



## CITY COUNCIL STAFF REPORT

<b>File No.</b>	<b>C18-013</b>
<b>Applicant</b>	<b>Louis Troung</b>
<b>Location</b>	<b>995 Oakland Road, southwest corner of Horning Road and Oakland Road. (APNs 235-16-011, 235-16-012, 235-16-013, 235-16-014)</b>
<b>Existing Zoning</b>	<b>LI Light Industrial Zoning District</b>
<b>Council District</b>	<b>3</b>
<b>Historic Resource</b>	<b>No</b>
<b>Annexation Date</b>	<b>November 1, 1951</b>
<b>CEQA</b>	<b>Determination of Consistency with Envision San José 2040 General Plan Final Program EIR (Resolution No. 76041), Supplemental EIR to the Envision San José 2040 General Plan Final Program EIR (Resolution No. 77617), and Addenda thereto</b>

**APPLICATION SUMMARY:**

Conforming Rezoning from the LI Light Industrial Zoning District to the CIC Combined Industrial/Commercial Zoning District on a 2.66-gross acre site.

**RECOMMENDATION:**

Staff recommends that the City Council:

1. Adopt an ordinance of the City of San José rezoning an approximately 2.66 gross acre site, located at on the southwest corner of Horning Road and Oakland Road (995 Oakland Road), from the LI Light Industrial Zoning District to the CIC Combined Industrial/Commercial Zoning District.

**PROJECT DATA**

<b>GENERAL PLAN CONSISTENCY</b>			
<b>General Plan Designation</b>	<b>Combined Industrial/Commercial</b> <input checked="" type="checkbox"/> <b>Consistent</b> <input type="checkbox"/> <b>Inconsistent</b>		
<b>Consistent Policies</b>	<b>IP-1.6; IP-8.2</b>		
<b>Inconsistent Policies</b>	<b>None</b>		
<b>SURROUNDING USES</b>			
	<b>General Plan Land Use</b>	<b>Zoning</b>	<b>Existing Use</b>
<b>West</b>	Light Industrial	LI Light Industrial	Single-Family Residential
<b>South</b>	Neighborhood/Community Commercial	LI Light Industrial	Commercial

<b>East</b>	Urban Residential	A(PD) Planned Development Zoning	Multi-Family Residential
<b>North</b>	Combined Industrial/Commercial	CIC(PD)	Commercial

<b>RELATED APPROVALS</b>	
<b>Date</b>	<b>Action</b>
<b>11/01/1951</b>	Site annexed into the City of San José
<b>10/17/2001</b>	File Number CP00-051 - Approved (Conditional Use Permit to allow night club use on a 0.64 gross acre site)
<b>01/14/2003</b>	File Number ABCL02-031 - Complete (ABC Zoning Affidavit for The Upgrade of an Existing Type 42 [On Sale Beer & Wine (Bar, Tavern)] to a Type 48 General License [On Sale General (Bar, Night Club)])
<b>04/25/2006</b>	File Number CPA00-051-01 - Approved (Conditional Use Permit Amendment for time extension of a Conditional Use Permit for an existing drinking and entertainment establishment and late night use on a 0.64 gross acre site)

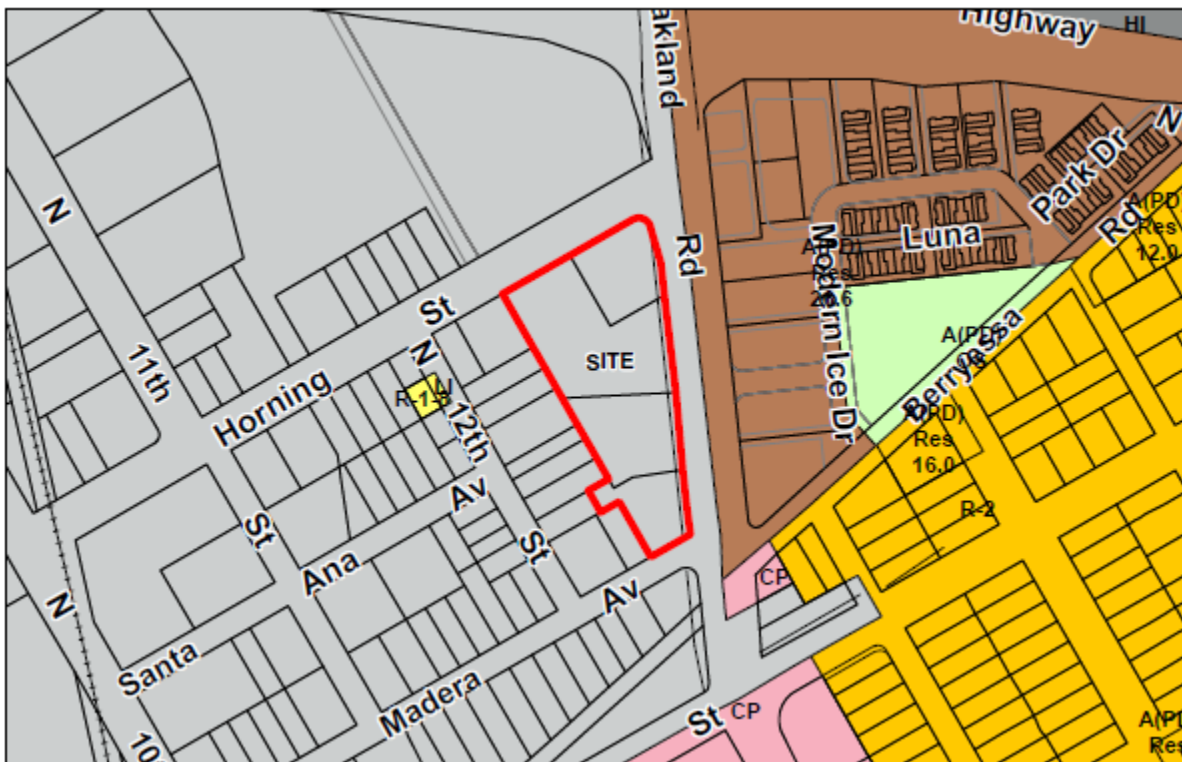


Figure 1: Existing Zoning Designation

## PROJECT DESCRIPTION

On March 29, 2018, a Conforming Rezoning application was filed to rezone the 2.66 gross acre site from LI Light Industrial Zoning District to CIC Combined Industrial/Commercial Zoning District.

### Site Location and Description:

The 2.66-gross acre site is located on the southwest corner of Oakland Road and Horning Street (see Figure 2). There are currently a number of businesses on site that include a tire shop, a car wash, and a print shop. There is a single-family residential use on site as well. Non-conforming single-family residential uses are to the west, and commercial uses are to the north across Horning Street. Across Oakland Road (east), there are single-family attached residential uses, and across Madera Avenue (south) there are commercial uses.

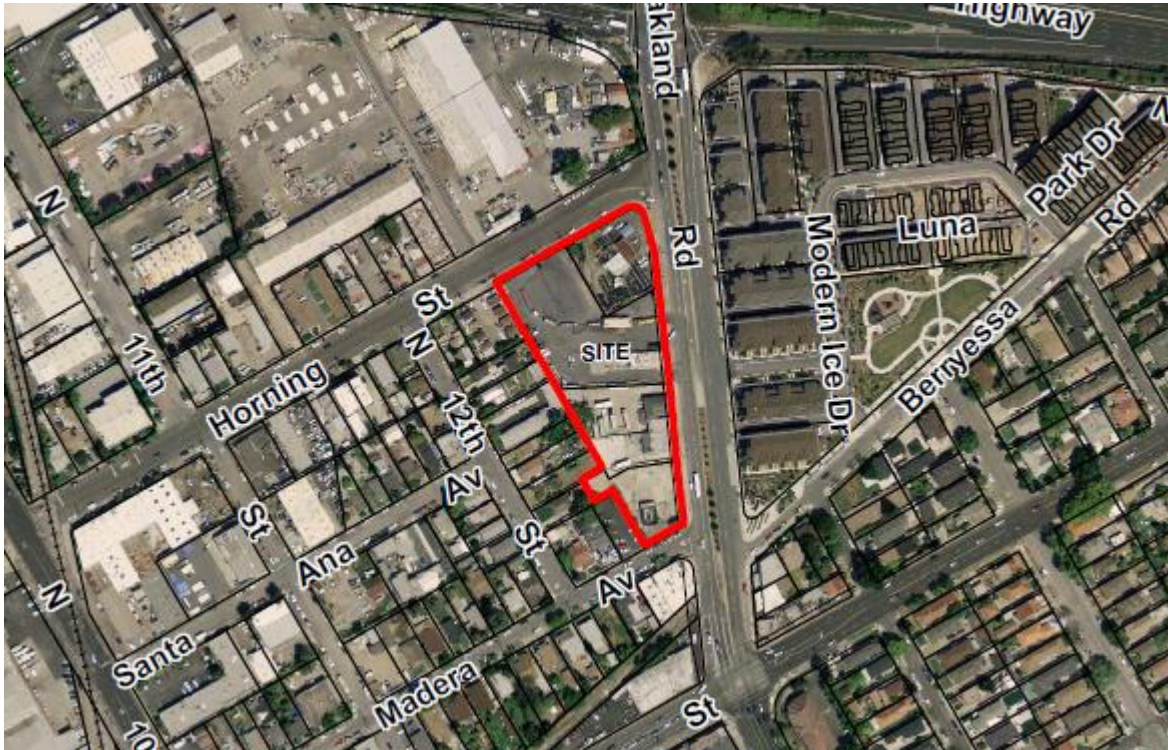


Figure 2: Aerial Image of the Subject Site and Surrounding Area

## ANALYSIS

The proposed project was analyzed for conformance with the following: 1) the Envision San José 2040 General Plan; 2) the Zoning Ordinance; and 3) the California Environmental Quality Act (CEQA).

### Envision San José 2040 General Plan Conformance

The General Plan Land Use/Transportation Diagram designation for this site is Combined Industrial/Commercial (see Figure 3). Properties with this designation are intended for commercial, office, industrial developments, or a compatible mix of these uses. A maximum Floor Area Ratio (FAR) of up to 12.0 are allowed for this land use designation. Examples of typical uses are research and development, retail sales, goods and merchandise, and private instruction/personal enrichment.

The proposed rezoning would conform to the CIC Combined Industrial/Commercial General Plan land use designation for the property. While there is no other formal application on file, there is a Preliminary Review Request by the same applicant for a hotel and carwash at the subject site.

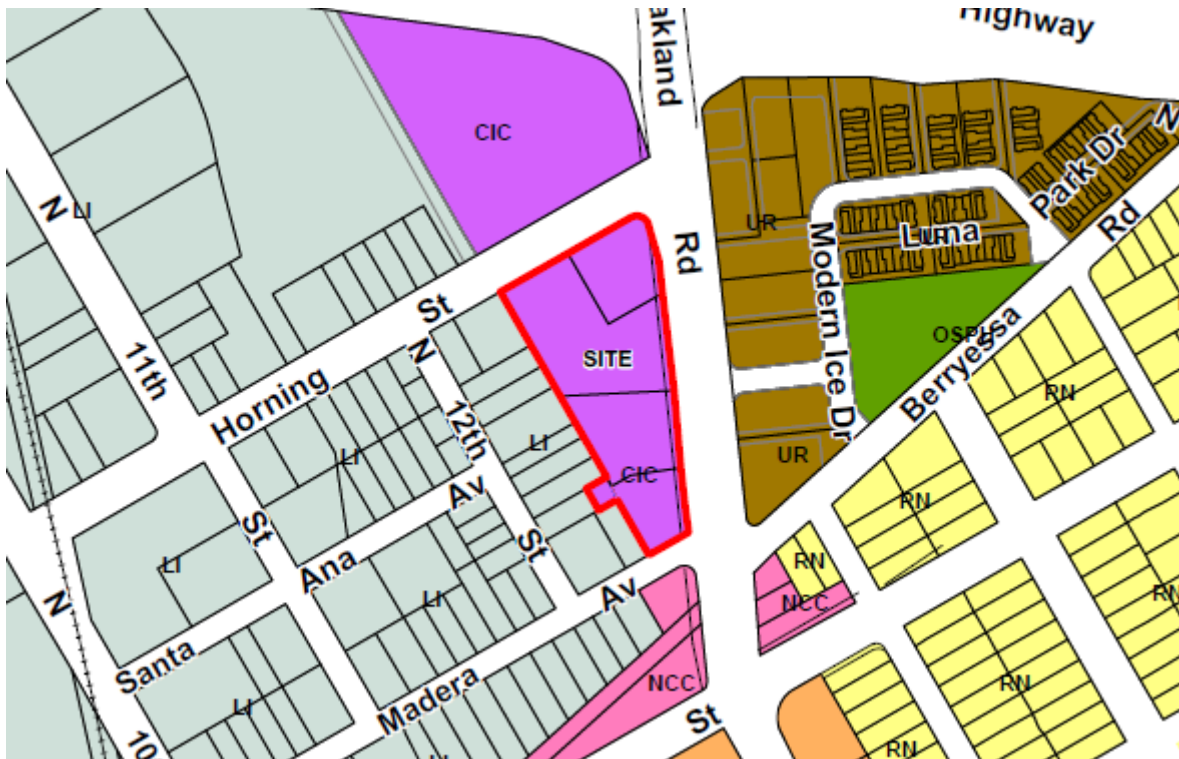


Figure 3: General Plan Land Use/Transportation Diagram

This conforming rezoning is also consistent with the following General Plan policies:

1. Implementation Policy IP-1.6: Ensure that proposals to rezone and pre-zone properties conform to the Land Use/Transportation Diagram, and advance Envision General Plan Vision, goals and policies.
2. Implementation Policy IP-8.2: Use the City's conventional zoning districts, contained in its Zoning Ordinance, to implement the Envision General Plan Land Use/Transportation Diagram. These districts include a range of allowed land uses, development intensities, and standards within major land use categories (residential, commercial and industrial) together with zoning districts for other land uses such as mixed-use and open space. The various ranges of allowed use and development intensity correspond generally to the respective Envision General Plan land use designations, while providing greater detail as to the appropriate land uses and form of development.

*Analysis: The Combined Industrial/Commercial (CIC) Zoning District is the conforming zoning district for the Envision San Jose 2040 General Plan Land Use/Transportation Diagram's designation of Combined Industrial/Commercial, as indicated in Section 20.120.110 of the Zoning Ordinance. The proposed Conforming Rezoning to the CIC Zoning District would create a conforming zoning district consistent with the goals of the General Plan.*

## **Zoning Ordinance Conformance**

The proposed Conforming Rezoning is in conformance with Table 20-270 of Section 20.120.110 of the San Jose Municipal Code. The Zoning Ordinance identifies the CIC Combined Commercial/Industrial Zoning District as a conforming zoning district to the Combined Commercial/Industrial General Plan Land Use/Transportation Diagram designation.

The CIC zoning designation is intended for commercial or industrial uses, or a compatible mixture of these uses, that support the goals of the Combined Industrial/Commercial General Plan Designation. The district allows for a broad range of commercial uses with a local or regional market, including big box retail, and a narrower range of industrial uses, primarily industrial park in nature, but including some low-intensity light industrial uses.

As noted above, existing uses on site include a tire shop, a car wash, a print shop, and a single-family home. Please see the use information below.

- Tire Shop: Use is permitted in the LI Zoning District; Conditionally allowed use in the CIC Zoning District.
- Car Wash: Use is not allowed in the LI Zoning District; Conditionally allowed use in the CIC Zoning District.
- Print Shop: Use is permitted in the LI Zoning District; Use is permitted in the CIC Zoning District.
- Single-Family Home: Use is not allowed in LI Zoning District; Use is not allowed in CIC Zoning District.

If the uses are legal non-conforming in that they were legally established and have been in continuous operation, any future expansion or modifications would require a review and approval in accordance with [Section 20.150](#).

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The proposed Conforming Rezoning will change the current LI Light Industrial Zoning District to the CIC Combined Industrial/Commercial Zoning District. It will allow the property to be in conformance to the General Plan.

No new or more significant environmental impacts beyond those identified in the Envision San Jose 2040 General Plan Final Program Environmental Impact Report (FPEIR) and Supplemental EIR (SEIR) have been identified, nor have any new mitigation measures or alternatives which are considerably different from those analyzed in the FPEIR and SEIR been identified.

Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that the proposed rezoning is pursuant to, in furtherance of and within the scope of the Envision San José 2040 General Plan program, the impacts of which were analyzed and disclosed in the Final Environmental Impact Report for the Envision San José 2040 General Plan, for which findings were adopted by City Council Resolution No. 76041 on November 1, 2011, and Supplemental EIR adopted by City Council Resolution No. 77617 on December 15, 2015. The FPEIR and

August 3, 2018

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SEIR were prepared for the comprehensive update and revision of all elements of the City of San José General Plan, including an extension of the planning timeframe to the year 2040. The proposed rezoning does not involve new significant effects beyond those analyzed in the FPEIR and SEIR.

## **PUBLIC HEARING NOTIFICATION**

To inform the public of the proposed project, staff followed Council Policy 6-30: Public Outreach Policy. 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 been available to respond to questions from the public. Staff has not received any public comments on the proposed project.

/s/

Rosalynn Hughey, Director  
Planning, Building and Code Enforcement

For questions please contact Acting Planning Official, Sylvia Do, at (408) 535-7907.

Attachments: Legal Description  
Plat Map

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**ZONING EXHIBIT**

**PARCEL A**

All of Lots 1 through 3, inclusive, together with a portion of Lot 1, in Block 2, as shown on that certain map entitled "Map of Lewis Subdivision, No. 3", filed in the office of the Recorder of the County of Santa Clara, State of California on April 7, 1913, in Book O of Maps Page 30, and a portion of Lots 3 through 6, inclusive, as shown on that certain map entitled, "Map of L.B. Lathrop's addition to San Jose" recorded March 4, 1868 in the Office of said County in Volume "A" of Maps, Page 79, being more particularly described as follows:

**BEGINNING** at the South Corner of said Lot 1, Block 2 of said "Lewis Subdivision";

Thence, along the Southwest line of said Lot 1, Lot 2, and Lot 3, of Block 2 of said "Lewis Subdivision", North 30°49'00" West 118.40 Feet to the Northerly Corner of land described in the deed from Anton Corriea, et ux, to John G. Dick, et ux, dated February 27, 1945, recorded March 2, 1945 in Book 1248 of Official Records, Page 163;

Thence, along the Northwesterly line of said "Lands of John G. Dick", South 59°11'48" West 40.26 feet to the Easterly Corner of land described in the deed from W.K. Morgan, et ux, to Alejandro Barragan, et ux, by Instrument dated July 29, 1949, and recorded August 1, 1949 in Book 1826 of Official Records, Page 40;

Thence, along the Northeasterly line of the said "Lands of Alejandro Barragan", North 30°50'00" West 45.00 Feet to the North Corner of the said "Lands of Alejandro Barragan";

Thence, along the Southeast line of land described in the deed from Anton Corriea, et ux, to James s. Nakamura, dated November 24, 1945, recorded November 29, 1945, Book 1319, Page 27, recorder's serial no. 372071, North 59°11'48" East 40.27 Feet to the Easterly Corner of said "Land of Nakamura";

Thence, along the Northeasterly line of Block 2 of said "Lewis Subdivision", North 30°49'00" West 392.72 Feet to Southeasterly line that of Horning Street, (formerly Willow Street), having a half-width of 40 feet as shown on a Record of Survey, filed for record in said County in Book 412 Page 56;

Thence, along said Southeasterly line of Horning Street, North 59°16'57" East 278.51 Feet to the beginning of a tangent curve concave Southerly and having a radius of 25.00 feet;

Thence, along said curve Northeasterly and Southeasterly 44.95 feet through a central angle of 103°01'44" to Westerly Right-of-way line of

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**ZONING EXHIBIT**

Oakland Road, (formerly Milpitas Road), being a variable width as shown on said Record of Survey;

Thence, along said Westerly Right-of-Way line, South 17°41'19" East 65.96 feet to a line, said line being parallel with and 40.00 feet Westerly from the centerline of said Oakland Road, as said centerline is shown on the Map of Tract 9753, filed for record in Book 797, of Maps, Pages 46 through 49, inclusive, said parallel line being the Westerly Right-of-Way line of said Oakland Road, having a half-width of 40.00 feet per the Map of said Tract 9753;

Thence, continuing along said Westerly Right-of-Way line, South 07°04'53" East 503.32 feet to the Easterly Corner of said Lot 1, Block 2 of said "Lewis Subdivision";

Thence, along the Southeasterly line of said Lot 1, Block 2 of said "Lewis Subdivision", South 59°11'48" West 85.24 feet to the **POINT OF BEGINNING**;


Said land containing an area of 2.662 Acres.

**SUBJECT TO** covenants, conditions, restrictions, reservations, easements, and rights-of-way of record, if any.

All as shown on **EXHIBIT "B"**, attached hereto and by this reference made a part hereof.



Prepared by: Stantec Consulting Inc.  
under the direction of:

  
\_\_\_\_\_  
Gregory C. Seburn, P.L.S. 8395

March 06, 2018  
J.N. 222310633



☉ HORNING STREET

(FORMERLY MILPITAS ROAD)  
N59°16'57"E  
278.51'

☉ TWELFTH STREET

25'

25'

25'

☉ MADERA AVENUE

APN 235-16-012

APN 235-16-011

**PARCEL A**  
(2.662 ACRES)

APN 235-16-013

APN 235-16-014

LEWIS SUBDIVISION  
NO. 3  
"O" MAPS 30  
LOTS 1-3

**POB**  
SOUTH CORNER  
OF LOT 1

POR. LOTS 3 TO 6  
MAP OF LB  
LATHROP'S ADDITION  
TO SAN JOSE  
"A" MAPS 79

☉ OAKLAND ROAD  
(FORMERLY MILPITAS ROAD)

☉ CARNIVAL WAY



SCALE 1"=80'

C18-013

ARC TABLE			
NO.	DELTA	RADIUS	LENGTH
C1	Δ=103°01'44"	25.00'	44.95'

LINE TABLE		
NO.	BEARING	LENGTH
L1	S 59°11'48" W	40.26'
L2	N 30°50'00" W	45.00'
L3	N 59°11'48" E	40.27'
L4	S 17°41'19" E	65.96'

SEE SHEET 2 FOR # DESCRIPTIONS

Project: BLUE WAVE

Description: ZONING EXHIBIT

**Stantec**  
38 TECHNOLOGY DRIVE,  
IRVINE, CA 92618  
949.923.6000 stantec.com

EXHIBIT "B"

Job No.: 222310633

Date: 03/06/18

(A) SOUTHWEST LINE OF SAID LOT 1, LOT 2, AND LOT 3, OF BLOCK 2, AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP OF LEWIS SUBDIVISION, NO. 3"

(B) NORTHERLY CORNER OF LAND DESCRIBED IN THE DEED FROM ANTON CORRIEA, ET UX, TO JOHN G. DICK, ET UX

(C) NORTHWESTERLY LINE OF LAND DESCRIBED IN THE DEED FROM ANTON CORRIEA, ET UX, TO JOHN G. DICK, ET UX

(D) EASTERLY CORNER OF SAID LAND DESCRIBED IN THE DEED FROM W.K. MORGAN, ET UX, TO ALEJANDRO BARRAGAN, ET UX

(E) NORTHEASTERLY LINE OF SAID LAND DESCRIBED IN THE DEED FROM W.K. MORGAN, ET UX, TO ALEJANDRO BARRAGAN, ET UX

(F) NORTHERLY CORNER OF SAID LAND DESCRIBED IN THE DEED FROM W.K. MORGAN, ET UX, TO ALEJANDRO BARRAGAN, ET UX

(G) SOUTHEASTERLY LINE OF LAND DESCRIBED IN THE DEED FROM ANTON CORRIEA, ET UX, TO JAMES S. NAKAMURA

(H) EASTERLY CORNER OF LAND DESCRIBED IN THE DEED FROM ANTON CORRIEA, ET UX, TO JAMES S. NAKAMURA

(I) NORTHEASTERLY LINE OF BLOCK 2, AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP OF LEWIS SUBDIVISION, NO. 3"

(J) SOUTHEASTERLY LINE OF HORNING STREET (FORMERLY WILLOW STREET)

(K) WESTERLY LINE OF OAKLAND ROAD (FORMERLY MILPITAS ROAD)

(L) EASTERLY CORNER LOT 1, IN BLOCK 2, AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP OF LEWIS SUBDIVISION, NO. 3"

(M) SOUTHEAST LINE LOT 1, IN BLOCK 2, AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP OF LEWIS SUBDIVISION, NO. 3"

(N) PORTION OF LOT 4, IN BLOCK 2, AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP OF LEWIS SUBDIVISION NO. 3"

Project: BLUE WAVE

Description: ZONING EXHIBIT



**Stantec**

38 TECHNOLOGY DRIVE,  
IRVINE, CA 92618  
949.923.6000 [stantec.com](http://stantec.com)

Job No.: 222310633

Date: 03/06/18