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TO: HONORABLE CITY COUNCIL

FROM: JONATHAN LAIT, DIRECTOR PLANNING & DEVELOPMENT SERVICES

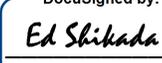
DATE: JUNE 22, 2020

SUBJECT: AGENDA ITEM 33 - 488 UNIVERSITY AVE: REQUEST TO CONVERT RESIDENTIAL UNITS TO HOTEL USE

Attached is the Draft Record of Land Use Action, which includes draft findings and conditions for Council's consideration of the proposed project at 488 University Avenue. The Draft Record of Land Use Action constitutes Attachment F of the staff report for this agenda item.

DocuSigned by:

Jonathan Lait
Director
Planning & Development Services

DocuSigned by:

Ed Shikada
City Manager

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Attachment F

APPROVAL NO. 2020-____
RECORD OF THE COUNCIL OF THE CITY OF PALO ALTO LAND
USE ACTION FOR 488 UNIVERSITY AVENUE: WAIVER FOR
CONVERSION OF A RESIDENTIAL USE TO A NON-RESIDENTIAL
USE, HISTORIC REVIEW, ARCHITECTURAL REVIEW, PARKING
ADJUSTMENT, CONDITIONAL USE PERMIT, AND EXEMPTION
FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
[FILE NO 19PLN-00038]

On _____, 2020, the City Council of the City of Palo Alto (“City Council”) approved a waiver under Palo Alto Municipal Code (“PAMC”) Section 18.18.120 for the conversion of a residential use to a hotel use, an Architectural Review and Historic Review Application for Modifications to the Interior and Exterior of the Building to Accommodate the Hotel Use, Parking Adjustments, and a Conditional Use permit to allow for modifications for access to an existing rooftop garden and for the on-site sale of alcohol, making the following findings, determination, and declarations:

SECTION 1. BACKGROUND.

A. On February 4, 2019 GPCA Owner, LLC applied for Architectural Review and Historic Review to allow modifications to a Category 2 Historic Structure [19PLN-00038] to accommodate a change in use. In addition, the application includes a request for a waiver under PAMC Chapter 18.18.120 to allow the conversion of a residential use to a hotel use, a request for parking adjustments for valet and tandem parking, and a Conditional Use Permit to allow for modifications to a legal noncomplying building for access to an existing rooftop garden and for the on-site sale of alcohol.

B. The project site is located at 488 University Avenue (APN 120-15-071) and totals 9,425 square feet. Other ground floor retail and restaurant uses are located on the site. Adjacent uses include ground floor retail and office uses.

C. Following staff review, the Historical Resources Board (HRB) reviewed the project and recommended approval of the architectural and historic review application on May 14, 2020 subject to conditions of approval.

D. On _____, 2020, the City Council reviewed the request for a waiver to allow conversion of a residential use to a hotel use, as well as the application for Architectural and Historic Review, the application for parking adjustments, and the application for a Conditional Use Permit. After hearing public testimony, the Council voted to approve these applications subject to the conditions set forth in Sections 7 and 8 of this Record of Land Use Action.

SECTION 2. ENVIRONMENTAL REVIEW. The City as the lead agency for the Project has determined that the project is subject to environmental review under provisions of the California

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Environmental Quality Act (CEQA). The subject project has been assessed in conformance with the authority and the criteria contained in CEQA, the State CEQA Guidelines, and the environmental regulations of the City and was found to be exempt from CEQA in accordance with CEQA Guidelines Section 15332 (In-fill exemption), Section 15331 (Historical resource restoration/rehabilitation); 15301 (existing structures); and 15302 (reconstruction).

SECTION 3. FINDINGS FOR A WAIVER UNDER PAMC SECTION 18.18.120. The applicant has submitted a statement and supporting documentary evidence that, in its view, application of PAMC section 18.18.120(b)(2)(F) to the property: 1) is pre-empted by the State Ellis Act because it would impose “a prohibitive price” on a property owner’s decision to exit the rental housing business and create procedural requirements not expressly authorized by the Ellis Act; 2) is unlawful because it would be inconsistent with the City’s Comprehensive Plan; 3) is unlawful because it would represent arbitrary “spot” zoning; and 4) would constitute an unconstitutional regulatory taking of property.

The City Council finds a waiver is required from one or more requirements of PAMC Title 18 or Title 21 to avoid preemption by the Ellis Act, due to the unique characteristics of the property. While PAMC section 18.18.120(b)(2)(F) would allow redevelopment of the property as a hotel compliant with current development standards, because the property is a Category 2 historic building, PAMC Chapter 16.49 precludes its demolition and redevelopment as a conforming structure. In addition, while PAMC section 18.18.120(b)(2)(F) allows residential uses other than rental housing, PAMC Chapter 21.40 precludes the conversion of the building to ownership housing. The combination of these restrictions imposes a prohibitive price on the property owner’s decision to exit the rental housing business; the applicant’s request for a waiver from PAMC Section 18.18.120(b)(2)(F) is therefore granted to allow conversion of the residential portion of the structure to a hotel use.

SECTION 4. ARCHITECTURE AND HISTORIC REVIEW BOARD FINDINGS. The design and architecture of the proposed improvements, as conditioned, complies with the Findings for Architectural Review as required in Chapter 18.76 of the PAMC and Chapter 16.49 of the PAMC.

Historic Review Findings

In accordance with the findings set forth in PAMC Section 16.49.050(b)(1), the City finds that the project would not adversely affect the exterior architectural characteristics nor the historical or aesthetic value of the building and its site. Specifically, the project has been assessed by a Cultural Resources Planner who meets the Secretary of the Interior’s Professional Qualification Standards for Historic Preservation in order to evaluate the project’s consistency with the Secretary of the Interior’s Standards for the Treatment of Historic Properties, and specifically the Standards for Rehabilitation.

As outlined in the historic analysis memorandum dated March 2, 2020, the proposed project would remain mixed-use and would accommodate the buildings historic use as a hotel. The proposed project would retain most of the existing historic materials, including: exterior stucco cladding, the terra cotta clay-tile roofing, wood gallery, juliet balconies, upper floor fenestration pattern and materiality. The project would also retain the presence of commercial units and storefronts on the ground floor; the tiled lobby entrance vestibule; most lobby materials and features; most circulation features; and the roof utility/circulation penthouse and terrace. The building’s mass and form would not be altered. The addition of elevator access to the seventh-story utility/circulation penthouse and the erection of a

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mechanical screen are consistent with existing elements along the roof and will not be visible from the public right-of-way. Retention of commercial units at the ground floor will allow the building to continue to convey its mixed-use identity. Proposed alterations to the lobby retain most original lobby materials, as well as the mezzanine stairway and the elevator. Additionally, the proposed project includes the creation of a bar spaces within an area that was historically part of the Hotel President lobby. On the interior of the building, the removal of a portion of the dividing wall between the lobby and unit four could affect the lobby's hall-style characteristic; however, because this alteration is reversible it is consistent with the SOI standards. Historic door openings and dividing walls between units will be rearranged. Therefore, the project would not adversely affect the exterior architectural characteristics or the historical or aesthetic value of the building and its site.

Architecture Review Findings

Finding #1: *The design is consistent with applicable provisions of the Palo Alto Comprehensive Plan, Zoning Code, coordinated area plans (including compatibility requirements), and any relevant design guides.*

The project is consistent with Finding #1 because:

The proposed project is consistent with the Comprehensive Plan and the Downtown Design Guidelines. Table 1 includes an analysis of the project's consistency with applicable goals and policies outlined in the City of Palo Alto Comprehensive Plan. The project includes conversion of a residential use to a hotel use; the hotel use is consistent with those allowed under this Comprehensive plan land use designation. The proposed project is also consistent with the Downtown Urban Design Guidelines in that it retains the existing ground floor retail uses, with minor modifications to accommodate a small ground floor lobby, which helps to keep the area active and economically stable. The existing pattern of storefronts and structural bays that create the human scale of Downtown would also be maintained. Attractive and easily recognizable pedestrian entries are provided. The project utilizes the existing auto entry on Cowper; no new curb cuts are proposed along University or Cowper.

The project has been reviewed for conformance with the development standards in the zoning code and found to be in compliance with the intent and regulations contained therein. A comprehensive review of the project to applicable development standards is included in the Administrative Record as Attachment B to the June 22, 2020 staff report. The project is seeking approval of a waiver from Title 18 to allow for conversion of a residential use to a hotel use. In addition, the applicant seeks approval of a Conditional Use Permit to allow for the on-site sale of alcoholic beverages and for minor modifications to accommodate code compliant access to the rooftop terrace. With approval of these requests, the project would be consistent with the zoning ordinance.

The project is consistent with the performance criteria in PAMC Chapter 18.23, as outlined in Table 2. As discussed under finding #2 below, the project is consistent with the applicable context-based design criteria outlined in the Palo Alto Municipal Code. There are no other coordinated area plans or relevant design guides adopted by the City of Palo Alto that are applicable to the project/project site. Therefore, the project is consistent with the Comprehensive Plan, Zoning code, and applicable design guides.

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Table 1: Analysis of Project's Consistency with the City of Palo Alto Comprehensive Plan

<i>Comp Plan Goals and Policies</i>	<i>How project adheres or does not adhere to Comp Plan</i>
The Comprehensive Plan land use designation for the site is Regional/Community Commercial.	The Comprehensive Plan includes goals, policies and programs that guide the physical form of the City. ARB finding #1 requires that the design be consistent and compatible with applicable elements of the Palo Alto Comprehensive Plan. The Comprehensive Plan land use designation for the project site is Regional/Community Commercial. The Regional/Community Commercial land use designation is "intended to provide a wider variety of goods and services that the neighborhood shopping areas and include such uses as department stores, bookstores furniture stores, apparel shops, restaurants and non-retail services such as offices and banks." Hotel uses are an allowed use within this land use designation.
<i>Land Use and Community Design</i>	
Policy L-1.3 Infill development in the urban service area should be compatible with its surroundings and the overall scale and character of the city to ensure a compact, efficient development pattern.	The proposed project includes minor modifications to the façade of an existing building that are compatible with the historic character of the site. The change in use to a hotel use is compatible with the downtown area, which encourages commercial uses. The project would allow for adaptive reuse of the historic building in a manner that is compatible with the surroundings, consistent with these policies. Several other buildings within the vicinity have rooftop garden uses.
Policy L-2.9 Facilitate reuse of existing buildings	
Policy L-2.11 Encourage new development and redevelopment to incorporate greenery and natural features such as green rooftops, pocket parks, plazas and rain gardens.	The proposed project includes modifications to an existing building and approval of the conditional use permit would allow for the continued use of the rooftop garden in a manner that complies with the municipal code and state codes for accessibility.
Policy L-3.1 Ensure that new or remodeled structures are compatible with the neighborhood and adjacent structures.	The modifications proposed include minor façade revisions that are compatible with the historic structure and with adjacent structures. The revisions include a minor increase in the height of the building to accommodate access to the rooftop; these revisions would not impact the pedestrian experience along University Avenue, which includes multiple buildings within the immediate vicinity that are of similar height or are taller than the existing building.
Policy L-4.2 Preserve ground-floor retail, limit the displacement of existing retail from neighborhood centers and explore opportunities to expand retail.	The proposed project includes minor modifications on the ground floor to allow for a ground floor lobby to access the hotel use. The project does not propose removal of any ground floor retail uses.
Policy L-4.6 Sites within or adjacent to existing commercial areas and corridors are suitable for hotels. Give preference to housing versus hotel use on sites adjacent to predominantly single-	The proposed project proposes a hotel use in a commercial area, consistent with this policy. Although this policy indicates that preference should be given to housing versus hotel uses, this policy applies to sites

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family neighborhoods	adjacent to predominantly single-family neighborhoods. The proposed project is located in the heart of the commercial downtown district and is not located adjacent to single family residential neighborhoods. Therefore, the project is consistent with this policy.
Policy L-4.7: Maintain and enhance the University Avenue/Downtown area as a major commercial center of the City, with a mix of commercial, civic, cultural, recreational and residential uses. Promote quality design that recognizes the regional and historical importance of the area and reinforces its pedestrian character.	The proposed project includes minor modifications to an existing historic structure that preserve the building's integrity while rehabilitating the site consistent with the historic use of the property. Therefore, the project promotes quality design and recognizes the historic importance of the area. The project retains the ground floor retail uses at the site with minor modifications to provide a ground floor lobby access. The existing and proposed uses and modifications reinforce the pedestrian character in the downtown area. Therefore the project is consistent with this policy.
Policy L-7.1: Encourage public and private upkeep and preservation of resources that have historic merit, including residences listed in the City's Historic Resource Inventory, the California Register of Historical Resources, or the National Register of Historic Places.	The proposed project renovates an existing Category 2 historic building that is on the City's Historic Inventory and that is eligible for the California Register of Historical Resources. The proposed modifications are consistent with the Secretary of the Interior's Standards for Rehabilitation of a historic resource. Therefore, the project is consistent with this Policy.
Policy L-7.5: To reinforce the scale and character of University Avenue/Downtown, promote the preservation of significant historic buildings.	The project preserves a Category 2 historic building while rehabilitating the site consistent with the historic use of the property, consistent with this policy and program.
Program L-7.8: Promote adaptive reuse of old buildings.	
Policy L-7.12: Maintain the historic integrity of building exteriors. Consider parking exceptions for historic buildings to encourage rehabilitation	A 25 percent parking reduction is provided in accordance with state regulations for the rehabilitation for the proposed use. Additional parking on and off site is provided to accommodate the proposed use, consistent with Palo Alto Municipal Code requirements. The historic integrity of the building exterior will be maintained in accordance with the Secretary of the Interior's standards for rehabilitation.
Policy L-9.3. Treat residential streets as both public ways and neighborhood amenities. Provide and maintain continuous sidewalks, healthy street trees, benches and other amenities that promote walking and "active" transportation.	The project maintains the existing amenities within the existing pedestrian right-of-way.

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Transportation Element	
Policy T-1.16. Promote personal transportation vehicles an alternative to cars (e.g. bicycles, skateboards, roller blades) to get to work, school, shopping, recreational facilities and transit stops.	The project includes implementation of a TDM plan to reduce single-occupancy vehicle trips. It also includes the installation of long-term bicycle racks on-site.
Business and Economic Element	
Policy B-3.2. Support a diverse range of businesses that generate revenue and enhance the City's fiscal sustainability.	All hotel guests are required to pay transit occupancy taxes in accordance with PAMC Section 2.33; therefore the proposed hotel use will provide revenue for the city in the form of transit occupancy taxes.

Table 2: Project's Consistency with the Performance Criteria (Chapter 18.23)

18.23.020 Trash Disposal and Recycling	Project Consistency
Assure that development provides adequate and accessible interior areas or exterior enclosures for the storage of trash and recyclable materials in appropriate containers, and that trash disposal and recycling areas are located as far from abutting residences as is reasonably possible.	The project includes placement of the trash/recycling enclosure within the underground parking garage and within appropriately sized containers. The site is not located immediately adjacent to any residential uses.
18.23.030 Lighting	
To minimize the visual impacts of lighting on abutting or nearby residential sites and from adjacent roadways.	The proposed project includes rehabilitation of an existing structure within the downtown area and does not include changes to the lighting that would affect nearby residential uses. There are no residential uses abutting the project site.
18.23.040 Late Night Uses and Activities	
The purpose is to restrict retail or service commercial businesses abutting (either directly or across the street) or within 50 feet of residentially zoned properties or properties with existing residential uses located within nonresidential zones, with operations or activities between the hours of 10:00 p.m. and 6:00 a.m. Operations subject to this code may include, but are not limited to, deliveries, parking lot and sidewalk cleaning, and/or clean up or set up operations, but does not include garbage pick-up.	The project is not located within 50 feet of residentially zoned properties or properties with existing residential uses located within nonresidential zones. Therefore, criterion is not applicable to the proposed project.

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18.23.050 Visual, Screening and Landscaping	
<p>Privacy of abutting residential properties or properties with existing residential uses located within nonresidential zones (residential properties) should be protected by screening from public view all mechanical equipment and service areas. Landscaping should be used to integrate a project design into the surrounding neighborhood, and to provide privacy screening between properties where appropriate.</p>	<p>Mechanical equipment is screened in that it is primarily located within the building within the basement or otherwise located on the roof and screened by parapet walls. Mechanical equipment would not be visible from the public right-of-way and there are no abutting residential properties.</p>
18.23.060 Noise and Vibration	
<p>The requirements and guidelines regarding noise and vibration impacts are intended to protect residentially zoned properties or properties with existing residential uses located within nonresidential zones (residential properties) from excessive and unnecessary noises and/or vibrations from any sources in abutting industrial or commercially zoned properties. Design of new projects should reduce noise from parking, loading, and refuse storage areas and from heating, ventilation, air conditioning apparatus, and other machinery on nearby residential properties. New equipment, whether mounted on the exterior of the building or located interior to a building, which requires only a building permit, shall also be subject to these requirements.</p>	<p>There are no abutting residential uses or residentially zoned properties. However, on-site parking for the project is located below ground and all refuse storage and equipment is also located within the basement. Only HVAC equipment provided on the roof. The proposed HVAC equipment is required to meet the City's code standards for noise; the City verifies the noise level of planned noise producing equipment through review of equipment specifications at the time of building permit issuance.</p>
18.23.070 Parking	
<p>The visual impact of parking shall be minimized on adjacent residentially zoned properties or properties with existing residential uses located within nonresidential zones.</p>	<p>The project's parking on-site and off-site parking is located below grade</p>
18.23.080 Vehicular, Pedestrian and Bicycle Site Access	
<p>The guidelines regarding site access impacts are intended to minimize conflicts between residential vehicular, pedestrian, and bicycle uses and more intensive traffic associated with commercial and industrial districts, and to facilitate pedestrian and bicycle connections through and adjacent to the project site.</p>	<p>The site circulation facilitates easy access for all modes of transportation. The project includes short-term and long-term bike parking and does not introduce any new curb cuts that could impact existing or planned bicycle lanes.</p>

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18.23.090 Air Quality	
The requirements for air quality are intended to buffer residential uses from potential sources of odor and/or toxic air contaminants.	No proposed uses on the project site would produce odor or toxic air. The proposed use includes a hotel and continuation of existing ground floor retail uses. These uses are consistent with other commercial uses within the Downtown area.
18.23.100 Hazardous Materials	
In accordance with Titles 15 and 17 of the Palo Alto Municipal Code, minimize the potential hazards of any use on a development site that will entail the storage, use or handling of hazardous materials (including hazardous wastes) on-site in excess of the exempt quantities prescribed in Health and Safety Code Division 20, Chapter 6.95, and Title 1.	The proposed residential use does not include storage of hazardous materials.

***Finding #2:** The project has a unified and coherent design, that:*

- a. creates an internal sense of order and desirable environment for occupants, visitors, and the general community,*
- b. preserves, respects and integrates existing natural features that contribute positively to the site and the historic character including historic resources of the area when relevant,*
- c. is consistent with the context-based design criteria of the applicable zone district,*
- d. provides harmonious transitions in scale, mass and character to adjacent land uses and land use designations,*
- e. enhances living conditions on the site (if it includes residential uses) and in adjacent residential areas.*

The project is consistent with Finding #2 because:

The project rehabilitates an existing Category 2 historic structure and converts the existing residential use to a hotel use. The minor modifications to allow for a ground floor lobby retain an internal sense of order that reflects the new use and maintains a desirable environment for occupants, visitors, and the general community. The proposed modifications to accommodate the new use were analyzed by two historic architects and found to be consistent with the Secretary of the Interior's Standards for the Treatment of Historic Resources. Therefore, the project contributes positively to the historic character of the site in that it rehabilitates the building and allows for its reuse consistent with the historic use of the site.

Pursuant to PAMC 18.18.110, the following context-based design considerations and findings are applicable to this project. These context-based design criteria are intended to provide additional standards to be used in the design and evaluation of development in a commercial district. The purpose is to encourage development in a commercial district to be responsible to its context and compatibility with adjacent development as well as to promote the establishment of pedestrian oriented design.

DRAFT**1. Pedestrian and Bicycle Environment**

The design of new projects shall promote pedestrian walkability, a bicycle friendly environment, and connectivity through design elements

The finding can be made in the affirmative in that the proposed project offers short term bike racks for commercial visitors and well as long-term bike lockers for employees. The project does not propose any new curb cuts. All ground floor retail uses and ground floor storefront access to those uses would be retained.

2. Street Building Facades

Street facades shall be designed to provide a strong relationship with the sidewalk and the street (s), to create an environment that supports and encourages pedestrian activity through design elements

The finding can be made in the affirmative in that the project retains its pedestrian entry directly off the sidewalk to encourage pedestrians. The project retains all of the pedestrian multi-modal amenities, including street trees, sidewalk space, windows to view in, benches and bicycle racks outside of the site. The balconies above also increase activity and view to the street.

3. Massing and Setbacks

Buildings shall be designed to minimize massing and conform to proper setbacks

The proposed project is a grandfathered, legal noncomplying building. However, the project would not increase the degree of non-compliance with respect to gross floor area or setbacks. Although the project increases the height of the structure, this increase only applies to the rooftop garden access and is consistent with that allowed in accordance with approval of a Conditional Use Permit, as outlined in the Palo Alto Municipal Code. Existing features of the site, including balconies, help to break up the massing of the building; these features are proposed to remain.

4. Low Density Residential Transitions

Where new projects are built abutting existing lower scale residential development, care shall be taken to respect the scale and privacy of neighboring properties

The project does not directly abut a lower scale residential development. Therefore, this context-based criterion is not applicable.

5. Project Open Space

Private and public open space shall be provided so that it is usable for the residents, visitors, and/or employees of the site

The proposed proposes a conditional use permit in order to retain the existing rooftop garden on the property and use that space in accordance with California building code and ADA requirements. The existing building has a zero lot line; therefore, no other open space is provided on site; however, the site is located within the commercial downtown community zone district, which has ample public amenities within the immediate vicinity, including the adjacent public right-of-way. Existing amenities including street trees, benches and existing outdoor seating areas

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associated with one of the ground floor retail uses are proposed to remain. Therefore, the project is consistent with this criterion.

6. Parking Design

Parking shall be accommodated but shall not be allowed to overwhelm the character of the project or detract from the pedestrian environment

The finding can be made in the affirmative in that on-site parking has been provided underground to the extent feasible. No other parking is proposed on the project site. In order to meet the code requirements, parking will be provided in-lieu for the Downtown Parking Assessment District or will otherwise be provided through use of off-site parking, as outlined further in the conditions of approval for the project.

7. Large Multi-Acre Sites

Large sites (over one acre) shall be designed so that street, block, and building patterns are consistent with those of the surrounding neighborhood

This site is less than an acre. Therefore, this context-based criteria is not applicable.

8. Sustainability and Green Building Design

Project design and materials to achieve sustainability and green building design should be incorporated into the project

The finding can be made in the affirmative in that the building will satisfy the requirements for CALGreen Mandatory in accordance with the City's Green Building Regulations. This is demonstrated on the GB sheets in the plan set.

For these reason the project is consistent with Architectural Review Finding #2.

Finding #3: The design is of high aesthetic quality, using high quality, integrated materials and appropriate construction techniques, and incorporating textures, colors, and other details that are compatible with and enhance the surrounding area.

The project is consistent with Finding #3 because:

The project includes minor modifications to an existing historic structure. The project incorporates textures, colors and other details that are compatible with the existing historic nature of the structure and restores the building, enhancing the site and the surrounding area. Therefore, the project is consistent with finding #3.

Finding #4: The design is functional, allowing for ease and safety of pedestrian and bicycle traffic and providing for elements that support the building's necessary operations (e.g. convenient vehicle access to property and utilities, appropriate arrangement and amount of open space and integrated signage, if applicable, etc.).

The project is consistent with Finding #4 because:

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The design is functional, allowing for continued pedestrian access to 488 University from University Avenue and continued access to the below-grade parking garage from Cowper. No new curb cuts are proposed. Additional bicycle parking will be provided on site to comply with current code requirements with respect to long-term bicycle storage. Short-term bicycle parking is provided along the project frontage. The project provides for ADA compliant to the existing rooftop open space in order to meet current state and City requirements. Therefore, the project is consistent with Finding #4.

Finding #5: The landscape design complements and enhances the building design and its surroundings, is appropriate to the site's functions, and utilizes to the extent practical, regional indigenous drought resistant plant material capable of providing desirable habitat that can be appropriately maintained.

The project is consistent with Finding #5 because:

The proposed project includes reuse of an existing building for a new hotel use. The proposed project includes minor façade modifications and does not include any planting in front of the building, which is a zero lot line development. All existing plantings within the public right-of-way are proposed to remain. Although no plantings are shown as part of the rooftop plans, planters are shown in the plan sets. Therefore a condition of approval has been added that requires that any proposed planting utilize to the extent practical, regional indigenous drought resistant plant material capable of providing desirable habitat that can be appropriately maintained.

Finding #6: The project incorporates design principles that achieve sustainability in areas related to energy efficiency, water conservation, building materials, landscaping, and site planning.

The project is consistent with Finding #6 because:

The finding can be made in the affirmative in that the building will satisfy the requirements for CALGreen Mandatory in accordance with the City's Green Building Regulations. This is demonstrated on the GB sheets in the plan set. As noted above, any landscaping proposed in the planters would be subject to a condition of approval provided in Section 6, which requires that any proposed planting utilize to the extent practical, regional indigenous drought resistant plant material capable of providing desirable habitat that can be appropriately maintained.

SECTION 5. PARKING ADJUSTMENT FINDINGS. The proposed parking adjustments are in accord with PAMC Chapter 18.52 and will not create undue impact on existing or potential uses adjoining the site or in the general vicinity.

The project includes both on-site and off-site parking. This includes 14 on-site parking spaces (including six tandem and valet parking spaces) and 25 off-site parking spaces (including 14 valet spaces). All other parking spaces would be provided through payment of the in-lieu fee, as is allowed in accordance with PAMC Chapter 18.52 for projects within the Downtown Assessment District. The requested parking adjustment allows for the proposed valet and tandem spaces. The valet parking program shall operate in conformance with the Valet Parking Management plan prepared by All About Parking provided to the City on April 14, 2020 and any amendments approved by the Director of Planning and the Chief Transportation Official, as required in the Conditions of Approval in Section 7 of

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this Record of Land Use Action. The conditions of approval further require the applicant to provide a parking demand study and to record an agreement for the off-site location. As a result, compliance with the specifications in the approved plan, as modified and reinforced by the conditions of approval would not create undue impact on existing or potential uses adjoining the site or in the general vicinity.

SECTION 6. CONDITIONAL USE PERMIT FINDINGS. The proposed use of the rooftop garden and on-site sale of beverages, as conditioned, complies with the Findings for Conditional Use Permit approval, as provided in PAMC Section 18.76.010.

1. *The proposed use, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience.*

The proposed modifications to accommodate code compliant access to the rooftop garden would not be detrimental or injurious to the property or improvements in the vicinity. The rooftop garden is an existing use at the project site and its continued use would be substantially similar to the existing use. Conditions of approval have been provided in the record of land use action to ensure the general welfare and convenience of adjacent uses. The closest low-density residential use is single-family residences located approximately 180 feet east of the project site along Kipling Avenue. This is more than the 150 feet required in accordance with the municipal code; commercial buildings along the opposite side of University provide a buffer between the proposed project and these residential uses. Minor modifications would allow for amenities associated with the existing rooftop use and ensure access is compliant with the California Building code and other State and City regulations. There are rooftop gardens on multiple surrounding buildings, including 500 University and 525 University, immediately across Cowper and University, respectively. The City has not received any complaints that suggest that the existing rooftop garden at Hotel president, nor rooftop gardens at these other commercial uses, have affected the public health, safety, general welfare or convenience of adjacent properties.

The proposed on-site sale of alcohol is consistent with other retail uses within the downtown area and would not be detrimental or injurious to property or improvements in the vicinity. Alcohol would be consumed on site by hotel guests. The bar is located within the building, in the area of the historic Hotel President lobby. Standard conditions have been included in this Record of Land Use Action to ensure that the general welfare and convenience of adjacent uses is maintained, including requirements to limit the hours of use and that restrict the use of amplified music.

2. *The proposed use will be located and conducted in a manner in accord with the Palo Alto Comprehensive Plan and the purposes of the Zoning Ordinance.*

Policy L-2.11 of the City's Comprehensive Plan Land Use Element encourages new development and redevelopment to incorporate greenery and natural features such as green rooftops, pocket parks, plazas and rain gardens. The proposed modifications would allow for the continued use of an existing rooftop garden for the proposed hotel use. Rooftop gardens are allowed within the zone district. As a grandfathered legal noncomplying facility, the proposed project is subject to regulations set forth in PAMC Section 18.18.060(e)(2), which allows for minor modifications to height and floor area for a legal noncomplying building in the CD-C Zone District, with approval of a Conditional Use Permit, in order to allow for access to amenities associated with a rooftop garden. The applicant proposes

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minimal improvements through a conditional use permit request in order to allow for the continued use of the rooftop garden space. With approval of the conditional use permit, the proposed project would be consistent with the Palo Alto Municipal Code.

In addition, the consumption of on-site alcohol would be consistent with municipal code in that retail and other commercial uses within the CD-C zone district are often allowed to serve alcohol with approval of a CUP. The proposed use would allow hotel guests to have a drink on-site and the bar is located within the building. The consumption of alcohol on-site, associated with the hotel use, would not result in noisy activities that would affect adjacent uses. As noted previously, the nearest adjacent residence is located approximately 180 feet from the project site; there are other commercial developments located between the project site and these residences.

Therefore, the proposed sale of on-site alcohol and the proposed revisions to accommodate the continued use of the rooftop garden would be in accord with the Palo Alto Comprehensive Plan and the purposes of the Zoning Ordinance.

SECTION 7. CONDITIONS OF APPROVAL FOR ARCHITECTURAL AND HISTORIC
REVIEW APPLICATIONS.

PLANNING & DEVELOPMENT SERVICES DIVISION

1. CONFORMANCE WITH PLANS. Construction and development shall conform to the approved plans entitled, "Hotel President, 488 University Avenue," stamped as received by the City on March 3, 2020 and as modified on sheets A100 and A200 stamped as received on March 30, 2020, on file with the Planning Department, 250 Hamilton Avenue, Palo Alto, California except as modified by these conditions of approval.
2. BUILDING PERMIT. A building permit is required for this project.
3. BUILDING PERMIT PLAN SET. This Record of Land Use Action shall be printed on the plans submitted for building permit.
4. PROJECT MODIFICATIONS. All modifications to the approved project shall be submitted for review and approval prior to construction. If, during the Building Permit review and construction phase, the project is modified by the applicant, it is the responsibility of the applicant to contact the Planning Division/project planner directly to obtain approval of the project modification. It is the applicant's responsibility to highlight any proposed changes to the project and to bring it to the project planner's attention.
5. ESTIMATED IMPACT FEE. Development Impact Fees, currently estimated in the amount of \$933,675.42 shall be paid prior to the issuance of the related building permit. In addition, the applicant shall pay parking in-lieu fees for the Downtown Assessment District, estimated in the amount of \$8,068,996, prior to the final Planning inspection for the hotel use.
6. IMPACT FEE 90-DAY PROTEST PERIOD. California Government Code Section 66020 provides that a project applicant who desires to protest the fees, dedications, reservations, or other exactions imposed on a development project must initiate the protest at the time the development project is approved or conditionally approved or within ninety (90) days after the date that fees, dedications,

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reservations or exactions are imposed on the Project. Additionally, procedural requirements for protesting these development fees, dedications, reservations and exactions are set forth in Government Code Section 66020. IF YOU FAIL TO INITIATE A PROTEST WITHIN THE 90-DAY PERIOD OR FOLLOW THE PROTEST PROCEDURES DESCRIBED IN GOVERNMENT CODE SECTION 66020, YOU WILL BE BARRED FROM CHALLENGING THE VALIDITY OR REASONABLENESS OF THE FEES, DEDICATIONS, RESERVATIONS, AND EXACTIONS. If these requirements constitute fees, **taxes, assessments**, dedications, reservations, or other exactions as specified in Government Code Sections 66020(a) or **66021**, this is to provide notification that, as of the date of this notice, the 90-day period has begun in which you may protest these requirements. This matter is subject to the California Code of Civil Procedures (CCP) Section 1094.5; the time by which judicial review must be sought is governed by CCP Section 1094.6.

7. **NOISE PRODUCING EQUIPMENT.** In accordance with PAMC Section 9.10.030, No person shall produce, suffer or allow to be produced by any machine, animal or device, or any combination of same, on residential property, a noise level more than six dB above the local ambient at any point outside of the property plane. In accordance with PAMC Section 9.12, no amplified music shall be used for producing sound in or upon any open area, to which the public has access, between the hours of 11:00pm and one hour after sunrise.
8. **SIGN APPROVAL NEEDED.** No signs are approved at this time. Any proposed signs or revisions to existing signs shall conform to the requirements of Title 16.20 of the Palo Alto Municipal Code (Sign Code) and shall be subject to approval by the Director of Planning.
9. **SECRETARY OF THE INTERIOR STANDARDS.** The project shall be constructed in compliance with the Secretary of the Interior's Standards for Rehabilitation as described in the associated Page and Turnbull Memorandum dated May 22, 2019. The ten Secretary of the Interior's Standards for Rehabilitation shall be printed on one of the initial sheets of the Building Permit Plan Set.
10. **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 is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
11. **OFF-SITE PARKING.** In accordance with 18.52.080(d) the applicant proposes 25 parking spaces in an off-site location within the Downtown Assessment District, including 11 standard spaces and 14 valet parking spaces. Prior to building permit issuance, the applicant shall submit a parking demand study for the 330 Everett site showing that use of the existing parking spaces at this property would not impact the parking needs of existing occupants. In addition, the applicant shall demonstrate, to the satisfaction of the Director of Planning and Development Services, that the use of the off-site location is permitted by the zoning for that site. Following submission of the documentation required by this condition and prior to building permit issuance, applicant shall execute an agreement with the property owner for 330 Everett documenting the use of 11 standard parking spaces and 14 valet parking spaces on their property. The City shall be a third-party signatory to the agreement between the two property owners. The parking agreement shall be recorded with the County prior to issuance of a building permit. The applicant shall provide a conformed copy of the recorded agreement to the City.
12. **VALET PARKING.** In accordance with 18.52.080(a) and (d), the applicant proposes proposal includes

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a request for a director's adjustment to allow for 6 on-site valet/tandem spaces and 25 off-site valet spaces through a valet parking program. The valet parking program shall operate in conformance with the Valet Parking Management plan prepared by All About Parking provided to the City on April 14, 2020 and any amendments approved by the Director of Planning and the Chief Transportation Official. This valet parking program shall be updated as appropriate. Valet parking services shall be provided at all times to ensure queuing of cars is kept to a minimum. The Chief Transportation Official shall have the authority to review the parking management plan, make reasonable adjustments, including new conditions, to ensure the valet and remote parking operations are consistent with City parking strategies and determinantal to the general welfare.

13. TDM PROGRAM AND ANNUAL REPORTING REQUIREMENT. The applicant shall abide by the Final Transportation Demand Management (TDM) plan, as modified by the Office of Transportation Conditions of Approval herein. The TDM plan shall include measures and programs to achieve a reduction in single-occupancy vehicle trips to the site by a minimum of 45%, in conformance with the City's Comprehensive Plan. The TDM plan includes an annual monitoring plan to document mode split and trips to the project site. The TDM annual report shall be submitted to the Chief Transportation Official. Monitoring and reporting requirements may be revised in the future if the minimum reduction is not achieved through the measures and programs initially implemented. Projects that do not achieve the required reduction may be subject to daily penalties as set forth in the City's fee schedule.
14. TRANSPORTATION MANAGEMENT ASSOCIATION (Palo Alto TMA). The subject site shall participate in the Palo Alto Transportation Management Association (<http://www.paloaltotma.org/>) or any successor Transportation Management Association/Program that is designed to reduce commute trips to and from the City of Palo Alto. The property owner shall ensure this condition is included in all lease agreements in order to streamline implementation.
15. LANDSCAPING. Any proposed landscaping for the open space shall utilize to the extent practical, regional indigenous drought resistant plant material capable of providing desirable habitat that can be appropriately maintained. The applicant shall maintain in healthy condition all landscaping planted on site.
16. HRB SUBCOMMITTEE. Prior to the issuance of building permits, the applicant shall return to the HRB subcommittee for approval of the following items, to the satisfaction of the Director of Planning and Development Services:
 - a. Provide details regarding the proposed new tile on the University Avenue façade
 - b. Provide details regarding the proposed modifications to the sixth floor guard
 - c. Provide color brushouts
 - d. Provide details of the arches of the lobby wall
17. FINAL INSPECTION. A Planning Division Final inspection will be required to determine substantial compliance with the approved plans prior to the scheduling of a Building Division final. Any revisions during the building process must be approved by Planning, including but not limited to; materials, landscaping and hard surface locations. Contact your Project Planner, Claire Raybould at claire.raybould@cityofpaloalto.org to schedule this inspection.
18. INDEMNITY. To the extent permitted by law, the Applicant shall indemnify and hold harmless the

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City, its City Council, its officers, employees and agents (the “indemnified parties”) from and against any claim, action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside or void, any permit or approval authorized hereby for the Project, including (without limitation) reimbursing the City for its actual attorneys’ fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its own choice.

PUBLIC WORKS ENGINEERING

The following Public Works conditions are required to be addressed prior to any future related permit application such as a Building Permit, Excavation and Grading Permit, Certificate of Compliance, Street Work Permit, Encroachment Permit, etc.

19. PUBLIC WORKS STANDARD CONDITIONS: The City’s full-sized Standard Conditions sheet must be included in the plan set. The conditions noted on the sheet shall be adhered to for the full project duration until completion. Copies are available on the Public Works website:
<https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=67175.06&BlobID=66261>
20. STORM WATER POLLUTION PREVENTION: The City's full-sized "Pollution Prevention - It's Part of the Plan" sheet must be included in the plan set. The sheet is available here:
<http://www.cityofpaloalto.org/civicax/filebank/documents/2732>.
21. SIDEWALK ENCROACHMENT: Add a note to the building permit plan set that says, “Any work must be done in a manner that is safe for pedestrians using the public sidewalk. The work area must be coned or taped off while still leaving at least 4 feet of sidewalk for pedestrian use. If less than 4 feet of sidewalk is available for pedestrians, the contractor must obtain an encroachment permit from Public Works to close the sidewalk.”
22. ENCROACHMENT PERMIT. An Encroachment permit will be required prior to placement of a valet stand in the public right-of-way. If the valet stand will be placed within private property, a permit will not be required. See link below under Encroachment permit for application, plan requirement and insurance information.
http://www.cityofpaloalto.org/gov/depts/pwd/forms_and_permits/default.asp
23. CLEARANCE. There must be a minimum of 10 feet clearance between the valet stand and any obstructions that exist on the sidewalk. These sidewalk obstructions may be tree wells, street lights, permitted news rack facilities, and other immovable facilities that exist on the sidewalk frontage.

PUBLIC WORKS UTILITIES DIVISION

24. CONTACT UTILITIES. Applicant must contact Utilities Engineering at 650-566-4500, if there are any changes to the existing electric service size or location to the electric panel and file for any applicable utility permits.

PUBLIC WORKS URBAN FORESTRY DIVISION

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25. TREE PROTECTION. Install Type III Tree protection on trees as per the approved plan set. Show this tree protection on the plan sets submitted for building permit. The owner and contractor shall implement all protection and inspection schedule measures, design recommendations and construction scheduling as stated in the TPR & Sheet T-1, and is subject to code compliance action pursuant to PAMC 8.10.080. The required protective fencing shall remain in place until final landscaping and inspection of the project.
26. TREE DAMAGE. During construction, ensure that street tree foliage canopy and branching structure is clear from contact by equipment, materials, or activities related to the exterior improvements as outlined in the project description. Tree Damage, Injury Mitigation and Inspections apply to Contractor. Reporting, injury mitigation measures and arborist inspection schedule (1-5) apply pursuant to TTM, Section 2.20-2.30. Contractor shall be responsible for the repair or replacement of any publicly owned or protected trees that are damaged during the course of construction, pursuant to Title 8 of the Palo Alto Municipal Code, and city Tree Technical Manual, Section 2.25.
27. GENERAL. The following general tree preservation measures apply to all trees to be retained: No storage of material, topsoil, vehicles or equipment shall be permitted within the tree enclosure area. The ground under and around the tree canopy area shall not be altered. Trees to be retained shall be irrigated, aerated and maintained as necessary to ensure survival.
28. TREE PROTECTION VERIFICATION. Prior to any site work verification from the contractor that the required protective fencing is in place shall be submitted to the Urban Forestry Section. The fencing shall contain required warning sign and remain in place until final inspection of the project.
29. EXCAVATION RESTRICTIONS APPLY (TTM, Sec. 2.20 C & D). Any approved grading, digging or trenching beneath a tree canopy shall be performed using 'air-spade' method as a preference, with manual hand shovel as a backup. For utility trenching, including sewer line, roots exposed with diameter of 1.5 inches and greater shall remain intact and not be damaged. If directional boring method is used to tunnel beneath roots, then Table 2-1, Trenching and Tunneling Distance, shall be printed on the final plans to be implemented by Contractor.

FIRE DEPARTMENT

30. Exterior fire escape shall be verified to be in working condition prior to occupancy.

BUILDING DEPARTMENT

31. CALIFORNIA BUILDING CODE. The Building application shall be based on the 2019 California Building Standards Codes as amended by the City of Palo Alto.
32. SOI STANDARDS MEMORANDUM. Submit the Page and Turnbull Analysis of the project's consistency with the Secretary of the Interior Standards for the Treatment of Historic Resources, dated May 22, 2019, as part of the building permit submittal.
33. STRUCTURAL CALCULATIONS. Submit structural calculations for the new elevator, seismic retrofit,

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and other structural work part of this project. A complex seismic system with new footing/foundation may trigger a soil report or a foundation recommendation from a Geotechnical Engineer.

34. ACCESSIBILITY. A full accessibility review will be conducted at time of building permit.
35. VALET PARKING. Valet parking may require accessible parking spots and will be confirmed at time of building permit. If required, the property owner shall make up for an lost parking spaces through payment of the City's in-lieu parking fee.
36. ROOFTOP OPEN SPACE. Building and Fire will provide further review of the rooftop open space based on the proposed use/occupancy identified in the plans submitted for building permit. Revisions may be required for compliance with applicable regulations.

UTILITIES- WATER, GAS, WASTEWATER

37. UTILITY SERVICE CONNECTION. The applicant shall submit a completed water-gas-wastewater service connection application - loadsheet for City of Palo Alto Utilities. The applicant must provide all the information requested for utility service demands (water in fixture units/g.p.m., gas in b.t.u.p.h, fire system load in gpm, and sewer in fixture units/g.p.d.). The applicant shall provide the new total loads.
38. UTILITY IMPROVEMENT PLANS. The applicant shall submit improvement plans for utility construction. The plans must show the size and location of all underground utilities within the development and the public right of way including meters, backflow preventers, fire service requirements, sewer mains, sewer cleanouts, sewer lift stations and any other required utilities. Plans for new wastewater lateral need to include new wastewater pipe profiles showing existing potentially conflicting utilities especially storm drain pipes electric and communication duct banks. Existing duct banks need to be daylighted by potholing to the bottom of the ductbank to verify cross section prior to plan approval and starting lateral installation. Plans for new storm drain mains and laterals need to include profiles showing existing potential conflicts with sewer, water and gas.
39. UTILITY UPGRADES. The applicant shall be responsible for upgrading the existing utility mains and/or services as necessary to handle anticipated peak loads. This responsibility includes all costs associated with the design and construction for the installation/upgrade of the utility mains and/or services.
40. SERVICE. The gas service, meters, and meter location must meet WGW standards and requirements.
41. SEPARATION OF UTILITIES. Installations parallel to new or existing WGW utilities to remain shall maintain 5ft minimum separation, unless specified otherwise by WGW Engineering . Crossings shall maintain minimum of one foot clear of any obstruction to WGW utilities.

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42. RPPA. An approved reduced pressure principle assembly (RPPA backflow preventer device) is required for all existing and new water connections from Palo Alto Utilities to comply with requirements of California administrative code, title 17, sections 7583 through 7605 inclusive. The RPPA shall be installed on the owner's property and directly behind the water meter within 5 feet of the property line. RPPA's for domestic service shall be lead free. Show the location of the RPPA on the plans with required drainage.
43. RPDA. An approved reduced pressure detector assembly is required for the new water connection for the fire system to comply with requirements of California administrative code, title 17, sections 7583 through 7605 inclusive. Reduced pressure detector assemblies shall be installed on the owner's property adjacent to the property line, within 5' of the property line. Show the location of the reduced pressure detector assembly on the plans with required drainage.
44. FEES. The applicant shall pay the capacity fees and connection fees associated with new utility service/s or added demand on existing services. The approved relocation of services, meters, hydrants, or other facilities will be performed at the cost of the person/entity requesting the upgrade or relocation.
45. METERS. Each unit or place of business shall have its own water and gas meter shown on the plans. Each parcel shall have its own water service, gas service and sewer lateral connection shown on the plans.
46. ABANDONMENT. All existing water and wastewater services that will not be reused shall be abandoned at the main per WGW utilities procedures.
47. HORIZONTAL SEPARATION. Utility vaults, transformers, utility cabinets, concrete bases, or other structures cannot be placed over existing water, gas or wastewater mains/services. Maintain 1' horizontal clear separation from the vault/cabinet/concrete base to existing utilities as found in the field. If there is a conflict with existing utilities, Cabinets/vaults/bases shall be relocated from the plan location as needed to meet field conditions.
48. SEPARATION FROM TREES. Trees may not be planted within 10 feet of existing water, gas or wastewater mains/services or meters; lesser distances require a permanent impermeable root-barrier a minimum of 3ft horizontal from water, gas and wastewater services/mains/meters .
49. STANDARDS. All utility installations shall be in accordance with the City of Palo Alto current utility standards for water, gas & wastewater.

TRANSPORTATION

50. PARKING MANAGEMENT. Prior to building permit approval the applicant shall provide documentation as a part of this application or a new application that the 330 Everett Ave site has 25

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additional parking spaces available to share with the 488 University Ave site. The 25 additional parking spaces shall be shared only with 488 University Ave, not with another property.

51. TRANSPORTATION DEMAND MANAGEMENT (TDM) PLAN. Prior to approval of a building permit or use and occupancy permit, the applicant shall update the draft TDM plan to include the following:
- A description/purpose for the need of a TDM plan for the project.
 - The net projected trip generation estimates and trip reduction targets in the TDM plan.
 - The TDM plan shall describe a methodology for the development of the TDM monitoring report and include a timeline for reporting to the city.
 - Specify the percentage of the trips that would be reduced by implementing a TDM plan as per the Comp. plan.
 - The final TDM agreement between TMA and the project shall be included in the TDM plan.
52. WARNING SIGN. A flashing warning sign shall be provided at the driveway exit to caution pedestrians about exiting vehicles.
53. BICYCLE PARKING. The applicant shall provide ten (10) short term bicycle parking spaces on the adjacent public right of way, subject to the approval of the Chief Transportation Official. The existing City bicycle racks adjacent to the site shall be removed in good condition and the applicant shall pay the City for the expense of relocating this existing equipment.

SECTION 8. CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT

In addition to the architectural and historic review conditions outlined in Section 7, the following conditions of approval shall be required for the rooftop deck and for the on-site sale of alcohol:

54. PERMITTED HOURS. Use of the rooftop open space shall be limited to 6:00AM to 11:00PM Monday through Sunday.
55. AMPLIFIED MUSIC. Amplified music shall be prohibited on the rooftop open space.
56. CODE COMPLIANCE. The current and proposed uses shall be comply with all applicable City codes, including Titles 9 (Public Peace, Moral and Safety) and 15 (Uniform Fire Code) of the Palo Alto Municipal Code and Titles 4 (Alcoholic Beverage Business regulations) and 19 (Public Safety) of the State of California Administrative Code.
57. NUISANCES AND NOISE. The business shall be operated in a manner to protect any nearby properties from excessive noise, odors, or other nuisances from any sources during the business hours. Noise levels emanating from the proposed use shall not exceed the maximum level established in the PAMC Chapter 9.10.
58. ROOFTOP USE. Use of the rooftop shall be limited to hotel guests.
59. LIGHTING. All exterior lighting associated with the rooftop open space shall be oriented downward and away from City rights of way and adjacent properties. Light filaments and bulbs shall not be visible at the property line in order to prevent glare.

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60. ABC PERMIT. The applicant shall obtain any permits required from the Department of Alcohol and Beverage Control (ABC) prior to service of alcohol at Hotel President and shall comply with the provisions of any such permit.
61. AGREEMENT. The consumption of alcoholic beverages under this use permit shall be deemed an agreement on the part of the applicant, their heirs, successors, and assigns to comply with all terms and conditions of this Conditional Use Permit.
62. BUILDING PERMIT PLAN SET. The approval letter including all Department conditions of approval for the project shall be printed on the plans submitted for building permit.
63. INTENSIFICATION OF USE. Any intensification of use shall require an amendment to the conditional use permit and any other entitlements as specified in the Palo Alto Municipal Code.
64. COMPLIANCE WITH CONDITIONS OF APPROVAL. The applicant shall at all times be in compliance with the conditions of approval and documentation describing the rooftop open space operation as well as the on-site sale of alcohol. If operations result in unanticipated impacts that negatively impact the health, safety, convenience, or general welfare, the Director of Planning and Community Environment may impose additional conditions to mitigate those impacts. Any changes by the Director to this approval or imposition of new or modified conditions shall be in writing and subject to the city's appeal procedures for conditional use permits.
65. REVOCATION OR MODIFICATION OF APPROVALS. The director may issue a notice of noncompliance for any failure to comply with any condition of this permit approval, or when a use conducted pursuant to a conditional use permit is being conducted in a manner detrimental to the public health, safety and welfare.
66. INDEMNITY. To the extent permitted by law, the Applicant shall indemnify and hold harmless the City, its City Council, its officers, employees and agents (the "indemnified parties") from and against any claim, action, or proceeding brought by a third party against the indemnified parties and the applicant to attack, set aside or void, any permit or approval authorized hereby for the Project, including (without limitation) reimbursing the City for its actual attorneys' fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its own choice.

SECTION 9. TERMS OF APPROVAL.

Architectural and Historic Review Approval. The project approval shall be valid for a period of two years. In the event a building permit(s), if applicable, is not secured for the project and construction commenced within the time limit specified above, the Architectural Review approval shall expire and be of no further force or effect. Application for a one-year extension of this entitlement may be made prior to the expiration.

Conditional Use Permit Approval. The project approval shall be valid for a period of two years. In the event a building permit(s), if applicable, is not secured for the project and construction commenced within the time limit specified above, the Architectural Review approval shall expire and be of no further force or effect. Application for a one-year extension of this

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entitlement may be made prior to the expiration.

If the use(s) authorized by a use permit or approval is discontinued for a period of twelve months or more, the permit or approval will no longer be in effect.

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

APPROVED:

City Clerk

Mayor

APPROVED AS TO FORM:

Senior Assistant City Attorney

Director
Planning and Development Services