

DRAFT

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SAN JOSE REZONING CERTAIN REAL PROPERTY OF APPROXIMATELY 61.5 GROSS ACRES SITUATED ON THE SOUTH SIDE OF BERRYESSA ROAD, EAST OF COYOTE CREEK, WEST OF THE BART TRACKS CORRIDOR AND NORTH OF MABURY ROAD (THE SAN JOSE FLEA MARKET; APNS: 254-17-052, 254-17-053, 254-17-007, 254-17,084, AND 254-17-095), FROM THE A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO THE CP(PD) PLANNED DEVELOPMENT ZONING DISTRICT

WHEREAS, all rezoning proceedings required under the provisions of Chapter 20.120 of Title 20 of the San José Municipal Code have been duly had and taken with respect to the real property hereinafter described (“Subject Property”); and

WHEREAS, the approximately 61.5 gross acre site encompassed by the proposed rezoning was the subject of that certain Final Environmental Impact Report for the San José Flea Market Southside Rezoning Project, File No. PDC17-051 (“FEIR”), which evaluated the impact of developing up to 3,450 residential units and up to 3.4 million square feet of commercial uses; which FEIR was certified and adopted by the City Council on _____, 2021; and

WHEREAS, the City Council of the City of San José is the decision-making body for the proposed subject rezoning to CP(PD) Planned Development Zoning District; and

WHEREAS, this Council of the City of San José has considered, approved, and adopted said FEIR and related Mitigation Monitoring and Reporting Program under separate Council Resolution No. _____ prior to taking any approval actions on this project; and

WHEREAS, the City Council of the City of San José approves the rezoning on the condition that the applicant incorporates a 5-acre Urban Market as proposed in the last plan set submittal, received on May 21, 2021, and on file in the office of the Director of Planning, Building and Code Enforcement and is available for inspection by anyone interested therein; and

WHEREAS, the proposed rezoning is consistent with the designation of the site in the applicable General Plan and in the amended Berryessa BART Urban Village Plan;

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

SECTION 1. The recitals above are incorporated herein.

SECTION 2. All that real property hereinafter described in this section, hereinafter referred to as "subject property," is hereby rezoned as CP(PD) Planned Development Zoning District. The base district zoning of the subject property shall be the CP Commercial Pedestrian Zoning District. The CP(PD) Planned Development zoning of the subject property shall be that development plan for the subject property entitled, "Planned Development Zoning for Market Park", last revised on May 21, 2021 ("Planned Development Zoning").

Said Planned Development Zoning is on file in the office of the Director of Planning, Building and Code Enforcement and is available for inspection by anyone interested therein, and said Planned Development Zoning is by this reference adopted and incorporated herein the same as if it were fully set forth herein.

The subject property referred to in this section is all that real property situated in the County

of Santa Clara, State of California, described in Exhibit "A" attached hereto and incorporated herein by this reference.

SECTION 3. The district map of the City is hereby amended accordingly.

SECTION 4. The land development approval that is the subject of City File No. PDC17-051 is subject to the operation of Part 2.75 of Chapter 15.12 of Title 15 of the San José Municipal Code. The applicant for or recipient of such land use approval hereby acknowledges receipt of notice that the issuance of a building permit to implement such land development approval may be suspended, conditioned or denied where the City Manager has determined that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed by the California Regional Water Quality Control Board for the San Francisco Bay Region.

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PASSED FOR PUBLICATION of title this _____ day of _____, 2021 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

EXHIBIT A

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN JOSE, IN THE COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

Commencing at an iron pipe found at the intersection of the Northeasterly boundary of that certain 14.107 acre Parcel No. 1 shown on the Record of Survey Map recorded December 9, 1936 in [Volume 2 of Maps, Page 13](#), Santa Clara County Records, with the Westerly line of land and right of way (60 feet wide) of the Western Pacific Railroad Company; thence along said Northeasterly boundary of said Parcel No. 1, and the Northwesterly prolongation thereof N. 43° 00' 00" W., 847.71 feet to the Southerly line Berryessa Road, as established by survey of County Surveyor of Santa Clara County, in 1933; thence along said Southerly line of Berryessa Road, on the following courses: Southwesterly, on a curve with a radius of 625.00 feet, deflecting to the right from a tangent bearing S. 49° 28' 23" W., through a central angle of 10° 24' 37" an arc distance of 113.56 feet; thence S. 59° 53' 00" W. 62.15 feet to the Southeasterly prolongation of the Northeasterly line of that certain parcel described in Deed from William C. Shore, et ux, to Gain B. McNeal, recorded November 9, 1882 in [Book 65 of Deeds, Page 374](#), as last said line was retraced by survey of Herrmann in 1936, and shown on Record of Survey Map recorded December 9, 1936 in [Book 2 of Maps, Page 13](#), Santa Clara County Records; thence S. 59° 53' 00" W. 47.38 feet to a point of beginning of curve; thence Southwesterly on a curve with a radius of 1475.00 feet, deflecting to the left from tangency with last said course, through a central angle of 5° 27' 00" an arc distance of 140.30 feet; thence S. 54° 26' 00" W. 313.19 feet; thence Southwesterly on a curve with a radius of 475.00 feet, deflecting to the left from tangency with last said course, through a central angle of 22° 13' 00" an arc distance of 184.18 feet; thence S. 32° 13' 00" W. 122.30 feet; thence Southwesterly on a curve with a radius of 2025.00 feet, deflecting to the right from tangency with last said course, through a central angle of 6° 39' 30", an arc distance of 235.32 feet; thence S. 38° 52' 30" W., 264.63 feet; thence leaving said Southerly line of Berryessa Road S. 38° 47' 25" E. 119.03 feet to that certain parcel conveyed in the Deed to David Levin, et al., recorded December 20, 1955 in [Book 3366 of Official Records, Page 161](#); thence North 44° 24' 00" E. (along boundary of Levin's parcel) 39.30 feet; thence (continuing along said Levin's parcel) S. 38° 39' 00" E., 59.91 feet; S. 54° 50' 00" E. 288.42 feet; S. 56° 20' 00" E. 499.62 feet and S. 45° 35' 00" E. 255.49 feet to the Southerly corner of that certain parcel granted to Central Eureka Mining, by Deed recorded September 15, 1952, Recorder's [Serial Number 823347](#); thence along the boundary of said last mentioned parcel N. 46° 01' 00" E. 1059.87 feet to said Westerly line of land and right of way of the Western Pacific Railroad Company; thence along said Westerly line of the Western Pacific Railroad Company, N. 15° 00' 25" W. 403.91 feet to the point of commencement, and being shown on that certain Record of Survey filed June 21, 1962 in [Map Book 148, at Page 39](#), Santa Clara County Records.

EXCEPTING THEREFROM all that portion thereof described as follows:

Commencing at an iron pipe found at the intersection of the Northeasterly boundary of that certain 14.017 acre Parcel No. 1, shown on the Record of Survey Map filed for record in the Office of the Recorder of the County of Santa Clara, State of California on December 9, 1936 in [Book 2 of Maps, Page 13](#), with the Westerly line of the land and right of way, (60 feet wide), of the Western Pacific Railroad Company; thence along said Northeasterly boundary of said Parcel No. 1, as shown on said Map, N. 43° 00' 00" W. 773.52 feet to a 3/4 inch iron pipe found and the true point of beginning of this description; thence from said true point of beginning, S. 44° 24' 00" W. 1471.41 feet to the most Westerly corner of that certain parcel of land conveyed in the Deed to David Levin, et al., recorded December 20, 1955 in [Book 3366, of Official Records, Page 161](#); thence N. 38° 47' 25" W. 119.03 feet to a point in the Southeasterly line of Berryessa Road, (50 feet wide) as established by Survey of Santa Clara County, in 1933; thence along said last named line N. 38° 52' 30" E. 42.26 feet; thence leaving said line N. 63° 07' E. 178.59 feet; thence N. 51° 55' 00" E., 100.90 feet; thence N. 41° 05' 00" E. 100.00 feet; thence N. 29° 49' 00" E. 309.50 feet; thence N. 46° 45' 00" E. 100.00 feet; thence South 83° 13' 00" E. 68.03 feet; thence N. 36° 07' 00" E. 37.53 feet; thence N. 42° 45' 30" W., 17.82 feet; thence N. 45° 25' 00" E. 197.20 feet; thence N. 68° 45' 00" E. 80.00 feet; thence N. 44° 50' 00" E. 300.00 feet to a 2" x 2" hub set in the Northwesterly prolongation of the Northeasterly line of said 14.017 acre Parcel No. 1, hereinabove referred to; thence along said last named prolonged line S. 43° 00' 00" E. 62.00 feet to the true point of beginning.

[APN: 254-17-084](#)

EXHIBIT A (Continued)

PARCEL TWO:

Beginning at the point of intersection of the Southwesterly line of the Western Pacific Railroad Right of Way with the Northeasterly line of that certain 13.645 acre parcel of land as shown on the Record of Survey filed June 21, 1962 in [Book 148 of Maps, Page 39](#), Santa Clara County Records; thence along the Northeasterly line of said 13.645 acre parcel, North 43° 00' 00" West 773.52 feet to a point on the Southeasterly line of the former Southern Pacific Company Right of Way; thence along said Right of Way, North 44° 24' 00" East 417.11 feet, more or less, to a point on the Southwesterly line of the Western Pacific Railroad Right of Way; thence along said Southwesterly line South 14° 56' East 885.00 feet, more or less, to the point of beginning.

[APN: 254-17-007](#)

PARCEL THREE:

A parcel of land situate in the City of San Jose, County of Santa Clara, State of California, being all of Parcels 6 and 7 and a portion of Parcel 8 as said Parcels are described in deed dated March 30, 1939 from San Jose Railroads to Southern Pacific Railroad Company, recorded April 3, 1939, in [Volume 927, Page 162](#), Official Records of said County, described as follows;

Beginning at the intersection of the Southeasterly line of said Parcel 8 with the Westerly line of land (60 feet wide) of Western Pacific Railroad; thence North 15° 00' 25" West, along said Westerly line, 58.09 feet to the Northwesterly line of said Parcel 8; thence South 44° 24' West (shown as South 44° 50' West in said Deed) 447.20 feet to the Northeasterly line of said Parcel 7; thence North 43° 00' West, along said Northeasterly line, 11.95 feet to the Northwesterly line of said Parcel 7; thence along said Northwesterly line, as follows; South 44° 50' West 300.00 feet, South 68° 45' West 80.00 feet and South 45° 25' West 197.20 feet (shown as South 45° 25' West 204.0 feet in said deed), to the Southwesterly line of Parcel 7; thence South 42° 45' 30" East shown as South 43° 00' East in said deed, 17.82 feet to the Northwesterly line of said Parcel 6; thence along last said Northwesterly line, as follows; South 36° 07' West 37.53 feet (shown as South 37° 02' West 73.6 feet in said deed), North 83° 13' West 68.03 feet (shown as North 82° 18' West 45.0 feet in said deed), South 46° 45' West (shown as South 47° 40' West in said deed) 100.00 feet; South 29° 49' West (shown as South 30° 44' West in said deed) 309.50 feet South 41° 05' West (shown as South 42° 00' West in said deed) 100.00 feet, South 51° 55' West, (shown as South 52° 50' West in said deed) 100.90 feet, South 63° 07' West 178.59 feet (shown as South 64° 02' West 185.3 feet in said deed) and South 38° 52' 30" West 42.26 feet (shown as South 44° 50' West 35.0 feet in said deed) to the Southwesterly line of said Parcel 6; thence South 38° 47' 25" East, along last said Southwesterly line 119.03 feet (shown as South 38° 19' East 125 feet in said deed) to the Southwesterly corner of said Parcel 6; thence North 44° 24' East (shown as North 44° 24' East (shown as North 44° 50' East in said deed), along the Southeasterly lines of said Parcels 6, 7 and 8, a distance of 1891.32 feet to the point of beginning.

Excepting therefrom that portion of said property lying below a depth of five hundred (500) feet measured vertically from the contour of the surface thereof; provided, however, that said grantor, its successors and assigns, shall not have the right for any and all purposes to enter upon, into or through the surface of the portion of said property lying above 500 feet, measured vertically from the contour of the surface of said property.

ALSO EXCEPTING THEREFROM all that portion conveyed to the Santa Clara Valley Transportation Authority by Final Order of Condemnation - Action in Eminent Domain, recorded June 6, 2012, as [Instrument No. 21699548, of Official Records](#).

ALSO EXCEPTING THEREFROM all that portion conveyed to the Santa Clara Valley Transportation Authority by Grant Deed recorded November 19, 2018, as [Instrument No. 24066187, of Official Records](#).

PARCEL FOUR:

**EXHIBIT A
(Continued)**

Beginning at a 6" x 6" corner fence post marked BB standing at the Southernmost corner of Borchers's Land in the Northern line of lands of Geremia Fattalini, et al, formerly owned by W.F. Babcock in 500 acre Lot 28, former City Lands of San Jose; thence along the Southeastern line of lands of Borchers and Stocklin North 46° 17' East 10.32 chains to a stake marked BCX standing in fence corner at the common corner for lands of C. Geissman and Geremia Fattalini, et al, in the Southeasterly line of Mrs. Stocklin's Land; thence along fence line between lands of said G. Fattalini, et al, and C. Geissman, South 37° 56' East 9.96 chains to a stake marked B5 being the common corner for lands of King and G. Fattalini, et al, in the Southwesterly line of said Geissman's Land; thence along the line between the lands of said Fattalini, et al, on the North and the lands of King McKiernan and R. Summers on the South, South 48° West 13.24 chains to a stake marked JP2 standing at the Northernmost corner of 5.32 acres deeded by J.P. Hall to Manuel A. Vierra, by Deed dated of October 13, 1988, being also the Westernmost corner of R. Summers land; thence along the line between the lands of said Summers and G. Fattalini, et al, South 40° 20' East 8.84 chains to a stake marked JP1 standing at the Easternmost corner of the above mentioned 5.32 acre tract formerly owned by M.A. Vierra and in the center of Mabury Road; and thence along the center of Mabury Road being also the line between 500 acre Lots 27 and 28, South 50° 30' West 6.24 chains to the center of Coyote River and the Western Line of said above mentioned 5.32 acre tract; thence along the center of Coyote River with the following courses and distances: North 38° 35' West 4.31 chains, North 41° 30' West 4.20 chains to a stake marked BF and H2 standing in present channel of Coyote River and the Eastern line of 10.23 acre tract in 500 acre Lot 28, sold by Jacob Heft to Edwards and Dudley by Deed dated May 8, 1874; and thence along the Eastern line of said 10.23 acre lot or tract, North 44 1/4° West 9.35 1/2 chains to a stake marked B3; and thence leaving said Coyote channel and Eastern line of said 10.23 acre tract and running North 46° 17' East 10.15 chains to the point of beginning.

Being part of 500 acre Lot No. 28 of former Pueblo of San Jose, courses true. Variation 16 1/2° East.

Excepting therefrom that portion thereof as conveyed by Rolando Nicora and Clementine Nicora, his wife, to the Western Pacific Railroad Company, a corporation, by Deed dated May 2, 1921 and recorded July 16, 1921, in [Book 536 of Deeds, Page 487](#), described as follows:

A strip of land 60 feet in width lying 30 feet on each side of, at right angles to, and parallel with the located center line of the Western Pacific Railroad Company's branch line of railroad, from Niles or near Niles in Alameda County to San Jose, as the same is staked out and located across the land conveyed to Rolando Nicora, by Giovanni Nobile by Deed recorded May 31, 1892, in [Book 147 of Deeds, Page 420](#).

The center line is described as follows:

Beginning at a point in the property line between the lands now or formerly of Rolando Nicora and C.A. Borchers, said beginning point being South 46° 07' West 256.39 feet along the said property line from a stake marked B.G. standing at the Northeasterly corner of said land of Rolando Nicora; thence South 14° 58' East 732.25 feet along the located center line of the Western Pacific Railroad Company, to a point in the property line between the lands now or formerly of Rolando Nicora and Cesare and Adolfo Delgrande, said point being South 47° 40' West 564.47 feet from a stake marked B5 standing at the most Easterly corner of said land conveyed to Rolando Nicora.

Excepting therefrom all those parcels of land described as Parcels 17, 25 and 27, as shown on a Record of Survey recorded November 27, 1963 in [Book 170 of Maps, Pages 10, 11 and 12](#), in the office of the County Recorder of Santa Clara County.

Excepting therefrom all of that property above described lying within the bounds of Parcels A, B and C, as shown upon that Parcel Map filed for record September 26, 1984, in [Book 534 of Maps, at Pages 36 and 37](#), Santa Clara County Records.

PARCEL FIVE:

All that certain real property situate in the County of Santa Clara, State of California, described as follows;

EXHIBIT A (Continued)

Beginning at a stake marked "JP1" in the center of Mabury Road, said stake being the Southwesterly corner of that certain 4.18 acre tract of land conveyed to the Standard Realty and Development Company by Joseph Lavagnino, et ux, by Deed dated October 6, 1920, records of Santa Clara County, said stake also standing on the boundary line between 500 acre Lots 27 and 28 of the Pueblo Lands, of the City of San Jose; running thence North 50° 46' East along the center of said road and boundary line a distance of 13.99 feet to a point which point is 30 feet, distant at right angles Southwesterly from the located center line of the Western Pacific Railroad Company's branch line of railroad as the same is staked out and located across the said tract of land conveyed by Joseph Lavagnino, et ux, to the Standard Realty and Development Company; thence North 14° 58' West parallel to said located center line a distance of 656.41 feet to a point in the Northerly boundary line of the said tract of land deeded by Lavagnino, et ux, to the Standard Realty and Development Company; thence South 47° 40' West 293.43 feet, along said Northerly boundary line of said tract of land to a stake marked "JP2"; thence South 40° 12' East 582.60 feet, along the Western boundary of said tract of Land deeded by Lavagnino, et ux, to the Standard Realty and Development Company, to the point of beginning.

Excepting therefrom Parcels Four and Five above described all that certain property granted to the County of Santa Clara by Deed recorded September 30, 1980 in [Book F615, Page 574](#), Official Records, and being more particularly described as follows:

PARCEL A:

Beginning at the most Easterly corner of that certain 2.06 acre parcel of land described as Parcel Two in the Judgment of Final Distribution on Waiver of Accounting filed for record in [Book C189, of Official Records, at Page 360](#), Santa Clara County Records, said point of beginning also lying on the center line of Mabury Road; thence leaving said point of beginning along the general Southeasterly line of said parcel and the Southeasterly line of that certain 25.32 acre parcel of land as described as Parcel One in the hereinabove mentioned Judgment of Final Distribution of Waiver of Accounting and said Southeasterly lines being the center line of Mabury Road South 50° 53' 44" West 136.39 feet and South 50° 10' 41" West 281.10 feet to the most Southerly corner of said Parcel One; thence along the Southwesterly line of said Parcel One North 38° 18' 27" West 25.01 feet to point on a line parallel with and distant 25.00 feet Northwesterly measured at right angles from said Southeasterly line of the 25.32 acre parcel; thence leaving said Southwesterly line of Parcel One along said parallel line North 50° 10' 41" East 280.58 feet to an angle point in said parallel line; thence continuing along last described parallel line and along a line parallel with and distant 25.00 feet Northwesterly measured at right angles from said Southwesterly line of the 2.06 acre parcel North 50° 53' 44" East 147.81 feet to a point on the Northeasterly line of said Parcel Two; thence leaving last described parallel line along said Northeasterly line of Parcel Two South 14° 52' 20" East 27.42 feet to the point of beginning.

PARCEL B:

Beginning at a point on the Southwesterly line of the hereinabove mentioned Parcel One distant thereon North 38° 18' 27" West 25.01 feet from The most Southerly corner of said Parcel One; thence leaving said point of beginning along said Southwesterly line North 38° 18' 27" West 8.01 feet to a point on a line parallel with and distant 33.00 foot Northwesterly measured at right angles from the Southeasterly line of said Parcel One; thence leaving said Southwesterly line along said parallel line North 50° 10' 41" East 86.89 feet; thence leaving said parallel line along a tangent curve to the right with a radius of 1810.00 feet through a central angle of 4° 05' 46" for an arc length of 129.40 feet; thence North 54° 16' 27" East 43.66 feet; thence North 50° 53' 44" East 20.65 feet to a point in a line parallel with and distant 25.00 feet Northwesterly measured at right angles from said Southeasterly line of Parcel One; thence along said parallel line South 50° 10' 41" West 280.58 feet to the point of beginning.

PARCEL C:

Beginning at a point on the Northeasterly line of the hereinabove mentioned Parcel Two distant thereon North 14° 52' 20" West 27.42 feet from the most Easterly corner of said Parcel Two said point being on a line parallel with and distant 25.00 feet Northwesterly measured at right angles from the general Southeasterly line of said Parcel

**EXHIBIT A
(Continued)**

Two; thence leaving said point of beginning and said Northeasterly line along said parallel line and its Southwesterly prolongation South 50° 53' 44" West 168.46 feet; thence leaving said parallel line South 54° 16' 27" West 43.66 feet; thence along a tangent curve to the left with a radius of 1810.00 feet through a central angle of 1° 45' 50" for an arc length of 55.72 feet; thence North 50° 53' 44" East 269.95 feet to a point on said Northeasterly line of Parcel Two; thence along said Northeasterly line South 14° 52' 20" East 5.48 feet to the point of beginning.

Excepting therefrom that certain property granted to the City of San Jose, a municipal corporation, by Deed recorded March 28, 1984 in [Book 1409, Page 343](#), Official Records, and being more particularly described as follows:

Commencing at the most Easterly corner of that certain 2.06 acre parcel of land described as Parcel Two in the Judgment of Final Distribution of Waiver of Accounting filed for record in [Book C189 of Official Records, at Page 360](#), Santa Clara County Records, said point also lying on the center line of Mabury Road; thence leaving said point along the Northeasterly line of said Parcel Two North 14° 52' 20" West 27.42 feet to the point of beginning; thence from said point of beginning and along said Northeasterly line North 14° 52' 20" West 21.42 feet; thence South 47° 30' 18" West 205.15 feet to a point on a line parallel with and distant 33.00 feet Northwesterly measured at right angles from said center line of Mabury Road; thence along said parallel line South 50° 10' 41" West 145.39 feet to a point of cusp; thence Northeasterly along a tangent curve to the right with a radius of 1,810.00 feet through a central angle of 4° 05' 46" for an arc length of 129.40 feet; thence North 54° 16' 27" East 43.66 feet to point on a line; thence North 50° 53' 44" East 168.46 to the point of beginning and the terminus of this description.

Excepting therefrom all that certain property as granted to the City of San Jose, a municipal corporation by Deed recorded December 23, 1986 in [Book J970, Page 1682](#), Official Records, and being more particularly described as follows:

Commencing at the Easterly corner of that certain 2.06 acre parcel described as Parcel Two in the Judgment of Final Distribution on Waiver of Accounting filed for Record in [Book C189, of Official Records at Page 360](#), Santa Clara County Records, said point also lying on the center line of Mabury Road; thence along the Northeasterly line of said Parcel Two North 14° 52' 29" West 48.84 feet to the true point of beginning of this description; thence along said Northeasterly line of said Parcel Two North 14° 52' 20" East, 7.90 feet; thence South 47° 30' 18" West, 84.05 feet; thence South 41° 48' 16" West, 70.47 feet; thence North 47° 30' 18" East, 150.51 feet back to the true point of beginning of this description.

Also EXCEPTING THEREFROM all that portion conveyed to the Santa Clara Valley Transportation Authority by Grant Deed recorded November 19, 2018, as [Instrument No. 24066188, of Official Records](#)

Also EXCEPTING THEREFROM all that portion conveyed to the Santa Clara Valley Transportation Authority by Grant Deed recorded November 19, 2018, as [Instrument No. 24066189, of Official Records](#)

**EXHIBIT A
(Continued)**

PARCEL SIX:

Rights over Parcels 25 and 27 as shown on Record of Survey recorded November 27, 1963 in [Book 170 of Maps, Pages 10](#) to 12, inclusive, as reserved in the Deed from Clementina Nicora to Santa Clara County Flood Control and Water District recorded January 29, 1965 in [Book 6831 at Page 675](#), which provides among other things the following:

- A) The right to cross said parcels with irrigation lines, water lines, public street, public utilities, roadways, and with railroad tracks to connect with the tracks now owned by Western Pacific Railroad Company,
- B) The right to park vehicles on and to pave said parcels.