



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Planning Commission

SUBJECT: SEE BELOW

DATE: August 21, 2017

COUNCIL DISTRICT: 3

SUBJECT: FILE NO. C17-010. CONVENTIONAL REZONING FROM THE LI LIGHT INDUSTRIAL ZONING DISTRICT TO THE DC DOWNTOWN PRIMARY COMMERCIAL ZONING DISTRICT ON A 0.16-GROSS ACRE SITE (461 PARK AVENUE).

RECOMMENDATION

The Planning Commission voted 7-0-0 to recommend that the City Council approve an ordinance to rezone certain real property as described in the attached staff report and as recommended by staff.

OUTCOME

Should the City Council approve an ordinance adopting the proposed Conventional Rezoning, the applicant will be able to seek entitlements to develop a project consistent with the DC Downtown Primary Commercial Zoning District and the General Plan Land Use/Transportation Diagram Designation of Downtown.

BACKGROUND

On August 9, 2017, the Planning Commission held a Public Hearing to consider the proposed Rezoning (File No. C17-010). The Planning Commission recommended approval of the proposed Rezoning.

This item was on the Planning Commission's Consent Calendar. No members of the public asked to speak on this item, and there was no discussion by the Commissioners.

ANALYSIS

A complete analysis of the issues regarding this project, including Envision San Jose 2040 General Plan conformance, is contained in the attached staff report.

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EVALUATION AND FOLLOW UP

If the Rezoning is approved, the applicant will be required to obtain a Site Development Permit or other Planning approvals in order to construct any future development. The Site Development Permit or other Planning approvals will also require community outreach.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy, in that notices for the public hearings for the project were mailed to the owners and tenants of all properties located within 500 feet of the project site. An electronic version of this memorandum has been available online, accessible from the City Council Agenda for the September 12, 2017 hearing. Staff has been available to discuss the proposal with members of the public.

COORDINATION

Preparation of this memorandum has been coordinated with the City Attorney's Office.

CEQA

Pursuant to Section 15168(c)(2) 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 Program EIR for the Diridon Station Area Plan adopted by City Council Resolution No. 77096 on June 17, 2014, the Final Program Environmental Impact Report (EIR) and Supplemental EIR for the Envision San José 2040 General Plan, for which findings were adopted by City Council Resolution No. 76041 on November 1, 2011, and Resolution No. 77617 on December 15, 2015, respectively, and all Addenda thereto. The 2011 Program EIR and a supplemental EIR 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 Program EIRs, supplemental EIR, and Addenda thereto. A Determination of Consistency with these documents was prepared for this rezoning.

/s/

ROSALYN HUGHEY, SECRETARY
Planning Commission

For questions, please contact Planning Official, Steve McHarris, at (408) 535-7819.

Attachment: Planning Commission Staff Report



PLANNING COMMISSION STAFF REPORT

File No.	C17-010
Applicant:	Paul Yin and Luke Chen
Location	Northwest Corner of Park Avenue and Gifford Avenue: 461 Park Avenue
Existing Zoning	LI Light Industrial
Council District	3
Historic Resource	N/A
Annexation Date:	March 16, 1911
CEQA:	Determination of Consistency with the Final Program EIR for the Diridon Station Area Plan (Resolution No. 77096), the Final Program EIR for the Envision San José 2040 General Plan (Resolution No. 76041) and the Envision San Jose 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617), and Addenda thereto.

APPLICATION SUMMARY:

Conventional Rezoning from the LI Light Industrial Zoning District to the DC Downtown Primary Commercial Zoning District on a 0.16 gross acre site.

RECOMMENDATION:

Planning staff recommends that the Planning Commission recommend that the City Council **approve** the proposed **Conventional Rezoning** for the reasons stated in this staff report.

PROJECT DATA

GENERAL PLAN CONSISTENCY			
General Plan Designation	Downtown <input checked="" type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent		
Consistent Policies	IP-7.5; IP-8.2; IP-8.4; TR-4.1		
Inconsistent Policies	None		
SURROUNDING USES			
	General Plan Land Use	Zoning	Existing Use
North	Downtown	LI Light Industrial	Vacant Lot, Single Family Residences
South	Downtown	A(PD) Planned Development	Multi-Family Residences
East	Downtown	R-2 Two Family Residence	Commercial Retail Buildings

West	Downtown	LI Light Industrial and DC(PD) Planned Development	Office Building
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RELATED APPROVALS	
Date	Action
03/16/1911	Site annexed into the City of San Jose (Gardner).
12/29/61	Building Permit to construct a two-story office building (Permit No. 37979).

PROJECT DESCRIPTION

On March 22, 2017, a rezoning application was filed to rezone the property located on the northwest corner of Park Avenue and Gifford Avenue, 461 Park Avenue, from the LI Light Industrial Zoning District to the DC Downtown Primary Commercial Zoning District. If the rezoning is approved by the City Council, the applicant will be able to pursue a future project that is consistent with the General Plan Land Use/Transportation Diagram designation of Downtown and Zoning District of DC Downtown Primary Commercial. There is currently no development project application on file with the City.

Site Description

The 0.16 gross acre site is developed with an office building that was constructed in the early 1960s. The project is south of a vacant lot and single family homes, north of Park Avenue and a multi-family residential complex, east of an office building, and west of Gifford Avenue and two commercial buildings.

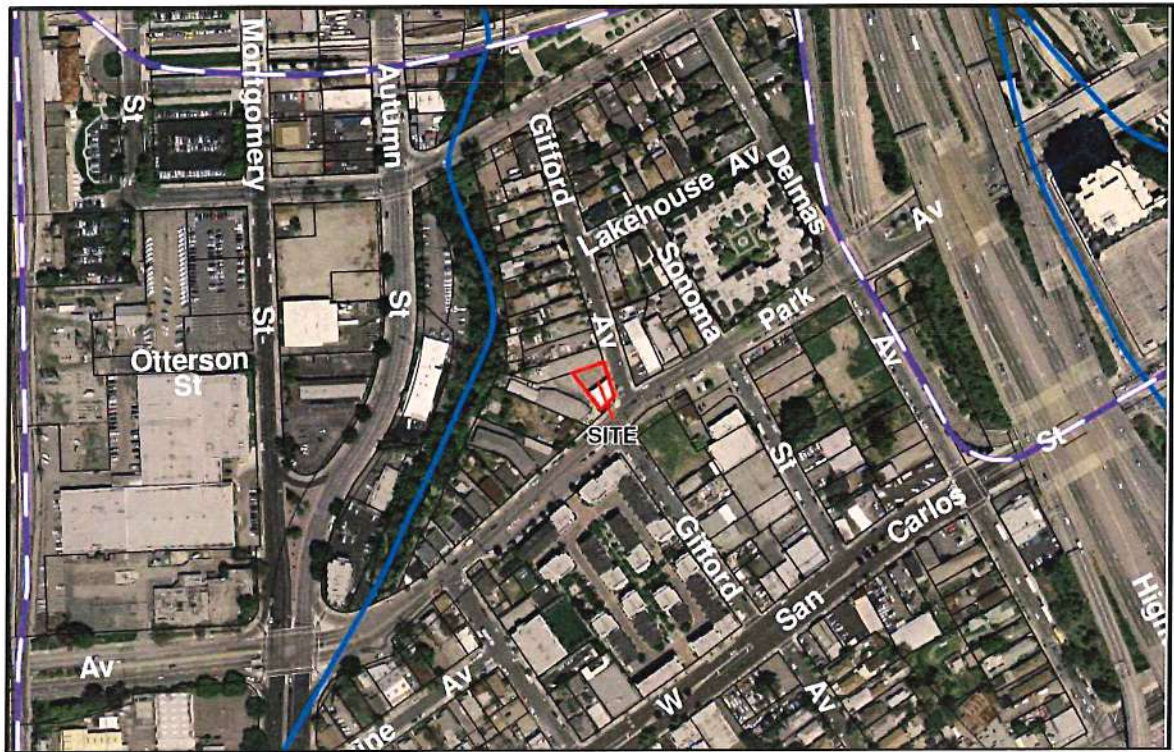


Figure 1: Aerial of Site

ANALYSIS

The proposed Conventional Rezoning was analyzed with respect to conformance with: 1) the Envision San José 2040 General Plan; 2) the Diridon Station Area Plan (DSAP); 3) the Zoning Ordinance; and 4) the California Environmental Quality Act (CEQA).

Envision San José 2040 General Plan Conformance

The subject site has a land use designation of Downtown on the General Plan Land Use/Transportation Diagram. This site is also within the boundary of the DSAP's Urban Village area. The project site has a land use designation of Downtown in the DSAP's Urban Village area and is located in the Central Zone of the DSAP.

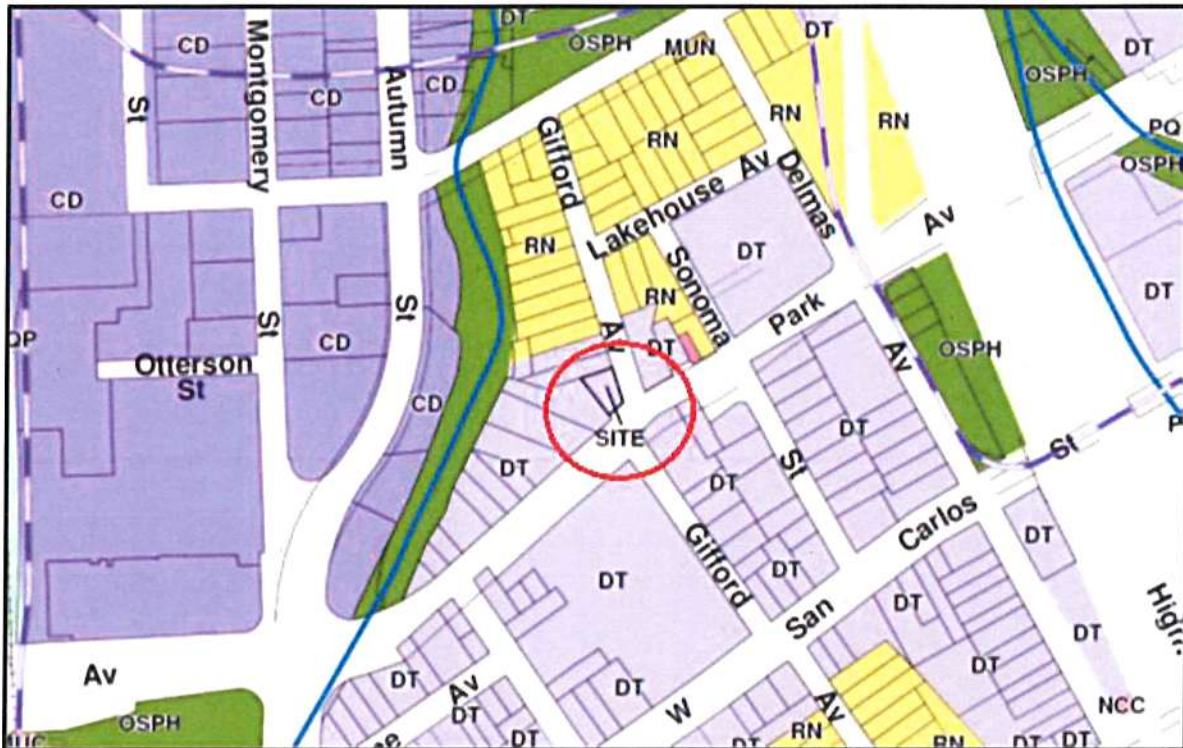


Figure 2: Land Use/Transportation Diagram Designation Map

This land use designation supports residential uses as well as non-residential uses such as office, retail, services, hotels, and residential/commercial mixed use projects. The rezoning would allow future redevelopment with uses and intensity consistent with the DSAP land use designation of Downtown.

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

1. Implementation Policy IP-7.5: Typically accomplish implementation of specific plans through the rezoning and site development entitlement processes.

Analysis: As discussed above, the project site has a General Plan Land Use/Transportation Diagram Designation of Downtown, and a DSAP land use designation of Downtown. As currently zoned, the project site cannot achieve the goals of the adopted plans given its LI Light Industrial Zoning District designation. While the General Plan has policies related to the conversion of industrial land, this concern is not applicable to this site. When the DSAP was developed and adopted by the City Council, there was a conscience effort to minimize

the amount of employment land that was deemed appropriate to rezone for other uses. To transform the Diridon Station area into a destination with transit supportive employment uses focused within walking distance from the station, housing, and important community amenities, the City Council considered specific parcels that would help achieve this environment and give them a Downtown designation which supports a mix of uses.

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 uses 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 DC Downtown Primary Commercial Zoning District is consistent with the DC Downtown Primary Commercial General Plan land use designation as well as the Downtown land use designation in the DSAP. The various ranges of permitted uses and development intensity of this zoning designation correspond to the Downtown land use designation. Specifically, both allow mixed-use residential and commercial development, office uses, and retail uses. The height and setback of the proposed zoning district correspond to the development regulations of the land use designation, requiring compatible project construction and development.

3. Implementation Policy IP-8.4: Within Urban Village areas review rezoning actions for consistency with applicable Urban Village Plans. Align the location, density and form of new residential or residential mixed-use development with standards established within the applicable Urban Village plan or consistent with the requirements for Signature projects or ancillary residential development as provided for in the General Plan.

Analysis: The site's current LI Light Industrial zoning designation is not consistent with the General Plan or DSAP's designation of Downtown as the LI Light Industrial Zoning District does not permit the types of uses anticipated by the Downtown designation like residential, mixed-use projects, and administrative business office developments. The LI Light Industrial designation also prohibits the allowable density and Floor Area Ratio permitted by the Downtown designation that will make the objectives of a transit-oriented plan area like Diridon achievable. A rezoning to the DC Downtown Zoning District will conform to the standards established within the DSAP.

4. Transportation Policy TR-4.1: Support the development of amenities and land use and development types and intensities that increase daily ridership on the VTA, BART, Caltrain, ACE and Amtrak California systems and provide positive fiscal, economic, and environmental benefits to the community.

Analysis: This site is located in the DSAP's Central Zone. The Central Zone includes the new high speed rail terminal at the northern end and anticipated industrial development at the southern end, with new commercial development between them. This area is intended to be a high intensity mixed-use, entertainment and business core with ground floor street-facing retail, and other neighborhood-serving retail uses to take advantage to the high speed rail terminal to the west and the direct connection to downtown to the east. Any of these uses support the development that will increase the daily ridership of the high speed rail and at Diridon Station and will help bring economic benefits to the community. The DC Downtown Zoning District permits a mix of these uses, which are desired in the Central Zone.

Diridon Station Area Plan (DSAP) Conformance

The Diridon Station Area Plan (DSAP) was adopted by City Council in June of 2014. The DSAP is a plan for the half-mile radius around Diridon Station (approximately 500 acres of land). The Plan provides a framework for higher intensity/transit-oriented development in the Diridon Station area. The Plan is separated into three primary zones; the Northern Zone (called the Innovation District) north of the Alameda and the SAP Center, the Central Zone (called Destination Diridon) immediately adjacent to the transit station, and the Southern Zone (called Diridon Neighborhoods) south of the station along West San Carlos Street. The subject property is within the Central Zone of the Plan boundaries. The Central Zone supports residential and non-residential uses. The DC Downtown Primary Commercial Zoning District also permits a variety of uses that are similar to the uses allowed in the Downtown designation for Diridon.

The Central Zone allows building height up to 130 feet and the Downtown Designation in the Plan permits what is allowed in the General Plan of 800 dwelling unit per acre (DU/AC) and a Floor Area Ratio (FAR) of 15.0. The DC Downtown Primary Commercial Zoning District allows any height that maintains the safe operation of San José International Airport; there are no setback requirements, and the dwelling units per acre of this district is regulated by the General Plan.

Zoning Ordinance

As noted above, the DC Downtown Primary Commercial Zoning District allows any height that maintains the safe operation of San José International Airport; there are no setback requirements, and the dwelling units per acre of this district is regulated by the General Plan designation of 800 DU/AC. These zoning development standards permit the development of a project that is consistent with the Downtown land use designation.

Existing Use

The existing office building is a legal non-conforming use in the LI Light Industrial Zoning District. Once the site is rezoned to DC Downtown Primary Commercial, the office will be a legally permitted use.


CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Pursuant to Section 15168(c)(2) 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 Program EIR for the Diridon Station Area Plan adopted by City Council Resolution No. 77096 on June 17, 2014, the Final Program Environmental Impact Report (EIR) and Supplemental EIR for the Envision San José 2040 General Plan, for which findings were adopted by City Council Resolution No. 76041 on November 1, 2011 and Resolution No. 77617 on December 15, 2015, respectively, and all Addenda thereto. The 2011 Program EIR and a supplemental EIR 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 Program EIRs, supplemental EIR, and Addenda thereto. A Determination of Consistency with these documents was prepared for this rezoning.

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.

Project Manager: Lea C. Simvoulakis

Approved by: , Planning Official for Rosalynn Hughey, Interim Planning Director

Date: 8/11/17

Attachments:

Exhibit A: Draft Ordinance with Legal Description and Plat Map

Owner:	Applicant:
Paul Yin & Like Chen 2918 21 st Avenue San Francisco, CA 94132	Paul Yin and Luke Chen 2918 21 st Avenue San Francisco, CA 94132

DRAFT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN JOSE REZONING CERTAIN REAL PROPERTY OF APPROXIMATELY 0.16 ACRE, SITUATED AT THE CORNER OF PARK AVENUE AND GIFFORD AVENUE (461 PARK AVENUE) FROM THE LI LIGHT INDUSTRIAL ZONING DISTRICT TO THE DC DOWNTOWN PRIMARY COMMERCIAL ZONING DISTRICT

WHEREAS, all rezoning proceedings required under the provisions of Chapter 20.120 of Title 20 of the San José Municipal Code have been duly had and taken with respect to the real property hereinafter described; and

WHEREAS, pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that the proposed rezoning is pursuant to or in furtherance of and within the scope of the previously approved program evaluated in the Final Program Environmental Impact Report for the Diridon Station Area Plan (the "DSAP FEIR"), for which findings were adopted by the City Council through its Resolution No. 77096 on June 17, 2014, and the Final Program Environmental Impact Report for the Envision San José 2040 General Plan (the "FEIR") as supplemented, for which findings were adopted by City Council through its Resolution Nos. 76041 and 77617 on November 1, 2011 and December 15, 2015, respectively, and does not involve new significant effects beyond those analyzed in the DSAP FEIR, or the FEIR and its supplement and Addenda thereto; and

WHEREAS, the City Council of the City of San José is the decision-making body for the proposed subject rezoning to the DC Downtown Primary Commercial Zoning District; and

WHEREAS, this Council of the City of San José has considered and approves the information contained in the DSAP FEIR and the FEIR, as supplemented and addenda thereto, and related City Council Resolution Nos. 77096, 76041 and 77617 and the determination of consistency therewith prior to acting upon or approving the subject rezoning;

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

SECTION 1. The recitals above are incorporated herein.

SECTION 2. All that real property hereinafter described in this section, hereinafter referred to as "subject property," is hereby rezoned as DC Downtown Primary Commercial Zoning District.

The subject property referred to in this section is all that real property situated in the County of Santa Clara, State of California, described in Exhibit "A" and depicted in Exhibit "B" attached hereto and incorporated herein by this reference.

SECTION 3. The district map of the City is hereby amended accordingly.

SECTION 4. The land development approval that is the subject of City File No. C17-010 is subject to the operation of Part 2.75 of Chapter 15.12 of Title 15 of the San José Municipal Code. The applicant for or recipient of such land use approval hereby acknowledges receipt of notice that the issuance of a building permit to implement such land development approval may be suspended, conditioned or denied where the City Manager has determined 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 by the California Regional Water Quality Control Board for the San Francisco Bay Region.

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PASSED FOR PUBLICATION of title this ____ day of ____, 2017 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

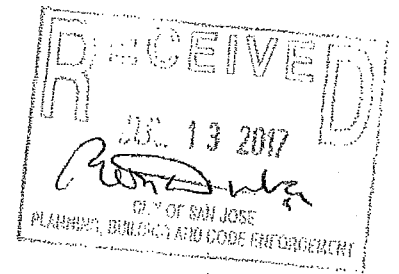
SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

DRAFT

EXHIBIT "A"
LEGAL DESCRIPTION



FOR APN: 259-48-045

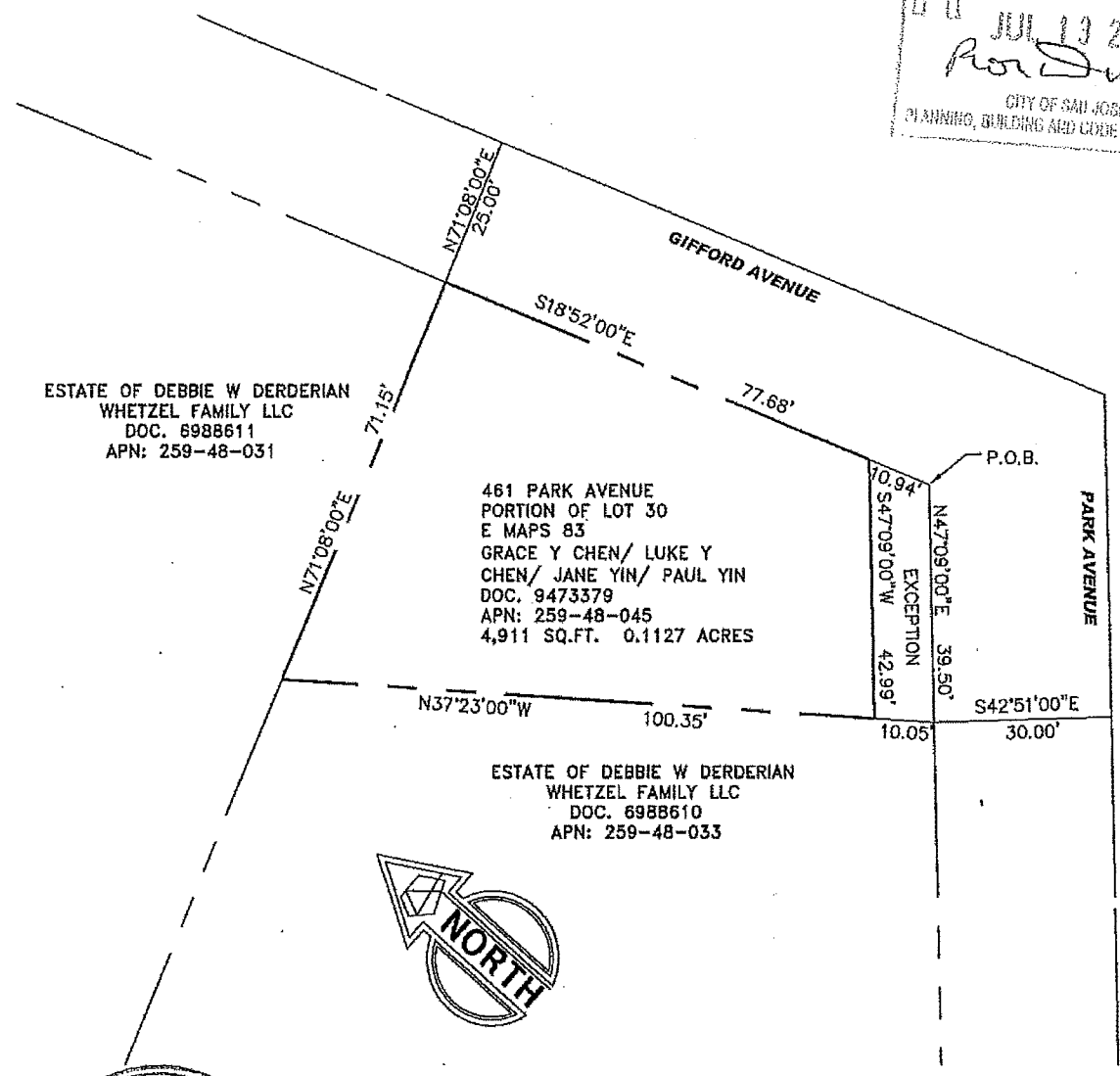
Portion of Lot 30, as shown upon that certain Map entitled, "Map of Lake House Tract", which Map was filed for Record in the Office of the Recorder of the County of Santa Clara, State of California on March 16, 1891 in Book "E" of Maps, Page 83, and a portion of the Los Coches Rancho, and more particularly described as follows:

Beginning at the point of intersection of the Northwesterly line of Park Avenue, with the Southwesterly line of Gifford Street formerly Pleasant Avenue, as said Avenues are shown upon the Map above referred to; running thence South 47 deg. 09' West, along the said Northwesterly line of Park Avenue, 39.50 feet to the Easternmost corner of that certain parcel of land of land described in the Deed from Lois Sheffield to Mitchell J. Kravich, et al, Dated May 1, 1950 and recorded May 15, 1950 in Book 1978 of Official Records, Page 430, Santa Clara County Records; running thence North 37 deg. 23' West along the Northeasterly line of the land so described in the Deed to Kravich, et al, 110.40 feet to a point on the Northwesterly line of Lot 30, as said Lot is shown upon the Map above referred to; running thence North 71 deg. 08' East along said last named line, 71.20 feet to a point on the said Southwesterly line of Gifford Street; running thence Southeasterly along said last named line, 88.64 feet to the point of beginning.

Excepting therefrom that portion thereof described in the Deed from Reed E. Surber and Geraldine F. Surber, His Wife, Joseph Melvin Gagliardi and Virginia Rose Gagliardi, his wife, to City of San Jose, a Municipal Corporation, Dated September 11, 1961 and recorded September 20, 1961 in Book 5303 of Official Records, Page 98, as follows:

Beginning at the point of intersection of the Northwesterly line of Park Avenue with the Southwesterly line of Gifford Street (formerly Pleasant Avenue) as said Avenue and Street are shown upon that certain Map entitled, "Map of Lake House Tract", which Map was filed for Record in the Office of the Recorder, Santa Clara County, California, on March 16, 1891 in Book "E" of Maps, at Page 83, said point of beginning being also the Southeasterly corner of that certain parcel of land conveyed by Deed dated October 2, 1958 from P. Doris Young and Kenneth Young, her husband, to Organized Investors, Inc., a Corporation, recorded October 6, 1958 in Book 4194 of Official Records, at Page 138, Records of Santa Clara County; thence along said Northwesterly line of Park Avenue, South 47 deg. 09' West 39.50 feet to a point of intersection with the Southwesterly line of said land conveyed to Organized Investors, Inc.; thence along last said Southwesterly line North 37 deg. 23' West 10.05 feet to a point in a line that is parallel to and distant 10.00 feet, measured at right angles, Northwesterly from said Northwesterly line of Park Avenue; thence along said parallel line North 47 deg. 09' East 42.99 feet to a point in said Southwesterly line of Gifford Street; thence Southeasterly along last said Southwesterly line 10.95 feet to the point of beginning.

RECEIVED
 JUL 13 2017
Pro Duke
 CITY OF SAN JOSE
 PLANNING, BUILDING AND CODE ENFORCEMENT



ESTATE OF DEBBIE W DERDERIAN
 WHETZEL FAMILY LLC
 DOC. 6988611
 APN: 259-48-031

461 PARK AVENUE
 PORTION OF LOT 30
 E MAPS 83
 GRACE Y CHEN/ LUKE Y
 CHEN/ JANE YIN/ PAUL YIN
 DOC. 9473379
 APN: 259-48-045
 4,911 SQ.FT. 0.1127 ACRES

ESTATE OF DEBBIE W DERDERIAN
 WHETZEL FAMILY LLC
 DOC. 6988610
 APN: 259-48-033

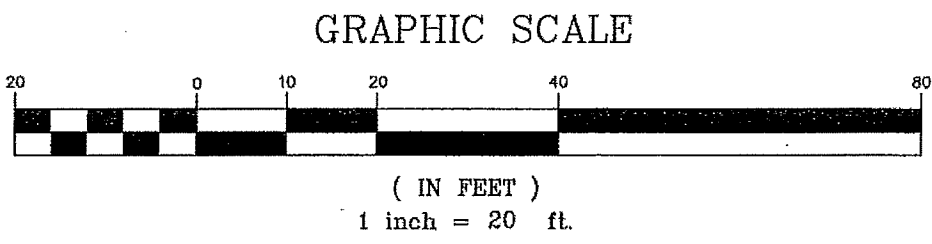
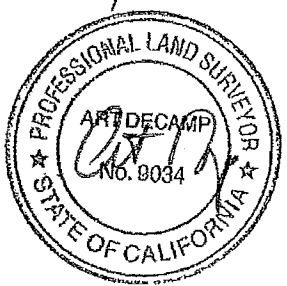
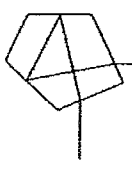


EXHIBIT B

SAN JOSE PLAT TO ACCOMPANY INSTRUMENT SANTA CLARA COUNTY CALIFORNIA



SLOOTEN CONSULTING INC.
 SURVEYING & ENGINEERING

4740 NORTHGATE BLVD., SUITE 115 (916)641-7570
 SACRAMENTO, CA 95834 (FAX)641-7572

DATE:	7/10/17
SCALE:	1"=20'
DRAWN BY	AD
JOB NO.	11001-01
REVISIONS:	
PAGE	1 OF 1
FILE:	11001