

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A PLANNED DEVELOPMENT PERMIT TO ALLOW THE CONSTRUCTION OF A 55-FOOT-HIGH MONOPOLE TELECOMMUNICATION TOWER WITH 15 WIRELESS COMMUNICATION ANTENNAS AND ASSOCIATED GROUND EQUIPMENT ON AN APPROXIMATELY 4.93-GROSS-ACRE SITE LOCATED ON THE WEST SIDE OF SOUTH KING ROAD, APPROXIMATELY 250 FEET SOUTHERLY OF THE INTERSECTION OF SOUTH KING ROAD AND BARBERRY LANE (2919 SOUTH KING ROAD)

FILE NO. PD23-013

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on July 21, 2023, Eric Lentz, for AT&T Mobility and on behalf of San Jose Storage Owner LLC, filed a Planned Development Permit application (File No. PDC23-013) with the City of San José to allow the construction of a 55-foot-high monopole telecommunication tower (monopine) with 15 wireless communication antennas and associated ground equipment on an approximately 4.93-gross-acre site (the "Project") located on the westerly side of South King Road, approximately 250 feet southerly of the intersection of South King Road and Barberry Lane (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 August 14, 2024, 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, "AT&T SITE NUMBER: CCL06076 / AT&T SITE NAME: STORQUEST STORAGE," dated September 28, 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 westerly side of South King Road, approximately 250 feet southerly of the intersection of South King Road and Barberry Lane (2919 South King Road). The monopole is within an existing self-storage facility, near the southwestern corner of the approximately 4.93-gross-acre site. Access to the site is from one driveway along South King Road.
Surrounding land uses include single-family residences to the north, east, west, and southwest, and a corporation yard and hardware store/rockery to the south.
- 2. Project Description.** The Project consists of a Planned Development Permit to allow the construction of a 55-foot-tall monopole telecommunication tower (monopine) with 15 wireless communication antennas and associated ground equipment within two existing storage units, on an approximately 4.93-gross-acre site on the westerly side

of South King Road, approximately 250 feet southerly of the intersection of South King Road and Barberry Lane (2919 South King Road).

- 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 Light Industrial. This designation is intended for a wide variety of industrial uses and excludes uses with unmitigated hazardous or nuisance effects. Warehousing, wholesaling, and light manufacturing are examples of typical uses in this designation.

Analysis: Both the existing self-storage use (warehousing) and the new monopole use are allowed as primary uses within the Light Industrial designation. The monopole will provide public services (telecommunications) to the surrounding area and is considered an additional use on the site, as the self-storage and monopole are not related to one another. However, both uses conform with the Light Industrial land use designation.

Additionally, the Project conforms to the following General Plan policies:

Telecommunications Policy IN-6.1: Work with service providers to ensure access to and availability of a wide range of state-of-the-art telecommunication systems and services for households, businesses, institutions, and public agencies throughout the city.

Analysis: The Project includes the construction of an approximately 55-foot-tall monopole, which will expand coverage across the area. The new monopole will improve cell coverage available to households, businesses, institutions, and public agencies in the surrounding area by creating a new service site and providing the necessary infrastructure to meet the demand for wireless service in the area.

Implementation 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 was previously used to tailor the uses on the rear parcel, adjacent to single-family homes, to a self-storage facility only to maintain a non-obtrusive and compatible Light Industrial use on the site. This Planned Development zoning process adds similar non-obtrusive and compatible uses, including wireless communication antennas and stand-by/backup generators, to continue limiting the parcel only to uses compatible with the surrounding single-family

neighborhood. A Planned Development permit for the monopole will effectuate this new Planned Development zone.

- 4. Municipal Code Conformance.** This Project includes a rezoning from the LI(PD) Planned Development Zoning District to a new LI(PD) Planned Development Zoning District to allow wireless communications facility uses, and this Planned Development Permit implements the new LI(PD) zoning. 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.

The Planned Development Permit for the monopole is evaluated below based on the LI(PD) Zoning District.

Land Use

The permitted uses of Area 2 of the Planned Development Zoning District (coterminous with of the Project site) include all the wireless communication antennas listed in Table 20-110 of Section 20.50.100, as amended, for the LI Light Industrial Zoning District. As a new monopole requires a Conditional Use Permit in the LI Zoning District, the monopole will require a Planned Development Permit in the LI(PD) Zoning District. No backup generator is included in this application.

Development Regulations

Height and Setbacks:

Setback	LI(PD) Requirement	Project
Exterior, Residential (Towers Lane)	0 feet	64 feet
Exterior, Residential (Camarena Place)	0 feet	93.5 feet
Exterior, Residential (Barrow Court)	0 feet	458 feet
Interior (east)	0 feet	165 feet

Analysis: As outlined in the table above, the monopole is consistent with the setback requirements for exterior property lines abutting residential uses and interior property lines of the LI(PD) Planned Development Zoning District. As discussed in the Council Policy 6-20 section below, the monopole must be set back at least its height (55 feet in this case) from the property line as per the Wireless Communications Policy, notwithstanding the requirements of the Planned Development Zoning District. The existing zero-foot setbacks accommodate the existing self-storage buildings adjacent to the current residential property lines.

Height

The LI(PD) Planned Development Zoning District's maximum height refers to Part 3 of Chapter 20.50. Pursuant to Table 20-120 of Section 20.50.200 of the Municipal

Code, the maximum allowed height of the LI Light Industrial Zoning District is 50 feet. Section 20.85.040 provides for structural height exceptions to allow up to 17 additional feet above the zoning district height limitation for structures, including for screening and stealthing purposes.

Analysis: The monopole is 50 feet, which complies with the San José Municipal Code. However, there is an additional five feet of screening above the monopole. The screening is comprised of faux tree branches and is intended to look like the crown of a tree. The additional height is needed to complete the monopine because the antennas are approximately 18 feet wide at 50 feet in height; therefore, not extending the faux branches above 50 feet would make monopine appear to be a topped tree.

Section 20.85.040 allows this additional height so long as the structure is not in the airport influence area, the maximum roof area coverage is not over 30% of the total roof area, and the mechanical equipment and appurtenances are required for the operation and maintenance of the structure. The Project is not in an airport influence area, there is no maximum roof area coverage, and the additional height is for an appurtenance required for the operation of the wireless facility, as required by Council Policy 6-20, discussed below. Therefore, the allowance applies to the screening feature, and the additional height is allowed.

Vehicle and Bicycle Parking

The Planned Development Zoning states that the minimum required parking shall conform to Section 20.90.060, as amended. Section 20.90.060 no longer prescribes a minimum amount of vehicle parking. A wireless communications antenna is considered an Other Use per Table 20-190 of Section 20.90.060. Per Section 20.90.900.B.2.d, no Transportation Demand Management plan is required for Other Uses under 30,000 square feet. The wireless communications antenna includes no new floor area and does not require a Transportation Demand Management plan. Any ingress, egress, and parking needed for work on, or maintenance of the wireless facility is available from the parking lot for the existing storage facility.

Analysis: The Project does not add any additional square footage for indoor or outdoor uses. Therefore, no new bicycle parking is required per Section 20.90.020, as the Project does not include new square footage or more than 5,000 square feet of outdoor uses.

5. City Council Policy Consistency

City Council Policy 6-20: Land Use Policy for Wireless Communication Facilities

As stated in the City Council's Land Use Policy for Wireless Communication Facilities (Council Policy 6-20), San José has a strong interest in achieving and maintaining a high level of wireless communication service availability for businesses and residents. However, visual impacts and residential interface concerns can result from the development of wireless communication facilities. The purpose of the Policy is to identify criteria to minimize and appropriately locate wireless communications antenna

facilities. As the Project includes the issuance of a new permit, Council Policy 6-20 applies. Per the analysis below, the Project is consistent with the policy requirements:

a. Visual Impacts.

- i. Alternatives Analysis: Prior to the construction of a new wireless communication facility, an alternatives analysis should be prepared to identify alternatives that reduce visual impacts. An alternatives analysis should be prepared for any proposed antenna installation that does not make use of a building-mounted or structure-mounted antenna design architecturally integrated with the supporting building or structure. The alternatives analysis should identify all technically feasible potential location sites which reasonably meet the service provider's radio frequency coverage objectives, particularly building-mounted sites, within the project vicinity, provide analysis as to the feasibility of those alternatives and compare the level of visual impact with that of the proposed project. At a minimum, this analysis should identify the location of all existing monopoles within a quarter mile of the proposed site; provide an explanation of why collocation has not been proposed at each of these sites; and assess the potential for building-mounted alternatives.

Analysis: The Project applicant (AT&T Mobility) prepared and submitted an Alternative Site Analysis on April 15, 2024, as the proposed monopole is new construction and does not make use of a building- or structure-mounted antenna design.

The analysis identified one existing T-Mobile lattice tower site within a quarter-mile of the proposed site, at 1801 Barberry Lane to the northeast. Collocation was not proposed at this site because it has no remaining space for additional antennas. Three other sites, 2790 South King Road, 451 Aborn Road, and 2959 South King Road, were candidate sites and a new monopole on each of these sites may have resulted in less visual impact to the surrounding neighborhood, as they are further from residential uses; however, the respective owners were not interested. The potential for building-mounted alternatives was also assessed; however, there were no opportunities for collocation or new installations at the required antenna height of 46 feet, including a potential rooftop installation site at 1685 Aborn Road, as the building heights in the area are too low. Therefore, there are no alternative sites within a quarter-mile radius of the site that would both be technically feasible to meet AT&T Mobility's coverage objectives and reduce visual impacts to the surrounding neighborhood.

Freestanding Monopoles: Freestanding monopoles should be located and designed to minimize public visibility and "stealth" pole designs should be utilized. Ancillary equipment should be adequately screened and landscaped to minimize potential for graffiti vandalism.

Analysis: The monopole incorporates a stealth monopole design (a monopine) and is located within the interior of a self-storage site to minimize public visibility. While taller than the surrounding self-storage buildings, the monopole will appear as landscaping from the neighborhood, as demonstrated by visual simulations prepared by AdvanceSim, as the monopine design will allow the monopole to appear as a sole tree within the storage site. Ancillary equipment is at the base of the monopole within existing self-storage units. The location of the monopole decreases the potential for graffiti vandalism because it is within a secured self-storage facility.

- ii. Equipment Enclosures: Equipment areas should be screened as appropriate based upon site conditions by new or existing landscape materials or build structures. Solid fences or walls may be required to reduce visual clutter. Equipment enclosures need to conform to the setback requirements of the underlying zoning district.

Analysis: The equipment area is within two units of a self-storage facility, and the Project does not require the construction of a new equipment enclosure.

- b. Height. Antenna installations should conform to the San José 2040 General Plan and Zoning Ordinance height restrictions.

Analysis: As discussed in the Height section above, the maximum allowed height for a structure in the LI(PD) Planned Development District is 50 feet. As discussed above, this monopole is 50 feet high and includes a five-foot screening extension; therefore, the 55-foot-high monopine is consistent with this standard.

- c. Setbacks from Residential Uses. Freestanding monopoles should be located no closer to a parcel developed for use as a single-family or multi-family residence than 35 feet or distance equal to 1 foot for every 1 foot of structure height, whichever is greater. Substantial landscaping (10 feet minimum), generally including trees, should be provided adjacent to the residential property line, to buffer the adjoining residential uses.

Analysis: The monopole is located approximately 64 feet from the nearest residential uses, more than 55 feet, and separated by a self-storage building. Landscaping cannot be provided adjacent to the residential property line because these spaces are occupied by self-storage buildings; therefore, the existing buildings are an adequate buffer from the monopole to the adjoining residential uses.

- d. Performance Standards. Antenna installations should conform to the performance standards of the underlying zoning district. In particular, associated equipment, including power-generating equipment, will need to meet the pertaining noise and air-quality standards and permitting requirements established within the City's Zoning Ordinance.

Analysis: The monopole does not include a backup generator or other noise - or emission-generating equipment or components that will affect air quality.

- e. Permit Expirations. The City may include a time limit condition in use permits to provide for the future review of the subject antenna installation. The typical time limit duration is for a five-year period, but based upon project specific circumstances, a longer or shorter duration may be more appropriate.

Analysis: This permit includes a five-year expiration for the antenna installation pursuant to this policy.

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

Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the Project. 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. Staff has also been available to respond to questions from the public. An on-site sign with the updated Project information was posted on the Project frontages on May 14, 2024. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

6. California Environmental Quality Act

Under the provisions of Section 15303 for New Construction 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 Categorical Exemption 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 Project includes construction of a new 55-foot-high wireless communications tower and an equipment enclosure within an existing self-storage building. This includes the installation of small new equipment and facilities in a small structure, specifically the self-storage building, and the construction of a new small nonresidential accessory structure, specifically the monopole. Based on the discussion and findings in the above sections, the activity is not anticipated to have a significant effect on the environment. Therefore, a CEQA exemption can be issued under Section 15303 for New Construction of Small Structures. Additionally, the Project will be required to comply with all applicable Federal Communication Commission ("FCC") standards, including the Telecommunications Act of 1996 with regard to the emission of electromagnetic frequency radiation.

Telecommunications Act of 1996. This Federal law contains provisions concerning the placement of antenna structures and other facilities for use in providing personal wireless services. As required by this law, the FCC adopted guidelines for environmental RF emissions. These guidelines apply to all transmitters licensed or authorized by the FCC, including antennas licensed to wireless service providers and the cellular telephones used by subscribers to the service. The guidelines are based upon recommendations of federal agencies with expertise in health and safety issues. The FCC has created guidelines for human exposure to RF fields. Specifically, the Act states: "No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions."

7. 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 the City Council must determine that:

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

Analysis: As described above in the General Plan Conformance section, the Project is consistent with the site's Light Industrial Land Use designation and Telecommunication Policy IN-6.1 regarding access and availability of telecommunications services.

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

Analysis: As described above, the Project complies with the applicable development standards of the Planned Development Zoning. The Project meets the required setbacks, height, and performance standards of the Planned Development Zoning and the Municipal Code. Specifically, the findings for additional height Section 20.85.040 can be made, and the 50-foot-high monopole is allowed to have an additional five feet for screening purposes.

- c. The planned development permit, as approved, is consistent with applicable City Council Policies, or counterbalancing considerations justify the inconsistency; and

Analysis: As described in the Council Policy section above, the Project is consistent with City Council Policy 6-20 because an alternatives analysis was prepared, concluding that no alternative sites were available that meet the coverage requirements, and that construction of a wireless communication facility at the Project site will improve the quality of wireless service coverage in the area.

In addition, the Project meets the requirements for height and setbacks to residential uses.

Additionally, this Project complies with Council Policy 6-30: Public Outreach Policy for pending land use and development proposals and the on-site noticing/posting requirements. A Project information sign was posted on-site on May 14, 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. Staff has been available to answer 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: While the monopole is taller than the surrounding self-storage buildings, it incorporates a stealth monopine design in order to be more compatible and aesthetically harmonious, as seen in the attached visual simulations from adjacent residential streets (Towers Lane, Amberly Lane, and Camarena Place), as the monopole will appear as landscaping from the neighborhood. The antennae will be visually screened by faux tree branches. The equipment enclosure is within a self-storage building and does not require changes to the building, which will remain compatible and aesthetically harmonious with the other self-storage buildings on-site.

- 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: The Project and associated ancillary equipment is located on an existing self-storage site, is of a stealth design appearing as a pine tree, and screened by existing buildings. Therefore, the Project will not result in adverse visual impacts. Internal improvements will be required to create an equipment enclosure within a self-storage building for the Project, and all construction activity and its impacts, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor, will be temporary. Additionally, the Project is exempt under CEQA per Section 15303 for New Construction or Conversion of Small Structures, as discussed in the CEQA section below.

Through the federal Telecommunications Act of 1996, all wireless telecommunications facilities require licensing by the Federal Communications Commission (FCC), which establishes radio frequency (RF) safety criteria within which the facility must operate. Cities and other local agencies are prohibited from denying wireless facilities on the basis of RF emissions.

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 two (2) 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. **Time Limit.** If not expired by operation of Condition #2, this Permit expires and has no further force or effect five (5) years from and after the date of issuance. Prior to expiration, the permittee shall provide information to the City to determine if the wireless monopole is still needed, based on improvements in technology or availability of alternative building-mounted opportunities in the vicinity. Based on a review of said information, the Planning Commission may approve a Permit Amendment to extend the validity of this Permit in accordance with Title 20. This Permit (File No. PD23-013) expires unless the Permit Amendment is approved prior to expiration.
4. **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.

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, “AT&T SITE NUMBER: CCL06076 / AT&T SITE NAME: STORQUEST STORAGE,” dated September 28, 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. **Use Authorization.** Subject to all conditions stated herein, this Permit authorizes a 55-foot-high monopole telecommunication tower with 15 wireless communication antennas and associated ground equipment per the Approved Plan Set on an approximately 4.93-gross-acre site.
8. **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.
9. **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.
10. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, state, and federal laws.

11. **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.
12. **Wires for Monopoles.** All wires and/or cabling shall be located either within the pole or otherwise enclosed such that they are not be visible outside the equipment enclosure.
13. **Discontinuation of Wireless Use.** Upon discontinuation or abandonment of the use of the permitted wireless communications facility for a period of a year or more, the Permittee shall remove the antenna, monopole, and associated improvements and related equipment/enclosures associated with the discontinued or abandoned antenna within 30 days.
14. **Co-location.** The Permittee shall fully cooperate and support the application by other providers for the co-location of antennas on the permitted antenna support structure and the addition of at-grade equipment enclosures on the Site covered by this Permit.
15. **Compliance with Federal Communications Commission Standards.** The proposed wireless communication facility shall comply with all applicable Federal Communications Commission standards with regards to the emission of electromagnetic fields radiation.
16. **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.
17. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.
18. **Utilities.** All new on-site telephone, electrical, and other service facilities shall be placed underground.
19. **Anti-Graffiti.** All graffiti shall be removed from buildings and wall surfaces, including job sites for projects under construction, within 48 hours of defacement.
20. **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.
21. **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.
22. **Lighting.** No new on-site lighting is approved with this Permit.
23. **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.

24. **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.
25. **Bureau of Fire Department Clearance for Issuing Permits.** Prior to the issuance of any Building Permit, the project must comply with the 2019 California Fire Code, or as may be amended or updated by the City.
26. **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. *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.
 - c. *Other.* Such other requirements as may be specified by the Chief Building Official.
27. **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.
28. **Standard Environmental Conditions.** The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:
- a. **Construction-related Air Quality.** The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:
 - i. Water all exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) two times per day.
 - ii. Cover all haul trucks transporting soil, sand, or other loose material off-site.
 - iii. Remove all visible mud or dirt trackout onto adjacent public roads at least once per day using wet power vacuum street sweepers. The use of dry power sweeping is prohibited.
 - iv. Suspend all excavation, grading, and/or demolition activities when average wind speeds exceed 20 mph.
 - v. Wash off all trucks and equipment, including their tires, prior to leaving the site.
 - vi. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to no more than 2 minutes (A 5-minute limit is required by state Airborne Toxics Control Measures [Title 13, Sections

- 2449(d)(3) and 2485 of the California Code of Regulations]). Provide clear signage that posts this requirement for workers at all access points to the site.
- vii. Maintain and properly tune all construction equipment in accordance with the manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
 - viii. Post a publicly visible sign with the name and phone number of an on-site construction coordinator to contact regarding dust complaints. The on-site construction coordinator shall respond and take corrective action within 48 hours. The sign shall also provide the City's Code Enforcement Complaints email and number and the Bay Area Air Quality Management District's General Air Pollution Complaints number to ensure compliance with applicable regulations.

b. Cultural Resources.

- i. **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 Heritage Commission (NAHC) 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 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 the Director of PBCE or the Director's designee, the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.
- ii. **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 Permittee 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 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 their 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.

c. Construction-related 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. 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.

d. Construction-related Noise. Noise minimization measures shall include, but are not limited to, the following:

- i. Pile Driving is prohibited.

- ii. Limit construction to the hours of 7:00 a.m. to 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 use.
- 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 the 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 shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall 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.

29. 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. PDC24-036 passed for publication on _____, 2024 (the "Zoning Ordinance") and shall be no earlier than the effective date of said Rezoning Ordinance.

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.

LEGAL DESCRIPTION

Real property in the City of San Jose, County of Santa Clara, State of California, described as follows:

PARCEL ONE, AS SAID PARCEL IS SHOWN ON THAT CERTAIN LOT LINE ADJUSTMENT PERMIT, FILE NO. AT17-034, RECORDED SEPTEMBER 1, 2017 AS DOCUMENT NO. 23744392 OF OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

REAL PROPERTY IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING ALL OF PARCEL A AS DESCRIBED IN THE LOT LINE ADJUSTMENT PERMIT, RECORDED JUNE 7, 2017, IN DOCUMENT NO. 23668200 OF OFFICIAL RECORDS, SANTA CLARA COUNTY RECORDS;

AND, IN ADDITION THERETO, THE FOLLOWING AREA:

REAL PROPERTY IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING A PORTION OF PARCEL B AS DESCRIBED IN THE LOT LINE ADJUSTMENT PERMIT, RECORDED JUNE 7, 2017, IN DOCUMENT NO. 23668200 OF OFFICIAL RECORDS, SANTA CLARA COUNTY RECORDS;

BEGINNING AT THE NORTHERLY CORNER OF SAID PARCEL B, BEING ON THE SOUTHWESTERLY LINE OF KING ROAD;

THENCE ALONG SAID SOUTHWESTERLY LINE, SOUTH 43°02'24" EAST, 2.01 FEET;

THENCE SOUTH 50°49'56" WEST, 508.67 FEET;

THENCE SOUTH 39°10'05" EAST, 398.91 FEET, TO THE SOUTHEASTERLY LINE OF SAID PARCEL B,

THENCE ALONG SAID SOUTHEASTERLY LINE, SOUTH 50°40'36" WEST, 1.21 FEET, TO THE SOUTHWESTERLY LINE OF SAID PARCEL B;

THENCE ALONG THE SOUTHWESTERLY AND NORTHWESTERLY LINES OF SAID PARCEL B THE FOLLOWING TWO COURSES:

1. THENCE NORTH 39°25'55" WEST, 400.28 FEET;
2. THENCE NORTH 50°45'36" EAST, 511.58 FEET, TO THE POINT OF BEGINNING.

APN: 670-12-014

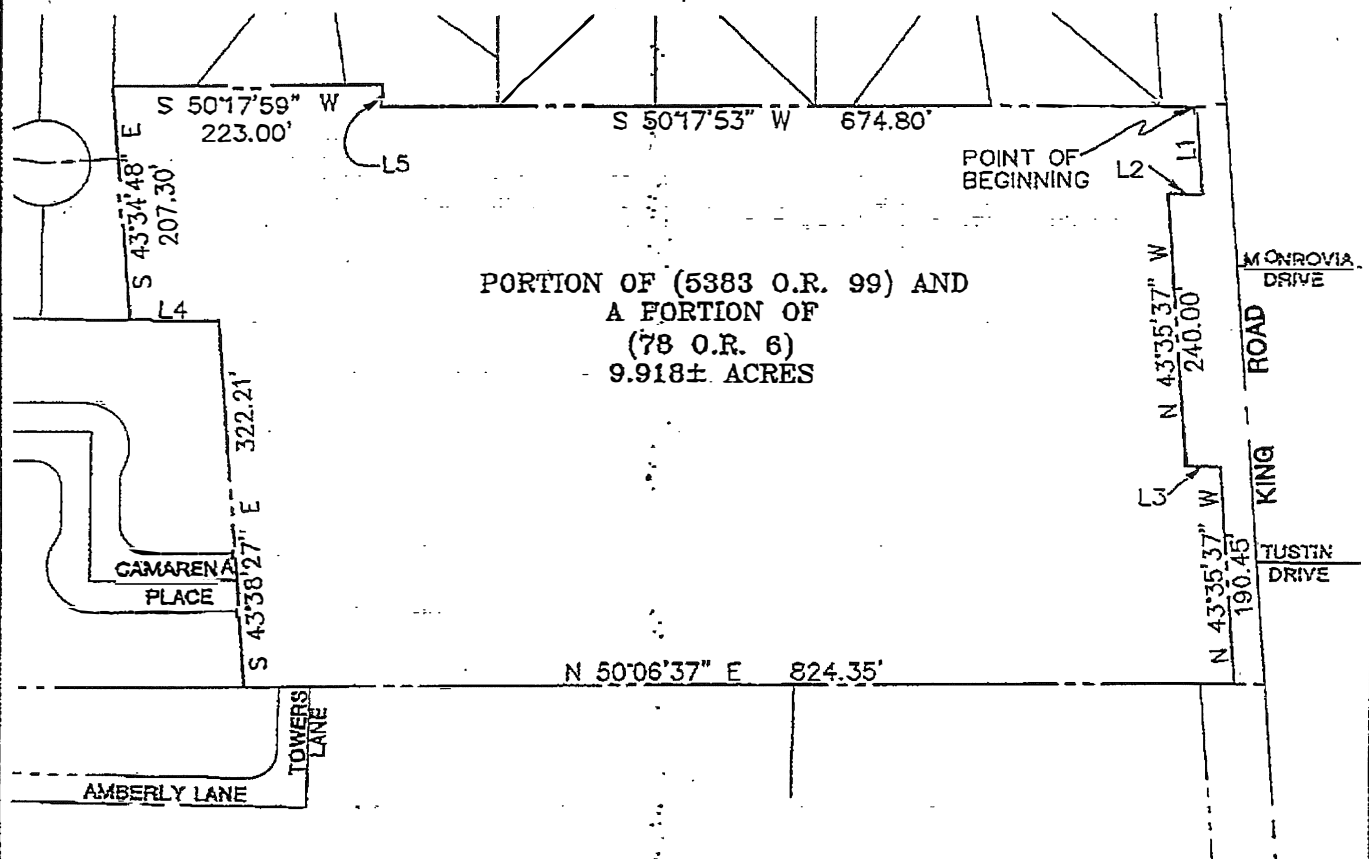
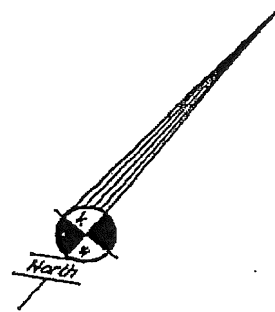
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EXHIBIT "B"

FILE NO. PD23-013

LINE TABLE:

LINE	BEARING	DISTANCE
L1	N 43°35'37" W	79.95'
L2	N 50°17'53" E	28.07'
L3	S 50°18'53" W	28.07'
L4	N 50°47'56" E	73.10'
L5	N 43°34'51" W	17.00'



PLAT TO ACCOMPANY LEGAL DESCRIPTION
FOR: BAY AREA SELF STORAGE

SAN JOSE

CALIFORNIA

DATE MARCH, 2004

SCALE 1"=150'

DR. BY CCB

JOB A03228

SHEET NO.

2 OF 2

**KIER & WRIGHT**

CIVIL ENGINEERS & SURVEYORS, INC.

3350 Scott Boulevard, Building 22 (408) 727-6685

Santa Clara, California 95054 FAX (408) 727-5641

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