RESOLUTION NO. ________

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING A SITE DEVELOPMENT PERMIT TO ALLOW THE DEMOLITION OF AN EXISTING COMMERCIAL BUILDING (MEL COTTON’S SPORTING GOODS STORE), REMOVAL OF SEVEN ORDINANCE-SIZE TREES, AND DEVELOPMENT OF A NEW 29,575-SQUARE FOOT COMMERCIAL BUILDING ON AN APPROXIMATELY 2.04 GROSS ACRE SITE, ON THE SOUTHEAST CORNER OF WEST SAN CARLOS STREET AND RACE STREET (320 RACE STREET)

FILE NO. H17-018

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on February 1, 2017, an application (File No. H17-018) was filed by the applicant, Terry Pries, with the City of San José for a Site Development Permit to allow the demolition of an existing commercial building (Mel Cotton’s Sporting Goods store), removal of seven ordinance-size trees, and development of a new 29,575-square foot commercial building on an approximately 2.04 gross acre site, on that certain real property situated in the CIC Combined Industrial/Commercial Zoning District and located on the southeast corner of West San Carlos Street and Race Street (320 Race Street, San José, California, which real property is sometimes referred to herein as the “subject property”) (the “Project”); 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 Director of Planning conducted a hearing on said application on May 18, 2016, notice of which was duly given; and
WHEREAS, at said hearing, the Director of Planning gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing, the Director of Planning approved the requested Site Development Permit; and

WHEREAS, R. Wolfe & Associates, representing Janice L. Nelson, Hector Moreno, and Michael Madeiros, filed a timely appeal of the associated environmental clearance; and

WHEREAS, pursuant to and in accordance with Chapter 21.04 of Title 21 of the San José Municipal Code, this City Council conducted a hearing on said appeal of the environmental clearance for this 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 City's Director of Planning, Building, and Code Enforcement; and

WHEREAS, at said hearing, this City Council received in evidence a development/site plan for the subject property entitled, "Site Development Permit for Smart & Final Extra!," last dated June 16, 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 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, this City Council has heard and considered the testimony presented to it at the public hearing, and has further considered written materials submitted on behalf of the Appellant, project applicant, City staff, and other interested parties; and

WHEREAS, this Council by separate resolution denied the appeal of the environmental clearance for this project and desires to approve the project.

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 and findings regarding this proposed Project:

1. **Site Description and Surrounding Uses.** The subject site is located on the southeast corner of West San Carlos Street and Race Street (320 Race Street). The site is currently developed with an approximately 29,200 square feet of vacant commercial building (Mel Cotton’s). Across Race Street to the west, across West San Carlos Street to the north, and directly south of the project site are existing retail and commercial businesses. East of the site is an existing industrial fabrication business.

2. **Project Description.** Site Development Permit to allow the demolition of an existing commercial building (Mel Cotton’s), removal of seven ordinance-size trees, and development of a new approximately 29,575-square foot commercial building on an approximately 2.04 gross acre site.

3. **General Plan Conformance.** The project site has a General Plan Land Use/Transportation Diagram designation of Combined Industrial/Commercial. This category allows a significant amount of flexibility for the development of a varied mixture of compatible commercial and industrial uses, including hospitals and private community gathering facilities. Properties with this designation are intended for commercial, office, or industrial developments or a compatible mix of these uses. This designation occurs in areas where the existing development pattern exhibits a mix of commercial and industrial land uses, or in areas on the boundary between commercial and industrial uses. This land use designation is intended for a broad range of commercial activity, including commercial uses that serve the
communities in neighboring areas, such as retail and services, and commercial/professional office development. The proposed commercial/retail building is an appropriate land use for this land use designation. This type of project is also supported by the following General Plan goals and policies:

a. **Land Use and Employment Policy IE-1.2:** Plan for the retention and expansion of a strategic mix of employment activities at appropriate locations throughout the City to support a balanced economic base, including industrial suppliers and services, commercial/retail support services, clean technologies, life sciences, as well as high technology manufacturers and other related industries.

   **Analysis:** The subject development would maintain a commercial use on the site, while increasing the amount of commercial square footage by approximately 2,000 square feet.

b. **Land Use Policy LU–5.1:** In order to create complete communities, promote new commercial uses and revitalize existing commercial areas in locations that provide safe and convenient multi-modal access to a full range of goods and services.

   **Analysis:** The subject development would redevelop an existing vacant commercial building and is located at the corner of a proposed bus rapid transit station. The proposed retail business would provide the sales of a full range of goods and services.

c. **Maintain Employment Land Policy LU-8.2:** Encourage more large-format commercial uses in Combined Industrial/Commercial lands, since these development typologies are typically similar to the development scale of industrial development in the same area. Discourage small-scale and strip commercial shopping centers in the Combined Industrial/Commercial area.

   **Analysis:** The subject commercial/retail business is a large-format commercial use that is similar in scale to the adjacent commercial and industrial businesses. Additionally, locating the building closer to the street frontage and corner provides sufficient buffer from the adjacent industrial uses and allows the functionality of both the commercial and industrial uses.

4. **Zoning Ordinance Compliance.** The proposed project site is located in the CIC Combined Industrial/Commercial Zoning District. A commercial building is a permitted use in this zoning district.

   a. **Site Development Permit.** Section 20.100.610 of the San José Municipal Code states that a Site Development Permit is required prior to the issuance of any building permit for any structure on any site in conformance with the applicable zoning regulations.

   b. **Setbacks.** The CIC Combined Industrial/Commercial Zoning District has a minimum front setback of 15 feet (Race Street), and side and rear setbacks of 0 feet. The subject building is at least 15 feet from the property line along Race...
Street and conforms to the allowed zero setbacks along the side and rear of the building.

c. **Height.** The CIC Combined Industrial/Commercial limits the building height to 60 feet. The subject building is approximately 34 feet to the top of the parapet and therefore meets the height limit.

d. **Parking.** Pursuant to Section 20.90.220(C) of the Zoning Ordinance, structures or uses located within 2,000 feet of a proposed or an existing rail station or bus rapid transit station are allowed a 20 percent reduction in required parking. The Santa Clara Valley Transportation Authority (VTA) has identified the corner of West San Carlos Street and Race Street as the location of a proposed bus rapid transit station. The net floor area of the proposed buildings is approximately 25,139 square feet and is required to park at a ratio of one vehicle space per 200 square feet of net floor area. The project is required to provide 126 parking spaces and qualifies for a 20 percent reduction given its proximity to a future bus rapid station. Therefore, only 101 vehicle parking spaces are required for the proposed project and 101 vehicle spaces are provided. Based on square footage, the project is required to provide six motorcycle spaces and 18 bicycle spaces. The project would provide six motorcycle spaces and 18 bicycle spaces.

5. **Transportation:** A Traffic Operational Analysis has been performed for this project based on no additional AM and 17 PM peak hour trips. Due to the small size of the project (resulting in less than 25 net peak hour vehicle trips), a comprehensive Transportation Impact Analysis (TIA) per the City of San Jose’s Transportation Policy 5-3 is not necessary. Based on the findings of the Traffic Operational Analysis, the subject project will be in conformance with the City of San José Transportation Level of Service Policy (Council Policy 5-3) and a determination for a negative declaration can be made with respect to traffic impacts.

6. **Environmental Review.** The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have a significant negative effect on adjacent property or properties.

   a. The proposed project is exempt per CEQA section 15332 for In-fill Development Projects, as the proposed project is consistent with the General Plan designation; the project occurs within city limits and is no more than five acres and substantially surrounded by urban uses; the project site has no value as habitat for endangered, rare or threatened species; the approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site is adequately served by all required utilities and public services.
7. **Site Development Permit Findings.** Chapter 20.100 of Title 20 of the San José Municipal Code establishes required findings for issuance of a Site Development Permit. This City Council concludes and finds, based upon an analysis of the above facts that:

a. The Site Development Permit, as approved, is consistent with and will further the policies of the General Plan and applicable Specific Plans and Area Development Policies.

**Analysis:** As noted above, the proposed project is consistent with the General Plan Land Use/Transportation Diagram designation of Combined Industrial/Commercial for this site, and furthers applicable goals and policies of the Plan. The project is located in the Midtown Specific Plan, which was adopted in 1992 and covers approximately 210-acres of industrial and commercial service area. The plan divided the plan into six subareas and the subject project is located in the Lincoln Auzerais subareas. An area characterized by numerous industrial and service commercial uses. The land use designation noted in the Midtown Specific Plan has been retired and the land use designation in the General Plan land use designation of Combined Industrial/Commercial applies. The building is pushed to the corner of the site and incorporates pathways and cutouts that encourage access and activation at the sidewalk level. Additionally, the building is design with the possibility of an entrance at the corner of West San Carlos and Race. To avoid blank walls, the project has incorporated architectural elements such as vertical breaks, columns, projections and materials such as glass and green screens. This is both consistent with the Midtown Specific Plan and the Commercial/Industrial Design Guidelines.

b. The Site Development Permit, as approved, conforms with the Zoning Code and all other provisions of the San José Municipal Code applicable to the project.

**Analysis:** As noted above, the proposed project conforms to the development regulations established for the CIC Combine Industrial/Commercial Zoning District. The project also conforms to the required findings of a Site Development permit pursuant to section 20.100.630 of the Zoning Ordinance, as discussed below.

c. The Site Development Permit, as approved, is consistent with applicable City Council Policies, or counterbalancing considerations justify the inconsistency.

**Analysis:** The City Council has not adopted any specific policies related to this project.

d. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.
Analysis: The location of the new building is mutually compatible and aesthetically harmonious with existing development adjacent to the site in that it is of similar design, slope and size as the existing surrounding development. The building is located at the street corner of the site and provides sufficient distance away from the existing industrial development to the west. Architectural elements are used to screen the loading dock area from view, and other design features were incorporated to encourage access from West San Carlos Street and Race Street.

e. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

Analysis: The proposed project is harmonious with adjacent development, in that the new building will replace an existing commercial development, and all new building materials and massing are similar to the nearby developments.

f. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties. The proposed project is exempt per CEQA section 15332 for In-fill Development Projects as the proposed project is consistent with the General Plan designation; the project occurs within city limits and is no more than five acres and substantially surrounded by urban uses; the project site has no value as habitat for endangered, rare or threatened species; the approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site is adequately served by all required utilities and public services.

g. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

Analysis: The project’s proposed landscaping and irrigation system, walls, fences, exterior heating and ventilating, plumbing, utility and trash facilities are sufficient to maintain the appearance of the neighborhood in that the site has appropriate landscaping and irrigation as shown on the project plans. In addition, the heating, ventilating, and plumbing systems are shielded on the roof or inside the building/ground.
h. Traffic access, pedestrian access and parking are adequate.

   Analysis: The proposed traffic access, pedestrian access and parking are adequate in that the project has access from both West San Carlos Street and Race Street with pedestrian access from both the street frontage and from the parking lot. As discussed above, the project is provide sufficient parking, motorcycle and bicycle parking.

8. Demolition Findings. The City Council concludes and finds, based on the analysis of the above facts with respects to the Demolition Findings (Section 20.80.460 of the San José Municipal Code), that the following shall be considered to determine whether the benefits of permitting the demolition, removal or relocation outweigh the impacts of the demolition, removal or relocation:

   a. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
   b. The failure to approve the permit would jeopardize public health, safety or welfare;
   c. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;
   d. The approval of the permit should maintain the supply of existing housing stock in the City of San José;
   e. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
   f. Rehabilitation or reuse of the existing building would not be feasible; and
   g. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

   Analysis: Based on consideration of the above, the benefits of permitting the demolition outweigh the impacts of demolition in that demolition of the buildings would allow the overall site to be redeveloped with a commercial retail business, which will create new employment opportunities and economic development benefits for the City and its residents. The project is designed to be compatible with the surrounding neighborhood, and would not have any impact on housing stock, and would not impact any historic resources.

9. Tree Removal. The City Council concludes and finds, based on the analysis of the above facts with respect to the Live Tree Removal findings (Section 13.32.100 of the San José Municipal Code), that:

   a. That the trees are in such a location in such surroundings, that their removal would not significantly frustrate the purposes of Chapter 13.32; and
b. That the location of the trees with respect to the proposed improvement unreasonably restricts the economic development of the parcel in question.

c. Pursuant to Section 13.32.080 of the Municipal Code, the request for a Tree Removal Permit may be included as part of an application for a Development Permit under the provisions of Title 20 of this Municipal Code. The Development Permit may serve as the Tree Removal Permit and be processed under the application, noticing, hearing and appeal provisions applicable to the Development Permit application, and no separate permit shall be required, so long as all of the substantive provisions and permit processing requirements of this Chapter 13.32 are met as a part of processing that Development Permit.

Analysis: Of the 20 trees to be removed, seven trees are ordinance-size trees located within the proposed circulation area or bioretention areas for the new project. All the trees have been determined to be of poor health and poor for preservation suitability by a certified arborist, as shown on the Tree Inventory and Removal Plan Sheet 10.1. The location of the trees throughout the site unreasonably restricts the economic development of the parcel in that the trees will be within the footprint of the proposed site improvements.

In accordance with the findings set forth above, the permit appeal is hereby denied and the requested Site Development Permit is hereby approved subject to the following conditions:

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. Acceptance of Permit. Per Section 20.100.290(B), should the permittee fail to file a timely and valid appeal of this Site Development Permit within the applicable appeal period, such inaction by the permittee shall be deemed to constitute all of the following on behalf of the permittee:

a. Acceptance of the Site Development Permit by the permittee; and

b. Agreement by the permittee to be bound by, to comply with, and to do all things required of or by the permittee pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 of the San José Municipal Code applicable to such Permit.

2. Permit Expiration. This Permit shall automatically expire two years from and after the date of issuance hereof by said Director, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to
extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.

3. **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 applicant 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 Facility will 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 Quality 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.

4. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Site Development Permit shall be deemed acceptance of all conditions specified in this Permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.

5. **Conformance to Plans.** The development of the site shall conform to the approved Site Development Permit plans entitled, “Site Development Permit for Smart & Final Extra!” dated June 16, 2017 on file with the Department of Planning, Building and Code Enforcement, as may be amended and approved by the Director of Planning, Building, and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24). The plans are referred to herein as the “Approved Plan Set” or “approved plans”.

6. **Compliance with Local and State Laws.** The subject use 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 San José Municipal Code. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance, as defined above.

7. **Discretionary Review.** The City Council and/or Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Site Development Permit incorporated by reference in this Permit in accordance with Chapter 20.100 of the San José Municipal Code.
8. **Generators.** This permit does not include the approval of any stand-by/backup electrical power generation facility. Any future stand-by/backup generators shall secure appropriate permits and shall conform to the regulations of Title 20 of the Municipal Code.

9. **Green Building for Tier 2 Non Residential Development (≥25,000 square feet).** This development is subject to the City’s Green Building Ordinance for Private Sector New Construction. Prior to the issuance of any shell or complete building permits issued on or after September 8, 2009 for the construction of buildings approved through the scope of this permit, the applicant shall pay a Green Building Refundable Deposit amount applicable to the gross square footage of said buildings which are approved through this permit. The project must receive the minimum green building certification of LEED Silver. The request for refund of the Green Building Deposit together with green building certification evidence demonstrating the achievement of the green building standards indicated above shall be submitted within a year after the building permit expires or becomes final, unless a request for an extension is submitted to the Director of Planning, Building, and Code Enforcement in accordance with Section 17.84.305D of the Municipal Code.

10. **Pre and During Construction Requirements.**
    a. **BAAQMD.** The following standard Bay Area Air Quality Management District (BAAQMD) dust control measures shall be incorporated during all phases of construction on the Project site to reduce dustfall emissions:
       i. All active construction areas shall be watered twice daily or more often if necessary. Increased watering frequency shall be required whenever wind speeds exceed 15 miles per hour.
       ii. Pave, apply water three times daily, or apply non-toxic soil stabilizers on all unpaved access roads and parking and staging areas at construction sites.
       iii. Cover stockpiles of debris, soil, sand, and any other materials that can be windblown. Trucks transporting these materials shall be covered.
       iv. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
       v. Subsequent to clearing, grading, or excavating, exposed portions of the site shall be watered, landscaped, treated with soil stabilizers, or covered as soon as possible. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas and previously graded areas inactive for ten days or more.
       vi. Installation of sandbags or other erosion control measures to prevent silt runoff to public roadways.
vii. Replanting of vegetation in disturbed areas as soon as possible after completion of construction.

viii. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes. Clear signage shall be provided for construction workers at all access points.

ix. All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.

x. Post a publicly visible sign with the telephone number and person to contact at the City of San José regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD’s phone number shall also be visible to ensure compliance with applicable regulations.

b. Pre-Construction Bird Survey

i. The project applicant shall schedule construction between September 1st and January 31st (inclusive) to avoid the nesting season for raptors and other migratory birds. If this is not possible, pre-construction surveys for nesting birds shall be conducted by a qualified biologist or ornithologist to identify active nests that may be disturbed during project implementation. Projects that commence construction between February 1st and April 30th shall conduct pre-construction surveys for nesting birds within 14 days of the onset of construction. Between May 1st and August 31st (inclusive), pre-construction surveys shall be conducted no more than 30 days prior to the initiation of construction activities. Pre-construction surveys shall be conducted by a qualified biologist or ornithologist for nesting birds within the onsite trees as well as all trees within 250 feet of the site. If the survey does not identify any nesting birds that would be affected by construction activities, no further mitigation is required.

ii. If an active nest is found in or close enough to the construction area to be disturbed by these activities, the qualified biologist or ornithologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction-free buffer zone around the nest, typically 250 feet or raptors and 100 feet for non-raptors around the nest, to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The buffer shall remain in place until the breeding season has ended and/or a qualified biologist or ornithologist has determined that the nest is no longer active. The ornithologist/biologist shall submit a report...
indicating the results of the survey and any designated buffer zones to the satisfaction of the Environmental Supervising Planner of the City of San José Department of Planning, Building, and Code Enforcement prior to the issuance of any grading permits.

c. **Nitrogen Deposition Fee**

   i. The project applicant is required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit.

d. **Archaeological Resources.** In the event that human remains and/or cultural materials are found, all Project related construction shall cease within 50 feet in order to proceed with testing and development of mitigation measures as required. Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California, the following actions will occur should human remains and/or cultural materials be found:

   i. In the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this state law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

   ii. A final report shall be submitted to the City of San José Planning Division’s Environmental Team Supervising Planner (Environmental Supervising Planner). This report shall contain a description of the mitigation programs and its results including a description of the monitoring and testing program, a list of resources found, a summary of the resources analysis methodology and conclusions, and a description of the disposition/curation of the resources. The report shall verify completion of the mitigation program to the satisfaction of the Environmental Supervising Planner.
e. Construction Related Erosion Control
   i. All excavation and grading work will be scheduled in dry weather months or construction sites will be weatherized.
   ii. Stockpiles and excavated soils will be covered with secured tarps or plastic sheeting.
   iii. Ditches will be installed, if necessary, to divert runoff around excavations and graded areas.

f. Asbestos Lead Paint. Project is required to conform to the following regulatory programs and to implement the following standard permit conditions to reduce impacts due to the presence of asbestos-containing materials (ACMs) and/or lead-based paint:
   i. In conformance with State and local laws, a visual inspection/pre-demolition survey, and possible sampling shall be conducted prior to the demolition of on-site buildings to determine the presence of asbestos-containing materials and/or lead-based paint.
   ii. During demolition activities, all building materials containing lead-based paint shall be removed in accordance with Cal/OSHA Lead in Construction Standard, Title 8, California Code Regulations 1532.1, including employee training, employee air monitoring, and dust control. Any debris or soil containing lead-based paint or coatings would be disposed of at landfills that meet acceptance criteria for the waste being disposed.
   iii. All potentially friable ACMs shall be removed in accordance with National Emission Standards for Hazardous Air Pollutants (NESHAP) guidelines prior to building demolition or renovation that may disturb the materials. All demolition activities will be undertaken in accordance with Cal/OSHA standards contained in Title 8 of CCR, Section 1529, to protect workers from asbestos exposure.
   iv. A registered asbestos abatement contractor shall be retained to remove and dispose of ACMs identified in the asbestos survey performed for the site in accordance with the standards stated above.
   v. Materials containing more than one percent asbestos are also subject to BAAQMD regulations. Removal of materials containing more than one percent asbestos shall be completed in accordance with BAAQMD requirements and notifications.

g. Site Management Plan. Prior to the issuance of a grading permit, the applicant shall prepare a Site Management Plan (SMP), related to excavation and grading activities to address plans for encountering, handling and disposing of soil potentially impacted by hazardous materials and/or
petroleum products or other yet unidentified subsurface features or conditions that may exist. The SMP shall identify potential health, safety, and environmental exposure considerations associated with redevelopment activities and shall identify appropriate practices to manage unforeseen site conditions that may be encountered during construction. The SMP shall be prepared by a qualified hazardous materials consultant. The SMP shall include, but is not limited to, the following:

i. Best management practices and protocol for handling demolition debris of existing structures;

ii. Management of stockpiles, including sampling, disposal, and dust and runoff control including implementation of a stormwater pollution prevention program;

iii. Management of underground structures encountered, including utilities and/or underground storage tanks;

iv. Protocol, procedures, and management practices to follow if evidence of hazardous materials under State law is discovered during excavation or demolition activities;

v. Management practices and procedures for proper disposal of contaminated materials (if required); and

vi. A health and safety plan (HSP) for each contractor working at the site that addresses the safety and health hazards of each phase of site operations that includes the requirements and procedures for employee protection.

vii. The SMP shall be submitted to the City of San José Department of Planning, Building, and Code Enforcement, and the Environmental Services Department (ESD) for approval.

viii. In the event ESD determines that additional review will be required by the Santa Clara County Department of Environmental Health (SCCDEH), the applicant shall submit the final clearance statement (or equivalent) from SCCDEH to the City of San José Department of Planning, Building, and Code Enforcement, prior to the issuance of a grading permit.

h. RWQCB Standard Construction BMPs. The permittee shall implement the following Regional Water Quality Control Board (RWQCB) standard construction Best Management Practices (BMPs):

i. Restrict grading to the dry season or meet City requirements for grading during the rainy season. Grading during the rainy season requires the applicant to submit an Erosion Control Plan to the Director of Public Works for review and approval.
ii. Use effective, site-specific erosion and sediment control methods during the construction periods. Provide temporary cover of all disturbed surfaces to help control erosion during construction. Provide permanent cover as soon as is practical to stabilize the disturbed surfaces after construction has been completed.

iii. Cover soil, equipment, and supplies that could contribute non-visible pollution prior to rainfall events or perform monitoring of runoff.

iv. Cover stockpiles with secure plastic sheeting or tarps.

v. Implement regular maintenance activities such as sweeping driveways between the construction area and public streets. Clean sediments from streets, driveways, and paved areas on-site using dry sweeping methods. Designate a concrete truck washdown area.

vi. Dispose of all wastes properly and keep site clear of trash and litter. Clean up leaks, drips, and other spills immediately so that they do not contact stormwater.

vii. Place fiber rolls or silt fences around the perimeter of the site. Protect existing storm and sewer inlets in the Project area from sedimentation with filter fabric and sand or gravel bags

i. **Standard measures for construction related vibration**

   i. Prohibit the use of heavy vibration-generating construction equipment, such as vibratory rollers or excavation using clam shell or chisel drops, within 30 feet of any adjacent building.

   ii. Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

j. **Standard measures during construction phase**

   i. Construction activities shall be limited to the hours between 7:00 am and 7:00 pm, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.

   ii. Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.

   iii. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
iv. Unnecessary idling of internal combustion engines shall be strictly prohibited. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses. Temporary noise barriers could reduce construction noise levels by 5 dBA.

v. Utilize "quiet" air compressors and other stationary noise sources where technology exists.

vi. Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.

vii. Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.

viii. Erect a temporary noise control blanket barrier, if necessary, along building façades facing construction sites. This mitigation would only be necessary if conflicts occurred that were irresolvable by proper scheduling. Noise control blanket barriers can be rented and quickly erected.

ix. Designate a "disturbance coordinator" responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.

11. Building Clearance for Issuing Permits. Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:

a. Construction Plans. This permit file number, H17-018, shall be printed on all construction plans submitted to the Building Division.

b. Americans with Disabilities Act. The permittee shall provide appropriate access as required by the Americans with Disabilities Act (ADA).

c. Emergency Address Card. The project permittee shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.

d. Street Number Visibility. Street numbers of the buildings shall be easily visible at all times, day and night.
e. **Construction Plan Conformance.** A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.

12. **Permit Adjustment Tree Removal.** Prior to the issuance of a New Construction Building Permit Approval, the permittee shall submit a Permit Adjustment in which a landscape plan will demonstrate conformance to the following tree replacement ratio.

<table>
<thead>
<tr>
<th>Diameter of the Tree to be Removed</th>
<th>Type of Tree to be Removed</th>
<th>Minimum Size of Each Replacement Tree</th>
</tr>
</thead>
<tbody>
<tr>
<td>18 inches or greater</td>
<td>Native: 5:1, Non-Native: 4:1, Orchard: 3:1</td>
<td>24-inch box</td>
</tr>
<tr>
<td>12 - 18 inches</td>
<td>Native: 3:1, Non-Native: 2:1, Orchard: none</td>
<td>24-inch box</td>
</tr>
<tr>
<td>Less than 12 inches</td>
<td>Native: 1:1, Non-Native: 1:1, Orchard: none</td>
<td>15-gallon container</td>
</tr>
</tbody>
</table>

x:x = tree replacement to tree loss ratio

Note: Trees greater than 18” diameter shall not be removed unless a tree removal permit, or equivalent, has been approved for the removal of such trees.

Replacement trees are to be above and beyond standard landscaping; required street trees do not count as replacement trees.

In the event that the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the City’s Arborist, prior to issuance of any building or grading permits:

a. The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees.

b. Identify an alternative site(s) for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties to the satisfaction of the Planning Project Manager of the Department of Planning, Building, and Code Enforcement. Contact PRNS Landscape Maintenance Manager for specific park locations in need of trees.

c. Donate $300 per mitigation tree to Our City Forest for in-lieu off-site tree planting in the community. These funds will be used for tree planting and
maintenance of planted trees for approximately three years. A donation receipt for off-site tree planting shall be provided to the Planning Project Manager prior to issuance of the construction Building Permit Approval.

13. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.

14. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including job sites for projects under construction.

15. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, cigarette butts and garbage.

16. **Building and Property Maintenance.** The property owner or Management Company shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.

17. **Nuisance.** As required by Title 20 of the San José Municipal Code, construction on this site shall be conducted in a manner that does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.

18. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.

19. **Colors and Materials.** All building colors and materials shall be those specified in this permit and on the approved plan set.

20. **Recycling.** Scrap construction and demolition material shall be recycled. Integrated Waste Management staff at (408) 535-8550 can provide assistance on how to recycle construction and demolition debris from the project, including information on available haulers and processors.

21. **Sign.** Prior to the issuance of a demolition permit, the applicant has agreed to provide the Mel Cotton’s sign to History San José and shall provide the offer letter and response from History San José.

22. **Public Works Clearance for Building Permit(s) or Map Approval.** Prior to the approval of the Tract or Parcel Map by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the permittee will be required to have satisfied all of the following Public Works conditions, subject to Public Works review and approval. The permittee is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

   a. **Construction Agreement.** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works.
Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.

b. **Transportation.** A Traffic Operational Analysis (TOA) has been performed for this project based on no additional AM and an additional 17 PM peak hour trips. Due to the small size of the project (resulting in less than 25 net peak hour vehicle trips), a comprehensive Transportation Impact Analysis (TIA) per the City of San Jose’s Transportation Policy 5-3 is not necessary. Based on the findings in the TOA, the subject project is in conformance with the City of San José Transportation Level of Service Policy (Council Policy 5-3) and a determination for a negative declaration can be made with respect to traffic impacts. See separate Traffic memo dated June 21, 2017 for additional information. The permittee shall implement the following project conditions included in the TOA memo:

i. Construct City standard sidewalk along project frontages on West San Carlos Street and Race Street.

ii. Construct City standard wheel chair ramp at the south east corner of the intersection of West San Carlos Street/Race Street.

c. **Grading/Geology:**

i. A grading permit is required prior to the issuance of a Public Works Clearance.

ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2013 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10 year storm event.

iii. If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408) 535-3850 for more information concerning the requirements for obtaining this permit.

iv. Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
v. The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The report should also include, but not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.

d. **Stormwater Runoff Pollution Control Measures.** This project must comply with the City’s Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.

i. The project’s preliminary Stormwater Control Plan and numeric sizing calculations have been reviewed. At the implementation stage, a final stormwater control plan and numeric sizing calculations will be reviewed and approved.

ii. Final inspection and maintenance information on the post-construction treatment control measures must be included on the final Stormwater Control Plan.

iii. A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating that all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.

iv. Per City Council Policy 6-29, Regulated Projects shall include both structural and operational Source Control Measures that at a minimum shall include properly designed cover for the loading dock.

   1) Construct cover/roof over the loading dock.

   2) The area discharge under the loading dock cover/roof shall be connected to sanitary sewer.

e. **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 prior to Public Works clearance.

f. **Undergrounding:** Permittee shall complete the underground conversion of the utility facilities fronting the project adjacent to Race Street. Permittee shall submit
copies of executed utility agreements to Public Works prior to the issuance of a Public Works clearance.

**g. Street Improvements**

i. Construct 12-foot wide City standard attached sidewalk with tree wells at the back of curb along San Carlos Street project frontage.

ii. Dedicate a 4 foot width along San Carlos Street frontage.

iii. Construct 26-foot wide City standard driveway along San Carlos Street project frontage.

iv. Construct 32-foot wide City Standard driveway for project access on Race Street.

v. The design of the curb return at the south east corner of the intersection of San Carlos Street/Race Street shall be finalized at the street improvement plan stage. This shall include but not be limited to construction of bulb out at Race Street, City Standard wheelchair ramps, and inlets.

vi. Permittee shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.

vii. Remove and replace broken, uplifted curb and gutter as well as broken, uplifted or non-ADA compliant sidewalk along project frontage.

viii. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.

ix. Permittee shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the project frontage.

**h. Strong Neighborhoods Initiative (SNI).** This project is located within the Burbank/ Del Monte SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.

i. **Street Trees.** The locations of the street trees shall be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current “Guidelines for Planning, Design, and Construction of City Streetscape Projects”. Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.

**23. Revocation, Suspension, Modification.** This Site Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such
time, whenever, after a noticed hearing in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:

a. A violation of any conditions of the Site Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or

b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or

c. The use as presently conducted creates a nuisance.

In accordance with the findings set forth above, a Site Development Permit to use the subject property for said purpose specified above is hereby approved.

ADOPTED this ___ day of __________, 2017, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

____________________________
SAM LICCARDO
Mayor

ATTEST:

____________________________
TONY J. TABER, CMC
City Clerk
EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 264-14-017, 264-14-019, 264-14-020, 264-14-082 and 264-14-083

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

PARCEL ONE:

Beginning at a 3/4" iron pipe driven flush in the Easterly line of Race Street said point being South 3° 18' East, 34.00 feet from the Southerly line of San Carlos Street as it existed on November 22, 1940 (60 feet in width); and running thence from said point of beginning North 86° 51' 10" East and parallel with and distant therefrom 34.00 feet measured at right angles Southerly from said Southernly line of San Carlos Street 200.00 feet to a 3/4" iron pipe driven flush; thence South 3° 18' parallel with said Easterly line of Race Street 200.00 feet to a 3/4" iron pipe driven flush; thence South 86° 51' 10" West parallel with said Southernly line of San Carlos Street 200.00 feet to a 3/4" iron pipe driven flush in said Easterly line of Race Street; thence along said Easterly line of Race Street North 3° 18' West 200.00 feet to the point of beginning.

APN: 264-14-019; 264-14-082 & 264-14-083

PARCEL TWO:

Being a portion of Lot 65, as shown upon the map entitled, "Map Showing Subdivisions of The Rancho De Los Coches, Adjoining The City of San Jose, Santa Clara County", which map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California on November 6, 1867, in Book "A" of Maps, at Page 47, and more particularly described as follows:

Beginning at a 3/4 inch iron pipe set in the present Southernly line of San Carlos Street as now widened (94 feet wide) distant thereon N. 86° 51' 10" E., 200.00 feet from an iron pipe set at the point of intersection of said Southerly line of San Carlos Street with the Easterly line of Race Street; thence along said line of San Carlos Street, N. 86° 51' 10" E., 150 feet; thence Southernly and parallel with the Easterly line of Race Street S. 3° 18' E., 275 feet to the Northerly line of that certain parcel described in the Deed from Karl F. Newhouse, et ux., to John E. Gordon and Eugenia T. Dale, recorded May 17, 1946 in Book 1366 of Official Records, Page 40, Santa Clara County Records; thence along said North line which is also the Southerly line of a certain 25 foot right of way, South 86° 51' 10" West 50 feet to the East line of that certain parcel described in the Deed from Karl F. Newhouse, et ux., to Jack B. Anderson, et al., recorded May 23, 1946, in Book 1340 of Official Records, Page 176, Santa Clara County Records; thence Northerly and said East line, North 3° 18' West 25 feet to the Northeast corner of said parcel; thence along the North line of said parcel the North line of the 25 foot right of way, South 86° 51' 10" West 100 feet to the Southeast corner of that certain parcel described in the Deed from Karl F. Newhouse, et ux., to Joseph Malvini, et al., recorded June 12, 1947, in Book 1441 of Official Records, Page 458, Santa Clara County Records; thence along the East line and prolongation Northerly, North parallel to Race Street, 250 feet to the point of beginning.

APN: 264-14-020

PARCEL THREE:

An unobstructed right of way for ingress and egress and a right of way for the installation of public utilities over a strip of land 25 feet wide, described as follows:

Beginning at an iron pipe in the Westerly line of Lincoln Avenue, that is distant thereon South 3° 11' East 250 feet from an iron pipe at the point of intersection of said Lincoln Avenue with the present Southerly line of San Carlos Street, said point also being distant North 3° 11' West 625.59 feet from the Northerly line of San Salvador Street; thence along said line of Lincoln Avenue, South 3° 11' East 25 feet; thence parallel with said line of San Carlos Street.

CLTA Preliminary Report Form - Modified (11.17.06)
SCA0002402.doc / Updated: 11.24.15

EXHIBIT "A"
(File No. H17-018)

A-1

T-27232.003/1436282.doc
Council Agenda: 08-08-2017
Item No.: 10.2c
DRAFT – Contact the Office of the City Clerk at (408)535-1260 or CityClerk@sanjoseca.gov for final document.
EXHIBIT "A"

Legal Description (continued)

Street, South 66° 51' 10" West, 741.77 feet to the Easterly line of Race Street; thence along said line, North 3° 18' West 25 feet to a point that is distant South 3° 18' East 250 feet from the present Southerly line of San Carlos Street; thence parallel with the said line of San Carlos Street, North 86° 51' 10" East 741.82 feet to the point of beginning being a portion of Lots 65 and 66 as said laid down, designated and delineated upon that certain map entitled "Map Showing Subdivisions of The Rancho De Los Coches, Adjoining The City of San Jose, Santa Clara County", which said map was filed for record in the Office of the County Recorder of the County of Santa Clara, State of California, on November 6, 1867, in Book "A" of Maps, at Page 47.

PARCEL FOUR:

Being a portion of Lot 65, as shown upon the map entitled "Map Showing Subdivisions of The Rancho De Los Coches, Adjoining The City of San Jose, Santa Clara County", which map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on November 6, 1867, in Book "A" of Maps, at Page 47, and more particularly described as follows:

Beginning at a point on the Easterly line of Race Street, distant thereon Southerly 200 feet from the point of intersection thereof with the Southerly line of San Carlos Street, as now widened to a width of 94 feet; thence from said point of beginning, Southerly along said line of Race Street, 50 feet to the Northwesterly corner of the parcel of land conveyed by San Jose Abstract & Title Insurance Co., a corporation, to Hettle Baker Smith, by Deed dated October 10, 1941, recorded October 11, 1941, in Book 1063 of Official Records, Page 155, Records of Santa Clara County, California; thence Easterly parallel with the aforementioned Southerly line of San Carlos Street and along the Southerly line of said Smith parcel 200 feet to the Northeasternly corner thereof; thence Northerly parallel with the aforementioned Easterly line of Race Street 50 feet to a point which bears Southerly, along a line parallel with the said Easterly line of Race Street, a distance of 200 feet from the aforementioned Southerly line of San Carlos Street; thence Westerly and parallel with the said Southerly line of San Carlos Street, 200 feet to the point of beginning.

APN: 264-14-017

PARCEL FIVE:

An unobstructed right of way for ingress and egress and a right of way for the installation of public utilities over a strip of land 25 feet wide, described as follows:

Beginning at an iron pipe in the Westerly line of Lincoln Avenue, that is distant thereon South 3° 11' East 250 feet from an iron pipe at the point of intersection of said line of Lincoln Avenue with the present Southerly line of San Carlos Street, said point of beginning also being distant North 3° 11' West, 625.59 feet from the Northerly line of San Salvador Street; thence along said line of Lincoln Avenue, South 3° 11' East 25 feet; thence parallel with said line of San Carlos Street, South 86° 51' 10" West 741.77 feet to the Easterly line of Race Street; thence along said line, North 3° 18' West 25 feet to a point that is distant South 3° 18' East 250 feet from the present Southerly line of San Carlos Street; thence parallel with said line of San Carlos Street, North 86° 51' 10" East 741.02 feet to the point of beginning, being a part of The Los Coches Rancho.