

ATTACHMENT A
SPECIFIC FINDINGS OF FACT FOR CONDITIONAL USE PERMIT #5209

Approval of Conditional Use Permit: For a project with new construction of over 25,000 square feet.

1. *The proposed use is allowed with a Conditional Use Permit within the applicable zoning district and complies with all applicable provisions of this Zoning Code in that the proposed mixed use project with hotel, office, retail, restaurant, and residential uses are allowed in the CD-5/AD-2 zoning district with a Conditional Use Permit and the requested entitlements. The project will be in compliance with all applicable provisions of the Zoning Code except for the Variances requested.*
2. *The location of the proposed use complies with the special purposes of this Zoning Code and the purposes of the applicable zoning district in that the project proposes a mix of commercial and residential uses. These uses are allowed in the CD-5/AD-2 zoning district with the requested entitlements. The required conditions will ensure the project's compatibility in the vicinity and safety to surrounding businesses, residents, institutional uses, and historic properties.*
3. *The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan. See Attachment D.*
4. *The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use in that the project will be compatible with existing commercial and mixed-use development in the vicinity. With the approval of the requested entitlements the conditions of approval, the project will not be detrimental to the health, safety, or general welfare or local residences and commercial establishments in the neighborhood. A Final EIR determined unavoidable significant transportation and traffic (three street segments) impacts and impacts on air quality (during construction would occur from the project; and therefore a Statement of Overriding Considerations has been adopted for the project. The Final EIR determined that all other potentially significant environmental impacts can be adequately addressed with mitigation measures that are incorporated in the Mitigation Monitoring and Reporting Program for the project.*
5. *The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City in that the project will be compatible with existing commercial and mixed-use development in the vicinity. With the approval of the requested entitlements the conditions of approval, the project will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City. A Final EIR determined unavoidable significant transportation and traffic (three street segments)*

impacts and impacts on air quality (during construction would occur from the project; and therefore a Statement of Overriding Considerations has been adopted for the project. The Final EIR determined that all other potentially significant environmental impacts can be adequately addressed with mitigation measures that are incorporated in the Mitigation Monitoring and Reporting Program for the project.

6. *The design, location, operating characteristics, and size of the proposed use would be compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection* in that the mixed-use project with hotel, office, retail, restaurant, and residential uses is compatible with existing and future land uses, aesthetic values, character, scale, and view protection in the vicinity. The existing neighborhood is developed with a mix of commercial, residential, and institutional land uses. The existing neighborhood includes buildings of different heights, construction types, vintages, and architectural character. The general design, site plan, pedestrian orientation to the streets and sidewalks, and the public-use features are in character with other development in the vicinity. The landmark Constance Hotel will be renovated and preserved in accordance with the Secretary of the Interior's Standards. The hotel addition is designed to be compatible with the existing historic structures on the property. The design characteristics of the project will be reviewed in the Design Review process to ensure compliance with the applicable design guidelines.

Approval of Conditional Use Permit: To establish a Lodging-Hotel use.

7. *The proposed use is allowed with a Conditional Use Permit within the applicable zoning district and complies with all applicable provisions of this Zoning Code* in that the Lodging-Hotel use is allowed in the CD-5/AD-2 zoning district with a Conditional Use Permit and the requested entitlements. The hotel would meet all applicable development standards including the off-street parking requirement.
8. *The location of the proposed use complies with the special purposes of this Zoning Code and the purposes of the applicable zoning district* in that the Lodging-Hotel use is allowed in the CD-5/AD-2 zoning district with the requested entitlements. The required conditions will ensure the project's compatibility in the vicinity and safety to surrounding businesses, residents, institutional uses, and historic properties.
9. *The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan.*
See attachment D.
10. *The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use* in that the Lodging-Hotel use will be compatible with existing commercial and mixed-use development in the vicinity. With the approval of the requested entitlements the conditions of approval, the project will not be detrimental to the health, safety, or

general welfare or local residences and commercial establishments in the neighborhood. A Final EIR determined unavoidable significant transportation and traffic (three street segments) impacts and impacts on air quality (during construction would occur from the project; and therefore a Statement of Overriding Considerations has been adopted for the project. The Final EIR determined that all other potentially significant environmental impacts can be adequately addressed with mitigation measures that are incorporated in the Mitigation Monitoring and Reporting Program for the project.

11. *The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City* in that in that the Lodging-Hotel use will be compatible with existing commercial and mixed-use development in the vicinity. With the approval of the requested entitlements the conditions of approval, the project will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City. A Final EIR determined unavoidable significant transportation and traffic (three street segments) impacts and impacts on air quality (during construction would occur from the project; and therefore a Statement of Overriding Considerations has been adopted for the project. The Final EIR determined that all other potentially significant environmental impacts can be adequately addressed with mitigation measures that are incorporated in the Mitigation Monitoring and Reporting Program for the project.

12. *The design, location, operating characteristics, and size of the proposed use would be compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection* in that the project is compatible with existing and future land uses, aesthetic values, character, scale, and view protection in the vicinity. The existing neighborhood is developed with a mix of commercial, residential, and institutional land uses. The existing neighborhood includes buildings of different heights, construction types, vintages, and architectural character. The general design, site plan, pedestrian orientation to the streets and sidewalks, and the public-use features are in character with other development in the vicinity. The landmark Constance Hotel will be renovated and preserved in accordance with the Secretary of the Interior's Standards. The hotel addition is designed to be compatible with the existing historic structures on the property. The design characteristics of the project will be reviewed in the Design Review process to ensure compliance with the applicable design guidelines.

Approval of Minor Conditional Use Permit: For a project with new construction over 15,000 square feet in the Transit Oriented Development (TOD) Area.

13. *The project consists of a use or mix of uses, that encourage transit use and is oriented toward the transit user.* The project ground floor retail, restaurant, and hotel uses. Many visitors and employees may use the Gold Line and/or local bus service to commute to the site. The project will include on-site bicycle parking spaces for cyclists that work and visit the site.

14. *The project is designed to enhance pedestrian access and/or other non-motor vehicle modes of transportation to public transit.* The project includes ground floor retail uses that are oriented toward E. Colorado Bl., S. Lake Ave., and S. Mentor Ave. The project has been designed to comply with the reduced number or on-site parking stalls in compliance with the Transit-Oriented Development standards of the Zoning Code. The project is site is accessible by users of the Gold Line. The project will include on-site bicycle parking spaces for cyclists that work and visit the site.
15. *The project encourages pedestrian activity and/or other non-motor vehicle modes of transportation and reduces dependency on motor vehicles.* The project includes ground floor retail uses that are oriented toward E. Colorado Bl., S. Lake Ave., and S. Mentor Ave. The project has been designed to comply with the reduced number or on-site parking stalls in compliance with the Transit-Oriented Development standards of the Zoning Code. The project includes bicycle parking for employees and visitors. The project is site is accessible by users of the Gold Line. The project will include on-site bicycle parking spaces for cyclists that work and visit the site.
16. *The proposed use is allowed with a Conditional Use Permit within the applicable zoning district and complies with all applicable provisions of this Zoning Code* in that the proposed Transit-Oriented Development, which is a mixed-use project with hotel, office, retail, restaurant, and residential uses, is allowed in the CD-5/AD-2 zoning district with a Conditional Use Permit and the requested entitlements. The project will be in compliance with all applicable provisions of the Zoning Code except for the Variances requested.
17. *The location of the proposed use complies with the special purposes of this Zoning Code and the purposes of the applicable zoning district* in that the proposed Transit-Oriented Development, which is a mixed-use project with hotel, office, retail, restaurant, and residential uses, is allowed in the CD-5/AD-2 zoning district and the Transit Oriented Development Area. The required conditions will ensure the project's compatibility in the vicinity and safety to surrounding businesses, residents, institutional uses, and historic properties.
18. *The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan.*
See Attachment D.
19. *The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use* in that the project will be compatible with existing commercial and mixed-use development in the vicinity. With the approval of the requested entitlements the conditions of approval, the project will not be detrimental to the health, safety, or general welfare or local residences and commercial establishments in the

neighborhood. A Final EIR determined unavoidable significant transportation and traffic (three street segments) impacts and impacts on air quality (during construction would occur from the project; and therefore a Statement of Overriding Considerations has been adopted for the project. The Final EIR determined that all other potentially significant environmental impacts can be adequately addressed with mitigation measures that are incorporated in the Mitigation Monitoring and Reporting Program for the project.

20. *The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City* in that the project will be compatible with existing commercial and mixed-use development in the vicinity. With the approval of the requested entitlements the conditions of approval, the project will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City. A Final EIR determined unavoidable significant transportation and traffic (three street segments) impacts and impacts on air quality (during construction would occur from the project; and therefore a Statement of Overriding Considerations has been adopted for the project. The Final EIR determined that all other potentially significant environmental impacts can be adequately addressed with mitigation measures that are incorporated in the Mitigation Monitoring and Reporting Program for the project.

21. *The design, location, operating characteristics, and size of the proposed use would be compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection* in that the project is compatible with existing and future land uses, aesthetic values, character, scale, and view protection in the vicinity. The existing neighborhood is developed with a mix of commercial, residential, and institutional land uses. The existing neighborhood includes buildings of different heights, construction types, vintages, and architectural character. The general design, site plan, pedestrian orientation to the streets and sidewalks, and the public-use features are in character with other development in the vicinity. The design characteristics of the project will be reviewed in the Design Review process to ensure compliance with the applicable design guidelines.

Approval of Minor Conditional Use Permit: For Shared Parking.

22. *The proposed use is allowed with a Minor Conditional Use Permit within the applicable zoning district and complies with all applicable provisions of this Zoning Code* in that the proposed Shared Parking among different uses on the property is allowed in the CD-5/AD-2 zoning district with a Minor Conditional Use Permit and the requested entitlements.

23. *The location of the proposed use complies with the special purposes of this Zoning Code and the purposes of the applicable zoning district* in that the proposed Shared Parking for the mixed-use project is allowed in the CD-5/AD-2 zoning district and in the Transit Oriented Development Area. The required conditions will ensure the

project's compatibility in the vicinity and safety to surrounding businesses, residents, institutional uses, and historic properties.

24. *The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan.*

See Attachment D.

25. *The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use in that the Shared Parking will be compatible with existing commercial and mixed-use development in the vicinity. With the approval of the requested entitlements the conditions of approval, the project will not be detrimental to the health, safety, or general welfare or local residences and commercial establishments in the neighborhood. A Final EIR determined unavoidable significant transportation and traffic (three street segments) impacts and impacts on air quality (during construction would occur from the project; and therefore a Statement of Overriding Considerations has been adopted for the project. The Final EIR determined that all other potentially significant environmental impacts can be adequately addressed with mitigation measures that are incorporated in the Mitigation Monitoring and Reporting Program for the project.*

26. *The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City in that the Shared Parking and the project will be compatible with existing commercial and mixed-use development in the vicinity. With the approval of the requested entitlements the conditions of approval, the project will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City. A Final EIR determined unavoidable significant transportation and traffic (three street segments) impacts and impacts on air quality (during construction would occur from the project; and therefore a Statement of Overriding Considerations has been adopted for the project. The Final EIR determined that all other potentially significant environmental impacts can be adequately addressed with mitigation measures that are incorporated in the Mitigation Monitoring and Reporting Program for the project.*

27. *The design, location, operating characteristics, and size of the proposed use would be compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection in that the project and the Shared Parking and the project are compatible with existing and future land uses, aesthetic values, character, scale, and view protection in the vicinity. The existing neighborhood is developed with a mix of commercial, residential, and institutional land uses. The existing neighborhood includes buildings of different heights, construction types, vintages, and architectural character. The general design, site plan, pedestrian orientation to the streets and sidewalks, and the public-use features are in character with other development in the vicinity. The design characteristics of*

the project will be reviewed in the Design Review process to ensure compliance with the applicable design guidelines.

28. *The spaces to be provided would be available as long as the uses requiring the spaces lawfully exist* in that the project will provide on-site parking spaces in both development phases would be located in permanent parking structures on the property. The project will supplement the parking spaces with additional parking spaces at 2 N. Lake Avenue that will be under a lease agreement to be filed at the County Recorder.
29. *The quality and efficiency of the parking utilization would equal or exceed the level that is otherwise required* in that for Phase 1, the project proposes to provide 125 parking spaces on-site and an additional 90 parking spaces off-site at the parking structure at 2 N. Lake Avenue, for a total of 215 spaces. For phase 2, the project proposes to provide a total of 445 parking spaces on-site and up to an additional 65 spaces off-site at the parking structure at 2 N. Lake Avenue, for a total of 510 spaces. The project's proposed provision of off-street parking for both phases is consistent with the shared parking analysis of the Final Transportation Study.

Approval of Minor Conditional Use Permit: for Valet Parking.

30. *The proposed use is allowed with a Minor Conditional Use Permit within the applicable zoning district and complies with all applicable provisions of this Zoning Code* in that the Valet Parking is allowed for a mixed-use project with hotel, office, retail, restaurant, and residential uses in the CD-5/AD-2 zoning district with a Minor Conditional Use Permit.
31. *The location of the proposed use complies with the special purposes of this Zoning Code and the purposes of the applicable zoning district* in that the Valet Parking for the mixed-use project with hotel, office, retail, restaurant, and residential uses, is allowed in the CD-5/AD-2 zoning district and the Transit Oriented Development Area. The required conditions will ensure the project's compatibility in the vicinity and safety to surrounding businesses, residents, institutional uses, and historic properties.
32. *The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan.*
See Attachment D.
33. *The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use* in that the Valet Parking and project will be compatible with existing commercial and mixed-use development in the vicinity. With the approval of the requested entitlements the conditions of approval, the project will not be detrimental to the health, safety, or general welfare or local residences and commercial establishments

in the neighborhood. A Final EIR determined unavoidable significant transportation and traffic (three street segments) impacts and impacts on air quality (during construction would occur from the project; and therefore a Statement of Overriding Considerations has been adopted for the project. The Final EIR determined that all other potentially significant environmental impacts can be adequately addressed with mitigation measures that are incorporated in the Mitigation Monitoring and Reporting Program for the project.

34. *The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City* in that the Valet Parking and project will be compatible with existing commercial and mixed-use development in the vicinity. With the approval of the requested entitlements the conditions of approval, the project will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City. A Final EIR determined unavoidable significant transportation and traffic (three street segments) impacts and impacts on air quality (during construction would occur from the project; and therefore a Statement of Overriding Considerations has been adopted for the project. The Final EIR determined that all other potentially significant environmental impacts can be adequately addressed with mitigation measures that are incorporated in the Mitigation Monitoring and Reporting Program for the project.

35. *The design, location, operating characteristics, and size of the proposed use would be compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection* in that Valet Parking and project are compatible with existing and future land uses, aesthetic values, character, scale, and view protection in the vicinity. The existing neighborhood is developed with a mix of commercial, residential, and institutional land uses. The existing neighborhood includes buildings of different heights, construction types, vintages, and architectural character. The general design, site plan, pedestrian orientation to the streets and sidewalks, and the public-use features are in character with other development in the vicinity. The design characteristics of the project will be reviewed in the Design Review process to ensure compliance with the applicable design guidelines.

Approval of Minor Conditional Use Permit: For tandem parking.

36. *The proposed use is allowed with a Minor Conditional Use Permit within the applicable zoning district and complies with all applicable provisions of this Zoning Code* in that the proposed Tandem Parking for a mixed-use project with hotel, office, retail, restaurant, and residential uses, is allowed in the CD-5/AD-2 zoning district with a Minor Conditional Use Permit.

37. *The location of the proposed use complies with the special purposes of this Zoning Code and the purposes of the applicable zoning district* in that the proposed Tandem Parking for a mixed-use project with hotel, office, retail, restaurant, and residential

uses, is allowed in the CD-5/AD-2 zoning district and the Transit Oriented Development Area. The required conditions will ensure the project's compatibility in the vicinity and safety to surrounding businesses, residents, institutional uses, and historic properties.

38. *The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan.*
See Attachment D.
39. *The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use in that the project will be compatible with existing commercial and mixed-use development in the vicinity. With the approval of the requested entitlements the conditions of approval, the Tandem Parking and project will not be detrimental to the health, safety, or general welfare or local residences and commercial establishments in the neighborhood. A Final EIR determined unavoidable significant transportation and traffic (three street segments) impacts and impacts on air quality (during construction would occur from the project; and therefore a Statement of Overriding Considerations has been adopted for the project. The Final EIR determined that all other potentially significant environmental impacts can be adequately addressed with mitigation measures that are incorporated in the Mitigation Monitoring and Reporting Program for the project.*
40. *The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City in that the Tandem Parking and project will be compatible with existing commercial and mixed-use development in the vicinity. With the approval of the requested entitlements the conditions of approval, the project will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City. A Final EIR determined unavoidable significant transportation and traffic (three street segments) impacts and impacts on air quality (during construction would occur from the project; and therefore a Statement of Overriding Considerations has been adopted for the project. The Final EIR determined that all other potentially significant environmental impacts can be adequately addressed with mitigation measures that are incorporated in the Mitigation Monitoring and Reporting Program for the project.*
41. *The design, location, operating characteristics, and size of the proposed use would be compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection in that the Tandem Parking and project are compatible with existing and future land uses, aesthetic values, character, scale, and view protection in the vicinity. The existing neighborhood is developed with a mix of commercial, residential, and institutional land uses. The existing neighborhood includes buildings of different heights, construction types, vintages, and architectural character. The general design, site plan, pedestrian*

orientation to the streets and sidewalks, and the public-use features are in character with other development in the vicinity. The design characteristics of the project will be reviewed in the Design Review process to ensure compliance with the applicable design guidelines.

Approval of Variance: For a reduction in the number of required loading spaces.

42. *There are exceptional or extraordinary circumstances or conditions applicable to the subject site that do not apply generally to sites in the same zoning district* in the project will retain and renovate the historic Constance Hotel structure and landmark-eligible one-story buildings that front E. Colorado Bl. These building cover approximately 20 percent of the project site. In order to retain the historic integrity of these buildings, the project proposes to preserve them without relocation or subterranean excavation beneath them for parking. Further, the project proposes substantial open space and distance between the new construction and historic structures in order to minimize any aesthetic impacts on historic resources and to provide an appropriate design solution (e.g., site plan, vehicular ingress/egress, parking, etc.) for the infill development project. The existing historic buildings on the property are a unique condition of the property that generally doesn't exist on other properties in the CD-5 zoning district. Also, the Central District Specific Plan discourages driveways with vehicular access from Colorado Bl. This results in the placement of all driveways for project be located off the other streets, which further influences the design of the site and the loading spaces.
43. *Granting the application is necessary for the preservation and enjoyment of a substantial property right of the applicant and to prevent unreasonable property loss or unnecessary hardship* in that in order to provide the total of nine required loading spaces for the project on a site which includes permanent, historic structures that are proposed for preservation, as well as limited driveway access from the streets for vehicles, the new construction would require extraordinary design features such as unusual construction methods, heights for overhead clearances, and/or physical modifications to the existing historic buildings. The provision of the four loading spaces on the east and west sides of the property (2 each) results in an efficient loading plan. Otherwise, excessive loading spaces and activities on the site could potentially conflict with vehicular and pedestrian circulation. Therefore, the reduction in the required number of loading spaces from nine to four is necessary for the preservation and enjoyment of a substantial property right of the applicant and to prevent unreasonable property loss or unnecessary hardship.
44. *Granting the application would not be detrimental or injurious to property or improvements in the vicinity of the subject site, or to the public health, safety or general welfare* in that with the conditions of approval, loading demands for the project can be achieved by with the proposed four loading spaces (2 loading spaces in each phase) without being detrimental or injurious to property or improvements in the vicinity of the subject site

45. *Granting the application is in conformance with the goals, policies and objectives of the General Plan and the purpose and intent of any applicable specific plan and the purposes of this Zoning Code, and would not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district* in that the approval of the Variance would not constitute a grant of special privilege existing site plan and historic structures on the property. See Attachment D.

46. Cost to the applicant of strict compliance with the regulation should not be the primary reason for granting the Variance because the cost to the applicant has not been considered the primary factor at any time throughout the review of this application.

Approval of Variance: For reductions in loading space dimensional requirements, turning radius, and configuration of loading spaces.

47. *There are exceptional or extraordinary circumstances or conditions applicable to the subject site that do not apply generally to sites in the same zoning district* in the project will retain and renovate the historic Constance Hotel structure and landmark-eligible one-story buildings that front E. Colorado Bl. These building cover approximately 20 percent of the project site. In order to retain the historic integrity of these buildings, the project proposes to preserve them without relocation or subterranean excavation beneath them for parking. Further, the project proposes substantial open space and distance between the new construction and historic structures in order to minimize any aesthetic impacts on historic resources and to provide an appropriate design solution (e.g., site plan, vehicular ingress/egress, parking, etc.) for the infill development project. The existing historic buildings on the property are a unique condition of the property that generally doesn't exist on other properties in the CD-5 zoning district. Also, the Central District Specific Plan discourages driveways with vehicular access from Colorado Bl. This results in the placement of all driveways for project be located off the other streets, which further influences the design of the site and the loading spaces.

48. *Granting the application is necessary for the preservation and enjoyment of a substantial property right of the applicant and to prevent unreasonable property loss or unnecessary hardship* in that in order to provide loading space dimensional requirements for the proposed spaces for the project on the site which includes permanent, historic structures that are proposed for preservation, as well as limited driveway access from the streets for vehicles, the new construction would require extraordinary design features such as unusual construction methods, heights for overhead clearances, and/or physical modifications to the existing historic buildings. The proposed dimensions of the four loading spaces on the east and west sides of the property (2 each) result in an efficient loading plan that is appropriate for the site. Creating larger loading spaces that occupy more of the property, especially on the ground floor, could potentially conflict with vehicular and pedestrian circulation. Therefore, the reductions in dimensional requirements of the loading spaces are

necessary for the preservation and enjoyment of a substantial property right of the applicant and to prevent unreasonable property loss or unnecessary hardship.

49. *Granting the application would not be detrimental or injurious to property or improvements in the vicinity of the subject site, or to the public health, safety or general welfare* in that with the conditions of approval, loading demands for the project can be achieved by with the proposed four loading spaces (2 loading spaces in each phase) with reduced dimensions without being detrimental or injurious to property or improvements in the vicinity of the subject site
50. *Granting the application is in conformance with the goals, policies and objectives of the General Plan and the purpose and intent of any applicable specific plan and the purposes of this Zoning Code, and would not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district* in that the approval of the Variance would not constitute a grant of special privilege existing site plan and historic structures on the property. See Attachment D.
51. Cost to the applicant of strict compliance with the regulation should not be the primary reason for granting the Variance because the cost to the applicant has not been considered the primary factor at any time throughout the review of this application.

Approval of Private Tree Removal: For the removal of three protected specimen trees - Eucalyptus sideroxylon (Rosy-red ironbark) [19.4"-dbh x 30'-h; Ficus benjamina (Weeping fig) 20"-dbh x 25'-h; and a multi-trunk Ailanthus altissima (Tree of Heaven) [49.5"-dbh x 40'-h]

52. *There is a substantial hardship to the property owner in the enjoyment and use of the real property if the injury or removal of the private trees is not permitted.* The trees are located in the interior of the subject property. The extensive excavation for the below grade public and private parking structure will require the removal of all site trees and will be replaced as part of the project's new landscape plan. To not allow the project to construct the underground parking garage in order to retain the trees would be substantial hardship to the use of the real property because it could not accommodate a reasonable development that is typical of other large commercial and mixed-use developments in the vicinity.