



CITY COUNCIL STAFF REPORT

File No.	C17-044
Applicant:	Gerald L. McIntyre 2005 Trust
Location	967 Mabury Road
Existing Zoning	LI Light Industrial
General Plan Land Use Designation	Heavy Industrial
Council District	4
Historic Resource	No
Annexation Date:	March 27, 1850
CEQA:	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 LI Light Industrial Zoning District to the HI Heavy Industrial Zoning District on a 3.3-gross acre site.

RECOMMENDATION:

Staff recommends that the City Council approve the Conforming Rezoning to the HI Heavy Industrial Zoning District.

PROJECT DATA

GENERAL PLAN CONSISTENCY			
General Plan Designation		Heavy Industrial <input checked="" type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent	
Consistent Policies		Implementation Policies IP-1.1, IP-1.6, and IP-8.2	
SURROUNDING USES			
	General Plan Land Use	Zoning	Existing Use
North	Heavy Industrial	LI Light Industrial and HI Heavy Industrial	Medical marijuana dispensary
South	Residential Neighborhood	R-M(PD) Planned Development	Single-family residences and Highway 101
East	Heavy Industrial	LI Light Industrial	Industrial office
West	Heavy Industrial	LI Light Industrial	Industrial office

PROJECT DESCRIPTION

On October 18, 2017, the applicant, Gerald L. McIntyre 2005 Trust, applied for a Conforming Rezoning from the LI Light Industrial Zoning District to the HI Heavy Industrial Zoning District on a 3.3-gross acre site.

Site Description and Surrounding Uses

The subject site is located at the northeast corner of Mabury Road and Timothy Drive. The site is currently developed with an existing laboratory called Quest Diagnostics. A medical marijuana dispensary is located to the north, single-family residences across Highway 101 to the south, and industrial offices to the east and west (Figure 1).



Figure 1: Aerial image of the subject site

Background

The subject property is zoned LI Light Industrial. The applicant is requesting a conforming rezoning to HI Heavy Industrial Zoning District to bring the zoning into conformance with the Heavy Industrial General Plan Land Use/Transportation Diagram land use designation. The HI Heavy Industrial Zoning designation will allow the continued operation of the existing laboratory as well as the operation of industrial uses with nuisance or hazardous characteristics which for reasons of health, safety, environmental effects, or general welfare are best segregated from other uses allowed under the Heavy Industrial General Plan designation.

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 subject site has an Envision San José 2040 General Plan Land Use/Transportation Diagram land use designation of Heavy Industrial (Figure 2).

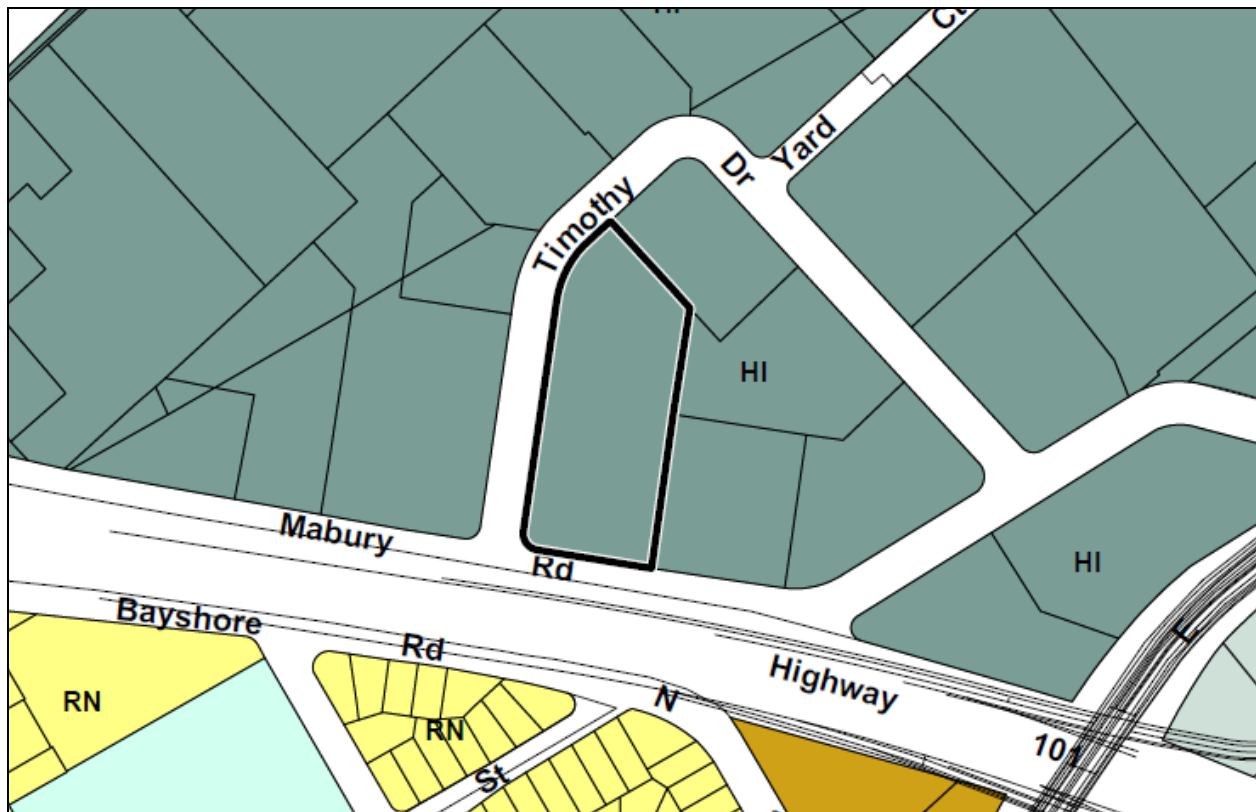


Figure 2: General Plan Land Use/Transportation Diagram

The Heavy Industrial land use designation is intended for industrial users with nuisance or hazardous characteristics which for reasons of health, safety, environmental effects, or welfare are best segregated from other uses. The proposed HI Heavy Industrial Zoning District is consistent with this land use designation as it will allow a wide range of industrial uses, including those that are considered a nuisance or hazardous, on the site.

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

1. Implementation Policy 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. Implementation Policy IP-1.6 Land Use/Transportation Diagram: Ensure that proposals to rezone and prezone properties conform to the Land Use/ ransportation 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, HI Heavy Industrial Zoning District conforms to the General Plan Land Use Designation of Heavy Industrial. The proposed rezoning to the HI Heavy Industrial Zoning District allows the continued operation of the existing laboratory. It also allows the operation of industrial uses with nuisance or hazardous characteristics that are best segregated from other uses for reasons of health, safety, environmental effects, or general welfare.

Zoning Ordinance Conformance

The proposed rezoning conforms with Table 20-70, Section 20.120.100 of the San José Municipal Code, which identifies the HI Heavy Industrial Zoning District as a conforming District to the Heavy Industrial General Plan Land Use/Transportation Diagram land use designation.

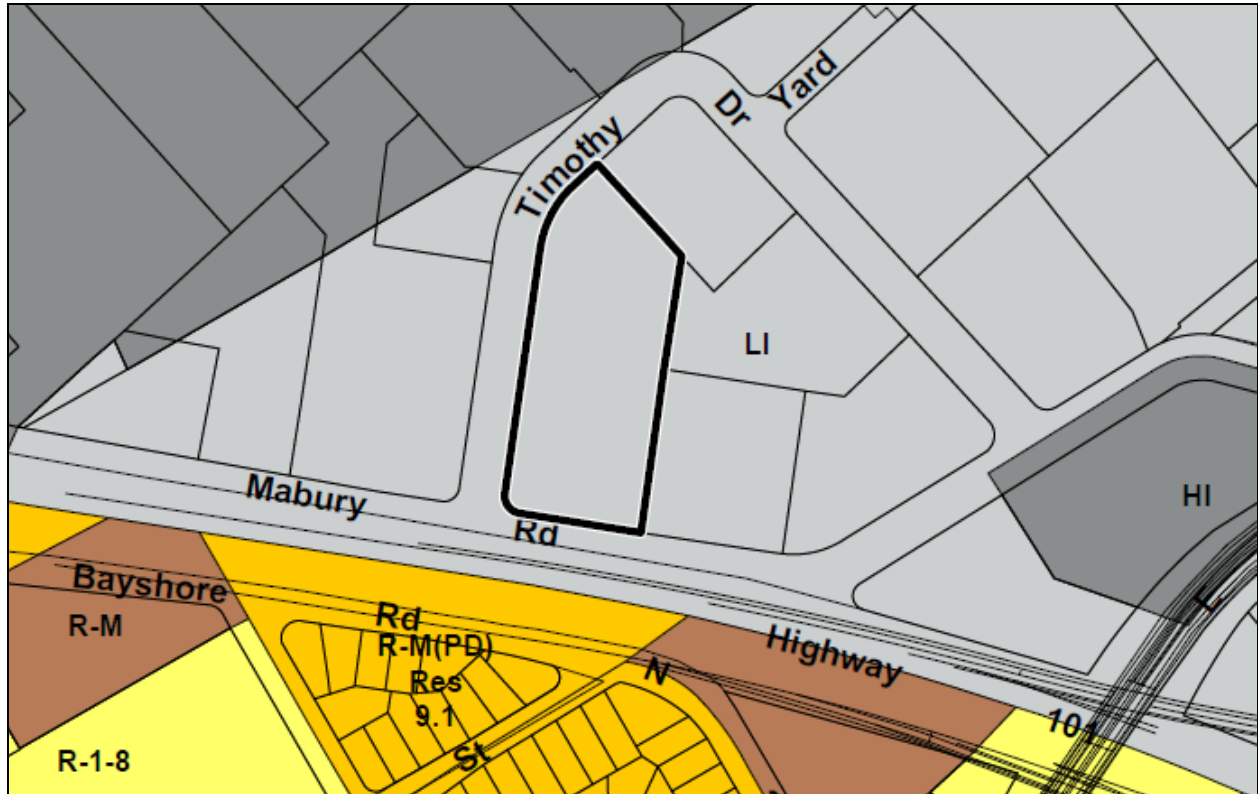


Figure 3: Zoning Map

The HI Heavy Industrial Zoning District will allow the operation of more nuisance-prone or hazardous uses which are envisioned under the Heavy Industrial General Plan designation. The site is surrounded by properties with a Heavy Industrial General Plan designation and with LI Light Industrial Zoning designations. While the HI Heavy Industrial Zoning District allows some uses not allowed in the LI Light Industrial Zoning District (like heavy manufacturing and assembly, hazardous waste facilities, junkyards, and large collection facilities), all new uses allowed in the HI Heavy Industrial Zoning District will require either a Use Permit or a Development Permit to ensure compatibility with the existing adjacent LI Light Industrial businesses. It is anticipated that the surrounding LI Light Industrial properties would be rezoned overtime by property owners to conform to the HI Heavy Industrial Zoning District as envisioned by the General Plan. The existing building conforms to the development standards of the HI Heavy Industrial Zoning District including setbacks and height.

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 Final Program Environmental Impact Report, Supplemental Environmental Impact Report 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 FPEIR, 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

Attachments: Plat Map and Legal Description

EXHIBIT "A"
Legal Description

For APN/Parcel ID(s): 254-39-012

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:

Beginning at the Southwesterly corner of that certain parcel of land described in the Deed to Beatrice V. Kirschenbaum, et al, recorded August 16, 1966 in Book 7475 Official Records, Page 121, Santa Clara County Records, said parcel designated as Parcel "A" on that certain Map entitled, "Record of Survey for Carl N. Swenson", which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California, on July 15, 1966 in Book 212 of Maps, at Page 17, in the Northerly line of Bayshore Frontage Road, as said Road is shown upon the Record of Survey Map hereinabove referred to;

thence from said point of beginning along said Northerly line of Bayshore Frontage Road for the two following courses and distances: North 82° 18' 45" West, 1.56 feet and North 82° 17' 10" West, 218.44 feet;

thence Northwesterly along an arc of a curve to the right, tangent to the preceding course, with a radius of 30.00 feet, through a central angle of 90°, for an arc distance of 47.12 feet to an iron pipe set in the Easterly line of Timothy Drive (80.00 feet in width), as said Drive is shown upon the Record of Survey Map above referred to;

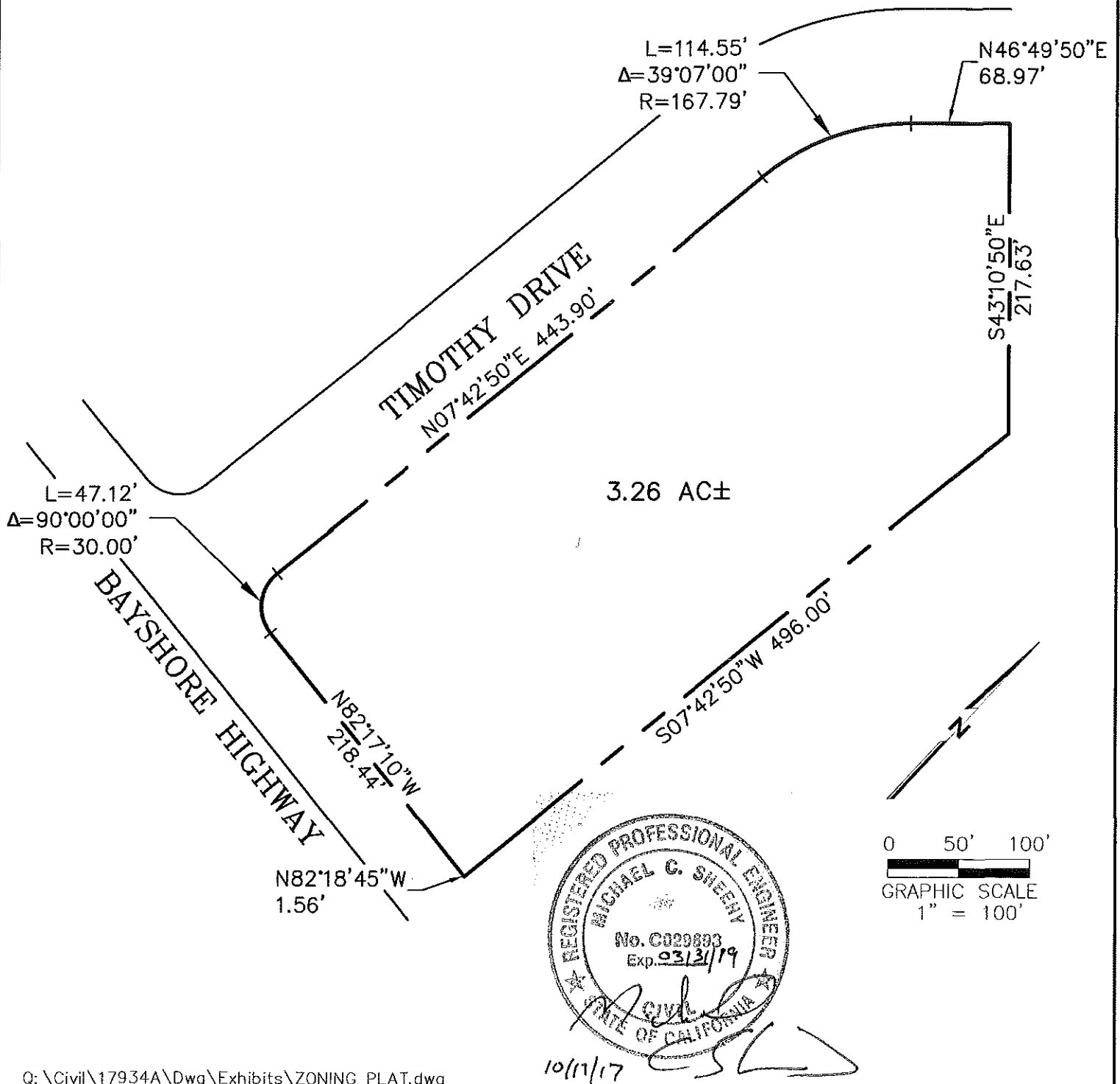
thence along the Easterly and Southeasterly lines of said Timothy Drive for the following courses and distances: North 7° 42' 50" East, 443.90 feet.

thence Northeasterly along an arc of a curve to the right, tangent to the preceding course, with a radius of 167.79 feet, through a central angle of 39° 07' for an arc distance of 114.55 feet and North 46° 49' 50" East, 68.97 feet to the Westernmost corner of that certain tract of land described in the Deed to Genevieve I. Hanscom, a married woman, recorded February 8, 1967 in Book 7634 Official Records, Page 335, Santa Clara County Records;

thence South 43° 10' 50" East along the Southwesterly line of land so described in the Deed to said Hanscom for a distance of 217.63 feet to the point of intersection thereof with the Northerly prolongation of the Westerly line of land so described in the Deed to said Kirschenbaum, above referred to;

thence South 7° 42' 50" West along said prolongation and the Westerly line of land so described in the Deed to said Kirschenbaum for a distance of 496.00 feet to the point of beginning, and being a portion of 500 acre Lot 15, San Jose City Pueblo Lands, and being that certain 3.2620 acres parcel as shown on Record of Survey filed May 23, 1967 in Book 222 of Maps at Page 43, Santa Clara County Records.

C17-044



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10/11/17

R+G

RUTH AND GOING, INC.

Civil Engineering Land Surveying

2216 THE ALAMEDA SANTA CLARA, CA. 95050

(408) 236-2400

ZONING PLAT

ACT ENVIRO

10/10/2017

17934A

Drwn.: ATN

Dept.: Survey

Scale: 1" = 100'

Chkd.: MCS

City of San Jose

California