



## CITY COUNCIL STAFF REPORT

<b>File No.</b>	C17-034
<b>Applicant</b>	Dylan Nguyen, Unity Investment Group, LLC
<b>Owner</b>	Hien Chung Nguyen
<b>Location</b>	Southwest corner of Senter Road and Lew Road (2905 Senter Road)
<b>Existing Zoning</b>	Light Industrial Zoning District; Commercial Pedestrian Zoning District
<b>General Plan Land Use Designation</b>	Neighborhood/Community Commercial
<b>Council District</b>	7
<b>Historic Resource</b>	No
<b>Annexation Date</b>	August 28, 1959 (Franklin No. 6)
<b>CEQA</b>	Mitigated Negative Declaration for 2905 Senter Road Commercial Plaza

### APPLICATION SUMMARY:

Conforming Rezoning from LI Light Industrial Zoning District and CP Commercial Pedestrian Zoning District to CN Commercial Neighborhood Zoning District on an approximately 1.05-gross acre site at 2905 Senter Road.

### RECOMMENDATION:

Staff recommends that the City Council:

1. Adopt a resolution adopting the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Plan for 2905 Senter Road Commercial Plaza; and
2. Approve an ordinance approving the Conforming Rezoning to the CN Commercial Neighborhood Zoning District on an approximately 1.05-gross acre site at 2905 Senter Road.

### PROJECT DATA

GENERAL PLAN CONSISTENCY	
<b>General Plan Designation</b>	<b>Transit Residential</b> <input checked="" type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent
<b>Consistent Policies</b>	<b>Implementation Policies IP-1.1, IP-1.6, and IP-8.2</b>

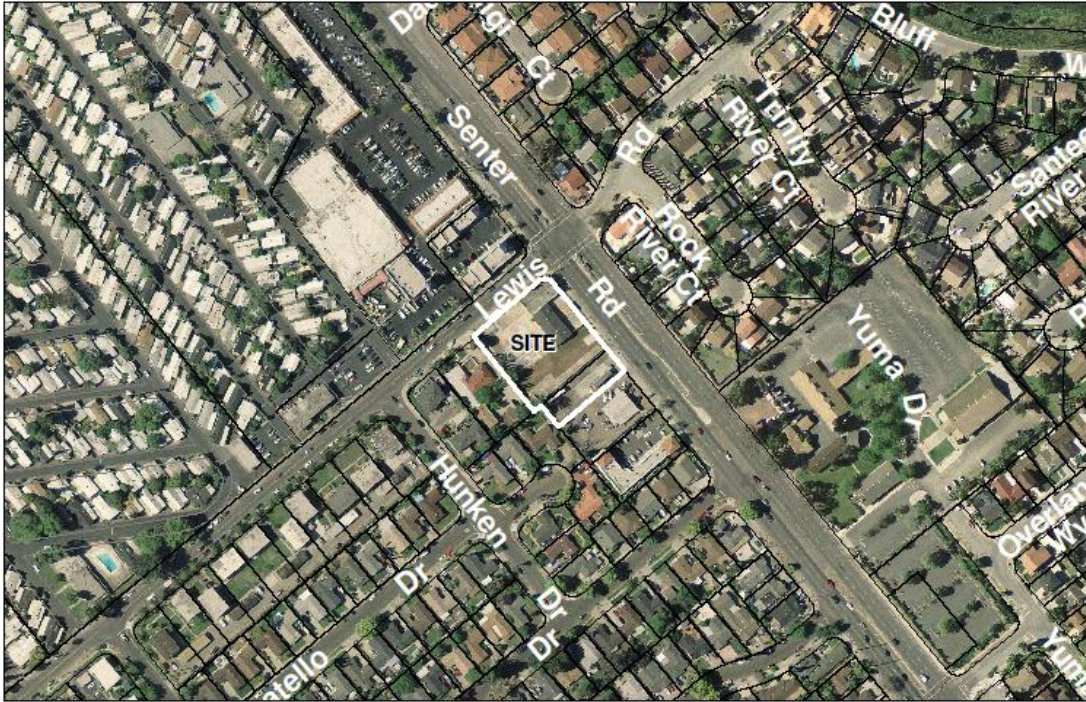
SURROUNDING USES			
	General Plan Land Use	Zoning	Existing Use
<b>North</b>	Mixed Use Neighborhood; Neighborhood/Community Commercial; Residential Neighborhood	R-1-8 Single-Family Residence Zoning District; CG - Commercial General Zoning District	Single-family residences, commercial shopping center
<b>South</b>	Neighborhood/Community Commercial; Residential Neighborhood	R-1-8 Single-Family Residence Zoning District; CP – Commercial Pedestrian Zoning District	Single-family residences, restaurant
<b>East</b>	Residential Neighborhood	R-1-8 Single-Family Residence Zoning District	Single-family residences
<b>West</b>	Neighborhood/Community Commercial; Residential Neighborhood	CG – Commercial General Zoning District, RM – Multiple Residence Zoning District	Commercial shopping center, single-family residences

## PROJECT DESCRIPTION

On August 11, 2017, the applicant, Dylan Nguyen, applied for a Conforming Rezoning from the LI Light Industrial Zoning District and CP Commercial Pedestrian Zoning District to CN Commercial Neighborhood Zoning District on a 1.05-gross acre site at 2905 Senter Road.

### Site Description and Surrounding Uses

The subject site is located on the southwest corner of Senter Road and Lewis Road. The subject site includes two parcels with a vacant commercial building and is surrounded by a mix of residential and commercial uses.



**Figure 1: Aerial image of the subject site**

## **Background**

The subject site includes two parcels, the first parcel is situated at the intersection of Lewis Road and Senter Road. This parcel is currently located in the LI Light Industrial District, which allows for a wide variety of lower intensity industrial uses, such as manufacturing and warehousing. The second parcel is situated directly southeast of the first parcel and is currently located in the CP Commercial Pedestrian Zoning District, which allows various commercial uses that are pedestrian-oriented, such as retail and personal services. The applicant has requested a conforming rezoning to the CN Commercial Neighborhood for both parcels, which would bring the LI Light Industrial Zoning District parcel into conformance with the Neighborhood/Community Commercial General Plan Land Use/Transportation Diagram land use designation and also create consistency between the two parcels to allow a small commercial retail center.

A Site Development Permit (File No. H18-007) is currently on file that proposes the demolition of the existing one-story commercial building and the construction of three (3) one-story commercial buildings totaling approximately 14,100 square feet with surface parking. This Site Development Permit is currently under review and would be considered at a Planning Director's Hearing if the rezoning is approved and when the project review has been completed.

## 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 Neighborhood Community/Commercial (see Figure 2).

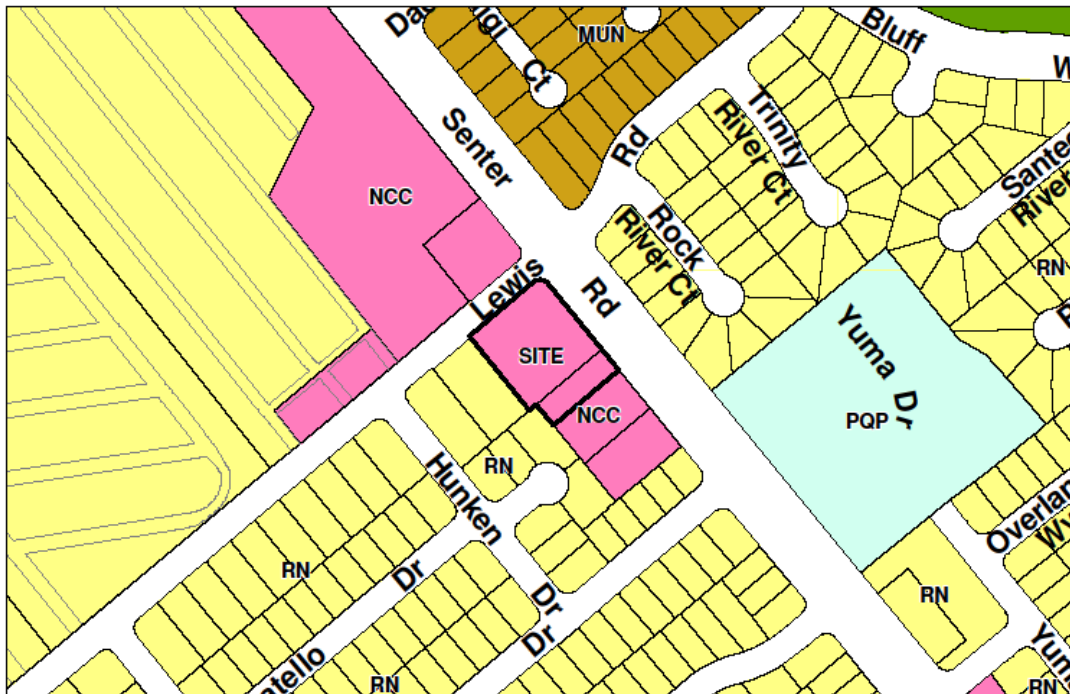


Figure 2: General Plan Land Use/Transportation Diagram

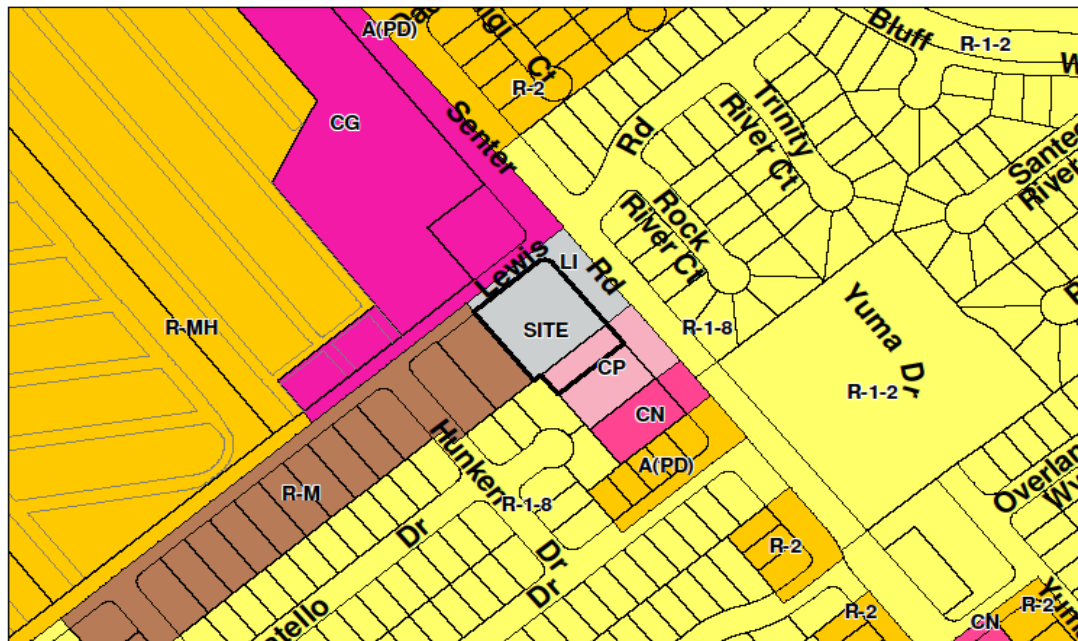
The Neighborhood/Community Commercial designation supports a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as neighborhood-serving retail and services and commercial/professional office development. The proposed rezoning is consistent 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.



- Analysis: Pursuant to Table 20-270 of the Zoning Ordinance, the CN Commercial Neighborhood Zoning District is listed as a conforming district for the General Plan Land Use Designation of Neighborhood/Community Commercial. The proposed rezoning allows neighborhood serving commercial uses for neighborhood centers, multi-tenant commercial development along city connector and main streets, and small corner commercial establishments.*

The proposed rezoning conforms with Table 20-270, Section 20.120.110 of the San José Municipal Code, which identifies the CN Commercial Neighborhood Zoning District as a conforming district to the Neighborhood/Community Commercial General Plan Land Use/Transportation Diagram land use designation.



### Figure 3: Zoning Map

The CN Commercial Neighborhood Zoning District would allow the property to be used and developed in accordance with the allowable uses in Table 20-90, including retail sales, private instruction, personal services, public eating establishments, and offices. This rezoning would facilitate the current site development permit by constructing three commercial buildings with multiple tenant spaces for retail, office, and a restaurant.

#### Setbacks and Heights

Pursuant to Section 20.200.670, a commercial corner lot with street frontages exceeding 150 feet has two frontages with two sides. The subject site exceeds 150 feet on both Lewis Road and Senter Road and therefore has two frontages. The development standards for the CN Commercial Neighborhood Zoning District require a 10-foot front setback, with zero side and rear setbacks. The maximum height allowed is 50 feet. Therefore, future development would be evaluated for conformance to these development standards, all other municipal code regulations, and City policies and guidelines.

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

An Initial Study (IS) and Mitigated Negative Declaration (MND) entitled “2905 Senter Road Commercial Plaza” was prepared by the Director of Planning, Building, and Code Enforcement for the subject Rezoning and the Site Development Permit (File No. H18-007). The IS/MND was completed in compliance with the California Environmental Quality Act (CEQA) to reflect an independent judgment and analysis of the project.

The IS/MND identified potentially significant environmental impacts and determined that the proposed project would not have a significant effect on the environment with the incorporation of certain mitigation measures. The primary environmental issues addressed in the IS/MND were the potential impacts to air quality from project construction activities. The MND includes mitigation measures for the previously stated resource area that would reduce any potentially significant project impacts to a less-than-significant level. The mitigation measures are included in the Mitigation Monitoring and Reporting Program (MMRP) and in the associated permit as a part of the project.

The document was circulated for public review between March 20, 2019 and April 9, 2019, for a 20-day comment period. No public comment letters were received during the public circulation period. The IS/MND, supporting technical documents, and other related environmental documents are available on the Planning web site at:

<http://www.sanjoseca.gov/index.aspx?nid=6327>.

## **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.

/s/

Rosalynn Hughey, Director  
Planning, Building and Code Enforcement

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

Attachment: Legal Description  
Plat Map

PRELIMINARY REPORT  
Your Reference:

Chicago Title Company  
Order No.: 98200148-982-EA-MOT

**EXHIBIT A**  
**LEGAL DESCRIPTION**

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

Portion of Lot 1, on Map of Ivywild Tract, filed May 14, 1907 in Book "L" of Maps, page 82, Santa Clara County Records, described as follows:

Beginning at the point of intersection of the center line of Lewis Road with the center line of Senter Road; thence along the said center line of Lewis Road South  $48^{\circ} 59'$  West 240 feet to the most Northerly corner of that tract of land conveyed to W.W. McDonald, et ux by deed recorded October 5, 1943 in Book 1164 Official Records, 246; thence along the Northeasterly line of said tract and parallel with the said center line of Senter Road South  $39^{\circ} 56'$  East 220 feet; thence parallel with said center line of Lewis Road North  $48^{\circ} 59'$  East 240 feet to the center line of said Senter Road; thence along said center line of Senter Road North  $39^{\circ} 56'$  West 220 feet to the point of beginning.

Excepting therefrom all that portion thereof described as follows:

A portion of Lot 1 as said Lot 1 is shown upon the Map of Ivywild Tract, a Map of which is filed for record in Book "L" of Maps, page 82, Santa Clara County Records, described as follows:

Beginning at a point at the intersection of the center line of Senter as it formerly existed 40 feet in width, with the center line of Lewis Road, as it formerly existed 50 feet in width, as said center and Lewis Roads as shown upon the herein above referred Map of Ivywild Tract; thence along said center line of Senter Road S.  $39^{\circ} 56' 00''$  E. 220.00 feet to the intersection thereof with the Northeasterly prolongation of the Northwesternly line of Parcel 1, as said parcel 1 is shown upon the parcel Map recorded in Book 330 of Maps, page 53, Santa Clara County Records; thence along said Northeasterly prolongation, S.  $48^{\circ} 59' 00''$  W. 45.01 feet to the intersection thereof with a line parallel to and measured 45 feet perpendicular distance Southwesterly from the said center line of Senter Road; thence along said parallel line, N.  $39^{\circ} 56' 00''$  W. 174.62 feet to the beginning of a curve; thence on a curve to the left, having a radius of 20 feet, through a central angle of  $91^{\circ} 05' 00''$  for an arc length of 31.79 feet to the end of the curve; thence along the radial line passing through the said end of the curve, N.  $41^{\circ} 01' 00''$  W. 25.00 feet to the intersection thereof with the said center line of Lewis Road; thence along the said center line of Lewis Road, N.  $48^{\circ} 59' 00''$  E. 65.86 feet to the point of beginning.

APN: 497-27-013



## Exhibit A'

### LEGAL DESCRIPTION

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

PORTION OF LOT 1, AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP OF THE IVYWILD TRACT, BEING A RESUBDIVISION OF LOTS 11 AND 12 OF THE O'BANNON KENT AND BRUCE SUBDIVISION, AND OF THE CHAMBERLAIN TRACT IN THE PUEBLO TRACT NO. 1", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON MARCH 14, 1907 IN BOOK "L" OF MAPS AT PAGE(S) 82, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

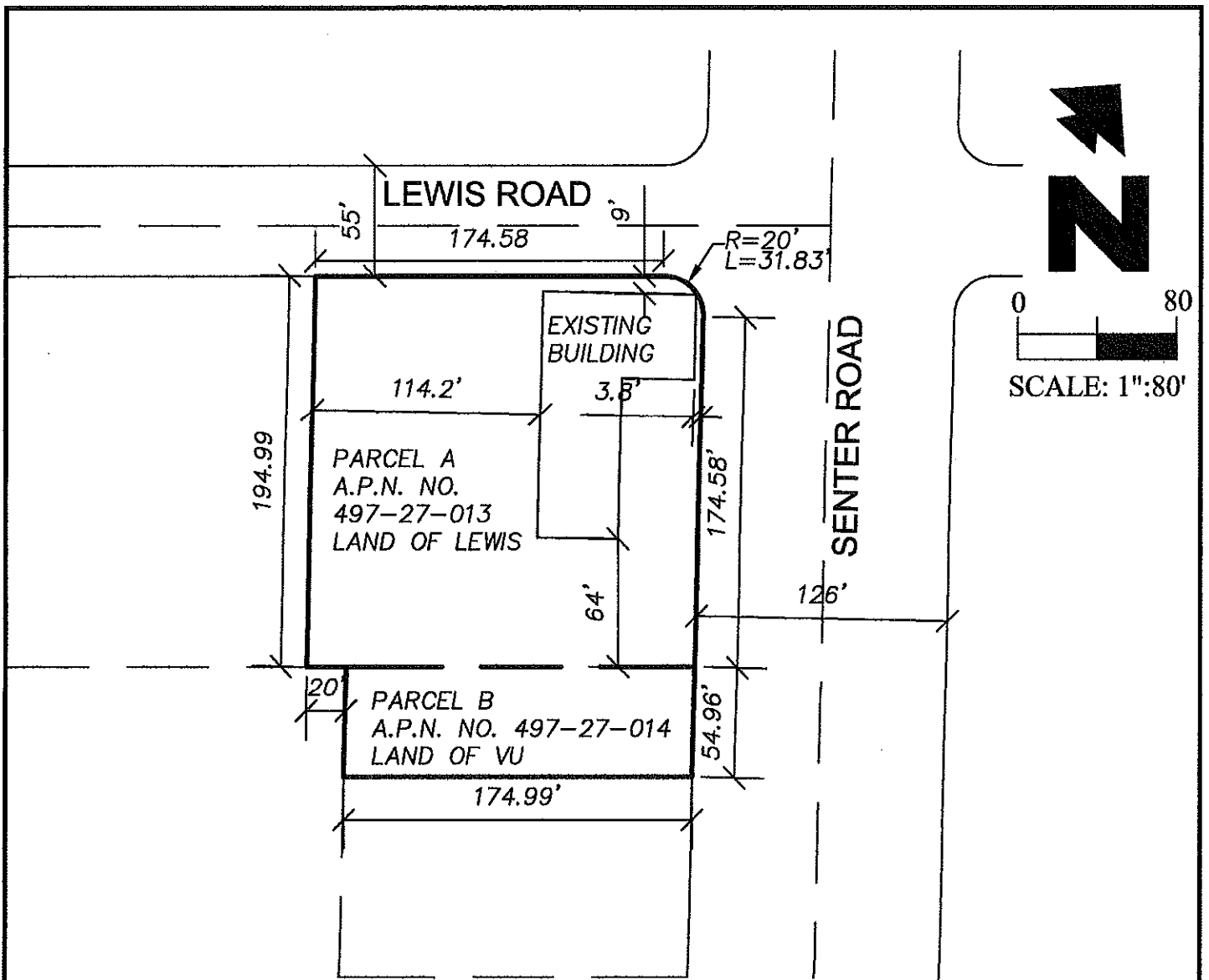
BEGINNING AT A POINT IN THE SOUTHEASTERLY LINE OF THAT CERTAIN PARCEL OF LAND CONVEYED BY SANTA A NELSON, ET UX, TO CARSON A RONAS, ET UX, BY DEED RECORDED FEBRUARY 13, 1946 IN BOOK 1325 AT PAGE 477, OFFICIAL RECORDS OF SANTA CLARA COUNTY, SAID POINT BEING THE MOST NORTHERLY CORNER OF LOT 36, AS SAID LOT IS SHOWN UPON THAT CERTAIN MAP ENTITLED, "TRACT NO. 2760", RECORDED JUNE 21, 1961 IN BOOK 134, PAGES 24 AND 25, SANTA CLARA COUNTY RECORDS; THENCE FROM SAID POINT OF BEGINNING ALONG SAID SOUTHEASTERLY LINE OF SAID PARCEL CONVEYED TO RONAS, NORTH 49° 53' 30" EAST 219.99 FEET TO THE MOST EASTERLY CORNER THEREOF IN THE CENTERLINE OF SENTER ROAD; THENCE ALONG SAID CENTERLINE, SOUTH 39° 56' 00" EAST 54.96 FEET; THENCE SOUTH 48° 53' 30" WEST 219.99 FEET TO A POINT IN THE NORTHEASTERLY LINE OF LOT 36 ABOVE REFERRED TO; THENCE NORTH 39° 56' 00" WEST ALONG SAID NORTHEASTERLY LINE OF SAID LOT 36, 54.96 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THE INTEREST GRANTED IN THE DEED FROM ZISCH AND FLETCHER, INC., A CORPORATION, TO THE CITY OF SAN JOSE, A MUNICIPAL CORPORATION, DATED JANUARY 29, 1965, RECORDED MARCH 11, 1965 IN BOOK 6878 PAGE 121, OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR STREET PURPOSES, ALL THAT REAL PROPERTY SITUATE IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER LINE OF SENTER ROAD AT THE MOST NORTHERLY CORNER OF THAT CERTAIN 0.781 ACRE PARCEL OF LAND CONVEYED FROM VALLEY TITLE COMPANY OF SANTA CLARA COUNTY TO ZISCH AND FLETCHER, INC., A CORPORATION, ET AL, BY DEED DATED MARCH 12, 1964 AND FILED FOR RECORD IN THE OFFICE OF THE COUNTY RECORDER, SANTA CLARA COUNTY, CALIFORNIA, ON MARCH 13, 1964 IN BOOK 6423 OF OFFICIAL RECORDS, AT PAGE 82; THENCE ALONG SAID CENTER LINE SOUTH 39° 56' 00" EAST 154.69 FEET TO THE MOST EASTERLY CORNER OF SAID 0.781 ACRE PARCEL OF LAND; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID 0.781 ACRE PARCEL OF LAND SOUTH 48° 53' 35" WEST 45.01 FEET TO A POINT IN A LINE THAT IS PARALLEL WITH AND DISTANT 45.00 FEET, MEASURED AT RIGHT ANGLES, SOUTHWESTERLY FROM SAID CENTER LINE OF SENTER ROAD; THENCE ALONG SAID PARALLEL LINE NORTH 39° 36' 00" WEST 154.96 FEET TO A POINT IN THE NORTHWESTERLY LINE OF SAID 0.781 ACRE PARCEL OF LAND; THENCE ALONG SAID NORTHWESTERLY LINE NORTH 48° 53' 30" EAST 45.01 FEET TO THE POINT OF BEGINNING.

APN: 497-27-014



LOT SQUARE FOOTAGE	PARCEL A	PARCEL B
EXISTING	37,924	9,615



## REZONING PLAT, EXHIBIT "B" LANDS OF LEWIS & VU, ET AL

TITLE OF PLAT: THIEN HUONG PLAZA  
 ENGINEERING COMPANY: GREEN CIVIL ENGINEERING, INC.  
 ADDRESS: 204 E. 2nd AVE #820, SAN MATEO, CA 94401  
 PHONE NUMBER: 650-888-5937  
 ENGINEER LICENSE NO. SEAL: C68629

DATE: 8/1/17  
 SCALE: 1" : 80'  
 PAGE 1 OF 1