

**CITY OF SAN MATEO**  
**RESOLUTION NO. \_\_\_\_ (2022)**

**RESOLUTION APPROVING A SPECIAL USE PERMIT AND PARKING VARIANCE TO ALLOW A COMMERCIAL RECREATION USE IN THE TRANSIT-ORIENTED DEVELOPMENT ZONE AND TO ALLOW SHARED PARKING FACILITIES AT 1701 LESLIE STREET AND DETERMINE THE PROJECT QUALIFIES FOR A CATEGORICAL EXEMPTION FROM FURTHER ENVIRONMENTAL REVIEW UNDER CLASS 3, SECTION 15303 THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

WHEREAS, Regan Fletcher of California Ninja Academy, LLC. (herein referred to as the “Applicant”) submitted a planning application PA-2021-058 with the Planning Division for a Special Use Permit and Parking Variance for property located at 1701 Leslie St. to allow a commercial recreation use to locate in the Transit-Oriented Development zone and to allow the same off-street parking facilities to qualify as a required facility for two uses (collectively referred to as “Project”) in the City of San Mateo (“City”); and

WHEREAS, the proposed Project is located within the Rail Corridor Transit-Oriented Development Plan (Rail Corridor Plan) area and requires a Special Use Permit; and

WHEREAS, the San Mateo City Charter and Municipal Code Section 27.90.040 authorizes the Planning Commission to take final action on Special Use Permits for “non-designated uses which are so similar to any specifically permitted use as designated in the Rail Corridor Plan Land Use Plan so as to be virtually identical thereto in terms of impact and land use”; and

WHEREAS, the San Mateo City Charter and Municipal Code Section 27.78.040 authorizes the Planning Commission to take final action on variances to permit the same off-street parking facilities to qualify as a required facility for two or more uses, provided the substantial use of such facility by each use does not take place at approximately the same hours of the same days of the week; and

WHEREAS, approval of the applicant’s proposal is considered a “Project” for purposes of the California Environmental Quality Act, Pub. Resources Code §21000, et seq. (“CEQA”); and

WHEREAS, the City finds that the Project is categorically exempt from CEQA under Section 15303 New Construction and Conversion of Small Structures; and,

WHEREAS, the City finds the Project consistent with the applicable policies of the General Plan and other applicable policies; and,

WHEREAS, the Planning Commission held a public hearing for the Project on June 28, 2022, duly noticed, at which all public comments were considered; and,

WHEREAS, all applicable Conditions of Approval have been attached as Exhibit A.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF SAN MATEO, CALIFORNIA, HEREBY FINDS AND RESOLVES that:

1. The Planning Commission finds on the basis of the whole record before it that the Project will not have a significant effect on the environment and is therefore categorically exempt from the provisions of CEQA under CEQA Class 3, Section 15303 as a “conversion of small structure” because it consists of the conversion of an existing building, which was previously used for a dance studio, into a gym facility, and involves no expansion of use or any new impacts.

BE IT FURTHER RESOLVED, BY THE PLANNING COMMISSION OF THE CITY OF SAN MATEO, CALIFORNIA  
AS FOLLOWS:

1. The Project conforms to applicable policies of the Land Use Element, Circulation Element, and Urban Design Element of the City’s General Plan.
  - a. The Project conforms to Land Use Element Policy LU 3.4 and PA 5.2, in that the Project implements the Rail Corridor Plan by locating a neighborhood and commuter serving specialty use adjacent to the Hayward Park Caltrain Station.
  - b. The Project conforms to policies C 2.5 and C 2.11 of the Circulation Element, in that a Traffic Impact Analysis (TIA), including a parking demand study, as required by the Rail Corridor Plan, has been completed for the Project. The TIA found that the Project is exempt from vehicle miles traveled (VMT) and will not have a significant impact on traffic operations in the area. The TIA also found that with 22 dedicated spaces, the Project will be able to have a maximum capacity, inclusive of patrons and staff, of 14 people in the facility per session between 11:00am-5:00pm on weekdays. With the utilization of the additional 20 shared parking spaces (42 spaces in total), the Project will be able to have a maximum capacity, inclusive of patrons and staff, of 27 people in the facility per session after 5:00pm on weekdays, weekends, and holidays. Furthermore, the Applicant has voluntarily committed to the implementation of Transportation Demand Management (TDM) measures for the life of the Project including subsidizing monthly transit passes for fulltime employees who commute to work, providing a discount to Hayward Park residents within a 10-15 minute walking distance, and encouraging patrons to use local transit by posting Caltrain and SamTrans schedules onsite and on the Project’s website. Lastly, the TIA determined that the Project’s trip-reduction measures will exceed the Rail Corridor Plan’s goal of 25% reduction in new trips generated.
  - c. The Project conforms to Policy UD 1.8 of the Urban Design Element in that the Project will maximize the Hayward Park Station’s potential as a local transit center. The Project will implement TDM measures to encourage the use of the Hayward Park Caltrain Station as the main transit option for staff who commute to work and patrons of the facility.
2. The Project conforms to applicable objectives and policies of the City’s Rail Corridor Plan.
  - a. The Project conforms to Objective (F) of the Rail Corridor Plan in that the Project is utilizing strategies to manage vehicle trips and encourage walking, biking, and transit usage. The Project will subsidize monthly transit passes for staff who commute to work, prioritize recruitment of staff from the surrounding neighborhood, hold a discounted neighborhood

hour for residents who live within a 10-15 minute walking distance, and provide bike racks and a bike repair station.

- b. The Project conforms to Objectives (J) and (Q) of the Rail Corridor Plan in that the Project's location in a building shared with an office will result in a mixed-use (commercial recreation/office) development. As each use has different hours of operation, the Project proposes to enter into a shared parking agreement with the office use. This agreement allows the two uses to share a parking facility without affecting parking demand or hours of operation. The utilization of shared parking will reduce the amount of land and/or buildings devoted solely to storage of automobiles.
- c. The Project conforms to Objective (T) of the Rail Corridor Plan in that the Project will not significantly increase traffic levels on residential streets in the existing neighborhood. The Traffic and Parking Study found that the Project will generate fewer vehicle trips than the previous use while also reducing its new vehicle trips by at least 25%.
- d. The Project conforms to Policy 5.12 of the Rail Corridor Plan in that the Project provides a neighborhood serving specialty use that would enhance the neighborhood by providing a unique recreational facility for adults and children to use. On weekdays the Project will be open for younger children and those with flexible work schedules during the day and will market itself to commuters who want to stop by the gym before returning home from work. Additionally, the Project proposes to dedicate one hour during the work week as "Locals Hour", where a discount is given to neighborhood residents. The Applicant will also prioritize recruiting staff from the Hayward Park neighborhood.
- e. The Project conforms to Policy 7.21 in the Rail Corridor Plan in that a Traffic Impact Analysis (TIA) and Parking Study has been prepared for the Project, which includes the Applicant's proposed trip-reduction measures and a maximum capacity for patrons and staff of the facility based on available parking.

NOW, THEREFORE, BE IT RESOLVED THAT THE PLANNING COMMISSION OF THE CITY OF SAN MATEO, DOES HEREBY APPROVE THE SPECIAL USE PERMIT AND PARKING VARIANCE (PA-2021-058) AT 1701 LESLIE ST., APN 035-215-050 BASED UPON THE FOLLOWING FINDINGS FOR APPROVAL AND THE CONDITIONS OF APPROVAL INCLUDED IN EXHIBIT A TO THIS RESOLUTION:

- 1. The Special Use Permit (Municipal Code Section 27.74.020) application to allow a commercial recreation use at 1701 Leslie St. and associated Conditions of Approval are approved based on the following findings:
  - a. The proposed use is so similar to any specifically permitted use as designated in the Rail Corridor Plan Land Use Plan so as to be virtually identical thereto in terms of impact and land use requirements.
    - i. The proposed Ninja Academy commercial recreation use is similar to the specifically allowed use of Transit-Oriented Neighborhood and Commuter Serving Specialty Use in the Rail Corridor Plan given its unique class offerings, the inclusion of benefits set aside for neighboring residents, and proximity to the Hayward Park Caltrain Station to serve commuters. Conditions of approval for the life of the project have been integrated that

regulate the hours of operation, trip-reduction measures, and maximum capacity of the facility based on the executed shared parking agreement and findings of the Traffic and Parking Statement Memo.

- b. The proposed use will not adversely affect the general health, safety and/or welfare of the community nor will it cause injury or disturbance to adjacent property by traffic or by excessive noise, smoke, odor, noxious gas, dust, glare, heat, fumes or industrial waste.
  - i. The proposed Ninja Academy commercial recreation use will not adversely affect the general health, safety and/or welfare of the community nor will it cause injury or disturbance to adjacent property given that the use and operations of the site are required to be in compliance with all applicable Building Codes, Fire Codes, and the Municipal Code. The Project will also be subject to conditions of approval at all times during construction of the project pertaining to construction work hours for all building improvements.
- 2. The Parking Variance (Municipal Code Section 27.78.020) application to allow the same off-street parking facilities to qualify as a required facility for two uses, provided the substantial use of such facility by each use does not take place at approximately the same hours of the same days of the week at 1701 Leslie St. and associated Conditions of Approval are approved based on the following findings:
  - a. There are exceptional or extraordinary circumstances or conditions applicable to the property that do not apply generally to property in the same zone or neighborhood including buildings of architectural or historical significance or of architectural interest as recognized by action of the City Council or another government agency.
    - i. The existing warehouse-style building is located in the Transit-Oriented Development (TOD) zone. The purpose of this zone is to implement the Rail Corridor Plan by allowing uses that provide goods and services within easy walking distance for both residents and commuters. In order to develop uses in proximity to the Hayward Park Station, the Rail Corridor Plan encourages shared parking between uses to reduce the amount of land that is dedicated solely to parking. Encouragement of shared parking does not apply to other uses in the Hayward Park neighborhood. The warehouse-style buildings adjacent to the Project on the southwest side of Leslie St. are located in the same neighborhood as the project; however, they are not subject to the same recommendations for shared parking facilities. Instead, they are required by Municipal Code Chapter 27.64 to provide separate parking facilities for individual uses, which is contrary to the objectives and policies of the Rail Corridor Plan and the TOD zoning district.
  - b. A variance is necessary for the preservation and enjoyment of a substantial property right of the applicant possessed by other property owners in the same zone or neighborhood.
    - i. Under Municipal Code Chapter 27.64, when a change in use occurs, the property receives parking credits from the previous use and is only required to provide additional parking if the new use's parking ratio exceeds the former. This chapter does not apply to the TOD zone, however. Given the project location within the Rail Corridor Plan, a transportation analysis is required to be completed and parking credits for the previous use are not

permitted to be used. Without the use of parking credits or shared parking, the property would be required to provide a substantially higher number of parking stalls than the surrounding service commercial and office uses within the same neighborhood, making it infeasible to reuse the existing warehouse-style building.

- c. Granting of the variance will not be materially detrimental to the public health, safety or welfare or materially injurious to other property or improvements in the neighborhood in which the property is located.
  - i. The Project will utilize shared parking spaces to meet the parking demand, will not increase the amount of traffic by limiting the Project's capacity based on the number of available parking spaces, and will not result in any exterior changes to the existing building or site layout. Hence, there would be no public health, safety, or welfare impacts nor will the proposal cause any injury to other property or improvements in the neighborhood.
- d. Granting of the variance will not adversely affect or be inconsistent with the general plan.
  - i. Granting of the variance will not adversely affect or be inconsistent with the General Plan because the project will be in compliance with the Rail Corridor's policies of encouraging shared parking, providing trip-reduction measures, and locating a transit-oriented use adjacent to the Hayward Park Station. The project is consistent with the General Plan as detailed in prior sections.

**EXHIBIT A**  
**CONDITIONS OF APPROVAL**  
**PA-2021-058, 1701 LESLIE ST., SUP + PARKING VARIANCE**

1701 LESLIE ST 100, SAN MATEO, CA 94402-2409  
PARCEL # 035215050  
AS APPROVED BY THE PLANNING COMMISSION ON 6/28/2022

The following conditions of approval apply to the project referenced above. The conditions of approval are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Types of Building permits include Demolition, Shoring/Excavation, Foundation, and Superstructure.

**The following conditions shall be satisfied prior to issuance of a DEMOLITION PERMIT, BUILDING PERMIT FOR SHORING OR FOUNDATION, or SITE DEVELOPMENT PERMIT, whichever is issued first, or prior to the deadline specified in that condition.**

**Planning Division (PA)**

- 1 APPROVED PLANNING APPLICATION CONFORMANCE – All building permit plans, details, and subsequent construction shall substantially conform with the approved planning application. This includes but is not limited to plans, materials, project description, and other items submitted as part of the approved planning application. Any proposed modifications to the approved planning application shall be reviewed and approved by the Community Development Director, or his/her designee, prior to construction of the proposed modifications. The Community Development Director, or his/her designee, shall determine whether the proposed modifications substantially conform with the approved planning application, or whether a planning application modification is required to be submitted to permit the proposed modifications, as required by Municipal Code Section 27.08.080 Modifications. (PLANNING)
- 2 CONDITIONS OF APPROVAL – This complete list of Conditions of Approval shall be reproduced onto the second sheet of all building permit plan sets. (PLANNING)
- 3 PAYMENT OF OUTSTANDING PLANNING APPLICATION FEES – The applicant shall pay all outstanding planning application fees. (PLANNING)

**The following conditions shall be satisfied prior to issuance of a BUILDING PERMIT FOR THE SUPERSTRUCTURE.**

**Planning Division (PA)**

- 4 LOCATION AND SCREENING OF ABOVE GROUND UTILITIES AND EQUIPMENT – All screening for any ground-level utilities, equipment, and other project related operational/utility devices shall be shown on the building permit plans in substantial conformance with the approved planning application. All above ground utilities and equipment shall be screened

with landscaping, fencing, and/or other solid materials to the satisfaction of the Community Development Director, or his/her designee. (PLANNING)

- 5 PARKING PLAN – The applicant shall include an updated parking plan in the building permit plans that clarifies the location, availability, and designation of all off-street parking spaces attributed to the project based on the updated Shared Parking Agreement. (PLANNING)
- 6 SHARED PARKING AGREEMENT – The applicant shall submit an updated Shared Parking Agreement with the updated parking plan, as described in the “PARKING PLAN” condition, as an exhibit. (PLANNING)

#### **Building Division (PA)**

- 7 CALGREEN – The building permit plans shall incorporate the applicable CALGreen Checklist noting the green building measures the project will incorporate in accordance with the California Green Building Standards Code and City of San Mateo Reach Codes subject to the review and approval by the Building Official, or his/her designee. Current City of San Mateo CALGreen checklists are located on Building Division webpage or will be provided by Community Development Department staff, if requested. (BUILDING)

#### **Fire Department (PA)**

- 8 CODE CONFORMANCE – The applicant shall indicate on all building permit plans that all construction shall meet current code standards at the time of building permit submittal. The building permit plans are subject to review and approval by the Fire Marshal or his/her designee. (FIRE)
- 9 FIRE DEPARTMENT SUBMITTALS – The applicant shall submit all plans involving fire systems (including but not limited to fire sprinklers, fire hydrants, and fire alarms) in conjunction with the superstructure building permit plans to the Fire Department. The plans are subject to review and approval by the Fire Marshal or his/her designee. (FIRE)

**The following conditions shall be met prior to RELEASE OF UTILITIES, FINAL INSPECTION, ISSUANCE OF A TEMPORARY CERTIFICATE OF OCCUPANCY, or ISSUANCE OF A CERTIFICATE OF OCCUPANCY, whichever occurs first.**

#### **Planning Division (PA)**

- 10 PLANNING FINAL INSPECTION – Upon completion of all construction and landscaping, the applicant shall request the Project Planner conduct a Planning Final inspection for verification of compliance with all outstanding conditions of approval. The applicant shall contact the Project Planner to schedule each inspection a minimum of 72 hours in advance of the requested inspection. (PLANNING)

**The following conditions shall be complied with AT ALL TIMES DURING THE CONSTRUCTION PHASE OF THE PROJECT.**

**Building Division (PA)**

- 11 CONSTRUCTION WORK HOURS – Construction shall occur only between the hours of 7:00 a.m. and 7:00 p.m. on Monday through Friday, between 9:00 a.m. and 5:00 p.m. on Saturday, and between 12:00 noon and 4:00 p.m. on Sundays and holidays. These hours do not apply to construction that takes place inside a completely enclosed building and does not exceed the exterior ambient noise level as measured 10 feet from the exterior property lines. The applicant shall conform to the construction work hours to control traffic congestion, noise, and dust unless an exemption is granted in accordance with Municipal Code Section 23.06.061. (BUILDING)

**Fire Department (PA)**

- 12 EGRESS – The applicant shall maintain required egress for all adjacent buildings/properties. (FIRE)

**Public Works Department (PA)**

- 13 BEST MANAGEMENT PRACTICES (BMP) – The applicant shall perform all construction activities in accordance with the City's Storm Water Management and Discharge Control Rules and Regulations (SMMC 7.39), and the San Mateo Countywide Water Pollution Prevention Plan (SMCWPPP) by reference. Detailed information can be located at: <https://www.flowstobay.org/preventing-stormwater-pollution/with-new-redevelopment/construction-best-practices/> (PUBLIC WORKS)

**The following conditions shall be complied with AT ALL TIMES that the project permitted by this planning application occupies the premises.**

**Planning Division (PA)**

- 14 APPROVED PLANNING APPLICATION CONFORMANCE AT ALL TIMES – All physical improvements, uses, and operational requirements authorized by the approved planning application shall, at all times that the use permitted by this planning application occupies the premises, substantially conform with the approved planning application. This includes but is not limited to plans, materials, project description, and other items submitted as part of the approved planning application. Any proposed modifications to the approved planning application shall be reviewed and approved by the Community Development Director, or his/her designee, prior to construction of the proposed modifications. The Community Development Director, or his/her designee shall determine whether the proposed modifications substantially conform with the approved planning application, or whether a planning application modification is required to be submitted to permit the proposed modifications, as required by Municipal Code Section 27.08.080 Modifications. (PLANNING)



15 BUSINESS PLAN CONFORMANCE – The Business Plan shall substantially conform with the approved planning application. This includes but is not limited to hours of operation, class schedules with a 10 minute offset between classes, class size, and number of staff onsite per class. A copy of the Business Plan shall be kept on site at all times. Any proposed modifications to the Business Plan shall be reviewed by the Community Development Director, or his/her designee, prior to implementation of the proposed modifications. Proposed modifications which do not substantially conform with the approved planning application shall require a Planning Application Modification in accordance with Municipal Code Section 27.08.080 Modifications. (PLANNING)

16 MAXIMUM CAPACITY OF FACILITY – The maximum capacity of the facility shall be equal to the number of available parking spaces, excluding accessible stalls, multiplied by 0.67, as established by the Traffic and Parking Statement Memo by Kittelson & Associates dated June of 2022. Based on the approved planning application, the facility shall have a total maximum capacity per-session, including staff and patrons, as follows:

(A) Prior to 5 pm on Weekdays: 14 Occupants

(B) After 5 pm on Weekdays: 27 Occupants

(C) Weekends and Holidays, and while the adjacent tenant is not in operation: 27 Occupants

Any proposed modification to the maximum capacity shall be based on the calculation specified above. Any proposed modification to the Shared Parking Agreement or the Business Plan shall be reviewed, respectively, in accordance with the “SHARED PARKING AGREEMENT CONFORMANCE” and “BUSINESS PLAN CONFORMANCE” conditions of approval. (PLANNING)

17 SHARED PARKING AGREEMENT CONFORMANCE – The Shared Parking Agreement shall substantially conform with the approved planning application. This includes but is not limited to the number and location of all dedicated parking spaces as well as the number and location of shared parking spaces and their specific availability. All parking spaces addressed in the Shared Parking Agreement shall be identified with the days and times they are available for use. A copy of the Shared Parking Agreement shall be kept onsite at all time. Any proposed modifications to the Shared Parking Agreement shall be reviewed by the Community Development Director, or his/her designee, prior to implementation of the proposed modifications. Proposed modifications which do not substantially conform with the approved planning application shall require a Planning Application Modification in accordance with Municipal Code Section 27.08.080 Modifications. (PLANNING)

#### **City Attorney (PA)**

18 INDEMNIFICATION – The Applicant shall defend (with counsel approved by City), indemnify, and hold harmless the City, its elected and appointed officials, employees, and agents, from and against any claim, action, or proceeding (including without limitation any appeal or petition for review thereof) against the City or its elected and appointed officials,

employees, and agents, related to an approval of the Project, including without limitation any related application, permit, certification, condition, environmental determination, other approval, compliance or failure to comply with applicable laws and regulations, and/or processing methods ("Challenge"). The City may (but is not obligated to) defend such Challenge as the City, in its sole discretion, determines appropriate, all at the Applicant's sole cost and expense. The Applicant shall bear any and all losses, damages, injuries, liabilities, costs, and expenses (including, without limitation, staff time and in-house attorney fees on a fully-loaded basis, attorney fees for outside legal counsel, expert witness fees, court costs, and other litigation expenses) arising out of or related to any Challenge ("Costs"), whether incurred by the Applicant, City, or awarded to any third party, and shall pay to the City upon demand any Costs incurred by the City. No modification of the Project, any application, permit, certification, condition, environmental determination, other approval, change in applicable laws and regulations, or change in processing methods shall alter the Applicant's indemnity obligation. Per Government Code Section 66474.9, the Applicant's indemnification obligation with respect to any Challenge concerning a subdivision (tentative, parcel, or final map application or approval) shall be limited to actions brought within the time period provided for in Government Code Section 66499.37, unless such time period is extended for any reason. The City shall promptly notify the Applicant of any such claim, action, or proceeding, and shall cooperate fully in the defense. (CITY ATTORNEY)

- 19 PENALTY – In accordance with San Mateo Municipal Code section 27.02.210-Violations of Planning Application Conditions, any violation of any of the conditions of approval is unlawful and will subject the applicant to the penalties set forth in Chapter 1.04-General Penalty of the San Mateo Municipal Code as well as any other available legal remedies. (CITY ATTORNEY)

#### **Public Works Department (PA)**

- 20 TRANSPORTATION DEMAND MANAGEMENT (TDM) PROGRAM – The project location falls within the boundary of the San Mateo Rail Corridor TOD Zoning district and is therefore required to prepare and implement a Transportation Demand Management (TDM) Plan. A Transportation Demand Management (TDM) Program has been voluntarily provided by the applicant and a trip generation analysis has been prepared for this project (refer to Traffic and Parking Memo Statement, by Kittelson & Associates, dated June 1, 2022). The property owner or designee shall implement the Transportation Demand Management Program using programs in compliance with the aforementioned TDM Plan. These programs, once implemented, shall be on-going for the occupied life of the development. The program shall be recorded in a manner deemed appropriate by the City Attorney. The project's trip generation shall be reduced by 25% through the following TDM Program provided by the applicant:

- (A) Subsidize monthly transit passes for fulltime employees who commute to work;
- (B) Discount offered to Hayward Park residents within a 10-15 minute walking distance;

- (C) Recruit staff from the Hayward Park neighborhood;
- (D) Priority parking for carpools;
- (E) Provide bicycle racks and a bicycle repair station; and,
- (F) Post CalTrain and SamTrans schedules in lobby area and on the California Ninja Academy website

(PUBLIC WORKS/ PLANNING)