

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A SITE DEVELOPMENT PERMIT TO ALLOW THE REMOVAL OF 14 ORDINANCE-SIZE TREES, 34 NON-ORDINANCE SIZE TREES, ALLOW FOR THE CONVERSION OF APPROXIMATELY 37,974 SQUARE FEET OF GROUND FLOOR COMMERCIAL/RETAIL SPACE TO OFFICE SPACE AND ALLOW FOR AN ADDITION OF APPROXIMATELY 26,088 SQUARE FEET TO AN EXISTING APPROXIMATELY 448,295-SQUARE FOOT OFFICE BUILDING WITH A FIVE PERCENT PARKING REDUCTION ON AN APPROXIMATELY 7.22-GROSS ACRE SITE AT THE NORTHWEST CORNER OF NORTH FIRST STREET AND METRO DRIVE (25, 101, & 181 METRO DRIVE)**

**FILE NO. H19-045**

**WHEREAS**, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on September 26, 2019, an application (File No. H19-045) was filed by the applicant, Hudson Metro Plaza, LLC, with the City of San José for a Site Development Permit to allow the removal of 14 ordinance-size trees, 34 non-ordinance size trees, allow for the conversion of approximately 37,974 square feet of ground floor commercial/retail space to office space and allow for an addition of approximately 26,088 square feet to an existing approximately 448,295-square foot office building on an approximately 7.22-gross acre site, on that certain real property situated in the IP Industrial Park Zoning District and located on the northwest corner of North 1st Street and Metro Drive (25, 101, & 181 Metro Drive, San José, which real property is sometimes referred to herein as “subject property”); and

**WHEREAS**, the subject property is all that real property more particularly described in Exhibit “A,” entitled “Legal Description,” and depicted in Exhibit “B,” entitled “Plat Map,”

which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

**WHEREAS**, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, this City Council conducted a hearing on said application notice of which was duly given; and

**WHEREAS**, at said hearing, this City Council gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

**WHEREAS**, at said hearing, this City Council received and considered the reports and recommendation of the City's Director of Planning, Building and Code Enforcement; and

**WHEREAS**, at said hearing, this City Council received in evidence a development plan for the subject property entitled, "Metro Plaza Office Building Adaptive Reuse" dated received February 21, 2020, said development plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said development plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

**WHEREAS**, said public hearing before this City Council was conducted in all respects as required by the San José Municipal Code and the rules of this City Council; and

**WHEREAS**, this City Council has heard and considered the testimony presented to it at the public hearing, and has further considered written materials submitted on behalf of the project applicant, City staff, and other interested parties;

**NOW, THEREFORE**, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

After considering all of the evidence presented at the Public Hearing, the City Council finds that the following are the relevant facts regarding this proposed project:

1. **Site Description and Surrounding Uses.** The subject 7.22-gross acre site is located on a corner lot occupied by an existing 448,295 square feet office building. The subject site is surrounded by two office buildings and a surface parking lot to the south. To the east of the subject site, across North 1<sup>st</sup> Street, is the Bay 101 Casino. A Chevron gas station, Fairfield Inn & Suites, and office complex are located adjacent to the subject site to the north. An office complex is located across Technology Drive to the west of the subject site. The site currently has 1,524 vehicle parking spaces and is accessed by six driveways, one on North 1<sup>st</sup> Street, one on Technology Drive and four driveways along Metro Drive.
2. **Project Description.** The project includes the removal of 14 ordinance-size trees, 34 non ordinance-size trees, and the conversion of 37,974 square feet of ground floor commercial/retail space to office space. The project would include the addition of approximately 26,088 square feet to the existing building. Of the square footage added, 6,010 square feet would be devoted to lobby and lobby amenity space and 20,778 square feet would be devoted to office space. All office and lobby space would be added to the ground floor level of the existing building. The project would include landscaping and walkway improvements at the front and sides of the building along Metro Drive, North First Street, and Technology Drive.

The addition would require an additional 88 off-street vehicle parking spaces for a total of 1,612 parking spaces. The project would include a five percent parking reduction for a total of 1,524 required vehicle parking spaces. The site already has 1,524 vehicle parking spaces on-site and therefore no additional parking would be created to meet the parking requirement of the project. The project site has six existing access driveways, four on Metro Drive, one on North 1<sup>st</sup> Street, and one on Technology Drive. The four access driveways along Metro Drive would be reduced to two as the two parking lots connecting the driveways would be reconfigured. The two driveways along North 1<sup>st</sup> Street and Technology Drive, which provide access to the attached parking garage, would remain.

3. **General Plan Conformance.** The subject site has an Envision San José 2040 General Plan Land Use/Transportation Diagram land use designation of Industrial Park. The Industrial Park designation is an industrial designation intended for a wide variety of industrial users such as research and development, manufacturing, assembly, testing and offices. This designation is differentiated from the Light Industrial and Heavy Industrial designations in that Industrial Park uses are limited to those for which the functional or operational characteristics of a hazardous or nuisance nature can be mitigated through design controls. Hospitals may be appropriate within this designation, if it can be demonstrated that they will not be incompatible with Industrial Park uses or other nearby activities. Areas identified exclusively for Industrial

Park uses may contain a very limited number of supportive and compatible commercial uses, when those uses are of a scale and design providing support only to the needs of businesses and their employees in the immediate industrial area. These commercial uses should typically be located within a larger industrial building to protect the character of the area and maintain land use compatibility. Additional flexibility may be provided for retail and service commercial uses, including hotels within the North San José Development Policy area through the City's discretionary review and permitting process. One primary difference between this use category and the "Light Industrial" category is that, through the Zoning Ordinance, performance and design standards are more stringently applied to Industrial Park uses.

The project is consistent with the following General Plan Policies:

Land Use Policy LU-1.7 – General Land Use: Locate employee-intensive commercial and industrial uses within walking distance of transit stops.

*Analysis:* The project would allow for additional employment by expanding the existing office use to allow for an additional 26,088 square feet of ground floor office space and the conversion of 37,974 square feet of ground floor commercial retail space to office space. The subject site is located approximately 75 feet to the west of the Metro/Airport VTA Light Rail Station on North First Street. The site is also located adjacent to the 1<sup>st</sup> & Metro Route 60 VTA bus stop.

Land Use Policy LU-6.7 – Industrial Preservation: Encourage supportive and compatible commercial and office uses in industrial areas designated for those uses.

*Analysis:* The subject site is designated Industrial Park on the Land Use/Transportation Diagram of the General Plan. The existing use is office space. The project would expand existing office space in an area that allows for a mixture of industrial and commercial uses. The additional office space would be compatible with the surrounding area as the existing building is in an area largely surrounded by office buildings. Office uses are located to the south, west, and north.

Transportation Policy TR-8.6 – Parking Strategies: Allow reduced parking requirements for mixed-use developments and for developments providing shared parking for a comprehensive TDM program, or developments located near major transit hubs or within Urban Villages and Growth Areas.

*Analysis:* The project includes a five percent parking reduction in the number of off-street vehicle parking spaces. The subject site is located within the Rincon South Urban Village and is located within 75 feet of the Metro/Airport VTA Light Rail Station. As the project does not include a parking reduction of twenty percent or greater, TDM measures are not required.

#### 4. Rincon South Specific Plan

The Rincon South Specific Plan outlines a vision for the redevelopment of an area of San José that is almost fully developed with a large variety of land uses. The plan

was adopted in November 1998 and amended in November 2001. The Rincon South area also acts as a conduit for large volumes of traffic related to Silicon Valley jobs, the Airport, and the presence of three freeways. In addition, the VTA Light Rail runs through the area, along North First Street. The project is consistent with the following key objectives of the Rincon South Specific Plan:

1. Support Transit Use and Create a Pedestrian Friendly Environment

*Analysis:* The project would add approximately 26,088 square feet of office space at a site approximately 75 feet to the west of the Metro/Airport VTA Light Rail Station on North First Street. The project would include pedestrian improvements, including the widening of sidewalks along Metro Drive to 10 feet and the widening of sidewalks on North 1<sup>st</sup> Street to 12 feet. Additional pedestrian improvements include updating existing walkways at the frontages of the site along Metro Drive, North 1<sup>st</sup> Street and Technology Drive.

2. Promote and Maintain High-quality Office Development

*Analysis:* The subject site is an existing 448,295 square foot office building. The project would maintain the existing office use as well as add approximately 26,088 square feet of office space. Additionally, the project would convert approximately 37,974 square feet of vacant ground floor retail space to office space. The addition to the building would allow for additional tenants or the expansion of space for existing tenants.

3. Promote Economic Development

*Analysis:* The project would preserve existing office area within the plan area, as well as facilitate the expansion of office space. As previously stated, the project would add approximately 26,088 square feet of office space as well as convert approximately 37,974 square feet of ground floor retail space to office space. The entrances to the building, landscaping, and walkways would be updated to create a more attractive street presence along all three project frontages.

4. Minimize Traffic Impacts and Encourage Transit Use

*Analysis:* The project would minimize traffic impacts by utilizing a five percent parking reduction in the number of required off-street parking spaces. The subject site is located approximately 75 feet to the west of the Metro/Airport VTA Light Rail Station. Additionally, the project is providing the required 101 bicycle parking spaces as well as widening sidewalks along North 1<sup>st</sup> Street and Metro Drive.

5. **Zoning Ordinance Conformance.**

The project conforms to the development standards as set forth in the IP Industrial Park Zoning District. The Industrial Park zoning designation is an exclusive designation intended for a wide variety of industrial users such as research and development, manufacturing, assembly, testing, and offices. Industrial uses are

consistent with this designation insofar as any functional or operational characteristics of a hazardous or nuisance nature can be mitigated through design controls. Areas exclusively for industrial uses may contain a very limited amount of supportive commercial uses, in addition to industrial uses, when those uses are of a scale and design providing support only to the needs of businesses and their employees in the immediate industrial area. These commercial uses should be located within a larger industrially utilized building to protect the character of the area and maintain land use compatibility. In addition, warehouse retail uses are allowed where they are compatible with adjacent industrial uses and will not constrain future use of the subject site for industrial purposes. When located within an area with a combined industrial/ commercial general plan designation, a broader range of uses, both free-standing and in combination with others, will be considered including uses such as retail, church/religious assembly, social and community centers, recreational uses, or similar uses but only when the non-industrial use does not result in the imposition of additional constraints on neighboring industrial users in the exclusively industrial areas. The IP Industrial Park Zoning District would allow the property to be used and developed in accordance with the allowable uses in Table 20-110, including the office, general business use.

**Setbacks and Height:** The development standards for the IP Industrial Park Zoning District require a 15-foot building front setback, with 0-foot side and rear setbacks. The existing building and addition would maintain a 0-foot front setback on Metro Drive. The addition would not result in any changes to the existing front setback. The addition to the building would result in a 20-foot side setback. There would be no change to the existing 4-foot rear setback. The maximum allowed height in the IP Zoning District is 50 feet. However, pursuant to Section 20.85.020(E)(2) of the San José Municipal Zoning Code, the maximum allowed height in the Rincon South Urban Village area is 200 feet. There would be no change in height to the existing building. Any future redevelopment at the site would require conformance with the development standards for the IP Industrial Park Zoning.

Building Setbacks	Required	Proposed
Front (South 10 <sup>th</sup> Street)	15 feet	0 feet (existing)
Side	0 feet	20 feet
Rear	0 feet	4 feet
<b>Maximum Height</b>	50 feet	152 feet, 8 inches (existing)

**Vehicle Parking:** The existing office building currently provides 1,524 vehicle parking spaces. Pursuant to Section 20.90.060 of the Zoning Ordinance, the total required vehicle parking, including the additional square footage, is 1,613 parking spaces. The project includes a five percent reduction in the existing number of vehicle parking

spaces to allow for no increase in the existing number of parking spaces. The reduction in required off-street parking spaces is outlined below.

<b>Use: Office, general business</b>	<b>Vehicle Parking</b>	<b>Bicycle Parking</b>
<b>Ratio</b>	1 per 250 sq. ft. of floor area (403,225 sq. ft./250 sq. ft.)	1 per 4,000 sq. ft. of floor area (403,225 sq. ft./4000 sq. ft.)
<b>Required with a 5% reduction for vehicle parking</b>	1,524 vehicle parking spaces	101 bicycle parking spaces
<b>Provided</b>	1,524 vehicle parking spaces	101 bicycle parking spaces

**Bicycle Parking:** Pursuant to Section 20.90.060 of the Zoning Ordinance, the project requires 101 bicycle parking spaces. A total of 101 bicycle parking spaces will be provided on-site, with 29 long term and 72 short term long-term bicycle parking spaces.

**Reduction in Required Off-Street Parking Spaces:** Pursuant to Section 20.90.220 of the Zoning Ordinance, the project includes a five percent reduction in the required number of off-street parking spaces. As previously stated, the required number of vehicle parking spaces is 1,613. The reduced number of vehicle parking spaces would be 1,524.

1. A reduction in the required off-street vehicle parking spaces of up to fifty percent (50%) may be authorized with a development permit or a development exception if no development permit is required, for structures or uses that conform to all of the following and implement a total of at least three transportation demand management (TDM) measures as specified in the following provisions:
  - a. The structure or use is located within two thousand (2,000) feet of a proposed or an existing rail station or bus rapid transit station, or an area designated as a neighborhood business district, or as an urban village, or as an area subject to an area development policy in the City's General Plan or the use is listed in Section 20.90.220 G; and

*Analysis:* The subject site is located approximately 75 feet to the west of the Metro/Airport VTA Light Rail Station. The site is also located in the Rincon South Urban Village and within the boundaries of the North San José Area Development Policy.

- b. The structure or use provides bicycle parking spaces in conformance with the requirements of Table 20-90.

*Analysis:* The subject site would provide the required 101 bicycle parking spaces.

- c. For any reduction in the required off-street parking spaces that is more than twenty percent, the project shall be required to implement a transportation demand management (TDM) program that contains but is not limited to at least one of the following measures:

*Analysis:* The project would require a five percent reduction in the number of vehicle parking spaces. Therefore, the project does not require additional TDM measures.

**Tree Removals:** The project includes the removal of 48 trees to facilitate the addition to the office building and parking lot reconfiguration. There are 14 ordinance-size trees and 34 non-ordinance size trees to be removed. The trees to be removed are a combination of non-native trees including London plane, crape myrtle, Evergreen ash, Chinese tallow, Japanese maple, Chinese hackberry, and Callery pear trees. No native trees would be removed as part of this project. The removal of the 48 trees results requires the on-site replacement of 65 24-inch box trees to be planted. Based on the plans provided, there would be 68 trees re-planted on-site. The trees to be replanted on site include a combination of Thornless honeylocust, white crape myrtle, Chinese pistache, London plane, Scarlet Oak, and Green Vase zelkova trees.

## 6. North San José Area Development Policy

The North San José Area Development Policy establishes a policy framework to guide the ongoing development of the North San José area as an important employment center for San José. The North San José land area is a critical resource for San José in its continued efforts to grow industrial activity and to add well-paying jobs within the City. The policy supports economic activity in the North San José area by encouraging the creation of up to 80,000 new jobs along the North San José First Street corridor.

*Analysis:* The project site is within the First Street Corridor and is adjacent to the Metro/Airport VTA Light Rail Station. The project includes the conversion 37,974 square feet of ground floor retail space to office space, as well as the addition of 26,088 square feet of office space to the building. The conversion and additional square footage are designed to attract large corporations to this particular area of the City by allowing denser commercial and industrial development. Consistent with the North San José EIR, the project is required to pay a traffic impact fee. The 2019 fee is \$16.45 per square foot of Industrial or Office/R&D buildings and is subject to an annual escalation of 3.3% on July 1<sup>st</sup>. The next fee escalation will occur on July 1<sup>st</sup>, 2021. Credits for existing structures on site are applied to the residential traffic impact fee consistent with the North San José Development Policy and are prorated with each building permit issued.

## 7. California Environmental Quality Act (CEQA).

The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for

purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

*Analysis: Pursuant to Section 15168 of the CEQA Guidelines, the City of San José under a determination of consistency, has determined that the project is pursuant to or in furtherance of the North San José Area Development Policy Final Environmental Impact Report (Resolution No. 72768), the Envision San José 2040 General Plan Final Environmental Impact Report (Resolution No. 76041), the Envision San José 2040 General Plan Final Supplemental Environmental Impact Report (No. 77617), and addenda thereto, and does not involve new significant effects beyond those analyzed in the Final EIRs.*

*No new or more significant environmental impacts beyond those identified in the North San José Area Development Policy Updated Final Environmental Impact Report, the Envision San José 2040 General Plan Final Environmental Impact Report (FEIR), the Envision San José 2040 General Plan Supplemental Environmental Impact Report (SEIR) and Addenda thereto, have been identified, nor have any new mitigation measures or alternatives which are considerably different from those analyzed in the FEIR, SIER and Addenda been identified.*

**8. Site Development Permit Findings.** Section 20.100.630 of the Zoning Ordinance specifies the required findings for approval of a Site Development Permit. These findings are made for the project based on the analysis related to General Plan, Zoning Ordinance, and CEQA conformance and subject to the conditions set forth in the Permit.

a. The site development permit, as approved, is consistent with and will further the policies of the general plan and applicable specific plans and area development policies.

*Analysis: As previously stated above, the existing and project office uses would be consistent with the Industrial Park General Plan Land Use designation. The project would allow for additional employment by expanding the existing office use to allow for an additional 26,088 square feet of ground floor office space and the conversion of 37,974 square feet of ground floor commercial retail space to office space. Additionally, the project would be consistent with the Rincon South Specific Plan and North San José Area Development Policy in that it would maintain and expand office uses in close proximity to transit.*

b. The site development permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the project.

*Analysis: The project does not include any change to the zero feet front setback. The project would conform with the side and rear setbacks of the IP Industrial Park Zoning District. There would be no change to the existing maximum height of the building. The project would meet the required number of off-street vehicle*

*parking spaces through a five percent parking reduction (1,524 vehicle spaces). The project would also provide the required number of bicycle parking spaces (101 bicycle spaces). Additionally, the project requires the removal of 48 trees to facilitate the addition, reconfiguration of the parking lots, and reconstruction of the walkways. As explained in the analysis above, the 48 trees to be removed requires replanting 65 trees on site. The trees to be removed are a combination of non-native trees including London plane, Crape myrtle, Evergreen ash, Chinese tallow, Japanese maple, Chinese hackberry, and Callery pear trees. Based on the plans provided, 68 trees would be planted on site. The trees to be planted on-site include a combination of Thornless honeylocust, white crape myrtle, Chinese pistache, London plane, Scarlet Oak, and Green Vase zelkova trees.*

- c. The site development permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency.

*Analysis: The project is consistent with the North San José Area Development Policy as it is within the First Street Corridor and is adjacent to the Metro/Airport VTA Light Rail Station. The project includes the conversion 37,974 square feet of ground floor retail space to office space, as well as the addition of 26,088 square feet of office space to the building. The conversion and additional square footage are designed to attract large corporations to this particular area of the City by allowing denser commercial and industrial development. City Council Outreach Policy 6-30 for Pending Land Use and Development Proposals was also applied to the project. An on-site sign has been posted since November 4, 2019. The community was noticed by mail to a radius of 500 feet.*

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

*Analysis: The office building has existed with the same building footprint since it was constructed in 1985. There is no change in the front or rear setbacks. There would be no change to the maximum height of the building. The additional square footage would be constructed on the ground floor at the side setback area as well as the ground floor portion of the middle tower. There is adequate space at the side setback area to allow the building to expand without encroaching on the required setbacks. The primary use as an office building would not change. The addition would retain the primary architectural elements and materials of the existing building. A new glass curtainwall system at the new lobby entries would match the existing glass throughout the building. The new metal panel façade system and concrete base wall along the front and sides of the ground floor addition would also match the color and materials of the existing building.*

- e. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

*Analysis: The project consists of a minor expansion of the building footprint to allow an addition to the ground floor of the east and west sides of the building and ground floor of the middle tower. The orientation, location, and elevation of the building would not change. The primary use as an office building would remain. The existing building and proposed addition would be aesthetically harmonious with the surrounding neighborhood as the neighborhood is comprised of primarily office buildings of a similar scale, as well as supporting hotel and retail uses. The surrounding office buildings range from 6 to 12 stories with surface parking in the front as well as parking garages in the rear or side of the building.*

- f. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

*The project site is in an area where all public services and facilities are available. All new development would be located within the existing developed lot. All impacts related to noise, vibration, and dust would be temporary in nature and would only be related to construction. The project is not expected to have any negative effects on drainage, storm water runoff, and odor. Pursuant to Section 15168 of the CEQA Guidelines, the City of San José under a determination of consistency, has determined that the project is pursuant to or in furtherance of the North San José Area Development Policy Final Environmental Impact Report (Resolution No. 72768), the Envision San José 2040 General Plan Final Environmental Impact Report (Resolution No. 76041), the Envision San José 2040 General Plan Final Supplemental Environmental Impact Report (No. 77617), and addenda thereto, and does not involve new significant effects beyond those analyzed in the Final EIRs.*

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

*Analysis: The project includes updating the existing walkways and landscaping along North 1<sup>st</sup> Street, Metro Drive, and Technology Drive. The pedestrian pathways would be repaved. New landscaping, lighting, and bollards, bicycle racks, a bus shelter, tables, chairs, benches, trash receptacles, and other amenities would be added. There would be no change in the location of the trash facilities or the rooftop equipment screening. The landscaping and trees to be removed would be replaced at the required ratios. Street trees would also be added along Metro Drive.*

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

*Analysis:* The two front parking lots would be reconfigured to allow for a single curb cut with a two-way driveway. The existing parking garage at the rear of the building would remain, with no change to ingress and egress to the garage. As previously stated, the pedestrian pathways would be repaved and upgraded to allow for safer access from the street to the building. The project would allow for a five percent parking reduction to meet the existing vehicle parking space requirements.

In accordance with the findings set forth above, a Site Development Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. This City Council expressly declares that it would not have approved this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

#### **APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

- 1. Acceptance of Permit.** Per San José Municipal Code Section 20.100.290(B), should Permittee fail to file a timely and valid appeal of this Site Development Permit ("Permit") within the applicable appeal period, such inaction by the Permittee shall be deemed to constitute all of the following on behalf of the Permittee:
  - a. Acceptance of the Permit by the Permittee; and
  - b. Agreement by the Permittee to be bound by, to comply with, and to do all things required of or by the Permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
- 2. Permit Expiration.** This Site Development Permit shall automatically expire two (2) years from and after the date of issuance hereof by the City Council, if within such time period, a Building Permit (for foundation or vertical construction) has not been obtained or, if no Building Permit is required, the use has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the City Council. However, the Director of Planning, Building and Code Enforcement may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
- 3. Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Permit shall be deemed acceptance of all conditions specified in this Permit and the Permittee's agreement to fully comply with all of said

conditions. No change in the character of occupancy or change to a different group of occupancies as described in the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.

- 4. Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José - Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José - Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.
- 5. Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved plans entitled, "Metro Plaza Office Building Adaptive Reuse" dated February 21, 2020, on file with the Department of Planning, Building and Code Enforcement ("Approved Plans"), and to the San José Building Code (San José Municipal Code, Title 24), with the exception of any subsequently approved changes.
- 6. Authorization.** This Site Development Permit allows the conversion of approximately 37,974 square feet of retail space to office space and the addition of 26,088 square feet of office and lobby space to the existing office building.
- 7. Window Glazing.** Unless otherwise indicated on the Approved Plan, all windows shall consist of a transparent glass.
- 8. Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City of San José.
- 9. Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, and, state, and federal laws.

- 10. Discretionary Review.** The City maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
- 11. Refuse.** All trash and refuse storage areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the trash or refuse container(s). Trash areas shall be maintained in a manner to discourage illegal dumping.
- 12. Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.
- 13. Utilities.** All new on-site telephone, electrical, and other service facilities shall be placed underground.
- 14. Anti-Graffiti.** All graffiti shall be removed from buildings and wall surfaces, including job sites for projects under construction, within 48 hours of defacement.
- 15. Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly-used areas free of litter, trash, cigarette butts, and garbage.
- 16. No Sign Approval.** Any signage shown on the Approved Plan Set are conceptual only. No signs are approved at this time. Any signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
- 17. Building and Property Maintenance.** The property shall be maintained in good visual and functional condition. This shall include, but not be limited to, all exterior elements of the buildings such as paint, roof, paving, signs, lighting, and landscaping.
- 18. Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
- 19. No Generators Approved.** This Permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.
- 20. No Extended Construction Hours.** This Permit does not allow any construction activity on a site located within 500 feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.
- 21. North San José Area Development Policy Requirements:** An area-wide traffic impact analysis was prepared as part of the North San José Area Development Policy, adopted June 2005. Traffic impacts were identified and resulted in an area wide traffic impact fee. This project is covered under the North San José EIR. Consistent with the North San José EIR, a traffic impact fee shall be paid prior to issuance of Public Works Clearance.

**22. Landscaping.** Planting and irrigation are to be provided by the Permittee, as indicated, on the final Approved Plans.

**23. Avigation Easement.** Prior to the issuance of a Building Permit for any new construction, the property owner shall grant an Avigation Easement to the City of San José. Contact either Cary Greene, [cgreene@sjc.org](mailto:cgreene@sjc.org) (408-392-3623), or Ryan Sheelen, [rsheelen@sjc.org](mailto:rsheelen@sjc.org) (408-392-1193), of the San José Airport Department to initiate the easement dedication process.

**24. Building Division Clearance for Issuing Permits.** Prior to the issuance of any Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:

- a. *Construction Plans.* This permit file number, **H19-045** shall be printed on all construction plans submitted to the Building Division.
- b. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
- c. *Emergency Address Card.* The Permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
- d. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance begins with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
- e. *Common Interest Development.* Prior to issuance of any certificate of occupancy, or release for occupancy, the Permittee shall provide a self-certified statement to the satisfaction of the City's Chief Building Official that the project, as constructed, meets the City of San José Common Interest Development standards.
- f. *Other.* Such other requirements as may be specified by the Chief Building Official.

**25. Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of any Building Permit, the project must comply with the 2019 California Fire Code.

**26. Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/devresources>.

- a. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public

Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.

**b. Transportation**

- i. An area wide traffic impact analysis was prepared as part of the North San Jose Area Development Policy, adopted June 2005. Traffic impacts were identified and resulted in an area wide traffic impact fees. This project is covered under the North San Jose EIR.
- ii. Consistent with North San Jose EIR, this project is required to pay a traffic impact fee. The 2020 fee is \$16.45 per s.f. of Industrial or Office/R&D buildings, \$4,838 per Hotel room, \$22.38 per s.f. for Large Scale Commercial buildings and are subject to an annual escalation of 3.3% on July 1<sup>st</sup> and the next fee escalation will occur on July 1<sup>st</sup>, 2021. This fee must be paid prior to issuance of Public Works Clearance. Credits for existing structures on site will be applied to the residential traffic impact fee consistent with the policy and will be prorated with each building permits issued.

c. **Urban Village Plan:** This project is located in a designated Urban Village per the Envision San Jose 2040 General Plan. Urban Villages are designed to provide a vibrant and inviting mixed-use setting to attract pedestrians, bicyclists, and transit users of all ages and to promote job growth.

d. **Grand Boulevard:** This project fronts North First Street/Monterey Highway which is designated as one of the seven Grand Boulevards per the Envision San Jose 2040 General Plan. Grand Boulevards are identified to serve as major transportation corridors for primary routes for VTA light-rail, bus rapid transit, standard or community buses, and other public transit vehicles.

**e. Grading/Geology:**

- i. A grading permit is required prior to the issuance of a Public Works Clearance.
- ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2013 California Plumbing Code or submit a stamped and signed engineered design alternative for Public Works discretionary approval and must be designed to convey a 10-year storm event.
- iii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.

- iv. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
- v. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
- f. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
  - i. The project's Stormwater Control Plan and numeric sizing calculations have been reviewed and this project will be in conformance with City Policy 6-29.
  - ii. Final inspection and maintenance information on the post-construction treatment control measures must be submitted prior to issuance of a Public Works clearance.
- g. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
- h. **Flood: Zone AH Elevation 42.00' North American Vertical Datum of 1988 (NAVD88) and Zone AO depth 1 foot:** The proposed project is located within multiple flood zones and is subject to the following:
  - i. Zone X is an area of moderate or minimal flood hazard and there are no City floodplain requirements for Zone X. The westerly majority of the project site is within Zone X.
  - ii. Zone AO (Depth 1') At Grading Permit Stage, identify the elevation of the existing highest adjacent grade (HAG) to the existing structure and proposed addition; and the elevation of the existing finished floor.

- iii. Zone AH (Elevation 42') A small portion of southern project site is located within Zone AH. However, based on the plan, the proposed conversion and addition will not be in this zone. If the project proposes any new structures in Zone AH, additional review will be required.
- iv. Project must comply with the City's Substantial Improvement Policy for improvements to existing structures in a Special Flood Hazard Area.
- v. Submit a cost estimate of the proposed improvements and, if available, a document showing the market value of the existing structure.
- vi. If the cost of the proposed improvements exceeds 50% of the market value of the existing structure, it will be considered a substantial improvement and the entire structure must fully comply with the following City Floodplain Management requirements (items g through k below).
- vii. Elevate the lowest floor 1 foot or more above HAG to the proposed structure or floodproof to the same elevation. For insurance rating purposes, the building's floodproofed design elevation must be at least one foot above the base flood elevation to receive rating credit.
- viii. An Elevation Certificate (FEMA Form 086-0-33) for each proposed structure, based on construction drawings, is required prior to issuance of a building permit. Consequently, an Elevation Certificate for each built structure, based on finished construction is required prior to issuance of an occupancy permit.
- ix. If the structure is to be floodproofed, a Floodproofing Certificate (FEMA Form 086-0-34) for each structure, floodproofing details, and if applicable, a Flood Emergency Operation Plan and an Inspection & Maintenance Plan are required prior to the issuance of a Public Works Clearance.
- x. Building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities must be elevated above the depth of flooding or protected from flood damage.
- xi. Construction materials used below the depth of flooding must be resistant to flood damage.
- i. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable prior to issuance of Public Works clearance.
- j. **Street Improvements:**
  - i. Provide a 12-foot wide attached sidewalk on Technology Drive with tree wells at back of curb.
  - ii. Provide a 12-foot wide attached sidewalk on North 1<sup>st</sup> Street with tree wells at back of curb.

- iii. Provide a 10-foot wide attached sidewalk on Metro Drive with tree wells at back of curb.
  - iv. Provide 26-foot wide driveways on Metro Drive.
  - v. Reconstruct all driveways to current City/ADA standards.
  - vi. Close unused driveway cuts.
  - vii. Permittee shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
  - viii. Permittee shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the project frontage.
  - ix. Dedication and improvement of the public streets shall be to the satisfaction of the Director of Public Works.
- k. **Electrical:**
- i. Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
  - ii. Provide clearance for electrical equipment from driveways, and relocate driveway or electrolier. The minimum clearance from driveways is 10 feet in commercial areas and 5 feet in residential areas.
  - iii. Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
- l. **Street Trees:** The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.

**27. Affordable Housing Financing Plans.** The San José City Council ("City") approved the Envision San José General Plan 2040 ("General Plan") in 2011. The General Plan provides the framework for development located in San José.

- a. The City is in the process of developing financing plans to help fund affordable housing and related amenities and services. The financing plans may include the creation of a (i) Community Facilities District(s); (ii) Enhanced Infrastructure Financing District(s); (iii) Property Based Improvement District(s); (iv) Mitigation Impact Fee program(s); (v) Commercial linkage fee program(s); and/or (vi) other

financing mechanisms or combination thereof. For example, the City Council has directed City staff to complete studies and make recommendations related to commercial impact fees to help fund affordable housing. These efforts are on-going and there will continue to be other similar efforts to study various funding mechanisms for affordable housing.

- b. By accepting this Permit including the conditions of approval set forth in this Permit, permittee acknowledges it has read and understands all of the above. Permittee further agrees that prior to the issuance of any building permit, the project shall be subject to, fully participate in, and pay any and all charges, fees, assessments, or taxes included in any City Council approved financing plans related to affordable housing, as may be amended, which may include one or more of the financing mechanisms identified above.

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

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

Based on all of the above facts and findings for this Site Development Permit application, this project to allow the removal of 14 ordinance-size trees, 34 non-ordinance size trees, the conversion of 37,974 square feet of ground floor commercial/retail space to office space, and allow an approximately 26,088 square foot addition to an existing 448,295 square foot office building with a five percent parking reduction on the subject site is hereby **approved**.

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**EFFECTIVE DATE**

The effective date of this Site Development Permit shall be the effective date of the Conforming Rezoning Ordinance for File No. C19-035 passed for publication on \_\_\_\_\_ (the “Conforming Rezoning Ordinance”) and shall be no earlier than the effective date of said Conforming Rezoning Ordinance.

ADOTPED this \_\_\_\_ day of \_\_\_\_\_, 2020 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
SAM LICCARDO  
Mayor

ATTEST:

\_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk

**NOTICE TO PARTIES**

*The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.*



September 24, 2019  
HMMH 5292.00.270  
Page 1 of 1

EXHIBIT "A"  
FOR REZONING PURPOSES

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being all of Parcel 5 as shown on that certain Parcel Map filed for record on December 29, 1977 in Book 410 of Maps, page 17, in the Official Records of Santa Clara County, described as follows:

BEGINNING at the northerly corner of said Parcel 5, being on the southwesterly line of North First Street;

Thence along said southwesterly line the following two courses:

1. Thence South 29°50'31" East, 239.89 feet;
2. Thence along a tangent curve to the right, having a radius of 50.00 feet, through a central angle of 89°46'43" for an arc length of 78.35 feet, to the northwesterly line of Metro Drive (formerly Odell Drive);

Thence along said northwesterly line the following two courses:

1. Thence South 59°56'12" West, 1,009.84 feet;
2. Thence along a tangent curve to the right, having a radius of 20.00 feet, through a central angle of 90°14'19" for an arc length of 31.50 feet, to the northeasterly line of Technology Drive;

Thence along said northeasterly line, North 29°49'29" West, 273.79 feet, to the northwesterly line of said Parcel 5;

Thence along said northwesterly line, North 60°09'30" East, 1,079.63 feet, to the POINT OF BEGINNING.

Containing 7.22 acres, more or less.

*For assessment or zoning purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.*

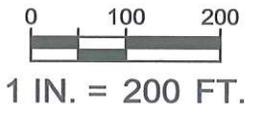
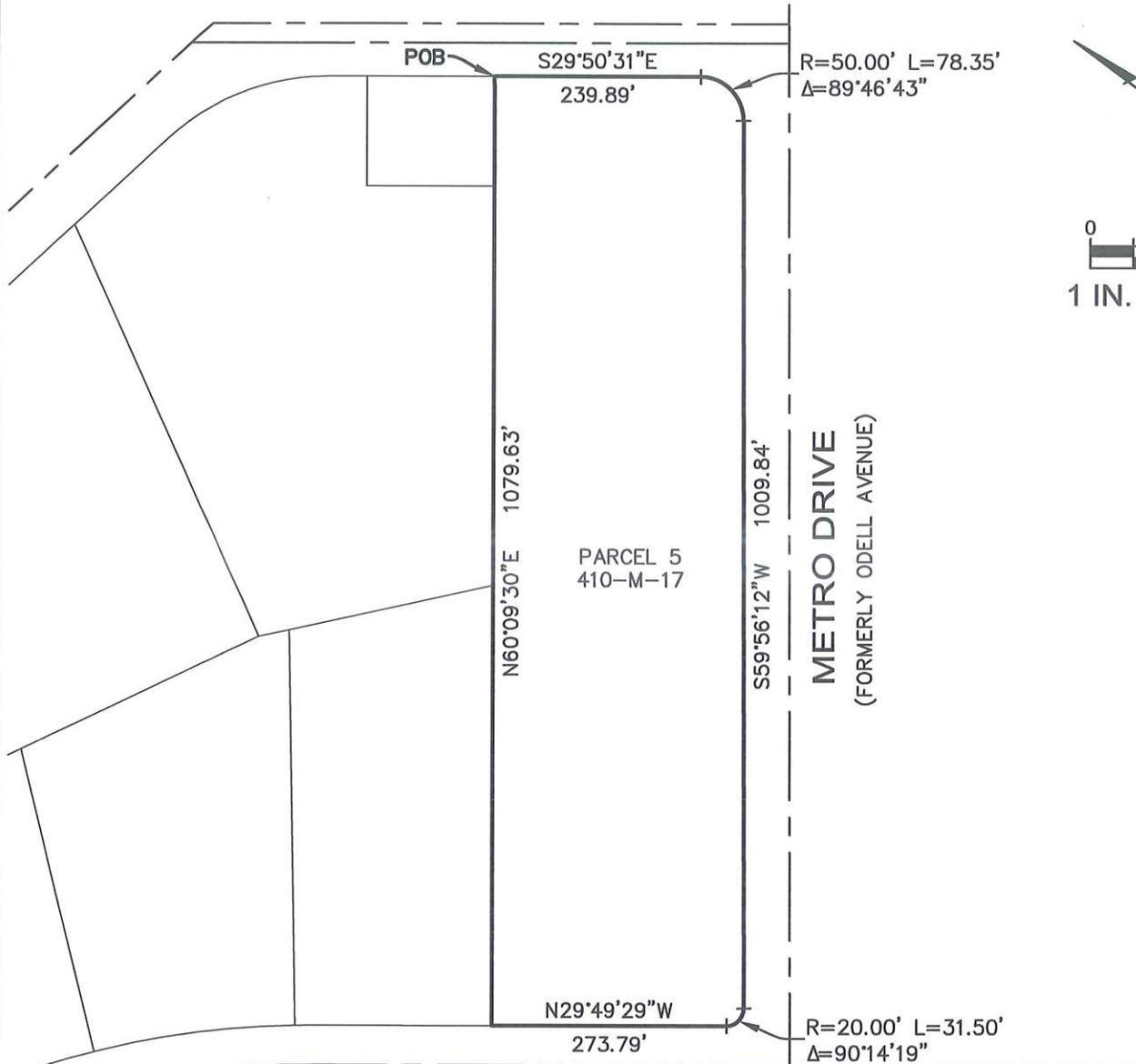
This legal description was prepared by me or under my direction in accordance with the Professional Land Surveyors Act.

Date: 9-24-19

Tracy L. Giorgetti  
Tracy L. Giorgetti, LS 8720



NORTH FIRST STREET



TECHNOLOGY DRIVE

METRO DRIVE  
(FORMERLY ODELL AVENUE)



LEGEND

POB POINT OF BEGINNING

SHEET 1 OF 1

Date:	2019-09-24
Designed:	-
Drawn:	RF
Checked:	TG
Proj. Engr.:	-
529200PL01	



1570 Oakland Road (408) 487-2200  
San Jose, CA 95131 h m m h .com

EXHIBIT "B"  
PLAT TO ACCOMPANY DESCRIPTION:  
FOR REZONING PURPOSES

SAN JOSE

CALIFORNIA