

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A TENTATIVE MAP TO SUBDIVIDE ONE APPROXIMATELY 16,607-SQUARE-FOOT RESIDENTIAL LOT INTO TWO RESIDENTIAL LOTS (INCLUDING A FLAG LOT) ON AN APPROXIMATELY 0.38-GROSS-ACRE SITE SITUATED ON THE NORTHERLY SIDE OF MINNESOTA AVENUE APPROXIMATELY 200 FEET NORTHEASTERLY OF THE INTERSECTION OF MINNESOTA AVENUE AND MERIDIAN AVENUE (1581 MINNESOTA AVENUE) (APN 429-50-052)

FILE NO. T22-027

WHEREAS, pursuant to the provisions of Chapter 19.12 of Title 19 of the San José Municipal Code, on June 30, 2022, an application (File No. T22-027) was filed by Mazen Kawadri, the property owner, with the City of San José for a Tentative Map to subdivide one approximately 16,607-square-foot residential lot into two residential lots (including a flag lot), concurrent with a Planned Development Permit application (File No. PD24-002) to allow the demolition of an approximately 502-square-foot accessory structure for the construction of an approximately 2,612-square-foot two-story single-family residence, on an approximately 0.38-gross-acre site, on that certain real property situated in the R-1-8(PD) Planned Development Zoning District and located on the northerly side of Minnesota Avenue approximately 200 feet northeasterly of the intersection of Minnesota Avenue and Meridian Avenue (1581 Minnesota Avenue, APN 429-50-052) (sometimes referred to herein as the “subject property”); and

WHEREAS, the subject property is all that real property more particularly described in Exhibit "A," entitled “Legal Description,” and depicted in Exhibit “B,” entitled “Plat Map”, which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Planning Commission conducted a hearing on said application on August 28, 2024, notice of which was duly given; and

WHEREAS, at said hearing, the Planning Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing, the Planning Commission made a recommendation to the City Council respecting said matter based on the evidence and testimony; and

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

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

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

WHEREAS, at said hearing, this City Council received in evidence a plan for the subject property entitled, "Tentative Map No. T22-027 for 1581 Minnesota Avenue, San José, CA 95125, Two-Lot Subdivision for Residential Purposes" dated April 18, 2022, 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, said public hearing before the City Council was conducted in all respects as required by the San José Municipal Code and the rules of this City Council; and

WHEREAS, this City Council has heard and considered the testimony presented 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 an approximately 0.38-gross-acre lot on the northerly side of Minnesota Avenue approximately 200 feet northeasterly of the intersection of Minnesota Avenue and Meridian Avenue (1581 Minnesota Avenue). The Project Site is occupied by an approximately 1,964-square-foot single-family residence, a 722-square-foot detached garage, a 706-square-foot accessory dwelling unit, a 625-square-foot storage structure, and a 502-square-foot storage structure.

The Project Site is bounded by single-family residences on all sides and a commercial office to the west. The Project Site is accessed by two driveways along Minnesota Avenue.

2. **Project Description.** The project consists of a Tentative Map to subdivide one approximately 16,607-square-foot residential lot into two residential lots (including a flag lot) on an approximately 0.38-gross-acre site, located on the north side of Minnesota Avenue approximately 200 feet northeasterly of the intersection of Minnesota Avenue and Meridian Avenue (1581 Minnesota Avenue). The two lots will be approximately 5,476 square feet and 11,131 square feet.

In conjunction with the Tentative Map, the project also includes a Planned Development Rezoning, File No. PDC22-078, and a Planned Development Permit, File No. PD24-002. The Planned Development Rezoning rezones the site from the R-1-8 Single-Family Residence Zoning District to the R-1-8(PD) Planned Development Zoning District, and the Planned Development Permit allows the demolition of an approximately 502-square-foot accessory structure for the construction of an approximately 2,612-square-foot two-story single-family residence.

3. **Envision San José 2040 General Plan Consistency.** The Project Site has an Envision San José 2040 General Plan Land Use/ Transportation Diagram designation of Residential Neighborhood. This designation is applied to established, single-family residential neighborhoods. This designation typically allows a density of up to 8 dwelling units per acre (du/ac), but also allows projects to match the existing

neighborhood density if it is greater than 8 du/ac.

New infill development within the Residential Neighborhood land use designation should improve and/ or enhance existing neighborhood conditions by completing the existing neighborhood pattern and bringing infill properties into general conformance with the quality and character of the surrounding neighborhood. New infill development should be integrated into the existing neighborhood pattern, continuing and, where applicable, extending or completing the existing street network. The average lot size, orientation, and form of new structures for any new infill development must therefore generally match the typical lot size and building form of any adjacent development, with particular emphasis given to maintaining consistency with other development that fronts onto a public street to be shared by the proposed new project.

Analysis: The Project includes the subdivision of one lot into two lots, resulting in a density of approximately 5.26 dwelling units per acre, which is within the maximum density allowed in Residential Neighborhood. The new single-family residence in the rear of the site would face Minnesota Avenue, matching the orientation of surrounding single-family residences. The Project maintains the existing single-family residence in the front of the lot which is oriented towards Minnesota Avenue. Therefore, the Project is consistent with the General Plan land use designation.

The Project is consistent with the following Envision San José 2040 General Plan policy:

Residential Neighborhoods Policy LU-11.6: For new infill development, match the typical lot size and building form of any adjacent development, with particular emphasis given to maintaining consistency with other development that fronts onto a public street to be shared by the proposed new project. As an exception, for parcels already developed with more than one dwelling unit, new development may include up to the same number of dwelling units as the existing condition. The form of such new development should be compatible with and, to the degree feasible, consistent with the form of the surrounding neighborhood pattern.

Analysis: The average lot size within the surrounding neighborhood is approximately 8,696 square feet. While the subdivision creates lots approximately 5,496 and 11,131 square feet in size, the larger flag lot is a result of the existing lot's unique configuration which has a frontage of approximately 75 feet and a rear width of approximately 150 feet. The subdivision retains the property's frontage. As the neighborhood comprises single-family residences, the new single-family residence at the Project Site would be consistent with the surrounding neighborhood's residential form. Therefore, the Project is consistent with this policy.

4. **Zoning Ordinance Consistency.** The project site is located in the R-1-8(PD) Planned Development Zoning District.

Use Regulations

Chapter 20.60 of the Zoning Ordinance allows a Planned Development Zoning District

to be established through ordinance, including regulations for allowed uses and development standards. The Planned Development Zoning District can be effectuated through a valid Tentative Map or Planned Development Permit. Per Section 20.60.040.B of the Zoning Code, when a Planned Development Permit has been implemented, the provisions of the permit prevail over the regulations of the base district zoning of the property.

Development Standards

Below is a comparison of the R-1-8 Single-Family Residence Zoning District per Section 20.30.200 of the Zoning Code and the project's Planned Development Zoning District development standards for standards relevant to this Tentative Map. Per Section 20.60.040.B of the Zoning Code, when a Planned Development Permit has been implemented, the provisions of the permit prevail over the regulations of the base district zoning of the property.

Development Standard	R-1-8 Zoning District Requirements	R-1-8(PD) Planned Development Zoning District Development Standards	Provided by Project
Minimum Lot Area	5,445 square feet	5,445 square feet	5,476 square feet

Analysis: As shown on the Planned Development Permit plan set and Vesting Tentative Map, the Project conforms with all required height and setback standards pursuant to the General Development Plan of the R-1-8(PD) Planned Development Zoning District.

5. **Subdivision Ordinance Consistency.** Tentative Maps must be consistent with Title 19 – Subdivisions of the San Jose Municipal Code. The information required by Section 19.12.030 is provided on the Tentative Map and consistent with the stated requirements. The project is analyzed for consistency with key design requirements of the Subdivision Ordinance below:

Section 19.36.180 – The City Council may permit the reduction of the six thousand square foot minimum lot area prescribed in Section 19.36.170 of all or some of the lots in a proposed subdivision if the City Council shall, in the exercise of reasonable judgment, deem such reduction advisable in view of the character of the neighborhood in which the subdivision is to be located, the quality or kinds of development to which the area is best adapted, the size, use or physical or other conditions of the property proposed to be subdivided, neighborhood and general planning, or safety and general welfare of the public and of the lot owners in the proposed subdivision, provided that in no event shall any lot contain a minimum area of less than five thousand square feet. The provisions of this section shall not be used to decrease the minimum lot areas designated in Title 20 of this Code or in any sections of this Title 19 other than Section 19.36.170.

Analysis: While the Project includes a lot that would be smaller than the minimum 6,000-square-foot lot area prescribed in Section 19.36.170, the R-1-8(PD) Planned Development Zoning District allows a minimum lot size of 5,445 square feet. This minimum lot size is the same as the minimum lot size allowed in the standard R-1-8 Single-Family Residence Zoning District. The subdivision creates a 5,476-square-foot lot and a 11,131-square-foot lot, both of which are more than the required minimum. Therefore, the Project is consistent with this design requirement.

Section 19.36.190 – Except as otherwise provided in this Title 19, all lots shall have direct access to a public street. The City Council may waive this requirement with respect to certain lots in a proposed subdivision if it finds that, because of the design of and/or improvements in such subdivision, proposed private ways of access from said lots to a public street for both vehicular and pedestrian traffic, are adequate for such lots.

Analysis: Both lots have access to Minnesota Avenue, using two driveways. The newly created flag lot has access to Minnesota Avenue through a 14-foot-wide driveway that extends approximately 90 feet from Minnesota Avenue to the rear of the main parcel along the east side of the property. Therefore, the Project is consistent with this design requirement.

In accordance with San José Municipal Code (SJMC) Sections 19.12.130 and 19.12.220 and California Government Code Section 66474, the Director of Planning of the City of San José, in consideration of the proposed subdivision shown on the Tentative Map with the imposed conditions, shall deny approval of a Tentative Map, if the Director makes any of the following findings:

- a. That the proposed map is not consistent with applicable General and Specific Plans as specified in Section 65451.
- b. That the design or improvement of the proposed subdivision is not consistent with applicable General and Specific Plans.
- c. That the site is not physically suitable for the type of development.
- d. That the site is not physically suitable for the proposed density of development.
- e. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
- f. That the design of the subdivision or type of improvements is likely to cause serious public health problems.
- g. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Analysis: Based on the review of the subdivision, which consists of a Tentative Map to subdivide an approximately 0.38 gross acre site from one existing 16,607 square-

foot residential lot to two residential lots (a 5,476-square foot flag lot and an 11,131-square foot main parcel), the City Council does not make any such findings to deny the subject subdivision. The Project is consistent with the General Plan land use designation, as discussed in the Envision San José 2040 General Plan Conformance section above. The site is physically suitable for the Project in that residential development of up to eight dwelling units per acre is allowed by the Residential Neighborhood land use designation. The site is located within an urban environment and does not contain historic resources, sensitive habitats, or wildlife. Construction of a new single-family residence would not negatively impact public health and safety. The Project does not conflict with any existing easements for access through the property.

6. City Council Policy Consistency

City Council Policy 6-19: Flag Lot Development in Single-Family Neighborhoods

As the Project allows the construction of a unit on a flag lot, the Project is subject to Council Policy 6-19: Flag Lot Development in Single-Family Neighborhoods. The Project is consistent with the following criteria:

1. Flag lots are not appropriate in situations where a series of large lots could be converted to flag lot developments, thereby raising the density and changing the character of the neighborhood.

Analysis: The surrounding neighborhood (lots on the same block fronting Minnesota Avenue) does not contain any other large lots with residences that could be converted to flag lot developments. The Project is consistent with this criterion.

2. Neighborhoods that may be appropriate for flag lot development have uniformity of single-family lot sizes but with an occasional and unique-in-its-neighborhood larger parcel suitable for flag lot projects.

Analysis: The average lot size of the surrounding neighborhood, which includes adjacent and surrounding lots sharing the same street frontage, is approximately 8,696 square feet. The subject lot is approximately 16,607 square feet, almost two times the average lot size. The subject lot is a unique-in-its-neighborhood larger parcel. The Project is consistent with this criterion.

3. In neighborhoods which are designated 8 DU/AC, parcels considered for flag lot development are recommended to be approximately 8,000 square feet in size. At a minimum, the parcel must be larger than the average, or of a unique configuration in the surrounding area in order to generously meet R-1 setback zoning codes.

Analysis: The flag lot would be approximately 11,131 square feet, larger than the average lot size of the surrounding neighborhood and exceeds 8,000 square feet. The Project is consistent with this criterion.

4. Flag lot units located away from the street shall maintain a presence to the street, be oriented to the street, and be visible from the street. A large building mass for

the flag lot unit in relation to the front unit is not acceptable as a means to meet the street presence requirement.

Analysis: The new single-family residence would be oriented towards the street, as shown in the attached Planned Development Permit PD24-002 Plan Set. The front door of the new single-family residence would be visible from Minnesota Avenue. An approximately 2,612-square-foot two-story single-family residence will be situated behind the smaller existing approximately 1,964-square-foot single-family residence. The Project is consistent with this criterion.

5. Flag lots shall be approved only through the Planned Development zoning process.

Analysis: The Project consists of a Planned Development Rezoning. The Project is consistent with this criterion.

6. Orientation, setbacks, and private yards should conform to the following criteria.

- a. All units shall orient to the street.
- b. Front yard setback for the front unit must match neighborhood pattern. "Front" setbacks for rear units must meet R-1 standards.
- c. The mass of the front and back units should be consistent with the average mass in the surrounding neighborhood.

Analysis: The existing single-family residence at the front of the site would maintain its orientation towards Minnesota Avenue. The new single-family residence constructed on the flag lot in the rear would also be oriented towards Minnesota Avenue. Both the front and rear single-family residences meet the front setback requirements of the zoning district. The new single-family residence constructed on the flag lot would have a floor area ratio (FAR) of 0.23, similar to the FAR of surrounding lots and consistent with the FAR supported in the Residential Neighborhood land use designation. Construction of the new single-family residence will result in a density of approximately 5.26 dwelling units per acre across the Project Site. Therefore, the Project is consistent with this criterion.

City Council Policy 6-30: Public Outreach Policy

Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the Project. An on-site sign has been posted at the site frontage along Minnesota Avenue since April 25, 2024. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the Project site and posted on the City website. The staff report is also posted on the City's website. The staff report is also posted on the City's website. Additionally, a notice of the public hearing was posted in a newspaper of record (San José Post Record) on July 25, 2024. Staff has also been available to respond to questions from the public. To date, no comments have been received for this Project.

7. Environmental Review.

Under the provisions of Section 15303 for New Construction or Conversion of Small Structures of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this Project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Zoning Code, implementing the California Environmental Quality Act of 1970, as amended.

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include, but are not limited to:

a. One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.

Analysis: The Project consists of the construction of one single-family residence on the newly created flag lot. The Project Site is located within a residential zoning district. Therefore, a CEQA exemption can be issued under Section 15303 for New Construction or Conversion of Small Structures.

In accordance with the findings set forth above, a Tentative Map to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. This City Council expressly declares that it would not have granted this permit and determination 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 permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Tentative Map.** Per Section 19.12.230, should the Subdivider fail to file a timely and valid appeal of this Tentative Map within the applicable appeal period, such inaction by the Subdivider shall be deemed to constitute all of the following on behalf of the Subdivider:
 - a. Acceptance of the Tentative Map by the Subdivider; and
 - b. Agreement by the Subdivider to be bound by, to comply with, and to do all things required of or by the Subdivider pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 19 applicable to such Tentative Map.
2. **Expiration of Tentative Map.** This Tentative Map shall automatically expire 30 months from and after the date of issuance hereof by the City Council, if within such time period,

a Final Map has not been obtained, pursuant to and in accordance with the provisions of this Tentative Map. The date of issuance is the date this Tentative Map is approved by the City Council. However, the Director of Planning may approve a Tentative Map Extension to extend the validity of this Tentative Map in accordance with Title 19. An extension of the approval of the Tentative Map shall not exceed two years by the City Council or the Director of Planning.

3. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, state, and federal laws.
4. **Improvements.** Pursuant to the Subdivision Agreement (hereinafter referred to as "Agreement"), the Subdivider shall, before approval and recording of the Final Map, improve or agree to improve all land within the subdivision and all land outside, but appurtenant to, the Subdivision shown on the Tentative Map for public or private streets, alleys, pedestrian ways and easements to the satisfaction of the Director of Public Works.
5. **Improvement Contract.** In the event the Subdivider has not completed the improvements required for the proposed subdivision at the time the final map is presented for approval, Subdivider shall enter into an improvement contract pursuant to Agreement with the City of San José, in accordance with Section 19.32.130 of the San José Municipal Code and shall provide the bonds and insurance mentioned therein.
6. **Public Use Easements.** The Subdivider shall dedicate on the final map for public use easements for public utilities, streets, pedestrian ways, sanitary sewers, drainage, flood control channels, water systems and slope easements in and upon all areas within the subdivision shown on the Tentative Map for the subdivision to be devoted to such purposes.
7. **Distribution Facilities.** The Subdivider shall, at no cost to the City, cause all new or replacement electricity distribution facilities (up to 40KV), telephone, community cable, and other distribution facilities located on the subject property to be placed underground.
8. **Demolition of Buildings on Property Line or within Setback.** The existing structures on the subject site that would otherwise be situated on a proposed property line or cause non-conformance to the required setbacks shall be demolished to the satisfaction of the Chief Building Official prior to the recordation of documents and maps that establish the proposed changes to the location of property lines. A Demolition Permit shall be obtained from the Building Division to demolish the subject structures.
9. **Conformance with Other Permits.** The subject Tentative Map conforms to and complies in all respects with the Planned Development Permit File No. PD24-002 and as may be amended, on which such Tentative Map is based. Approval of said Map shall automatically expire with respect to any portion of the lands covered by such Tentative Map on which a Final Map or Tract Map has not yet been recorded if, prior to recordation

of a Final Map or Tract Map thereon, the Planned Development Permit for such lands automatically expires or for any reason ceases to be operative.

10. **Final Map.** No Final Map or Tract Map shall be approved by City Council unless and until the appeal period for the development permit, City File No. PD21-017, has expired and all appeals have been exhausted.
11. **Covenant of Easements.** Prior to recordation of the Final Map, the Subdivider shall offer to the City of San José a Covenant of Easement for joint use and emergency access purposes, in accordance with Part 1 of Chapter 20.110 of Title 20 of the San José Municipal Code, across lots as applicable as shown on the Approved Plan Set. Said easements shall be binding upon, and all benefits shall inure to, all successors in interest to the affected real property.
12. **Multiple Final Maps.** Multiple Final Maps may be filed for this subdivision if each and all of the following conditions are met with each Final Map:
 - a. All fees associated with development and a part of this approval shall be apportioned and paid for each portion of this subdivision for which a Final Map is being filed, including but not limited to Parkland Dedication, undergrounding of utilities, drainage, area and sewer treatment plan.
 - b. All public streets on which each Final Map has frontage shall be improved or bonded to be improved to the satisfaction of the Director of Public Works.
 - c. All grading, drainage, and easements for drainage, adequate to protect each lot for which a Final Map is requested, and surrounding parcels which could be impacted by such design or lack of design, shall be guaranteed to the satisfaction of the Director of Public Works.
 - d. Any and all off-site improvements necessary for mitigation of impacts brought about by this project shall be apportioned to the degree possible to guarantee adequate mitigation for each area for which a Final Map is being filed, to the satisfaction of the Director of Public Works.
 - e. For final maps that are phased, where the phasing is not specified, the applicant is required to process a Permit Amendment to specify the phases and phased improvements. All improvements must be in conformance with the associated development permit, as may be amended.
13. **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.

14. 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.

15. Parks: This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San José Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San José Municipal Code) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the "Formula for Dedication of Land" and/or "Schedule of Fees and Credits" contained within in the chapter.

16. Standard Environmental Conditions.

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. Replant vegetation in disturbed areas as quickly as possible.
- viii. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- ix. 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.

- x. Maintain and properly tune construction equipment in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- xi. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

b. Biological Resources

- i. **Santa Clara Valley Habitat Plan.** The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to 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 (PBCE) or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at <https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan>

c. Cultural Resources.

- i. 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 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 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.
- ii. 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 applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) 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:

- iii. 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.
- iv. The MLD identified fails to make a recommendation; or
- v. 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, the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement (PBCE) 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 project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or the Director's designee.

e. Hazards and Hazardous Materials.

- i. 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).
- ii. 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.
- iii. 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.
- iv. 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.
- v. 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.

f. Hydrology and Water Quality.

- 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 knock mud from truck tires prior to entering City streets. A tire wash system may also be employed at the request of the City.
- ix. The project applicant 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.

g. Construction-Related Noise.

- i. Limit construction hours to between 7:00 a.m. and 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- ii. Construct solid plywood fences around ground level construction sites adjacent to operational business, residences, or other noise-sensitive land uses.
- iii. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- iv. Prohibit unnecessary idling of internal combustion engines.
- v. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors.

Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.

- vi. Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- vii. Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
- viii. Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to adjacent land uses and nearby residences.
- ix. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- x. Designate a “disturbance coordinator” who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

17. Public Works Clearance for Building Permit(s) or Map Approval: Prior to the approval of the Tract by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the Subdivider will be required to have satisfied all of the following Public Works conditions as described in the Planned Development Permit (File No. PD24-002).

18. Revocation, Suspension, Modification. This Tentative Map is subject to revocation, suspension, or modification for violation of any of its provisions or conditions.

In accordance with the findings set forth above, a Tentative Map Permit to use the subject property for said purpose specified above, subject to conditions, is hereby **approved**.

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ADOPTED this _____ day of _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
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.

EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 429-50-052

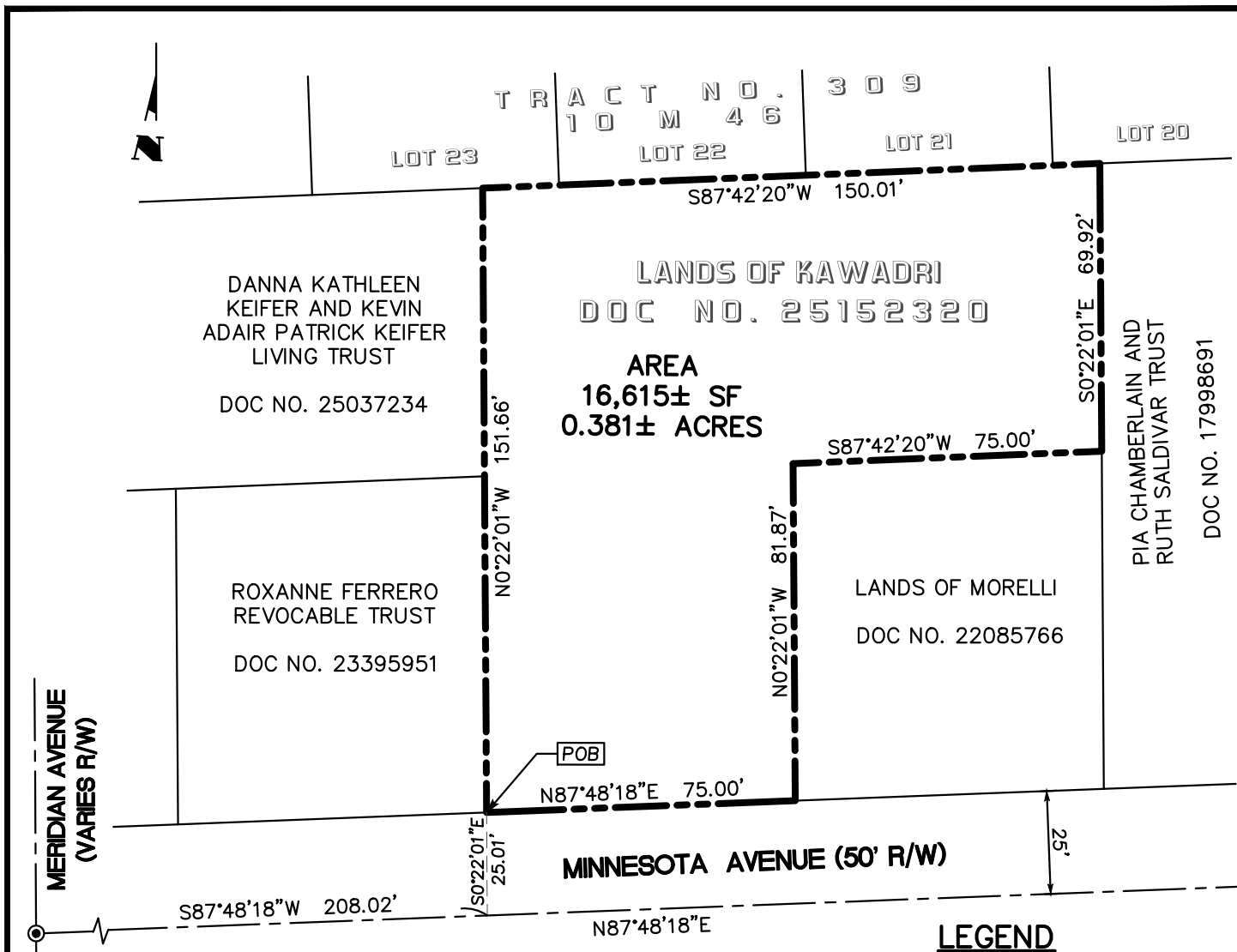
THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE;

BEGINNING AT A POINT IN THE NORTHWESTERLY LINE OF ISABEL DRIVE, NOW KNOWN AS MINNESOTA AVENUE, SAID LINE OF ISABEL DRIVE WAS ESTABLISHED BY DEED FROM C. L. GREER, ET AL, TO COUNTY OF SANTA CLARA, DATED APRIL 17, 1939, AND RECORDED MAY 15, 1939, IN BOOK 933 OF OFFICIAL RECORDS AT PAGE 136, DISTANT THEREON NORTH 87° 48' EAST, 175 FEET FROM THE POINT OF INTERSECTION OF THE SAID LINE OF ISABEL DRIVE, WITH THE EASTERLY LINE OF MERIDIAN ROAD; THENCE ALONG SAID LINE OF ISABEL DRIVE NORTH 87° 48' EAST, 75 FEET; THENCE PARALLEL WITH THE SAID LINE OF MERIDIAN ROAD, NORTH 82.16 FEET TO THE SOUTHEASTERN LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE DEED FROM HENRIETTA W. BERRY AND MARY J. BERRY TO ADOLPH PRAGER, ET UX, DATED DECEMBER 22, 1932 AND RECORDED JANUARY 3, 1933 IN BOOK 632 OF OFFICIAL RECORDS, PAGE 507; THENCE ALONG THE SAID SOUTHEASTERN LINE OF THE LAND SO DESCRIBED IN THE DEED TO PRAGER, SOUTH 87° 48' WEST, 75 FEET; THENCE SOUTH 82.16 FEET TO THE POINT OF BEGINNING.

PARCEL TWO:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF THAT CERTAIN PARCEL OF LAND CONVEYED BY CLARA B. HOWE TO JOHN CIAMONDI BY DEED DATED APRIL 9, 1928 AND RECORDED APRIL 10, 1928 IN BOOK 394 OF OFFICIAL RECORDS, PAGE 200, SANTA CLARA COUNTY RECORDS, DISTANT THEREON NORTH 87° 48' EAST 208 FEET FROM THE SOUTHWESTERLY CORNER OF SAID PARCEL OF LAND, IN THE CENTERLINE OF MERIDIAN ROAD, 65 FEET WIDE, THENCE ALONG SAID SOUTHERLY LINE OF SAID LAND SO CONVEYED TO CIAMONDI, NORTH 87° 48' EAST, 150 FEET TO A POINT WHICH IS DISTANT ALONG SAID LINE NORTH 87° 48' EAST, 325 FEET FROM THE EASTERLY LINE OF MERIDIAN ROAD; THENCE SOUTHERLY AND PARALLEL WITH THE CENTERLINE OF MERIDIAN ROAD, 70 FEET; THENCE PARALLEL WITH SAID SOUTHERLY LINE OF THE LAND SO CONVEYED TO CIAMONDI, SOUTH 87° 48' WEST, 140 FEET; THENCE NORTHERLY AND PARALLEL WITH SAID LINE OF MERIDIAN ROAD 70 FEET TO THE POINT OF BEGINNING.



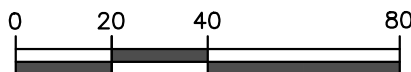
LEGEND

- PROPOSED REZONING BOUNDARY LINE
- - - CENTERLINE
- ⊙ 1" IRON PIPE IN MONUMENT BOX
- SF SQUARE FEET

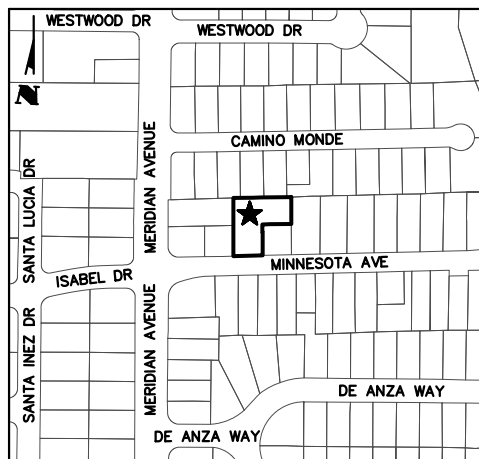
BASIS OF BEARINGS

THE BEARING N0°22'01"W OF THE CENTERLINE OF MERIDIAN AVENUE AS SHOWN ON THAT CERTAIN MAP OF RECORD OF SURVEY RECORDED IN BOOK 881 OF MAPS AT PAGE 2, SANTA CLARA COUNTY RECORDS, AND AS FOUND MONUMENTED, WAS TAKEN AS BASIS OF BEARINGS FOR THIS MAP.

GRAPHIC SCALE



(IN FEET)
1 inch = 40 ft.



LOCATION MAP

NOT TO SCALE



**PLAT MAP
FOR REZONING
1581 MINNESOTA AVE
APN 429-50-052**



San Jose

California

SCALE: 1" = 40' DATE: 08/19/24 DRWG. NAME: PROJECT NO. SHEET 1 OF 1