rises throughout the City. Additionally, the use of different glazing and capping of the corner elements provide additional interest at the building crown. Although not visible from the street, the roof mechanical screening shall be improved to a higher quality material, since it will be visible to other high rises in the area (this has been added to the Conditions of Approval).

Based on the above analysis, the project complies with the Downtown Design Guidelines.

7. Environmental Review. A Draft Supplemental Environmental Impact Report (Draft SEIR) to the Final Program Environmental Impact Report for the Downtown Strategy 2000 Plan was completed in accordance to CEQA. The Downtown Strategy 2000 Plan Final Program Environmental Impact Report was adopted by the City Council on June 21, 2005 by Resolution No. 72767 (SCH# 2003042127). The project also relies upon the "Envision San José 2040 General Plan Final Program Environmental Impact Report," adopted by City Council Resolution No. 76041 on November 1, 2011; and Supplemental Environmental Impact Report to the Envision San José 2040 General Plan Final Program Environmental Impact Report," adopted by City Council Resolution No. 77617 on December 15, 2015, all as explained in detail in the Draft SEIR and separate resolution adopted by the City Council certifying the Draft SEIR.

The Greyhound Residential Project Draft SEIR analyzed project level environmental impacts and discussed alternatives to the proposed project. A Supplemental EIR was required due to the project's identified impact resulting from the proposed demolition
of the Greyhound Bus Station, an eligible City Landmark. A First Amendment to the Draft SEIR was prepared that provided responses to public comments submitted during the public circulation period and revisions to the text of the Draft SEIR. The First Amendment together with the Draft SEIR constitute the Final Environmental Impact Report (FEIR) for the proposed project.

This Draft SEIR analyzed the environmental impacts of the project and discussed alternatives to the proposed project, in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines. The Draft SEIR was circulated for public review and comment for 55 days from December 22, 2016 to February 15, 2017. Per a request from the public, the public comment period was extended until February 22, 2017, for a total of a 62 day public circulation period. A total of five written comment letters during the public comment period and one written comment two days after the end of the public comment period were received on the Draft SEIR. Comments addressed the following topics in the Draft SEIR: pedestrian and bicycle accommodations; additional transportation demand management measures; conformance with the San José International Airport Comprehensive Land Use Plan; providing a range of design alternatives aimed at saving the historic aspects of the Greyhound Bus Station; cumulative impacts of the loss of historic resources in the area; access to documents referenced in the Draft SEIR; subsurface hazardous materials impacts; air quality and public health impacts from project emissions; and the greenhouse gas emissions analysis. The Final SEIR is comprised of the Draft Supplemental Environmental Impact Report for the Project (the "Draft SEIR"), together with the First Amendment to the Draft SEIR and the FPEIR.

The Draft SEIR identified significant impacts related to air quality, biological resources, cultural and historical resources, and noise to the Greyhound Bus Station building, a Candidate City Landmark, resulting from implementation of the project. Mitigation measures for these impacts, except for historical resources, have been included in the SEIR that would reduce the impacts to a less than significant level.

Analysis of historical resources in the SEIR found that demolition of the Greyhound Bus Station would result in the demolition of a Candidate City Landmark eligible structure, which is a significant and unavoidable impact. Mitigation measures to be implemented include documentation of the structure in accordance with the guidelines established for the Historic American Building Survey (HABS) and an attempt to relocate the structure by a third party. However, these mitigation measures would not reduce impact to the structure to a less than significant level. Therefore, the City has determined that the project will result in a significant unmitigated or unavoidable impact, as set forth above, associated with cultural resources. On May 23, 2017, under Resolution No. , the City Council certified the Final SEIR, made findings related to impacts, mitigation measures, and alternatives, and adopted a Statement of Overriding Considerations determining the benefits of the Project outweigh its significant adverse environmental impact of the Project.
Prior to taking any action on this Resolution, the City Council considered the SEIR, along with the The Downtown Strategy 2000 Plan Final Program Environmental Impact Report, Envision San José 2040 General Plan Final Program Environmental Impact Report, and Supplemental Environmental Impact Report to the Envision San José 2040 General Plan Final Program Environmental Impact Report, and concluded the SEIR was completed in compliance with CEQA. The City Council adopted a separate resolution on May 23, 2017, (i) making the required findings under CEQA, (ii) adopting a related Mitigation Monitoring and Reporting program for the project, (iii) providing a statement of overriding consideration, and (iv) certifying the SEIR, all in compliance with CEQA. The separate City Council CEQA resolution is incorporated fully herein by this reference and the permittee shall be required to comply with all applicable mitigations for the project.

8. Site Development Permit Findings. In order to make the Site Development Permit findings pursuant to Section 20.100.630 of the San José Municipal Code, the City Council must determine that:

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.

Analysis: As discussed in detail herein, the proposed project is consistent with the General Plan Land Use/Transportation Diagram designation of Downtown, as the Downtown land use designation supports a mix of commercial, retail, and residential uses at high densities. The project is also consistent with the various General Plan policies listed 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.

Analysis: As discussed in detail herein, the proposed project is consistent with the height, setbacks, and parking requirements of the DC Downtown Primary Commercial Zoning District. The DC Zoning District requires no minimum setbacks, and the project proposes zero setbacks on all three project frontages. The project applicant has applied for a Determination of No Hazard with the FAA, indicating that the height of the north tower is 242 feet above ground surface, and the south tower is 252 feet above ground surface. This Resolution includes a condition requiring that a No Hazard Determination must be issued by the FAA prior to the issuance of any building permit. Further, this Resolution requires that any permit conditions that are a part of the No Hazard Determination will require a permit adjustment to be incorporate into the project.

The project provides vehicle and bicycle parking at the appropriate ratios defined in Chapter 20.90 of the Municipal Code. Table 20-140 of the Municipal Code, which requires one parking space per unit and does not require parking for general retail uses. The project thus requires 708 parking units. However, the
proposed project is within 2,000 feet of a light rail station, and can receive a 20% reduction in parking. Therefore, the proposed project requires 566 spaces but provides 610 vehicle parking spaces. Table 20-140 requires that bicycle parking be provided at 1 space per four residential units for a total of 177 bicycle parking spaces. The project is providing 180 bicycle parking spaces. The permittee has correctly applied for a Site Development Permit, a Special Use Permit, and a Tentative Map to accomplish the project objectives.

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

Analysis: The proposed project is consistent with the City's Preservation of Historic Landmarks Policy for the following reasons: 1) There was public notification of a proposal to alter or demolish a candidate Landmark Structure, as there was a scoping meeting held on Tuesday, September 6, 2016 wherein the project was presented and the demolition of the Greyhound Bus Station was discussed. Additionally, the proposed project was presented at the Historic Landmarks Commission Meeting on February 1, 2017, and the public comment was received relating to the project and possible demolition of the Greyhound Bus Station; 2) A Planning Commission meeting was held on May 10, 2017 and the Planning Commission received public comment on the proposed project; 3) The First Amendment to the SEIR discusses and analyses the option to preserve the Greyhound structure and the preservation of the structure was carefully reviewed and strong consideration was given when evaluating this option; 4) The findings justifying the demolition of the candidate landmark have been discussed in the staff report, SEIR and in this Resolution; and 5) the City has not currently identified any city, state or federal funding available to preserve the landmark candidate at this time.

Further, the project is also consistent with the City's Affordable Housing requirements, as the applicant has an approved Affordable Housing Compliance Plan and has paid all applicable fees.

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

Analysis: There are no other uses on site of the project parcels other than the proposed towers. The two towers rise from the central base of the building, which involves the first two floors and the below grade parking. The two towers are complementary to each other, and are of similar design and materials, making them mutually compatible to each other. Additional analysis is provided in the Downtown Design Guidelines conformance section below.
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 proposed project is located across Post Street from a site that has a previously approved residential tower (File No. H14-023), which will be 22 stories in height. The project is located across South San Pedro Street from a 14-story office building. The proposed project's 23- and 24-story towers will be compatible in height with these two buildings. The proposed high-rise is compatible with the overall Downtown area as the proposed materials are consistent with those found on more recent high-rise buildings including metal panels, glass curtainwall systems, storefront glazing at the ground floor and concrete. The building was also evaluated as it relates to the Sunol Building (a City Landmark). The proposed building does not impact the Sunol Building and uses horizontal banding to reflect specific height markers on the Sunol Building.

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 affect on adjacent property or properties.

Analysis: A Supplemental Environmental Impact Report (SEIR) was prepared for the Greyhound Residential project in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines. The proposed project's impacts are discussed in the CEQA section above and further discussed in the separate resolution adopted by the City Council certifying the Final SEIR, which resolution is fully incorporated herein by this reference.

Additionally, based on review of the proposed project by all of the various departments, there are no non-CEQA related impacts anticipated for this project. For example, there is no late-night use proposed for this project, eliminating any noise concerns for adjacent properties. There is no outdoor storage of hazardous materials, and given the sites use, no odors are anticipated.

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: As shown on the development plan sets, the landscaping, irrigation systems, all walls and fences, exterior heating, ventilating, plumbing, utility, and trash facilities are sufficient to maintain and upgrade the appearance of the neighborhood. All mechanical equipment is screened on the roof and not visible from the street or surrounding buildings. There are no outdoor activities on the ground floor of this project. The active second story amenity deck will enhance the public street by providing activity and adding a vibrant feeling to the neighborhood.
h. Traffic access, pedestrian access and parking are adequate.

Analysis: The proposed project will be accessible by two drive ways, one on South San Pedro Street, and one on Almaden Avenue. A traffic operations analysis was prepared for the proposed project and included in the SEIR (Hexagon Transportation Consultants, October 5, 2016). The traffic analysis found that these two driveways are adequate to distribute the traffic flow from the project. There is ample pedestrian access to the site on three sides of the property: through the lobby, and through the retail entrances on Post Street and South San Pedro. The onsite underground parking is sufficient for the residential uses and no parking is required for retail uses.

9. Special Use Permit Findings. In order to make the Site Development Permit findings pursuant to Section 20.100.820 of the San José Municipal Code, the City Council must determine that:

i. 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: In addition to the discussion above, the 10 commercial condominiums are consistent with the General Plan land use designation of Downtown as commercial uses are permitted in these districts.

j. 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: In addition to the zoning discussion above, per Section 20.175.042 of the Zoning Ordinance, the minimum unit size for nonresidential condominium units shall be 750 square feet. The proposed 10 commercial condominium units will range in size between 900 and 6,000 square feet, putting them over the 750 square foot minimum requirement.

k. The special use permit, as approved, is consistent with applicable city council policies, or counterbalancing considerations justify the inconsistency; and

Analysis: See discussion above and in the Conditions section discussing the applicable City Council policies related to the proposed project.

l. The proposed use at the location requested will not:

   i. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or

   ii. Impair the utility or value of property of other persons located in the vicinity of the site; or

   iii. Be detrimental to public health, safety, or general welfare; and
Analysis: The proposed project including the commercial condominiums will not impact the peace, health, safety, morals or welfare of persons residing or working in the surrounding area as these units are wholly contained within the proposed development project, and all activity in these spaces will not impact the area outside of the building. The commercial condominium units will not impair the utility or value of property or persons in the immediate area as any use in these commercial units will be fully contained in the building. A restaurant may have a sidewalk café, but the café will be located in front of the project’s frontage and will not impact any other property. The proposed condominiums will not impact the public health, safety or general welfare of the public as this is just a subdivision of airspace.

m. 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: As noted above, the 10 condominium units exceed the minimum square footage requirements for commercial condos noted in Section 20.175.042 of the Zoning Ordinance. All necessary components of any future tenant will be contained within the individual unit spaces.

n. The proposed site is adequately served:
   i. By highways or streets of sufficient width and improved as 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 overall project is adequately accessible by the Downtown street network and said streets have the capacity to handle any traffic generated by the project has been analyzed as noted in the SEIR. The subdivision of the commercial spaces will not create any additional need for access. Further, as discussed in detail in the staff report, the project will be served by nearby bus stops, light rail stations, Diridon Station, and future BART and high speed rail.

o. 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, and

Analysis: See CEQA discussion above.

p. The proposed common interest development will not adversely impact the economic viability of large-scale commercial and industrial uses in the vicinity of the development or in the city as a whole.
Analysis: A Declaration of Covenants and Restrictions will include sufficient provisions for governance, funding and capitalization, and enforcement mechanisms to ensure that the common area continues to be adequately and safely maintained and repaired for the life of the common interest development.

q. The proposed common interest development includes sufficient provisions for governance, funding and capitalization, and enforcement mechanisms to ensure that the common area continues to be adequately and safely maintained and repaired for the life of the common interest development; and

Analysis: A Declaration of Covenants and Restrictions will include sufficient provisions for governance, funding and capitalization, and enforcement mechanisms to ensure that the common area continues to be adequately and safely maintained and repaired for the life of the common interest development.

r. The proposed common interest development include sufficient provisions of the retention of such common areas for the use of all owners of separate interest therein.

Analysis: The Declaration of Covenants and Restriction will state that each owner shall have, as appurtenant to the owner's unit, an undivided interest in the common area. This will ensure that each common interest development has sufficient retention of common areas for use by all owners as noted in the conditions of approval.

10. Evaluation Criteria for Demolition. Pursuant to Sectio 20.80.460 of the Zoning Ordinance, prior to the issuance of the development permit, the City Council shall determine whether the benefits of permitting the demolition outweigh the impacts of the demolition. In making such a determination, the following criteria shall be considered:

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: As discussed in detail above, the demolition of the Greyhound Station would facilitate the construction of the overall project that is compatible with the surrounding neighborhood and the reason for demolition is allowed under Criteria 3. Criteria 1, 2, and 4 are not applicable to the reason for demolition of the existing structure. While the demolition is not preserving the candidate landmark, and finding 5 and 6 cannot be met, the project is satisfying other goals and policies of the General Plan as notes above. Criteria 7 is not applicable because there is a proposed replacement building on file.

11. Tree Removal Permit Findings. There are five trees located on South Almaden Avenue located in the public-right-of-way. The location of the trees are in a right-of-way easement, rather than in actual city right-of-way, making them part of the project site. However, these trees function as street trees and are subject to removal as street trees. Section 13.28.330 of the Municipal Code allows the removal of street trees as part of an application for a development permit. Where the request for a street tree removal is included as part of the development permit application, the development permit may serve as the street tree removal permit and be processed under the same application, noticing, hearing and appeal provisions applicable to the development permit application. Per Section 13.28.340(A) no permit shall be required for pruning or removing a street tree if any of the following criteria are met prior to any work being performed:

a. A development permit, or amendment thereto, that allows the removal of the street tree has been issued by the City and accepted by the permit applicant pursuant to the provisions of Title 20 of this Municipal Code.

Analysis: The five street trees are being removed in order to facilitate the development of the Greyhound Residential Project. As a condition of this project, the sidewalk along South Almaden Avenue will be required to be widened, and the building will be located where the existing trees are now. The proposed project will replace the five street trees with nine street trees on South Almaden Avenue, eight street trees on Post Street, and one street tree on South San Pedro Street. The particular tree types to be planted will be coordinated with the City Arborist at the public street improvement stage of the project.

In accordance with the findings set forth above, a Special Use Permit and Site Development Permit for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby approved. This City Council expressly declares that it would not have granted these permits 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.

//
//
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 and Site Development 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 Special Use Permit and Site Development 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. This Special Use Permit and Site Development Permit shall automatically expire two years from and after the date of issuance hereof by the City Council, if within such time period, the proposed use of this site or construction has not commenced, pursuant to and in accordance with the provision of this Site Development Permit and Special Use Permit. The date of issuance is the date this Permit is approved by the City Council. However, the Director of Planning 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. Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Site Development Permit and Special Use Permit shall be deemed acceptance of all conditions specified in this permit and the permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the “Building Code” shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.

4. Sewage Treatment Demand. Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the permittee for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of
California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.

5. **Conformance to Plans.** The development of the site shall conform to the approved Special Use Permit plans entitled, "Greyhound Site Condos & Mixed Use" dated March 22, 2017 on file with the Department of Planning, Building and Code Enforcement, as may be amended subject to City approval, and to the San José Building Code (San José Municipal Code, Title 24). The approved plans are referred to in this Permit as the “approved plans” or “Approved Plan Set”.

6. **Design Alternative B.3.** The project shall include the proposed structural similarities put forth in Design Alternative B.3, as well as include a sidewalk monument that commemorates the history of the Greyhound Bus Station, as well as a mural on the lobby wall, facing the public street, all as explained in detail in the staff report.

7. **Permit Adjustment/Amendment:** As of the effective date of this Resolution, the Municipal Code does not authorize private balconies to encroach in any manner within the public-right-of-way as depicted in the Approved Plan Set. In the event that at the time of Building Permit issuance, the Municipal Code has not been amended to allow the proposed balconies to encroach into the public right-of-way, the permittee shall apply for a Permit Adjustment or Amendment, depending on the scope of the changes to the proposed balconies, to redesign these balconies so that they comply with the Municipal Code in effect at that time.

8. **Demolition Authorization.** A foundation permit must be approved prior to any demolition on the project site.

9. **Mechanical Equipment.** The location of mechanical equipment (AC Units) shall be screened from the public view.

10. **Affordable Housing.** The project may be subject to the City’s Inclusionary Housing Ordinance (Ordinance) or Affordable Housing Impact Fee (AHIF). If the development is subject to the referenced Ordinance or AHIF, the permittee must, as part of the application for First Approval, as defined in the Ordinance or AHIF, shall submit an Affordable Housing Compliance Plan Application to the Housing Department, which Plan must be approved as part of the First Approval. Additionally, prior to the issuance of any building permits, or any final approval of any final map, the permittee must execute and record their Affordable Housing Agreement with the City.

   a. The Inclusionary Housing Ordinance and AHIF Resolution each exempt certain developments from affordable housing obligations, if the development meets certain criteria. However, whether an exemption is claimed or not, the permittee must submit an Affordable Housing Compliance Plan Application, and the application processing fee to the Housing Department as part of the application for First Approval.
b. The Housing Department has reviewed and approved the Affordable Housing Compliance Plan for this project. Permittee shall strictly comply with the approved Affordable Housing Compliance Plan for this project and any other applicable requirements of the Ordinance or AHIF.

c. No Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the Inclusionary Housing Ordinance, and/or the AHIF Resolution are met.

11. **Outdoor Use.** No outdoor uses are permitted with this Resolution.

12. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.

13. **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.

14. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local, state and federal laws and regulations.

15. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.

16. **FAA Clearance Required.** Prior to the issuance of any building permit, the permittee shall obtain from the Federal Aviation Administration a “Determination of No Hazard to Air Navigation” for each building high point. The Permittee shall file a “Notice of Proposed Construction or Alteration” (FAA Form 7460-1) for the building corner points and two top mechanical overrun points on each building. The data on the FAA forms should be prepared by a licensed civil engineer or surveyor using NAD83 location coordinates out to hundredths of seconds and NAVD88 elevations rounded off to next highest foot.

17. **FAA Permit Adjustment.** Prior to the issuance of any Building Permit, the Permittee shall obtain a Permit Adjustment to incorporate all FAA conditions identified in the Determinations of No Hazard (if issued), e.g., obstruction lights or construction-related notifications, into the Special Use Permit and Site Development Permit conditions of approval.

18. **Avigation Easement.** Prior to the issuance of any Building Permit, the property owner shall grant an avigation easement to the City of San José setting forth acceptance of elevation limits and aircraft noise impacts. Contact the San José Airport Planner at (408) 392-3623 or cgreene@sjc.org to initiate the easement dedication process.
19. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.

20. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.

21. **Anti-Graffiti.** The permittee shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.

22. **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.

23. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.

24. **Building Clearance for Building Permits.** Prior to the issuance of any Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:

   a. **Construction Plans.** This permit file number, SP16-021, shall be printed on all plans submitted to the Building Division.

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

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

   d. **Conformance Review.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to plan check approval and building permit issuance by the Building Division, the permittee shall obtain confirmation from the Planning Division that the project conforms to all applicable requirements of the subject Permit, including the plan sets.

   e. **Common Interest Development.** Prior to issuance of any certificate of occupancy (temporary or final), or release for occupancy, the permittee shall provide a self-certified statement to the satisfaction of the City's Chief Building Official that the project, as constructed, meets the City of San José Common Interest Development standards.

   f. **Project Addressing Plan.** Prior to issuance of any Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official: The permittee shall submit an addressing plan for approval for the subject development (residential, mixed use, complex commercial or industrial). The
addressing plan should include proposed street names for the streets (as referenced on an approved tentative map) and the type of addressing (i.e., individual street addresses as compared to unit number off of a primary street).

25. **Fire Safety.** The permittee shall meet all requirements of the Fire Department at the Building Permit stage, including but not limited to the maximum occupancy of the facility.

26. **High Rise Building Requirements.** The following requirements shall apply to high rise development:

   a. **Fire Sprinkler System.** Building(s) shall be provided with an automatic fire extinguishing system in accordance with CFC 903.2 and SJFC 17.12.630. Systems serving more than 20 heads shall be supervised by an approved central, proprietary, or remote service to the satisfaction of the Fire Chief.

   b. **Fire Pump and Fire Control Rooms.** The location and access to the fire pump and fire control rooms shall be pre-planned with the Fire Department. In accordance with CFC 509.2; Approved access shall be provided and maintained for all fire protection equipment to permit immediate safe operation and maintenance of such equipment. Each building shall be equipped with its own separate fire pump and fire control rooms.

   c. **Multiple Water Mains Required.** The required fire pumps shall be supplied by connections to a minimum of two water mains located in different streets. Separate supply piping shall be provided between each connection to the water main and the pumps. Secondary water supplies shall be provided for both buildings in accordance with CFC 903.3.5.2.

   d. **Testing of Smoke Control Systems.** The San José Fire Department does not provide testing and inspection of Smoke Control systems. System must be tested and approved by a qualified 3rd party contractor.

   e. **Emergency Power System.** An emergency power system shall be pre-planned with the Fire Department.

   f. **Fire Breathing Air Replenishment Systems.** Fire breathing air replenishment systems shall be required per SJFC 901.4.3.1.

27. **General Fire Prevention Requirements.** The permittee shall provide the following improvements:

   a. **Fire Sprinkler System.** Building(s) shall be provided with an automatic fire extinguishing system in accordance with CFC 903.2 and SJFC 17.12.630. Systems serving more than 20 heads shall be supervised by an approved central, proprietary, or remote service to the satisfaction of the Fire Chief.

   b. **Requirements for Trash Areas.** Outdoor covered areas and trash enclosures may require the sprinkler system to be extended to protect them.
c. **Fire Alarm System.** Building(s) shall be provided with an automatic fire alarm system as required by CFC 907.2 and 907.3.

d. **Standpipes Available During Construction.** All buildings under construction, three or more stories in height, shall have at least one standpipe for use during construction. Such standpipe shall be provided with fire department hose connections. Location(s) and numbers of standpipe(s) shall be reviewed and approved by the Fire Department.

e. **Complex Map.** A complex map is recommended which incorporates an elevated view of the building and individual unit addresses. It should be illuminated during the hours of darkness and positioned in the lobby area so as to be readily readable from main pedestrian access entrance. A complex map should also be placed contiguous to the vehicular entrance to the development where it will not cause stacking problems when being viewed.

f. **Public Safety Radio Coverage.** Public Safety Radio Coverage is to be provided throughout the area of each floor of the building. Communication repeaters may be required to be installed in the buildings.

g. **Elevators.** Elevators shall be in accordance with the requirements stipulated in the California Building Code Chapter 30. All buildings with one or more passenger service elevators shall be provided with not less than one medical emergency service elevator.

h. **Management Association Responsibilities for Life & Safety Systems.** The permittee shall create and maintain a Management Association which will be responsible for the fire/life safety systems inspections per Title 19 and access to the systems if applicable.

i. **Hazardous Materials.** The permittee must contact the Hazardous Materials Division at (408) 535-7750 as soon as possible to initiate the process to determine if the type and quantity of hazardous material is acceptable per code and whether a Hazardous Materials Plan Review is required.

a. **Construction Fire Protection Plan.** A “Construction Fire Protection Plan” for approval by San José Building and Fire Departments is required prior to starting construction for wood framing projects consisting of 15 or more dwelling units or construction exceeding a total of 50,000 square feet.

28. **Generators.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.

29. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
30. **Permittee Responsibility.** The permittee shall ensure that the uses authorized by this Special Use Permit are implemented in conformance with all of the provisions of this Permit.

31. **Public Works.** Prior to the issuance of any Building permit, the permittee shall be required to have satisfied all of the Public Works conditions as described in the Special Use and Site Development Permits (SP16-021). The permittee is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: http://www.sanjoseca.gov/index.aspx?nid=2246.

   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:**

      i. A Traffic Operations Analysis was prepared on October 5, 2016 by Hexagon Transportation Consultants for this project. Analysis was based on a net of 443 AM and 461 PM peak hour trips. See the Traffic Operations Analysis prepared by Hexagon Transportation Consultants (Appendix G of the DEIR) and the separate traffic memo prepared by the City’s Department of Transportation dated 05/01/17 for additional information.

      ii. SU-30 trucks shall have unrestricted access to the proposed loading dock on South San Pedro Street. WB-40 trucks will be limited to using the southernmost dock.

      iii. The City will perform a stop warrant analysis at the Almaden Avenue/Post Street intersection to determine whether all-way stop control at the intersection is warranted. If warranted, the permittee will be required to implement stop control and crosswalks with appropriate signage on all approaches of the intersection.

      iv. The proposed garage entrance gates should be located a minimum of one car length back from the sidewalk (within the parking garage due to the zero setback requirements in the Downtown area) to be able to accommodate one entering vehicle at the garage entrance gates without blocking the sidewalk.

      v. This project is located in the expanded Downtown Core and is covered under the current San José Downtown Strategy 2000 EIR; therefore, no further traffic analysis is required. Based on the above, Public Works finds that the subject project will be in conformance with the City of San Jose Transportation Level of Service Policy (Council Policy 5-3).
c. **Street Vacation:** A street vacation is required in order to accomplish the land use plan as shown. The street vacation process requires further discretionary approval by the City Council and the project will be subject to this process and approval prior to Public Works Clearance. The preliminary title report indicates the permittee owns the street in fee. Therefore, upon vacation no further action by the City may be required.

d. **Grading/Geology:**
   
i. A grading permit is required prior to the issuance of a Public Works Clearance.
   
ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2014 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10 year storm event.
   
iii. As the project will 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 more than one acre, the permittee is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
   
v. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. Foundation, earthwork, and drainage recommendations should be included in the report. 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.

//

//

T-33237/1414119.doc
Council Agenda: 05-23-2017
Item No.: 10.2c
DRAFT – Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.
e. **Shoring:**

i. Shoring plans will be required for review and approval as part of the Grading Permit for this project.

ii. If tie-backs are proposed in the Public right-of-way as a part of the shoring operation, a separate Revocable Encroachment Permit must be obtained by the Permittee and must provide security, in the form of a CD or Letter of Credit, in the amount of $100,000. All other shoring will not be allowed to encroach within the public right-of-way (i.e. soldier beams).

iii. If tie-backs are proposed for use along the adjacent properties (APN's 259-40-017, 018, 019, 070 and 071), agreements between the Permittee and the adjacent property owner(s) will need to be secured, executed and provided to the Public Works Project Engineer prior to approval of the Grading Permit for this project.

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. At the Implementation Stage provide additional Drainage Management Area (DMA) boundaries and sizing calculations for all DMA's that propose two or more Treatment Control Measures (TCM) within the DMA approved at the Planning Stage. TCMs must be sized according to the amount of rain water they will be receiving.

iii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.

iv. Media Filter Unit(s) located within Building footprints must conform to Building Division Directive P-005 located at the following: [http://www.sanjoseca.gov/documentcenter/view/38835](http://www.sanjoseca.gov/documentcenter/view/38835)

 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: Portion in Zone X and Zone D**

i. 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.

ii. The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone X is an area of moderate or minimal flood hazard. Zone X is used on new and revised maps in place of Zones B and C. There are no City floodplain requirements for Zone X.

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 to the Department of Public Works prior to Public Works Clearance.

j. **Parkland Dedication Ordinance.** This development is subject to the requirements of either the requirements of the City’s Park Impact Ordinance (Chapter 14.25 of Title 14 of the San José Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San José Municipal Code,) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the formula contained within the parkland dedication ordinance and the associated Fees and Credit Resolutions.

k. **Undergrounding:**

i. The In Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to Post Street prior to issuance of a Public Works Clearance. The percentage due will be determined at the Planning Permit Stage on the finalized scope of the project. Currently, the 2017 base fee is $469 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record’s City Average Cost Index for the previous year. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued.

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

l. **Assessments:** This project is located within the Premium Zone of the Downtown San José Property-Based Business Improvement District, which provides enhanced cleaning, information and safety services, beautification activities, and business retention and growth programs within the boundaries of the district. Benefitting properties within the district pay for the services through
annual assessments placed on the County property tax bills, which may be increased by up to 5% each year. The 2016-17 assessment is calculated based on the land use and its building and lot square footages. Commercial properties pay $0.111379520 and residential properties pay $0.089768267 per building and lot square footages. Future year assessments will be apportioned accordingly to reflect any new parcel configuration and will continue to be collected through the County property tax bills listed under Tax Code 916 "SJ DOWNTOWN PBID". Any questions may be directed to the Public Works Department at (408) 535-6831.

m. Street Improvements:

i. Construct a 15-foot wide attached sidewalk with 5-foot by 5-foot tree wells located at the back of curb along South Almaden Avenue. An approximate 5-foot wide sidewalk easement dedication will be required.

ii. Construct a 12-foot wide attached sidewalk with 6-foot by 4-foot tree wells located at the back of curb along Post Street. An approximate 2-foot wide sidewalk easement dedication will be required.

iii. Construct a 12-foot wide attached sidewalk with 6-foot by 4-foot tree wells located at the back of curb along San Pedro Street from the project frontage.

iv. Construct a new 15-inch storm main extension on South Almaden Avenue from Post Street to the project boundary.

v. Install two directional City Standard R-11 handicap ramps at the corner of Post Street and South Almaden Avenue.

vi. Proposed driveway widths to be 24 feet wide on South San Pedro Street and 26 feet wide on South Almaden Avenue per City of San Jose Standard Detail R-6.

vii. Loading Dock driveway width shall be 36 feet on South San Pedro Street per City of San Jose Standard Detail R-6.

viii. Close unused driveway cuts.

ix. Dedication and improvement of the public streets shall be 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.

n. Site Utilization Plan and Revocable Encroachment Permit (Street/Sidewalk Closures): At the Implementation stage, permittee shall provide to the Public Works Project Engineer a Site Utilization Plan with the application of a
Revocable Encroachment Permit for any proposed sidewalk and lane closures to support the onsite construction activities.

i. The following should be included with the Site Utilization Plan and Revocable Permit application, but are not limited to:

1) **Site Utilization Plan and Letter of Intent:** The site utilization plan should provide a detailed plan of the location of the temporary facilities within the boundary of the construction site. The Letter of Intent should provide a description of proposed operations of the site as well as the reasons for the sidewalk/lane closures and why the activities/uses that are proposed within the public right-of-way cannot occur within the construction site. These include the use of the right-of-way for temporary facilities and activities such as man lifts, baker tanks, staging area, concrete pumping activities, etc. This would also include a discussion as to the reasons why covered pedestrian walkways will not be provided (ex. swinging loads over sidewalk not safe for pedestrians).

2) **Multi-Phased Site Specific Sketches:** These sketches should show the phased closures during the course of construction with a provided timeframe estimate of when each phase would be implemented. These sketches shall include the type and location of the work to be accomplished within the right-of-way. The exhibit shall show in detail the vehicular and/or pedestrian diversion route that shows the appropriate safety equipment, such as barricades, cones, arrow boards, signage, etc.

ii. Permittee shall minimize the potential impact to vehicular and pedestrian traffic by:

1) Implementing the closures at the time the onsite activities dictate the need for the closure.

2) Minimizing the closure timeframes to accomplish the onsite tasks and implement the next phase of the closure as outlined in condition n.i above.

iii. If proposed lane and parking closures are a part of the Revocable Permit Application, permittee shall submit Downtown Lane Closure and Tow Away Permit Applications to DOT. These applications may be obtained at: [http://www.sanjoseca.gov/index.aspx?NID=3713](http://www.sanjoseca.gov/index.aspx?NID=3713). Permittee shall contact DOT at (408) 535-8350 for more information concerning the requirements of these applications.

o. **Sanitary:**

i. Based on the information provided by the permittee regarding the location of laterals and proposed sanitary sewer flow rates from the site, the
surrounding sanitary sewer mains have adequate capacity to serve the proposed development. If the project increases in size or changes the proposed sanitary lateral locations, the project will be required to re-evaluate the sanitary capacity. This could result in the construction of new mains or upsizing to the existing mains.

ii. The project is required to submit plan and profile of the private sewer mains with lateral locations for final review and comment prior to construction.

p. Greater Downtown Area Master Plans: This project is located within the Greater Downtown area. Public improvements shall conform to the Council approved San Jose Downtown Streetscape and Street and Pedestrian Lighting Master Plans.

q. Electrical: Existing electroliers along the project frontage shall be evaluated at the public improvement stage and any street lighting requirements shall be included on the public improvement plans.

r. 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 cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.

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

33. Environmental Conditions.

a. Dust Control: Consistent with City policies and best management practices recommended by the Bay Area Air Quality Management District (BAAQMD), the project shall implement the following measures during all phases of construction on the project site to reduce dustfall and locally-elevated particulate matter emissions:

i. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.

ii. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.

iii. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
iv. All vehicle speeds on unpaved roads shall be limited to 15 mph.

v. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

vi. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

vii. All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

viii. Post a publicly visible sign with the telephone number for a Disturbance Coordinator, established by the project applicant, regarding dust complaints. The Disturbance Coordinator shall be available 24 hours a day, seven days a week to respond and take corrective action within 48 hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations.

b. Toxic Air Contaminants (TACs): Consistent with General Plan Policy MS-11.1, the project is required to include the following measures:

i. Install air filtration that serves all residential dwelling units in the third through ninth floors. Air filtration devices shall be rated MERV13 or higher. To ensure adequate health protection to sensitive receptors, the ventilation system shall meet the following minimal design standards:

   1) A MERV13 or higher rating (as specified above);
   2) At least one air exchange(s) per hour of fresh outside filtered air; and
   3) At least four air exchange(s) per hour recirculation.

ii. Alternately, at the approval of the City, equivalent control technology may be used if it is shown by a qualified air quality consultant or heating, ventilation, and air conditioning (HVAC) engineer that it would reduce risk below significance thresholds.

iii. As part of implementing this measure, an ongoing maintenance plan for the building’s HVAC air filtration system shall be required. Recognizing that emissions from air pollution sources are decreasing, the maintenance period shall last as long as significant excess cancer risk exposures are predicted. Subsequent studies could be completed by an air quality expert approved by
the City to identify the ongoing need for the filtered ventilation systems as future information becomes available.

iv. Ensure that the lease agreement and other property documents (1) require cleaning, maintenance, and monitoring of the affected units for air flow leaks; (2) include assurance that new owners and tenants are provided information on the ventilation system; and (3) include provisions that fees associated with owning or leasing a unit(s) in the building include funds for cleaning, maintenance, monitoring, and replacements of the filters, as needed.

v. Require that, prior to final design or occupancy, an authorized air pollutant consultant verify the all necessary measures to reduce TAC exposure.

c. **Removal of Street Trees:** Development of the proposed project would result in the loss of five street trees adjacent to the project site.

i. If all five trees are removed, two would be replaced at a 4:1 ratio and two would be replaced at a 2:1 ratio with minimum 24-inch box trees. One tree would be replaced at a 1:1 ratio with minimum 15-gallon container trees. The total number of replacement trees required to be planted would be 18 trees. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

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 must be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:

1) The size of a 15-gallon replacement tree may be increased to a 24-inch box and count as two replacement trees.

2) An alternative site(s) would be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building and Code Enforcement.

3) A donation of $300 per mitigation tree on Our City Forest for in-lieu off-site tree planting in the community. These funds would be used for tree planting and maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting shall be provided to the Planning Project Manager prior to issuance of a development permit.

d. **Geology and Soils:** Prior to issuance of any site-specific grading or building permits, a design level geotechnical investigation shall be prepared and submitted to the City of San José Public Works Department for review and
approval. The project shall implement the recommendations in the investigation to minimize impacts from undocumented fill, expansive soils, and differential settlement. Options to address these conditions would include excavation to remove undocumented soils as part of the subgrade garage construction and the use of soil cement columns (drilled displacement piles) to support a mat foundation.

e. National Pollutant Discharge Elimination System (NPDES)/Erosion Requirements:

i. Stormwater Management – Construction Activities. The project shall incorporate Best Management Practices (BMPs) into the project to control the discharge of stormwater pollutants including sediments associated with construction activities. Examples of BMPs are contained in the California Stormwater Quality Association (CASQA) Stormwater BMP Construction Handbook Portal (July 2012). Prior to the issuance of any grading permit, the permittee may be required to submit an Erosion Control Plan to the City Project Engineer, Department of Public Works, 200 East Santa Clara Street, San José, California 95113. The Erosion Control Plan may include BMPs as specified in the CASQA Stormwater BMP Construction Handbook Portal (July 2012) for reducing impacts on the City's storm drainage system from construction activities. For additional information about the Erosion Control Plan, the NPDES permit requirements or the documents mentioned above, please call the Department of Public Works at (408) 277-5161.

ii. Post-Construction Hydromodification Management. This project must comply with the City's Post-Construction Hydromodification Management Policy (Policy 8-14). The project shall not cause an increase in the erosion potential of the receiving stream over the pre-project (existing) condition. The project shall demonstrate that post-construction stormwater runoff (post-project) does not exceed estimated pre-project (existing) runoff rates and durations.

f. Asbestos Containing Materials (ACMs) and Lead Based Paint: Demolition of the existing structures on the project site could expose construction workers or occupants on adjacent buildings to harmful levels of ACMs or lead. The project is required to conform to the following regulatory programs and to implement the following measures to reduce impacts due to the presence of ACMs and/or 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 to determine the presence of asbestos-containing materials and/or lead-based paint.
ii. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings would be disposed of at landfills that meet acceptance criteria for the waste being disposed.

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

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

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

g. Hazardous Materials: The following measures are required to be implemented as conditions of project approval to reduce identified human health and environmental hazards to future users:

i. Prior to the issuance of any grading permit, shallow soil samples shall be taken to determine if contaminants from previous operations are located on-site in concentrations above established construction worker and residential environmental screening levels. The soil sampling plan must be reviewed and approved by the Director of Planning, Building and Code Enforcement and the Environmental Service Department's Environmental Compliance Officer prior to initiation of work.

ii. If contaminated soils are found in concentrations above established thresholds for worker safety and/or residential thresholds, a Site Management Plan (SMP) shall be prepared and implemented (as outlined below) and any contaminated soils found in concentrations above established thresholds shall be removed and disposed of according to California Hazardous Waste Regulations. The contaminated soil removed from the site shall be hauled off-site and disposed of at a licensed hazardous materials disposal site.

iii. A SMP shall be prepared to establish management practices for handling impacted soil material that may be encountered during site development and soil-disturbing activities. Components of the SMP shall include: a detailed discussion of the site background; preparation of a Health and Safety Plan by
an industrial hygienist; notification procedures if previously undiscovered significantly impacted soil or free fuel product is encountered during construction; on-site soil reuse guidelines based on the California Regional Water Quality Control Board, San Francisco Bay Region’s reuse policy; sampling and laboratory analyses of excess soil requiring disposal at an appropriate off-site waste disposal facility; soil stockpiling protocols; and protocols to manage groundwater that may be encountered during trenching and/or subsurface excavation activities. Prior to issuance of any grading permit, a copy of the SMP must be approved by the Santa Clara County Department of Environmental Health, the City’s Director of Planning, Building and Code Enforcement, and copied to the Environmental Service Department’s Environmental Compliance Officer.

h. Hydrology: Pursuant to the City’s requirements, the following measures, based on Regional Water Quality Control Board recommendations, have been included in the project as standard permit conditions to reduce potential construction-related water quality impacts:

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 would be suspended during high winds.

iii. All exposed or disturbed soil surfaces would 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 would be watered or covered.

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

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

vii. Vegetation in disturbed areas would 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 may also be installed at the request of the City

i. Groundwater: In accordance with City policies, the following standard permit conditions will be implemented as part of the project:

i. Construction: As the project is regulated by the statewide Construction General Permit, it will be subject to the requirements of that permit related to construction-period pumped groundwater discharges.
ii. **Post-Construction:**

1) The project shall be designed so that the below-grade parking garage will withstand hydrostatic groundwater pressure intrusions and will not need to pump groundwater on a post-construction basis. If this is infeasible then the project can implement groundwater pumping in conformance with applicable permits.

2) Any pumped uncontaminated groundwater of less than 10,000 gallons/day shall be discharged to a landscaped area or stormwater treatment feature that is properly designed to accommodate the volume of pumped groundwater, or discharged to the sanitary sewer. Discharge to the sanitary sewer will require review by the City’s Environmental Services Engineering section during the Building Permit stage and is subject to all wastewater permitting requirements and fees. In the event, it is not feasible to pump groundwater to stormwater treatment features or the sanitary sewer, groundwater may be discharged to the storm sewer system if testing determines that the discharge is uncontaminated, as outlined in the City’s Stormwater Permit - Provision C.15.b.i(2)(c)-(e). Pre-discharge sampling data collected for verification that the pumped groundwater is not contaminated shall be provided to the City of San José.

3) Any proposed new discharges of uncontaminated groundwater with flows equal to or more than 10,000 gallons/day, and all new discharges of potentially contaminated groundwater, shall obtain a permit from the San Francisco Bay Regional Water Quality Control Board. Upon approval of the permit, a copy shall be provided to the City of San José with the Building Permit application submittal.

j. **Mechanical Equipment Noise:** A detailed acoustical study shall be prepared during final building design to evaluate the potential noise generated by building mechanical equipment and demonstrate the necessary noise control to meet the city’s 55 dBA day-night average level (DNL) goal. Noise control features such as sound attenuators, baffles, and barriers shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations around the project site. The noise control features identified by the study will be incorporated in the project prior to issuance of a building permit.

k. **Construction Noise:** The proposed project shall be required to implement the following measures during all phases of construction on the project site:

   i. Construction activities shall be limited to the hours between 7:00 am and 7:00 pm, 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.
ii. Construct solid plywood fences around construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.

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

iv. Unnecessary idling of internal combustion engines should be strictly prohibited.

v. 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. Temporary noise barriers could reduce construction noise levels by 5 dBA.

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

vii. Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.

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

ix. A temporary noise control blanket barrier shall be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.

x. Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will 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 in it the notice sent to neighbors regarding the construction schedule.

i. **Outdoor Common Area Noise:** Shield common outdoor areas with buildings and parapet walls or other noise attenuation features/structures.

m. **Indoor Noise Exposure:** The following conditions are required to ensure the project is consistent with applicable City General Plan policies for the exposure of residents to exterior noise:

   i. Provide a suitable form of forced-air mechanical ventilation, as determined by the local building official, for all units so that windows can be kept closed to control noise.
ii. A qualified acoustical specialist shall prepare a detailed analysis of interior residential noise levels resulting from all exterior sources (transportation and non-transportation) during the design phase pursuant to requirements set forth in the State Building Code. The study will also establish appropriate criteria for noise levels inside the commercial spaces affected by traffic noise. The study will review the final site plan, building elevations, and floor plans prior to construction and recommend building treatments to reduce residential interior noise levels to 45 dBA DNL or lower and reduce levels to the established criteria for the commercial uses; and, address and adequately control the noise from rooftop equipment on the adjacent building. Treatments would include, but are not limited to, sound-rated windows and doors, acoustical caulking, protected ventilation openings, etc. The specific determination of what noise insulation treatments are necessary shall be completed on a unit-by-unit basis during final design of the project. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City, along with the building plans and approved design, prior to issuance of any building permit.

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

a. A violation of any conditions of the Special Use or Site Development Permits were 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 and conditions set forth above, the Special Use and Site Development Permits to use and construction on the subject property for said purpose specified above is hereby approved.
ADOPTED this _____ day of ____ 2017, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk
LEGAL DESCRIPTION

Real property in the City of San Jose, County of Santa Clara, State of California, described as follows:

PARCEL ONE:

BEGINNING AT A POINT ON THE SOUTHEASTERLY LINE OF POST STREET, FORMERLY EL DORADO STREET, DISTANT THEREON SOUTH 59 DEG. 20' WEST 39.70 FEET FROM THE POINT OF INTERSECTION OF SAID SOUTHEASTERLY LINE OF POST STREET, WITH THE SOUTHWESTERLY LINE OF SAN PEDRO STREET, THENCE LEAVING POST STREET AND RUNNING PARALLEL WITH THE SOUTHWESTERLY LINE OF SAN PEDRO STREET, SOUTH 30 DEG 40' EAST 121.30 FEET; THENCE SOUTH 31 DEG 24' WEST 30.45 FEET; THENCE SOUTH 40 DEG 28' EAST 123.94 FEET TO THE NORTHWESTERLY LINE OF THAT CERTAIN PARCEL OF LAND CONVEYED BY NOVITIATE OF LOS GATOS, A CORPORATION TO J.O. PAUL, BY DEED DATED NOVEMBER 22, 1926, RECORDED NOVEMBER 23, 1926 IN BOOK 273 OFFICIAL RECORDS, PAGE 570, SANTA CLARA COUNTY RECORDS; THENCE ALONG THE NORTHWESTERLY LINE OF SAID PARCEL OF LAND CONVEYED TO J.O. PAUL, SOUTH 53 DEG 49' WEST 237.93 FEET, MORE OR LESS, TO THE NORTHEASTERLY LINE OF ALMADEN AVENUE, FORMERLY ORCHARD STREET; THENCE ALONG THE NORTHEASTERLY LINE OF ALMADEN AVENUE, NORTH 30 DEG 40' WEST 279.45 FEET, MORE OR LESS, TO THE SOUTHEASTERLY LINE OF POST STREET, THENCE ALONG THE SOUTHEASTERLY LINE OF POST STREET, NORTH 59 DEG 20' EAST 245.3 FEET TO THE POINT OF BEGINNING.

PARCEL TWO:

BEGINNING AT A POINT ON THE SOUTHWESTERLY LINE OF SAN PEDRO STREET, DISTANT THEREON NORTH 30 DEG 40' WEST 92.72 FEET FROM THE POINT OF INTERSECTION OF SAID SOUTHWESTERLY LINE OF SAN PEDRO STREET WITH THE NORTHWESTERLY LINE OF SAN FERNANDO STREET, SAID POINT OF BEGINNING BEING ALSO THE MOST NORTHERLY CORNER OF THE PARCEL OF LAND CONVEYED BY NOVITIATE OF LOS GATOS, A CORPORATION, TO J.O. PAUL BY DEED DATED NOVEMBER 22, 1926, RECORDED NOVEMBER 23, 1926 IN BOOK 273 OFFICIAL RECORDS, PAGE 570; THENCE ALONG SAID SOUTHWESTERLY LINE OF SAN PEDRO STREET, NORTH 30 DEG 40' WEST 63.62 FEET TO THE MOST EASTERN CORNER OF THE PARCEL OF LAND CONVEYED BY AUZERAIS ESTATE COMPANY, A CORPORATION, TO W.S. CLAYTON BY DEED DATED MAY 09, 1907, RECORDED MAY 10, 1907 IN BOOK 319 OF DEEDS, PAGE 109; THENCE ALONG THE SOUTHEASTERLY LINE OF THE LAND SO CONVEYED TO W.S. CLAYTON AND AT RIGHT ANGLES TO SAID SOUTHWESTERLY LINE OF SAN PEDRO STREET, SOUTH 59 DEG 20' WEST 58.35 FEET TO A POINT IN THE EASTERN LINE OF THE ORIGINAL PALOMARES (AFTERWARDS DE SAISET) GRANT; THENCE SOUTHEASTERLY ALONG SAID EASTERN LINE OF THE ORIGINAL PALOMARES (AFTERWARDS DE SAISET) GRANT, 66.4 FEET, MORE OR LESS TO THE NORTHWESTERLY LINE OF THE LAND SO CONVEYED TO SAID PAUL, AS HEREBINABOVE REFERRED TO; THENCE NORTHEASTERLY ALONG SAID NORTHWESTERLY LINE OF THE LAND SO CONVEYED TO SAID PAUL 48.50 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

PARCEL THREE:

BEGINNING AT A POINT IN THE WESTERN LINE OF SAN PEDRO STREET DISTANT S. 30 DEG 40' E. 188.50 FEET FROM THE POINT OF SAID WESTERN LINE OF SAN PEDRO STREET WITH THE SOUTHERN LINE OF EL DORADO OR POST STREET SAID POINT BEING THE COMMON CORNER

PARCEL FOUR:

BEGINNING AT A POINT ON THE WESTERLY LINE OF SAN PEDRO STREET, DISTANT THEREON SOUTH 30 DEG 40' EAST 121.30 FEET FROM THE POINT OF INTERSECTION OF SAID LINE OF SAN PEDRO STREET WITH THE SOUTHERLY LINE OF POST STREET, FORMERLY EL DORADO STREET, SAID POINT OF BEGINNING BEING ALSO THE MOST EASTERLY CORNER OF THE PARCEL OF LAND CONVEYED BY W.S. CLAYTON TO AUZERAIS ESTATE COMPANY, BY DEED DATED APRIL 16, 1907, RECORDED MAY 09, 1907 IN BOOK 320 OF DEEDS, PAGE 8; THENCE ALONG SAID LINE OF SAN PEDRO STREET; SOUTH 30 DEG 40' EAST 42.20 FEET TO THE MOST NORTHERLY CORNER OF THE PARCEL OF LAND CONVEYED BY W.S. CLAYTON TO AUZERAIS ESTATE COMPANY, DATED APRIL 16, 1907, RECORDED MAY 09, 1907 IN BOOK 320 OF DEEDS, PAGE 8; THENCE ALONG SAID WESTERN LINE OF SAN PEDRO STREET S. 30 DEG 40' E. 25 FEET FROM THE POINT OF INTERSECTION OF SAID LINE OF SAN PEDRO STREET WITH THE POST STREET, FORMERLY EL DORADO STREET, THENCE ALONG THE NORTHERLY LINE OF THE PROPERTY SO CONVEYED TO HANKS, ET AL, SOUTH 59 DEG 20' EAST 32.17 FEET TO THE POINT WHERE SAID POST STREET MEETS THE SOUTHERLY LINE OF POST STREET FROM THE COMMUNITY BETWEEN SAID LAST NAMED LANDS IN THE EASTERN LINE OF THE PARCEL OF LAND CONVEYED BY W.S. CLAYTON TO AUZERAIS ESTATE COMPANY, DATED APRIL 16, 1907, RECORDED MAY 09, 1907 IN BOOK 320 OF DEEDS, PAGE 8; THENCE LEAVING SAID LAST NAMED LINE AND RUNNING PARALLEL TO THE EASTERLY LINE OF THE ORIGINAL PALOMARES (AFTERWARDS SAISET) GRANT; THENCE ALONG THE LINE BETWEEN LANDS FORMERLY OF W.S. CLAYTON AND SAID ORIGINAL PALOMARES GRANT, NORTH 40 DEG 28' WEST 32.17 FEET TO THE POINT OF INTERSECTION OF SAID LINE WITH THE LINE BETWEEN THE ORIGINAL PETRA HIGUERA GRANT AND THE ORIGINAL JUANA SANCHEZ DE PACHECO GRANT; THENCE ALONG SAID LAST MENTIONED LINE NORTH 39 DEG 24' EAST 30.45 FEET TO THE MOST SOUTHERLY CORNER OF THE PARCEL OF LAND CONVEYED BY W.S. CLAYTON TO AUZERAIS ESTATE COMPANY, HEREINABOVE REFERRED TO; THENCE ALONG THE SOUTHERLY LINE OF THE LAND SO CONVEYED TO AUZERAIS ESTATE COMPANY, NORTH 59 DEG 20' EAST 39.70 FEET TO THE POINT OF BEGINNING.

APN: 259-40-012 (Affects: Parcel One)
259-40-014 (Affects: Parcel Four)
259-40-015 (Affects: Parcel Three)
259-40-016 (Affects: Parcel Two)

ARB NO: 259-40-12, 259-40-14, 259-40-15 and 259-40-16