

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE TO DENY THE APPLICATION FOR A GENERAL PLAN AMENDMENT TO CHANGE THE GENERAL PLAN LAND USE DESIGNATION TO COMBINED INDUSTRIAL/COMMERCIAL, DENY THE APPLICATION TO CHANGE THE ZONING TO THE CIC COMBINED INDUSTRIAL/COMMERCIAL ZONING DISTRICT, AND DENY THE APPLICATION FOR A CONDITIONAL USE PERMIT TO AUTHORIZE THE DEMOLITION OF AN EXISTING BUILDING AND FUELING DISPENSERS, AND THE CONSTRUCTION OF A 3,750 SQUARE FOOT CONVENIENCE STORE, AUTO RETAIL FUELING DISPENSERS, CANOPIES, AND CARD LOCK FUELING DISPENSERS WITH THE OFF-SALE OF BEER AND WINE AND 24-HOUR USE ON THE 1.54 GROSS ACRE SITE LOCATED AT THE NORTHEAST CORNER OF COMMERCIAL STREET AND OAKLAND ROAD (1202 OAKLAND ROAD)

FILE NOS. GP16-011, C17-008, CP17-015

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on September 21, 2016, March 20, 2017 and May 8, 2017, the following concurrent applications were filed by the applicant, John Hicks, with the City of San José for the 1.54 gross acre site on that certain real property located at the northeast corner of Commercial Street and Oakland Road (1202 Oakland Road, San José, which real property is sometimes referred to herein as the "Subject Property"):

1. General Plan Amendment to change the General Plan Land Use/Transportation Diagram land use designation from Heavy Industrial to Combined Industrial/Commercial (File No. GP17-011); and
2. Conventional Rezoning from HI Heavy Industrial Zoning District to CIC Combined Industrial/Commercial Zoning District (File No. C17-008), and

3. Conditional Use Permit to allow the demolition of an existing building and fueling dispensers, and the construction of a 3,750-square foot convenience store, auto retail fueling dispensers, canopies, and card lock fueling dispensers with the off-sale of beer and wine, and 24-hour use (File No. CP17-015) (all applications are hereinafter collectively referred to as the "Project"); and

WHEREAS, the Subject Property is all that real property more particularly described and depicted 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, all of the Project applications are considered concurrently in accordance with Section 20.100.130 of the San José Municipal Code; and

WHEREAS, an Initial Study and Mitigated Negative Declaration for the Rotten Robbie #67 Project (Planning File Nos. GP16-011, C17-008, and CP17-015), including evaluation of the impacts of all applications submitted by the Applicant, has been prepared in accordance with the California Environmental Quality Act; and

WHEREAS, the Council is required by law to consider the applications for approval for this Project in the following order, and the approval of any of the latter items requires the approval of all of the actions before it:

1. Appropriate CEQA clearance;
2. General Plan amendment;
3. Zoning amendment; and
4. Conditional Use Permit; 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 Project on November 15, 2017, 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 Project, 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 City's Planning Commission and City's Director of Planning; and

WHEREAS, at said hearing, this City Council received in evidence a plan for the subject property entitled "Rotten Robbie #67, 1202 Oakland Road, San José, California 95112," last revised September 27, 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; and

WHEREAS, the Council desires to deny the application for the General Plan amendment because the requested change in the land use designation for the Subject Property from

its current Heavy Industrial (HI) designation would be inconsistent with the Council's land use goals and policies expressed in the General Plan; and

WHEREAS, as a result of the Council's denial of the application for a General Plan Amendment, the applications for zoning amendment and conditional use permit are also denied because they are inconsistent with the current General Plan and cannot be approved absent the requested change in the General Plan designation, which is denied.

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

1. The application for a General Plan amendment to change the land use designation of the Subject Property from Heavy Industrial to Combined Industrial/Commercial, File No. GP17-16-011, is hereby denied.
2. The application to change the zoning district of the Subject Property from the HI Heavy Industrial Zoning District to the CIC Combined Industrial/Commercial Zoning District, File No. C17-008, is hereby denied because it is inconsistent with the current General Plan land use designation of Heavy Industrial.
3. The application for a conditional use permit to authorize the proposed commercial uses on the Subject Property, File No. CP17-015, is hereby denied because the Council does not make the finding of consistency with the General Plan and Zoning required by Chapter 20.100 of Title 20 of the San José Municipal Code for all of the reasons that follow:
 - a. The Subject Property is designated Heavy Industrial on the Envision San José 2040 General Plan Land Use / Transportation Diagram. The Project is inconsistent with this designation as it allows for a significant amount of sole commercial development of a varied mixture of uses. The General Plan includes many goals and policies related to the preservation and creation of industrial land within San José, including the prohibition on converting heavy and light industrial lands to non-industrial uses. While the proposed Combined Industrial/Commercial land use designation allows industrial uses, it also allows for development that is solely commercial and retail in nature. The Project applications include the Conditional Use Permit application for the use of the Subject Property for solely commercial uses. Thus, the proposed General Plan Amendment, Rezoning, and Conditional Use Permit applications are for the conversion of industrial land to non-industrial land which is inconsistent with the General Plan.

b. The Project is inconsistent with the following goals and policies of the General Plan:

- Industrial Preservation Goal LU-6: Preserve and protect industrial uses to sustain and develop the city's economy and fiscal sustainability.
- Industrial Preservation Policy LU-6.1: Prohibit conversion of lands designated for light and heavy industrial uses to non-industrial uses.
- Industrial Preservation Policy LU-6.4: Encourage the development of new industrial areas and the redevelopment of existing older or marginal industrial areas with new industrial uses, particularly in locations which facilitate efficient commute patterns.
- Industrial Preservation Policy LU-6.5: Maintain and create Light Industrial and Heavy Industrial designated sites that are at least one acre in size in order to facilitate viable industrial uses.
- Industrial Preservation Policy LU-6.7: Encourage supportive and compatible commercial and office uses in industrial areas designated for those uses. In areas reserved for light and heavy industrial uses, only limited auxiliary and incidental commercial uses, such as small eating establishments, may be permitted when such uses are of a scale and design providing support only to the needs of businesses and their employees in the immediate industrial area.
- Industrial Preservation Policy LU-6.8: Reserve industrial areas for industrial and compatible support uses, while recognizing that industrial uses come in a variety of types and forms. Allow non-industrial uses which are only incidental to and totally compatible with primary industrial uses in exclusively industrial areas. Consider allowing supportive, non-industrial activities, such as retail sales of materials manufactured or stored on site.

c. The Subject Property is greater than one acre in size and is considered viable for industrial development. Conversion of the Subject Property to commercial uses as proposed in the Project applications would significantly decrease the possibility of industrial development on this site in the future. General Plan Policy LU-6.4 also states that the City should encourage the development of new industrial areas and the redevelopment of marginal industrial areas with new industrial uses. To be consistent with the General Plan, the City should promote the development of industrial uses on the Subject Property and not the expansion of commercial uses as requested in the Project applications including the conditional use permit application.

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DENIED this ___ day of _____ 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

LEGAL DESCRIPTION

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

PARCEL ONE:

BEGINNING AT AN IRON PIPE SET ON THE EASTERLY LINE OF THE SAN JOSE-OAKLAND ROAD, STATE HIGHWAY (100.00 FEET IN WIDTH), AT THE NORTHWESTERLY CORNER OF THAT CERTAIN 37.752 ACRE TRACT OF LAND DESCRIBED IN THE DEED FROM FORTUNATO PIERACCI, ET AL, TO GEORGE WILSON, ET UX, DATED DECEMBER 22, 1956, RECORDED DECEMBER 31, 1956 IN BOOK 3696 OFFICIAL RECORDS, PAGE 253, SANTA CLARA COUNTY RECORDS; THENCE NORTH 49° 28' 20" EAST ALONG A NORTHWESTERLY LINE OF SAID 37.752 ACRE TRACT 23.98 FEET TO A POINT ON A LINE WHICH IS PARALLEL WITH AND DISTANT EASTERLY 70.00 FEET AT RIGHT ANGLES FROM THE CENTER LINE OF SAID SAN JOSE OAKLAND ROAD, SAID LAST MENTIONED POINT BEING THE TRUE POINT OF BEGINNING OF THE PARCEL OF LAND TO BE DESCRIBED; THENCE FROM SAID TRUE POINT OF BEGINNING NORTH 49° 28' 20" EAST ALONG SAID NORTHWESTERLY LINE OF THE 37.752 ACRE TRACT 161.00 FEET; THENCE SOUTH 39° 45' 26" EAST 280.03 FEET TO A POINT ON THE NORTHWESTERLY LINE OF A PROPOSED STREET (80.00 FEET IN WIDTH); THENCE SOUTH 49° 28' 20" WEST ALONG SAID LAST NAMED LINE 10.21 FEET; THENCE CONTINUING ALONG SAID NORTHWESTERLY LINE OF SAID PROPOSED STREET (80.00 FEET IN WIDTH), SOUTHWESTERLY ON THE ARC OF A CURVE TO THE RIGHT, TANGENT TO THE PRECEDING COURSE, WITH A RADIUS OF 210.00 FEET, THROUGH A CENTRAL ANGLE OF 33° 30' 10", FOR AN ARC DISTANCE OF 122.79 FEET; THENCE CONTINUING ALONG SAID NORTHWESTERLY LINE OF SAID PROPOSED STREET SOUTH 82° 58' 30" WEST 141.24 FEET; THENCE WESTERLY ALONG THE ARC OF A CURVE TO THE RIGHT, TANGENT TO THE PRECEDING COURSE, WITH A RADIUS OF 20.00 FEET, THROUGH A CENTRAL ANGLE OF 90° 00', FOR AN ARC DISTANCE OF 31.42 FEET TO A POINT ON A LINE WHICH IS PARALLEL WITH AND DISTANT EASTERLY 70.00 FEET AT RIGHT ANGLES FROM SAID CENTER LINE OF SAN JOSE-OAKLAND ROAD; THENCE NORTH 7° 01' 30" WEST ALONG SAID LAST NAMED PARALLEL LINE 167.22 FEET TO THE TRUE POINT OF BEGINNING.

BEING A PORTION OF 500 ACRE LOT 18, SAN JOSE PUEBLO LANDS OF THE CITY OF SAN JOSE.
EXCEPTING THEREFROM ALL THAT PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIPE SET IN THE EASTERLY LINE OF THE SAN JOSE-OAKLAND ROAD, STATE HIGHWAY (100.00 FEET IN WIDTH), AT THE NORTHWESTERLY CORNER OF THAT CERTAIN 37.752 ACRE TRACT OF LAND DESCRIBED IN THE DEED FROM FORTUNATO PIERACCI, ET AL, TO GEORGE WILSON, ET UX, DATED DECEMBER 22, 1956, RECORDED DECEMBER 31, 1956 IN BOOK 3696 OFFICIAL RECORDS, PAGE 253, SANTA CLARA COUNTY RECORDS; THENCE FROM SAID POINT OF BEGINNING NORTH 49° 28' 20" EAST ALONG A NORTHWESTERLY LINE OF SAID 37.752 ACRE TRACT FOR A DISTANCE OF 23.98 FEET TO A POINT ON A LINE WHICH IS PARALLEL WITH AND DISTANT EASTERLY 70.00 FEET AT RIGHT ANGLES FROM THE CENTER LINE OF SAID SAN JOSE-OAKLAND ROAD; THENCE SOUTH 7° 01' 30" EAST ALONG SAID PARALLEL LINE FOR A DISTANCE OF 27.22 FEET AND THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND TO BE DESCRIBED; THENCE FROM SAID TRUE POINT OF BEGINNING SOUTH 7° 01' 30" EAST ALONG SAID PARALLEL LINE FOR A DISTANCE OF 140.00 FEET; THENCE EASTERLY ALONG AN ARC OF A CURVE TO THE LEFT, TANGENT TO THE PRECEDING COURSE, WITH A RADIUS OF 20.00 FEET, THROUGH A CENTRAL ANGLE OF 90° 00', FOR AN ARC DISTANCE OF 31.42 FEET TO A POINT ON THE NORTHWESTERLY LINE OF A PROPOSED STREET (80.00 FEET IN WIDTH); THENCE NORTH 82° 58' 30" EAST ALONG SAID LAST MENTIONED LINE FOR A DISTANCE OF 110.00 FEET; THENCE NORTH 14° 09' 24" WEST 161.248 FEET TO A POINT WHICH BEARS NORTH 82° 58' 30" EAST 110.00 FEET FROM THE SAID TRUE POINT OF BEGINNING; THENCE SOUTH 82° 58' 30" WEST 110.00 FEET TO THE

TRUE POINT OF BEGINNING.

PARCEL TWO:

AN EASEMENT FOR THE PURPOSE OF INGRESS AND EGRESS AND FOR THE INSTALLATION AND MAINTENANCE OF PUBLIC UTILITIES OVER A STRIP OF LAND, 80.00 FEET IN WIDTH, THE CENTER LINE OF WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT ON THE EASTERLY LINE OF THE SAN JOSE-OAKLAND ROAD (100.00 FEET IN WIDTH) DISTANT THEREON SOUTH 7° 01' 30" EAST 213.98 FEET FROM THE NORTHWESTERLY CORNER OF THAT CERTAIN 37.752 ACRE TRACT OF LAND DESCRIBED IN THE DEED FROM FORTUNATO PIERACCI, ET AL, TO GEORGE WILSON, ET UX, DATED DECEMBER 22, 1956, RECORDED DECEMBER 31, 1956 IN BOOK 3696 OFFICIAL RECORDS, PAGE 253, SANTA CLARA COUNTY RECORDS; THENCE NORTH 82° 58' 30" EAST 181.24 FEET; THENCE EASTERLY ON A CURVE TO THE LEFT, WITH A RADIUS OF 250.00 FEET; THROUGH AN ANGLE OF 33° 30' 10", FOR AN ARC DISTANCE OF 146.18 FEET; THENCE NORTH 49° 28' 20" EAST AND PARALLEL WITH THE NORTHWESTERLY LINE OF SAID 37.752 ACRE TRACT 920.44 FEET TO THE TERMINUS OF SAID EASEMENT.

EXCEPTING THEREFROM ALL THAT PORTION LYING WITH IN THE PARCEL OF LAND CONVEYED TO SEBASTIAN NOLA AND FRANCES ANNA NOLA, AS TRUSTEES UNDER TRUST DATED NOVEMBER 30, 1982 FROM CITY OF SAN JOSE, A MUNICIPAL CORPORATION, BY DEED RECORDED JUNE 28, 1989, INSTRUMENT NO. 10161220, BOOK L001, PAGE 338, SANTA CLARA COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIPE SET IN THE EASTERLY LINE OF THE SAN JOSE-OAKLAND ROAD, STATE HIGHWAY (100.00 FEET IN WIDTH), AT THE NORTHWESTERLY CORNER OF THAT CERTAIN 37.752 ACRE TRACT OF LAND DESCRIBED IN THE DEED FROM FORTUNATO PIERACCI, ET AL, TO GEORGE WILSON, ET UX, DATED DECEMBER 22, 1956, RECORDED DECEMBER 31, 1956 IN BOOK 3696 OFFICIAL RECORDS, PAGE 253, SANTA CLARA COUNTY RECORDS; THENCE FROM SAID POINT OF BEGINNING NORTH 49° 28' 20" EAST ALONG A NORTHWESTERLY LINE OF SAID 37.752 ACRE TRACT FOR A DISTANCE OF 23.98 FEET TO A POINT ON A LINE WHICH IS PARALLEL WITH AND DISTANT EASTERLY 70.00 FEET AT RIGHT ANGLES FROM THE CENTER LINE OF SAID SAN JOSE-OAKLAND ROAD; THENCE SOUTH 7° 01' 30" EAST ALONG SAID PARALLEL LINE FOR A DISTANCE OF 27.22 FEET AND THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND TO BE DESCRIBED; THENCE FROM SAID TRUE POINT OF BEGINNING SOUTH 7° 01' 30" EAST ALONG SAID PARALLEL LINE FOR A DISTANCE OF 140.00 FEET; THENCE EASTERLY ALONG AN ARC OF A CURVE TO THE LEFT, TANGENT TO THE PRECEDING COURSE, WITH A RADIUS OF 20.00 FEET, THROUGH A CENTRAL ANGLE OF 90° 00', FOR AN ARC DISTANCE OF 31.42 FEET TO A POINT IN THE NORTHWESTERLY LINE OF A PROPOSED STREET (80.00 FEET IN WIDTH); THENCE NORTH 82° 58' 30" EAST ALONG SAID LAST MENTIONED LINE FOR A DISTANCE OF 110.00 FEET; THENCE NORTH 14° 09' 24" WEST 161.248 FEET TO A POINT WHICH BEARS NORTH 82° 58' 30" EAST 110.00 FEET FROM THE SAID TRUE POINT OF BEGINNING; THENCE SOUTH 82° 58' 30" WEST 110.00 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL THREE:

BEGINNING AT AN IRON PIPE SET IN THE EASTERLY LINE OF THE SAN JOSE-OAKLAND ROAD, STATE HIGHWAY (100.00 FEET IN WIDTH), AT THE NORTHWESTERLY CORNER OF THAT CERTAIN 37.752 ACRE TRACT OF LAND DESCRIBED IN THE DEED FROM FORTUNATO PIERACCI, ET AL, TO GEORGE WILSON, ET UX, DATED DECEMBER 22, 1956, RECORDED DECEMBER 31, 1956 IN BOOK 3696 OFFICIAL RECORDS, PAGE 253, SANTA CLARA COUNTY RECORDS; THENCE FROM SAID POINT OF BEGINNING NORTH 49° 28' 20" EAST ALONG A

NORTHWESTERLY LINE OF SAID 37.752 ACRE TRACT FOR A DISTANCE OF 23.98 FEET TO A POINT ON A LINE WHICH IS PARALLEL WITH AND DISTANT EASTERLY 70.00 FEET AT RIGHT ANGLES FROM THE CENTER LINE OF SAID SAN JOSE-OAKLAND ROAD; THENCE SOUTH 7° 01' 30" EAST ALONG SAID PARALLEL LINE FOR A DISTANCE OF 27.22 FEET AND THE TRUE POINT OF BEGINNING OF THE TRACT OF LAND TO BE DESCRIBED; THENCE FROM SAID TRUE POINT OF BEGINNING SOUTH 7° 01' 30" EAST ALONG SAID PARALLEL LINE FOR A DISTANCE OF 140.00 FEET; THENCE EASTERLY ALONG AN ARC OF A CURVE TO THE LEFT, TANGENT TO THE PRECEDING COURSE, WITH A RADIUS OF 20.00 FEET, THROUGH A CENTRAL ANGLE OF 90° 00', FOR AN ARC DISTANCE OF 31.42 FEET TO A POINT IN THE NORTHWESTERLY LINE OF A PROPOSED STREET (80.00 FEET IN WIDTH); THENCE NORTH 82° 58' 30" EAST ALONG SAID LAST MENTIONED LINE FOR A DISTANCE OF 110.00 FEET; THENCE NORTH 14° 09' 24" WEST 161.248 FEET TO A POINT WHICH BEARS NORTH 82° 58' 30" EAST 110.00 FEET FROM THE SAID TRUE POINT OF BEGINNING; THENCE SOUTH 82° 58' 30" WEST 110.00 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL FOUR:

AN EASEMENT FOR THE PURPOSE OF INGRESS AND EGRESS AND FOR THE INSTALLATION AND MAINTENANCE OF PUBLIC UTILITIES OVER A STRIP OF LAND, 80.00 FEET IN WIDTH, THE CENTER LINE OF WHICH IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY LINE OF THE SAN JOSE-OAKLAND ROAD (100.00 FEET IN WIDTH) DISTANT THEREON SOUTH 7° 01' 30" EAST 213.98 FEET FROM THE NORTHWESTERLY CORNER OF THAT CERTAIN 37.752 ACRE TRACT OF LAND DESCRIBED IN THE DEED FROM FORTUNATO PIERACCI, ET AL, TO GEORGE WILSON, ET UX, DATED DECEMBER 22, 1956, RECORDED DECEMBER 31, 1956 IN BOOK 3696 OFFICIAL RECORDS, PAGE 253, SANTA CLARA COUNTY RECORDS; THENCE NORTH 82° 58' 30" EAST 181.24 FEET; THENCE EASTERLY ON A CURVE TO THE LEFT, WITH A RADIUS OF 250.00 FEET; THROUGH AN ANGLE OF 33° 30' 10", FOR AN ARC DISTANCE OF 146.18 FEET; THENCE NORTH 49° 28' 20" EAST AND PARALLEL WITH THE NORTHWESTERLY LINE OF SAID 37.752 ACRE TRACT 920.44 FEET TO THE TERMINUS OF SAID EASEMENT.

EXCEPTING THEREFROM ALL THAT PORTION LYING WITHIN THE PARCEL OF LAND CONVEYED TO SEBASTIAN NOLA AND FRANCES ANNA NOLA, AS TRUSTEES UNDER TRUST DATED NOVEMBER 30, 1982 FROM CITY OF SAN JOSE, A MUNICIPAL CORPORATION, BY DEED RECORDED JUNE 28, 1989, INSTRUMENT NO. 10161220, BOOK L001, PAGE 338, SANTA CLARA COUNTY, DESCRIBED AS FOLLOWS:

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EXHIBIT "A"
(File No. GP16-011)

LAST MENTIONED LINE FOR A DISTANCE OF 110.00 FEET; THENCE NORTH 14° 09' 24" WEST 161.248 FEET TO A POINT WHICH BEARS NORTH 82° 58' 30" EAST 110.00 FEET FROM THE SAID TRUE POINT OF BEGINNING; THENCE SOUTH 82° 58' 30" WEST 110.00 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL FIVE:

BEGINNING AT AN IRON PIPE SET ON THE EASTERLY LINE OF OAKLAND ROAD, FORMERLY SAN JOSE-OAKLAND ROAD, AT THE NORTHWESTERLY CORNER OF THAT CERTAIN 37.752 ACRE TRACT OF LAND DESCRIBED IN THE DEED FROM FORTUNATO PIERACCI, ET AL, TO GEORGE WILSON, ET UX, DATED DECEMBER 22, 1956, RECORDED DECEMBER 31, 1956 IN BOOK 3696 OF OFFICIAL RECORDS, PAGE 253, SANTA CLARA COUNTY RECORDS; THENCE NORTH 49° 13' 31" EAST (DEED BEARING NORTH 49° 28' 20" EAST) 23.98 FEET; THENCE SOUTH 7° 16' 19" EAST (DEED BEARING NORTH 7° 01' 30" WEST) 167.22 FEET TO THE TRUE POINT OF BEGINNING; ALONG THE NORTHERLY LINE OF COMMERCIAL STREET WHICH IS TO BE VACATED HERewith THE FOLLOWING COURSES; THENCE ALONG A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 20.00 FEET THROUGH A CENTRAL ANGLE OF 90° 00' 00" AND AN ARC LENGTH OF 31.42 FEET; THENCE NORTH 82° 43' 41" EAST (DEED BEARING NORTH 82° 58' 30" EAST) 141.24 FEET; THENCE ALONG A TANGENT CURVE TO THE LEFT WITH A RADIUS OF 210.00 FEET THROUGH A CENTRAL ANGLE OF 33° 30' 10" AND AN ARC LENGTH OF 122.79 FEET; THENCE ALONG THE NEW NORTHERLY LINE OF COMMERCIAL STREET THE FOLLOWING COURSES SOUTH 49° 13' 31" WEST 77.65 FEET; THENCE ALONG A TANGENT CURVE TO THE RIGHT WITH A RADIUS OF 960.00 FEET THROUGH A CENTRAL ANGLE OF 8° 51' 17" AND AN ARC LENGTH OF 148.36 FEET; THENCE ALONG THE SOUTHERLY LINE OF COMMERCIAL STREET VACATED HERewith SOUTH 82° 43' 41" WEST 62.87 FEET; THENCE ALONG A TANGENT CURVE TO THE RIGHT WITH A RADIUS OF 20.00 FEET THROUGH A CENTRAL ANGLE OF 28° 09' 18" AND AN ARC LENGTH OF 9.83 FEET; THENCE ALONG A CURVE TO THE RIGHT FROM A TANGENT LINE BEARING NORTH 49° 53' 38" WEST WITH A RADIUS OF 40.00 FEET THROUGH A CENTRAL ANGLE OF 42° 37' 19" AND AN ARC LENGTH OF 29.75 FEET; THENCE NORTH 7° 16' 19" WEST (DEED BEARING NORTH 7° 01' 30" WEST) 75.28 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL SIX:

BEGINNING AT AN IRON PIPE SET ON THE EASTERLY LINE OF OAKLAND ROAD FORMERLY SAN JOSE-OAKLAND ROAD, AT THE SOUTHWESTERLY CORNER OF THAT CERTAIN 37.752 ACRE TRACT OF LAND DESCRIBED IN THE DEED FROM FORTUNATO PIERACCI, ET AL, TO GEORGE WILSON, ET UX, DATED DECEMBER 22, 1956, RECORDED DECEMBER 31, 1956 IN BOOK 3696 OF OFFICIAL RECORDS, PAGE 253, SANTA CLARA COUNTY RECORDS; THENCE NORTH 49° 25' 11" EAST (DEED BEARING NORTH 49° 40' 00" EAST) 23.93 FEET; THENCE NORTH 7° 16' 19" WEST (DEED BEARING NORTH 7° 01' 30" WEST) 160.00 FEET; THENCE ALONG A TANGENT CURVE TO THE RIGHT WITH A RADIUS OF 20.00 FEET THROUGH A CENTRAL ANGLE OF 61° 50' 42" AN ARC LENGTH OF 21.59 FEET TO A POINT ON A CURVE HAVING A RADIAL BEARING OF NORTH 35° 25' 37" WEST TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING ALONG THE AFOREMENTIONED CURVE WITH A RADIUS OF 20.00 FEET THROUGH A CENTRAL ANGLE OF 28° 09' 18" AND AN ARC LENGTH OF 9.83 FEET; THENCE NORTH 82° 43' 41" EAST (DEED BEARING NORTH 82° 58' 30" EAST) 62.87 FEET; THENCE SOUTHWESTERLY ALONG A CURVE TO THE RIGHT FROM A TANGENT LINE THAT BEARS SOUTH 58° 04' 48" WEST WITH A RADIUS OF 960.00 FEET THROUGH A CENTRAL ANGLE OF 0° 57' 16" AND AN ARC LENGTH OF 15.99 FEET; THENCE SOUTH 59° 02' 04" WEST 13.33 FEET; THENCE ALONG A TANGENT CURVE TO THE RIGHT WITH A RADIUS OF 40.00 FEET THROUGH A CENTRAL ANGLE OF 71° 04' 18" AN ARC LENGTH OF 49.62 FEET TO THE TRUE POINT OF BEGINNING.

EXHIBIT "A"
(File No. GP16-011)

APN: 241-11-014 AND 241-11-020 (AFFECTS PARCEL ONE)
241-11-021(AFFECTS PARCEL THREE) AND
241-11-022(AFFECTS PARCELS FIVE AND SIX)

ARB NO'S: 243-13-136, 243-13-137, 243-13-78 AND 243-13-153