

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING A VESTING TENTATIVE MAP, SUBJECT TO CONDITIONS, TO SUBDIVIDE ONE PARCEL INTO THREE PARCELS ON AN APPROXIMATELY 3.26-GROSS ACRE SITE, ON THE NORTHWEST CORNER OF HORNING STREET AND OAKLAND ROAD (645 HORNING STREET)

FILE NO. PT16-037

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on August 29, 2016, a concurrent application (File No. PT16-037) by Muthana Ibrahim, the applicant, was filed with the City of San José for a Vesting Tentative Map to subdivide one parcel into three parcels on an approximately 3.26-gross acre site, on that certain real property situated in the CIC(PD) Planned Development Zoning District (File No. PDC16-041) and located on the northwest corner of Horning Street and Oakland Road (645 Horning Street, San José, which real property is sometimes referred to herein as the “subject property”) (“hereinafter “Vesting Tentative Map”); and

WHEREAS, the subject property is all that real property more particularly described in Exhibit "A", entitled “Legal Description,” which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, the Planning Commission conducted a hearing on said concurrent applications on April 11, 2018, notice of which was duly given; and

WHEREAS, at said hearing, the Planning Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing, the Planning Commission made a recommendation to the City Council respecting said matter based on the evidence and testimony; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, this City Council conducted a hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, this City Council gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing this City Council received and considered the reports and recommendations of the Planning Commission and the City's Director of Planning, Building and Code Enforcement; and

WHEREAS, at said hearing, this City Council received in evidence a development plan for the subject property entitled "Gas Station, Convenience Store, Car Wash & Mini Storage," dated received November 13, 2017, said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said development plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

WHEREAS, said public hearing before the City Council was conducted in all respects as required by the San José Municipal Code and the rules of this City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

After considering all of the evidence presented at the Public Hearing, the City Council finds that the following are the relevant facts regarding this proposed project:

1. **Site Description and Surrounding Uses.** The subject 3.26-gross acre site is located at the northwest corner of Horning Street and Oakland Road. The site was developed in 1950s with multiple industrial buildings totaling approximately 35,671 square feet, and the buildings are currently used for indoor storage and a car fabrication/repair shop with outdoor storage. The subject site is located at the edge of an existing industrial area: to the west and south is a mix of light manufacturing, storage and retail uses; to the north is the Oakland Road off-ramp from Interstate Highway 101; to the west is Oakland Road, a six-lane major arterial, and across this street is an existing multi-family residential development.
2. **Project Description.** The proposed project is a Vesting Tentative Map to subdivide one parcel into three parcels on an approximately 3.26-gross acre site
3. **General Plan Conformance.** The project has an Envision San José 2040 General Plan Land Use/Transportation Diagram designation of Combined Industrial/Commercial (CIC). This land use designation is intended for a wide variety of commercial, office, industrial developments, or a compatible mix of these uses. The proposed project would result in a mix of uses on the subject site, including mini-storage, gasoline service station, convenience store with attached drive-through car wash, and a restaurant with drive-through and late-night use. The proposed tentative map will allow both industrial and commercial uses to be located on the subject site and provide a buffer between existing residential and industrial uses in the area. The proposed site plan also includes design elements to improve connectivity and safety for both pedestrians and vehicles on the site:
 - a. Land Use Policy LU-1.2: Encourage Walking. Create safe, attractive, and accessible pedestrian connections between developments and to adjacent public streets to minimize vehicular miles traveled.

Analysis: Although the proposed project includes auto-oriented uses, such as two drive-throughs (restaurant and car wash), the proposed public improvements include a financial contribution towards a future pedestrian crosswalk at Oakland Road and Boardwalk Way. This would enhance pedestrian access on a long street corridor with limited crosswalks and connect nearby residential neighborhoods with commercial uses on the west side of Oakland Road.
 - b. Land Use Policy LU-4.4: Allow limited industrial uses in commercially designated areas if such uses are of a scale, design, or intensity that creates less than significant negative impacts to surrounding uses.

Analysis: The proposed project includes both commercial (gasoline service station and car wash, retail, restaurant) and light industrial (mini-storage) uses on the site. The site is adjacent to a freeway off-ramp, access and circulation are limited, and aesthetic improvements are challenging. The proposed mini-storage would occupy the least accessible portion of the subject site and complement the existing commercial/industrial uses on adjacent properties. Overall, the proposed project

would create a buffer and appropriate transition between the freeway and industrial uses and existing residential neighborhoods in the area.

- c. Land Use Policy LU-5.5: Encourage pedestrian and vehicular connections between adjacent commercial properties with reciprocal-access easements to encourage safe, convenient, and direct pedestrian access and “one-stop” shopping. Encourage and facilitate shared parking arrangements through parking easements and cross-access between commercial properties to minimize parking areas and curb-cuts.

Analysis: The proposed project includes a mix of commercial and industrial uses on one site. The proposed tentative map show reciprocal rights of ingress, egress, and parking between all proposed uses and parcels. A covenant of easement shall be conditioned in the Planned Development Permit to record the easements, prior to the issuance of a final map. With shared access and parking easements, the project would require only one standard curb-cut and driveway from Horning Street.

- d. Vibrant Neighborhood Policy VN-1.7: Use new development within neighborhoods to enhance the public realm, provide for direct and convenient pedestrian access, and visually connect to the surrounding neighborhood. As opportunities arise, improve existing development to meet these objectives as well.

Analysis: The existing street frontages along Horning Street and Oakland Road have limited sidewalks and vegetation. The proposed development would include new sidewalks with enhanced landscaping, trees, and pedestrian access to proposed commercial uses. In addition to new sidewalks, the project would provide a financial contribution for a new pedestrian crosswalk on Oakland Road and Boardwalk Way that would provide residents in the existing residential neighborhoods with a safer and more direct pedestrian connection to the new commercial uses.

4. **Zoning Ordinance Compliance.** The site is currently in the LI Light Industrial Zoning District with a Combined Industrial / Commercial General Plan land use designation. The CIC(PD) Planned Development Zoning District would facilitate a development with both commercial and industrial uses on the subject site. A conventional CIC Combined Industrial/Commercial Zoning District would not permit a mini-storage use. Given that the subject site is adjacent to existing light industrial uses and south of an existing freeway off-ramp, the types of uses that could utilize the northern portion of the site are limited. Therefore, a Planned Development Zoning District that allows a mini-storage use together with additional commercial uses to serve travelers as well as nearby residential neighborhoods is a good use of the subject site. The proposed PD rezoning would allow a complementary mix of CIC Combined Industrial-Commercial, LI Light Industrial, and CG Commercial General uses on the site and enable full utilization of the site despite significant access constraints. The project is required to have a 15-foot front setback and rear and side setback of five feet. The project has a 15-foot front setback, a 10-foot side setback, and 15-foot rear setback. The maximum allowed height is 60 feet and the project has a maximum height of approximately 42 feet. The

combined uses require 56 vehicle parking spaces and the project provides 56 vehicles spaces.

- 5. Environmental Review.** An Initial Study (IS) and Mitigated Negative Declaration (MND) were prepared by the Planning, Building and Code Enforcement for the subject Planned Development Rezoning, Planned Development Permit, and Tentative Map. The environmental review evaluated a rezoning from the LI Light Industrial Zoning District to the CIC(PD) Zoning District and Tentative Map to demolish size existing buildings, and remove all associated pavement, landscaping, and fencing; and to construct a mix of new commercial buildings including an approximately 3,814-square foot convenience store, six fueling stations (12 total fuel dispensers), an approximately 1,341-square foot automatic car wash, and approximately 2,494-square foot fast-food restaurant with a drive-through, and self-storage facility with three buildings totaling approximately 92,116 square feet on an approximate 3.26 gross acre site located along the at 645 Horning Street. The documents were circulated for public comments between August 24, 2017 to September 14, 2017 and three formal comments letters and/or emails were received from the public. Some of the concerns that were highlighted in the comment letters include: traffic, pedestrian accommodations, compatibility to the existing neighborhood, and overconcentration of the proposed uses. Environmental comments have been addressed by staff in a formal Responses to Comments document.

As stated in the IS/MND and associated noise report (appendix G of the IS/MND), the existing ambient noise (based on long-term noise monitoring) ranges from 71 to 74 dBA day-night noise level (DNL). Noise experienced at the short-term monitoring locations ST-01 through ST-03 was also predominately due to vehicular traffic on the local roadway network. Overall noise levels measured at the short-term environmental noise monitoring locations ranged from approximately 64 to 74 dBA Leq. The main noise generator in this site are roadway traffic noise and operations of the existing industrial uses. Based on the analysis presented, the project would add into this noise level. However, the project-related effects on the baseline ambient noise environment were calculated to result in a change of less than 1 dBA to approximately 2 dBA. In addition, while the project site is not immediate adjacent to any sensitive receptors, noise measures were also considered for these properties located across Oakland and Horning roadways. The project related effects on the baseline ambient noise environment at noise sensitive residential receptors were calculated to result in a change of less than 1 dBA. Therefore, the increase would be less than 3 or 5 dBA DNL and would not conflict with EC-1.2 and would result in a less-than-significant impact under CEQA.

The primary environmental issues that required mitigation measures are air quality, biological resources, and hazards and hazardous materials resource areas. The IS/MND includes mitigation measures that would reduce any potentially significant project impacts to a less-than-significant level. In addition to the mitigation measures, other permit conditions in regards to lighting requirements, nuisance, and maintenance

of the site are included in the Planned Development Permit as conditions of approval to ensure all potential impacts have been addressed.

FINDINGS

The City Council concludes and finds, based on the analysis of the above facts, that:

1. **Conformance with the Subdivision Ordinance and the Subdivision Map Act.** In accordance with San José Municipal Code (SJMC) section 19.12.130, the City Council may approve the tentative map if the City Council cannot make any of the findings for denial in Government Code Section 66474 and the City Council has reviewed and considered the information relating to compliance of the project with the California Environmental Quality Act and determines the environmental review to be adequate. Additionally, the City Council may approve the project if the City Council does not make any of the findings for denial in San José Municipal Code Section 19.12.220.
 - a. The City Council finds that the proposed subdivision shown on the Vesting Tentative Map, subject to the conditions listed below and the requirements for project design and improvements is consistent with applicable General and Specific Plans of the City of San José, in that:

Analysis: As discussed in detail above, the proposed project is consistent with the General Plan.
 - b. The City Council has considered the proposed subdivision shown on the Vesting Tentative Map, with the imposed conditions, to determine whether to make any of the findings set forth in subsections of Section 66474 of the Government Code of the State of California which states “A legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:”
 - i. That the proposed map is not consistent with applicable general and specific plans as specified in Section 65451.
 - ii. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.
 - iii. That the site is not physically suitable for the type of development.
 - iv. That the site is not physically suitable for the proposed density of development.
 - v. That the design of the subdivision or the proposed improvements is likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.
 - vi. That the design of the subdivision or type of improvements is likely to cause serious public health problems.

- vii. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.

Analysis: Based on review of the proposed subdivision, the City Council cannot not make any such findings to deny the subject subdivision in that: 1) the proposed map/project is consistent with the General Plan as noted above; 2) the proposed design of the parcels is consistent with the General Plan in that the parcels are of adequate size to support development; 3) the proposed site is physically suitable for the proposed development, additionally as three parcels that are being created are dependent upon each other for parking and access purposes a Covenant of Easement shall be recorded against the property memorializing these easements and shall require all parties to maintain these easements; 4) the proposed density is suitable for the proposed site based on the FAR allowance of the General Plan; 5) the proposed subdivision in this urban setting will not cause any environmental damage or substantially injure fish or other wildlife habitat; 6) the subdivision parcels will not cause any public health issues; 7) the proposed subdivision will not conflict with any public easements, as the project is providing all necessary public easements, all explained in detail above and in the administrative record. Based on that review, the City Council does not make any such denial findings for the subject subdivision.

In accordance with the findings set forth above, a Vesting Tentative Map to subdivide the subject property by final map in accordance with this approval for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. This City Council expressly declares that it would not have granted this permit and determination except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Vesting Tentative Map.** Per Section 19.12.230, should the Subdivider fail to file a timely and valid appeal of this Vesting Tentative Map within the applicable appeal period, such inaction by the Subdivider shall be deemed to constitute all of the following on behalf of the Subdivider:

- a. Acceptance of the Vesting Tentative Map by the Subdivider; and
 - b. Agreement by the Subdivider to be bound by, to comply with, and to do all things required of or by the Subdivider pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 19 applicable to such Vesting Tentative Map.
2. **Expiration of Vesting Tentative Map.** This Vesting Tentative Map shall automatically expire 48 months from and after the date of issuance hereof by the Director of Planning of the City of San José. The date of issuance is the date this Vesting Tentative Map is approved by the City Council.
3. **Development Rights - Vesting on Approval of Vesting Tentative Map.**
- a. Per San José Municipal Code Section 19.13.070, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards described in Government Code Section 66474.2. However, if Section 66474.2 of the Government Code is repealed, the approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the ordinances, policies, and standards in effect at the time the vesting tentative map is approved or conditionally approved.
 - b. Notwithstanding subsection 3.a., above, any permit, including a building permit, approval, extension, or entitlement may be made conditional or denied if any of the following are determined:
 - i. A failure to do so would place the residents of the subdivision or the immediate community, or both, in a condition dangerous to their health or safety, or both.
 - ii. The condition or denial is required, in order to comply with state or federal law.
 - c. The rights referred to herein shall expire if a final map is not approved prior to the expiration of the vesting tentative map as provided in Section 19.13.060. If the final map is approved, these rights shall last for the following periods of time:
 - i. An initial time period of one year. Where several final maps are recorded on various phases of a project covered by a single vesting tentative map, this one-year initial time period shall begin for each phase when the final map for that phase is recorded. All of said final maps or parcel maps must be recorded within the time period set forth in Section 19.13.060 or the vesting tentative map approval shall expire for those parcels for which final maps or parcel maps are not timely recorded.
 - ii. The initial time period set forth in 3.c.i. shall be automatically extended by any time used for processing a complete application for a grading permit if such processing exceeds thirty days from the date a complete application is filed.

- iii. A subdivider may apply to the director for a one-year extension at any time before the initial time period set forth in 3.c.i expires. If the extension is denied, the subdivider may appeal that denial to the city council within fifteen (15) days.
 - iv. If the subdivider submits a complete application for a building permit during the periods of time specified in 3.c.i. through 3.c.iii., above, the rights referred to herein shall continue until the expiration of that permit, or any extension of that permit.
4. **Conformance to Plans.** Development shall conform to this approved Vesting Tentative Map plans dated received November 13, 2017 and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
 5. **Compliance with Subdivision Ordinance.** The final map shall comply with all of the requirements for final maps in Chapter 19.16 of the San José Municipal Code and shall show and contain all of the data required by San José Municipal Code Section 19.16.110.
 6. **Conformance with Other Permits.** The subject Vesting Tentative Map conforms to and complies in all respects with the Planned Development Permit File No. PD16-027 on which such Vesting Tentative Map is based. Approval of said Vesting Tentative Map shall automatically expire with respect to any portion of the lands covered by such Vesting Tentative Map on which a Final Map or Tract Map has not yet been recorded if, prior to recordation of a Final Map or Tract Map thereon, the Planned Development Permit for such lands automatically expires or for any reason ceases to be operative.
 7. **Improvements.** Pursuant to the Subdivision Agreement (hereinafter referred to as "Agreement"), the Subdivider shall, before approval and recording of the Final Map, improve or agree to improve all land within the subdivision and all land outside, but appurtenant to, the Subdivision shown on the Vesting Tentative Map for public or private streets, alleys, pedestrian ways and easements to the satisfaction of the Director of Public Works.
 8. **Improvement Contract.** In the event subdivider has not completed the improvements required for his proposed subdivision at the time the final map is presented for approval, subdivider shall enter into a subdivision improvement agreement with the City of San José, in accordance with Section 19.32.130 of the San José Municipal Code, and provide the improvement security and insurance required therein.
 9. **Public Use Easements.** Subdivider shall dedicate on the final map for public use easements for public utilities, emergency access, open space, streets, pedestrian ways, sanitary sewers, drainage, flood control channels, water systems, and parking in and upon all areas within the subdivision shown on the Vesting Tentative Map for the subdivision to be devoted to such purposes.
 10. **Conveyance of Easements.** Subdivider shall convey or cause to be conveyed to the City of San José, easements in and upon all areas as shown on the Vesting Tentative Map outside the boundaries of, but appurtenant to, the subdivision. Should a separate

instrument be required for the conveyance of the easement(s), it shall be recorded prior to the recordation of the Final Map. Such easements so conveyed shall be shown on the Final Map, together with reference to the Book and Page in the Official Recorder of Santa Clara County, where each instrument conveying such easements is recorded.

11. **Covenant of Easement.** Prior to the issuance of the final map, the Permittee shall record a Covenant of Easement in a form approved by the City of San Jose for the reciprocal rights for shared parking, ingress and egress.
12. **Demolition.** All structures that are on proposed property lines or within the required setback of a property line shown on the tentative map shall be approved for demolition prior to approval of the final map subdividing the parcel into three parcels.
13. **Final Map.** No Final Map or Tract Map shall be approved by City Council unless and until the appeal period for the development permit, City File No. PD16-027 has expired and all appeals have been exhausted.
14. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the subdivider for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Plant would cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
15. **Sewage Fees:** In accordance with City Ordinance, all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable to the Department of Public Works prior to Public Works clearance.
16. **Compliance with Local and State Laws.** The subdivision of the site shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the Subdivision Map Act or San José Municipal Code. The Vesting Tentative Map shall be subject to all remedies available in law and equity if the subdivision is made in violation of state and local law.
17. **Parkland Dedication Ordinance.** This development is subject to the requirements of either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San José Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San José Municipal Code,) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under

the formula contained within the parkland dedication ordinance and the associated Fees and Credit Resolutions.

18. Conformance to Mitigation Monitoring and Reporting Program. This Project shall conform to all applicable requirements of the Mitigation Monitoring and Reporting Program (MMRP) approved for this development by City Council Resolution No.

_____.

19. Public Works Clearance for Building Permit(s) or Map Approval: Prior to the approval of the Final Map for the subdivision and prior to the issuance of Building permits, the applicant will be required to have satisfied all of the following Public Works conditions as described in the Planned Development Permit (PD16-027).

20. Revocation, Suspension, Modification. This Vesting Tentative Map is subject to revocation, suspension, or modification for violation of any of its provisions or condition as well as all remedies available under the Subdivision Map Act and San Jose Municipal Code Title 19.

In accordance with the findings set forth above, a Vesting Tentative Map Permit to subdivide the subject property by Final Map in accordance with the conditions of this Vesting Tentative Map Permit for said purpose specified above is hereby **approved**.

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EFFECTIVE DATE

The effective date of this Vesting Tentative Map shall be the same effective date of the Planned Development Zoning Ordinance for File No. PDC16-041 adopted on _____, 2018 (the “Planned Development Zoning Ordinance”) and shall be no earlier than the effective date of said Planned Development Zoning Ordinance.

ADOPTED this _____ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

NOTICE TO PARTIES

The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.

LEGAL DESCRIPTION

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

PARCEL ONE:

ALL OF LOTS 1 AND 2, AND PORTION OF LOTS 3, 10, 11 AND 12, BLOCK 9, AS SHOWN UPON THAT CERTAIN MAP ENTITLED, "MAP OF L. B. LATHROP'S ADDITION TO SAN JOSE", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON MARCH 4, 1868 IN BOOK A OF MAPS, AT PAGE 79, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHEASTERLY LINE OF THIRTEENTH STREET, FORMERLY TWELFTH STREET, WITH THE NORTHWESTERLY LINE OF HORNING STREET, FORMERLY WILLOW STREET; RUNNING THENCE NORTH 30 DEG. 42' WEST ALONG THE SAID NORTHEASTERLY LINE OF THIRTEENTH STREET 412.50 FEET TO THE COMMON CORNER OF LOTS 3 AND 4, IN BLOCK 9, AS SAID LOTS AND BLOCK ARE SHOWN ON THE MAP ABOVE REFERRED TO; RUNNING THENCE NORTH 59 DEG. 07' 30" EAST ALONG THE SAID DIVIDING LINE BETWEEN LOTS 3 AND 4, FOR A DISTANCE OF 159.25 FEET TO THE WESTERNMOST CORNER OF THAT CERTAIN 0.77 ACRE TRACT OF LAND DESCRIBED IN THE DEED FROM WILLIAM FRANCIS GIACOMAZZI, ETAL, TO STATE OF CALIFORNIA, DATED MARCH 6, 1937, RECORDED MARCH 30, 1937 IN BOOK 813 OF OFFICIAL RECORDS, PAGE 465, SANTA CLARA COUNTY RECORDS; RUNNING THENCE ALONG THE SOUTHWESTERLY LINE OF SAID 0.77 ACRE TRACT SOUTH 82 DEG. 57' EAST 215.11 FEET; THENCE ON A CURVE TO THE RIGHT WITH A RADIUS OF 150.00 FEET THROUGH AN ANGLE OF 75 DEG. 52' 30" FOR A DISTANCE OF 198.64 FEET TO A POINT ON THE WESTERLY LINE OF THE SAN JOSE-OAKLAND HIGHWAY; RUNNING THENCE SOUTH 7 DEG. 05' 30" WEST ALONG SAID LAST NAMED LINE 120 FEET, MORE OR LESS, TO A POINT ON THE SAID NORTHWESTERLY LINE OF HORNING STREET, FORMERLY WILLOW STREET, RUNNING THENCE SOUTH 59 DEG. 18' WEST ALONG THE SAID NORTHWESTERLY LINE OF HORNING STREET, 325.11 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM, THAT PORTION THEREOF CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED JULY 22, 1954 IN BOOK 2920, PAGE 326 OF OFFICIAL RECORDS.

PARCEL TWO:

PORTION OF LOT 4, IN BLOCK 9, AS SHOWN UPON THAT CERTAIN MAP ENTITLED, "MAP OF L. B. LATHROP'S ADDITION TO SAN JOSE", WHICH MAP WAS FILED FOR RECORD IN THE OFFICE OF THE RECORDER OF THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, ON MARCH 4, 1868 IN BOOK A OF MAPS, AT PAGE 79, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID LOT 4, AS SAID LOT IS SHOWN UPON THE MAP ABOVE REFERRED TO; THENCE ALONG THE SOUTHEASTERLY LINE THEREOF NORTH 59 DEG. 07' 30" EAST 159.25 FEET A POINT IN A LINE PARALLEL TO AND 62.50 FEET SOUTHERLY, MEASURED AT RIGHT ANGLES FROM THE CENTER LINE OF THE DEPARTMENT OF PUBLIC WORKS' SURVEY BETWEEN AGNEW UNDERPASS AND THE SAN JOSE-MILPITAS ROAD; THENCE ALONG SAID PARALLEL LINE AND ITS EXTENSION WESTERLY NORTH 82 DEG. 58' WEST 120.59 FEET; THENCE TANGENT TO THE LAST DESCRIBED COURSE, ALONG A CURVE TO THE RIGHT, WITH A RADIUS OF 1425 FEET THROUGH AN ANGLE OF 3 DEG. 20' 42" A DISTANCE OF 83.19 FEET TO THE SOUTHWESTERLY LINE OF SAID LOT 4; THENCE ALONG