

SITE DEVELOPMENT PERMIT

FILE NO.	H21-006
LOCATION OF PROPERTY	5853 Rue Ferrari
ZONING DISTRICT	IP Industrial Park
GENERAL PLAN DESIGNATION	Combined Industrial/Commercial
PROPOSED USE	Site Development Permit to allow the demolition of two existing buildings totaling 286,330 square feet and the construction of a new 302,772-square foot concrete tilt-up industrial building with associated site improvements, and removal of 148 ordinance size trees and 79 non-ordinance sized trees on an approximately 17.38-gross acre site
ENVIRONMENTAL STATUS	Mitigated Negative Declaration
APPLICANT / OWNER/ADDRESS	Randy Dilag Duke Realty 200 Spectrum Center Drive, Suite 1600 Irvine, CA 92618
ARCHITECT / ADDRESS	HPA Architecture 600 Grand Avenue, Suite 302 Oakland, CA 94610

FACTS:

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as follows for this proposed project:

1. **Project Description.** Site Development Permit to allow the demolition of two existing buildings totaling 286,330 square feet and the construction of a new 302,772-square foot concrete tilt-up industrial building with associated site improvements, and removal of 148 ordinance size trees and 79 non-ordinance sized trees on an approximately 17.38-gross acre site. Proposed site work and improvements include grading, utility installation, landscaping, and paving. Access will be provided via two new driveways at Rue Ferrari and two additional driveways at Eden Park Place.
2. **Site Description and Surrounding Uses.** The subject site is located on the northeast side of Rue Ferrari, approximately 400 feet southeast of Enzo Drive at 5853-5863 Rue Ferrari.

The site is currently developed with two industrial warehouse buildings. The site has main frontage on Rue Ferrari along southern and Eden Park Place along northern property lines. The site is surrounded by manufacturing, office and hotel uses to the east, corporate offices to the west, residential development beyond Rue Ferrari and 101 freeway to the south and open space and Coyote Creek Trail beyond Eden Park Place to the north.

3. **General Plan Conformance.** The Envision San José 2040 General Plan/Transportation Diagram Land Use designation of the project site is Combined Industrial/Commercial Zoning District. Properties with this designation are intended for commercial, office, or industrial development or a compatible mix of these uses. The project is consistent with the proposed industrial office and warehouse uses on site.

- a. **Floor Area Ratio (FAR):** The maximum allowable FAR is 1.5 which allows 1,135,610 square feet for the 17.38-gross acre (757,072 square foot) site. The proposed gross floor area of 302,772 square feet will be within the allowable square footage for the site and within 0.4 FAR per the Edenvale Development Policy,

The project conforms to the following General Plan Goal:

Goal LU-6 – Industrial Preservation: Preserve and protect industrial uses to sustain and develop the city’s economy and fiscal sustainability.

Analysis: The project will sustain the industrial land uses and will not facilitate the conversion of industrial lands. The subject site is primarily surrounded by manufacturing and warehouse uses and the proposed warehouse/office uses are consistent with the General Plan land use designation of Combined Industrial/Commercial.

4. **Edenvale Area Development Policy (EADP)**

This property is located in the Edenvale Area Development Policy and has a maximum base building floor area allocation of 0.40. The project proposes a total of 302,775 square feet (6.95 acres) on a 17.38-gross acre site or 0.4 FAR, consistent with the allocation. Per the EADP policy, any development that exceeds 0.4 FAR shall be assessed a transportation impact fee (TIF) by the Department of Public Works. The project is in Sub-Area 4 and has a FAR of 0.40, and therefore, will be in conformance with the Edenvale Area Development Policy per Public Works Final Traffic Memo dated 3/18/22, and is not subject to pay EADP traffic impact fees.

5. **Zoning Consistency**

Pursuant to Section 20.50.100 of the Municipal Code, warehouse/office uses are permitted in the IP Industrial Park Zoning District. The proposed demolition and construction of a new construction of a new 302,772 square feet warehouse/office building requires a Site Development Permit per Section 20.100.610. The project conforms to the development standards of the Industrial Park Zoning District and other applicable standards of the Zoning Ordinance in the following manner:

- a. **Use.** Warehouse/distribution and R&D uses are permitted uses in the IP Industrial Park Zoning District.
 - b. **Setbacks.** The IP Industrial Park Zoning District requires a minimum of 15-foot front building setback and zero-foot side and rear setbacks. Front setback for parking and

circulation for passenger vehicles is 25 feet and front parking setback for trucks and buses is 40 feet. The 17.4-gross acre site has frontage on two streets and, therefore, front building setback requirements apply to both sides fronting the streets along Rue Ferrari and Eden Park Place. *The project meets the minimum building and parking setbacks per Table 1 below:*

Development Standard IP Zoning District	Required	Proposed
Front Setback (Eden Park Place, north)	15 feet minimum building and parking setback	Building setback varies from 242 feet 9 inches to 74 feet 7 inches Parking setback is 25 feet
Front Setback (Rue Ferrari, south)	15 feet minimum building and parking setback	Building setback is 136 feet 9 inches Parking setback varies from 30 feet to 110 feet
Interior Side Setback (east)	None required	76 feet
Interior Side Setback (west)	None required	79 feet

Table 1: Setbacks

- c. **Height.** The allowable maximum height in the IP zoning district is 50 feet. *The overall height from grade to the top of roof parapet is at 50 feet which meets the maximum height requirement of 50 feet.*
- d. **Parking.** The project provides 333 parking spaces which meets the vehicle parking requirement of 115 spaces as seen in Table 2 below.

Land Use	Vehicle Parking Requirement	Vehicle Parking Spaces Required	Bicycle and Motorcycle Parking Spaces Requirement
Warehouse	1 space per 5,000 square feet	288,575 square feet of total floor area would require 58 spaces	1 space per 5,000 square feet of floor area
Office use	1 space per 250 square feet of floor area	14,200 square feet of office floor area would require a total of 57 spaces	1 space per 3,000 square feet of floor area
Total		115 spaces	60 spaces

Table 2: Parking Requirement

Vehicle parking

Warehouse use requires one parking space per 5,000 square feet of floor area, and office use requires one space per 250 square feet. The proposed gross floor area for warehouse use is 288,575 square feet and office use is 14,200 square feet. Based on these areas, the project requires 58 spaces for the warehouse use and 57 spaces for the office use, for a total of 115 vehicle parking stalls. The parking analysis on sheet A0.1 indicates provision of 333 vehicle parking stalls, which meets the vehicle parking requirement of 115 spaces for the two uses on site.

Bicycle and Motorcycle Parking

The parking section of the code requires 1 bicycle space per 5,000 square feet of floor area, and one motorcycle parking space per up to 50 code required parking spaces. *The project requires and provides 30 bicycle parking spaces and two motorcycle parking spaces on the site to meet the requirement.*

Off-Street Loading Spaces

Any building, or part thereof, constructed, erected, or moved within or onto any lot or parcel of land in any district for any use as described in Subsection B., having a floor area of ten thousand square feet or more shall provide at a minimum *one* off-street loading space, plus one additional such loading space for each twenty thousand square feet of floor area.

Based on the above, 10 off-street loading spaces would be required for the proposed 302,772-square foot building. *The project provides 110 off-street loading spaces to meet the requirement.*

e. Landscape requirements:

Per Section 20.50.260, all setback areas, exclusive of permitted off-street parking areas and private egress, or circulation, shall be landscaped. *As shown on Landscape Improvement Plan, Sheet L1.0, all setback areas are fully landscaped with a combination of ground cover, shrubbery, and new trees.*

Tree wells in a parking lot shall be a minimum forty square feet, with a minimum five-foot net dimension. *As shown on Landscape Improvement Plan, Sheet L1.0, all landscape islands that contain trees have a minimum five-foot width well for planting and meet the minimum required area.*

6. Industrial Design Guidelines

The project is subject to the 1992 City of San Jose [Industrial Design Guidelines](#) that were in effect at the time the planning application was submitted. These guidelines cover minimum project recommendations for achieving a high level of design quality and compatibility with adjacent uses. The project conforms to the guidelines as follows:

Analysis: The project design includes a concrete tilt-up painted panel finish and aluminum storefront framing with tempered glazing design, accentuated with panel reveal at base and metal tubing steel canopy, which provide an industrial appearance. The two-story building will be further accentuated with gray tone paint colors, blue glazing and dark color accents at

entry door canopies, compatible to other such industrial buildings in the vicinity, in conformance with the industrial design guidelines. The proposed project incorporates landscaping and new trees along the perimeter of the site and in the surface parking lot, which is consistent with similar industrial development along both Rue Ferrari and Eden Park Place.

7. **Environmental Review.** An Initial Study (IS) and Mitigated Negative Declaration (MND) (IS/MND), reference file number ER21-022, was prepared by the Planning, Building and Code Enforcement for the subject Site Development Permit File No. H21-006. The environmental review evaluated the demolition of two existing buildings totaling 286,330 square feet and the construction of a new 302,772-square foot concrete tilt-up industrial building with associated site improvements, and removal of 148 ordinance size trees and 79 non-ordinance sized trees on an approximately 17.38-gross acre site. The documents were circulated for public comments from January 19, 2022, to February 8, 2022.

Public comments were received from the Bay Air Quality Management District (BAAQMD), California Department of Transportation (DOT), Pacific Gas and Electric Company (PG&E), and United Food and Commercial Workers Local 5. The comments received pertained to and raised concerns regarding air quality analysis modeling discrepancies, lack of cumulative impacts analysis, and infeasible mitigation measures.

All of the above comments have been addressed in the response to the comments document, and do not indicate any new or more severe impacts than were previously identified and mitigated by the IS/MND. The Final IS/MND states that the project will not have a significant effect on the environment with the adoption of the mitigation monitoring and reporting program. The primary environmental issues addressed in the IS/MND include potential impacts on the physical development of the site on: air quality, biological resources, cultural impacts, and transportation. The IS/MND includes mitigation measures that would reduce any potentially significant project noise impacts to a less-than-significant level. In addition to the mitigation measures, other permit conditions are included in the Site Development Permit as conditions of approval to ensure all potential impacts have been addressed.

The entire IS/MND and other related environmental documents are available on the Planning web site at: www.sanjoseca.gov/negativedeclarations.

FINDINGS

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as follows for this proposed project:

1. **Site Development Permit Findings.** Section 20.100.630 of the San Jose Municipal Code establishes required findings for issuance of a Site Development Permit.
 - a. The Site Development Permit Amendment, as approved, is consistent with and will further the policies of the General Plan and applicable specific plans and area development policies.

Analysis: As noted above, the proposed project has a Land Use/Transportation Diagram Designation of Combined Industrial/Commercial. This designation is intended for commercial, office, or industrial development or a compatible mix of these uses. The proposed warehouse/office use is consistent with this land use designation.

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

Analysis: As noted above, the proposed industrial warehouse and office building is consistent with the development standards of the IP Industrial Park Zoning District. The building conforms to the setbacks and height requirement, and the project provides adequate vehicle and bicycle parking and loading spaces for all the uses on site.

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

Analysis: The proposed project is consistent with all applicable City Council policies. Compliant with Council Policy 6-30: Public Outreach Policy, a notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. The project is also consistent with Council Policy 6-29, Post-Construction Urban Runoff Management, in that the project plans were reviewed by the Public Works department and determined consistent with the City's stormwater requirements.

Pursuant to Public Outreach Council Policy 6-30, a community meeting was held on October 28, 2021. Staff conducted the meeting, and the applicant's representative made the presentation. Only two people from the public were in attendance and there were no public comments made.

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

Analysis: The project will have on-site surface parking and loading areas. The office uses are oriented at four corners of the new building. The main entrance of the warehouse building is oriented towards the street frontages along both Rue Ferrari and Eden Park Place. The project design includes a concrete tilt-up painted panel finish and aluminum storefront framing with tempered glazing design, accentuated with panel reveal at base and metal tubing steel canopy, which provide an industrial appearance, and all uses on site are mutually compatible and aesthetically harmonious.

- e. The orientation, location, and elevation of the proposed buildings 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 oriented towards public streets and bounded by two street frontages with Rue Ferrari on its south side and Eden Park Place on its north side. The site is surrounded by similar industrial warehouse, office and manufacturing uses in the vicinity. The proposed project incorporates landscaping and new trees along the perimeter of the site and in the surface parking lot, which is consistent with similar industrial development along both Rue Ferrari and Eden Park Place. The proposed two-story building mass is similar to one-to-two story buildings in the vicinity finished with similar concrete and glass materials and colors. Therefore, the project would be compatible with and aesthetically harmonious with the adjacent industrial development.

- 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: An Initial Study and Mitigated Negative Declaration (IS/MND), reference file number ER21-022, was prepared for the project. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties, in that the project involves demolition of existing two buildings and construction of a new 302,772-square foot industrial warehouse/office building with parking lot and landscape improvements, removal of 227 trees and planting of 187 new trees and shrubs which will not cause noise or vibration or any other negative impacts to the surrounding neighborhood. Public Works reviewed the project for Storm Water Management controls and provided their Final Memo dated 3/16/2022. The noise associated with demolition of buildings will be temporary and the construction hours will be limited to the construction and site improvements of the building between 7:00 a.m. and 7:00 p.m., Monday to Friday. All uses will be fully contained within the new building and the proposed project will not generate noise or adversely impact the adjacent properties.

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

Analysis: The proposed project will include new trees, landscaping, shrubs, planter areas, and lighting along the site's frontage and in the parking lot which would enhance the appearance of the development. The building design incorporates new concrete tilt-up construction, accentuated wall lighting and adequate provision of new landscaping, planting of 187 new 24-inch boxed trees and shrubs, and outdoor amenities to significantly enhance and upgrade the appearance of the neighborhood. The trash will be within the building and all mechanical equipment will be screened from view. The project proposes accent planting and lighting at building entrances comprising of diagonal pattern ornamental grasses and decomposed granite mulch and planting which sufficiently maintains the appearance of the neighborhood.

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

Analysis: The proposed project conforms to the parking requirements set forth in the Zoning Ordinance. This site is accessible by two-way drive aisles off Rue Ferrari and Eden Park Place. Adequate pedestrian access is provided via walkways and paved areas connecting the building entrances to the adjacent public sidewalks. The industrial warehouse and office use requires 115 vehicle parking spaces which will be adequately accommodated within the total 333 new surface parking spaces on site and the site has adequate circulation areas for loading, drop-off, pick up, and ingress and egress of vehicles.

The proposed development is located in the Edenvale Area Development Policy and is projected to add 32 a.m. net peak hour trips and 127 p.m. net peak hour trips. The

projected traffic for the project site was reviewed by the Department of Transportation and found to be in conformance with implementation of mitigation measures to reduce significant VMT impacts to meet the City's VMT threshold, such as increase network connectivity, bike access improvements and pedestrian network improvements, per the Public Works Final Traffic Memo dated 3/18/2022. The mitigation measures will reduce the project employment VMT to 13.54 per employee resulting in less-than-significant levels and fully mitigate the project VMT impact. The project will, therefore, not cause any adverse traffic impacts and the site is easily accessible as it is located within 1,000 feet of Highway 101.

2. Demolition Permit Findings. With respect to the demolition of the existing building, the Director of Planning, Building, and Code Enforcement has considered the following:

The failure to approve the permit would result in the creation of continued existence of a nuisance, blight or dangerous condition.

- a. The failure to approve the permit would jeopardize public health, safety or welfare;
- b. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood.
- c. The approval of the demolition of the building would maintain the supply of existing housing stock in the City;
- d. Both inventoried and non-inventoried buildings, sites and districts of historical significance will not be negatively impacted
- e. Rehabilitation or reuse of the existing building would not be feasible; and
- f. The demolition, removal or relocation of the Building without an approved replacement Building should not have an adverse impact on the surrounding neighborhood.

Analysis: The existing building, built in 1973, is not a historic resource. The demolition will not reduce the housing stock and adaptive reuse of the structure is not feasible. The proposed project will result in the replacement of the structure with a new two-story industrial building of modern design style and construction to facilitate a project compatible with the surrounding neighborhood. As analyzed in this permit, the demolition of the building and replacement with industrial uses within fully enclosed building would not have any adverse impacts on the surrounding neighborhood.

3. Tree Removal Findings

Chapter 13.32 of the San Jose Municipal Code establishes required findings for Tree Removals for which findings are made for the Project based on the above-stated findings related to General Plan, Zoning and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in this Permit.

- a. The location of the trees with respect to a proposed improvement unreasonably restricts the economic development of the parcel in question.

Analysis: 148 native and non-native ordinance size trees, 38 inches or more in circumference, and 79 non- ordinance-sized trees, approximately 19 inches or less in circumference, for a total

of 227 trees, located within the proposed circulation area, landscaping areas, and building footprint for the new project are proposed for removal. The location of the trees throughout the site unreasonably restricts the economic development of the parcel, in that the trees will be within the footprint of the proposed building construction and site improvements, and the development of the site is not feasible without removal of the trees.

The tree replacement ratio for the removal of 148 ordinance sized trees and 79 non-ordinance size trees, for a total of 227 trees to be removed, will require planting of 859 new 15-gallon trees or 429 new 24-inch box trees.

The tree mitigation requirement has been calculated per Table 3 below:

DBH of trees to be removed	Number of trees to be removed	Tree Replacement Ratio *	Number of required Replacement trees/species
12" or more	97 (native)	5:1	485 15-gal trees
12" or more	51 (non-native)	4:1	204 15-gal trees
6"-12"	20 (native)	3:1	60 15-gal trees
6:-12"	51 (non-native)	2:1	102 15-gal trees
<6"	8	1:1	8 15-gal tree
Total	227		859 15 gal or 429 24-inch box trees

Table 3: Tree Mitigation Requirements

The project proposes to plant 187 new 24-inch box replacement trees on site, which equates to 374 15-gallon trees and does not meet the tree replacement planting requirement of 859 new 15-gallon trees. The offsite tree replacement in-lieu fee for 485 15-gallon trees not planted on site, at \$775 per tree, results in a total of \$375,875. The tree in-lieu fee has been paid by the applicant, and the trees may be removed per "Timing of Tree Removal" condition of approval No. 17 of this permit.

Proof of tree replacement planting is required. The applicant shall provide appropriate evidence such as, but not limited to, photographs and/or receipts to the Planning Project Manager of the replacement trees within 180 days of removal of the trees, to verify compliance with the tree mitigation requirements. Such evidence shall be sent to the Planning Project Manager labelled **H21-006** per condition of approval No.18 of this permit.

In accordance with the findings set forth above, a **Site Development Permit** for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. The Director of Planning, Building, and Code Enforcement expressly declares that it would not have granted this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners

of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit Amendment within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant 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 of Planning if within such time period, the proposed use of the site or the construction of buildings has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit.** Procurement of a Building Permit and Certificate of Occupancy from the Building Official for the structures described or contemplated under this Permit shall be deemed acceptance of all conditions specified in this Permit and the Permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described in the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José - Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José - Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority;- (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager 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.

5. **Conformance to Plans.** The development of the site shall conform to the approved Site Development Permit plans entitled, “5853 Rue Ferrari, San Jose, CA 95138” dated revised February 22, 2022, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
6. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.
7. **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.
8. **Demolition Permit.** A demolition permit may be issued for the project only upon the submittal of a complete Public Works Grading Permit application or the submittal of a complete Building Permit application for new construction.
9. **No Outside Storage.** No outside storage was approved for the project per the plans submitted.
10. **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.
11. **Trash.** 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.
12. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.
13. **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.
14. **Building and Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
15. **Nuisance.** As required by Title 20 of the San Jose Municipal Code, construction on this site shall be conducted in a manner that does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
16. **Tree Removals.** 148 native and non-native ordinance size trees, 38 inches or more in circumference, and 79 non-ordinance-sized trees, approximately 19 inches or less in circumference, for a total of 227 trees, located within the proposed circulation area, landscaping areas, and building footprint for the new project are proposed for removal.

The tree replacement ratio for the removal of 148 ordinance sized trees and 79 non-ordinance size trees, for a total of 227 trees to be removed, shall require planting of 859 new 15-gallon trees or 429 new 24-inch box trees.

The project proposes to plant 187 new 24-inch box replacement trees on site, which equates to 374 new 15-gallon trees and does not meet the tree replacement planting requirement of 859 new 15-gallon trees. The offsite tree replacement in-lieu fee for **485** 15-gallon trees not planted on site, at \$775 per tree, results in a total of **\$375,875**, which is paid by the applicant, and the trees shall be removed per “Timing of Tree Removal” condition No.17 below.

17. **Timing of Tree Removals.** Trees that are proposed for removal to accommodate new development shall not be removed until the related complete Public Works Grading Permit Application or Building Permit Application has been filed.
18. **Replacement Trees.** The project proposes to plant 187 new 24-inch box replacement trees on site, which equates to 374 15-gallon trees. The applicant shall provide appropriate evidence such as, but not limited to, photographs and/or receipts to the Planning Project Manager, to verify compliance with said mitigation requirements. Such evidence shall be labeled “File Number **H21-006**” and provided to the Planning Project Manager, prior to the issuance of Building Occupancy.
19. **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.
20. **Landscaping.** Planting and irrigation are to be provided, as indicated, on the final approved plan set. Landscaped areas shall be maintained and watered, and all dead plant material is to be removed and replaced by the property owner. Irrigation is to 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.
21. **Irrigation Standards.** The applicant shall install an adequately sized irrigation distribution system with automatic controllers in all areas to be landscaped that conforms to the Zonal Irrigation Plan in the Approved Plan Set. The design of the system shall be approved and stamped by a California Registered Landscape Architect.
22. **Lighting.** All new on-site, exterior, unroofed lighting shall conform to the City’s Outdoor Lighting Policy and shall use fully cut-off and fully shielded, LED fixtures as shown in the Approved Plan Set. Lighting shall be designed, controlled and maintained so that no light

source is visible from outside of the property. All proposed changes shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.

23. **Fire Department Clearance for Issuing Permits.** The Fire Department's review was limited to verifying compliance of the project to Chapter 5, Appendix BB, Appendix C, and Appendix D of the 2016 California Fire Code (CFC) with City of San Jose Amendments (SJFC). Compliance with all other applicable fire and building codes and standards relating to fire and panic safety shall be verified by the Fire Department during the Building Permit process.
24. **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 H21-006 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 developer 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.
25. **Public Works Clearance for Building Permits:** Prior to the issuance of Building permits the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/devresources>.
 - a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
 - b. **Transportation:** This project is located in the Edenvale Area Development Policy area (EADP) and a Traffic Impact Analysis has been performed for this project based on 32 AM and 127 PM peak hour trips. The existing Area Vehicle Miles Traveled (VMT) generated by the project of 14.78 per employee would exceed the industrial threshold of 14.37. Therefore, the project would result in a significant transportation impact on VMT and mitigation measures are required to reduce the significant VMT impact. The project will implement the following mitigation measures to increase accessibility for transit users, bicyclists, and pedestrians. The mitigation measures will reduce the project employment VMT to 13.54 per employee resulting in less-than-significant levels and fully mitigate the project VMT impact.

i. Increase Network Connectivity

- 1) Install a mid-block crosswalk and connecting pathway from the easternmost project driveway on Eden Park Place to Coyote Creek Trail.

ii. Bike Access Improvements

- 1) Provide another trailhead connection to Coyote Creek Trail with the implementation of the mid-block crosswalk and connecting pathway, as compared to the existing main trailhead at the Eden Park Place/Silicon Valley Boulevard intersection.

iii. Pedestrian Network Improvements

- 1) Implement rectangular rapid-flashing beacons (RRFBs) and ADA curb ramps on both sides of the mid-block crosswalk along Eden Park Place.

In 2014, the EADP was updated to address development anticipated in both New Edenvale and Old Edenvale on both sides of US-101. New Edenvale development (Sub Areas 1, 3, 4) allows for 5.5 million s.f. of additional industrial floor spaces from the date of the Policy's original approval. In order to allocate for this potential s.f. in New Edenvale, EADP includes a maximum base floor area ratio (FAR) of 0.35 for development in Sub-Area 1 and 0.40 for Sub-Areas 3 and 4. The proposed project is located in Sub-Area 4 and has a FAR of 0.40. The project is in conformance with the EADP and is not subject to pay the EADP traffic impact fee (TIF).

Department of Public Works concludes that the subject project will be in conformance with the Edenvale Area Development Policy and a determination for a negative declaration can be made with respect to traffic impacts. See separate Traffic memo dated 02/18/22 for additional information.

c. Grading/Geology:

- i. A grading permit is required prior to the issuance of a Public Works Clearance.
- ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 foot in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the latest California Plumbing Code as adopted under the City of San Jose Municipal Code Section 24.04.100 or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
- iii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.

- iv. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
- v. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- d. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
 - i. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this project will be in conformance with City Policy 6-29.
 - ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works Clearance.
- e. **Stormwater Peak Flow Control Measures:** The project is located in a Hydromodification Management (HM) area and will create and/or replace one acre or more of impervious surface. The project must comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14) which requires demonstrating that post-project runoff is less than or equal to the estimated pre-project rates and durations.
 - i. The project's HM plan and sizing calculations have been reviewed and this project will be in conformance with City Policy 8-14.
 - ii. Final inspection and maintenance information for the HM controls must be included on the final HM plans.
- f. **Flood: Zone D** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
- g. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.

- h. **Environment Assessment of Easement Dedications:** A street easement dedication is required as part of this permit. An environmental assessment of the easement dedication area from an environmental consultant is required prior to recordation of the easement.
- i. **Street Improvements:**
- i. Remove and replace curb, gutter, and sidewalk along Rue Ferrari and Eden Park Place project frontage and construct a 10' attached sidewalk with tree wells at the back of curb. Approximately 2' of street easement dedication is required.
 - ii. Close unused driveway cuts.
 - iii. Provide one (1) 32-foot full-access driveway and one (1) 34-foot full-access driveway along Rue Ferrari.
 - iv. Provide one (1) 32-foot full-access driveway and one (1) 34-foot full-access driveway along Eden Park Place.
 - v. Implement at least 25-feet of red curb on both sides of all project driveways to ensure adequate sight distance.
 - vi. Developer shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the project frontage.
 - vii. Install a 3" communication conduit under the sidewalk along the Rue Ferrari project frontage. Each end of the conduit run shall terminate with a pull box.
 - viii. Install a mid-block crosswalk and connecting pathway from the easternmost project driveway on Eden Park Place to Coyote Creek Trail. Coordination with the City of San Jose Parks, Recreation and Neighborhood Services (PRNS) and the County of Santa Clara is required to confirm the final design plans.
 - ix. Implement rectangular rapid-flashing beacons (RRFBs) and ADA curb ramps on both sides of the mid-block crosswalk along Eden Park Place.
 - x. Provide another trailhead connection to Coyote Creek Trail with the implementation of the mid-block crosswalk and connecting pathway.
 - xi. Dedication and improvement of public streets shall be to the satisfaction of the Director of Public Works.
 - xii. 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.
- j. **Sanitary:** 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.
- k. **Electrical:**
- i. Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.

- ii. Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
 - l. **Street Trees:** The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current “Guidelines for Planning, Design, and Construction of City Streetscape Projects”. Street trees shall be installed in cut-outs at 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.
 - m. **Edenvale Landscaping Master Plan:** This project is located in Edenvale Area 2 (West of Highway 101), and shall conform to the following requirements:
 - i. The project shall conform to the Edenvale Landscaping Master Plan for the area within the public ROW and landscape easements.
 - ii. At the street improvement stage, the developer shall obtain a copy of the Edenvale landscaping design details from Public Works and use them to prepare a landscaping plan. Although the developer is responsible for maintaining these improvements, Public Works will review the landscaping plan for consistency with the master plan.
 - n. **Referrals:** This project shall be referred to the California Department of Transportation (CalTrans) and the Santa Clara Valley Water District.
26. **Conformance to MMRP.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program approved for this development, dated January 22, 2022.
27. **Standard Environmental Conditions.**

Air Quality

- a. Water active construction areas at least twice daily or as often as needed to control dust emissions.
- b. 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.
- c. 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.
- d. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- e. Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- f. Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- g. Replant vegetation in disturbed areas as quickly as possible.

- h. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- i. Minimizing 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.
- j. 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.
- k. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

Biological Resources

Tree Replacement. The removed trees would be replaced according to tree replacement ratios required by the City, as provided in Table 2 below.

Table 2: City of San José 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 Multifamily 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>				

In the event the proposed 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. Changes to an approved landscape plan requires the issuance of a Permit Adjustment or Permit Amendment.

- 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.
- Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of building permit(s), in accordance with the City Council Approved Fee Resolution. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.
- **Santa Clara Valley Habitat Plan.** The proposed 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.

Cultural Resources

- **Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a Native American representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall examine the find. The archaeologist 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.
- **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.

Geology

- All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- 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.
- **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.

Greenhouse Gas

- Prior to issuance of building permits, the project shall show verification of enrollment into the City of San Jose Clean Energy GreenSource Program.

Hydrology

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

- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.
- 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.
- 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

- Prohibit pile driving.
- 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.
- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit unnecessary idling of internal combustion engines.
- 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.
- Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.

- 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.
- 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.
- 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.
- 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.

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

- a. A violation of any conditions of the Site Development Permit Amendment was not abated, corrected or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.

APPROVED and issued on this **30th day of March 2022**.

Christopher Burton, Director
Planning, Building, and Code Enforcement

Deputy
Robert Manford