



**CITY COUNCIL STAFF REPORT**

<b>File No.</b>	C21-003
<b>Applicant:</b>	Roman Catholic Bishop of San Jose
<b>Location</b>	5000 Mitty Way (Southeast corner of Mitty Way and Doyle Road)
<b>Existing Zoning</b>	R-1-8 Single-Family Residence
<b>Council District</b>	1
<b>Historic Resource</b>	No
<b>Annexation Date:</b>	December 6, 1961 (Moreland No 22)
<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 R-1-8 Single-Family Residence Zoning District to the PQP Public/Quasi-Public Zoning District on an approximately 27-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. Approve an ordinance rezoning an approximately 27-gross acre site, located at the southeast corner of Mitty Way and Doyle Road (5000 Mitty Way), from the R-1-8 Single-Family Residence Zoning District to the Public/Quasi-Public Zoning District.

**PROJECT DATA**

<b>GENERAL PLAN CONSISTENCY</b>	
<b>General Plan Designation</b>	<b>Public/Quasi-Public</b> <input checked="" type="checkbox"/> <b>Consistent</b> <input type="checkbox"/> <b>Inconsistent</b>
<b>Consistent Policies</b>	<b>Implementation Policies IP-1.1, 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>	Residential Neighborhood and Open Space, Parklands and Habitat	R-1-8 Single-Family Residence	Residential and a public park (John Mise Park)
<b>South</b>	Residential Neighborhood	R-1-8 Single-Family Residence and R-2 Two-Family Residence	Residential
<b>East</b>	Residential Neighborhood	R-1-8 Single-Family Residence	Residential
<b>West</b>	Residential Neighborhood	R-M Multifamily Residence	Residential

<b>RELATED APPROVALS</b>	
<b>Date</b>	<b>Action</b>
<b>7/22/2015</b>	Conditional Use Permit (File No. CP15-022) to allow construction of a new 16,180-square foot, two-story science and student center building, demolition of an existing tennis court for 100 new parking stalls, and removal of 19 non-ordinance sized trees.
<b>3/9/2011</b>	Conditional Use Permit Amendment (File No. CPA07-036-01) to allow for the construction of a 3,500 square foot music building at an existing private high school.
<b>9/26/2007</b>	Conditional Use Permit (File No. CP07-036) to allow the replacement of the existing open bleacher seating at the north side of an existing athletic field with the construction of grandstand seating with weight and locker rooms beneath on a private high school campus.
<b>7/11/2001</b>	Conditional Use Permit (File No. CP01-022) to allow the addition of two modular buildings to an existing private school for classroom use.
<b>1/5/2001</b>	Site Development Permit (File No. H00-054) for construction of a 22,622 square foot multi-use building, new 4,810 square foot office building, and conversion of existing cafeteria building into a theater.
<b>9/29/2000</b>	Site Development Permit (File No. H00-061) to allow temporary installation of lights on a high school athletic field for use during one nighttime football game per year.
<b>9/8/1999</b>	Site Development Permit (File No. H99-065) to allow a temporary lighting for a football field.
<b>12/13/1996</b>	Site Development Permit (File No. H96-057) to add a gym, pool, and site improvements.
<b>11/12/1993</b>	Site Development Permit (File No. H93-060) to allow buildings with classrooms.
<b>08/08/1990</b>	Conditional Use Permit (File No. CP90-031) for the construction of a 4,974-square foot social hall addition and a 4,348-square foot rectory/office addition to an existing church.
<b>12/19/1989</b>	Site Development Permit (File No. H89-114) to allow additional classrooms.
<b>11/9/1983</b>	Site Development Permit (File No. H83-252) to allow a 5,615 square foot kindergarten and multi-use facility.
<b>9/28/1983</b>	Conditional Use Permit (File No. CP83-066) to allow addition to the school.

<b>7/17/1980</b>	Site Development Permit (File No. H80-107) to allow a remodel for a computer room facility.
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## PROJECT DESCRIPTION

On January 21, 2021, the Roman Catholic Bishop of San Jose filed an application to rezone an approximately 27-gross acre site from the R-1-8 Single-Family Residence Zoning District to the Public/Quasi-Public Zoning District.

### **Background**

The subject site is located on the south side of Mitty Way bounded by Doyle Road to the west and Moorpark Avenue to the east. The subject site consists of Archbishop Mitty High School and Queen of the Apostles Church and School. The site is surrounded by residential uses to the north, south, west, and east. A public park (John Mise Park) is located to the northeast. On the west side of Lawrence Expressway and Saratoga Creek are residential uses in the City of Cupertino. There are no other active planning development permit applications on file for the subject site.



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

## ANALYSIS

### **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 Public/Quasi-Public (see Figure 2).

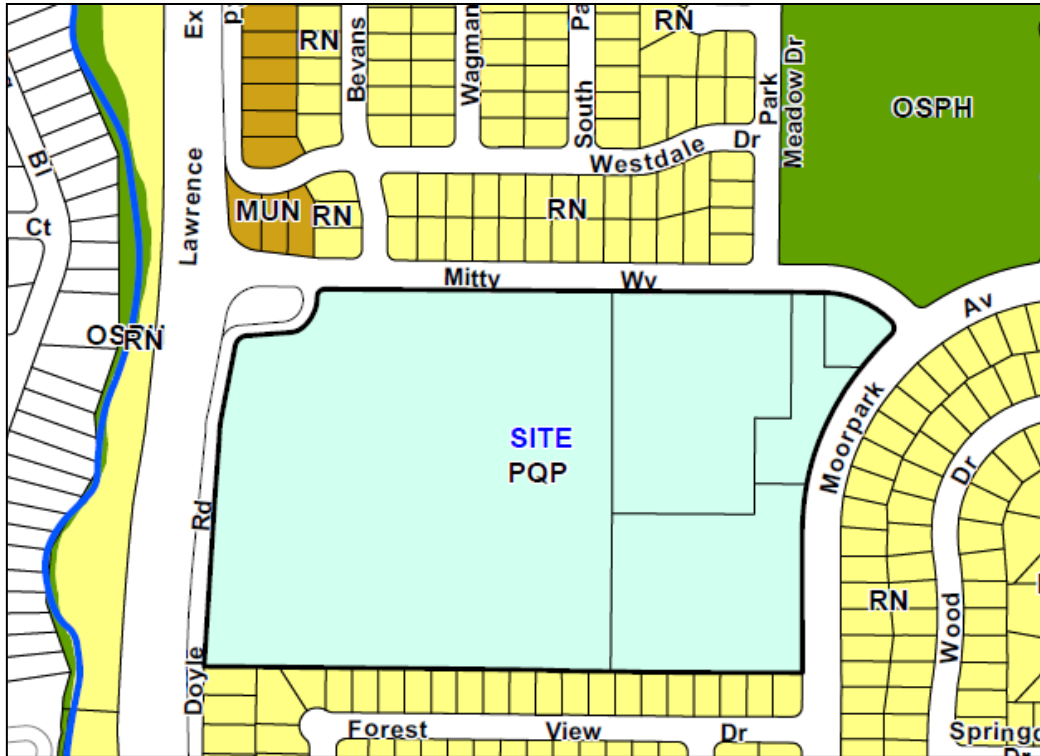


Figure 2: General Plan Land Use/Transportation Diagram

The Public/Quasi-Public land use designation is used to designate public land uses, including schools, colleges, corporation yards, homeless shelters, permanent supportive housing, libraries, fire stations, water treatment facilities, convention centers and auditoriums, museums, governmental offices, and airports. Joint development projects which include public and private participation – such as a jointly administered public/private research institute or an integrated convention center/hotel/restaurant complex – are allowed. This category is also used to designate lands used by some private entities, including private schools, daycare centers, hospitals, public utilities, and the facilities of any organization involved in the provision of public services, such as gas, water, electricity, and telecommunications facilities that are consistent in character with established public land uses. Private community gathering facilities, including those used for religious assembly or other comparable assembly activity, are also appropriate on lands with this designation. The appropriate intensity of development can vary considerably depending on potential impacts on surrounding uses and the particular Public/Quasi-Public use developed on the site.

The rezoning is consistent with the following General Plan policies:

1. Implementation Policy IP-1.1: 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: 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-1.7: Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram, and advance *Envision General Plan* vision, goals, and policies.

*Analysis; The project consists of a Conforming Rezoning of the property from the R-1-8 Single-Family Residence Zoning District to the PQP Public/Quasi-Public Zoning District. This would align the zoning district to the existing Public/Quasi-Public General Plan land use designation of the subject site. The new zoning designation would allow future development to better conform with the land use designation.*

4. 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 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: The Conforming Rezoning to the Public/Quasi-Public Zoning District would align the zoning district to be consistent with the goals of the General Plan and facilitate future developments that are consistent with the General Plan land, as well as the current uses of the property.*

### **Zoning Ordinance Conformance**

The proposed rezoning conforms with [Table 20-270](#), Section 20.120.110 of the San José Municipal Code, which identifies the PQP Public/Quasi-Public Zoning District as a conforming district to the Public/Quasi-Public General Plan land use designation.

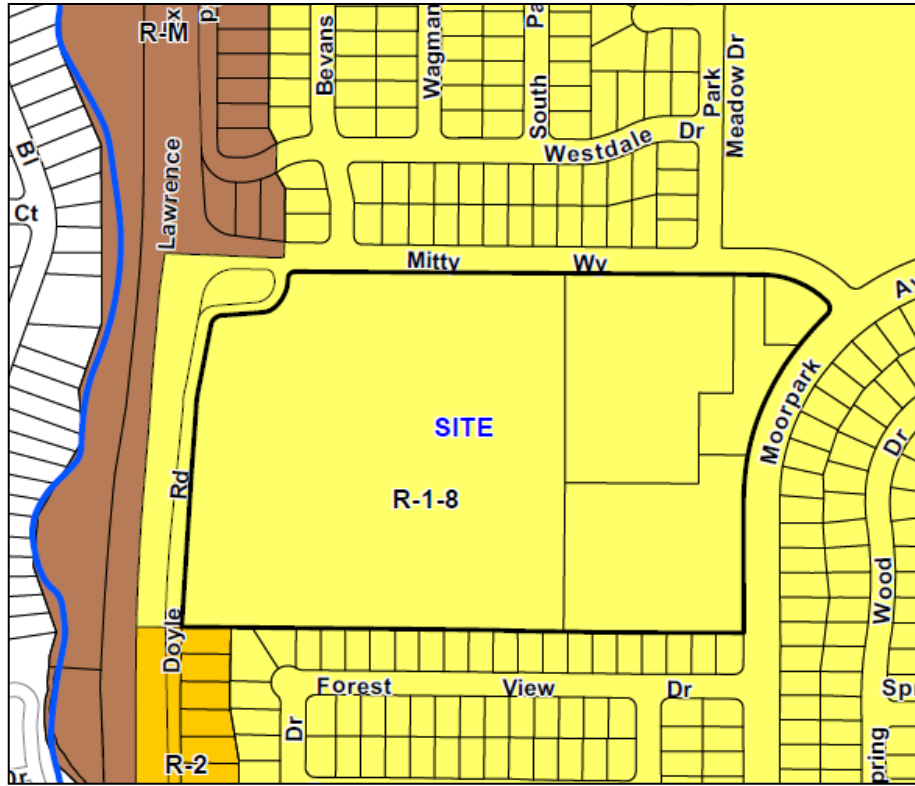


Figure 3: Existing Zoning Map

The Public/Quasi-Public Zoning District would allow the property to be used and developed in accordance with the allowable uses in [Table 20-90](#), which includes schools, public, quasi-public and assembly uses that may be permitted with a Special Use Permit or Conditional Use Permit.

Setbacks and Heights

Standard	R-1-8 Zoning District	PQP Zoning District
Front Setback	20 feet	10; less than 10 if established in approved development permit
Side, Interior Setback	5 feet	10; less than 10 if established in approved development permit
Side, Corner	12.5 feet	10; less than 10 if established in approved development permit
Rear, Interior Setback	20 feet	10; less than 10 if established in approved development permit
Rear, Corner Setback	20 feet	10; less than 10 if established in approved development permit
Maximum Height	35 feet	65 feet, unless a different maximum is established in <a href="#">Chapter 20.85</a>

The two projects (Archbishop Mitty High School and Queen of the Apostles School and Catholic Church) were built under the R-1-B-6 Residence District that allowed a maximum height of 35 feet, front setback of 25 feet, side interior setback of five feet, and rear setback of 25 feet.



The Queen of the Apostles School and Catholic Church were approved and built with a 25-foot building setback requirement along Mitty Way and Moorpark Avenue. The rezoning to PQP would reduce the building setback line to 10 feet. The church's roof is approximately 36 feet high, which is consistent with the PQP development standards. The existing buildings are consistent with the PQP setback requirements.

The Archbishop Mitty High School buildings were developed with a front setback of 25 feet, side setbacks of 5 feet, and rear setbacks of 20 feet. The buildings have a height of approximately 30 feet, which would be consistent with the PQP development standards.

The rezoning of the property from the R-1-8 Single-Family Residence Zoning Districts to the PQP Public/Quasi-Public Zoning District would not modify the location or height of the existing buildings. Future development would be evaluated for conformance with the above development standards and all other Municipal Code regulations.

### SB 330 and SB 940

The Housing Crisis Act of 2019 (SB 330) limits the manner in which local governments may reduce the capacity for residential units that can be built within the local agency's jurisdiction, including actions such as downzoning, changing general or specific plan land use designations to a less intensive use, reductions in height, density or floor area ratio, or other types of increased requirements that work to reduce the amount of housing capacity in the jurisdiction. An exception to this limitation is that a property may be allowed to reduce intensity of residential uses if changes in land use designations or zoning elsewhere in the jurisdiction ensure there is no net loss in residential capacity within the jurisdiction.

This rezoning does not reduce the intensity of residential uses because the rezoning to the Public/Quasi-Public Zoning District allows for a greater residential density through hotel supportive housing and emergency residential shelters. The rezoning would up-zone the project site and result in a net increase of residential capacity of 2,484 units. Under SB 940, the capacity from such projects will be reserved for future alignment of Zoning Districts and General Plan land use designations to avoid a net loss in residential capacity when the change occurs within one year. This project would reserve the capacity for future City-initiated rezoning.

However, as a practical matter, this site has been used as a private school and religious assembly use for decades and it is unlikely that the current use of the site will change in the near future.

### **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.

### **CLIMATE SMART SAN JOSE**

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

### **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/

Chu Chang, Acting Director

Planning, Building and Code Enforcement

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

Attachments: Legal Description  
Plat Map



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**LANDS OF THE**  
**ROMAN CATHOLIC WELFARE CORPORATION OF SAN JOSE**  
**AND THE**  
**ROMAN CATHOLIC BISHOP OF SAN JOSE**  
**TO ACCOMPANY APPLICATION FOR REZONING**  
**APN 381-21-016, 018, 021, 022, AND 023**

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

BEGINNING AT THE SOUTHWEST CORNER OF THAT CERTAIN 29.972 ACRE TRACT OF LAND AS SHOWN ON THAT CERTAIN MAP ENTITLED "RECORD OF SURVEY WITHIN THE QUITO RANCHO", RECORDED NOVEMBER 10, 1960 IN BOOK 127 OF MAPS AT PAGE 33, OFFICIAL RECORDS OF THE COUNTY OF SANTA CLARA, CALIFORNIA, SAID CORNER ALSO BEING THE SOUTHWEST CORNER OF PARCEL "A" SHOWN ON THAT CERTAIN "RECORD OF SURVEY, LAWRENCE EXPRESSWAY" RECORDED AUGUST 18, 1964 IN BOOK 183 OF MAPS AT PAGE 54, OFFICIAL RECORDS OF THE COUNTY OF SANTA CLARA, CALIFORNIA.

THENCE ALONG THE SOUTHERLY LINE OF SAID 29.972 ACRE TRACT AND SOUTHERLY LINE OF SAID PARCEL "A" NORTH 89° 44' 24" EAST 21.32 FEET TO THE SOUTHEAST CORNER OF PARCEL "A" AND THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION.

THENCE LEAVING SAID SOUTHERLY LINES NORTHERLY ALONG THE EASTERLY LINE OF SAID PARCEL "A", SAID EASTERLY LINE OF PARCEL "A" ALSO BEING THE EASTERLY LINE OF DOYLE ROAD, A PUBLIC STREET, THE FOLLOWING NINE (9) COURSES AND CURVES:

- 1) ALONG A NON-TANGENT CURVE TO THE RIGHT WITH A RADIUS OF 5,393.00 FEET, THE RADIAL OF WHICH BEARS NORTH 89° 28' 21" EAST, THROUGH A CENTRAL ANGLE OF 03° 45' 14" AN ARC LENGTH OF 353.35 FEET;
- 2) NORTH 04° 16' 53" EAST 194.02 FEET;
- 3) TANGENT CURVE TO THE RIGHT WITH A RADIUS OF 175.00 FEET THROUGH A CENTRAL ANGLE OF 05° 33' 40" AN ARC LENGTH OF 16.99 FEET;
- 4) NORTH 09° 50' 33" EAST 172.86 FEET;
- 5) TANGENT CURVE TO THE RIGHT WITH A RADIUS OF 25.00 FEET THROUGH A CENTRAL ANGLE OF 75° 23' 51" AN ARC LENGTH OF 32.90 FEET;
- 6) NORTH 85° 14' 24" EAST 95.34 FEET;
- 7) TANGENT CURVE TO THE LEFT WITH A RADIUS OF 75.00 FEET THROUGH A CENTRAL ANGLE OF 85° 30' 00" AN ARC LENGTH OF 111.92 FEET;
- 8) NORTH 00° 15' 36" WEST 15.50 FEET; AND
- 9) TANGENT CURVE TO THE RIGHT WITH A RADIUS OF 20.00 FEET THROUGH A CENTRAL ANGLE OF 90° 00' 00" AN ARC LENGTH OF 31.42 FEET TO A

POINT ON THE SOUTHERLY LINE OF MITTY WAY, A PUBLIC STREET, SAID SOUTHERLY LINE OF MITTY WAY BEING PARALLEL WITH AND 40 FEET SOUTHERLY OF THE NORTHERLY LINE OF AFOREMENTIONED 29.972 TRACT OF LAND.

THENCE ALONG SAID SOUTHERLY LINE OF MITTY WAY NORTH 89° 44' 24" EAST 15.99 FEET, MORE OR LESS, TO THE EASTERLY LINE OF SAID PARCEL "A".

THENCE CONTINUING ALONG SAID SOUTHERLY LINE OF MITTY WAY NORTH 89° 44' 24" EAST 1,116.40 FEET, MORE OR LESS, TO A POINT ON THE EASTERLY LINE OF SAID 29.972 TRACT.

THENCE CONTINUING ALONG SAID SOUTHERLY LINE OF MITTY WAY NORTH 89° 44' 24" EAST 4.57 FEET; THENCE ALONG A TANGENT CURVE TO THE RIGHT WITH A RADIUS OF 220.00 FEET THROUGH A CENTRAL ANGLE OF 45° 03' 38" AN ARC LENGTH OF 173.02 FEET; THENCE ALONG A COMPOUND CURVE TO THE RIGHT WITH A RADIUS OF 20.00 FEET THROUGH A CENTRAL ANGLE OF 91° 18' 06" AN ARC LENGTH OF 31.87 FEET TO A POINT ON THE WESTERLY LINE OF MOORPARK AVENUE, A PUBLIC STREET 90-FEET WIDE.

THENCE ALONG SAID WESTERLY LINE OF MOORPARK AVENUE, A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 645.00 FEET THROUGH A CENTRAL ANGLE OF 46° 51' 03" AN ARC LENGTH OF 527.42 FEET; THENCE SOUTH 00° 44' 56" EAST 306.52 FEET, MORE OR LESS, TO A POINT ON THE SOUTHERLY LINE OF SAID 29.972 TRACT, SAID POINT BEARS SOUTH 89° 44' 24" WEST 45.00 FEET FROM THE SOUTHEAST CORNER OF SAID 29.972 ACRE TRACT.

THENCE ALONG SAID SOUTHERLY LINE OF SAID 29.972 ACRE TRACT AND THE NORTHERLY LINES OF TRACT 3521, TRACT 3655 AND TRACT 4151 SOUTH 89° 44' 24" WEST 1,365.78 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING.

CONTAINING 27.3 ACRES, MORE OR LESS.

APN 381-21-016, 018, 021, 022, AND 023

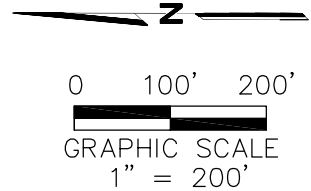
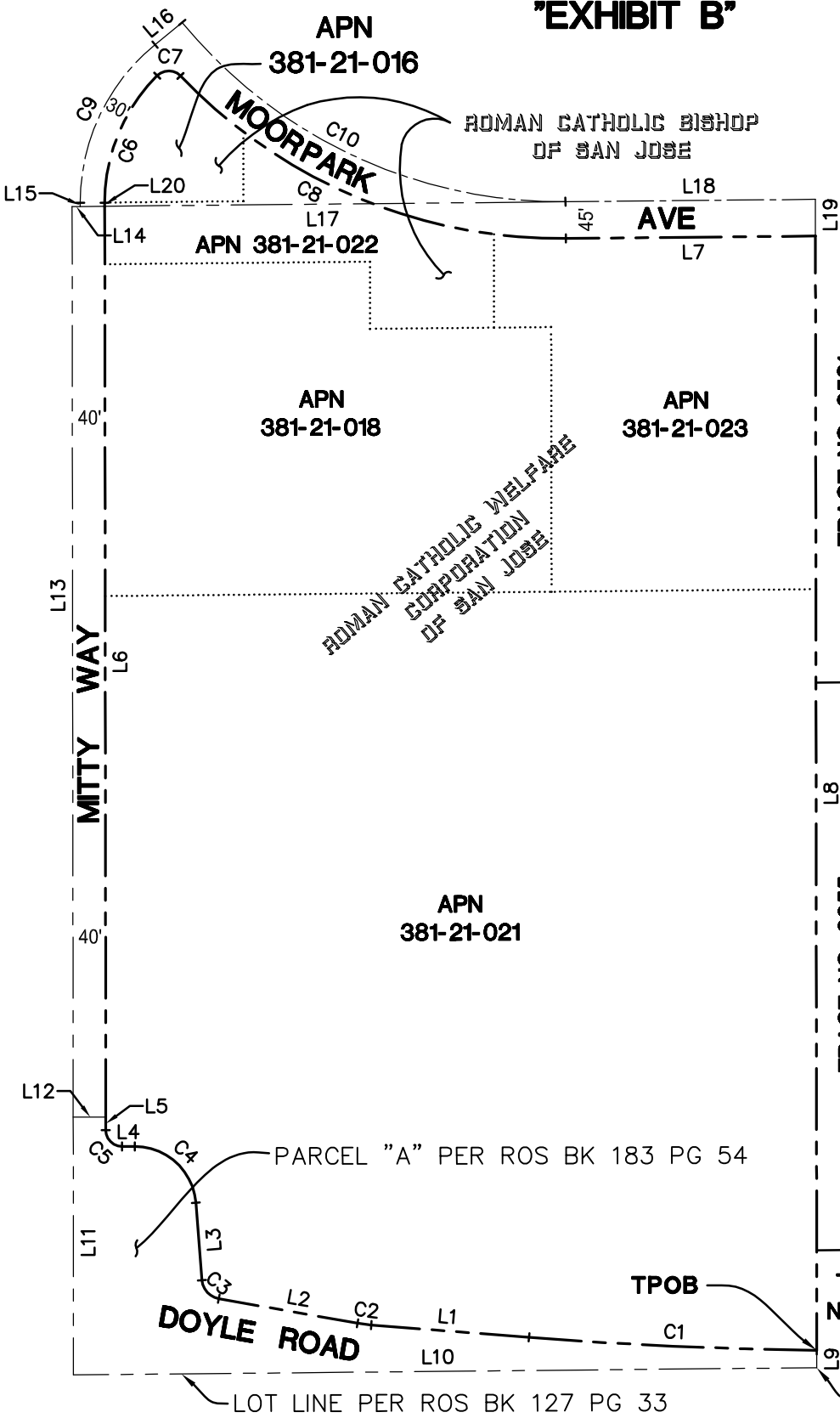
This legal description was prepared to accompany the application for the Conforming Rezoning of the property described and is not intended for any other purpose.

Prepared by:

Ruth and Going, Inc.  
2216 The Alameda  
Santa Clara, CA 95050  
(408) 236-2403  
R+G Job #96-033P  
February 22, 2021



# 'EXHIBIT B'



**NOTE:**

1. AREA TO BE REZONED=27.3 AC.
2. SEE SHEET 2 FOR LINES AND CURVES INFORMATION.
3. THIS PLAT WAS PREPARED TO ACCOMPANY THE APPLICATION FOR REZONING. IT IS NOT INTENDED FOR ANY OTHER PURPOSE.

**LEGEND**

- PROPERTY TO BE REZONED
- ASSESSOR PARCEL LINE
- STREET CENTERLINE
- TRACT BOUNDARY
- TPOB** TRUE POINT OF BEGINNING
- POB** POINT OF BEGINNING
- ROS** RECORD OF SURVEY



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**SHEET 1 OF 2**

**R+G** RUTH AND GOING, INC.  
 Civil Engineering Land Surveying  
 2216 THE ALAMEDA SANTA CLARA, CA. 95050  
 (408) 236-2400

*PLAT TO ACCOMPANY APPLICATION FOR CONFORMING REZONING*

*LANDS OF ROMAN CATHOLIC WELFARE CORPORATION OF SAN JOSE & ROMAN CATHOLIC BISHOP OF SAN JOSE*  
 City of San Jose California

2021-02-19	96033Q	Drwn.: ATN
Dept.: Civil	Scale: 1" = 200'	Chkd.: MCS

LINE TABLE		
LINE NO.	LENGTH	DIRECTION
L1	194.02'	N04°16'53"E
L2	172.86'	N09°50'33"E
L3	95.34'	N85°14'24"E
L4	15.50'	N00°15'36"W
L5	15.99'	N89°44'24"E
L6	1116.40'	N89°44'24"E
L7	306.52'	S00°44'56"E
L8	1365.78'	S89°44'24"W
L9	21.32'	S89°44'24"W
L10	911.66'	S00°44'56"E

LINE TABLE		
LINE NO.	LENGTH	DIRECTION
L11	316.04'	S89°44'24"W
L12	40.00'	N00°15'36"W
L13	1116.06'	S89°44'24"W
L14	10.00'	S00°44'56"E
L15	4.57'	N89°44'24"E
L16	43.18'	S39°30'00"E
L17	595.14'	S00°44'56"E
L18	306.52'	S00°44'56"E
L19	45.00'	S89°44'24"W
L20	4.57'	N89°44'24"E

CURVE TABLE			
CURVE NO.	LENGTH	RADIUS	DELTA
C1	353.35'	5393.00'	3°45'14"
C2	16.99'	175.00'	5°33'40"
C3	32.90'	25.00'	75°23'51"
C4	111.92'	75.00'	85°30'00"
C5	31.42'	20.00'	90°00'00"
C6	173.02'	220.00'	45°03'38"
C7	31.87'	20.00'	91°18'06"
C8	527.42'	645.00'	46°51'03"
C9	221.48'	250.00'	50°45'36"
C10	536.67'	600.00'	51°14'54"



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**SHEET 2 OF 2**



**RUTH AND GOING, INC.**  
 Civil Engineering Land Surveying  
 2216 THE ALAMEDA SANTA CLARA, CA. 95050  
 (408) 236-2400

*PLAT TO ACCOMPANY APPLICATION  
 FOR CONFORMING REZONING*

*LANDS OF ROMAN CATHOLIC WELFARE  
 CORPORATION OF SAN JOSE & ROMAN CATHOLIC  
 BISHOP OF SAN JOSE*

*City of San Jose California*

2021-02-19	96033Q	Drwn.: ATN
Dept.: Civil	Scale: 1"= 200'	Chkd.: MCS