

RESOLUTION NO. RES2023-276

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT PERMIT TO ALLOW THE DEMOLITION OF FIVE COMMERCIAL STRUCTURES (TOTALING APPROXIMATELY 20,500 SQUARE FEET), THE REMOVAL OF EIGHT ORDINANCE-SIZE AND THREE NON-ORDINANCE-SIZE TREES, THE CONSTRUCTION OF A FIVE-STORY, 120-GUESTROOM HOTEL, WITH A ROOFTOP PUBLIC EATING ESTABLISHMENT WITH OUTDOOR DINING, AND THE CONVERSION OF AN EXISTING MOTEL BUILDING TO INCIDENTAL OFFICE USE (STAFF ROOM AND STORAGE FACILITY) ON AN APPROXIMATELY 1.76-GROSS-ACRE SITE ON THE WEST SIDE OF MONTEREY ROAD, APPROXIMATELY 150 FEET SOUTHEASTERLY OF THE INTERSECTION OF MONTEREY ROAD AND SAN JOSE AVENUE (1669 MONTEREY ROAD)

FILE NO. PD22-010

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on December 21, 2021, Dhaval Panchal of Casa Linda Motel, LLC, filed an application with the City of San José, which would later be converted to a Planned Development Permit (File No. PD22-010), to allow the demolition of five commercial structures (totaling approximately 20,500 square feet), the removal of eight ordinance-size and three non-ordinance-size trees, the construction of a five-story, 120-guestroom hotel, with a rooftop public eating establishment with outdoor dining, and the conversion of an existing motel building to incidental office use (staff room and storage facility) on an approximately 1.76-gross-acre site (the “project”) located on the west side of Monterey Road, approximately 150 feet southeasterly of the intersection of Monterey Road and San Jose Avenue (1669 Monterey Road) (the “subject property”); and

WHEREAS, a legal description of the subject property is attached as Exhibit "A" and depicted in the parcel map attached as Exhibit “B,” which are incorporated by reference; and

WHEREAS, at a duly noticed public hearing on June 14, 2023, the Planning Commission considered public comments and all evidence and testimony received at the public hearing regarding the project and recommended that the City Council approve the project; and

WHEREAS, this City Council received and considered the reports and recommendations of the City's Planning Commission and City's Director of Planning, Building, and Code Enforcement and conducted a duly noticed public hearing on the project, giving all persons full opportunity to be heard and to present evidence and testimony; and

WHEREAS, at said hearing, this City Council received in evidence a plan for the subject property entitled, "Planned Development Permit (PD22-010) For Proposed New Hotel Building 1669 Monterey Road" dated February 14, 2023, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection; said plan is incorporated by reference; and

WHEREAS, this City Council has heard and considered the testimony presented 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:

The foregoing recitals are hereby incorporated by reference as if fully set forth herein, and after considering evidence presented at the public hearing the City Council finds that the following are the relevant facts and findings regarding this project:

1. **Site Description and Surrounding Uses.** The Project Site is located on the west side of Monterey Road, approximately 150 feet southeasterly of the intersection of Monterey Road and San Jose Avenue (1669 Monterey Road). The proposed hotel would be located at the Monterey Road frontage of the approximately 1.76-gross-acre site. Access to the site is from one driveway along Monterey Road.

Surrounding land uses include commercial, light industrial, office, and indoor and outdoor recreation (soccer fields) uses to the north and northeast, a vacant industrial

lot to the south, a construction company to the southwest, and a variety of industrial uses (including vehicle-related uses, corporation yards, and light industrial uses) and a liquor store to the northwest.

2. **Project Description.** The project consists of a Planned Development Permit to allow the demolition of five commercial structures (totaling approximately 20,500 square feet), the removal of eight ordinance-size and three non-ordinance-size trees, the construction of a five-story, 120-guestroom hotel, with a rooftop public eating establishment with outdoor dining, and the conversion of an existing motel building to incidental office use (staff room and storage facility) on an approximately 1.76-gross-acre site on the west side of Monterey Road, approximately 150 feet southeasterly of the intersection of Monterey Road and San Jose Avenue (1669 Monterey Road).
3. **Envision San José 2040 General Plan Consistency.** The project is within the Combined Industrial/Commercial and Heavy Industrial land use designations in the Envision San José 2040 General Plan Land Use/Transportation Diagram Map.

The Combined Industrial/Commercial land use designation is intended for commercial, office, or industrial developments or a compatible mix of these uses. This designation occurs in areas where the existing development pattern exhibits a mix of commercial and industrial land uses or in areas on the boundary between commercial and industrial uses. This land use designation supports a floor area ratio up to 12.0. The floor area on the CIC portion of the site (Portion 1) is 2.30.

The Heavy Industrial designation is intended for industrial users best segregated from other uses. Office and research and development uses are discouraged under this designation in order to reserve development sites for traditional industrial activities, such as heavy and light manufacturing and warehousing. This land use designation supports a floor area ratio up to 1.5. The floor area on the HI portion of the site (Portion 2) is 0.018.

The project is consistent with the following key General Plan policies:

Land Use Policy LU-14.4: Discourage demolition of any building or structure listed on or eligible for the Historic Resources Inventory as a Structure of Merit by pursuing the alternatives of rehabilitation, re-use on the subject site, and/or relocation of the resource.

Analysis: The Casa Linda Motel is a Structure of Merit. One of the buildings will be reused on the subject site; the alternative of relocation of the resource will be pursued for the other buildings. As conditioned in the resolution, the City will offer each of the buildings for relocation prior to demolition for at least 60 days. If relocation is not possible, the structures shall be made available for salvage to the general public for at least 30 days.

Implementation (Land Use/Transportation Diagram) Policy IP-1.4: For contiguous properties in single ownership that have multiple land use designations, the boundary between designations may be an undulating or “wavy” line. When such boundary

occurs on the Land Use/Transportation Diagram it means that some flexibility may be allowed in the location of the designated uses. The same general land area and allocation of uses should be maintained, but the designated uses may be relocated on the site if they are compatible with surrounding land use designations, and do not impact the viability of developing the rest of the site. This policy also applies to a single property with multiple land use designations.

Analysis: This project consists of two parcels, one of which is split between two land use designations: Combined Industrial/Commercial at the front and Heavy Industrial at the rear. Policy IP-1.4 allows for a slight reconfiguration of the land use designations, while maintaining the same land area. Consistent with Policy IP-1.4, the Planned Development Zoning retains the same area allocation for each of the two designations, allowing the CIC zoning portion to extend slightly into the General Plan HI boundary. This encroachment is compensated for by extending an HI-designated driveway portion along the northern boundary of the parcel through the CIC-designated portion to Monterey Road. As a result, the hotel will be constructed in the CIC-based Portion 1 of the parcel fronting Monterey Road instead of occupying the entire parcel width. Should the owner wish to do so in the future, the implementation of this policy allows industrial uses to be implemented in the rear of the lot while constraining the hotel towards the front of the lot, as contemplated by the General Plan.

The existing Casa Linda Motel is legal non-conforming and has the right to continue operation indefinitely. It occupies the entire site, which is currently zoned HI. With the proposed Planned Development Zoning, the hotel is placed within the CIC-based Portion 1 and becomes a conforming use.

Implementation (Zoning) Policy IP-8.5: Use the Planned Development zoning process to tailor such regulations as allowed uses, site intensities and development standards to a particular site for which, because of unique circumstances, a Planned Development zoning process will better conform to Envision General Plan goals and policies than may be practical through implementation of a conventional Zoning District. These development standards and other site design issues implement the design standards set forth in the Envision General Plan and design guidelines adopted by the City Council. The second phase of this process, the Planned Development permit, is a combined site/architectural permit and conditional use permit which implements the approved Planned Development zoning on the property.

Analysis: The Planned Development zoning process is required in this case to implement IP-1.4. Since a conforming rezoning could only be used to split the lot between the CIC and HI Zoning Districts in a manner which exactly matches the General Plan Land Use/Transportation Diagram, the reallocation of land area must be done through a Planned Development zoning to allow the mix of uses on the lot, as a hotel use is not allowed in an HI zone. This mix of uses is facilitated by the HI access corridor, as it allows any potential heavy industrial use a way to access the site. Additionally, the Planned Development zoning process has been tailored to the lot and

the proposal, allowing a reduction in parking and required loading spaces due to space constraints on the lot and a slight increase in height for the hotel from the CIC

standards. A floor area ratio up to 12 is allowed in the CIC General Plan designation, which requires a greater height than allowed in the CIC zoning district.

4. **Zoning Ordinance Consistency.** The project includes a rezoning from the HI Heavy Industrial Zoning District to the **(PD) Planned Development** Zoning District. Such a rezoning is consistent with Chapter 20.60 of the San José Municipal Code, which provides for the rezoning of property to Planned Development districts and implementation of such zonings through Planned Development Permits consistent with the General Development Plan of the Planned Development Zoning District. Surrounding parcels are zoned HI Heavy Industrial, CG Commercial General, and A(PD) Planned Development.

Land Use

The base HI Heavy Industrial zoning of the proposed PD Planned Development Zoning District is unchanged from the existing zoning.

Per the General Development Plan, the site has been split into two portions with different land use regulations. Portion 1 includes the portion of the site at its eastern corner, abutting Monterey Road. Portion 2 includes the remainder of the site.

Portion 1 of the site allows permitted, special, and conditional uses of the CIC Combined Industrial/Commercial Zoning District. The hotel building is within Portion 1 of the parcel and is a permitted use in that portion. Additionally, a public eating establishment, including outdoor dining incidental to a public eating establishment, is a permitted use in Portion 1 of the site.

Portion 2 of the site allows permitted, special, and conditional uses of the HI Heavy Industrial Zoning District, as well as parking and circulation (ingress and egress) for any uses located in Portion 1 of the site. Within Portion 2 of the parcel, one existing motel building is to be retained at the rear of the lot as an incidental office use (staff room and storage facility) to support the hotel use. This use will be allowed per Section 20.50.120. Specifically, the findings in Section 20.50.125.A are made as follows:

1. The incidental office use is directly related to and supportive of an existing industrial permitted, conditional, or special use operating on the site; and
2. The incidental office use occupies a total of no more than fifteen (15) percent or up to 5,000 square feet, whichever is greater, of the site area used and occupied by the existing subject industrial permitted, conditional, or special use.

Analysis: The incidental office use is directly related to the hotel, an existing permitted use in an industrial zone operating on the site, and is 906 square feet, which is less than 5,000 square feet.

Development Regulations

Height and Setbacks:

The height and setbacks for the Planned Development Zoning are listed in the table below, matching the HI Heavy Industrial Zoning District or the CIC Combined Industrial/Commercial Zoning District (with the exception of height) in the Zoning Code, as amended. The table compares the HI Heavy Industrial or CIC Combined Industrial/Commercial Zoning Districts per Section 20.50.200 of the Zoning Code and the proposed HI(PD) Planned Development Zoning District development standards. Per Section 20.60.040.B of the Zoning Code, when a PD permit has been implemented, the provisions of the permit prevail over the regulations of the base district zoning of the property. The table also shows the project compliance with the proposed standards. Only new development (the hotel building and parking and circulation) is evaluated in the tables below; the existing motel building is legal non-conforming and is not subject to these standards per Section 20.150.020.B of the Zoning Code.

Standard	CIC Zoning District Requirements	HI(PD) Planned Development Zoning District Development Standards (Portion 1)	Project Compliance with PD Standards
<i>Minimum Front Setback</i>			
... to Building	15 feet	15 feet	15 feet
... to Parking & Circulation	20 feet	20 feet	30 feet
... to Loading Docks	60 feet	60 feet	122 feet
<i>Minimum Side Setback</i>		<i>Southeast lot line only</i>	
... to Building	0 feet	0 feet	6.5 feet
... to Parking & Circulation	0 feet	0 feet	68 feet

... to Loading Docks	0 feet	0 feet	76 feet
<i>Minimum Rear Setback</i>		<i>No rear lot line in Portion 1</i>	
<i>Maximum Height</i>	50 feet	55 feet	54.5 feet

Standard	HI Zoning District Requirements	HI(PD) Planned Development Zoning District Development Standards (Portion 2)	Project Compliance with PD Standards
<i>Minimum Front Setback</i>			
... to Parking & Circulation	15 feet	15 feet	343 feet
... to Loading Docks	15 feet	15 feet	N/A
<i>Minimum Side Setback (NW)</i>			
... to Parking & Circulation	0 feet	0 feet	30 feet
... to Loading Docks	0 feet	0 feet	30 feet
<i>Minimum Side Setback (SE)</i>			
... to Parking & Circulation	0 feet	0 feet	5.5 feet
... to Loading Docks	0 feet	0 feet	N/A
<i>Minimum Rear Setback</i>			

... to Parking & Circulation	0 feet	0 feet	27.5 feet
... to Loading Docks	0 feet	0 feet	411 feet
<i>Maximum Height</i>	50 feet	50 feet	N/A

Vehicle, Bicycle, and Motorcycle Parking:

The minimum number of parking spaces and bicycle spaces required in Table 20-190 of the Zoning Code, as amended, and in the Planned Development Zoning are listed in the tables below. As the project was deemed complete on October 28, 2022,

parking requirements referenced to Section 20.90 are being evaluated using the vehicle, bicycle, and motorcycle parking requirements in effect on that date.

Vehicle Parking	Zoning Code	HI(PD) Planned Development Zoning District Development Standards	Project Compliance with PD Standards
Hotel	1 per guest room or suite, plus 1 per employee	The number of employees plus 75% of the number of guest rooms	99 parking spaces

Analysis: As shown on the plan set for Planned Development Permit PD22-010, there are 99 vehicle parking spaces provided in the project site, where 98 vehicle parking spaces are required (eight employees and 120 guest rooms), in compliance with the HI(PD) Planned Development Zoning District standards. Additionally, per Section 20.50.125.B, no parking is required for the incidental office use.

Bicycle Parking	Zoning Code	HI(PD) Planned Development Zoning District Development Standards	Project Compliance with PD Standards
Hotel	1 space plus 1 per 10 guest rooms	1 space plus 1 per 10 guest rooms	16 bicycle parking spaces

Analysis: As shown on the plan set for Planned Development Permit PD22-010, there are 16 bicycle parking spaces provided in the project site (4 long-term and 12 short-

term). Per Note 6 of Table 20-190, at least 80% of bicycle parking spaces shall be provided in short-term facilities. Therefore, of the 13 required bicycle parking spaces, at least 11 must be short-term. The project provides bicycle parking in compliance with the HI(PD) Planned Development Zoning District standards.

The minimum number of motorcycle spaces in the Planned Development Zoning is listed in the table below, consistent with Table 20-250 of the Zoning Code, as amended.

Motorcycle Parking	Zoning Code	HI(PD) Planned Development Zoning District Development Standards	Project Compliance with PD Standards
Hotel (Commercial)	1 motorcycle space per 20 code required auto parking spaces	1 motorcycle space per 20 code required auto parking spaces	6 motorcycle parking spaces

Analysis: As shown on the plan set for Planned Development Permit PD22-010, there are six motorcycle parking spaces provided at the project site, where five motorcycle parking spaces are required, in compliance with the HI(PD) Planned Development Zoning District standards.

Loading Spaces: The minimum number of loading spaces required in Section 20.90.410 of the Zoning Code, as amended, and in the Planned Development Zoning are listed in the table below.

Loading Spaces	Zoning Code	HI(PD) Planned Development Zoning District Development Standards	Project Compliance with PD Standards
Hotel	Minimum 1 space for 10,000 square feet, plus 1 additional space for each 20,000 square feet of floor area.	At least 1 loading space, restricted to Class 4 to Class 6 delivery trucks	1 loading space, restricted to Class 4 to Class 6 delivery trucks

Analysis: As shown on the plan set for Planned Development Permit PD22-010, there is one loading space, restricted to Class 4 to Class 6 delivery trucks, at the project site, in compliance with the HI(PD) Planned Development Zoning District standards.

5. **Citywide Design Guidelines and Standards Consistency.** In a letter dated October 20, 2022, the project applicants requested exceptions for the two Citywide Design Standards below, pursuant to Section 1.1.2 of the Citywide Design Guidelines.

Section 2.3.8, Standard S1. Select trees which at maturity create a tree canopy cover that shades a minimum of 50 percent of each on-site surface parking area.

Section 2.3.8, Standard S8. Utilize at least 50 percent of the total landscaped area on a development site for Low Impact Design (LID) site design measures, source controls, and green stormwater infrastructure, including but not limited to bioretention, rain gardens, LID planters, and permeable pavers.

Findings for these exceptions are evaluated together and made below:

- a. There is a physical constraint or unique situation that (1) is not created by the project applicant or property owner; and (2) is not caused by financial or economic considerations.

Analysis: The standards for tree canopy coverage and LID site design measures cannot be met because of the layout required by the shape of the site. Specifically, there is a need for adequate parking for the functional operation of the hotel, and requirements for parking space size, drive aisle width for fire truck access, a fire truck turnaround, and adequate space for circulation of waste haulers must be met. Due to the hook at the back of the lot, a drive aisle is required at the southern portion of the lot to connect to the rear building. Combined with the requirement for 24-foot drive aisles to meet fire requirements for aerial apparatus access roads (with a variance), this results in a design where only three rows of parking can be provided in the middle of the site, with approximately 15 linear feet of landscaping available from north to south, including five feet each at the edges of the site, and five feet between two rows of parking. This heavily restricts the square footage available for landscaping, including areas for tree planting and surface stormwater controls. With a less narrow site without a hook and the same amount of parking spaces, the project could be redesigned to allow less area to be used for circulation, canopy coverage could be kept consistent or increased with the same amount of area depending on the site layout, and additional square footage would be available for LID site design measures.

In addition to the limited space available for landscaping, there are also mutual constraints on tree planting and surface stormwater facilities, such as bioretention: according to the Santa Clara Valley Urban Runoff Pollution Prevention Program's C.3 Stormwater Handbook, no trees should be planted within 20 feet of an overflow inlet due to root interference and should only be planted at the periphery of bioretention areas. This requirement restricts tree canopy coverage where overflow inlets are needed, including four locations within the parking lot and at the front of the property (see Landscape Plan, Sheet L-1.0).

Therefore, due to the long, narrow, and irregular shape of the lot, this creates a physical constraint where meeting the various requirements for drive aisle location

and width and fire truck and waste hauler access results in a design limiting the amount of landscaping at the site. In turn, because stormwater facilities and tree planting are not compatible in all areas, incorporating the required stormwater treatment means that 50% tree canopy coverage cannot be reached, and maximizing the tree canopy means that 50% LID site design measures also cannot be reached. Therefore, the shape of the lot and the design required to meet requirements for the site results in a physical constraint which leads to neither of these standards being met.

- b. Approving the exception will not create a safety hazard or impair the integrity and character of the neighborhood in which the subject property is located.

Analysis: For Standard S1, approving the exception will not create a safety hazard or impair the integrity and character of the neighborhood because not having 50% tree canopy is not a safety hazard, and would not impair the integrity and character of the neighborhood because the surrounding neighborhood is minimally landscaped. Moreover, the project is meeting other landscaping requirements in Section 20.50.260 and Section 2.3.8 of the Citywide Design Guidelines, including requirements for landscaped setback areas, tree well dimensions, and tree location.

For Standard S8, the site meets stormwater obligations with the use of lined and unlined at-grade bioretention basins. Public Works and Environmental Services have reviewed the Stormwater Control Plan and numeric sizing calculations for this project and found the project in conformance with the Post-Construction Urban Runoff Management Policy (Council Policy 6-29), which established requirements to minimize and treat stormwater runoff consistent with the San Francisco National Pollutant Discharge Elimination System (NPDES) Permit ("MRP"). Council Policy 6-29 seeks to minimize runoff through site design, prevent polluted runoff with source control, and treat stormwater with LID. Through evaluation of the Stormwater Evaluation Form, the Stormwater Control Plan, and the Stormwater Control Details, Public Works and Environmental Services determined that based on the amount of impervious area at the site, the project properly diverts and treats a sufficient amount of stormwater to reduce run-off and pollution in conformance with the MRP through the use of at-grade landscape-based bioretention planters. Therefore, approving this exception will not create a safety hazard or impair the integrity and character of the neighborhood because the project still meets their obligations for retention and treatment of stormwater, and the lack of LID site design measures would not cause flooding and would not change the integrity and character of the neighborhood.

- c. The proposed project meets the intent of the design standard to the extent feasible.

Analysis: For Standard S1, as much as possible of the on-site surface parking area, including drive aisles, has been shaded, and shading will reach 34% of the on-site parking area at maturity. Due to the restricted amount of landscaped area available for trees and the requirement for some surface stormwater facilities within landscaped areas, this percentage is the maximum feasible for the project.

For Standard S8, 17% of the total landscaping is to be used as LID site design measures, as providing tree canopy coverage per Standard S1 has been prioritized, and as per finding (a), stormwater facilities and tree planting can be mutually exclusive goals. At-grade landscape-based bioretention planters have been used to comply with stormwater obligations per Council Policy 6-29, as stated in finding (b).

The project complies with the following key Citywide Design Standards:

Section 2.3.6, Standard S1. For medium and large sites, place the first parking stall at least 30 feet away from the driveway when accessing a parking lot from a primary street to allow cars to stack on site rather than in the street.

Analysis: The first parking stall is 30 feet from the driveway when accessing the parking lot from Monterey Road, a primary street.

Section 3.3.7, Standard S1. In General Plan growth areas, ground floor elevation fronting primary streets must have high quality materials and texture for at least 50 percent of the non-glass areas. High quality materials include (but are not limited to) stone, marble, granite, brick, tile, wood, terracotta, and steel.

Analysis: The ground-floor elevation fronting Monterey Road, a primary street, is composed of glass, stone, and stucco. Of the non-glass areas, 70% of the elevation is composed of stone.

Section 3.3.7, Standard S3. For buildings taller than four stories, limit the use of stucco to a maximum of 60 percent of any façade that faces a street in General Plan growth areas.

Analysis: The façade facing Monterey Road is composed of glass, stucco, and stone. 58% of the façade is stucco, which is less than 60%.

Section 4.1.1, Standard S2. Create transparent façades with windows or clear glazing for at least 70 percent of the active frontage length along primary streets.

Analysis: Transparent facades with clear glazing (glass) is proposed for 83% of the ground floor active frontage length along Monterey Road.

6. City Council Policy Consistency. *City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals*

Staff followed Council Policy 6-30: Public Outreach Policy. This project was considered a Large Development Proposal, as it proposed over 60,000 square feet of commercial uses. Therefore, a notice of Community Meeting was posted to the City's website and mailed to the owners and tenants of all properties located within 1,000 feet of the project site ahead of the meeting, which was held over Zoom on September 26, 2022. Two community members attended the meeting and there were no questions or comments about the project.

A notice of the public hearing was distributed to the owners and tenants of all properties located within 1,000 feet of the project site and posted on the City website.

An on-site sign with the updated project information was posted on the project frontage on September 9, 2022. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

7. **California Environmental Quality Act.** The City of San José, as the lead agency for the project, prepared an Initial Study/Mitigated Declaration (IS/MND) in full compliance with CEQA. The IS/MND was circulated for public review and comments from March 30, 2023 through April 18, 2023. Due to a mistake in uploading to the State Clearinghouse, the IS/MND was recirculated from April 19, 2023 to May 8, 2023. One formal letter was received from the Santa Clara Valley Water District during the public circulation period, with comments regarding minor edits related to flood zone depth. The comment letter did not result in any substantial changes to the project description, analyses, and/or impacts that was previously disclosed in the IS/MND. These environmental comments are addressed by staff in a formal Response to Comments document.

The Initial Study identified relevant mitigation measures for potential impacts to nesting birds, impacts on archaeological deposits during excavation and construction, and construction noise and vibration impacts on adjacent buildings and businesses. In addition, standard permit conditions are made part of the permit approval. These standard permit conditions include best management practices for controlling dust and exhaust during construction, tree replacement, compliance with the Habitat Plan, uncovering buried archaeological or historic resources and human remains during construction activities, preventing impacts from lead-based paint and asbestos during demolition activities, preventing stormwater pollution during construction, managing mechanical equipment noise, and interior noise levels. The mitigation measures are included in the Mitigation Monitoring and Reporting Program (MMRP) and both the mitigation measures and standard permit conditions are made a part of this permit.

The Initial Study concluded that the proposed project would not result in any significant and unavoidable environmental impacts with implementation of identified mitigation measures. Therefore, an EIR is not required, and an Initial Study/Mitigated Negative Declaration is the appropriate level of CEQA clearance for the project.

The IS/MND, Response to Comments, and other related environmental documents are available on the Planning web site at: <https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/negative-declaration-initial-studies/fairfield-inn-and-suites>.

8. **Planned Development Permit Findings.** Section 20.100.940 of the Zoning Ordinance specifies the required findings for approval of a Planned 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. In order to make the Planned Development Permit findings and recommend approval to City Council, the Planning Commission must determine that:

- a. The planned development permit, as issued, is consistent with and furthers the policies of the general plan; and

Analysis: As analyzed above, the project is consistent with the Combined Industrial/Commercial and Heavy Industrial land use designations per the General Plan, including relevant goals and policies. This includes consistency with policies regarding lots with multiple General Plan designations, incidental uses, and Planned Development Zonings.

Most specifically, the planned development permit is consistent with General Plan policy IP-1.4, which allows some flexibility in the boundary between designations for a property with multiple land use designations, so long as the same general land area and allocation of uses be maintained. A hotel is only allowed in the Combined Industrial/Commercial designation, but its footprint extends into the Heavy Industrial designation. Therefore, the Planned Development Zoning for this project divides the parcel into two portions, one based on the CIC Combined Industrial/Commercial Zoning District, and one based on the HI Heavy Industrial Zoning District, with the hotel included entirely in the CIC-based portion. These portions do not match the boundaries of the General Plan Land Use/Transportation Diagram; however, the land area allocated to each of the portions in the Planned Development Zoning do match the land area of the General Plan designations. Therefore, this Planned Development Permit is consistent with General Plan policy IP-1.4 in that it is on a site with multiple land use designations, and the same general land area and allocation of uses are maintained for the site, and that the rear of the site can continue to be developed for Heavy Industrial uses.

- b. The planned development permit, as issued, conforms in all respects to the planned development zoning of the property; and

Analysis: As analyzed above, the project is consistent with the proposed HI(PD) Planned Development Zoning District Development Standards. The project is consistent with the parking, setback, height, and landscaping requirements of the Planned Development Standards and the General Development Plan.

- c. The planned development permit, as approved, is consistent with applicable city council policies, or counterbalancing considerations justify the inconsistency; and

Analysis: As discussed under the City Council Policy Consistency section below, the project conforms to City Council Policy 6-30 (Public Outreach Policy for Pending Land Use and Development Proposals). The project is considered a Large Development Proposal because it includes over 60,000 square feet of commercial uses. Public notice for a community meeting was provided to residents and businesses within 1,000 feet of the project site and the community meeting was held virtually on September 26, 2022. An on-site sign has been posted on the project frontage, updated to current project information on

September 9, 2022. The staff report was posted on the City's website and staff has been available to respond to questions from the public.

- d. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious; and

Analysis: The new hotel is built facing the street at the Monterey Road frontage. It is five stories and 54.5 feet, and with exteriors made of stone, glass, and stucco. These elevations are compliant with the Citywide Design Guidelines, as analyzed above. The project includes a porte-cochère characteristic of hotels over the main entryway. The remainder of the site is to be used as parking for the hotel, and an incidental office space at the rear of the site in an existing brick-clad building. The proposed uses are appropriate, compatible, and aesthetically harmonious with one another in that the existing building and the parking lot will be supportive of the main hotel building and the buildings both use high-quality materials (brick and stone).

- e. 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.

Analysis: All construction activity and its impacts, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor, would be temporary. Standard environmental conditions are included, requiring dust control, minimizing vehicle exhaust, preventing stormwater pollution from site runoff, and minimizing mechanical noise. Additionally, the Initial Study/Mitigated Negative Declaration prepared for the project concluded that all potential environmental impacts of the project will be mitigated.

- 9. **Demolition Permit Findings.** Per Section 20.80.460 of the Municipal Code, prior to the issuance of any Development Permit which allows for the demolition, removal or relocation of a Building, the approval authority shall determine whether the benefits of permitting the demolition, removal or relocation outweigh the impacts of the demolition, removal or relocation. In making such a determination, the following factors shall be considered. Staff recommends the Planning Commission adopt the considerations below for each factor, based on the above stated findings related to General Plan, Zoning and CEQA conformance and other reasons stated below, and subject to the conditions set forth in the Resolution:

- 1. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
- 2. The failure to approve the permit would jeopardize public health, safety or welfare;

Analysis: The property contains no nuisance, blight, or dangerous conditions. It would be speculative to conclude that failure to approve the permit would result in

the creation of nuisance, blight, or dangerous conditions, or jeopardize the public health, safety, or welfare.

3. The approval of the permit should facilitate a project that is compatible with the surrounding neighborhood;

Analysis: The approval of the permit facilitates a project compatible with the surrounding neighborhood, in that it is a new hotel replacing an existing motel which has been in the neighborhood since the early 1940s. This project improves compatibility with the neighborhood by moving most guest rooms into the Combined Industrial/Commercial-designated portion of the site and vacating much of the Heavy Industrial-designated portion of the site.

4. The approval of the permit should maintain the supply of existing housing stock in the City of San José;

Analysis: Approval of the permit does not affect the supply of existing housing stock in the City of San José. The existing use of the property is a motel and the proposed use is a hotel, neither of which are residential uses, so the supply of housing stock in the City is not affected by this proposal.

5. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;

6. Rehabilitation or reuse of the existing building would not be feasible; and

Analysis: The Casa Linda Motel is on the Historic Resources Inventory. One of the existing buildings is being maintained at the project site as a staff room. The remaining buildings have been determined to be historic resources of lesser significance, and the Resolution includes conditions to document the buildings and to offer the buildings for relocation and salvage. The rehabilitation or reuse of the existing buildings would not be feasible should the new project be constructed, as the new building, circulation, and landscaping occupies much of the footprint of the existing buildings and is intended to replace the existing buildings. Additionally, the reuse of these buildings is also not economically feasible, as the new project includes 120 guestrooms, which is a large increase over the existing 30-room motel.

7. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

Analysis: A replacement building would be approved in this application, and the existing buildings could not be demolished prior to submittal of a building or grading permit for the replacement building.

10. **Tree Removal Permit Findings.** Chapter 13.32 of Title 13 of the San José Municipal Code establishes required findings for issuance of a Live Tree Removal Permit for ordinance-size trees, as follows:

- a. That the tree affected is of a size, type and condition, and is in such a location in such surroundings, that its removal would not significantly frustrate the purposes of this chapter as set forth in Section 13.32.010; or
- b. That the location of the tree with respect to a proposed improvement
- c. unreasonably restricts the economic development of the parcel in question; or
- d. That the condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal.

Analysis: Eight ordinance-size trees (six Mexican fan palms, one Canary Island date palm, and one unidentified deciduous tree) are to be removed from the site through criteria (b) above. The trees are located in areas where their removal is required in order to construct the new entryway to the hotel (Trees ET3, ET5, ET6, and ET9) or to construct circulation and parking for the hotel (Trees ET10, ET11, ET12, and ET13).

Three non-ordinance-size trees (two Queen palms and one Mexican fan palm) can be removed without findings. All of these trees have a circumference between 19 and 38 inches (diameter of 6 to 12 inches). One street tree (a London plane) is being removed but is not covered under the scope of this application.

The City's Tree Replacement ratio is shown below. As all trees are non-native, the equivalent of 38 15-gallon replacement trees is required. The project plans indicate the planning of 48 24-inch box trees and two 15-gallon trees (equivalent to 98 15-gallon replacement trees) to comply with the tree replacement requirement. The replacement trees are 15 Chinese evergreen elms, 18 Queen palms, 15 Arbutus 'Marina' (Strawberry trees), and two Coast Redwoods.

Tree Replacement Ratios				
Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon
<p>x:x = tree replacement to tree loss ratio</p> <p>Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-family Residential, Commercial, and Industrial properties, a permit is required for removal of trees of any size.</p> <p>A 38-inch tree equals 12.1 inches in diameter.</p> <p>A 24-inch box tree equals two 15-gallon trees.</p>				

In accordance with the findings set forth above, a Planned 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 **granted**. This City Council expressly declares that it would not have granted 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 Permit within the applicable appeal period, such inaction by the Permittee shall be deemed to be 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 Planned Development Permit shall automatically expire four (4) years from and after the date of issuance hereof by the City Council, if within such time period, the proposed use of the site or the construction of buildings (if a Building Permit is required) 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. **Use Authorization.** Subject to all conditions herein, this Permit allows the demolition of five commercial structures (totaling approximately 20,500 square feet), the removal of eight ordinance-size and three non-ordinance-size trees, the construction of a five-story, 120-guestroom hotel, with a rooftop public eating establishment with outdoor dining, and the conversion of an existing motel building to incidental office use (staff room and storage facility) on an approximately 1.76-gross-acre site.
5. **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 makes a determination that such action 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.

6. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved Planned Development Permit plans entitled, "Planned Development Permit (PD22-010) For Proposed New Hotel Building 1669 Monterey Road" dated February 14, 2023, on file with the Department of Planning, Building and Code Enforcement as may be amended subject to City's approval, and to the San José Building Code (San José Municipal Code, Title 24), as amended. The plans are referred to herein as the "approved plans" or the "Approved Plan Set."
7. **Demolition Permit.** A demolition permit may be issued for the demolition of five commercial structures (totaling approximately 20,500 square feet) only upon the submittal of a complete Public Works Grading Permit application or the submittal of a complete Building Permit application for new construction.
8. **Timing of Tree Removals.** Trees that are proposed for removal to accommodate new development shall not be removed until the related complete Public Works Grading Permit Application or Building Permit Application has been filed.
9. **Window Glazing.** Unless otherwise indicated on the Approved Plan, all windows shall consist of a transparent glass.
10. **Planned Development District Effectuated.** This Planned Development Permit effectuates the Planned Development Zoning as reflected in the Permit's Approved Plan Set and the corresponding legal description.
11. **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.
12. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, state, and federal laws.
13. **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.
14. **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.
15. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.
16. **Utilities.** All new on-site telephone, electrical, and other service facilities shall be placed underground.

17. **Anti-Graffiti.** All graffiti shall be removed from buildings and wall surfaces, including job sites for projects under construction, within 48 hours of defacement.
18. **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.
19. **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.
20. **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 building such as paint, roof, paving, signs, lighting, and landscaping.
21. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
22. **Required Vehicular, Motorcycle, and Bicycle Parking.** This project shall conform to the vehicular, motorcycle, and bicycle parking requirements of the approved Planned Development Zoning, as amended. Any changes to the required vehicular, motorcycle, or bicycle parking requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning.
23. **Mechanical Equipment.** The location and type of mechanical equipment shall be as shown on the Approved Plans and shall be screened from view. Changes to the mechanical equipment requires the issuance of a Permit Adjustment or Amendment to the satisfaction of the Director of Planning.
24. **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.
25. **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.
26. **Construction Disturbance Coordinator.** Rules and regulation pertaining to all construction activities and limitations identified in this Permit, along with the name and telephone number of a Permittee-appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.
27. **Landscaping.** Planting and irrigation are to be provided by the Permittee, as indicated, on the final Approved plans.
28. **Irrigation Standards.** Irrigation shall be installed in accordance with Part 3 of Chapter 15.11 of Title 15 of the San José Municipal Code, Water Efficient Landscape Standards for New and Rehabilitated Landscaping, the City of San José Landscape and Irrigation Guidelines and the Zonal Irrigation Plan in the Approved Plans. The

design of the system shall be approved and stamped by a California Registered Landscape Architect.

29. **Certification.** Pursuant to San José Municipal Code, Section 15.11.1050 certificates of substantial completion for landscape and irrigation installation shall be completed by a licensed or certified professional and provided to the Department of Planning, Building and Code Enforcement prior to approval of the final inspection of the project.
30. **Replacement Landscaping.** All landscaping removed with the construction of the project shall be replaced with similar landscaping in the immediate area. All landscaped replacement areas shall be automatically irrigated.
31. **Loading Activity Hours.** All loading activities shall be limited to the hours of 6:00 a.m. to 9:00 p.m.
32. **Green Building Requirements.** This development is subject to the City's Green Building Ordinance for Private Sector New Construction as set for in Municipal Code Section 17.84. Prior to the issuance of any shell permits, or complete building permits, for the construction of buildings approved through the scope of this Permit, the Permittee shall pay a Green Building Refundable Deposit. In order to receive a refund of the deposit, the project must achieve the minimum requirements as set forth in Municipal Code Section 17.84. The request for the refund of the Green Building Deposit together with evidence demonstrating the achievement of the green building standards indicated in Municipal Code Section 17.84 shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.
33. **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, or as may be amended or updated by the City.
34. **Building Division Clearance for Issuing Permits.** Prior to the issuance of any Building permit, the following requirements shall be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This Permit file number, PD21-004 shall be printed on all construction plans submitted to the Building Division.
 - b. *San José's Natural Gas Infrastructure Prohibition and Reach Code Ordinances.* The City's Natural Gas Infrastructure Prohibition and Reach Code Ordinances apply to this project and all requirements shall be met. For more information, please visit www.sjenvironment.org/reachcode.
 - c. *Americans with Disabilities Act.* The Permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).
 - d. *Emergency Address Card.* The project Permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.

- e. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin 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.
 - f. *Other.* Such other requirements as may be specified by the Chief Building Official.
35. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.
36. **Public Works Clearance for Building Permit(s) or Map Approval.** Prior to the approval of the Tract Map by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the Permittee will be required to have satisfied all of the following Public Works conditions. The Permittee 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: <http://www.sanjoseca.gov/devresources>.
- a. **Minor Improvement Permit:** The public improvements conditioned as part of this permit may require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. The Minor Improvement Permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
 - b. **Transportation:** A Local Transportation Analysis (LTA) has been performed for the subject project based on a net new 65 AM and 77 PM peak hour trips. See separate Traffic Memo dated 10/7/22 for additional information. The following conditions shall be implemented:
 - i. Provide adequate vertical distance at the porte cochère of 13-feet, 6-inches minimum to accommodate SU-30 trucks.
 - ii. Provide a voluntary monetary contribution of \$15,000 towards the implementation of an Accessible Pedestrian Signal (APS) at the Monterey Road and Phelan Avenue intersection.
 - c. **Grand Boulevard:** This project fronts Monterey Road, 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. Although Grand Boulevards accommodate all modes of travel, the primary priority is given to public transit. At a minimum, Grand Boulevards require a 135' right-of-way. This project is required to provide at minimum 12' wide City standard sidewalk along Monterey Road.

d. 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 latest California Plumbing Code as adopted under the City of San José Municipal Code Section 24.04.100 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 Permittee 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.
- e. **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 shall 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.
 - iii. A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating that all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.
- f. **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).
- g. **Flood Zone AO, Depth 2':**
 - i. Elevate the lowest floor to 2 feet or more above the existing highest adjacent grade 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.
 - ii. 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.
 - iii. 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.
 - iv. 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.
 - v. Construction materials used below the depth of flooding must be resistant to flood damage.
- h. **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.

i. Undergrounding:

- i. The In-Lieu Undergrounding Fee shall be paid to the City for all frontage(s) adjacent to Monterey Road prior to issuance of a Public Works Clearance. 100 percent of the base fee in place at the time of payment will be due. Currently, the 2022 base fee is \$574 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record's City Average Cost Index for the previous year. The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued.
- ii. The Director of Public Works may, at his discretion, allow the developer to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to Monterey Road. Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.

j. Street Improvements:

- i. Construct 12' wide City standard attached sidewalk with 4'x5' tree wells behind the back of curb along Monterey Road project frontage. Provide approximately 4' public street dedication along Monterey Road project frontage to accommodate the new sidewalk width.
- ii. Provide City standard tree wells spaced 35' on center along the project frontage. The recommended replacement street trees are *Ulmus parvifolia* 'Emer II'.
- iii. Construct 26' wide right-in/right-out only City standard driveway along the Monterey Road project frontage.
- iv. Close unused driveway cut(s).
- v. Provide voluntary monetary contribution for the Class IV protected bike lane along Monterey Road project frontage per the CSJ Better Bike Plan 2025 (\$144/LF).
- vi. Dedication and improvement of the public streets 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. Locate and protect existing electrical conduit in driveway and/or sidewalk construction.

- iii. Provide clearance for electrical equipment from driveways and relocate driveway or electrolier. The minimum clearance from driveways is 10' in commercial areas and 5' in residential areas.
- iv. Provide clearance for electroliers from overhead utilities and request clearance from utility companies. Clearance from electrolier(s) must provide a minimum of 10' from high voltage lines; 3' from secondary voltage lines; and 1' from communication lines.

I. Street Trees:

- i. 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.
- ii. Show all existing trees by species and diameter that are to be retained or removed. Obtain a street tree removal permit for any street trees that are over 6 feet in height that are proposed to be removed.

37. Commercial Linkage Fee. For all Non-Residential development adding or constructing 5,000 square feet or more of new or additional floor area. A Permittee is required to submit to the Housing Department, as part of its the application for First Approval the following: (a) a fully completed, executed Satisfaction Plan, (b) all attachments to the Satisfaction Plan, (c) the required application processing fee and (d) complete an addendum to the Satisfaction Plan if the Project is requesting a secured deferred payment option or Affordable Housing Credits.

- a. Permittee must strictly comply with each requirement of the approved CLF Satisfaction Plan Application (Plan), Processing Fee, and Agreement, and any other applicable requirements of the CLF.
- b. No building permit may issue until an Agreement is recorded against the property. No building permit may issue except consistent with the requirements of the CLF and the proposed Plan to fulfill the CLF obligations.
- c. No scheduling of the final building inspection will occur until all requirements of the Commercial Linkage Fee Ordinance and Guidelines are met.
- d. For Office or R/D Projects adding more than 100,000 square feet and have selected the secured deferred payment option the following applies: Prior to issuance of any building permits, the Permittee must execute an agreement regarding deferred payment specifying the security to be provided and pay 20% of the fee, prior to the scheduling of final building inspection, those projects must pay

another 20% of the fee and submit the letter of credit or payment bond securing the outstanding amount for approval.

38. Relocation or Salvage of Structure of Merit. Prior to demolition, the City will offer each of the buildings for relocation. The City's "offer for relocation" will be placed in a newspaper of general circulation, posted on a website, and posted on the sites for a period of no less than 60 days. In the event that relocation is not possible, prior to demolition the structure shall be made available for salvage to the general public and companies facilitating the reuse of historic building materials for no less than 30 days.

39. Standard Environmental Conditions. The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:

a. Air Quality

- i. Water active construction areas at least twice daily or as often as needed to control dust emissions.
- ii. Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- iii. Remove visible mud or dirt track-out onto adjacent public roads using wet-power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- iv. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- v. Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- vi. Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- vii. All vehicle speeds on unpaved roads shall be limited to 15 mph.
- viii. Replant vegetation in disturbed areas as quickly as possible.
- ix. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- x. Minimize idling times either by shutting off equipment when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
- xi. Maintain and properly tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.

- xii. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

b. Biological Resources

- i. **Tree Replacement.** Any tree to be removed will be replaced with new trees in accordance with the City's Tree Replacement Ratios, as set forth below.

Tree Replacement Ratios				
Circumference of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more	5:1	4:1	3:1	15-gallon
19 up to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon
<p>x:x = tree replacement to tree loss ratio</p> <p>Note: Trees greater than or equal to 38-inch circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For Multi-Family residential, Commercial and Industrial properties, a permit is required for removal of trees of any size.</p> <p>A 38-inch tree equals 12.1 inches in diameter.</p> <p>A 24-inch box tree = two 15-gallon trees.</p>				

Twelve trees onsite would be removed, including one street tree. Three trees require a 2:1 ratio, and eight trees require a 4:1 ratio. The total number of replacement trees required to be planted would be 38 trees. The species of trees to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

In the event that a project site does not have sufficient area to accommodate the required tree replacement, one or more of the following may be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement or Director's designee. Changes to an approved landscape plan requires the issuance of a Permit Adjustment or Permit Amendment:

- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site.
- Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of building permit(s), in accordance with the City Council approved Fee

Resolution in effect at the time of payment. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

- ii. **Tree Protection Standards.** The Permittee shall maintain the trees and other vegetation shown to be retained in this project and as noted on the Approved Plan Set. Maintenance shall include pruning and watering as necessary and protection from construction damage. Prior to the removal of any tree on the site, all trees to be preserved shall be permanently identified by metal numbered tags. Prior to issuance of the Grading Permit or removal of any tree, all trees to be saved shall be protected by chain link fencing, or other fencing type approved by the Director of Planning. Said fencing shall be installed at the dripline of the tree in all cases and shall remain during construction. No storage of construction materials, landscape materials, vehicles or construction activities shall occur within the fenced tree protection area. Any root pruning required for construction purposes shall receive prior review and approval and shall be supervised by the consulting licensed arborist. Fencing and signage shall be maintained by the Permittee to prevent disturbances during the full length of the construction period that could potentially disrupt the habitat or trees.
 - iii. **Santa Clara Valley Habitat Plan.** The project is subject to applicable Habitat Plan conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The Permittee shall submit the Santa Clara Valley Habitat Plan Coverage Screening Form (<https://www.scv-habitatagency.org/DocumentCenter/View/151/Coverage-Screening-Form?bidId=>) to the Director of Planning, Building, and Code Enforcement or Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of grading permits. The Habitat Plan and supporting materials can be viewed at <https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan>.
- c. **Cultural Resources.**
- i. **Photo-documentation.** Prior to issuance of any demolition permit for The Casa Linda Motel located at 1669 Monterey Road, a listed Structure of Merit, photo-documentation consisting of selected views of the building for research and archival use shall be taken under the following standards:
 - a. Cover sheet – The documentation shall include a cover sheet identifying the photographer, providing the address of building, significance statement, common or historic name of the building, date of construction, date of photographs, and photograph descriptions.
 - b. Camera – A 35 mm camera or comparable.
 - c. Lenses – No soft-focus lenses. Lenses may include normal focal length, wide angle and telephoto.
 - d. Film – Color film is recommended.

- e. Filters – Photographer’s choice. Use of a polarized screen is encouraged.
- f. View – Perspective view – front and other elevations. All photographs shall be composed to give primary consideration to the architectural and/or engineering features of the structure. Detailed photographs of character-defining features shall be included.
- g. Lighting – Sunlight is preferred for exteriors, especially of the front facade. Light overcast days, however, may provide more satisfactory lighting for some structures. A flash may be needed to cast light into porch areas or overhangs.
- h. Technical – All areas of the photograph must be in sharp focus.
- i. Digital Form – All photographs shall be provided in print and digital form.

The project Permittee shall coordinate the submission of the photo-documentation, including the original prints and negatives, to History San José. Digital photos shall be provided as a supplement to the above photo-documentation, but not in place of it. Digital photography shall be recorded on a CD and submitted with the above documentation. The above shall be accompanied by a transmittal stating that the documentation is submitted as a standard measure to address the loss of the Structure of Merit, which shall be named and the address stated, in coordination with the City’s Historic Preservation Officer.

- ii. **Subsurface Cultural Resources.** If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City’s Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a Native American Tribal representative registered with the Native American Commission for the City of San Jose and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall examine the find. The archaeologist in consultation with the Tribal representative shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and 2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to Director of PBCE or the Director's designee and the City’s Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.
- iii. **Human Remains.** If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during

construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project Permittee shall immediately notify the Director of Planning, Building and Code Enforcement or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

- a. The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
- b. The MLD identified fails to make a recommendation; or
- c. The landowner or his authorized representative rejects the recommendation of the MLD, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

d. Geology and Soils.

- i. To avoid or minimize potential damage from seismic shaking, the project shall be constructed using standard engineering and seismic safety design techniques. Building design and construction at the site shall be completed in conformance with the recommendations of an approved geotechnical investigation. The report shall be reviewed and approved by the City of San José Department of Public Works as part of the building permit review and issuance process. The buildings shall meet the requirements of applicable Building and Fire Codes as adopted or updated by the City. The project shall be designed to withstand soil hazards identified on the site and the project shall be designed to reduce the risk to life or property on site and off site to the extent feasible and in compliance with the Building Code.
- ii. All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
- iii. Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
- iv. Ditches shall be installed to divert runoff around excavations and graded areas if necessary.
- v. The project shall be constructed in accordance with the standard engineering practices in the California Building Code, as adopted by the City of San José.

A grading permit from the San José Department of Public Works shall be obtained prior to the issuance of a Public Works clearance. These standard practices would ensure that the future building on the site is designed to properly account for soils-related hazards on the site.

- vi. If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of the Department of Planning, Building and Code Enforcement or Director's designee shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The Permittee shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee.

e. Greenhouse Gas Emissions.

- i. **Proof of Enrollment in SJCE.** Prior to issuance of any Certificate of Occupancy for the project, the occupant shall provide to the Director of the Department of Planning, Building, and Code Enforcement, or Director's designee, proof of enrollment in the TotalGreen program (approx. 100% renewable energy) assumed in the approved environmental clearance for the project in accordance with the California Environmental Quality Act (CEQA). If it is determined the project's environmental clearance requires enrollment in the TotalGreen program, neither the occupant, nor any future occupant, may opt out of the TotalGreen program.

f. Hazards and Hazardous Materials.

- i. **Asbestos and Lead-based Paint.**
 - a. In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling, shall be conducted prior to the demolition of on-site building(s) to determine the presence of asbestos-containing materials (ACMs) and/or lead-based paint (LBP).
 - b. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Title 8, California Code of Regulations (CCR), Section 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings shall be disposed of at landfills that meet acceptance criteria for the type of lead being disposed.
 - c. All potentially friable asbestos containing materials (ACMs) shall be removed in accordance with National Emission Standards for Air Pollution (NESHAP) guidelines prior to demolition or renovation activities that may disturb ACMs. All demolition activities shall be undertaken in accordance

with Cal/OSHA standards contained in Title 8, CCR, Section 1529, to protect workers from asbestos exposure.

- d. A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
- e. Materials containing more than one-percent asbestos are also subject to Bay Area Air Quality Management District (BAAQMD) regulations. Removal of materials containing more than one-percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.
- g. **Hydrology and Water Quality.** Measures shall be implemented to prevent stormwater pollution and minimize potential sedimentation during construction, including, but not limited to, the following:
 - i. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
 - ii. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
 - iii. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
 - iv. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
 - v. All trucks hauling soil, sand, and other loose materials shall be required to cover all trucks or maintain at least two feet of freeboard.
 - vi. All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
 - vii. Vegetation in disturbed areas shall be replanted as quickly as possible.
 - viii. All unpaved entrances to the site shall be filled with rock to remove mud from truck tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
 - ix. The Permittee shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.
- h. **Operational Noise.** Mechanical equipment shall be selected and designed by the project applicant to reduce impacts on surrounding uses to meet the City's dB(A) noise level requirement at the property line of nearby noise-sensitive land uses (60 dB(A) for property used or zoned for commercial purposes or 70 dB(A) for property used or zoned for industrial purposes). A qualified acoustical consultant shall be retained to review mechanical noise as these systems are selected to determine

specific noise reduction measures necessary to reduce noise to comply with the City's noise level requirements. Noise reduction measures could include, but are not limited to, selection of equipment that emits low noise levels and installation of noise barriers, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the nearest receptors. Other alternate measures may be optimal, such as locating equipment in less noise-sensitive areas, such as the rooftop away from the northern and eastern edges, where feasible.

40. **Conformance to MMRP.** This project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program (MMRP) approved for this development by City Council Resolution No. RES2023-275.
41. **Cultural Awareness Training.** Prior to issuance of grading permits, the project Permittee shall be required to submit evidence that a Cultural Awareness Training will be provided to construction personnel prior to ground disturbances. The training shall be facilitated by the project archaeologist in coordination with a Native American representative registered with the Native American Heritage Commissions for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.
42. **Revocation, Suspension, Modification.** This Planned 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 Planned Development 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.

In accordance with the findings set forth above, a permit to use the subject property for said purpose specified above is hereby approved.

EFFECTIVE DATE

The effective date of this Planned Development Permit shall be the same as effective date of the Rezoning Ordinance for File No. PDC22-005 passed for publication on August 8, 2023 (the "Zoning Ordinance") and shall be no earlier than the effective date of said Rezoning Ordinance.

ADOPTED this 8th day of August, 2023, by the following vote:

AYES: IBATRA, CANDELAS, COHEN, DAVIS, DOAN, FOLEY,
JIMENEZ, ORTIZ, TORRES, KAMEI, MAHAN.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.



MATT MAHAN

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.

Jan. 12, 2021
Page 1 of 2

EXHIBIT A
LEGAL DESCRIPTION FOR
THE LANDS OF CASA LINDA MOTEL, LLC
APN 456-02-019 AND 456-02-020

All that certain real property lying in the City of San Jose, County of Santa Clara, State of California, being the Lands of Casa Linda Motel, LLC as described in that certain Preliminary Title Report, First American Title Company, Order Number 2714-5974196, dated June 20, 2019, more particularly described as follows:

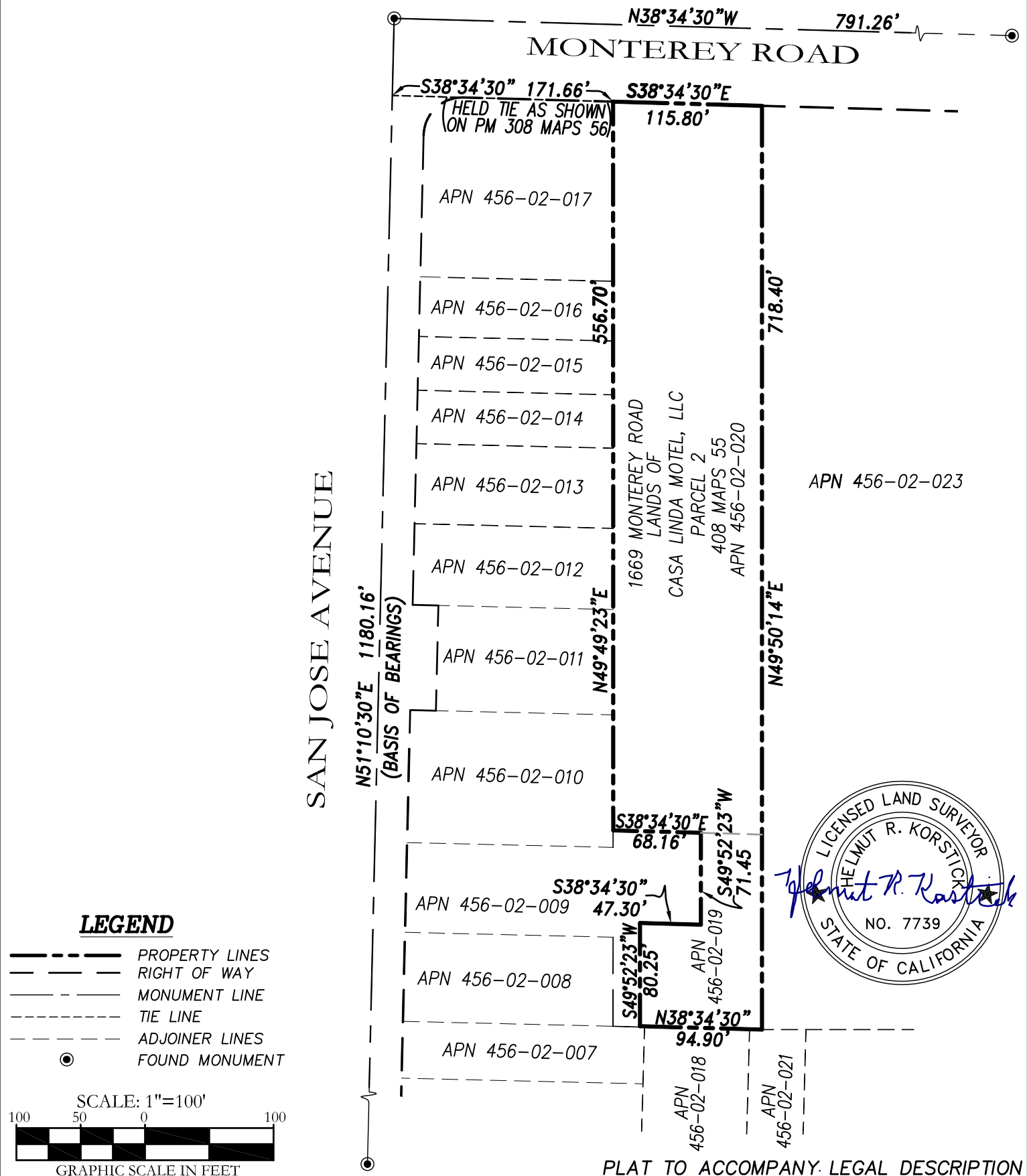
Parcel 2 as shown on that certain Parcel Map filed for Record in the Office of the County Recorder of said Santa Clara County, State of California on December 13, 1977 in Book 408 of Maps at Page 55.



Helmut R. Korstick (PLS 7739)

JAN. 12, 2021
Date





PREPARED BY:



46560 FREMONT BOULEVARD, SUITE 205

FREMONT, CA 94538

1sterlingconsultants@gmail.com PHONE: 510.344.8955

EXHIBIT B

PROPERTY BOUNDARY FOR

1669 MONTEREY RD

SANJOSE, CA-95121

COUNTY OF SANTA CLARA

CITY OF SAN JOSE PUBLIC WORKS DEPARTMENT
200 E. SANTA CLARA ST, SAN JOSE, CA 95113

SCALE: 1"=100'

DATE: JAN 12, 2021

PAGE: 2 OF 2

DWG BY: DSK
CHK: HRK