



## CITY COUNCIL STAFF REPORT

<b>File No.</b>	<b>C16-034</b>
<b>Applicant</b>	<b>D &amp; D Ranch</b>
<b>Location</b>	<b>West side of Senter Road approximately 1,200 feet Northerly of Burke Street, adjacent to 1919 Senter Road (APN 477-50-024)</b>
<b>Existing Zoning</b>	<b>A(PD) Planned Development Zoning District</b>
<b>Council District</b>	<b>7</b>
<b>Historic Resource</b>	<b>No</b>
<b>Annexation Date</b>	<b>December 5, 1966</b>
<b>CEQA</b>	<b>Mitigated Negative Declaration for the Senter Road Office Project to be considered by City Council</b>

### APPLICATION SUMMARY:

Conforming Rezoning from the A(PD) Planned Development Zoning District District to the HI Heavy Industrial Zoning District on an approximately 2.69-gross acre site.

### RECOMMENDATION:

Staff recommends that the City Council:

1. Adopt a resolution adopting the Senter Road Office Project Mitigated Negative Declaration, for which an Initial Study was prepared, all in accordance to the California Environmental Quality Act, as amended, and adopting a related Mitigation Monitoring and Reporting Program; and
2. Approve the proposed Conforming Rezoning.

### PROJECT DATA

GENERAL PLAN CONSISTENCY			
General Plan Designation		Heavy Industrial <input checked="" type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent	
Consistent Policies		IP-1.6; IP-8.2	
Inconsistent Policies		None	
SURROUNDING USES			
	General Plan Land Use	Zoning	Existing Use
Northwest	Heavy Industrial	LI Light Industrial	Industrial
Southeast	Heavy Industrial	HI Heavy Industrial	Industrial

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<b>Southwest</b>	Heavy Industrial	A(PD) Planned Development Zoning	Social Services Agency
<b>Northeast</b>	Urban Residential	A(PD) Planned Development Zoning and LI Light Industrial	Multi-Family Residential and Single-Family Residential

RELATED APPROVALS	
Date	Action
12/05/1966	Site annexed into the City of San José
12/14/1994	File Number PDC94-038 - Approved (Planned Development Zoning to allow uses allowed in the M-1 Zoning District)
07/28/1998	File Number PD98-003 – Approved, not constructed (Planned Development permit to allow a parking lot on a 2.69 gross acre site)

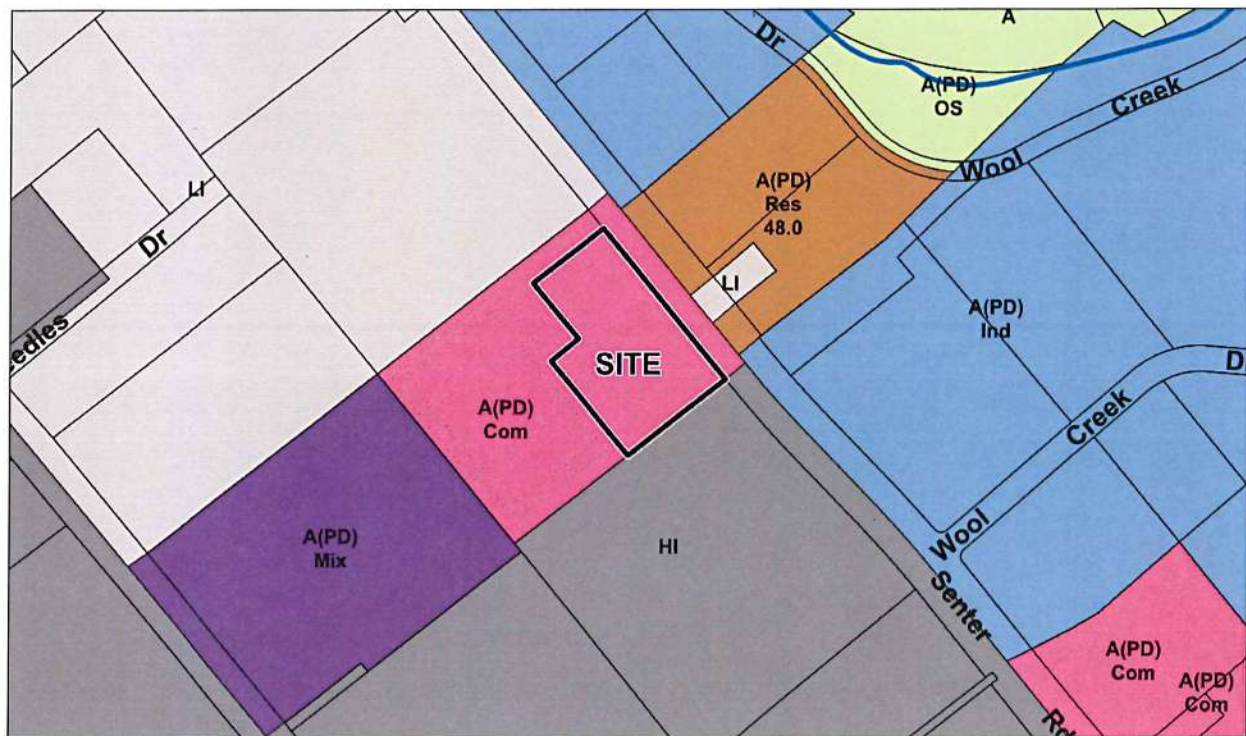


Figure 1: Existing Zoning Designation

## PROJECT DESCRIPTION

On July 21, 2016, a Conforming Rezoning Application was filed to rezone the 2.69-gross acre subject site from the A(PD) Planned Development Zoning District to the HI Heavy Industrial Zoning District.

### Site Location and Description:

The 2.69-gross acre site is located on the west side of Senter Road approximately 1,200 feet northwesterly of Burke Street (see Figure 2). The subject site is currently vacant. An existing Santa Clara County Social Services Agency facility is located on a site immediately to the rear of



the subject site at 1919 Senter Road. Industrial uses are located to the Northwest and Southeast. Across Senter Road, there is a single-family home and multi-family residences.

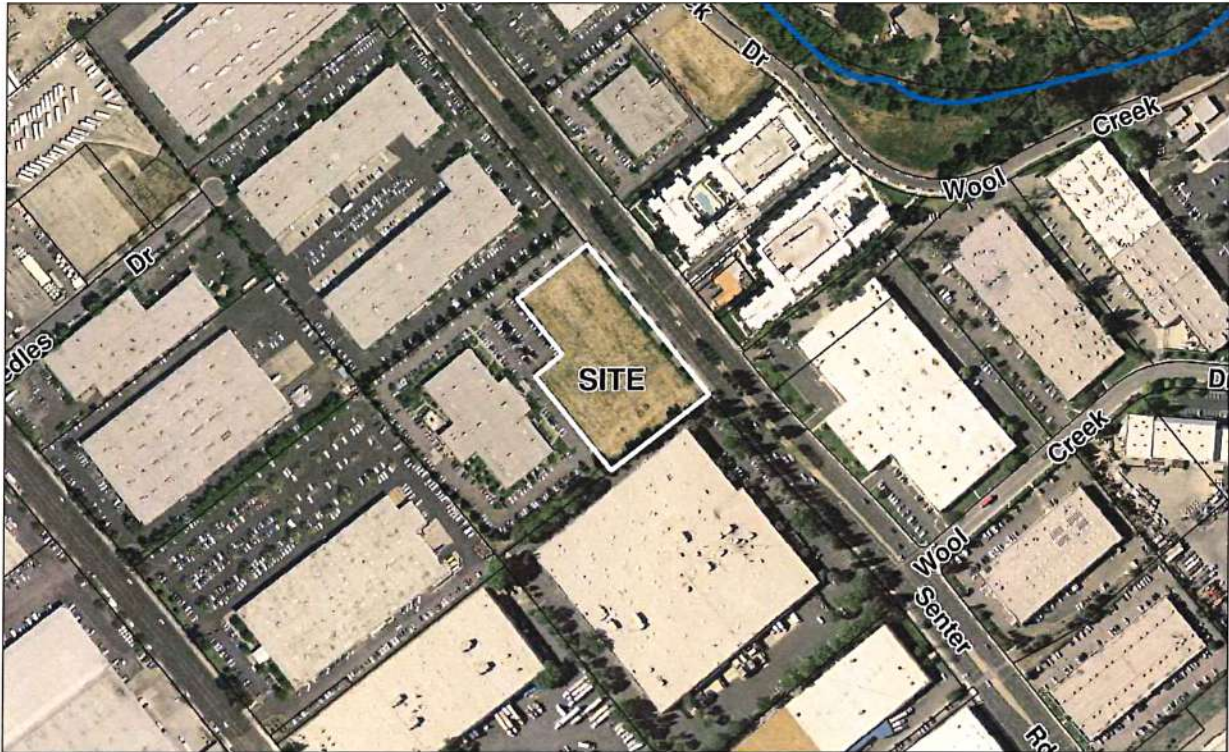


Figure 2: Aerial Image of the Subject Site and Surrounding Area

## ANALYSIS

The proposed project was analyzed for conformance with the following: 1) the Envision San José 2040 General Plan; 2) the Zoning Ordinance; and 3) the California Environmental Quality Act (CEQA).

### Envision San José 2040 General Plan Conformance

The General Plan Land Use/Transportation Diagram designation for this site is Heavy Industrial (see Figure 3). Extractive and primary processing industries are typical uses within this land use designation. A maximum floor area ratio (FAR) of 1.5 and a building up to three stories in height is allowed for this land use designation.

The existing, Planned Development Zoning (File No. PDC94-038) allows industrial uses such as repair, cleaning and leasing of vehicles, mini-warehouses, and research, experimental and engineering laboratories. The proposed rezoning would conform to the HI Heavy Industrial General Plan land use designation for the property. This rezoning is being requested to allow a proposed social service agency use to be considered for the site, as this use is not specifically allowed within the existing Planned Development Zoning, but is allowed with a Conditional Use Permit in the HI Heavy Industrial Zoning District. A Conditional Use Permit application for a social service agency use is currently on file (File No. CP16-039), and would require



consideration and approval by the Planning Commission, subject to approval of this rezoning request.

A social service agency is defined in the Zoning Ordinance as an agency that provides social services which includes a service or activity undertaken to advance the welfare of citizens in need. A social service may include supporting office uses, supporting medical office or clinic uses, supporting vocational or trade training, supporting personal services and/or a food and goods distribution facility. Because the use includes some industrial characteristics (i.e. food and goods storage/distribution) it is a conditionally-permitted use in the HI Zoning District. In addition, the use is compatible with the surrounding uses to the northwest and southeast of the site, which include, industrial uses. There is a social services agency located immediately adjacent (to the southwest) of the subject site.



Figure 3: General Plan Land Use/Transportation Diagram

This conforming rezoning is also consistent with the following General Plan policies:

1. Implementation Policy IP-1.6: Ensure that proposals to rezone and pre-zone properties conform to the Land Use/Transportation Diagram, and advance Envision General Plan Vision, goals and policies.
2. Implementation Policy IP-8.2 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: The Heavy Industrial Zoning District is the conforming zoning district for the Envision San Jose 2040 General Plan Land Use / Transportation Diagram's designation of Heavy Industrial, as indicated in Section 20.120.110 of the Zoning Ordinance. The proposed Conforming Rezoning to the Heavy Industrial Zoning District will allow a conforming zoning district that is consistent with the General Plan goals intended for this property.*

### **Zoning Ordinance Conformance**

The proposed Conforming Rezoning is in conformance with Table 20-270 of Section 20.120.110 of the San Jose Municipal Code. The Zoning Ordinance identifies the HI Heavy Industrial Zoning District as a conforming zoning district to the Heavy Industrial General Plan Land Use/Transportation Diagram designation.

Allowable uses of the HI Heavy Industrial District include social services agencies as a conditionally permitted use and other heavy industrial uses such as mini-storage, warehouse/distribution, outdoor vending, trade and vocational training. The proposed social services agency is a consistent use with the HI Heavy Industrial Zoning District.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

An Initial Study (IS) and Mitigated Negative Declaration (MND) entitled "Senter Road Office Project" was prepared by the Department of Planning, Building, and Code Enforcement for the subject project to cover both the component of the project, a Conforming Rezoning and Conditional Use Permit. The IS/MND was completed in compliance with the California Environmental Quality Act (CEQA) to reflect an independent judgment and analysis of the full built-out of the project.

The document circulated 20 days for public review between June 9, 2017 to June 29, 2017. Two written comments in response to the circulated IS/MND were received from the Amah Mutsun Tribal Band of Mission San Juan Bautista and the Santa Clara Valley Transportation Authority. The comments addressed recommendations for additional archaeological monitoring and training, pedestrian sidewalk widening, secure bicycle lockers, and transportation demand management. Responses to comments can be found on the City's website as listed below.

The final IS/MND identified potentially significant environmental impacts and determined that the proposed project would not have a significant effect on the environment with the incorporation of certain mitigations. The primary environmental issues addressed in the IS/MND were the potential impacts, when the project is developed, to biological resources, specifically raptor impact from removal of trees. The MND includes mitigation measures that would reduce any potentially significant project impacts to a less-than-significant level. The mitigation measures are included in the proposed Mitigation Monitoring and Reporting Program (MMRP) for City Council review and consideration and will also be included in the conditions of approval for the proposed Conditional Use Permit.

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## **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. Staff has not received any public comments on the proposed project.

**Approved by:**

/s/

Rosalynn Hughey, Interim Director  
Planning, Building and Code Enforcement

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

**Attachments:**

Draft CEQA Resolution with Signed Mitigation Monitoring and Reporting Program  
Draft Ordinance

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE SENTER ROAD OFFICE PROJECT MITIGATED NEGATIVE DECLARATION, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM**

**WHEREAS**, prior to the adoption of this Resolution, the Planning Director of the City of San José prepared an Initial Study and approved for circulation a Mitigated Negative Declaration for the Senter Road Office Project under Planning File Nos. C16-034 and CP16-039 (the "Initial Study/Mitigated Negative Declaration"), all in accordance with the requirements of the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively "CEQA"); and

**WHEREAS**, the Senter Road Office Project (the "Project") analyzed under the Initial Study/Mitigated Negative Declaration consists of a rezoning from the A(PD) Planned Development Zoning District to the HI Heavy Industrial Zoning District to allow the construction of a new two-story, approximately 50,760 square foot office building on a 2.69 gross acre site located along the west side of Senter Road, approximately 1,300 feet northerly of Burke Street, in the City of San José (Assessor's Parcel Number 477-50-024), San José, California; and

**WHEREAS**, the Initial Study/Mitigated Negative Declaration concluded that implementation of the Project could result in certain significant effects on the environment and identified mitigation measures that would reduce each of those significant effects to a less-than-significant level; and

**WHEREAS**, in connection with the approval of a project involving the preparation of an initial study/mitigated negative declaration that identifies one or more significant environmental effects, CEQA requires the decision making body of the lead agency to incorporate feasible mitigation measures that would reduce those significant environmental effects to a less-than-significant level; and

**WHEREAS**, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a mitigation monitoring and reporting program to ensure compliance with the mitigation measures during project implementation, and such a mitigation monitoring and reporting program has been prepared for the Project for consideration by the decision-maker of the City of San José as lead agency for the Project (the "Mitigation Monitoring and Reporting Program"); and

**WHEREAS**, the City of San José is the lead agency on the Project, and the City Council is the decision-making body for the proposed approval to undertake the Project; and

**WHEREAS**, the City Council has reviewed and considered the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project and intends to take actions on the Project in compliance with CEQA and state and local guidelines implementing CEQA; and

**WHEREAS**, the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project are on file in the Office of the Director of Planning, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, are available for inspection by any interested person at that location and are, by this reference, incorporated into this Resolution as if fully set forth herein;



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

**THAT THE CITY COUNCIL** does hereby make the following findings: (1) it has independently reviewed and analyzed the Initial Study/Mitigated Negative Declaration and other information in the record and has considered the information contained therein, prior to acting upon or approving the Project, (2) the Initial Study/Mitigated Negative Declaration prepared for the Project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA, and (3) the Initial Study/ Mitigated Negative Declaration represents the independent judgment and analysis of the City of San José, as lead agency for the Project. The City Council designates the Director of Planning at the Director's Office at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, as the custodian of documents and records of proceedings on which this decision is based.

**THAT THE CITY COUNCIL** does hereby find that based upon the entire record of proceedings before it and all information received that there is no substantial evidence that the Project will have a significant effect on the environment and does hereby adopt the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program prepared for the Project (Planning File Nos. C16-034 and CP16-039). The Mitigation Monitoring and Reporting Program for the Project is attached hereto as Exhibit "A" and fully incorporated herein. The Initial Study/ Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program are: (1) on file in the Office of the Director of Planning, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113 and (2) available for inspection by any interested person.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2017, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
SAM LICCARDO  
Mayor

ATTEST:

\_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk

**MITIGATION MONITORING AND REPORTING PROGRAM**

**Senter Road Office Project**

**File Nos. C16-034 and CP16-039**

**CITY OF SAN JOSE**

**July 2017**





## PREFACE

Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation.

The Initial Study/Mitigated Negative Declaration prepared for the Senter Road Office Project concluded that the implementation of the project could result in significant effects on the environment and mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This Mitigation Monitoring and Reporting Program addresses those measures in terms of how and when they will be implemented.

This document does *not* discuss those subjects for which the Initial Study/Mitigated Negative Declaration concluded that the impacts from implementation of the project would be less than significant.

I, \_\_\_\_\_, the applicant, on the behalf of \_\_\_\_\_, hereby agree to fully implement the Mitigation Measures described below which have been developed in conjunction with the preparation of an Initial Study/Mitigated Negative Declaration for my proposed project. I understand that these mitigation measures or substantially similar measures will be adopted as conditions of approval with my development permit request to avoid or significantly reduce potential environmental impacts to a less than significant level, where feasible.

Project Applicant's Signature \_\_\_\_\_

Date \_\_\_\_\_

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<b>BIOLOGICAL RESOURCES</b>					
<b>Impact BIO-1:</b> Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment					
<p><b>Mitigation Measure BIO-1.1:</b> The project applicant shall schedule construction to avoid the nesting season to the extent feasible. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February through August. If it is not possible to schedule construction between September 1st and January 31st, pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st).</p> <p>During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction-free buffer zone to be established around</p>	<p>Schedule construction activities outside of nesting season (September 1st through January 31st). If it is not possible to schedule construction between September 1st and January 31st, a qualified ornithologist shall conduct preconstruction surveys and establish construction-free buffer zones.</p> <p>The ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement.</p>	<p>Prior to issuance of any grading permit.</p>	<p>Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement.</p>	<p>Review report indicating the results of the survey (or any other environmental investigation reports, if applicable) and any designated buffer zones.</p>	<p>Prior to any demolition and construction activities.</p>



*Planning, Building and Code Enforcement*  
ROSALYNN HUGHEY, INTERIM DIRECTOR

**Senter Road Office Project**  
File Nos. C16-034 and CP16-039

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement prior to issuance of any grading permit.					

Source: *City of San José, Senter Road Office Initial Study, June 2017.*



**DRAFT**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF SAN JOSE REZONING CERTAIN REAL PROPERTY OF APPROXIMATELY 2.69 ACRES SITUATED ON THE WEST SIDE OF SENTER ROAD APPROXIMATELY 1,200 FEET NORTHWESTERLY OF BURKE STREET (APN 477-50-024) FROM THE A(PD) PLANNED DEVELOPMENT ZONING DISTRICT TO THE HI HEAVY INDUSTRIAL 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; and

**WHEREAS**, a Mitigated Negative Declaration was prepared in conformance with the California Environmental Quality Act of 1970 ("CEQA"), as amended, for the subject rezoning to the HI Heavy Industrial Zoning District under File Number C16-034 (the "MND"); and

**WHEREAS**, the City Council of the City of San José is the decision-making body for the proposed subject rezoning to the HI Heavy Industrial Zoning District; and

**WHEREAS**, this Council of the City of San José has considered, approved and adopted said MND and related Mitigation Monitoring and Reporting Program under separate Council resolution prior to taking any approval actions on this project;

**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 site," is hereby rezoned as HI Heavy Industrial Zoning District.

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" and depicted in Exhibit "B" 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. C16-034 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 \_\_\_\_\_, 2017, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

\_\_\_\_\_  
SAM LICCARDO  
Mayor

ATTEST:

\_\_\_\_\_  
TONI J. TABER, CMC  
City Clerk