

**RESOLUTION NO. 75713**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE APPROVING ENVIRONMENTAL ANALYSIS FOR THE CANNERY PARK VILLAGE PROJECT, FOR WHICH AN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION WAS PREPARED IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM**

**WHEREAS**, prior to the adoption of this Resolution, the Planning Director of the City of San Jose prepared an Initial Study and adopted a Mitigated Negative Declaration for the Cannery Park Village Project (Planning File No. PDC08-036) in accordance with the requirements of the California Environmental Quality Act of 1970, as amended, together with state and local guidelines implementing CEQA (collectively, "CEQA"); and

**WHEREAS**, the Cannery Park Village Project analyzed under the Initial Study/Mitigated Negative Declaration consisted of a Planned Development Rezoning from the A(PD)Planned Development Zoning District to the A(PD)Planned Development Zoning District to allow for the demolition of 242,000 square feet of office/light industrial space and the development of a mixed use building including up to 5,500 square feet of commercial space and up to 403 multi-family residential units, and the retention of 129,646 square feet of light industrial space on an 11.4-acre site located at the northwest corner of 10<sup>th</sup> and Taylor Streets, San José, California 95112 (the "Project"); and

**WHEREAS**, the Initial Study/Mitigated Negative Declaration concluded that implementation of the Project could result in a number of significant effects on the environment and identified mitigation measures that would reduce the 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 environment 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

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

**WHEREAS**, the Planning Commission of the City reviewed the Initial Study/Mitigated Negative Declaration and found it prepared in compliance with CEQA on January 12, 2011; 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

**WHEREAS**, the Initial Study/Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program for the Project are, by this reference, incorporated into this Resolution as if fully set forth herein.

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

**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 also consistent with state and local guidelines implementing CEQA, (3) the Initial Study/Mitigated Negative Declaration represents the independent judgment and analysis of the City as lead agency for the Project, and (4) that on the basis of the whole record before the Council, there is no substantial evidence that the Project will have a significant effect on the environment. The City Council designates the Director of Planning as the custodian of documents and records of proceedings on which this decision is based.

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**THAT THE CITY COUNCIL** does hereby approve and adopt Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program prepared for the Project (Planning File No. PDC08-036). 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, Tower-3<sup>rd</sup> Floor, San Jose CA 95113 and (2) available for inspection by any interested person.

**ADOPTED** this 25th day of January, 2011, by the following vote:

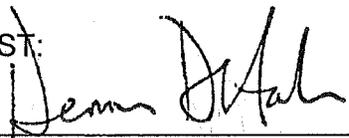
AYES:	CAMPOS, CHU, CONSTANT, HERRERA, KALRA, LICCARDO, NGUYEN, OLIVERIO, ROCHA, PYLE; REED.
NOES:	NONE.
ABSENT:	NONE.
DISQUALIFIED:	NONE.



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CHUCK REED  
Mayor

ATTEST:



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DENNIS D. HAWKINS, CMC  
City Clerk

**MITIGATION MONITORING AND REPORTING PROGRAM**

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**Cannery Park Village**  
File No. PDC08-036

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November 2010

**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.

On January 25, 2011, the City Council certified the Initial Study for the Cannery Park Village Project. The Initial Study concluded that the implementation of the project could result in significant impacts on the environment and mitigation measures were incorporated into the proposed project or were 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.

In order to avoid or significantly reduce significant environmental impacts of the project to a less than significant level so that a Mitigated Negative Declaration may be adopted, the applicant must agree to revise the project to include the mitigation measures contained herein before a proposed Mitigated Negative Declaration and initial study are released for public review in accordance with the California Environmental Quality Act Guidelines 15070 (b)(1).

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 and 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.

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

Date \_\_\_\_\_

Environmental Impacts	Mitigation Measures	Responsibility for Compliance	Method of Compliance	Timing of Compliance
<b>Cultural Resources</b>				
<p>Project construction could result in the potential discovery and disturbance of buried cultural resources.</p>	<p>Immediately after the site is cleared of structures, the project proponent shall retain a qualified archaeologist to search for buried archeological resources. In the event that resources are discovered, the archaeologist should submit a plan for the evaluation of the resource to determine its eligibility for inclusion on the California Register of Historic Resources. If eligible, a plan for mitigation/preservation of the resources shall be submitted to the City’s Environmental Principal Planner for approval before any construction-related earthmoving is allowed inside the zone of archaeological sensitivity.</p> <p>The historic report shall be provided to the qualified archeologist to identify potentially sensitive areas, and a plan for the identification and evaluation of these resources be prepared in advance of site clearing. In the event that resources are discovered that qualify for inclusion on the CRHR, a plan for mitigation/preservation of the resources shall be submitted to the City’s Environmental Principal Planner for approval before any construction-related earthmoving is allowed inside the zone of archaeological sensitivity.</p>	<p>Project Applicant</p>	<p>Incorporate measures into the contract specifications and documents.</p> <p>Retain qualified archaeologist if resources are encountered. Submit final report to the City’s Environmental Principal Planner when mitigation is completed.</p>	<p>Prior to building permit</p> <p>During all earth moving activities</p>
<p>Demolition of two Structures of Merit on the project site (Buildings 3 and 4) would significant impact locally historic resources.</p>	<p>The project applicant shall submit photographic documentation as specified by the professional staff at History San Jose for the two City Structures of Merit on the site (Buildings 3 and 4). The documentation modes, level, and number/orientation of views shall be approved by the City’s Historic Preservation Officer. Two copies of the completed documentation shall be submitted to the City’s Historic Preservation Officer. One copy should be</p>	<p>Project Applicant</p>	<p>Prepare photographic survey of the site and buildings and submit to City Historic Preservation Officer.</p>	<p>Prior to grading permit</p>

	retained by History San Jose for their archives. The photo documentation shall conform to the City's standard requirements.			
<b>Hazards and Hazardous Materials</b>				
Demolition and construction activities for the proposed project could result in the release of hazardous materials associated with potential contaminants in onsite soils and groundwater.	The applicant shall obtain approval of a Corrective Action Plan (CAP) or similar from the Santa Clara County Department of Environmental Health that identifies measures for appropriately removing and/or managing chemicals detected in onsite soils and groundwater in accordance with all regulatory requirements to assure public health and safety.	Project Applicant	Retain a qualified consultant to prepare the CAP and submit to Santa Clara County Department of Environmental Health for approval.	Prior to grading permit
<b>Noise and Vibration</b>				
Proposed residential uses on the project site would be exposed to noise levels that could exceed interior and exterior noise standards.	<p>When refining the project's site plan, locate noise-sensitive outdoor use areas away from adjacent noise sources. Shield noise-sensitive spaces with buildings or noise barriers whenever possible.</p> <p>Project-specific acoustical analyses shall be prepared so that the design of the residential units would be sufficient to adequately reduce interior noise levels to 45 dBA DNL or lower. Building sound insulation requirements would need to include the provision of forced-air mechanical ventilation for all new units with direct line to significant transportation noise sources in the project vicinity, so that windows could be kept closed at the occupant's discretion to control noise. Special building sound insulation treatments may be required. These treatments would include, but are not limited to, sound rated windows and doors, sound rated wall constructions, acoustical caulking, protected ventilation openings, etc. Preliminary calculations indicate that residential units would require sound rated windows and doors with ratings ranging from STC 28-30 to assure that the 45 dBA DNL indoor standard is met. The specific determination of what treatments are necessary would be determined on a unit-by-unit basis. The results of the analysis, conducted during the design phase of the project, including the description of the necessary noise control treatments to achieve acceptable noise levels inside the living units, shall be submitted to the</p>	Project Applicant	<p>Incorporate measures into the contract specifications and documents.</p> <p>Retain noise consultant to provide acoustical analyses on a unit-by-unit basis and incorporate recommendations into the contract specifications and documents.</p>	<p>Prior to building permit</p> <p>Prior to building permit</p>

	City along with the building plans and approved prior to issuance of a building permit. The State Building Code mandates this procedure.			
Vibration levels generated by railroad trains may occasionally exceed vibration standards (80 VdB).	Locate proposed residential structures no closer than 55 feet from the edge of the railroad track. The recommended building setback of 55 feet would yield vibration levels of 80 VdB or less.	Project Applicant	Incorporate measures into the contract specifications and documents.	Prior to building permit
	Residential structures located closer than 55 feet from the edge of the railroad track would require completion of an additional, comprehensive, vibration study of the building design that demonstrates that railroad train vibration levels would be adequately reduced at primary living spaces. Proper support of foundation systems for residential structures should be considered and building design should avoid resonant frequencies that coincide with primary frequencies of train-generated ground vibration (10 Hz and 20 Hz). Vibration isolation of buildings has been recently considered for residential applications.	Project Applicant	Retain qualified consultant to prepare vibration study and submit results/final design to City's Environmental Principal Planner.	Prior to building permit
<b>Traffic and Circulation</b>				
The project would significantly impact the following five study intersections: North First Street/Taylor Street, North Tenth Street/Hedding Street, North Eleventh Street/Taylor Street, North Thirteenth Street/Hedding Street, and Oakland Road/US 101 Southbound Ramps.	The applicant shall pay the Protected Intersection Traffic Impact Fee (TIF) for the intersections of North First Street/Taylor Street, North Tenth Street/Hedding Street, North Eleventh Street/Taylor Street, and North Thirteenth Street/Hedding Street. In order to finalize the offsetting improvements to be constructed by the project, a community meeting shall be held to determine agreed upon improvements and the project proponent shall submit improvement plans to the City of San Jose Department of Public Works.	Project Applicant	Provide payment of Protected Intersection TIF and improvement plans to San Jose Department of Transportation.	Prior to building permit
	The applicant shall participate in the US 101/Oakland/Mabury TDP Traffic Impact Fee Program. Since the project would send a portion of PM peak hour trips through the US 101/Oakland Road interchange, the proponent would be required to pay a fair share contribution toward the planned	Project Applicant	Submit payment of US 101 /Oakland/Mabury TDP TIF to San Jose Department of Transportation.	Prior to building permit

	interchange improvements. The project shall pay the US 101/Oakland/Mabury TDP Traffic Impact Fee prior to Public Works clearance or issuance of any building permits.			
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