



**CITY COUNCIL STAFF REPORT**

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|--|--|
| <b>File No.</b>                          | C19-038  |
| <b>Applicant:</b>                        | MBA Architects   |
| <b>Location</b>                          | East side of Oakland Road on the north and south sides of Bern Court (1510 & 1530 Oakland Road)  |
| <b>Existing Zoning</b>                   | LI(PD) Planned Development (PD not implemented)  |
| <b>General Plan Land Use Designation</b> | CIC Combined Industrial/Commercial   |
| <b>Council District</b>                  | 3  |
| <b>Historic Resource</b>                 | No   |
| <b>Annexation Date:</b>                  | February 26, 1960 (Orchard No. 24A)  |
| <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 for two parcels, from the LI(PD) Planned Development Zoning District to the CIC Combined Industrial/Commercial Zoning District on an approximately 3.71-gross acre site.

**RECOMMENDATION:**

Staff recommends that the City Council:

1. Approve an ordinance rezoning an approximately 3.71-gross acre site, located at the east side of Oakland Road on the north and south sides of Bern Court, from the LI(PD) Planned Development 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><br><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>   |   |
| <b>SURROUNDING USES</b>         |  |   |   |
|                                 | <b>General Plan Land Use</b>                                       | <b>Zoning</b>   | <b>Existing Use</b>                             |
| <b>North</b>                    | OSPH Open Space, Parklands and Habitat                             | LI Light Industrial   | Coyote Creek and San Jose Municipal Golf Course |
| <b>South</b>                    | CIC Combined Industrial/Commercial and RN Residential Neighborhood | HI Heavy Industrial   | Industrial uses and Mobile Home Park            |
| <b>East</b>                     | CIC Combined Industrial/Commercial                                 | LI(PD) Planned Development  | Industrial uses                                 |
| <b>West</b>                     | LI Light Industrial  | CP Commercial Pedestrian  | Industrial uses                                 |

**PROJECT DESCRIPTION**

On October 2, 2019, the applicant, MBA Architects, filed an application to rezone an approximately 3.71-gross acre site from the LI(PD) Planned Development Zoning District to the CIC Combined Industrial/Commercial Zoning District.

**Site Location:**

The subject site is located on the east side of Oakland Road on the north and south sides of Bern Court (see Figure 1). The subject site consists of two parcels to the north and south of Bern Court. Each property is developed with a one-story industrial building with associated parking areas. Industrial uses and mobile home residences are located to the south of the subject site, Coyote Creek and the San Jose Municipal Golf Course are located to the north of the site and industrial uses are located on the east and west of the subject site. There are no other active Planning development permit applications on file for the subject site at this time.



Figure 1: Aerial image of the subject site

The subject property is currently located in the LI(PD) Planned Development Zoning District. The Planned Development Zoning District (adopted in 1976 for a mobile home park) was never implemented. The two buildings on the site were constructed through Site Development Permit H81-200, under the base LI Light Industrial Zoning District. The applicant has requested a conforming rezoning to rezone the site to the CIC Combined Industrial/Commercial Pedestrian Zoning District, which would bring the site into conformance with the Combined Industrial/Commercial 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, 3) the California Environmental Quality Act (CEQA) and 4) Climate Smart San Jose.

### 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 CIC Combined Industrial/Commercial (see Figure 2).



Figure 2: General Plan Land Use/Transportation Diagram

The Combined Industrial/Commercial designation allows a significant amount of flexibility for the development of a varied mixture of compatible commercial and industrial uses, including hospitals and private community gathering facilities. Properties with this designation are intended for commercial, office, or industrial developments or a compatible mix of these uses. The proposed rezoning is consistent with the following General Plan policies:

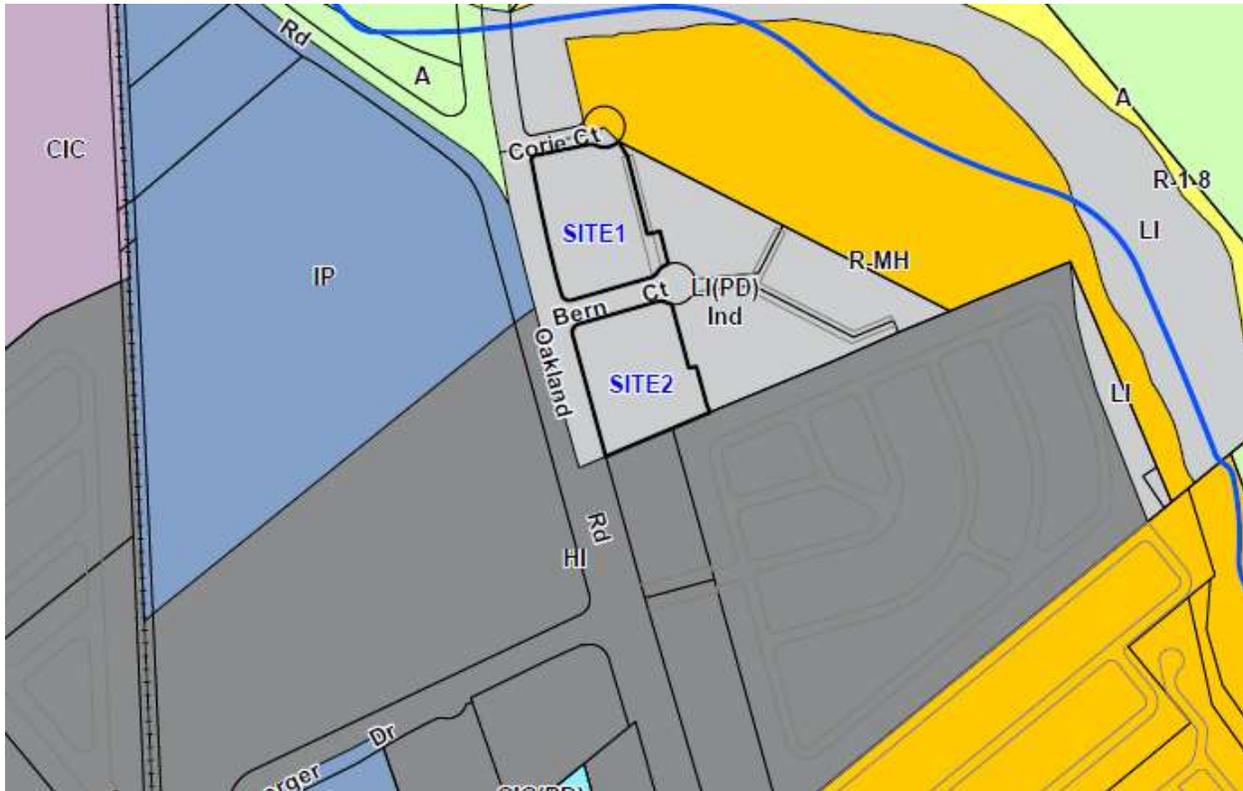
1. Implementation Policy IP-1.1 Land Use/Transportation Diagram: Use the *Envision General Plan* Land Use/Transportation Diagram designations to indicate the general intended land use, providing flexibility to allow for a mix of land uses, intensities and development forms compatible with a wide variety 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 CIC Combined Industrial/Commercial Zoning District is listed as a conforming district for the General Plan Land Use Designation of Combined Industrial/Commercial. The proposed rezoning would allow a larger range of industrial and commercial uses on the existing site.

### **Zoning Ordinance Conformance**

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



**Figure 3: Zoning Map**

The CIC Combined Industrial/Commercial Zoning District would allow the property to be used and developed in accordance with the allowable uses in Table 20-110, which includes a range of commercial and industrial uses. This district is intended for the development of a varied mixture of compatible commercial and industrial uses. This rezoning would facilitate the future redevelopment of the site to be consistent with the General Plan land use designation.

### **Setbacks and Heights**

Table 20-100 in Section 20.40.100 of the San José Municipal Code establishes the following development standards for a CIC Combined Industrial/Commercial Zoning District:

| Standard       | CIC Zoning District  |
|----------------|--|
| Front Setback  | 15 feet  |
| Side Setback   | 0 feet from property line or 25 feet from residential district, whichever is greater |
| Rear Setback   | 0 feet from property line or 25 feet from residential district, whichever is greater |
| Maximum Height | 50 feet maximum  |

Future development would be evaluated for conformance to these development standards and all other municipal code regulations.

#### Existing Structure and Use

The existing buildings on the site conform to the regulations of the CIC Combined Industrial/Commercial Zoning District in that they meet or exceed the minimum setback requirements. The existing uses on the site include a variety of office and industrial uses, as well as a performing arts rehearsal space. A Code Enforcement Case was opened on July 3, 2018, regarding a performing arts rehearsal use. The use is not a permitted use in the LI Light Industrial Zoning District, but is an allowed use in the CIC Combined Industrial/Commercial Zoning District. Approval of this rezoning will resolve the open Code Enforcement case.

#### **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 Jose 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.

/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

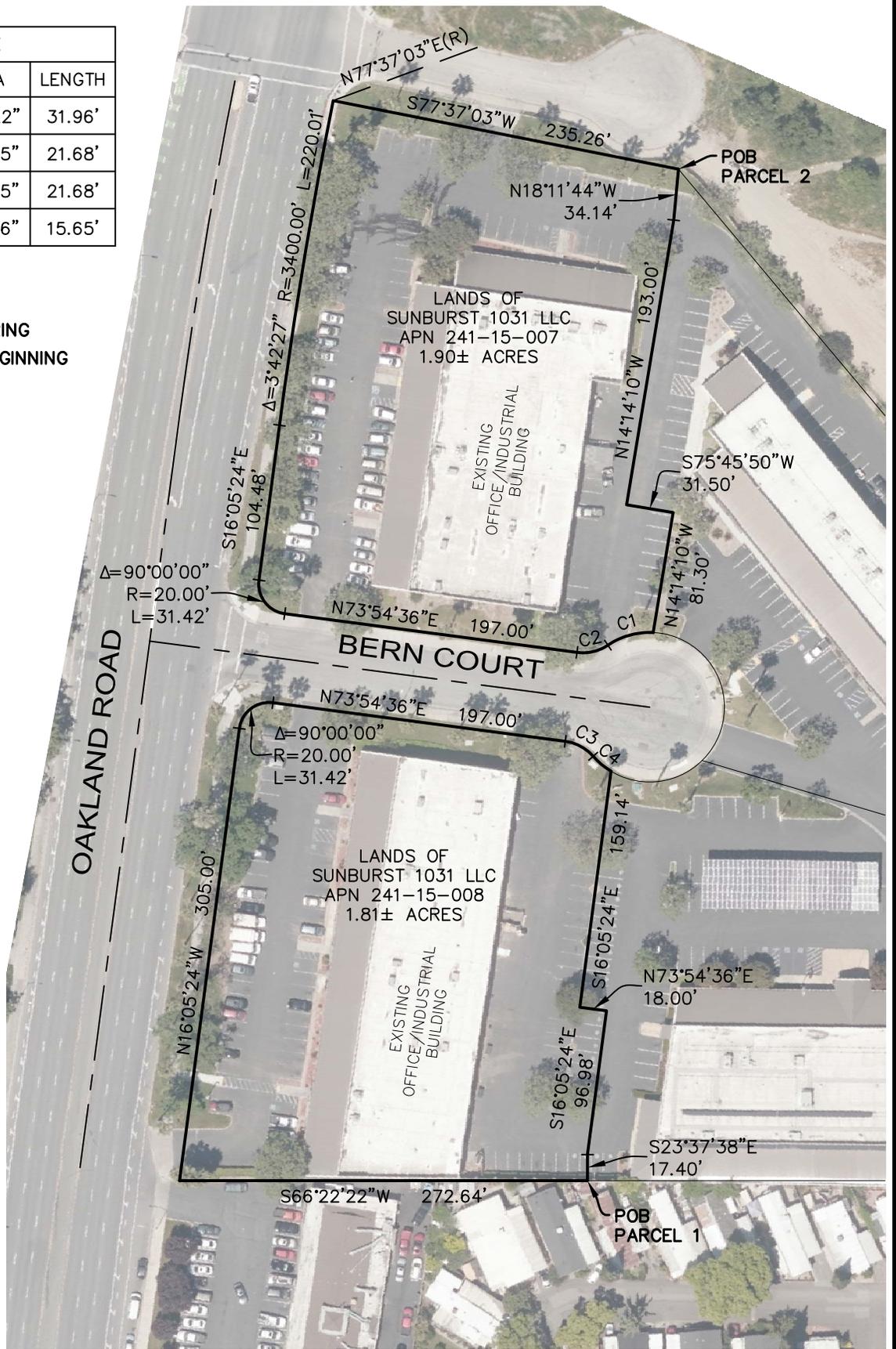
| CURVE TABLE |        |           |        |
|-------------|--------|-----------|--------|
| CURVE       | RADIUS | DELTA     | LENGTH |
| C1          | 50.00' | 36°37'22" | 31.96' |
| C2          | 30.00' | 41°24'35" | 21.68' |
| C3          | 30.00' | 41°24'35" | 21.68' |
| C4          | 50.00' | 17°55'56" | 15.65' |

**LEGEND**

- (R) RADIAL BEARING
- POB POINT OF BEGINNING



1 IN. = 100 FT.



SHEET 1 OF 1

|              |            |
|--------------|------------|
| Date:        | 2019-10-29 |
| Designed:    | -          |
| Drawn:       | RF         |
| Checked:     | TG         |
| Proj. Engr.: | VM         |
|              | 546701EX01 |



1570 Oakland Road (408) 487-2200  
 San Jose, CA 95131 HMMca.com

**SITE EXHIBIT**

SAN JOSE

CALIFORNIA



EXHIBIT "A"  
FOR ZONING PURPOSES

**PARCEL 1**

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being all of Parcel 1 as shown on that certain Parcel Map filed for record on February 25, 1987, in Book 571 of Maps, page 28, Santa Clara County Records, described as follows:

BEGINNING at the easterly corner of said Parcel 1,  
Thence along the southeasterly line of said Parcel 1, South 66°22'22" West, 272.64 feet, to the easterly line of Oakland Road;

Thence along said easterly line and the southerly line of Bern Court the following five courses:

1. Thence North 16°05'24" West, 305.00 feet;
2. Thence along a tangent curve to the right, having a radius of 20.00 feet, through a central angle of 90°00'00" for an arc length of 31.42 feet;
3. Thence North 73°54'36" East, 197.00 feet;
4. Thence along a tangent curve to the right, having a radius of 30.00 feet, through a central angle of 41°24'35" for an arc length of 21.68 feet;
5. Thence along a reverse curve to the left, having a radius of 50.00 feet, through a central angle of 17°55'56" for an arc length of 15.65 feet, to the general easterly line of said Parcel 1;

Thence along said general easterly line the following four courses:

1. Thence South 16°05'24" East, 159.14 feet;
2. Thence North 73°54'36" East, 18.00 feet;
3. Thence South 16°05'24" East, 96.98 feet;
4. Thence South 23°37'38" East, 17.40 feet, to the POINT OF BEGINNING.

Containing 1.81 acres, more or less.

**PARCEL 2**

REAL PROPERTY in the City of San Jose, County of Santa Clara, State of California, being all of Parcel 3 as shown on that certain Parcel Map filed for record on July 22, 1982, in Book 515 of Maps, page 12, Santa Clara County Records, described as follows:

BEGINNING at the northeasterly corner of said Parcel 3;

Thence along the northerly line of said Parcel 3, South 77°37'03" West, 235.26 feet, to the easterly line of Oakland Road;

Thence along said easterly line and the northerly line of Bern Court the following six courses:

1. Thence southerly, along a non-tangent curve to the left, having a radius of 3,400.00 feet, whose center bears North 77°37'03" East, through a central angle of 03°42'27" for an arc length of 220.01 feet;
2. Thence South 16°05'24" East, 104.48 feet;
3. Thence along a tangent curve to the left, having a radius of 20.00 feet, through a central angle of 90°00'00" for an arc length of 31.42 feet;

4. Thence North 73°54'36" East, 197.00 feet;
5. Thence along a tangent curve to the left, having a radius of 30.00 feet, through a central angle of 41°24'35" for an arc length of 21.68 feet;
6. Thence along a reverse curve to the right, having a radius of 50.00 feet, through a central angle of 36°37'22" for an arc length of 31.96 feet, to the general easterly line of said Parcel 3;

Thence along said general easterly line the following four courses:

1. Thence North 14°14'10" West, 81.30 feet;
2. Thence South 75°45'50" West, 31.50 feet;
3. Thence North 14°14'10" West, 193.00 feet;
4. Thence North 18°11'44" West, 34.14 feet, to the POINT OF BEGINNING.

Containing 1.90 acres, more or less.

As shown on Exhibit "B" attached hereto and made a part hereof.

*For assessment or zoning purposes only. This description of land is not a legal property description as defined in the Subdivision Map Act and may not be used as the basis for an offer for sale of the land described.*

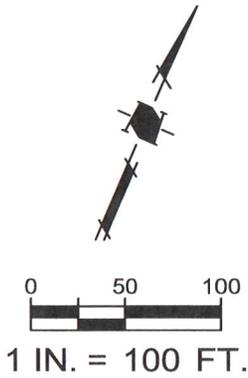
This legal description was prepared by me or under my direction in accordance with the Professional Land Surveyors Act.

Date: 10-24-19

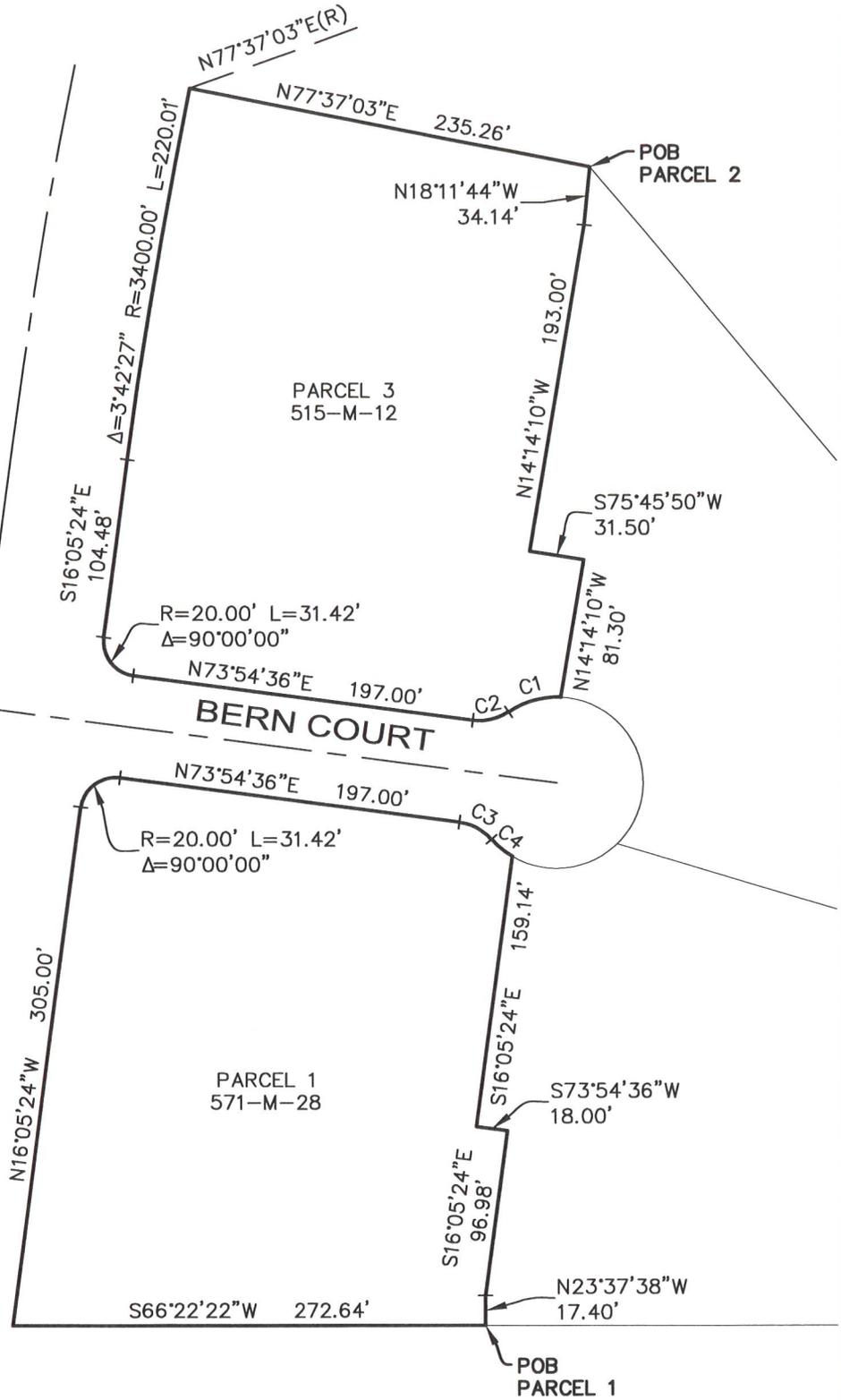
  
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Tracy L. Giorgetti, LS 8720



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OAKLAND ROAD



SHEET 1 OF 1

|              |            |
|--------------|------------|
| Date:        | 2019-10-24 |
| Designed:    | —          |
| Drawn:       | RF         |
| Checked:     | TG         |
| Proj. Engr.: | VM         |
| 546701PL01   |            |

1570 Oakland Road (408) 487-2200  
San Jose, CA 95131 HMMca.com

EXHIBIT "B"  
PLAT TO ACCOMPANY DESCRIPTION:  
FOR ZONING PURPOSES

SAN JOSE

CALIFORNIA