

From: [Tu, John](#)
To: [Amanda Wolf](#)
Cc: [Downtown West Project](#)
Subject: Resolution Resources
Date: Wednesday, January 20, 2021 11:36:29 AM
Attachments: [Global Permit Conditions Categorized.docx](#)

Amanda,

Find attached a working list of conditions that staff references as potential conditions for permits.

Best,
[Tong \(John\) Tu](#)

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For More Information Please Visit: <http://www.sanjoseca.gov/planning>

GLOBAL PERMIT CONDITIONS

General, Performance, Revocation Conditions (Development Permits)

1. **Acceptance of Permit.** Per San José Municipal Code Section 20.100.290(B), should Permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the Permittee shall be deemed to constitute all of the following on behalf of the Permittee:
 - a. Acceptance of the Permit by the Permittee; and
 - b. Agreement by the Permittee to be bound by, to comply with, and to do all things required of or by the Permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire four (4) years from and after the date of issuance hereof by the Director/Planning Commission/City Council, if within such time period, a Building Permit (for foundation or vertical construction) has not been obtained or, if no Building Permit is required, the use has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning/Planning Commission/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. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Required Phasing.** Building Permits cannot be issued for _____ until such a time as Building Permits have been issued for _____.
4. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Permit shall be deemed acceptance of all conditions specified in this Permit and the Permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described in the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
5. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José Santa Clara Water Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager makes a determination that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.
6. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved (Name Type of Permit Here) plans entitled, "_____" dated _____, last revised on _____ on file with the Department of Planning, Building and Code Enforcement ("Approved Plans"), and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
7. **Demolition Permit.** A demolition permit may be issued for the _____ only upon the issuance of a Building Permit for new construction.
8. **Timing for Demolition.** Buildings and structures that are being removed to accommodate the new development shall not be removed until the related Public Works Grading Permit has been issued.

9. **Timing of Tree Removals.** Trees that are proposed for removal to accommodate new development shall not be removed until the related Public Works Grading Permit has been issued.
10. **Tree Protection Standards.** The applicant shall maintain the trees and other vegetation shown to be retained in this project and as noted on the Approved Plan Set. Maintenance shall include pruning and watering as necessary and protection from construction damage. Prior to the removal of any tree on the site, all trees to be preserved shall be permanently identified by metal numbered tags. Prior to issuance of the Grading Permit or removal of any tree, all trees to be saved shall be protected by chain link fencing, or other fencing type approved by the Director of Planning. Said fencing shall be installed at the dripline of the tree in all cases and shall remain during construction. No storage of construction materials, landscape materials, vehicles or construction activities shall occur within the fenced tree protection area. Any root pruning required for construction purposes shall receive prior review and approval, and shall be supervised by the consulting licensed arborist. Fencing and signage shall be maintained by the applicant to prevent disturbances during the full length of the construction period that could potentially disrupt the habitat or trees.
11. **Tree Removal Replacement.** Prior to the issuance of a tree removal permit, tree replacement in-lieu payment per Municipal Code Section 13.32 shall be collected for ____ number of trees. The fee shall be calculated at the time of the appropriate permit issuance according to the current adopted fee schedule. These funds will be used by the Department of Transportation for tree planting and maintenance of planted trees for approximately three years.
12. **Window Glazing.** Unless otherwise indicated on the Approved Plan, all windows shall consist of a transparent glass.
13. **Conformance with Previously Approved Zoning.** All conditions of approval and environmental mitigation measures required by the approved Planned Development Zoning applicable at the time of issuance of this Permit, or by the environmental clearance for such zoning, are hereby incorporated by reference into and made a part of this Permit.
14. **Conformance to Other Permits.** Unless specifically modified with this Permit, this project shall conform to all of the requirements of previous permit(s) including: (List File Numbers Here).
15. **Previous Permits Superseded.** This Permit supersedes the following previously issued permits (list file numbers here).
16. **Expiration of Previous Permit Amendment.** This Permit Amendment shall automatically expire upon the expiration of the previously approved _____, File No. _____.
17. **Planned Development District Effectuated.** This Planned Development Permit effectuates the portion of the Planned Development Zoning as reflected in the Permit's Approved Plan Set and the corresponding legal description.
18. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City of San José.
19. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, and, state, and federal laws.
20. **Discretionary Review.** The City maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
21. **Refuse.** All trash and refuse storage areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the trash or refuse container(s). Trash areas shall be maintained in a manner to discourage illegal dumping.
22. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.
23. **Utilities.** All new on-site telephone, electrical, and other service facilities shall be placed underground.
24. **Anti-Graffiti.** All graffiti shall be removed from buildings and wall surfaces, including job sites for projects under construction, within 48 hours of defacement.
25. **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.
26. **No Sign Approval.** Any signage shown on the Approved Plan Set are conceptual only. No signs are approved at this time. Any signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.

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27. **Sign Approval.** Sign design and location, as delineated on the Approved Plan Set, are hereby approved and constitute the project's entire signage.
28. **Building and Property Maintenance.** The property shall be maintained in good visual and functional condition. This shall include, but not be limited to, all exterior elements of the buildings such as paint, roof, paving, signs, lighting, and landscaping.
29. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
30. **Required Vehicular, Motorcycle, and Bicycle Parking.** This project shall conform to the vehicular, motorcycle, and bicycle parking requirements of the Zoning Ordinance/approved Planned Development Zoning, as amended. Any changes to the required vehicular, motorcycle, or bicycle parking requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning.
31. **Garage Parking Spaces for Attached Residential Unit Projects.** All garage parking spaces shown on the Approved Plans are to be used only for parking of residential unit vehicles and shall be kept free and clear of all obstructions. No conversion of any garages to living space, storage, or any other use is permitted.
32. **Mechanical Equipment.** The location and type of mechanical equipment shall be as shown on the Approved Plans and shall be screened from view. Changes to the mechanical equipment requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning.
33. **No Generators Approved.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
34. **Privately Owned, Publicly Accessible Open Space.** The project's plaza located on the property between the commercial building and multifamily residential building (as referenced on the approved Plan Set) will be a privately owned, publicly accessible ground level open space. The plaza shall be an area designated for use by the general public while owned and maintained by a private owner, as described by the following:
 - a. Permittee (including property owners and successors in interest of Permittee or property owner) providing this publicly accessible open space shall, to the fullest extent permitted by law, hold harmless and indemnify the City of San José, its officers, agents and employees, from any and all damage or injury caused in any manner by the design, construction, use, or maintenance of the open space; and
 - b. Permittee (including property owners and successors in interest of Permittee or property owner) shall be solely liable for any and all damage or loss occasioned by any act or negligence in respect to the design, construction, use, or maintenance of the open space.
 - c. Liability Insurance satisfactory to the City's Risk Manager and the City Attorney, naming the City of San José and its officers and employees as additional insureds, shall be provided for all such spaces. The property owner shall record with the County Recorder and provide a copy to the City prior to the issuance of building permits a special restriction on the property satisfactory in substance to the Department and sufficient to give notice to subsequent owners, lien holders, mortgagors, tenants, and others having any economic interests in the property of the open space requirement and the means by which the requirement has been, and must continue to be, satisfied.
 - d. Maintenance - Open spaces shall be maintained at no public expense. Permittee (including property owners and successors in interest of Permittee or property owner) for the property on which the open space is located shall maintain the open space by keeping the area clean and free of litter and keeping in a healthy state any plant material that is provided for the life of the publicly accessible open space and subject project.
 - e. Plaza Hours of Operation –The privately owned, publicly accessible open space shall remain open and unobstructed to public pedestrians 24 hours a day, 7 days a week.
 - f. Security – The Permittee (including property owners and successors in interest of Permittee or property owner) shall put in place and maintain appropriate security and safety measures including,

but not limited to, adequate lighting for nighttime visibility, textured or minimal slip paving, and access to a public “blue light” emergency phone or similar device situated within the plaza.

- g. The Permittee (including property owners and successors in interest of Permittee or property owner) shall install and maintain in good condition signage that is clearly readable and visible from the public street or public sidewalk at every entry to the public plaza within 20 feet of the public right-of-way.

35. Affordable Housing Requirements. This Permit is subject to its Affordable Housing Compliance Plan as set forth by the Department of Housing, which includes the following conditions:

- a. The permittee must execute and record their City Affordable Housing Agreement memorializing the IHO obligations against the property and any contiguous property under common ownership and control prior to earliest of: issuance of any building permits, or approval of any parcel or final map.
- b. Permittee must strictly comply with each requirement of the approved Affordable Housing Compliance Plan, the Affordable Housing Agreement, and any other applicable requirements of the IHO.
- c. No building permit may issue until the Affordable Housing Agreement is recorded against the property. No building permit may issue except consistent with the requirements of the IHO and the proposed Plan to fulfill the affordable housing obligations.
- d. No Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the IHO and Affordable Housing Agreement are met.

36. Reclaimed Water. The project shall conform to Chapter 15.10 and 15.11 of the San José Municipal Code for use of reclaimed water and shall include an irrigation system designed to allow for the current and future use of reclaimed water for all landscaping.

37. No Extended Construction Hours. This Permit does not allow any construction activity on a site located within 500 feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.

38. Extended Construction Hours. Weekend construction hours, including staging of vehicles, equipment and construction materials, shall be limited to Saturdays between the hours of 9 a.m. to 5 p.m. Permitted work activities shall be conducted exclusively within the interior of enclosed building structures provided that such activities are inaudible to existing adjacent residential uses. Exterior generators, water pumps, compressors and idling trucks are not permitted. Permittee shall be responsible for educating all contractors and subcontractors of said construction restrictions. The Director of Planning, at their discretion, may rescind provisions to allow extended hours of construction activities on weekends upon written notice to the Permittee.

39. Construction Disturbance Coordinator. Rules and regulation pertaining to all construction activities and limitations identified in this Permit, along with the name and telephone number of a Permittee-appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.

Residential Tracts

40. Homeowner’s Association. A Homeowner’s Association shall be established for maintenance of all common areas, including driveways/courtyards, landscaping and the community amenity area. A copy of the Development Permit, the accompanying Approved Plans, any approved Amendments or Adjustments to the Development Permit, and a complete set of approved building and all improvement plans shall be provided to the Homeowner’s Association by the Permittee no later than 30 days upon completion of each phase.

41. No Tract Sales Office/Model Homes Approved. This Permit does not include the approval of a tract sales office/model homes complex. Said use requires a Permit Adjustment approved by the Director of Planning.

42. Tract Sales Office/Model Homes. This Permit includes the approval of a tract sales office/model homes complex as shown on the Approved Plans. Signs related to said use shall conform to the City’s Sign Ordinance.

43. Stormwater Stenciling. All storm drain inlets and catch basins shall be stenciled with the “NO DUMPING - FLOWS TO BAY,” applied to the top and/or face of the curb next to the storm drain inlet. The development maintenance entity and/or property owner shall ensure that all storm drain inlet markings located on privately-maintained streets within the property are present and maintained.

General, Performance, Revocation Conditions (Tentative Map, Tracts, and other Title 19 applications)

1. **Map Expiration.** This Tentative Map shall automatically expire 30 months from and after date of issuance thereof by the Director of Planning/Planning Commission/City Council, if within such time period, a Final Map has not been obtained, pursuant to and in accordance with the provisions of this Tentative Map. The date of issuance is the date this Tentative Map is approved by the Director of Planning/Planning Commission/City Council. However, the Director of Planning may approve a Tentative Map Extension to extend the validity of this Tentative Map in accordance with Title 19. An extension of the approval of the Tentative Map shall exceed two years by the City Council or the Director of Planning. (see 19.16.030)
2. **Improvements.** Pursuant to the Subdivision Agreement (hereinafter referred to as "Agreement"), the Subdivider shall, before approval and recording of the Final Map, improve or agree to improve all land within the subdivision and all land outside, but appurtenant to, the Subdivision shown on the Tentative Map for public or private streets, alleys, pedestrian ways and easements to the satisfaction of the Director of Public Works.
3. **Improvement Contract.** In the event the subdivider has not completed the improvements required for the proposed subdivision at the time the final map is presented for approval, Subdivider shall enter into an improvement contract pursuant to Agreement with the City of San José, in accordance with Section 19.32.130 of the San José Municipal Code, and shall provide the bonds and insurance mentioned therein.
4. **Public Use Easements.** The Subdivider shall dedicate on the final map for public use easements for public utilities, streets, pedestrian ways, sanitary sewers, drainage, flood control channels, water systems and slope easements in and upon all areas within the subdivision shown on the Tentative Map for the subdivision to be devoted to such purposes.
5. **Distribution Facilities.** The Subdivider shall, at no cost to the City, cause all new or replacement electricity distribution facilities (up to 40KV), telephone, community cable, and other distribution facilities located on the subject property to be placed underground.
6. **Demolition of Buildings on Property Line or within Setback.** The existing structures on the subject site that would otherwise be situated on a proposed property line or cause non-conformance to the required setbacks shall be demolished to the satisfaction of the Chief Building Official prior to the recordation of documents and maps that establish the proposed changes to the location of property lines. A Demolition Permit shall be obtained from the Building Division to demolish the subject structures.
7. **Homeowner's Association and/or Maintenance District.** A Homeowner's Association or Maintenance District shall be established for maintenance of all common areas, including but not limited to, private streets, pedestrian walkways, easements, landscaping, and landscaping in the public right-of-way that is not already in a maintenance district. The Permittee shall provide to the Homeowners Association a copy of the Vesting Tentative Map Permit, the accompanying Plan Set, any approved Amendments or Adjustments to the Development Permit, and a complete set of approved building and all improvement plans within 30 days of completion of each construction phase.
8. **Conformance with Other Permits.** Approval of the Tentative Map shall automatically expire with respect to any portion of the lands covered by such Tentative Map on which a Final Map or Tract Map has not yet been recorded if, prior to recordation of a Final Map or Tract Map thereon, the Planned Development Permit for such lands automatically expires or for any reason ceases to be operative.
9. **Final Map.** No Final Map or Tract Map shall be approved by City Council unless and until the appeal period for the development permit, City File No. _____, has expired and all appeals have been exhausted.
10. **Covenant of Easements.** Prior to recordation of the Final Map, the shall offer to the City of San José a Covenant of Easement for joint use and emergency access purposes, in accordance with Part 1 of Chapter 20.110 of Title 20 of the San José Municipal Code, across lots _____, as shown on the Approved Plan Set. Said easements shall be binding upon, and all benefits shall insure to, all successors in interest to the affected real property.
11. **Multiple Final Maps.** Multiple Final Maps may be filed for this subdivision if each and all of the following conditions are met with each Final Map:

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- a. All fees associated with development and a part of this approval shall be apportioned and paid for each portion of this subdivision for which a Final Map is being filed, including but not limited to Parkland Dedication, undergrounding of utilities, drainage, area and sewer treatment plan.
- b. All public streets on which each Final Map has frontage shall be improved or bonded to be improved to the satisfaction of the Director of Public Works.
- c. All grading, drainage, and easements for drainage, adequate to protect each lot for which a Final Map is requested, and surrounding parcels which could be impacted by such design or lack of design, shall be guaranteed to the satisfaction of the Director of Public Works.
- d. Any and all off-site improvements necessary for mitigation of impacts brought about by this project shall be apportioned to the degree possible to guarantee adequate mitigation for each area for which a Final Map is being filed, to the satisfaction of the Director of Public Works.

Special District/Policy Area Conditions

1. **Evergreen Assessments:** This project is located within the Evergreen East Hills Development Policy (EEHDP) area. Within the EEHDP area, new residential development requires allocation from the pool of 500 new residential units which includes payment of a Traffic Impact Fee (TIF). The fee per residential unit is \$13,214 and shall be payable to the City prior to the issuance of building permits.
2. **Downtown Financing Plans.** The San José City Council ("City") approved the (i) Envision San Jose General Plan 2040 ("General Plan") in 2011, (ii) Diridon Station Area Plan ("Diridon Plan") in 2014, and (iii) Downtown Strategy 2040 ("Downtown Strategy") in 2018. The Diridon Plan and Downtown Strategy, in conjunction with the General Plan, provides the framework for development located in Downtown San Jose.

The City is in the process of developing financing plans for the Diridon Plan and the entire Downtown to fund public improvements, affordable housing, and other amenities and services. The financing plans may include the creation of a (i) Community Facilities District(s); (ii) Enhanced Infrastructure Financing District(s); (iii) Property Based Improvement District(s); (iv) Mitigation Impact Fee program(s); (v) Commercial linkage fee program(s); and/or (vi) other financing mechanisms or combination thereof.

The City is in the process of amending the Diridon Plan and updating the Diridon Basic Infrastructure Impact Fee. Updates to the Diridon Basic Infrastructure Impact Fee may include expanding the impact fee to other areas of Downtown. The City Council has also directed City staff to complete studies and make recommendations related to commercial impact fees to help fund affordable housing. Further, the City is developing a Downtown Transportation Plan that may require funding to construct the public improvements identified in the Downtown Transportation Plan. These efforts are on-going and there will continue to be other similar efforts to study various funding mechanisms for public improvements, affordable housing, and other amenities and services in the Downtown.

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

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

The City is in the process of developing financing plans to help fund affordable housing and related amenities and services. The financing plans may include the creation of a (i) Community Facilities District(s); (ii) Enhanced Infrastructure Financing District(s); (iii) Property Based Improvement District(s); (iv) Mitigation Impact Fee program(s); (v) Commercial linkage fee program(s); and/or (vi) other financing mechanisms or combination

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thereof. For example, the City Council has directed City staff to complete studies and make recommendations related to commercial impact fees to help fund affordable housing. These efforts are on-going and there will continue to be other similar efforts to study various funding mechanisms for affordable housing.

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

4. **US-101/Oakland/Mabury Road Transportation Policy Area Requirements.** This project is subject to the City's US-101/Oakland/Mabury Transportation Development Policy. The US-101/Oakland/Mabury Transportation Development Policy requires new residential and commercial developments that generate vehicular trips at either of the Policy Interchanges to pay a Traffic Impact Fee (TIF) towards the upgrade of US-101/Oakland Interchange and construction of US-101/Mabury Interchange. The 2013 TIF is \$33,143.30 for each project peak hour trip that travels through either the US-101/Oakland or US-101/Mabury Interchanges. This fee is subject to an annual escalation on January 1 per the Engineering News-Record Construction Cost Index for San Francisco.
5. **North San José Area Development Policy Requirements:** An area-wide traffic impact analysis was prepared as part of the North San José Area Development Policy, adopted June 2005. Traffic impacts were identified and resulted in an area wide traffic impact fee. This project is covered under the North San José EIR. Consistent with the North San José EIR, a traffic impact fee shall be paid prior to issuance of Public Works Clearance. The 2011 fee is \$6,800 per multi-family unit and subject to an annual escalation of 3.3% on July 1. .
6. **North San José Area Development Policy- Expiration of Development Capacity.** This Planned Development Permit reserves ____ residential units of the development capacity within the North San José Area Development Policy. Reservation of this development capacity shall expire on _____ unless a building permit is obtained and construction has commenced with concrete poured.

Density Bonus Regulatory Agreement

1. **Regulatory Agreement.** Applicants for a density bonus, incentive, waiver or modification of Development Standards, shall enter into a Regulatory Agreement with the City. The final Regulatory Agreement, as amended and as approved by the City Attorney and by the Director of Planning, is attached and shall be recorded in the Office of the County Recorder by the City.
2. **DRAFT--Regulatory Agreement.** Applicants for a density bonus, incentive, waiver or modification of Development Standards, shall enter into a Regulatory Agreement with the City. The final Regulatory Agreement, as amended and as approved by the City Attorney and by the Director of Planning, shall be recorded prior to the issuance of...

Landscaping Conditions

1. **Landscaping.** Planting and irrigation are to be provided by the Permittee, as indicated, on the final Approved Plans.
2. **Irrigation Standards.** Irrigation shall be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping, the City of San José Landscape and Irrigation Guidelines and the Zonal Irrigation Plan in the Approved Plans. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
3. **Certification.** Pursuant to San José Municipal Code, Section 15.11.1050 certificates of substantial completion for landscape and irrigation installation shall be completed by a licensed or certified professional and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
4. **Replacement Landscaping.** All landscaping removed with the construction of the project shall be replaced with similar landscaping in the immediate area. All landscaped replacement areas shall be automatically irrigated.
5. **Permittee Installed Front Yard Landscaping Required.** Pursuant to the City's Residential Design Guidelines, the

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Permittee shall provide comprehensive front yard landscaping and irrigation for developments with small lot single-family detached homes with an average lot size of 4,000 square feet or less. Landscaped areas shall be maintained by a Homeowner's Association or similar entity.

6. **Common Area Landscaping.** All landscaping in common areas shall be maintained by the Homeowner's Association or other similar entity.
7. **Street Trees.** Street trees, as shown on Approved Plans, shall be planted on the street frontage. A permit for planting street trees shall be obtained from the City Department of Transportation, Trees and Landscaping Section, (408) 794-1900.

Fences and Other Site Details

1. **Fence Standards.** Fences shall be erected in accordance with the standards established on the Approved Plans. Changes to the approved fencing shall comply with Section 17.24 of the City of San José Municipal Code.
2. **Pool Fencing.** The pool area shall be fenced in compliance with all applicable laws of the State of California and the City of San José Municipal Code.
3. **Decorative Fountain Operation.** The fountain shown on the Approved Plans shall be fully lined and be designed to recirculate the water, without misting.

Historic Preservation

1. **Salvage of Historic Materials.** Surplus historic bricks and other architectural features shall be re-used where feasible in other areas of the project and for repairs within the building.
2. **Historic Mitigation.** Prior to issuance of any demolition permit, the following mitigation measures shall be met to the satisfaction of the Planning Director:
 - a. The Permittee shall advertise the building for relocation. A dollar amount equal to the estimated cost of demolition as certified by a licensed contractor and any associated Planning Permit fees for relocation shall be offered to the recipient of the building. The Permittee shall provide evidence to the Historic Preservation Officer that an advertisement has been placed in a newspaper of general circulation, posted on an appropriate website, and posted at the site for a period of no less than 30 days.
 - b. Preservation organizations and other interested parties shall be contacted at least 30 days prior to demolition activities and given the opportunity to examine the building and salvage surplus elements not being incorporated in the project for possible re-use in the rehabilitation of the buildings of similar age and style. Documentation of the salvage offers shall be submitted to the City's Historic Preservation Officer.
 - c. Preparation of a full photo-documentation of the building is required using the Secretary of Interior's Standards and Guidelines for Architectural and Engineering Documentation: HABS/HAER Standards, and shall be submitted to the City's Historic Preservation Officer. The photo-documentation shall be provided to the History Museum of San José.

Operational/Use Conditions

General Use Restrictions

1. **Use Authorization.** This Permit allows the following demolition/construction/specific use:
 - a. **Drinking Establishment.** This permit allows a drinking establishment. Alcohol service shall cease at 2:00 a.m.
 - b. **Off-Sale of Alcohol.** This Permit authorizes the off-sale of alcohol at the subject establishment and successors of said tenant spaces whereby the subsequent tenant maintains a similar use as deemed by the Director of Planning.
 - c. **No Drinking Establishment or Off-sale of Alcohol.** This Permit does not include any approval for a drinking establishment or off-sale of alcohol.
 - d. **Operational Hours.** This use shall be limited to operation between the hours of 6:00 a.m. to 12:00 a.m. (midnight), unless a Permit, as applicable, is approved by the City for other hours of operation
 - e. **Limitation of Drive-Through Use Hours.** No drive-through portion of land use shall operate after the hour of 10:00 p.m. when adjacent to residentially used, zoned, or General Planned properties.

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- f. **Speaker Noise.** Drive-through speakers shall not be audible from adjacent residentially used, zoned, or General Planned properties.
 - g. **Term.** If the use authorized by the conditional use permit is discontinued for a period of 12 months, the conditional use permit will expire and the conditional use permit will no longer be in effect.
2. **Operations Management Plan.** The project is bound to Exhibit A: Operations Plans attached to the Staff Report, labeled " _____ " dated _____.
3. **Conditional Use Permit Amendment Required.** The following items require a Conditional Use Permit Amendment to be removed as conditions of the Conditional Use Permit.
 - a. **List conditions.**
 - b. **Adjustment Required.** All other items in the Operations Plan can be modified through a Permit Adjustment.
4. **Loading Activity Hours.** All loading activities shall be limited to the hours of 6:00 a.m. to 9:00 p.m.
5. **Amplified Sound.** All amplified sound shall be contained within the buildings and the buildings shall be adequately insulated to prevent sound from emanating outside.

Vehicle Sales

1. **Storage of Vehicles.** Partially dismantled vehicles shall not be visible from the public right-of-way. No outdoor storage of vehicle parts is allowed except in designated enclosures and/or areas shown on the Approved Plans.
2. **Lighting.** Outdoor lighting may be used in vehicle display areas as shown on the Approved Plan Set, and shall be dimmed no later than 10:00 p.m. each night.

Day Care Center

1. **Occupancy Limitations.** In addition to any other limitations that may apply to the maximum number of children for this day care center based on the number of parking spaces provided on the subject site and the City's Zoning Ordinance parking requirements, the maximum number of children for this day care center shall be _____, unless an alternative parking arrangement is approved by the City.
2. **Noise Control.** Sound shall be contained within the buildings and the buildings shall be adequately insulated to prevent excessive sound from emanating outside. Adequate HVAC (air conditioning) shall be provided to allow all doors and windows on the subject site to remain closed during the operation and activities of the site. Maximum noise levels emanating from the interior any of the facilities shall not exceed 55 decibels (dBA) at the adjacent residential property line and 60 decibels (dBA) at non-residential property lines.

Wireless Communication Facilities

1. **Landscape Screening Monopoles from Residential Uses.** The Permittee shall provide screening trees with an average spacing of 25 feet along all residential property lines, as shown on the approved Plan Set
2. **Wires for Monopoles.** All wires shall be located either within the pole or otherwise enclosed such that they are not be visible outside the equipment enclosure.
3. **Discontinuation of Wireless Use.** Upon discontinuation or abandonment of the use of the permitted wireless communications facility for a period of a year or more, the Permittee shall remove the antenna and associated improvements and related equipment/enclosures associated with the discontinued or abandoned antenna within 30 days.
4. **Co-location.** The Permittee shall fully cooperate and support the application by other providers for the co-location of antennas on the permitted antenna support structure and the addition of at-grade equipment enclosures on the Site covered by this Permit.
5. **Screening of Rooftop Antennas.** All proposed rooftop wireless communications antennas shall be screened by an architecturally-integrated roof screen as shown on the approved Plan Set.
6. **Compliance with FCC Standards.** The proposed wireless communication facility shall comply with all applicable Federal Communications Commission (FCC) standards with regards to the emission of electromagnetic fields radiation.

Pre-Construction Conditions

44. **Permit Adjustment Required.** This Permit shall not be effective unless prior to the issuance of any Building Permit or any certificate of occupancy, Permittee obtains a Permit Adjustment which addresses the following items to the satisfaction of the Director of Planning: _____
45. **Lot Line Adjustment.** Prior to the issuance of a Building Permit the Permittee shall secure approval and provide proof of recordation of a Lot Line Adjustment to consolidate the existing lots.
46. **Parcel Map Required.** Prior to the issuance of any Building Permit, the Permittee shall secure approval and provide proof of recordation of a Parcel Map to remove or relocate any existing Lot Lines and public easements as shown on the Approved Plan Set.
47. **Green Building Requirements.** This development is subject to the City's Green Building Ordinance for Private Sector New Construction as set for in Municipal Code Section 17.84. Prior to the issuance of any shell permits, or complete building permits, for the construction of buildings approved through the scope of this Permit, the Permittee shall pay a Green Building Refundable Deposit. In order to receive a refund of the deposit, the project must achieve the minimum requirements as set forth in Municipal Code Section 17.84. The request for the refund of the Green Building Deposit together with evidence demonstrating the achievement of the green building standards indicated in Municipal Code Section 17.84 shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.
- 48.

Other Department Conditions

Airport

1. **Avigation Easement.** An avigation easement shall be granted by the Permittee to the City of San José.
2. **FAA Clearance Required.** 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 abide by any and all conditions of the FAA determinations (if issued) such as height specifications, rooftop marking/lighting, construction notifications to the FAA through filing of Form 7460-2, and "No Hazard Determination" expiration date. The data on the FAA forms shall be prepared by a licensed civil engineer or surveyor, with location coordinates (latitude/longitude) in NAD83 datum out to hundredths of seconds, and elevations in NAVD88 datum rounded off to the next highest foot.

Building

1. **Building Division Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, <folder.referencefile> shall be printed on all construction plans submitted to the Building Division.
 - b. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - c. *Emergency Address Card.* The project Permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance begins with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
 - e. *Common Interest Development.* Prior to issuance of any certificate of occupancy, 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.

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- f. **Project Addressing Plan.** Prior to issuance of a Building Permit, the following requirements shall be met to the satisfaction of the Chief Building Official: The project 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).
- g. **Other.** Such other requirements as may be specified by the Chief Building Official.

Environmental Services

- 1. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
- 2. **South Bay Water Recycling (SBWR).** The development is adjacent to an existing recycled water pipeline and therefore shall conform to Chapters 15.10 and 15.11 of the San José Municipal Code. These chapters require all new and restored landscaping for projects that require a development permit from the City to be designed and constructed to receive recycled water. All irrigation systems shall be metered separately from the potable water supply system, shall have no on-site cross-connections to the potable water supply, and shall meet all other legal requirements necessary to allow for recycled water use. The use of potable water to irrigate any outdoor landscaping plumbed for recycled water where recycled water is available to the property is prohibited.
 - a. The design and construction of the irrigation system shall conform to SBWR Rules and Regulations and shall be submitted to and approved by SBWR. Standard details, specifications, and notes are available online at www.sanjoseca.gov/sbwr or by calling (408) 793-1865. The permittee shall also consider using recycled water in lieu of drinking water for other non-potable applications such as toilet flushing, commercial laundry, and building cooling. Refer to SBWR's website for a complete list of approved uses of recycled water. Questions regarding recycled water use should be directed to SBWR staff at the above number.

Fire

- 1. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the project must comply with the 2016 California Fire Code.

Housing

- 1. **Affordable Housing Compliance.** The development is subject to the City's Inclusionary Housing Ordinance (IHO) and each of the conditions below:
 - a. The permittee must execute and record their City Affordable Housing Agreement memorializing the IHO obligations against the property and any contiguous property under common ownership and control prior to earliest of: issuance of any building permits, or approval of any parcel or final map.
 - b. Permittee must strictly comply with each requirement of the approved Affordable Housing Compliance Plan, the Affordable Housing Agreement, and any other applicable requirements of the IHO.
 - c. No building permit may issue until the Affordable Housing Agreement is recorded against the property. No building permit may issue except consistent with the requirements of the IHO and the proposed Plan to fulfill the affordable housing obligations.
 - d. No Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the IHO and Affordable Housing Agreement are met.

Police

- 1. **Regulatory Permit.** A Regulatory Permit is required from the Police Department.
- 2. **Entertainment Permit.** An Entertainment Permit is required from the Police Department.

PRNS

(incorporated as part of Public Works clearance)

Public Works

- 1. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, and is subject to the following requirements «FOLDERINFO_1084» to the satisfaction of the Director of Public Works:

Santa Clara County Open Space Authority

1. **Open Space Easement.** At the Planned Development stage, the Permittee shall create an open space easement or covenant of easement and shall make an irrevocable offer to dedicate the ____ - acre open space area to the City, the Santa Clara County Open Space Authority, or a land trust agency for the purpose of maintenance, public access compatible with surrounding land uses, and preservation of the open space. Until the offer is accepted, the Permittee shall retain responsibility for maintenance and preservation as private open space. This condition shall be executed to the satisfaction of the Director of Planning.

Santa Clara Valley Water District

1. **Flood Control Dedication.** The Permittee shall dedicate, in a fee title, an easement to the Santa Clara Valley Water District, all portions of subject property shown for flood control purposes on the Approved Plan Set.
2. **Park/Flood Control Dedication.** The Permittee shall dedicate an easement to the Santa Clara Valley Water District all portions of the subject property shown for park purposes on the Approved Plan Set prior to the dedication in the fee title to the City of San Jose.
3. **Water Well Closure.** Prior to the issuance of a Clearance or Grading Permit, the project Permittee shall close all water wells on the site, in compliance with the destruction standards of the Santa Clara Valley Water District, to the satisfaction of the Director of Public Works.

CEQA Mitigation and Conditions

34. **Conformance to MMRP.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program approved for this development.

Air Quality

- a. **Air Quality.** The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:
 - i. Water active construction areas at least twice daily or as often as needed to control dust emissions.
 - ii. Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
 - iii. Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - iv. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
 - v. Pave new or improved roadways, driveways, and sidewalks as soon as possible.
 - vi. Lay building pads as soon as possible after grading unless seeding or soil binders are used.
 - vii. Replant vegetation in disturbed areas as quickly as possible.
 - viii. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
 - ix. Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
 - x. Maintain and properly tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
 - xi. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

Biological Resources

- b. **Santa Clara Valley Habitat Plan.** The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at www.scv-habitatplan.org.
- c. **Tree Replacement.** The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table ____ below, as amended.

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

- Since (all) ## trees onsite would be removed, ## trees would be replaced at a #:1 ratio, ## trees would be replaced at a #:1 ratio, and the remaining ## trees would be replaced at a #:1 ratio. As mentioned previously, there are ## native trees on-site. The total number of replacement trees required to be planted would be ## 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.
- In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:
- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site, at the development permit stage.
- Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance to the City Council approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

Cultural Resources

- d. **Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist shall examine the find. The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of PBCE or the Director's designee and the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.
- e. **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:
 - i. The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
 - ii. The MLD identified fails to make a recommendation; or
 - iii. The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.
 - iv.

Geology And Soils

- f. To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.
- g. All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- h. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- i. Ditches shall be installed to divert runoff around excavations and graded areas if necessary.

- j. The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José. A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.
 - k. **Paleontological Resources.** If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement (PBCE) shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or Director's designee of the PBCE.
- l.

Hazards And Hazardous Materials

m. **Asbestos and Lead-Based Paint.**

- i. In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP).
- ii. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
- iii. All potentially friable asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.
- iv. A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- v. Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.
- vi. Based on Cal/OSHA rules and regulations, the following conditions are required to limit impacts to construction workers.
 - 1) Prior to commencement of demolition activities, a building survey, including sampling and testing, shall be completed to identify and quantify building materials containing lead-based paint.
 - 2) During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, CCR, Section 1532.1, including employee training, employee air monitoring and dust control.
 - 3) Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of waste being disposed.

Hydrology And Water Quality

n. **Construction-related water quality.**

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

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

Noise

- o. **Construction-Related Noise.** Noise minimization measures include, but are not limited to, the following:
 - i. Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
 - ii. Construct solid plywood fences around ground level 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. Prohibit unnecessary idling of internal combustion engines.
 - 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.
 - 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. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
 - x. Designate a “disturbance coordinator” who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
 - xi. Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- p. **Interior Noise Standard For Residential Development.** The project applicant shall prepare final design plans that incorporate building design and acoustical treatments to ensure compliance with State Building Codes and City noise standards. A project-specific acoustical analysis shall be prepared to ensure that the design incorporates controls to reduce interior noise levels to 45 dBA DNL or lower within the residential

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unit. The project applicant shall conform with any special building construction techniques requested by the City's Building Department, which may include sound-rated windows and doors, sound-rated wall constructions, and acoustical caulking.