



## CITY COUNCIL STAFF REPORT

<b>File Nos.</b>	C20-003
<b>Applicant:</b>	Vahe Tashjian, Dutchints Development LLC
<b>Location</b>	Northwest Corner of Kiely Boulevard and Northlake Drive (360-400 Saratoga Avenue)
<b>Existing Zoning</b>	CG Commercial General
<b>Proposed Zoning</b>	CP Commercial Pedestrian
<b>Council District</b>	1
<b>Historic Resource</b>	No
<b>Annexation Date:</b>	October 13, 1961 (Boynton No. 21) & July 5, 1972 (Boynton No. 48)
<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 CG Commercial General Zoning District to the CP Commercial Pedestrian Zoning District on an approximately 10.34-gross acre site.

### RECOMMENDATION:

Approve an ordinance rezoning the approximately 10.34-acre site located on the northwest corner of Kiely Boulevard and Northlake Drive (360-400 Saratoga Avenue) from the CG Commercial General Zoning District to the CP Commercial Pedestrian Zoning District.

### PROJECT DATA

GENERAL PLAN CONSISTENCY			
<b>General Plan Designation</b>		Urban Village <input checked="" type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent	
<b>Consistent Policies</b>		<b>Implementation Policies IP-1.1, IP-1.7, IP-8.2, and CD-7.4</b>	
SURROUNDING USES			
	<b>General Plan Land Use</b>	<b>Zoning</b>	<b>Existing Use</b>
<b>North</b>	Urban Village	Commercial Neighborhood & Commercial General	Commercial retail, Auto dealer, Islamic center, Music school

<b>South</b>	Urban Village, Mixed Use Neighborhood	Commercial Neighborhood, Commercial Pedestrian, R-M Multiple Residence	Multi-family residences, Commercial retail
<b>East</b>	Mixed Use Neighborhood	R-M Multiple Residence	Multi-family residences
<b>West</b>	Urban Village	Commercial General, Commercial Pedestrian, Commercial Neighborhood	Gas station, vacant commercial retail, commercial retail.

<b>RELATED APPROVALS</b>	
<b>Date</b>	<b>Action</b>
<b>05/17/1982</b>	Conditional Use Permit (CP82-027) to allow a public cardroom and restaurant use and the construction of an approximately 110,000 square foot commercial retail building on an approximately 10.34-gross acre site.
<b>6/29/1989</b>	Conditional Use Permit (CP89-036) to allow a continued use of a public cardroom and restaurant on an approximately 10.34-gross acre site.
<b>7/29/1994</b>	Conditional Use Permit Amendment (CPA89-036-01) to allow a continued use of a public cardroom and restaurant on an approximately 10.34-gross acre site.
<b>7/06/1999</b>	Conditional Use Permit Amendment (CPA89-036-02) to allow a continued use of a public cardroom and restaurant on an approximately 10.34-gross acre site.
<b>05/08/2002</b>	Special Use Permit to allow the installation of two 350-kW standby generators for an existing commercial establishment (Garden City Casino) on an approximately 10.34-gross acre site.
<b>12/01/2014</b>	Conditional Use Permit to allow a banquet, theater, drinking establishment, and public eating establishment with late night use (10:00 a.m. to 2:00 a.m.) in a vacant 24,323 square foot building (formerly Garden City Casino) on an approximately 10.34-gross acre site.

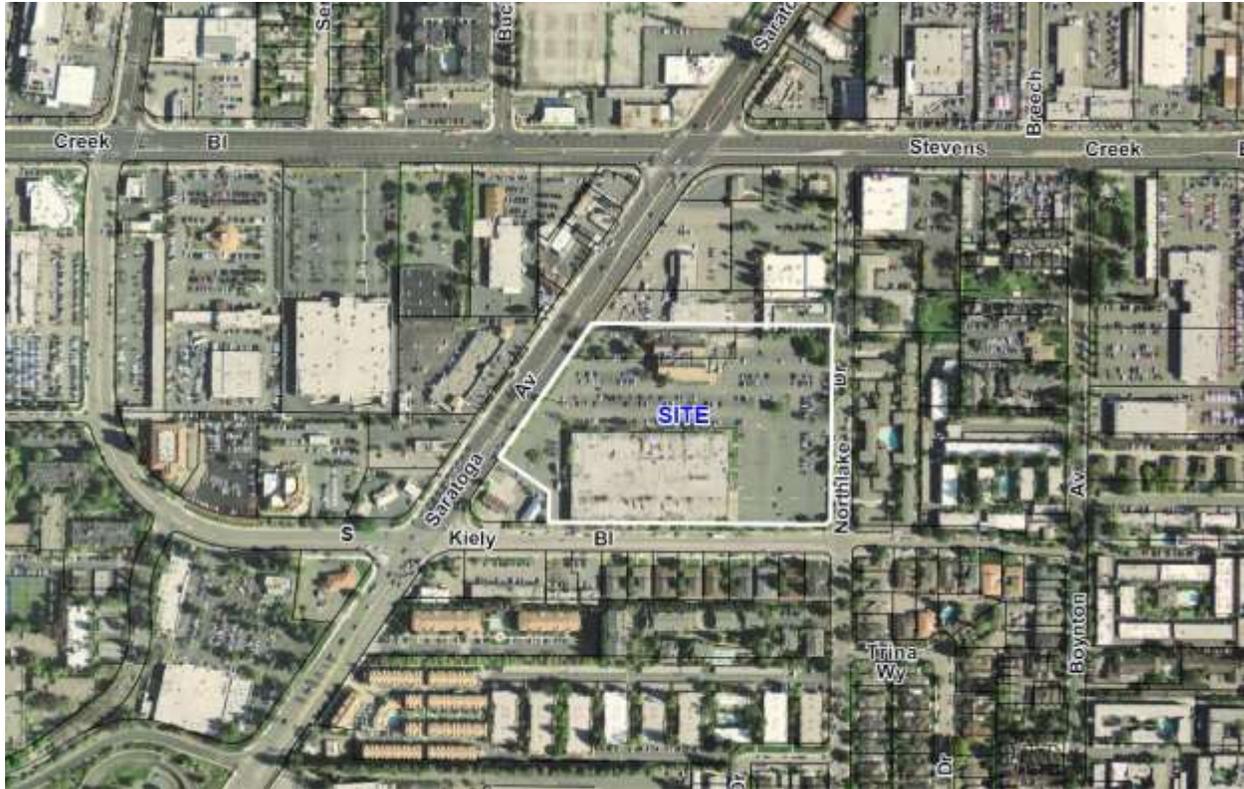
**PROJECT DESCRIPTION**

On February 4, 2020, the applicant, Vahe Tashjian, filed an application to rezone an approximately 10.34-gross acre site from the CG Commercial General Zoning District to the CP Commercial Pedestrian Zoning District.

**Background**

The subject site is located on the northwest corner of Kiely Boulevard and Northlake Drive (See Figure 1). The subject site consists of an existing approximately 26,000-square foot vacant commercial building (formerly Garden City Casino) and an approximately 110,000-square foot occupied commercial retail building (Mediterranean Food Market). The site is surrounded by commercial uses to the north, south, and west. Multi-family residential uses are located to the

east and south of the subject site. The site is in the Council-approved Stevens Creek Boulevard Urban Village Plan area. There are no other active planning development permit applications on file for the subject site.



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

The subject property is currently located in the CG Commercial General Zoning District. The applicant has requested a Conforming Rezoning to rezone the site to the CP Commercial Pedestrian Zoning District, which would further bring the site into conformance with the Urban Village General Plan Land Use/Transportation Diagram land use designation as well as the Stevens Creek Boulevard Urban Village Plan.

## **ANALYSIS**

The proposed project was analyzed for conformance with the following: 1) the *Envision San José 2040 General Plan*, (2) the Stevens Creek Boulevard Urban Village Plan, 3) the Zoning Ordinance, and 4) 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 Urban Village (see Figure 2).



Figure 2: General Plan Land Use/Transportation Diagram

The Urban Village designation supports a wide variety of commercial, residential, institutional or other land uses with an emphasis on establishing an attractive urban form in keeping with the Urban Village concept. Development within the Urban Village designation should conform to land use and design standards established with an adopted Urban Village Plan, which specifies how each Urban Village will accommodate the planned housing and job growth capacity within the identified Urban Village Growth Area. Prior to preparation of an Urban Village Plan, this designation supports uses consistent with those of the Neighborhood Community Commercial designation, as well as the development of Signature Projects as described in the *Envision General Plan Implementation* policies. Following preparation of an Urban Village Plan—as is the case for the subject site—the appropriate use for a site will be commercial, residential, mixed-use, public facility or other use as indicated within the Urban Village plan, as well as those uses supported by the Neighborhood/Community Commercial designation.

The subject site is located in the Stevens Creek Boulevard Urban Village. The 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-1.7 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.
4. Community Design Policy CD7.4 – Urban Villages: Identify a vision for urban design character consistent with development standards, including but not limited to building scale, relationship to the street, and setbacks, as part of the Urban Village planning process. Accommodate all planned employment and housing growth capacity within each Urban Village and consider how to accommodate projected employment growth demand by sector in each respective Urban Village Plan.

*Analysis: The project consists of a Conforming Rezoning of the property from the CG Commercial General Zoning District to the CP Commercial Pedestrian Zoning District. The requested CP Commercial Pedestrian Zoning District complies with the existing Urban Village General Plan land use designation of the subject site. The new zoning designation would allow an expansion of conforming uses at the subject site. Additionally, the rezoning would allow future development to better conform with the approved Stevens Creek Boulevard Urban Village Plan. The development standards of the Commercial Pedestrian Zoning District are more suited to pedestrian-oriented development, which is supported by the Stevens Creek Boulevard Urban Village Plan.*

## **Stevens Creek Boulevard Urban Village Plan**

The subject site has a land use designation of Urban Village on the [Stevens Creek Boulevard Urban Village](#) land use plan. The Urban Village land use designation supports a wide range of commercial uses, including retail sales and services, professional and general offices, and institutional uses. This designation also allows residential uses in a mixed-use format.

Residential and commercial mixed-use projects can be vertical mixed-use with residential above retail for example, or where a larger site allows, they can be mixed horizontally, with commercial and residential uses built adjacent to each other, in one integrated development. All new development under this designation with frontage along Stevens Creek Boulevard must include ground floor commercial uses along Stevens Creek Boulevard.

The Urban Village Plan (Plan) does not establish a maximum floor area ratio (FAR) for commercial or mixed residential/commercial development for properties designated Urban Village but does establish a minimum number of dwelling units per acre for the residential portion of mixed-use projects. The intensity of new commercial development will effectively be limited by the maximum height limits established in the Plan and the parking requirements established in the Zoning Ordinance.

*Analysis: In addition to conforming with the goals and policies of the Envision San José 2040 General Plan, the rezoning also conforms with the land use designation of Urban Village in the approved Stevens Creek Boulevard Urban Village Plan. The CP Commercial Pedestrian Zoning District would further facilitate the type of development that is planned for the Stevens Creek Boulevard Urban Village. Development of the site will be required to conform to the urban village standards included in the Plan.*

## **Zoning Ordinance Conformance**

The proposed rezoning conforms with [Table 20-100, Section 20.40.200](#) of the San José Municipal Code, which identifies the CP Commercial Pedestrian Zoning District as a conforming district to the Urban Village General Plan Land Use/Transportation Diagram land use designation.



Figure 3: Existing Zoning Map

Setbacks and Heights

Table 20-100 in Section 20.40.200 of the San José Municipal Code establishes the following development standards for a CP Commercial Pedestrian Zoning District.

Standard	CP Zoning District
Front Setback	No minimum, 10 feet maximum; or as established in approved Urban Village Plan
Side, Interior Setback	None; or as established in approved Urban Village Plan
Side, Corner	None; or as established in approved Urban Village Plan
Rear, Interior Setback	25 feet; or as established in approved Urban Village Plan
Rear, Corner Setback	25 feet; or as established in approved Urban Village Plan
Maximum Height	50 feet, unless a different maximum is established in Chapter 20.85; or as established in approved Urban Village Plan

The Rezoning of the property from the CG Commercial General Zoning District to the CP Commercial Pedestrian Zoning District would require any future development to adhere to the development standards set forth in Table 20-100 of the San José Municipal Zoning Code as well as the approved Stevens Creek Boulevard Urban Village Plan. The existing structures at the subject site would be considered legal non-conforming. All future development would be

evaluated for conformance with the above development standards and all other Municipal Code regulations, as well as all applicable standards established in the approved Stevens Creek Boulevard Urban Village Plan.

#### Allowed Uses

Any future use of the site would be required to adhere to the allowed uses established in the CP Commercial Pedestrian Zoning District pursuant to [Table 20-90](#) of the San José Municipal Zoning Code.

### **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, SIER and Addenda been identified.

### **PUBLIC HEARING NOTIFICATION**

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.

Attachments: Legal Description and Plat Map

JANUARY 28, 2020

JOB NO. 15-132-20

**EXHIBIT "A"  
LEGAL DESCRIPTION  
DEVELOPMENT SITE  
APNs 303-25-044 & 052**

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

BEING ALL OF PARCEL 1 AS SHOWN ON THAT CERTAIN PARCEL MAP FILED FOR RECORD AUGUST 17, 1983 IN BOOK 516 OF MAPS, PAGE 30 OF SAID SANTA CLARA COUNTY, HEREIN COLLECTIVELY REFERRED TO AS THE "DEVELOPMENT SITE" AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE NORTHWESTERLY CORNER OF SAID PARCEL 1 AND BEING A POINT ON THE SOUTHEASTERLY BOUNDARY OF SARATOGA AVENUE (PUBLIC STREET);

THENCE DEPARTING FROM SAID SOUTHEASTERLY BOUNDARY AND HEADING EASTERLY ALONG THE NORTHERLY BOUNDARY OF SAID PARCEL 1, NORTH  $89^{\circ} 39' 57''$  EAST, A DISTANCE OF 674.55 FEET TO THE NORTHEASTERLY CORNER OF SAID PARCEL 1 AND BEING A POINT ON THE WESTERLY BOUNDARY OF NORTHLAKE DRIVE (PUBLIC STREET);

THENCE SOUTHERLY ALONG SAID WESTERLY BOUNDARY OF NORTHLAKE DRIVE, SOUTH  $00^{\circ} 20' 30''$  EAST, A DISTANCE OF 535.70 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 20.00 FEET;

THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF  $90^{\circ} 02' 00''$ , AN ARC DISTANCE OF 31.43 FEET TO A POINT ON THE NORTHERLY BOUNDARY OF KEILY BOULEVARD (PUBLIC STREET);

THENCE WESTERLY ALONG SAID NORTHERLY BOUNDARY OF KEILY BOULEVARD, SOUTH  $89^{\circ} 41' 30''$  WEST, A DISTANCE OF 769.91 FEET;

THENCE DEPARTING FROM SAID NORTHERLY BOUNDARY AND HEADING NORTHERLY ALONG THE WESTERLY BOUNDARY OF SAID PARCEL 1, NORTH  $00^{\circ} 18' 30''$  WEST, A DISTANCE OF 83.41 FEET;

THENCE CONTINUING ALONG SAID WESTERLY BOUNDARY OF PARCEL 1,  
NORTH 56° 00' 05" WEST, A DISTANCE OF 171.00 FEET TO A POINT ON SAID  
SOUTHEASTERLY BOUNDARY OF SARATOGA AVENUE;

THENCE NORTHERLY ALONG SAID SOUTHEASTERLY BOUNDARY OF  
SARATOGA AVENUE, NORTH 33° 59' 56" EAST, A DISTANCE OF 454.73  
FEET TO **THE POINT OF BEGINNING.**

CONTAINING 450,382 SQUARE FEET (10.34 ACRES) OF LAND, MORE  
OR LESS

BASIS OF BEARINGS: THE BEARING NORTH 00°20'30" WEST, OF THE  
CENTERLINE OF NORTHLAKE DRIVE, BETWEEN TWO FOUND MONUMENTS,  
AS SHOWN ON THAT CERTAIN PARCEL MAP, RECORDED IN BOOK 369 OF  
MAPS AT PAGE 28, SANTA CLARA COUNTY RECORDS, WAS USED AS THE  
BASIS OF ALL BEARINGS SHOWN.

A PLAT ENTITLED "EXHIBIT B" IS ATTACHED HERETO AND MADE A  
PART HEREOF.

THIS DESCRIPTION AND THE ACCOMPANYING PLAT WERE PREPARED  
BY ME OR PREPARED UNDER MY DIRECTION.

  
ANDREW TURNER  
P.L.S. 9104  
CIVIL ENGINEERING ASSOCIATES, INC.



1/28/2020  
DATE

**BASIS OF BEARINGS**

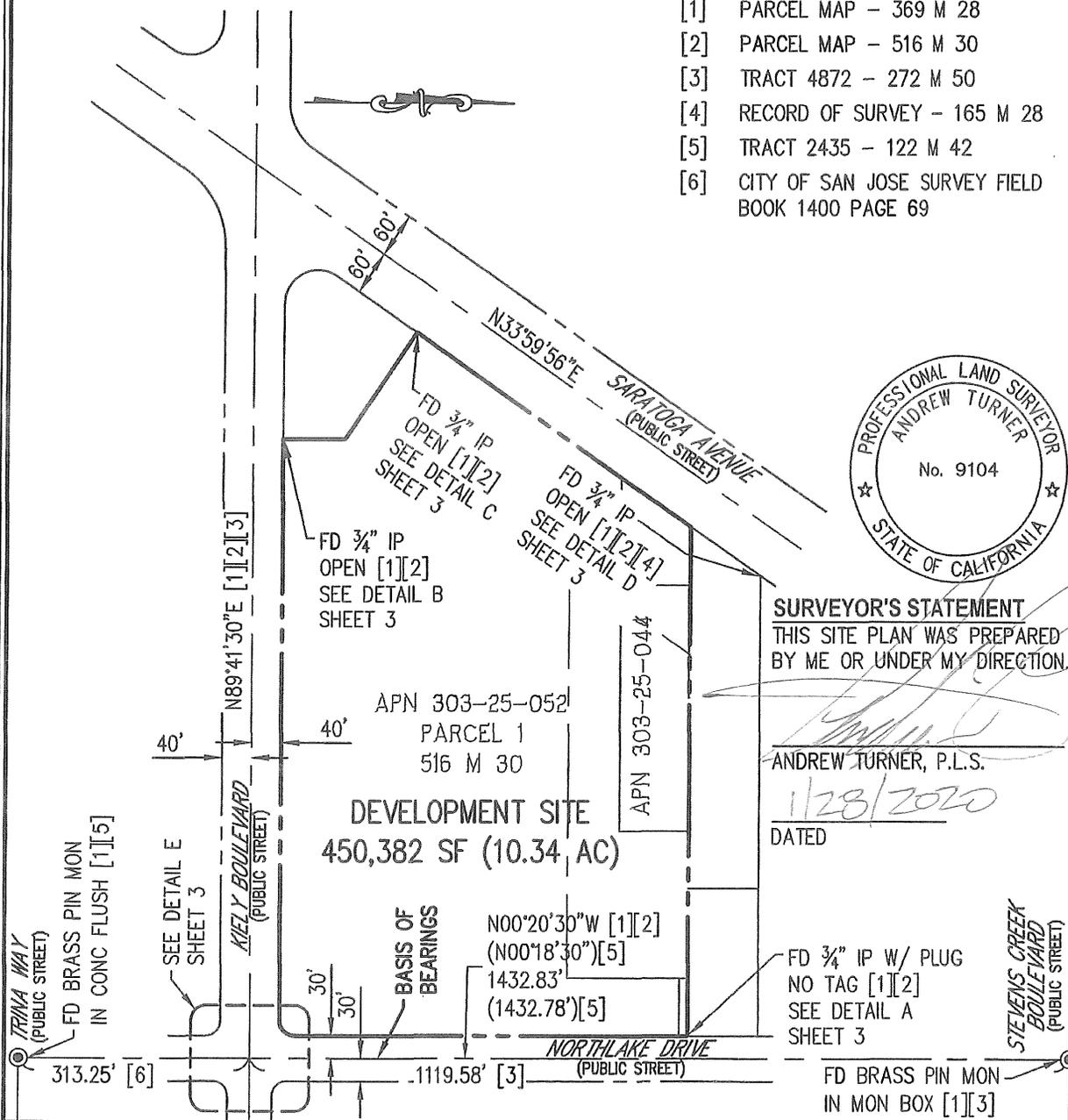
THE BEARING NORTH 00°20'30" WEST OF THE CENTERLINE OF NORTHLAKE DRIVE, BETWEEN TWO FOUND MONUMENTS, AS SHOWN ON THAT CERTAIN PARCEL MAP FILED FOR RECORD IN BOOK 369 OF MAPS AT PAGE 28, SANTA CLARA COUNTY RECORDS, WAS TAKEN AS THE BASIS FOR ALL BEARINGS SHOWN.

**LEGEND**

- DISTINCTIVE BOUNDARY
- RIGHT-OF-WAY LINE
- EXISTING LOT LINE
- CENTER LINE

**REFERENCES**

- [1] PARCEL MAP - 369 M 28
- [2] PARCEL MAP - 516 M 30
- [3] TRACT 4872 - 272 M 50
- [4] RECORD OF SURVEY - 165 M 28
- [5] TRACT 2435 - 122 M 42
- [6] CITY OF SAN JOSE SURVEY FIELD BOOK 1400 PAGE 69



**SURVEYOR'S STATEMENT**

THIS SITE PLAN WAS PREPARED BY ME OR UNDER MY DIRECTION.

ANDREW TURNER, P.L.S.

DATED 1/28/2020

15132-20 PLAT DEVELOPMENT.dwg Jan 28, 2020

**EXHIBIT "B" - DEVELOPMENT SITE  
PLAT TO ACCOMPANY LEGAL DESCRIPTION**



**Civil Engineering Associates**

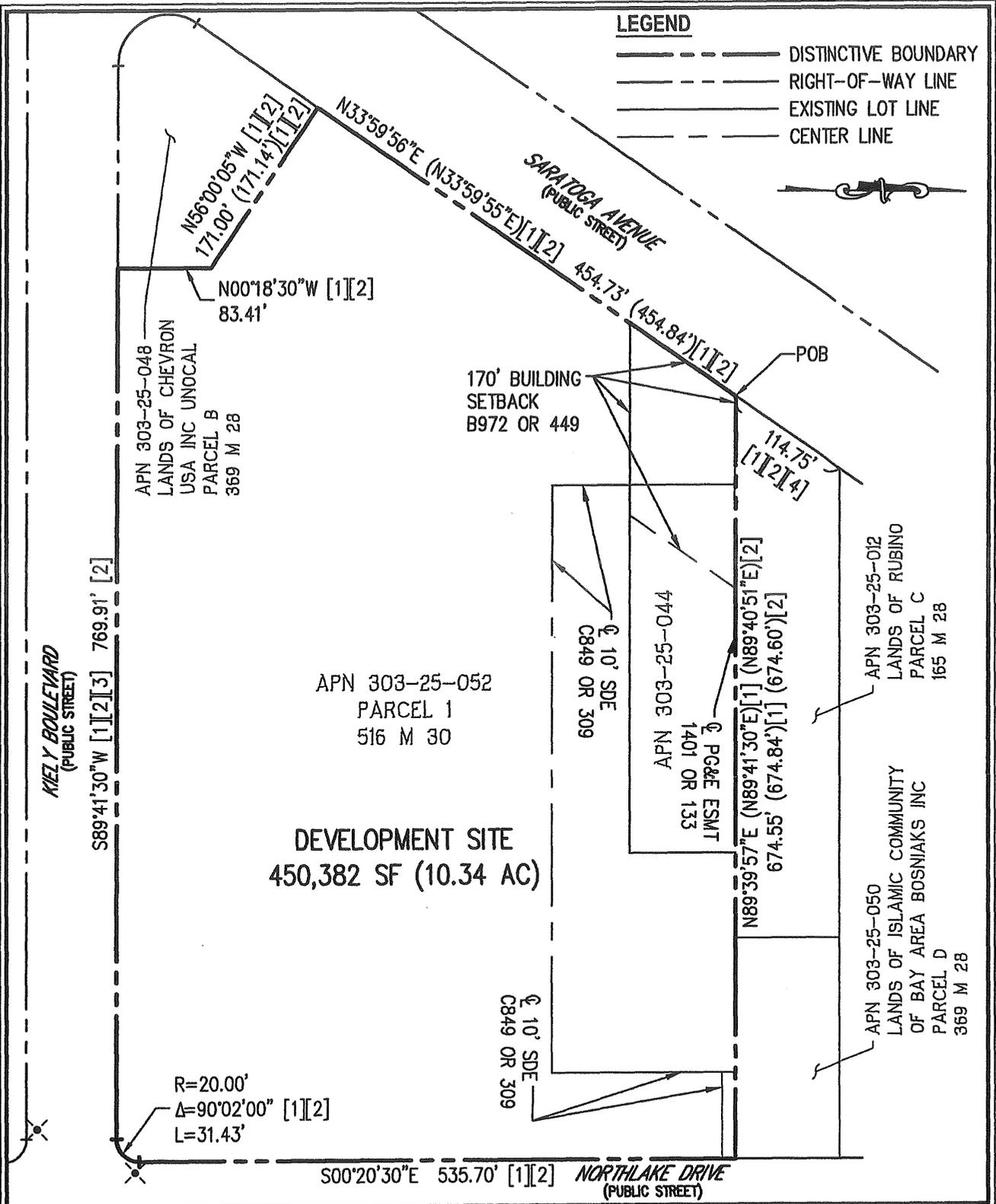
Civil Engineers · Planners · Surveyors

2055 Gateway Place Suite 550  
San Jose, CA 95110  
T: (408) 453-1066

BY: CH  
DATE: 1/28/2020  
SCALE: 1"=200'  
JOB NO. 15-132-20

1 OF 3  
SHT.NO.

15132-20 PLAT DEVELOPMENT.dwg Jan 28, 2020



**EXHIBIT "B" - DEVELOPMENT SITE  
PLAT TO ACCOMPANY LEGAL DESCRIPTION**



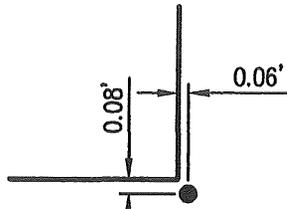
**Civil Engineering Associates**

Civil Engineers • Planners • Surveyors

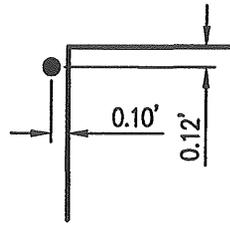
2055 Gateway Place Suite 550  
San Jose, CA 95110  
T: (408) 453-1066

BY: CH  
DATE: 1/28/2020  
SCALE: 1"=120'  
JOB NO. 15-132-20

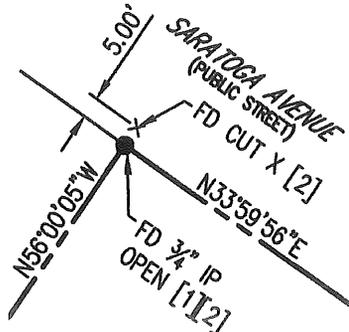
2 OF 3  
SHT.NO.



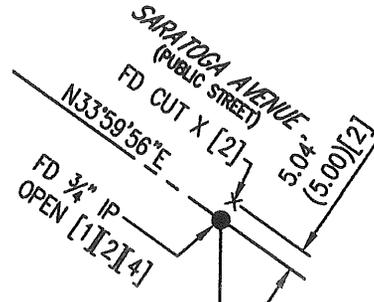
**DETAIL A**  
NTS



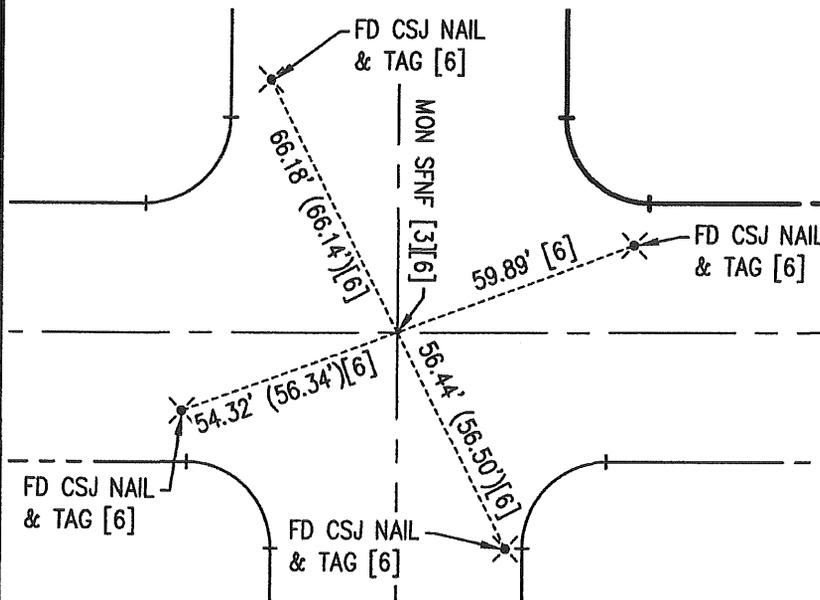
**DETAIL B**  
NTS



**DETAIL C**  
1"=40'



**DETAIL D**  
1"=40'



**DETAIL E**  
1"=40'

**EXHIBIT "B" - DEVELOPMENT SITE  
PLAT TO ACCOMPANY LEGAL DESCRIPTION**

15132-20 PLAT DEVELOPMENT.dwg Jan 28, 2020



**Civil Engineering Associates**

Civil Engineers • Planners • Surveyors

2055 Gateway Place Suite 550  
San Jose, CA 95110  
T: (408) 453-1066

BY: CH  
DATE: 1/28/2020  
SCALE: -  
JOB NO. 15-132-20

3 OF 3  
SHT.NO.