



## CITY COUNCIL STAFF REPORT

<b>File No.</b>	C17-039
<b>Applicant:</b>	Ravinder S. Dhaliwal
<b>Location</b>	6970 Santa Teresa Boulevard
<b>Existing Zoning</b>	Industrial Park
<b>General Plan Land Use Designation</b>	Neighborhood/Community Commercial within an Urban Village Boundary
<b>Urban Village</b>	Santa Teresa Boulevard/Bernal Road
<b>Council District</b>	2
<b>Historic Resource</b>	No
<b>Annexation Date:</b>	July 17, 1968
<b>CEQA:</b>	Determination of Consistency with the Envision San José 2040 General Plan EIR (Resolution No. 76041) and the Envision San José General Plan Supplemental EIR (Resolution No. 77617), and Addenda thereto

**APPLICATION SUMMARY:**

Conforming Rezoning from the IP Industrial Park Zoning District to the CN Commercial Neighborhood Zoning District on a 0.51-gross acre site.

**RECOMMENDATION:**

Staff recommends that the City Council approve the Conforming Rezoning to the CP Commercial Pedestrian Zoning District.

**PROJECT DATA**

GENERAL PLAN CONSISTENCY			
<b>General Plan Designation</b>		<b>Neighborhood/Community Commercial</b> <input checked="" type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent	
<b>Consistent Policies</b>		<b>Implementation Policies IP-1.1, IP-1.6, and IP-8.2</b>	
SURROUNDING USES			
	<b>General Plan Land Use</b>	<b>Zoning</b>	<b>Existing Use</b>
<b>North</b>	Neighborhood/Community Commercial	IP Industrial Park	Office (environmental/manufacturing research), religious/spiritual center
<b>South</b>	Residential Neighborhood	R-1-8 Single-family Residence	Single-family residences
<b>East</b>	Neighborhood/Community Commercial	IP Industrial Park	Wells Fargo Bank
<b>West</b>	Neighborhood/Community Commercial	IP Industrial Park	Medical and Dental Office

## PROJECT DESCRIPTION

On September 12, 2017, the applicant, Ravinder S. Dhaliwal, applied for a Conforming Rezoning from the IP Industrial Park Zoning District to the CN Commercial Neighborhood Zoning District on a 0.51-gross acre site. However, the applicant has no preference for CN or CP Zoning District since both allows for a wide range of commercial uses for his purpose.

### Site Description and Surrounding Uses:

The subject site is located at the southeast corner of Santa Teresa Boulevard and Realm Drive. The site is currently developed with a 6,890-square foot building that is used as an office for a chiropractor and wellness center.

A single-family residential neighborhood is located south of the site across Santa Teresa Boulevard and a research/manufacturing office and a religious/spiritual center are located to the north. A Wells Fargo Bank is located to the east, and medical/dental offices are located to the west (Figure 1).

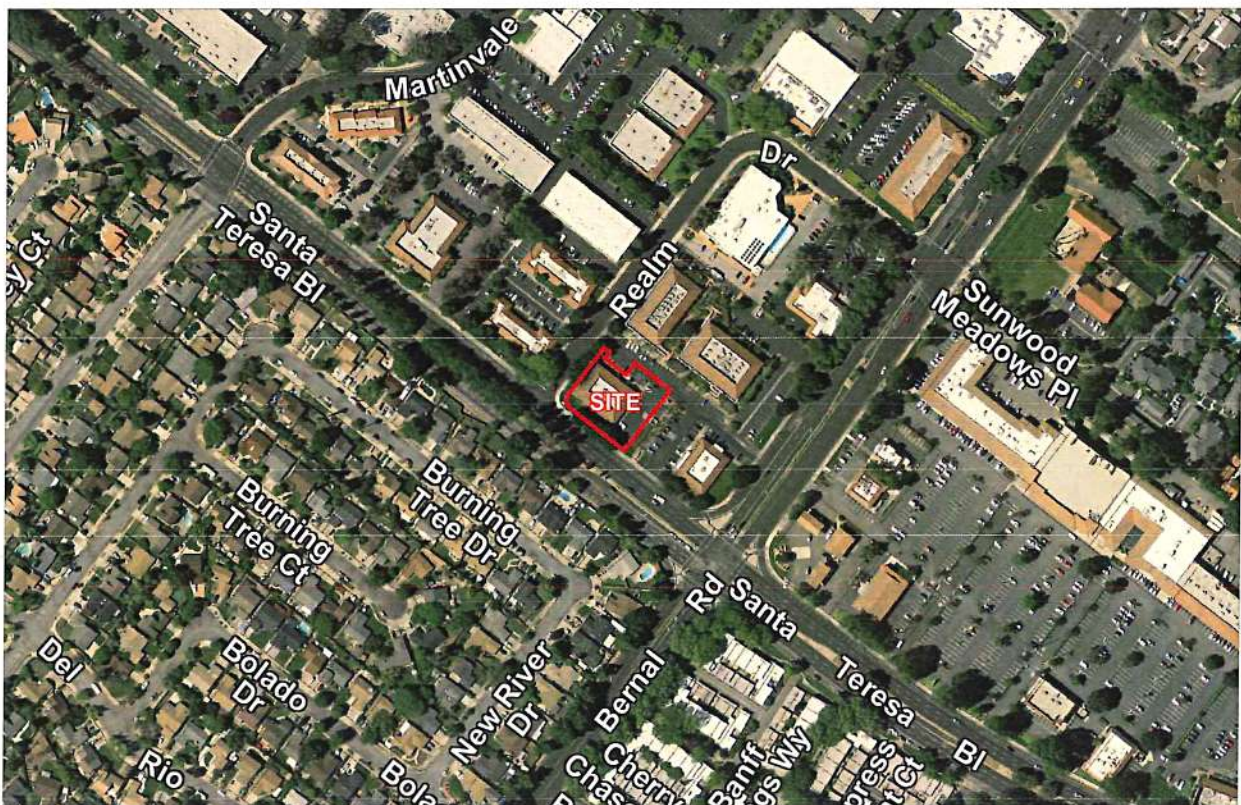


Figure 1: Aerial image of the subject site and surrounding uses



## Background

The site is zoned IP Industrial Park. The applicant is requesting a conforming rezoning to CN Commercial Neighborhood to create flexibility in the range of allowable commercial uses; however, City staff recommends rezoning the subject site to the CP Commercial Pedestrian Zoning District since the subject site is located within the Santa Teresa Boulevard/Bernal Road Urban Village Boundary and the CP Commercial Pedestrian Zoning District allows more pedestrian oriented development as described further below.

## ANALYSIS

The proposed project was analyzed for conformance with the following: 1) the Envision San José 2040 General Plan, 2) the Zoning Ordinance, and 4) the California Environmental Quality Act (CEQA).

### Envision San José 2040 General Plan Conformance

The subject site has an Envision San José 2040 General Plan Land Use/Transportation Diagram land use designation of Neighborhood/Community Commercial within the Santa Teresa Boulevard/Bernal Road Urban Village Boundary (Figure 2).

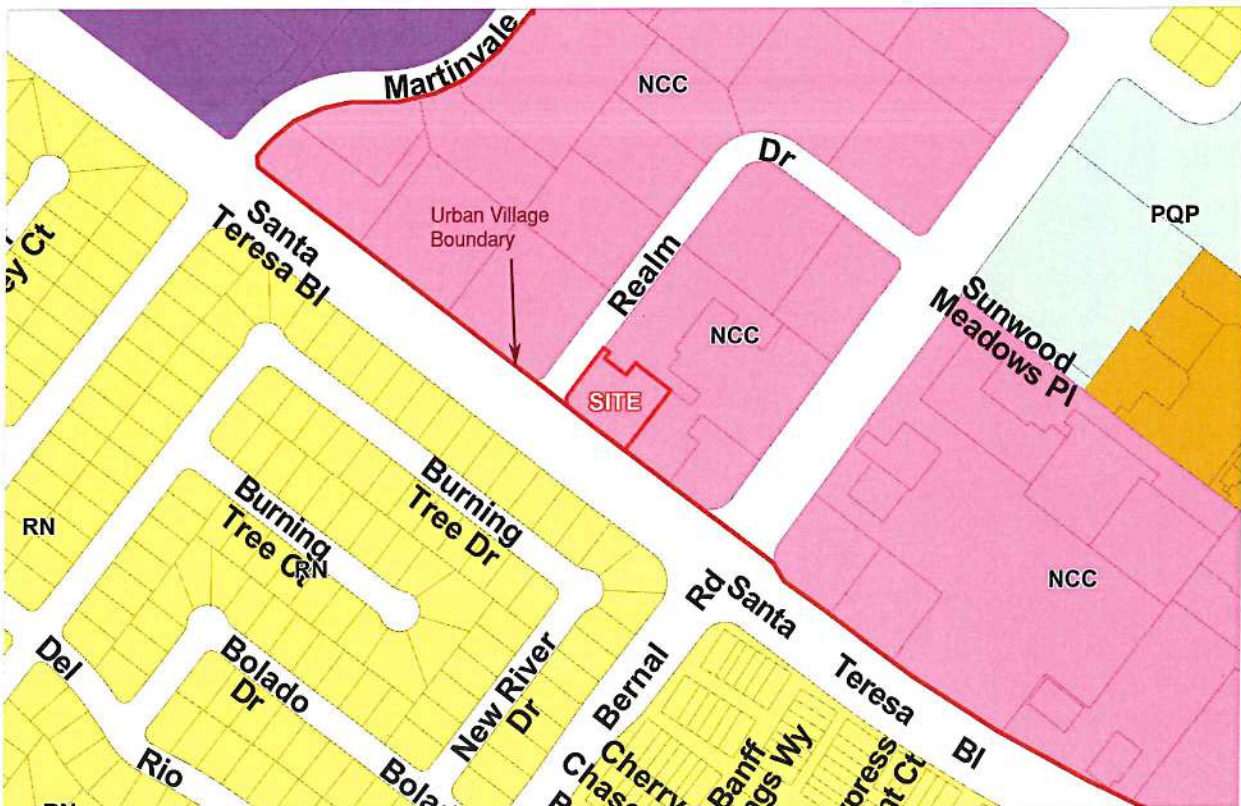


Figure 2: General Plan Land Use/Transportation Diagram

The Neighborhood/Community Commercial land use designation supports a broad range of commercial activities that serve the communities in neighboring areas. The applicant's proposed CN Zoning District, as well as City staff's recommended CP Zoning District, are both consistent with this land use designation as they will allow a wide range of commercial uses on the site.

Additionally, the proposed rezoning is located within the Santa Teresa Boulevard/Bernal Road Urban Village Boundary. This Urban Village is one of the several Commercial Center Urban Villages which are planned to take advantage of the redevelopment potential for existing, underutilized commercial sites. The General Plan establishes the Urban Villages concept to create a policy framework to direct most new job and housing growth to occur within walkable and bike-friendly Urban Villages. Santa Teresa Boulevard/Bernal Road has been allocated by the General Plan as a Horizon 3 Urban Village, which means that new residential development will occur at a future date when the City commences the Horizons-phased development strategy. At this time, the General Plan supports commercial or other non-residential uses at this site.

The proposed rezoning is consistent with the following General Plan policies:

1. IP-1.1 Land Use / Transportation Diagram: Use the Envision General Plan Land Use/ Transportation Diagram designations to indicate the general intended land use, providing flexibility to allow for a mix of land uses, intensities and development forms compatible with a wide variety of neighborhood contexts and to designate the intended roadway network to be developed over the timeframe of the Envision General Plan. Use the Zoning designation to indicate the appropriate type, form and height of development for particular properties.
2. IP-1.6 Land Use / Transportation Diagram: Ensure that proposals to rezone and prezone properties conform to the Land Use/Transportation Diagram, and advance Envision General Plan Vision, goals and policies.
3. Implementation Policy IP-8.2- Zoning: Use the City's conventional zoning districts, contained in its Zoning Ordinance, to implement the *Envision General Plan* Land Use/ Transportation Diagram. These districts include a range of allowed land uses, development intensities, and standards within major land use categories (residential, commercial and industrial) together with zoning districts for other land uses such as mixed-use and open space. The various ranges of allowed use and development intensity correspond generally to the respective *Envision General Plan* land use designations, while providing greater detail as to the appropriate land uses and form of development.

*Analysis: Pursuant to Table 20-270 of the Zoning Ordinance, CP Commercial Pedestrian, CN Commercial Neighborhood and CG Commercial General Zoning Districts all conform to the General Plan Land Use Designation of Neighborhood/ Community Commercial. However, Staff recommends the CP Zoning District as it is the most appropriate zoning for this location. The CP Zoning District provides more flexibility in the development standards consistent with the goals and policies of the General Plan and allow the property to be used or developed with a range of commercial uses in the future. The CP Zoning District will allow for the creation of a pedestrian-friendly environment, which is one of the goals of the Urban Village concept as identified in the General Plan. The ability to provide a zero front setback can create a continuous street wall and create a sense of enclosure and place by being closer to the street. In addition, the CP Zoning District provides more restrictions for auto-oriented uses such as a drive-through and a car wash.*

**Zoning Ordinance Conformance**

The proposed rezoning, and City staff’s recommended zoning, conforms with Table 20-70, Section 20.120.100 of the San José Municipal Code, which identifies the CP and CN Zoning Districts as conforming Districts to the Neighborhood/Community Commercial General Plan Land Use/Transportation Diagram land use designation. The CP Commercial Pedestrian Zoning District is the most appropriate conforming Zoning District, as the CP Zoning District requires less restrictive setbacks in comparison to the other conforming Commercial Zoning Districts, including the applicant’s requested CN District, and it discourages auto oriented uses, which are not supported by the site’s Urban Village Boundary land use designation.

As indicated in table 20-100 below, the CP Zoning District does not require a front and side setback, and the 25-foot rear setback can be waived when a property abuts another commercial or less restrictive Zoning District. The less restrictive setbacks provide more flexibility for future redevelopment of the subject site in terms of location and size of the buildings, and it prioritizes pedestrian comfort and connectivity. Therefore, the CP Zoning District is consistent with the policies and goals of the General Plan.

**Table 20-100  
 Commercial Zoning Districts  
 Development Standards**

<b>Setback Requirements</b>			
	<b>CP</b>	<b>CN</b>	<b>CG</b>
<b>Front</b>	no minimum, 10 feet maximum; or as established in approved Urban Village Plan	10	15
<b>Side, interior</b>	none; or as established in approved Urban Village Plan	none	none
<b>Side, corner</b>	none; or as established in approved Urban Village Plan	12.5	12.5
<b>Rear, interior</b>	25; or as established in approved	none	none
<b>Rear, corner</b>	25; or as established in approved Urban Village Plan	none	none

**20.40.290 - Rear setback - Exception, property abutting a commercial or less restrictive district.** Notwithstanding the provisions of Section 20.40.200, there shall be no rear setback for property situate in any commercial district whenever the entire rear property line of such property abuts property situate in any commercial district or less restrictive district.



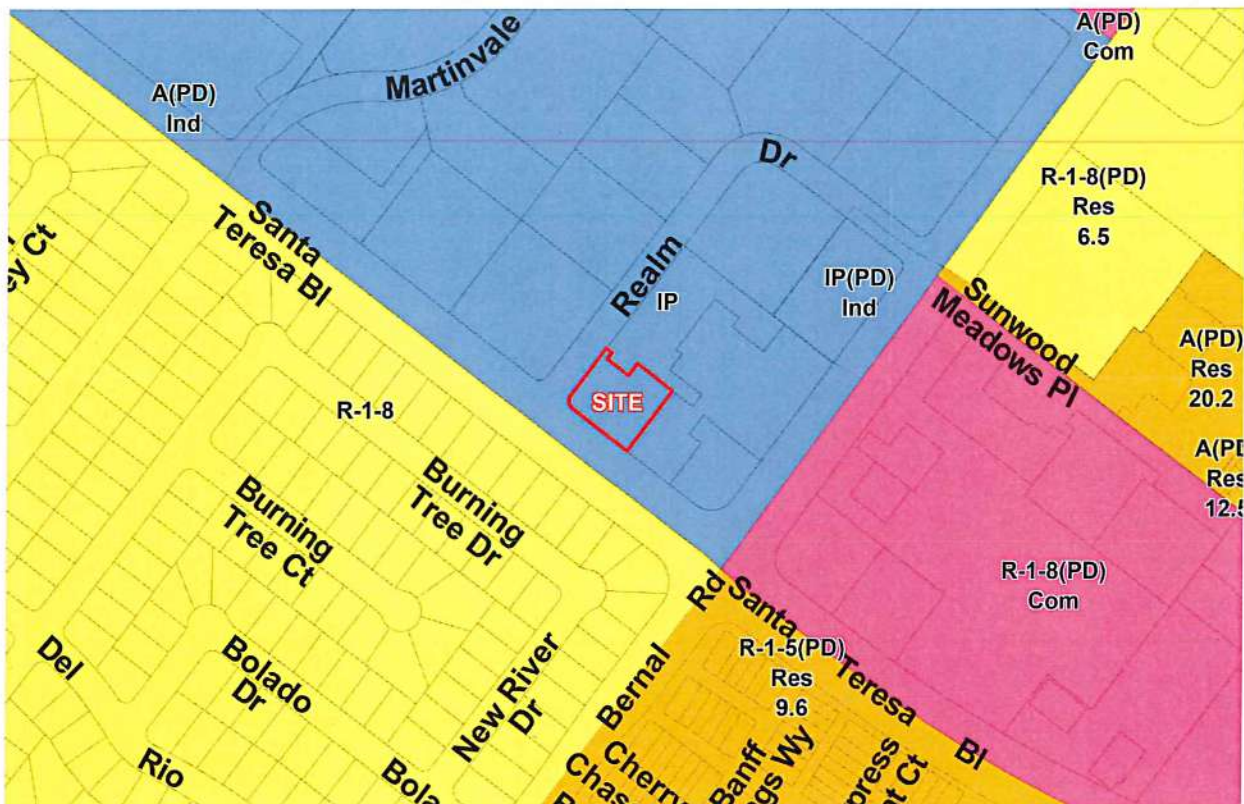


Figure 3: Zoning Map

### CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Pursuant to Section 15168 of the CEQA Guidelines, the City of San José has determined that the proposed project is pursuant to, in furtherance of and within the scope of the Envision San José 2040 General Plan program, the impacts of which were analyzed and disclosed in the Final Environmental Impact Report for the Envision San José 2040 General Plan, for which findings were adopted by City Council Resolution No. 76041 on November 1, 2011, and Supplemental EIR adopted by City Council Resolution No. 77617 on December 15, 2015, and addenda thereto. The FPEIR, SEIR and Addenda were prepared for the comprehensive update and revision of all elements of the City of San José General Plan, including an extension of the planning timeframe to the year 2040.

No new or more significant environmental impacts beyond those identified in the Envision San Jose 2040 General Plan Final Program Environmental Impact Report (FPEIR), Supplemental EIR (SEIR), and Addenda have been identified, nor have any new mitigation measures or alternatives which are considerably different from those analyzed in the FPEIR, SEIR and Addenda been identified.

## **PUBLIC HEARING NOTIFICATION**

To inform the public of the proposed project, staff followed Council Policy 6-30: Public Outreach Policy. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public. No public comment letters have been received to date.

**Approved by:** /s/ Rosalynn Hughey, Interim Director, Planning Building and Code Enforcement

For questions please contact Steve McHarris, Planning Official, at 408-535-7819

Attachment: Legal Description and Plat Map

**EXHIBIT A**

**PARCEL ONE:**

PARCEL B SO DESIGNATED AND DELINEATED ON THE PARCEL MAP RECORDED FEBRUARY 9, 1983, IN BOOK 509, OF MAP, PAGES 14 AND 15, SANTA CLARA COUNTY RECORDS.

RESERVING THEREFROM, A MUTUAL CROSS ACCESS EASEMENT FOR INGRESS AND EGRESS AS DESIGNATED AND DELINEATED ON THE PARCEL MAP RECORDED FEBRUARY 9, 1983, IN BOOK 509, PAGES 14 AND 15, SANTA CLARA RECORDS.

FURTHER RESERVING NON-EXCLUSIVE RECIPROCAL EASEMENTS AND NON-EXCLUSIVE MAINTENANCE EASEMENTS AS SET FORTH IN THAT CERTAIN "RECIPROCAL EASEMENT AND MAINTENANCE AGREEMENT" RECORDED MAY 20TH, 2014, AS DOCUMENT NO. 22600336

**PARCEL TWO:**

A MUTUAL CROSS ACCESS EASEMENT FOR INGRESS AND EGRESS AS DESIGNATED AND DELINEATED ON THE PARCEL MAP RECORDED FEBRUARY 9, 1983, IN BOOK 509, PAGES 14 AND 15, SANTA CLARA RECORDS.

**PARCEL THREE:**

NON-EXCLUSIVE RECIPROCAL EASEMENTS FOR INGRESS AND EGRESS AND NON-EXCLUSIVE MAINTENANCE EASEMENTS AS SET FORTH IN THAT CERTAIN "RECIPROCAL EASEMENT AND MAINTENANCE AGREEMENT" RECORDED MAY 20TH, 2014, AS DOCUMENT NO. 22600336



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Santa Clara
On 11/15/15 before me, Leslie Roberts, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Terry Costanza
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document
Title or Type of Document: Quit Deed Document Date: 11/15/15
Number of Pages: 2 Signer(s) Other Than Named Above:

Capacity(ies) Claimed by Signer(s)
Signer's Name: Terry Costanza
[ ] Corporate Officer - Title(s):
[ ] Partner - [ ] Limited [ ] General
[ ] Individual [ ] Attorney In Fact
[ ] Trustee [ ] Guardian or Conservator
[ ] Other:
Signer Is Representing:

This is to certify that this is a true copy of the document on file in this office.

ATTEST:
[Handwritten Signature]

CLERK-RECORDER
Santa Clara, CA
10/02/2017

DOCUMENT: 22829184

Pages: 3



Fees....	41.00
Taxes . .	9020 00
Copies . .	
AMT PAID	9061.00

**RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:**

ROBERTS & ELLIOTT LLP  
 JAMES ROBERTS, SBN 98804  
 150 Almaden Boulevard  
 Suite 950  
 San Jose, CA 95113  
 Telephone: (408) 275-9800  
 Fax: (408) 297-3782

REGINA ALCOMENDRAS  
 SANTA CLARA COUNTY RECORDER  
 Recorded at the request of  
 Grantor

RDE # 001  
 1/15/2015  
 3:54 PM

Space above line for Recorder's Use  
 APN: APN: 706-01-069

**GRANT DEED**

(Transfer from Trust to Limited Liability Company)

**Documentary Transfer Tax: \$2,255.00. City of San Jose Tax: \$6,765.00.**

- Unincorporated area of \_\_\_\_\_; or  City of: San Jose.
- Assessor's Parcel Number: 706-01-069.
- Computed on full value of interest or property conveyed, or
- Computed on full value less value of liens or encumbrances remaining at the time of sale

I declare under penalty of perjury under the laws of the State of California that I calculated the foregoing taxes and that the foregoing is true and correct:

  
 Terry Costanza, Declarant  
 Trustee, Y.J. Revocable Trust Dated May 20, 2014

Mail Tax Statements to: American Real Estate Group, LLC, 900 E. Hamilton Ave., Suite 100, Campbell, CA 95008

Terry Costanza, as trustee of the Y.J. Revocable Trust Dated May 20, 2014, hereby GRANTS to American Real Estate Group, LLC, all that real property situated in the City of San Jose, Santa Clara County, California, described as follows:

Commonly known as: 6970 Santa Teresa Blvd., San Jose, California 95119  
 APN: 706-01-069  
 Legal Description: See Exhibit A.

IN WITNESS WHEREOF, this Grant Deed has been executed, delivered and accepted in accordance with its terms as of 1/15/2015, 2015.

Y.J. Revocable Trust Dated May 20, 2014

  
 by: Terry Costanza, Trustee

