



## CITY COUNCIL STAFF REPORT

<b>File No.</b>	C18-035
<b>Applicant:</b>	Micaela Connery
<b>Location</b>	Northwest corner of the intersection of Fox Avenue and North First Street
<b>Existing Zoning</b>	CO Commercial Office and R-1-8 Single-Family Residence
<b>General Plan Land Use Designation</b>	Transit Residential
<b>Council District</b>	3
<b>Historic Resource</b>	No
<b>Annexation Date:</b>	March 27, 1850 (Original City)
<b>CEQA:</b>	Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) and the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto

### APPLICATION SUMMARY:

Conforming Rezoning from the CO Commercial Office Zoning District and R-1-8 Single Family Residence Zoning District to the RM Multiple Residence Zoning District on a 0.43-gross acre site.

### RECOMMENDATION:

Staff recommends that the City Council:

1. Consider the Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) and the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto.
2. Adopt an ordinance rezoning an approximately 0.43-gross acre site, located at the northwest corner at the intersection of Fox Avenue and First Street, from the CO Commercial Office and the R-1-8 Single-Family Residence Zoning District to the R-M Multiple Residence Zoning District.

## PROJECT DATA

GENERAL PLAN CONSISTENCY			
<b>General Plan Designation</b>		<b>Transit Residential</b> <input checked="" type="checkbox"/> <b>Consistent</b> <input type="checkbox"/> <b>Inconsistent</b>	
<b>Consistent Policies</b>		<b>Implementation Policies IP-1.6, IP-1.7, and IP-8.2</b>	
SURROUNDING USES			
	<b>General Plan Land Use</b>	<b>Zoning</b>	<b>Existing Use</b>
<b>North</b>	Residential Neighborhood and Neighborhood/Community Commercial	R-1-8 Single-Family Residence and CO Commercial Office	Single-family residences and Medical Offices
<b>South</b>	Residential Neighborhood and Neighborhood/Community Commercial	R-1-8 Single-Family Residence and CO Commercial Office	Single-family residences and Multiple-family residences
<b>East</b>	Neighborhood/Community Commercial	Commercial Office	Multiple-family residences
<b>West</b>	Residential Neighborhood	R-1-8 Single-Family Residences	Single-family residences

## PROJECT DESCRIPTION

On October 18, 2018, the applicant, Micaela Connery, filed an application to rezoning an approximately 0.43-gross acre site from the CO Commercial Office and the R-1-8 Single-Family Residence Zoning District to the R-M Multiple Residence Zoning District.

### Site Description and Surrounding Uses

The subject site is located at the northwest corner at the intersection of Fox Avenue and First Street (see Figure 1). The subject site consists of four lots developed with an office building, parking lot, and landscaping. The subject site is surrounded by single-family residential and multi-family residential to the south, east, and west. The properties to the north are developed with single-family residential and a medical office building. There are no other active planning development permit applications on file for the subject site.

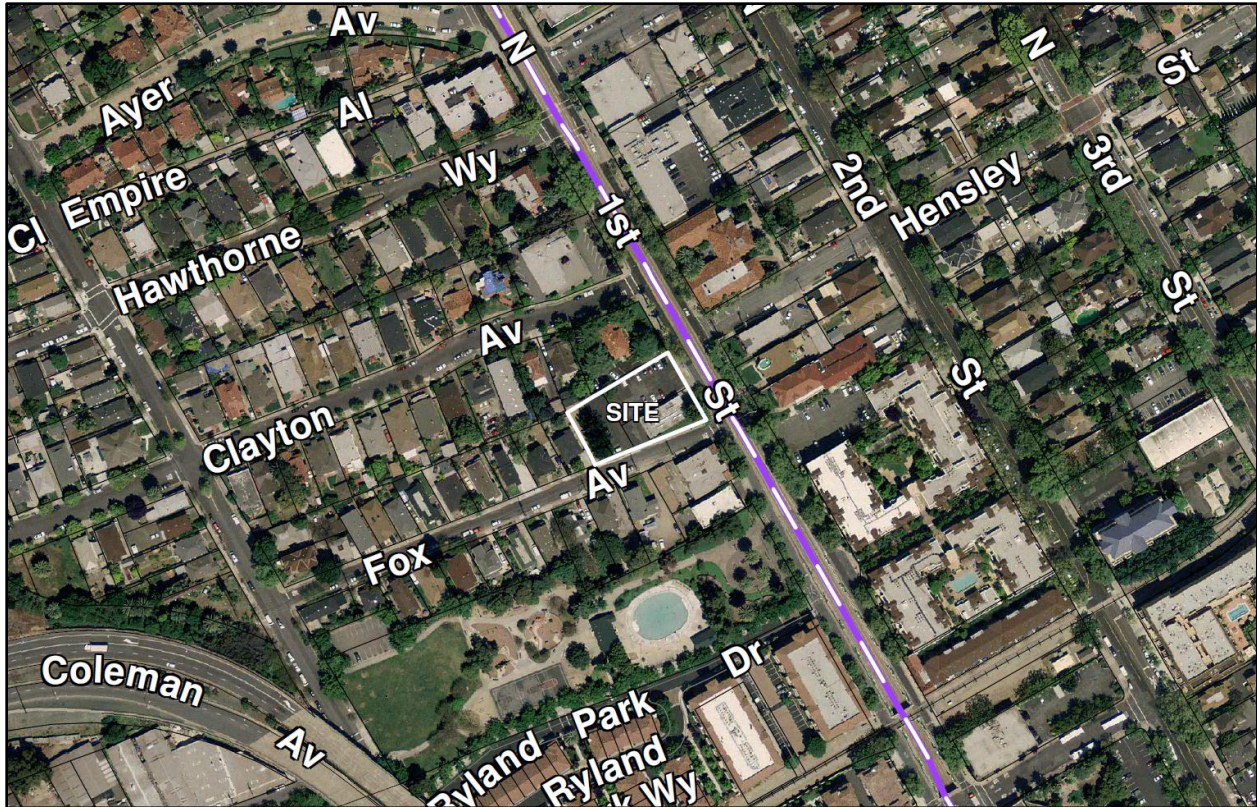


Figure 1: Aerial image of the subject site

## Background

The subject property is currently located in the CO Commercial Office and R-1-8 Single Family Residence Zoning District. The applicant has requested a conforming rezoning to the R-M Multiple Residence Zoning District, which would further bring the site into conformance with the Transit Residential General Plan Land Use/Transportation Diagram land use designation.

## 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 subject site has an *Envision San José 2040 General Plan* Land Use/Transportation Diagram land use designation of Transit Residential (see Figure 2).

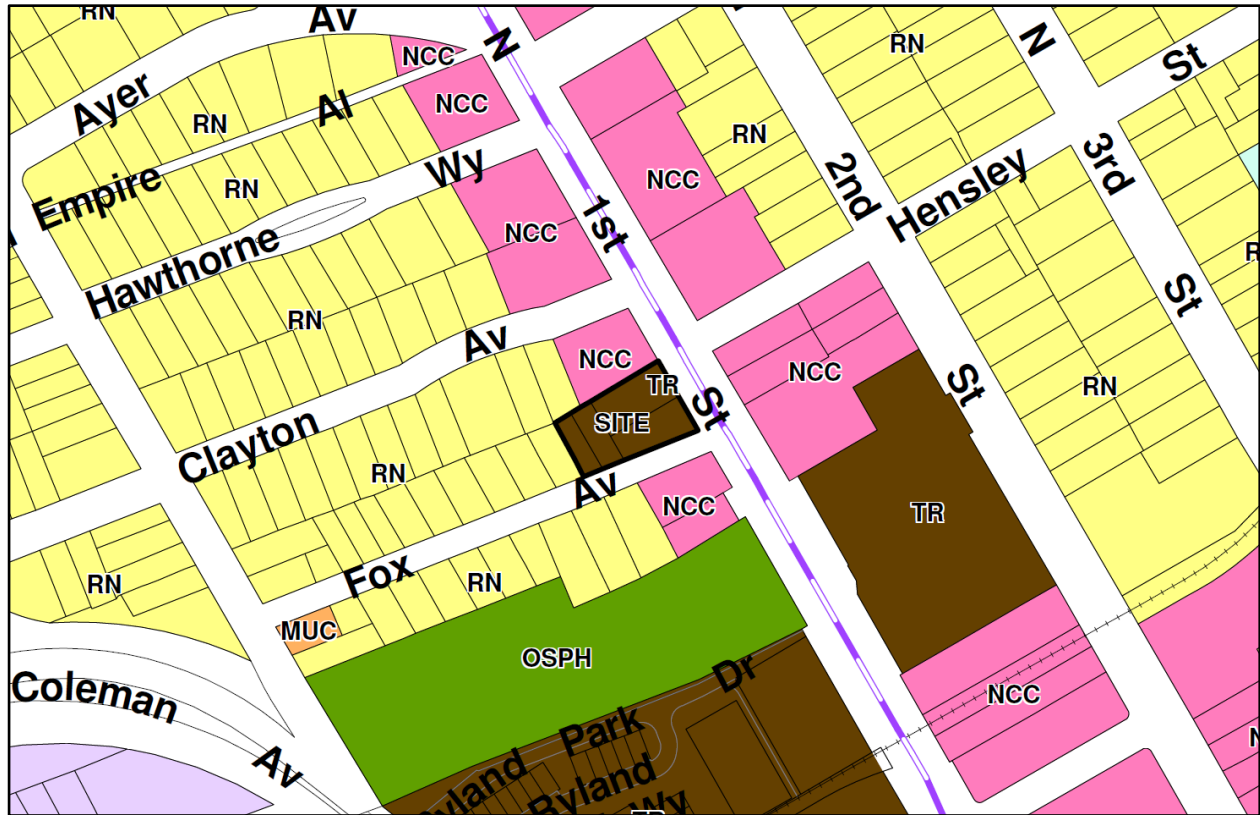


Figure 2: General Plan Land Use/Transportation Diagram

The Transit Residential designation is for new high-density residential development sites located near transit, jobs, amenities, and services. This designation also supports intensive commercial employment uses, such as office, retail, hotels, hospitals, and private community gathering facilities. The proposed rezoning is consistent with the following General Plan policies:

1. Implementation Policy IP-1.1 Land Use/Transportation Diagram: Use the *Envision General Plan Land Use/Transportation Diagram* designations to indicate the general intended land use, providing flexibility to allow for a mix of land uses, intensities and development forms compatible with a wide variety of neighborhood contexts and to designate the intended roadway network to be developed over the timeframe of the *Envision General Plan*. Use the Zoning designation to indicate the appropriate type, form and height of development for particular properties.
2. Implementation Policy IP-1.6 Land Use/Transportation Diagram: Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram, and advance *Envision General Plan* Vision, goals, and policies.
3. Implementation Policy IP-8.2- Zoning: 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:* Pursuant to Table 20-270 of the Zoning Ordinance, the R-M Multiple Residence Zoning District is listed as a conforming district for the General Plan Land Use Designation of Transit Residential. The proposed rezoning allows for future higher density residential development and higher density residential-commercial mixed-use development.

### Zoning Ordinance Conformance

The proposed rezoning conforms with Table 20-270, [Section 20.120.110](#) of the San José Municipal Code, which identifies the R-M Multiple Residence Zoning District as a conforming district to the Transit Residential General Plan Land Use/Transportation Diagram land use designation.

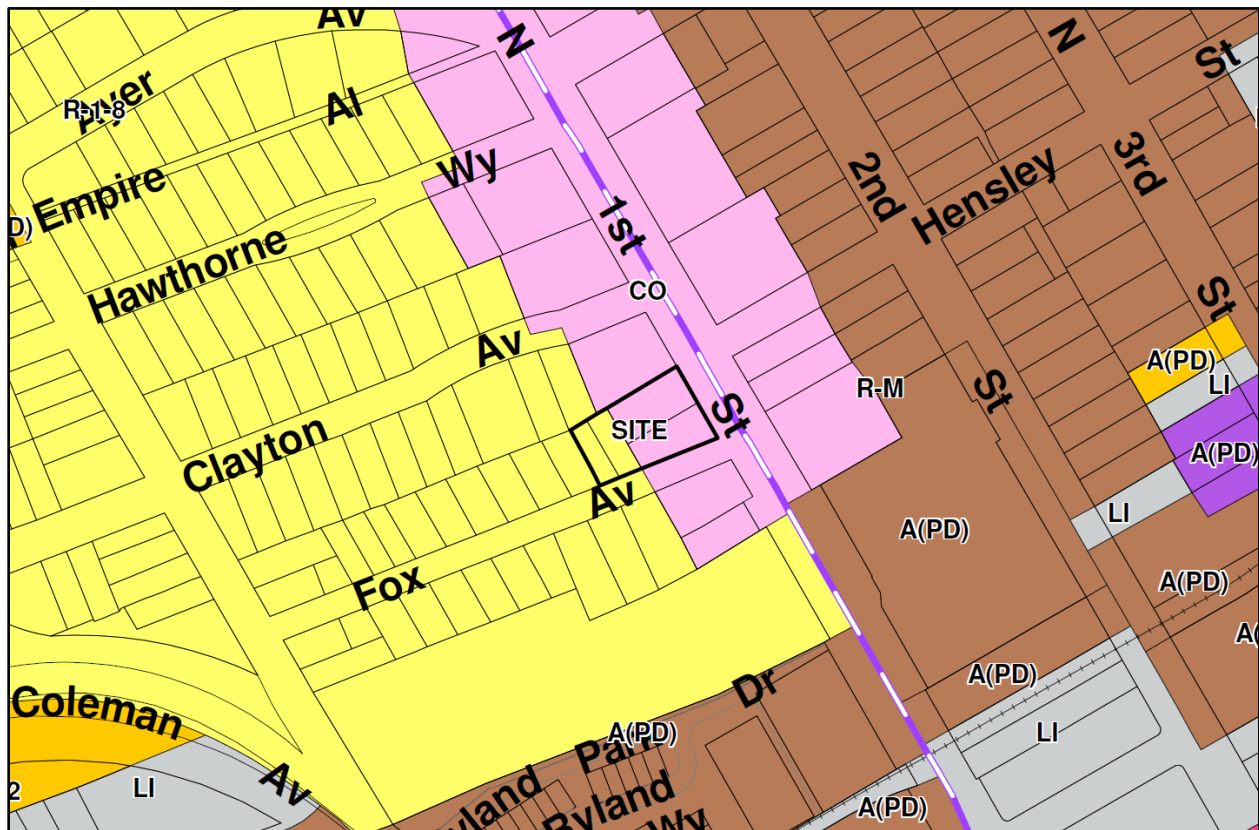


Figure 3: Zoning Map

The R-M Multiple Residence Zoning District would allow the property to be used and developed in accordance with the allowable uses in Table 20-50, including one-family dwelling, two-family dwelling, multiple dwelling, mixed use residential/commercial development, and other uses such as residential care facilities. This rezoning would facilitate the future redevelopment of the site to be consistent with the General Plan land use designation.

### Setbacks and Heights

The development standards for a R-M Multiple Residence Zoning District require a 10-foot front setback, a 7.5-foot side setback along the street, five feet along interior side lot lines, and a 15-foot rear setback along the rear lot line. The maximum height allowed is 120 feet, per Section 20.85.D of the Municipal Code. Future development would be evaluated for conformance to these development standards and all other municipal code regulations.

### Existing Uses

Should this Rezoning be approved, the existing lawful uses on the site would become legal nonconforming. Pursuant to [Section 20.150.020](#), a legal nonconforming use may be continued indefinitely until such use is abandoned or discontinued for a period of six months or more, unless the use is reinstated with the issuance of a Special Use Permit.

## **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 project 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, and addenda thereto. The FPEIR, SEIR and Addenda 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.

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

## **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. No public comment letters have been received to date.

/s/

Rosalynn Hughey, Director  
Planning, Building and Code Enforcement

For questions, please contact Robert Manford, Deputy Director, at (408) 535-7900.

Attachment: Legal Description and Plat Map

## EXHIBIT A

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

Being all of Lot 1, Lot 2, Lot 3, Lot 6 and a portion of Lot 8, as said Lots are shown on that certain map entitled, "Plat of Fox Addition in the City of San Jose", filed for record in the office of the Recorder of the County of Santa Clara, State of California, on November 26, 1872 in Book E of Miscellaneous Records, page 25 and more particularly described as follows:

Beginning at the point of intersection of the Southwesterly line of First Street (80 feet wide) with the Northerly line of Fox Avenue (40 feet wide);

Thence, along said Northerly line of Fox Avenue, South  $68^{\circ}21'55''$  West 190.56 feet (the bearing of said Northerly line being taken as South  $68^{\circ}21'55''$  West for the purpose of making this description);

Thence, Northwesterly and parallel to said First Street, North  $29^{\circ}54'16''$  West 95.04 feet to the Northwest Line of said Lot 8;

Thence, along the Northwesterly lines of said Lot 8, Lot 6 and Lot 1, North  $60^{\circ}05'44''$  East 188.58 feet to said Southwesterly line of First Street;

Thence, along last said line, South  $29^{\circ}54'16''$  East 122.45 feet to the point of beginning.

Containing 20,507 square feet of land, more or less.

The monument line of Fox Avenue as shown on that certain Record of Survey, filed for record on January 21, 1986 in book 555 of maps at pages 2 through 16, inclusive, was used as the basis of bearings for this description. Said bearing being taken as South  $68^{\circ}21'55''$  West.

Attached hereto is a plat (Exhibit B) to accompany legal description, and by this reference made a part hereof.

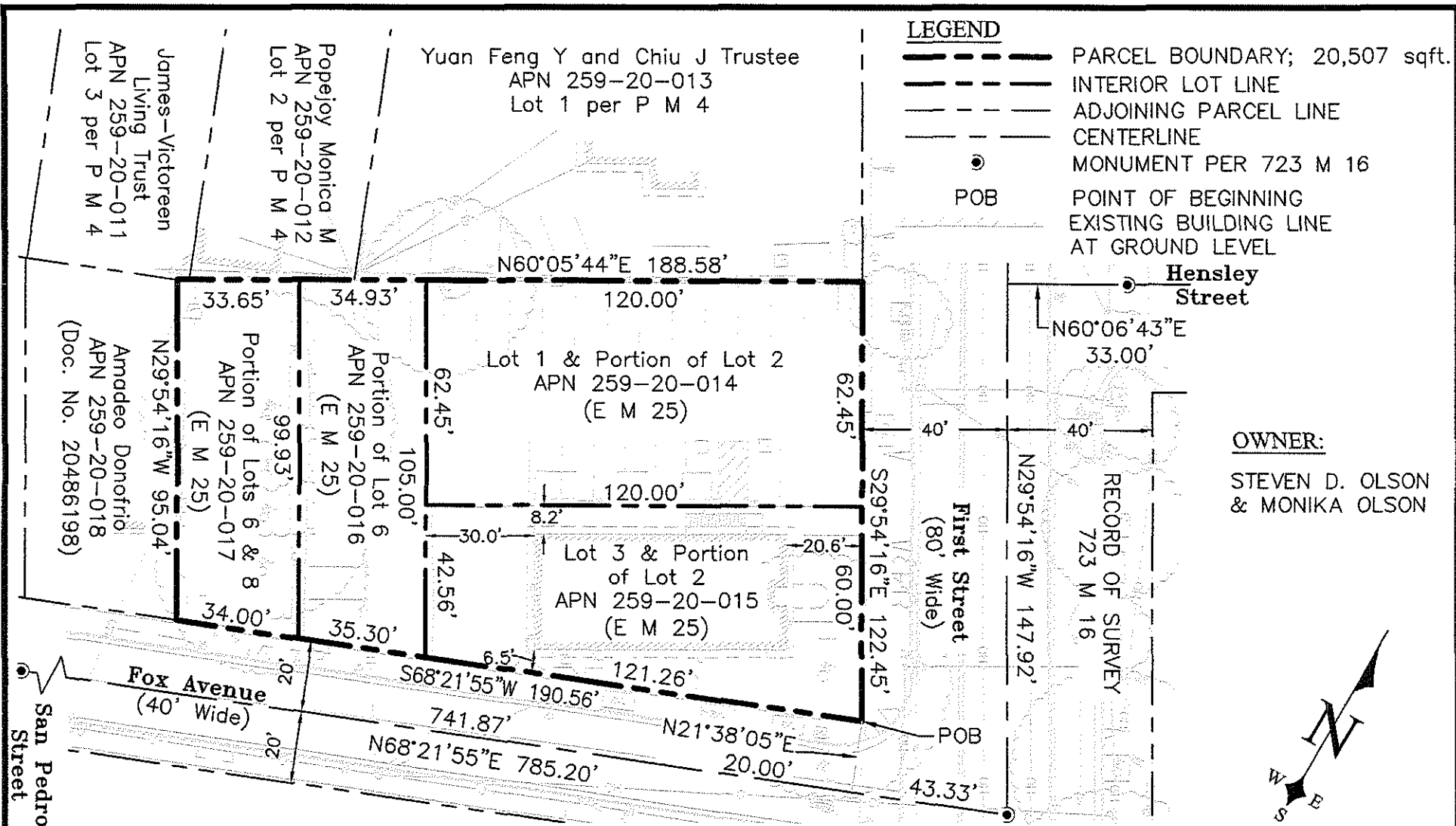
This description was prepared by me or under my direct supervision.

*Brian L. Sousa*

Brian L. Sousa, LS 7917  
License Expires: 12-31-2019



Date: Oct. 17, 2018



**EXHIBIT B**  
(E M 25)

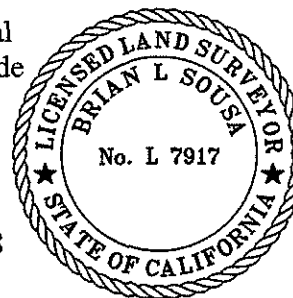
**Sousa Land Surveys**

tel 707.425.4300 fax 707.471.0318  
3809 Rollingwood Dr. Fairfield, CA 94534

This plat has been prepared to accompany the legal description for the parcel shown and is hereby made a part of that description. This map was prepared by me or under my direct supervision.

*Brian L Sousa*

Brian L. Sousa, LS 7917 Date: Oct. 17, 2018  
License Expires: 12-31-19



Scale: 1" : 40'

40 20 0 40

IF PHYSICAL DISTANCE ACROSS SCALE BAR IS NOT EXACTLY TWO (2) INCHES, ADJUST SCALE ACCORDINGLY.