

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE CONDITIONALLY VACATING AN APPROXIMATELY 1,381 SQUARE FOOT PORTION OF NORTH ALMADEN BOULEVARD AT THE INTERSECTION OF EAST SANTA CLARA AND DECLARING THE VACATED PROPERTY TO BE “EXEMPT SUPPLUS LAND” UNDER CAL. GOV. CODE § 54221(F)(1)(B) AND SAN JOSE MUNICIPAL CODE § 4.20.070

WHEREAS, Chapter 4 of Part 3 of Division 9 of the Streets and Highways Code of the State of California authorizes the City Council to summarily vacate a public street if the City Council determines that it has been superseded by relocation, and there are no in-place public utility facilities that are in use and would be affected by the vacation; and

WHEREAS, the City Council intends to, after the satisfaction of the condition set forth in Section 3 of this Resolution, summarily vacate an approximately 1,381 square foot portion of North Almaden Boulevard at the intersection with East Santa Clara Street (“Subject Property”) constituting:

All that certain real property situate in the City of San José, County of Santa Clara, State of California, being a portion of the parcel of land described in the Grand Deed recorded April 6, 1967 as Document No. 3205485 in Book 7685 of Official Records, page 461, Santa Clara County Records, and being more particularly described as follows:

BEGINNING at the northerly corner of said parcel of land, also being an angle point in the general southwesterly line of Parcel A as shown on that map of Tract 9802 filed for record on July 7, 2006, in Book 803 of Maps, page 21, Santa Clara County Records;

Thence along said general southwesterly line, South 60° 06' 14" West, 10.00 feet, to a line parallel with, and 32.00 feet distant, from the centerline of Almaden Boulevard;

Thence along said parallel line, South 29° 47' 46" East, 70.75 feet;

Thence South 60° 06' 14" West, 2.00 feet, to a line parallel with, and 30.00 feet distant, from the centerline of Almaden Boulevard;

Thence along said parallel line, South 29° 47' 46" East, 20.87 feet;

Thence along a tangent curve to the left, having a radius of 120.00 feet, through a central angle of 27° 00'44" for an arc length of 56.57 feet, to a point of cusp with the southwesterly line of Parcel B as shown on said map of Tract 9802;

Thence along said southwesterly line, northwesterly, along a non-tangent curve to the right, having a radius of 10.00 feet, whose center bears North 33° 11' 30" East, through a central angle of 27° 00' 44" for an arc length of 4.71 feet;

Thence continuing along said southwesterly line and the southwesterly line of said Parcel A, North 29°47' 46" West, 141.59 feet, to the POINT OF BEGINNING.

Containing 1,381 square feet more or less.

WHEREAS, attached to this Resolution as Exhibit "A" and incorporated herein is a map approved by the Director of the Department of Public Works on November 23, 2020 entitled "PLAT MAP SHOWING THE PORTION OF THE NORTH ALMADEN

BOULEVARD EAST SANTA CLARA STREET TO BE VACATED ” showing the Subject Property; and

WHEREAS, attached to this Resolution as Exhibit “B” and incorporated herein is a copy of the report, dated November 23, 2020 that was submitted to the City Council setting forth the facts justifying the conditional summary vacation of the Subject Property (hereinafter “Report”); and

WHEREAS, the City owns the Subject Property in fee; and

WHEREAS, on January 14, 2020, the City Council passed Resolution No. 79374, approving a site development permit allowing the construction of a 19-story hotel on an approximately 0.20 acres site located adjacent to the Subject Property; and

WHEREAS, the Axis Condominium property, owned by Bit Holdings Sixty-Eight, Inc., is located at 38 N. Almaden Blvd. adjacent to the Subject Property; and

WHEREAS, land that is less than 5,000 square feet and is transferred to an adjacent property owner is “exempt surplus land” under Cal. Gov. Code §54221(f)(1)(D);

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

SECTION 1. The City Council hereby adopts the Report and, based upon the Report and all other evidence submitted, makes the following findings:

- A. Upon satisfaction of the condition specified in this Resolution, the Subject Property has been superseded by relocation and the vacation

of the Subject Property would not cut off all access to a person's property which, prior to the relocation, adjoined the street; and

- B. Government Code Section 65402 does not apply to this vacation; and
- C. The proposed vacation is consistent with the City's General Plan; and
- D. The Subject Property is unnecessary for nonmotorized transportation as bordering rights-of-way are available and more suitable for such transportation; and
- E. There are no in-place public utility facilities located within the Subject Property that would be affected by the proposed vacation; and
- F. The public convenience and necessity does not require the reservation of a public service easement; and
- G. The Subject Property is not needed for, nor adaptable to, municipal purposes, and the public interest would be served by the sale of such surplus real property; and
- H. The proposed sale of the Subject Property conforms to Cal. Gov. Code §54221(f)(1)(B) in that the size of the surplus Subject Property is less than 5,000 square feet in area, is being sold to an owner of contiguous land, and, as such, should be declared "exempt surplus land"; and

- I. The proposed sale of the Subject Property also conforms to San José Municipal Code §4.20.070(A)/(B) in that both sales are to an adjacent property owner, not independently developable, and would limit the City's liability as well as reduce future ongoing maintenance obligations.

SECTION 2. Based upon the findings made in Section 1 of this Resolution and the provisions of Chapter 4 of Part 3 of Division 9 of the Streets and Highways Code of the State of California, the City Council does hereby summarily vacate and declare the Subject Property as "exempt surplus lands" to the needs of the City, subject to the condition stated in Section 3 below.

SECTION 3. The vacation of the Subject Property shall be conditioned on, and shall not occur until, the property owner of 8 North Almaden Boulevard executes a City-Developer Agreement and provides bonds as required therein, which agreement guarantees, among other things, that public improvements will be constructed to conform the Subject Property to City standards and specifications.

SECTION 4. After receiving written confirmation from both the Director of Public Works and the Office of the City Attorney that the condition in Section 3 has been satisfied, the City Clerk is hereby directed to record a certified copy of this Resolution, including the exhibits hereto, with the Office of the Recorder for the County of Santa Clara.

SECTION 5. From and after the date this Resolution is recorded, the Subject Property will no longer constitute a public street.

NVF:EEH
7/27/2021

ADOPTED this _____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

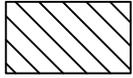
TONI J. TABER, CMC
City Clerk

Exhibit A

[Exhibit follows on next page]

PLAT MAP

SHOWING THE PORTION OF THE NORTH ALMADEN BOULEVARD
EAST SANTA CLARA STREET TO BE VACATED



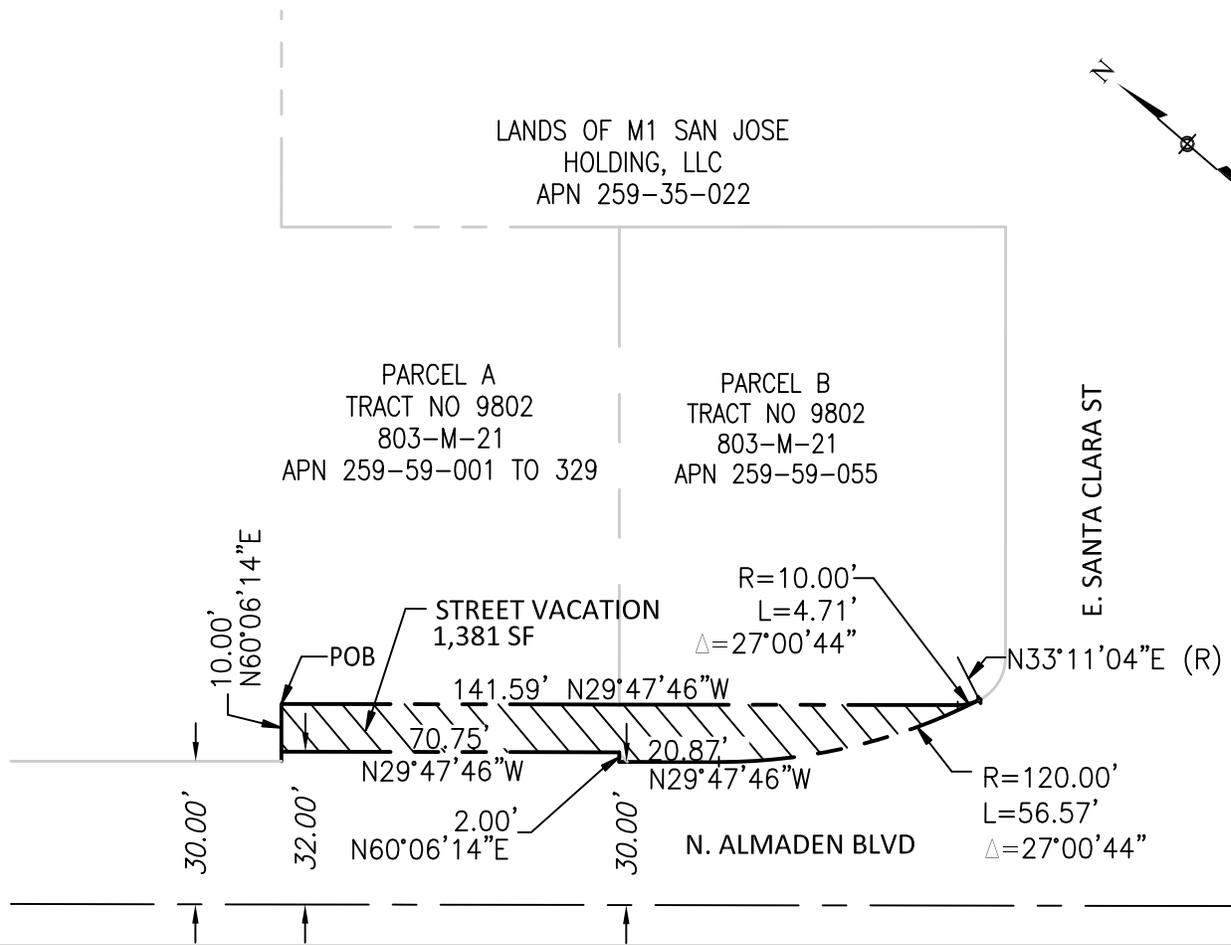
AREA TO BE VACATED

FILED WITH THE CITY COUNCIL OF THE CITY OF SAN JOSE THIS _____ DAY OF _____, AND APPROVED BY SAID CITY COUNCIL THIS _____ DAY OF _____ BY RESOLUTION NUMBER _____

CITY CLERK, CITY OF SAN JOSE

Matthew Alan Cano
for MATTHEW ALAN CANO
DIRECTOR OF PUBLIC WORKS,
CITY OF SAN JOSE

APPROVED THIS 23RD DAY OF NOVEMBER 2020



DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

Exhibit B

[Exhibit follows on next page]



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Nanci Klein
Matt Cano

SUBJECT: SEE BELOW

DATE: September 16, 2021

Approved

Date

9/17/2021

COUNCIL DISTRICT: 3

SUBJECT: CONDITIONAL SUMMARY VACATION, DECLARATION OF SURPLUS, AND SALE OF A PORTION OF NORTH ALMADEN BLVD

RECOMMENDATION

- (a) Adopt a resolution:
- (1) Approving the report of the Director of Public Works setting forth the facts justifying the conditional summary vacation of an approximately 1,381 square foot portion of North Almaden Boulevard located northeast of the North Almaden Boulevard and East Santa Clara Street intersection (“Subject Property”);
 - (2) Conditionally vacating the Subject Property, which after the satisfaction of the condition, will be superseded by relocation;
 - (3) After satisfaction of the condition, directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara; and
 - (4) Declaring the Subject Property “exempt surplus land” to the needs of the City.
- (b) Adopt a resolution authorizing the City Manager, or their designee, to negotiate and execute:
- (1) Purchase and Sale Agreement with the adjacent property owners Kenneth S. Tersini and the Kenneth S. Tersini Living Trust for the sale of approximately 674 square feet of conditionally vacated City-owned “exempt surplus property” on a portion of Almaden Boulevard, between N. Almaden Boulevard and W. Santa Clara Street, in accordance with Cal Gov. §54221(f)(1)(B) and San Jose Municipal Code §4.20.070(A), in exchange for the conditionally vacated 674 square feet and Assessor’s Parcel Number 259-35-055 being voluntarily annexed to the Convention Center Facilities District;
 - (2) Purchase and Sale Agreement with adjacent property owner Bit Holdings Sixty-Eight, Inc. for the sale of approximately 707 square feet of conditionally vacated City-owned “exempt surplus property” on a portion of Almaden Boulevard, between N. Almaden Boulevard and W. Santa Clara Street, in accordance with to

Cal Gov. §54221(f)(1)(B) and San Jose Municipal Code §4.20.070 in the amount of \$1; and

- (3) All other documents necessary to complete the transactions.

OUTCOME

The City is the fee owner of the Subject Property, which contains approximately 1,381 square feet of existing public right-of-way located along the eastern side of N. Almaden Boulevard, north of W. Santa Clara Street (included as Attachment A). Staff has proposed a conditional summary vacation of the Subject Property. After satisfaction of the condition(s) to vacate, the resolution of vacation will be recorded and the Subject Property will be abandoned as public street, thereby allowing the Subject Property to be declared as “exempt surplus land” and sold to the adjacent property owners in conformance with California’s Surplus Land Act and the San Jose Municipal Code.

On January 14, 2020, the San Jose City Council approved the Almaden Corner Hotel Project under Site Development Permit No. H18-038 (“Project”) proposed by KT Urban (“Developer”) for the development of a 19-story hotel. The Developer included an approximately 674 square foot portion of the Subject Property as part of the approved project plans (“Hotel Portion”) (included as Attachment B), which allows 529 square feet to be incorporated into the Project.

On September 30, 2005, the City approved the Axis Condominium project under H04-050 (“Axis Project”). A 707 square foot portion of the Subject Property (“Axis Portion”) (included as Attachment C) is currently used as a driveway for ingress/egress to the Axis property.

The Subject Property will be transferred in two separate transactions:

- A 674 square foot portion will be sold to the developer of the Almaden Corner Hotel project located at 8 North Almaden Boulevard in exchange for the Project’s voluntary enrollment in Convention Center Facilities District No. 2008-1 (“CCFD”). The sale will enhance the proposed hotel development.
- A 707 square foot portion will be sold to the Axis Condominium building for \$1. This area is used as ingress and egress for the condominium building.

BACKGROUND

The Subject Property

A location map of the Subject Property is included as Attachment D. The Subject Property is comprised of two different portions, each abutting a different property. The City owns both portions of the Subject Property in fee.

Hotel Portion

The Project allows for the development of a 19-story hotel with approximately 272 guest rooms, approximately 1,200 square feet of ancillary commercial space, and an off-site parking arrangement on an approximately 0.20-gross acre site owned by Kenneth S. Tersini and the Kenneth S. Tersini Living Trust (“Kenneth Tersini”). The project plans call for approximately 145 square feet of the Hotel Portion to be restricted for use as a public sidewalk whereby a sidewalk easement would be conveyed by separate instrument. This allows 529 square feet to be incorporated into the Project. Including the Hotel Portion in the Project entitlements, as approved under H18-038, allows the Project to construct six additional hotel units while constructing three fewer floors in the building, reducing the cost of construction and increasing revenues. Attachment F shows the Developer’s plans to build the Hotel Project in the City’s vacated right of way.

In order to accomplish the land uses approved as part of the Axis Project and the Hotel Project, the City Council must approve the vacation of the Subject Property, Declaration of Exempt Surplus, and Sales of the Subject Property from the City. Public Works and Real Estate staff have been coordinating to concurrently bring to Council the vacation, Declaration of Exempt Surplus, and Sales for consideration.

Axis Portion

The Axis property was originally constructed by the Almaden Corner Hotel Developer, but since construction it has been sold to different ownership and is now owned by Bit Holdings Sixty-Eight, Inc. As part of project approvals for the Axis Condominium tower, the Axis Portion was designated to be vacated and transferred to the owner of the Axis property. This process has not yet occurred, and accordingly, is a requirement of the Almaden Corner Hotel Project to ensure that the Project does not adversely impact ingress and egress of the Axis property. The current Council action would complete this aspect of the Axis project approvals.

Convention Center Facilities District

The Convention Center Facilities District No. 2008-1 (“CCFD”) was established to support the expansion and continued improvement of the San José McEnery Convention Center. The CCFD has a 4% base special tax rate levied on hotel properties applied as a percentage of room rentals. The CCFD has an additional 1% special tax rate that may be levied on an annual basis by the City Council if the amount in the CCFD’s Revenue Stabilization Reserve is less than the Revenue Stabilization Reserve Requirement. This special tax finances expansion, construction, reconstruction, rehabilitation, and upgrades to San José McEnery Convention Center facilities. Existing hotels in the City were annexed into the CCFD upon its formation in 2008. New hotel projects are encouraged to participate in the CCFD through an annexation process on a voluntary basis.

ANALYSIS

Subject Property: Conditional Vacation and Declaration as Surplus Property

Under §8330(a) of the California Streets and Highway Code, the City may summarily vacate a street or highway that has been superseded by relocation if there are no in-use public facilities located within the vacated area that would be affected by the vacation. The Subject Property is not independently developable, has no in-use public facilities, and is owned in fee by the City of San Jose. The Subject Property is comprised of two areas that will be sold to different adjacent property owners, explained in further detail below.

The City must comply with the procedures set out in California's Surplus Land Act ("SLA") prior to the disposition of any City-owned real property. (Cal. Gov. Code §54220, et seq.) Under the SLA City-owned property must be declared "surplus" to the needs of the City prior to any transfer to a subsequent owner. These procedures also generally include providing notice of the proposed sale of surplus land to various public benefit entities allowing them the first chance to develop the surplus property in line with the state's priorities. However, the SLA provides exemptions for various types of transfers, including the sale of small properties to an adjacent property owner under Cal. Gov. Code §54221(f)(1)(B). This exemption allows for surplus property less than 5,000 square feet in size to be sold to adjacent property owners, so long as it is not also adjacent to land owned by a state or a local agency used for open-space or low/moderate income affordable housing. This exemption requires the City to declare the property "exempt surplus land," as supported by the findings contained herein, prior to transferring the property. Similar to the SLA, San Jose Municipal Code Chapter §4.20 permits the sale of City-owned surplus property upon Council finding and determination that the property is not needed for, nor adaptable to, municipal purposes. Further, while such sales are generally required to be undertaken on a competitive basis, Municipal Code §4.20.070 authorizes the direct sale of surplus property to the owner of property adjacent to such surplus property.

The Subject Property is a 1,381 square foot strip of land that staff have determined not to be independently developable and has no in-use public facilities that would be affected by vacation. Transferring the property to the adjoining landowners would reduce the City's liability and eliminate any potential ongoing maintenance costs and obligations.

As part of the conditions of approval for H18-038, the Developer is required to construct frontage improvements along the 8 North Almaden Boulevard frontages. City staff has been meeting with the Developer to discuss the Almaden Corner Hotel Project construction schedule. Staff's typical practice is to bring vacations to Council for approval only after the applicant has entered into a secured construction agreement that guarantees completion of the public improvements that will render the right-of-way unnecessary for public use. However, in consideration of the Project's development timelines, staff is recommending that Council condition the proposed vacation on the Developer's execution of a City-Private Developer Construction Agreement that guarantees the completion of the public improvements including the realignment of North Almaden Boulevard on the Hotel Portion to the satisfaction of the Director of Public Works. Once this agreement is executed, the City will have a guarantee that

the Hotel Portion will be constructed per City standards and therefore, supersede by relocation. After the condition is satisfied, the Subject Property may be declared as “exempt surplus land” to the needs of the City and the City may authorize separate sales of the Hotel Portion and the Axis Portion to the neighboring property owners in accordance with the SLA and applicable Municipal Code, pursuant to the terms outlined below.

Hotel Portion

The Hotel Portion totals 674 square feet and sits adjacent to the property owned by Kenneth Tersini. Within the Hotel Portion, the Almaden Corner Hotel Project will incorporate a 529 square foot area. 145 square feet will be used for a public sidewalk and will be subject to a sidewalk easement. Staff recommends selling the Hotel Portion to Kenneth Tersini for no less than fair market value, which staff has determined to be \$218,477, or equivalent other considerations. In determining fair market value for the Hotel Portion, staff assigned a value of \$413 a square foot to the 529 square feet of project area, and no value to the 145 square feet that will be utilized for pedestrian access via a sidewalk easement.

It is difficult to opine a market value for hotel property in the current economic climate. It’s unknown what the lasting effects of COVID-19 will be on the hospitality market as the economy remains impacted by the effects of the economic shutdown. Economists estimate that recovery will take three years or longer to reestablish the hospitality industry as timing of a vaccine and rebuilding consumer confidence in hotel services is unknown. An accurate appraisal of hotel land in this economic climate is difficult to complete and would be speculative in nature as there is a dearth of informative data. Therefore, staff have relied on a comparable transaction of a separate, similarly situated City right of way located a few blocks away from the Almaden 8 Hotel project that took place pre-COVID to establish the market value of the Hotel Portion.

On November 19, 2019, prior to COVID-19 related economic impacts, the San Jose City Council approved a summary vacation and sale of a portion of land to support the City View development at 200 Park Avenue, only a few blocks from the proposed Almaden 8 Hotel project. This sale contained a total of 13,204 square feet that was determined to not be independently developable, but 11,259 square feet was included in the proposed development. Council approved the sale of this property at the appraised value of \$413 per square foot for the 11,259 square foot portion included in the proposed development.

Given the challenges in appraising hotel projects in the current economic climate, staff recommends establishing fair market value for the Hotel Portion at the same, pre-COVID-19 price per square foot as property vacated and sold for inclusion in the City View development, or \$413 a square foot for the buildable area. For these reasons, staff recommend selling the Hotel Portion for other considerations equivalent to \$218,477 to the adjacent owner, as allowed under San Jose Municipal Code §4.20.070(A). This proposed transfer of “exempt surplus land” to an adjoining property owner conforms with the SLA’s exemption in Cal. Gov. Code §54221(f)(1)(B).

Key terms of the proposed authorization to negotiate and execute a Purchase and Sale Agreement for the Hotel Portion include:

1. SELLER: City of San Jose
2. BUYER: Kenneth Tersini
3. PROPERTY: Approximately 674 square feet of N Almaden Boulevard, more particularly described in Attachment B
4. CONSIDERATION: The Project's voluntary enrollment in the CCFD is determined to be equivalent consideration to the fair market value of \$218,477
5. REVERTER: The City will take back ownership of the Hotel Portion if the Developer does not enroll the Project in the CCFD by the deadlines described in this memo
6. FEES: Title insurances, escrow fees, recording fees, transfer taxes, Broker fees, and any other fee or cost related to this transaction to be paid by Buyer
7. TERM: Close of Escrow to take place upon the earlier of 3 years from signing of the PSA, or submittal for Almaden Corner Hotel building permits
8. DUE DILIGENCE: Buyer shall have 30 days from the execution of the Agreement to investigate the Property
9. AS-IS: Buyer accepts the property "As-is, where is, with all faults"
10. INDEMNITY: Buyer agrees to protect, defend, indemnify, and hold harmless City from, and against, all claims

The City typically charges Developers fair market value for vacated land to be used for a sidewalk and project development. The City's recommended fair market price for the Hotel Portion does not assign value for the sidewalk encumbered area of the Hotel Portion. This ensures the Developer is paying a fair value for the land used in the Project. The City engaged an appraiser, Matt Watson, with Carneghi, Nakasako & Associates to help determine a fair market value for the Hotel Portion. Mr. Watson, who holds a MAI certification, advises that the City must consider the contributory value of the Hotel Portion to the project, as this is the accepted practice for right of way vacation valuations per Caltrans guidelines. Mr. Watson further

contends that the City has other potential buyers, though agrees that the market is limited to sell the Hotel Portion. For example, the Hotel Portion would be a well-suited location for a bike share station.

The Hotel Portion is entitled land, which contributes positively to its value. Per the Developer, acquiring the Hotel Portion allows the project to construct six additional rooms, while building three fewer floors total. This provides to the Developer greater project revenues and lowers the cost of construction. By providing additional space to move the Project tower away from the De Anza, the Hotel Portion helps the Developer mitigate Project impacts to historic resources under CEQA. Finally, because the Developer included the Hotel Portion in project files used to gain entitlements for the Project, failure to purchase the Hotel Portion would require the Developer to redesign the project, while reducing the total rooms constructed and incurring additional construction costs. For these reasons, City Staff recommends \$218,477 as fair market value for the Hotel Portion.

As consideration for the sale in lieu of monetary compensation, staff recommend that the City accept the Developer's voluntary annexation of Assessor's Parcel Number ("APN") 259-35-055 and the Hotel Portion into the CCFD. The hotelier, not the developer, will pay the CCFD special tax as a percentage of revenue generated from each room rental. The special tax is paid by other downtown hotels that were incorporated into the CCFD upon formation. Now that the CCFD has been established, new hotels must voluntarily opt into the program.

The Hotel Portion currently does not have an assigned APN. Developer will have thirty (30) days after close of escrow to submit an "Assessor's Parcel Boundary Change Request" to the County of Santa Clara's Office of the Assessor to incorporate the Hotel Portion into APN 259-35-055. Once the incorporation is completed, Developer will have thirty (30) days upon the date of incorporation to submit an "Approval of Landowner to Annex Property to Convention Center Facilities District No. 2008-1" form to the City. Staff will endeavor to take the CCFD annexation request to Council for approval within ninety (90) days of receiving the form. Should the Developer not comply with the requirements to annex the properties in the CCFD, ownership of the Hotel Portion shall revert to the City. In the future, if APN 259-35-055 and the Hotel Portion are entitled for a use other than a hotel, enrollment in the CCFD will not be adequate compensation in lieu of fair market value. Therefore, the City will require Developer, or their successor in interest, to pay then-current fair market value for the Hotel Portion upon entitlement for any alternate use.

Axis Portion

The Axis Portion consists of 707 square feet, which is used for the Axis Condominium tower's ingress and egress. It is in the interest of the City to vacate and sell the Axis Portion to limit liability and future maintenance obligations. For this reason, staff recommend selling the Axis Portion for \$1 to the adjacent owner, as allowed under San Jose Municipal Code §4.20.070(B). This proposed transfer of "exempt surplus land" to an adjoining property owner conforms with the SLA's exemption in Cal. Gov. Code §54221(f)(1)(B).

Key terms of the proposed authorization to negotiate and execute a Purchase and Sale Agreement for the Axis Portion include:

1. SELLER: City of San Jose
2. BUYER: Bit Holdings Sixty-Eight, Inc.
3. PROPERTY: Approximately 707 square feet of N. Almaden Boulevard, more particularly described in Attachment C
4. PRICE: \$1
5. DEPOSIT: No deposit
6. FEES: Title insurances, escrow fees, recording fees, transfer taxes, Broker fees, and any other fee or cost related to this transaction to be paid by Buyer
7. DUE DILIGENCE: Buyer shall have 30 days from the execution of the Agreement to investigate the Property
8. AS-IS: Buyer accepts the property “As-is, where is, with all faults”
9. INDEMNITY: Buyer agrees to protect, defend, indemnify, and hold harmless City from, and against, all claims

CONCLUSION

Hotel Portion

The City’s approval of the Almaden Corner Hotel Site Development Permit H18-038 on January 14, 2020 included the Hotel Portion in the Project area. Sale of the Hotel Portion is necessary for Almaden Corner Hotel Project to be viable and will allow the Project to proceed as approved. The sale will generate ongoing revenue for the CCFD once the Project is completed, which supports the San José McEnery Convention Center. Should the Council not approve the transaction, the Project would need to be re-entitled.

Axis Portion

The Axis Condominium tower is no longer owned by the Developer. The Axis Portion is necessary for ingress and egress to the Axis tower, and sale of the Axis Portion preserves access to the tower as intended in the original project design. Sale of this property will fulfill a condition of approval for both the Axis condominium project and the Almaden Corner Hotel Project and limit the City’s maintenance and liability obligations.

EVALUATION AND FOLLOW-UP

If Council adopts the recommended actions, no further action by Council will be required for the vacation of the Subject Property. After receiving written confirmation from the Director of Public Works and the Office of the City Attorney that the conditions to the vacation have been satisfied, the City Clerk will record the resolution of vacation, at which time the vacation will be complete.

After the resolution of vacation is recorded, staff will proceed with the sale of the Hotel Portion and the Axis Portion per the outlined terms. Per terms of the sale of the Hotel Portion, the Developer would need to petition to annex the Project into the CCFD, which will require future Council authorization.

CLIMATE SMART SAN JOSE

The recommendation in this memo aligns with one or more Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

The public was given the opportunity to comment on the proposed development and site plan with the inclusion of the proposed vacation area as part of the Planning permit review and approval process.

All concerned utility companies have been contacted in writing and have no objections to the proposed vacation and have not required a reservation of a public service easement as there are no facilities in the Subject Portion.

This memorandum will be posted to the City's website for the September 28, 2021 agenda.

COORDINATION

This memorandum has been coordinated with the Department of Planning, Building and Code Enforcement, Department of Finance, the City Manager's Budget Office, and the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

FISCAL/POLICY ALIGNMENT

Vacating the Subject Property is in alignment with the Council-approved Budget Strategy Expenditure Control section by eliminating a City maintenance obligation and liability.

COST SUMMARY/IMPLICATIONS

The proceeds of these sales, \$1, will be recognized in the General Fund.

The Public Works Department collected cost recovery fees during fiscal year 2019-2020 of \$7,308 to process the vacation of the Subject Property. These fees were deposited to the Public Works Development Fee Program in the General Fund.

Upon Project completion, proceeds from the CCFD will produce ongoing tax revenue for the expansion, construction, reconstruction, rehabilitation, and upgrading of San José McEnery Convention Center facilities estimated at \$465,936 a year.

CEQA

Determination of Consistency to the Supplemental Environmental Impact Report for the Almaden Corner Hotel Project, H18-038.

/s/
NANCI KLEIN
Director of Economic Development

/s/
MATT CANO
Director of Public Works

For questions, please contact Nanci Klein, Director, Office of Economic Development, at (408) 535-8184.

Attachments

- Attachment A: Legal Description Street Vacation
- Attachment B: Hotel Portion Legal Description/Image
- Attachment C: Axis Portion Legal Description/Image
- Attachment D: Location Map
- Attachment E: Plat Map

Attachment A
Subject Property

EXHIBIT "A"

LEGAL DESCRIPTION
STREET VACATION

All that certain Real Property situate in the City of San José, County of Santa Clara, State of California, being a portion of the parcel of land described in the Grand Deed recorded April 6, 1967 as Document No. 3205485 in Book 7685 of Official Records, page 461, Santa Clara County Records, and being more particularly described as follows:

BEGINNING at the northerly corner of said parcel of land, also being an angle point in the general southwesterly line of Parcel A as shown on that map of Tract 9802 filed for record on July 7, 2006, in Book 803 of Maps, page 21, Santa Clara County Records;

Thence along said general southwesterly line, South 60° 06' 14" West, 10.00 feet, to a line parallel with, and 32.00 feet distant, from the centerline of Almaden Boulevard;

Thence along said parallel line, South 29° 47' 46" East, 70.75 feet;

Thence South 60° 06' 14" West, 2.00 feet, to a line parallel with, and 30.00 feet distant, from the centerline of Almaden Boulevard;

Thence along said parallel line, South 29° 47' 46" East, 20.87 feet;

Thence along a tangent curve to the left, having a radius of 120.00 feet, through a central angle of 27° 00' 44" for an arc length of 56.57 feet, to a point of cusp with the southwesterly line of Parcel B as shown on said map of Tract 9802;

Thence along said southwesterly line, northwesterly, along a non-tangent curve to the right, having a radius of 10.00 feet, whose center bears North 33° 11' 30" East, through a central angle of 27° 00' 44" for an arc length of 4.71 feet;

Attachment A (continued)
Subject Property

Thence continuing along said southwesterly line and the southwesterly line of said Parcel A, North 29° 47' 46" West, 141.59 feet, to the **POINT OF BEGINNING**.

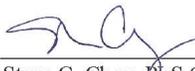
Containing 1,381 square feet more or less.

Attached hereto and by reference a part hereto is a plat labeled "EXHIBIT A-1 PLAT TO ACCOMPANY LEGAL DESCRIPTION OF STREET VACATION" depicting the subject property.

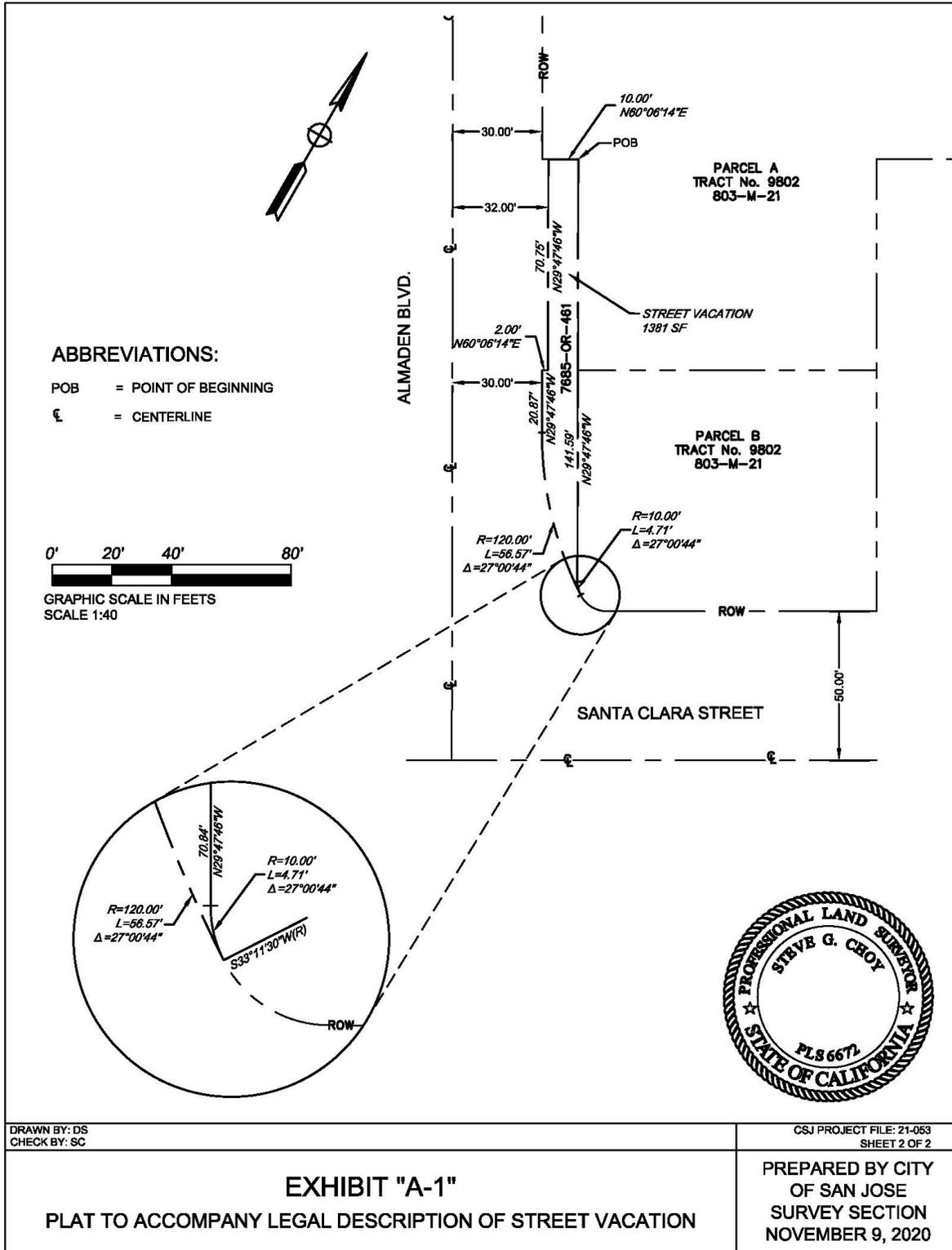
The Basis of Bearings for this description is the bearing South 29° 47' 46" East of the centerline of ALMADEN BOULEVARD as shown upon that certain map of TRACT NO. 9802, filed for record in the office of the Recorder of the County of Santa Clara, State of California, on July 7, 2006 in Book 803 of Maps, Page 21.

The above description of real property was prepared by me, or under my supervision, in conformance with the requirements of Section 8726 (g, k, l, m) of the Business and Professions Code of the State of California.




Steve G. Choy, PLS 6672

Attachment A (continued)
Subject Property



DRAWN BY: DS
 CHECK BY: SC

CSJ PROJECT FILE: 21-053
 SHEET 2 OF 2

EXHIBIT "A-1"
 PLAT TO ACCOMPANY LEGAL DESCRIPTION OF STREET VACATION

PREPARED BY CITY
 OF SAN JOSE
 SURVEY SECTION
 NOVEMBER 9, 2020

Attachment B
Hotel Portion

EXHIBIT "A"

LEGAL DESCRIPTION
OF REAL PROPERTY

All that certain Real Property situate in the City of San José, County of Santa Clara, State of California, being a portion of the parcel of land described in the Grand Deed recorded April 6, 1967 as Document No. 3205485 in Book 7685 of Official Records, page 461, Santa Clara County Records, and being more particularly described as follows:

COMMENCING at the northerly corner of said parcel of land, also being an angle point in the general southwesterly line of Parcel A as shown on that map of Tract 9802 filed for record on July 7, 2006, in Book 803 of Maps, page 21, Santa Clara County Records;

Thence along said general southwesterly line, South 29° 47' 46" East, 70.75 feet, to the southwesterly corner common to said Parcel A and Parcel B as shown on said map and the TRUE POINT OF BEGINNING of this description;

Thence South 60° 06' 14" West, 12.00 feet, to a line parallel with, and 30.00 feet distant, from the centerline of Almaden Boulevard;

Thence along said parallel line, South 29° 47' 46" East, 20.87 feet;

Thence along a tangent curve to the left, having a radius of 120.00 feet, through a central angle of 27° 00' 44" for an arc length of 56.57 feet, to a point of cusp with the southwesterly line of said Parcel B as shown on said map;

Thence along said southwesterly line, northwesterly, along a non-tangent curve to the right, having a radius of 10.00 feet, whose center bears North 33° 11' 30" East, through a central angle of 27° 00' 44" for an arc length of 4.71 feet;

Attachment B (continued)
Hotel Portion

Thence continuing along said southwesterly line, North 29° 47' 46" West, 70.84 feet, to the **POINT OF BEGINNING**.

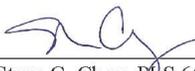
Containing 674 square feet more or less.

Attached hereto and by reference a part hereto is a plat labeled "EXHIBIT A-1 PLAT TO ACCOMPANY LEGAL DESCRIPTION OF REAL PROPERTY" depicting the subject property.

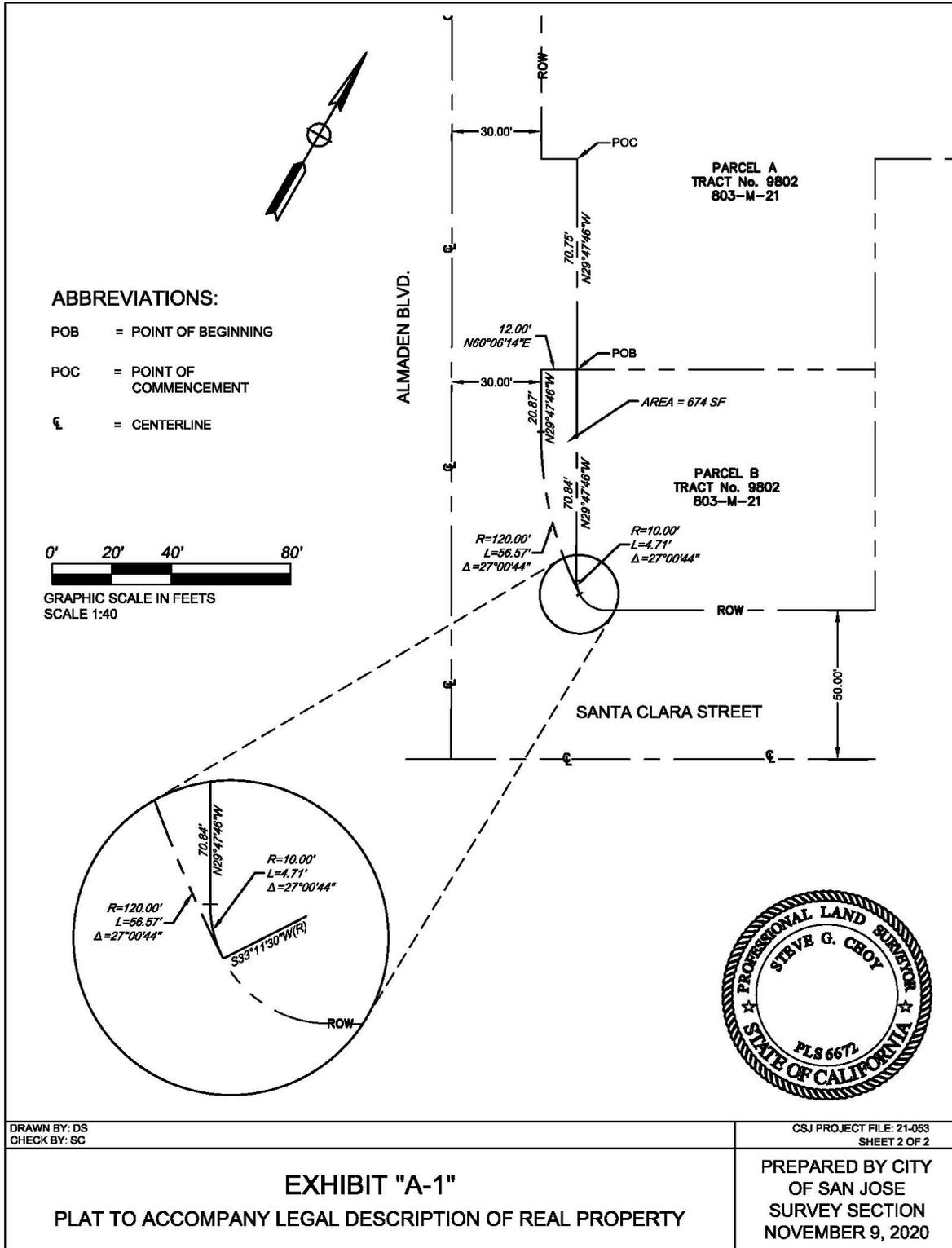
The Basis of Bearings for this description is the bearing South 29° 47' 46" East of the centerline of ALMADEN BOULEVARD as shown upon that certain map of TRACT NO. 9802, filed for record in the office of the Recorder of the County of Santa Clara, State of California, on July 7, 2006 in Book 803 of Maps, Page 21.

The above description of real property was prepared by me, or under my supervision, in conformance with the requirements of Section 8726 (g, k, l, m) of the Business and Professions Code of the State of California.




Steve G. Choy, PLS 6672

Attachment B (continued)
Hotel Portion



Attachment C
Axis Portion

EXHIBIT "A"

**LEGAL DESCRIPTION
OF REAL PROPERTY**

All that certain Real Property situate in the City of San José, County of Santa Clara, State of California, being a portion of the parcel of land described in the Grand Deed recorded April 6, 1967 as Document No. 3205485 in Book 7685 of Official Records, page 461, Santa Clara County Records, and being more particularly described as follows:

BEGINNING at the northerly corner of said parcel of land, also being an angle point in the general southwesterly line of Parcel A as shown on that map of Tract 9802 filed for record on July 7, 2006, in Book 803 of Maps, page 21, Santa Clara County Records;

Thence along said general southwesterly line, South 60° 06' 14" West, 10.00 feet, to a line parallel with, and 32.00 feet distant, from the centerline of Almaden Boulevard;

Thence along said parallel line, South 29° 47' 46" East, 70.75 feet;

Thence North 60° 06' 14" East, 10.00 feet, to the southwesterly corner common to said Parcel A and Parcel B as shown on said map;

Thence along said general southwesterly line of said Parcel A, North 29° 47' 46" West, 70.75 feet, to the **POINT OF BEGINNING**.

Containing 707 square feet more or less.

Attached hereto and by reference a part hereto is a plat labeled "EXHIBIT A-1 PLAT TO ACCOMPANY LEGAL DESCRIPTION OF REAL PROPERTY" depicting the subject property.

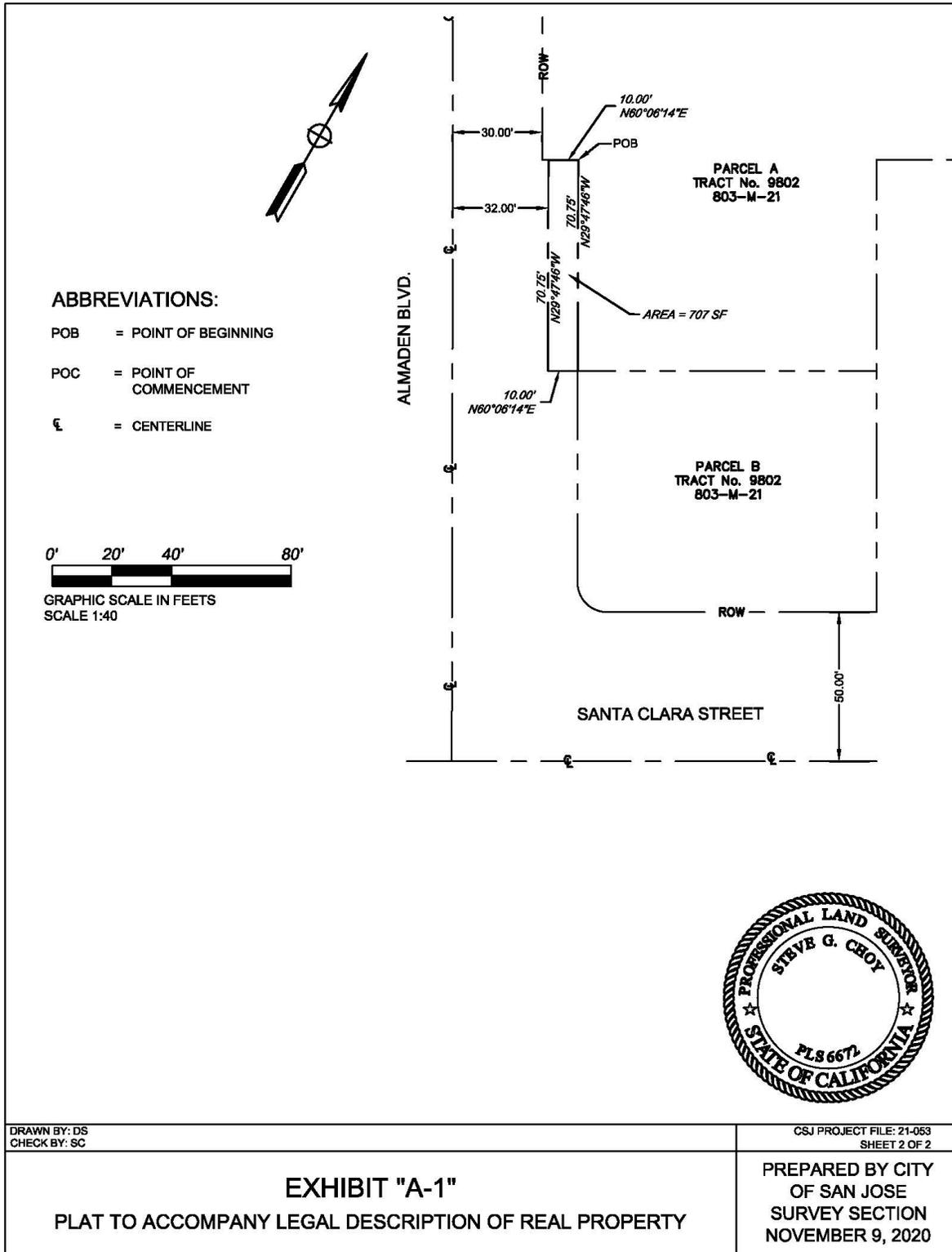
The Basis of Bearings for this description is the bearing South 29° 47' 46" East of the centerline of ALMADEN BOULEVARD as shown upon that certain map of TRACT NO. 9802, filed for record in the office of the Recorder of the County of Santa Clara, State of California, on July 7, 2006 in Book 803 of Maps, Page 21.

The above description of real property was prepared by me, or under my supervision, in conformance with the requirements of Section 8726 (g, k, l, m) of the Business and Professions Code of the State of California.




Steve G. Choy, PLS 6672

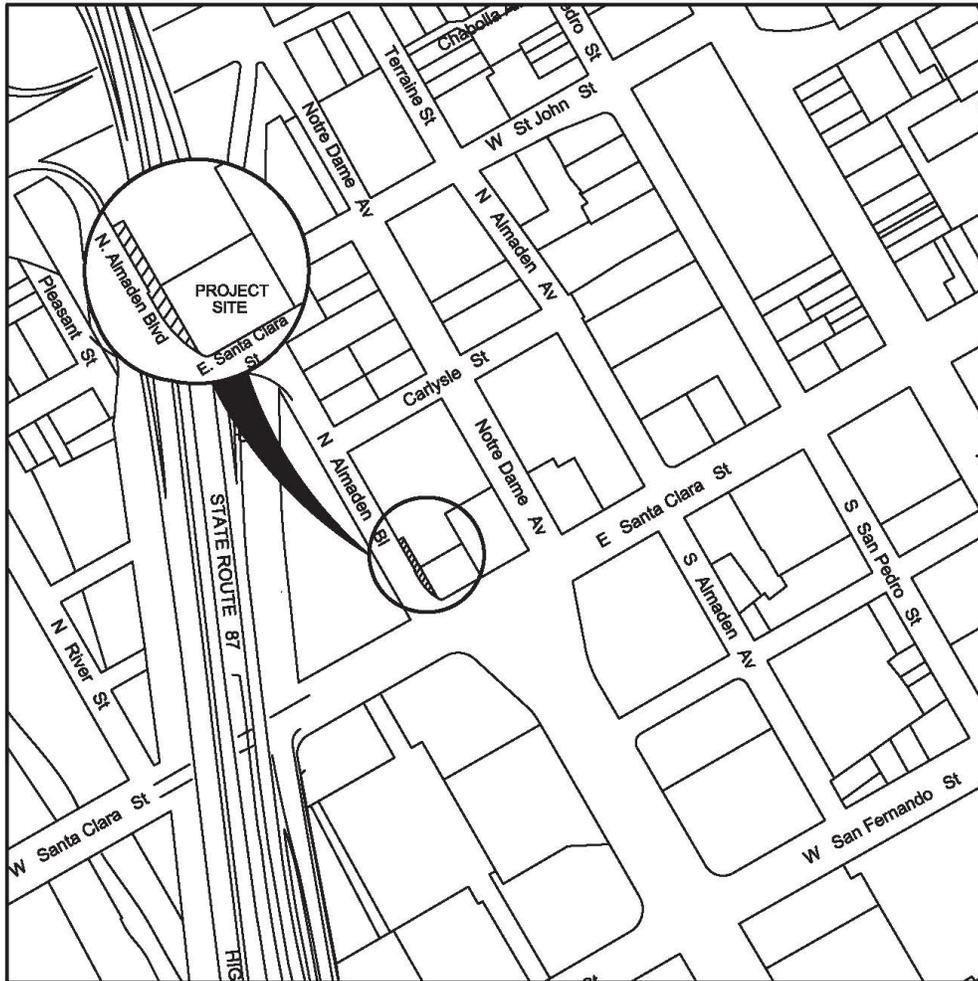
Attachment C (continued)
Axis Portion

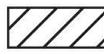


Attachment D
Location Map

LOCATION MAP

SHOWING THAT PORTION OF NORTH ALMADEN BOULEVARD
TO BE VACATED



 AREA TO BE VACATED
(1,381 S.F.)



Attachment E
Plat Map

PLAT MAP

SHOWING THE PORTION OF THE NORTH ALMADEN BOULEVARD
TO BE VACATED



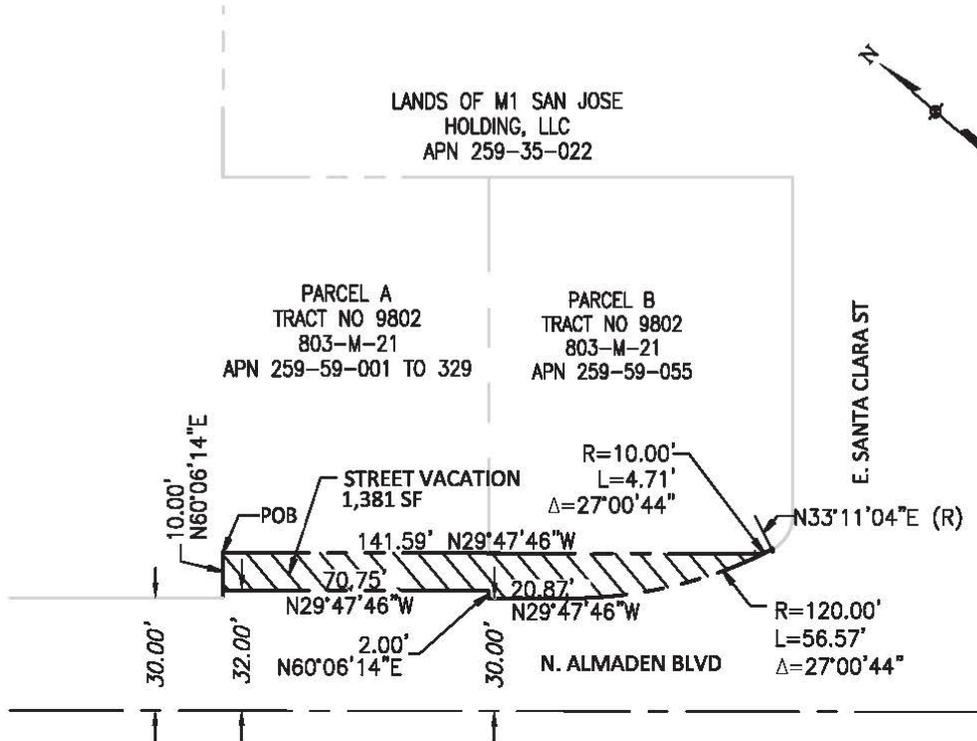
AREA TO BE VACATED

FILED WITH THE CITY COUNCIL OF THE CITY OF SAN JOSE THIS _____ DAY OF _____, AND APPROVED BY SAID CITY COUNCIL THIS _____ DAY OF _____ BY RESOLUTION NUMBER _____

CITY CLERK, CITY OF SAN JOSE

Matthew Alan Cano
for MATTHEW ALAN CANO
DIRECTOR OF PUBLIC WORKS,
CITY OF SAN JOSE

APPROVED THIS 23RD DAY OF NOVEMBER 2020



Attachment F
Hotel Plans

