

CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San José, California 95110-1795

Hearing Date/Agenda Number  
P.C. 9/14/05 Item 3.d.

File Number  
CPA97-002-01

Application Type  
Conditional Use Permit Amendment

Council District  
4

Planning Area  
Berryessa

Assessor's Parcel Number(s)  
237-07-018

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: Sanhita Mallick

Location: East side of North 15<sup>th</sup> Street, 300 feet southerly of Charles Street

Gross Acreage: 0.68 acres Net Acreage: 0.68 acres Net Density: n/a

Existing Zoning: HI-Heavy Industrial Existing Use: Auto Dismantling Facility

Proposed Zoning: No Change Proposed Use: Auto Dismantling Facility

### GENERAL PLAN

Completed by: SM

Land Use/Transportation Diagram Designation  
Heavy Industrial

Project Conformance:  
 Yes  No  
 See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

Completed by: SM

North: Self Storage HI- Heavy Industrial

East: Mobile home park R-MH Mobile Home Park

South: Commercial (Fast Food Restaurant) HI- Heavy Industrial

West: Industrial use HI- Heavy Industrial

### ENVIRONMENTAL STATUS

Completed by: SM

Environmental Impact Report found complete  
 Negative Declaration circulated on  
 Negative Declaration adopted on

Exempt  
 Environmental Review Incomplete

### FILE HISTORY

Completed by: SM

Annexation Title: Orchard No.8

Date: November 1, 1951

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval  
 Approval with Conditions  
 Denial  
 Uphold Director's Decision

Date: \_\_\_\_\_

Approved by: \_\_\_\_\_  
 Action  
 Recommendation

### PROPERTY OWNER/APPLICANT/CONTACT PERSON

Edmond Fontaine  
1749 Ledgewood Drive  
San Jose, CA 95124

Par Ghasier  
1140 Via Mateo  
San Jose CA 95120

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PUBLIC AGENCY COMMENTS RECEIVED

Completed by: Sanhita Mallick

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Department of Public Works

See attached memorandum

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Other Departments and Agencies

See attached memorandum from Environmental Services Department

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GENERAL CORRESPONDENCE

None.

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ANALYSIS AND RECOMMENDATIONS

## **BACKGROUND**

The applicant, J C Auto, is requesting the approval of a Conditional Use Permit Amendment to extend the time condition of a previously approved Conditional Use Permit to allow the continued operation of an auto dismantling facility. Auto dismantling uses are allowed with the issuance of a Conditional Use Permit in the HI-Heavy Industrial zoning district.

A Conditional Use Permit was issued to this applicant to allow the dismantling yard operation on September 13, 2000 (File number CP97-001). The CUP was conditioned to expire in five years from the date of issuance of the permit. However, according to the renewal condition of the permit, the permit holder could request a renewal of the time-conditioned permit by filing a timely renewal application. The application was required to be submitted between 180 to 90 days prior to the expiration of the permit. Once the renewal application was filed, the expiration date of the permit would be automatically extended. The applicant filed for the renewal of time condition on May 16, 2005, 126 days before the date the permit would expire.

The auto dismantling use was originally approved on the site in March 1979 under a Conditional Use Permit (File No. CP78-12-066).

J C Auto, the applicant, occupies approximately 15,800 square foot of a 29,732 square foot parcel situated between Oakland Road and North 15<sup>th</sup> Street. The parcel fronts on both Oakland Road and North 15<sup>th</sup> Street. However, J C Auto only takes access from North 15<sup>th</sup> Street. There are three structures on the premises of J C Auto - an office approximately 175 square feet in area, an enclosed shed for auto parts storage approximately 399 square feet in area, and a covered auto dismantling area approximately 384 square feet in size. There is a seven-foot high masonry wall along the 15<sup>th</sup> Street frontage of the site, with a rolling gate for ingress and egress to the auto dismantling yard. There is a 5-foot wide landscaped strip in the public right of way, right outside the masonry wall on North 15<sup>th</sup> Street. The dismantling yard is surrounded by a seven-foot high steel fence along the perimeter of the yard on the north, south and east. The remainder of the site is being used for vehicle storage and is not part of the current project.

Currently, three off-street parking spaces exist on the site. According to the Zoning Ordinance, an automobile dismantling facility, including sales of auto parts, is required to provide one parking

space per each employee. J C Auto currently has one employee on site. Additionally, on-street parking spaces are available along North 15<sup>th</sup> Street in front of the project site.

Surrounding properties are developed with a variety of uses. The uses include a self-storage facility on the adjacent lot to the north, a fast food restaurant on the adjacent lot to the south, a mobile home park to the east across Old Oakland Road and industrial uses to the west.

## **Project Description**

J C Auto is not proposing any new construction on the site. The request consists of renewal of the existing Conditional Use permit only.

## **Analysis**

The primary issues analyzed for the proposed project are implementation and adherence to the conditions of the previous Conditional Use Permit, and conformance with the Auto Dismantler Ordinance and the Post Construction Urban Runoff Management Policy. Planning staff made two visits to the site. On one of the visits, staff was accompanied by an inspector from the Environmental Services Department. The inspector revisited the site at a later date.

## **Previous Conditional Use Permit**

Adherence to the following conditions of the previously-approved Conditional Use Permit were verified by the Planning staff:

1. **Vehicle storage and dismantling:** According to the previous permit, vehicles and vehicle parts should not be stacked above the height of the perimeter fence and vehicles should be dismantled only at the approved workstation. Planning staff found these conditions fulfilled during the two site visits.
2. **Outside Storage.** No outside storage was permitted in the previous permit. During the site visit on June 27, 2005, staff observed that automobile parts were stored in open shelves along the perimeter fence, partially covered with vinyl sheets. Automobile parts were also stored inside the trunks of the old vehicles stored throughout the site. In a letter dated July 19, 2005, staff brought this outdoor storage to the attention of the applicant and provided the options of either proposing a larger covered storage area as part of the current permit request, or removing the storage. In a letter dated August 14, 2005, the applicant informed staff that they would not require any additional storage space, and that the outdoor storage would be removed from the site. During another staff visit to the site on September 2, 2005, staff found that the storage shelves were removed and oily parts were stored within the existing storage room. The current draft permit contains a condition that all automobile parts that may be temporarily in open areas during active dismantling work shall be covered with tarps to ward off rainwater.
3. **Pavement Sealant.** The previous permit required that a sealant would be applied to the pavement of all vehicle storage areas as necessary to provide an impervious surface. The applicant has provided a letter from the paving contractor that the asphalt was sealed with *SSH 1 oil*. During the site visit on June 27, 2005, Environmental Services inspector and planning staff found the condition of the surface to be satisfactory. The draft Conditional Use Permit Amendment includes a condition that requires the annual inspection of the surface by a Civil

Engineer.

4. **Landscaping.** According to the previous permit, existing trees near the southeastern edge of the property line were required to be retained. In the event that their removal was unavoidable due to the construction of fence, each was required to be replaced with one 24-inch box tree planted at generally the same location. No trees currently exist at the southeast corner of the site, and replacement trees were not planted elsewhere. However, as part of a minor improvement permit, the applicant planted two Crape Myrtle trees right outside the 15th Street frontage of the site. Staff analyzed the options of planting the remaining eight trees on this dismantling site. As the whole site is already paved and sealed, staff believes that it is impractical to plant the trees on site. Staff also investigated the option of planting street trees in the near vicinity of the site, so that the immediate surroundings of the site would benefit from the trees donated by the property owner of the subject site. However, the sidewalk in the near vicinity does not have a park strip and hence the opportunity of planting trees in the area is limited. After a discussion with the City Arborist regarding street tree planting, staff has concluded that the most feasible mitigation option for the removed trees would be to donate a mitigation fee to *Our City Forest* of \$300.00 per tree, for the eight trees. This is a standard mitigation procedure used by the City for tree removal where on-site tree mitigation is not appropriate, and the City Arborist has also recommended this option. The property owner has already paid the donation money and has furnished a copy of the receipt to planning staff.
  
5. **Oil and Water Separator.** An oil /water separator was required as part of previous permit to conform with the Auto Dismantler Ordinance. An oil/water separator is a catch basin that catches the runoff from the paved area of the site and treats the runoff by allowing substances lighter than water (such as oil) to float and substances heavier than water to sink. Many oil/water separators also have baffles, coalescers, and oil skimmers to speed up or enhance separation of these substances. The accumulated oil needs to be pumped out and disposed off from time to time in a proper manner. The business operator needs to make routine inspections/observations to confirm that the device is in proper operating condition. The plan approved as part of the previous permit showed an oil/water separator on site, and also included a plan detail of an oil/water separator. Planning staff visited the site with an inspector from the Environmental Services Department, who often inspects industrial sites to ensure their compliance with similar environmental issues. During the visit, it was found that although the oil/water separator was built at the designated location, it was of a different type than the one specified on the drawings. It was also found that one chamber of the separator had never been opened after it was first installed, and was never cleaned. As per documents submitted to planning staff, cleaning of the other (clarifier) chamber of this catch basin was carried out only twice: on 10/14/04 and 6/7/05. The separator did not incorporate any filter as was required by the previous Conditional Use Permit. It was not clear whether this type of catch basin would suffice to act as the oily water separator for the site. No specifications for the device were available. The Environmental Services inspector recommended the following steps to be taken:
  - a. Submit documentation from the engineer/installer of the oily/water separator system to establish that the device is of sufficient size and capacity for the site, and to establish a maintenance routine
  - b. Install a charcoal filter under the grating and maintain the filter periodically
  - c. Secure maintenance contract with a professional cleaning company for periodic cleaning of

this device

Subsequent to these recommendations, planning staff has received a letter from *SMP Engineers* confirming that the drainage inlet is adequate to drain the storm water from this site. In an email correspondence dated August 1, 2005, the inspector from the Environmental Services Department indicated that the applicant had promptly taken the required steps to bring the oil/water separator into compliance with the permit, such as, (1) installed an inlet filter at the oil/water separator, (2) procured a stock of the filters, and (3) initiated a maintenance service for the oil/water separator chambers. In a subsequent email correspondence, the inspector indicated that three different methods are currently being used to treat runoff from the site, including: the oil and water separator itself, tethered absorbent pads placed at the catch basin for minimizing oil accumulation in the compartments of the separator, and the catch basin insert and filter. The applicant has also retained the services of a licensed Waste Management handling agency. Copies of the email correspondence are attached to this report.

6. **Maintenance Program.** The previous Conditional Use Permit was conditioned to implement a maintenance program for the oil/water separator inlet inserts to include the following measures: installation, maintenance record, regular sweeping, regular inspection, and replacement, disposal and replenishment of absorbent materials. As discussed earlier, no inlet filters were originally inserted in the oil/water separator, but the applicant has since taken measures to install inlet filters and has implemented a maintenance program to the satisfaction of Environmental Services staff.

### **Auto Dismantler Ordinance**

The Auto Dismantler Ordinance was adopted by the City Council in 1997. The Ordinance requires that auto-dismantling facilities be fully screened from public view by solid fencing material such as masonry or metal fencing along all site boundaries. The site currently has 7-foot high solid masonry fencing along North 15<sup>th</sup> Street frontage, and 7-foot high solid metal fence along three other boundaries of the site.

The Ordinance also includes requirements intended to minimize potential soil and groundwater contamination from vehicle fluids. All existing vehicle storage areas must be paved with concrete and all dismantling areas must have perimeter curbing. The site is paved and graded to drain to a storm water inlet that includes an oil and water separator. A six-inch perimeter curb is provided around the dismantling area to contain fluids. The Ordinance further requires that all dismantling areas be covered. The dismantling area on the site is enclosed on two sides and covered by a roof.

### **Post Construction Urban Runoff Management Policy**

The Post Construction Urban Runoff Management Policy categorizes auto dismantling facilities as “land use of concern” and recommends that all new auto wrecking yards or expansion of such uses shall include the following Best Management Practices (BMPs):

- 1) Install and maintain a treatment control measure;
- 2) Pave all outside vehicle storage areas;
- 3) Cover fluids drainage areas;

- 4) Pave fluids drainage areas with impermeable materials;
- 5) Construct a berm around fluids drainage areas and grade the site to prevent water draining toward this working area;
- 6) Remove and store batteries in conformance with the City Fire Code; and
- 7) Prepare and execute the spill prevention plan in conformance with the City Fire Code.

Although according to the policy, these BMPs are not applicable to the current project since it is neither a new use nor an expansion of existing use, the project has been found to have already incorporated all of the BMPs excepting the last one. Planning staff discussed the issue of a Spill Prevention Plan with a Fire Inspector at the Bureau of Fire Prevention who inspected the property and approved the updated Hazardous Materials Business Plan (HMBP). According to this inspector, the facility is small and only stores small amounts of hazardous waste in the form of waste motor oil and coolant. The waste is properly stored within a secondary containment system, and is hauled away on a regular basis by a licensed waste hauler. The facility executes a basic spill clean up procedure which includes training the staff, recording any spills and cleaning them up as required. The Fire Prevention Bureau believes that for this size of the facility, these measures are sufficient for preventing and cleaning up spills.

## **ENVIRONMENTAL REVIEW**

An Initial Study was prepared as part of previous and essentially the same project (File No. CP 91-06-017) and a Negative Declaration was adopted on March 11, 1992. The Negative Declaration indicated that there is no substantial evidence that the project has a significant adverse effect on the environment.

The current project does not propose any alteration, and may be considered as operation and maintenance of an existing facility. There has been no significant change in the project setting since the time when the Negative Declaration was adopted. Pursuant to Section 15164 of the CEQA Guidelines, the Director of Planning has determined that the project is pursuant to or in furtherance of the Negative Declaration (ND) previously mentioned and does not involve new significant effects beyond those analyzed in this ND. Therefore, the City of San Jose can take action on the project as being within the scope of the previously adopted ND.

## **GENERAL PLAN CONFORMANCE**

The proposed auto dismantling use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Heavy Industrial. This designation allows auto wrecking facilities.

## **PUBLIC OUTREACH**

A notice of the Planning Commission public hearing was mailed to all owners and tenants of property within a 500-foot radius of the project site. No comments have been submitted by the neighborhood. Staff has been available to discuss the project with members of the public.

## **RECOMMENDATION**

The current project conforms to many conditions laid out in the previous Conditional Use Permit, and the physical conditions and the mode of operation of the facility have been found to be acceptable by both the Environmental Services Department and the Bureau of Fire Prevention. The business owner and the property owner have also taken prompt action with regard to some of the non-compliance issues that were brought to them by staff as part of this review. Therefore, planning staff recommends approval of the project. However, during the review of this time extension request, planning staff found that the facility was not in *full* compliance with the previous Conditional use Permit, and the facility has a history of non-compliance with previous Conditional Use Permits. Therefore, planning staff recommends that a five-year time limit be placed on this Conditional Use Permit renewal request, with a possibility of renewal in a timely manner before the expiration of the permit. Planning staff will have that opportunity to review whether the site is being operated in conformance with the Conditional Use Permit.

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. The project site is located on the east side of North 15<sup>th</sup> Street, 300 feet southerly of Charles Street (1200N 15<sup>th</sup> Street). This permit will allow the continuation of the business of an auto wrecking facility for another five years.
2. The site has a designation of Heavy Industrial on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
3. The project site is located in the HI-Heavy Industrial Zoning District.
4. An Initial Study was prepared as part of previous and essentially the same project (File No. CP 91-06-017) and a Negative Declaration was adopted on March 11, 1992. The Negative Declaration indicated that there is no substantial evidence that the project has a significant adverse effect on the environment. Pursuant to Section 15164 of the CEQA Guidelines, the Director of Planning has determined that the project is pursuant to or in furtherance of the Negative Declaration (ND) previously mentioned and does not involve new significant effects beyond those analyzed in this ND.
  - a. The proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.
5. Surrounding land uses include self-storage facility to the north, a fast food restaurant to the adjacent lot on the south, a mobile home park to the east across Old Oakland Road and industrial uses to the west.
6. The Zoning Ordinance requires a Conditional Use Permit for an auto wrecking yard in the Heavy Industrial Zoning district.
7. A time-conditioned Conditional Use Permit may be renewed through a Conditional Use Permit Amendment.

8. The project proposes to allow the continued business of an existing auto wrecking yard, 15,800 square feet in area.
9. A total of 3 parking spaces exist on the site which provides for one on-site employee.
10. No new construction or any modification of the existing structures or other site conditions will be allowed as part of this project.
11. The project adequately screens vehicle storage and dismantling areas from public view.
12. The project includes adequate measures to prevent storm water contamination.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not:
  - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
  - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
  - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
  - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
  - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth are

hereby granted. This Planning Commission 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.

## CONDITIONS PRECEDENT

This Conditional Use Permit and Development Exception shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Payment of Recording Fees.** Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara should be submitted to the Director of Planning within 30 days of approval of this permit, but must be submitted prior to issuance of a Building Permit. Submittal of the recording fee less than one week prior to issuance of a Building Permit will delay the Building Permit issuance for up to one week to allow for recordation of the permit with the County Recorder. This Permit shall be effective at such time when recordation with the County of Santa Clara occurs.
2. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit 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

## CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Oil and Water Separator.** The business operator shall make routine inspection/observations to confirm that the device is in proper operating condition. Both the chambers of the oil and water separator shall be cleaned up at least twice every year by qualified environmental clean-up personnel. The business owner shall keep all the maintenance records in order on site, and shall produce all such maintenance documents upon request by City Staff.
2. **Maintenance oil water separator filter.** The oil/water separator filter placed at the storm water inlet shall be maintained and replaced as per the following measures:
  - a. *Installation.* The filter inlet insert shall be installed by a qualified individual in conformance with the manufacturer's specifications. Installation records shall be maintained by the project developer and subsequent property owner.
  - b. *Maintenance Record.* The property owner must keep a record available for inspection on the

- project site of all inspections and maintenance of the inlet filters.
- c. *Regular Sweeping.* Paved surfaces subject to runoff shall be swept regularly during dry periods to remove dirt, silt and other loose debris.
  - d. *Regular Inspections.* The inlet filters shall be inspected monthly between September and April, and the absorbent material shall be replaced by a qualified individual as necessary to ensure the filters are functioning properly.
  - e. *Replacement of Absorbent Material.* The absorbent material shall be replaced by a qualified individual in conformance with the manufacturer's specifications. Care should be taken to avoid spilling the contaminated material into the drainage system.
  - f. *Disposal of Used Absorbent Material.* Used absorbent material shall be disposed of in conformance with all applicable local, state and federal regulations.
  - g. *Replenishment of Absorbent Materials Supply.* The property owner shall keep a sufficient amount of absorbent material on hand to replace the amount of installed absorbent material plus a reserve to handle emergencies.
3. **Outside Storage.** No outside storage is permitted as part of this permit. All oily parts shall be stored within the covered storage shed only. Any oily parts that are temporarily kept in the open area during dismantling work shall be completely covered by tarp to ward off rainwater.
  4. **Maintenance of impervious surface.** The paved yard of the premises shall be maintained properly in order to ensure that the surface is free of cracks and remains impervious. The pavement shall be inspected annually by a Civil engineer and repair work recommended by the engineer, if any, shall be carried out promptly. Records of the inspections and maintenance activities shall be kept on site and available for inspection by City of San Jose staff.
  5. **Conformance with local, federal and state regulations.** The business shall be operated in conformance with all applicable local state and federal regulations. The operation must maintain all required valid permits such as, but not limited to, Police and Department of Motor Vehicles Permit, and auto dismantler's permit from the City of San Jose.
  6. **Hazardous materials.** Any hazardous materials regulated by Chapter 17.68 of the San Jose Municipal Code on the site must be used and stored within approved buildings and/or within approved areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San Jose Fire Prevention Bureau.
  7. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
  8. **Signage.** No signage is approved as part of this permit. All signs shall conform to the applicable sections of Sign Ordinance of the City of San Jose.
  9. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.

10. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
11. **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.
12. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage or trash is allowed/permitted. Trash areas shall be maintained in a manner to discourage illegal dumping.
13. **Landscaping.** 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 4 of Chapter 15.10 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping and the City of San José Landscape and Irrigation Guidelines.
14. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara 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. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
15. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
16. **Fire Flow.** Required fire flow for the site is as approved in writing by the Fire Chief.
17. **Visible Street Numbers.** Street numbers shall be visible day and night from the nearest street, either by means of illumination or by use of reflective materials.
18. **Building 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, CPA97-002-01, shall be printed on all construction plans submitted to the Building Division.
  - b. *Construction Conformance.* A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning

Division that the project, as constructed, conforms to all applicable requirements of the subject Permit, including the plan sets. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.

- c. *American With Disabilities Act.* The applicant shall provide appropriate access as required by the American With Disabilities Act (ADA).
  - d. *Mechanical Equipment.* No roof-mounted or other exterior mechanical equipment shall be located within 120 feet of a residential property line unless a Sound Engineer has certified that noise level from such equipment will not exceed 55 DBA at the residential property line.
19. **Archaeology.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

## CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
  - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
  - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
  - c. The use as presently conducted creates a nuisance.

3. **Time Limit.** The Conditional use Permit shall expire and have no further force or effect five years from the date of the issuance of this Permit.
  
4. **Renewal.** The permit holder may seek renewal of a time-conditioned Conditional Use Permit by filing a timely renewal application. In order to be timely, an application for renewal must be filed more than 90 calendar days but less than 180 calendar days prior to the expiration of the Conditional Use Permit. Once a renewal application has been filed in a timely manner, the expiration date of the Conditional Use Permit is automatically extended until either the issuance or denial of the application for renewal has become final.

Attachment:

*Planset*

*Location Map*