

MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

PROJECT NAME: 1535-1575 Industrial Avenue Project

PROJECT FILE NUMBER: H21-001 and ER21-009

PROJECT DESCRIPTION: Site Development Permit to construct an approximately 71,550 square foot warehouse building, to be used for high cube storage and distribution with an ancillary office. The new building will be one story with a maximum height of 42 feet. The project will include two new driveways along Industrial Avenue, nine truck loading docks and 41 parking stalls. Seven trees would be removed and replaced by 36 15-gallon trees.

PROJECT LOCATION: The project site is located at 1535 to 1575 Industrial Avenue, west of the intersection of Industrial Avenue and Kings Row, in the City of San José.

ASSESSORS PARCEL NO.: 237-30-020 and 237-30-025

COUNCIL DISTRICT: 3

APPLICANT CONTACT INFORMATION: LBA Realty/LBA Logistics (Attn: Kathleen Ledbetter); 3347 Michaelson Drive, Suite 200, CA, Irvine, 92612; (949)757-2322; kledbetter@lbarealty.com

FINDING

The Director of Planning, Building and Code Enforcement finds the project described above would not have a significant effect on the environment if certain mitigation measures are incorporated into the project. The attached Initial Study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this Mitigated Negative Declaration (MND), has made or agrees to make project revisions that will clearly mitigate the potentially significant effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

- A. **AESTHETICS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- B. **AGRICULTURE AND FORESTRY RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- C. **AIR QUALITY**– The project would not have a significant impact on this resource, therefore no mitigation is required.

D. BIOLOGICAL RESOURCES.

Impact BIO-1: The proposed project would require removal of trees and existing vegetation, which could disrupt, damage, or otherwise destroy active nests of migratory bird species.

MM BIO-1: Prior to the issuance of any tree removal, grading, building or demolition permits (whichever comes first), the project applicant shall schedule all construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive). Construction activities include any site disturbance such as, but not limited to, tree trimming or removal, demolition, grading, and trenching. If construction activities cannot be scheduled between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist or biologist to ensure that no active nests shall be disturbed during construction activities. 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 inclusive) 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 inclusive). During this survey, the ornithologist/biologist shall inspect all trees and other possible nesting habitats on-site and within 250 feet of the site for nests.

If an active nest is found within 250 feet of the project area to be disturbed by construction, the ornithologist/biologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, (typically 250 feet for raptors and 100 feet for other birds), to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the ornithologist/biologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement or Director's designee.

- E. CULTURAL RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- F. ENERGY** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- G. GEOLOGY AND SOILS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- H. GREENHOUSE GAS EMISSIONS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- I. HAZARDS AND HAZARDOUS MATERIALS.**

Impact HAZ-1: Development of the proposed project could result in impact to construction workers, neighboring properties, future site occupants and the environment from exposure to potentially hazardous soil and soil gas due to contamination related to VOCs, tetrachloroethylene (PCE), degradation byproducts thereof, and 1,4-dioxane from former solvent recycling services, and waste oil or automotive fluids from onsite maintenance and repair shops.

MM HAZ-1: Prior to the issuance of a site grading permit the applicant shall hire a qualified

environmental professional to complete a Phase II Environmental Site Assessment to address the recognized environmental conditions and recommendations for risk mitigation posed in the Phase I Environmental Site Assessment completed by AVOCET Environmental, Inc. from August 3, 2020. The Phase II ESA shall also include the collection of shallow soil samples in the proposed project area for analysis of organochlorine pesticides and pesticide-based metals arsenic and lead to determine if contaminants from previous agricultural operations occur at concentrations above established construction worker safety and commercial/industrial standard environmental screening levels. Results of the Phase II shall be provided to the City of San Jose Planning, Building, and Code Enforcement Supervising Planner, and the Environmental Services Department Municipal Compliance Officer.

If the Phase II results indicate soil, soil gas and/or groundwater contamination above regulatory environmental screening levels, the applicant must obtain regulatory oversight from the San Francisco Regional Water Quality Control Board (RWQCB), California Department of Toxic Substances Control (DTSC) or Santa Clara County Department of Environment Health (SCCDEH) under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document must be prepared by a qualified hazardous materials consultant. The plan must establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The Plan and evidence of regulatory oversight shall be provided to the Supervising Environmental Planner of the City of San José Planning, Building, and Code Enforcement, and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

- J. HYDROLOGY AND WATER QUALITY** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- K. LAND USE AND PLANNING** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- L. MINERAL RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- M. NOISE** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- N. POPULATION AND HOUSING** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- O. PUBLIC SERVICES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- P. RECREATION** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- Q. TRANSPORTATION.**

Impact TRA-1: Development of the project would potentially conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities.

MM TRA-1: Prior to the issuance of any Public Works clearances, a qualified traffic engineer shall prepare a Transportation Demand Management (TDM) Plan and includes the following Transportation Demand Management (TDM) measures:

- Traffic Calming Measures (Roadway Narrowing). City staff have indicated that the project could mitigate its VMT impact by reducing the roadway width along Industrial Avenue from 44 feet to 40 feet.

and

- Commute Trip Reduction Marketing/Education. Alternative commute information should be provided to future employees. Alternative commute education can include, but is not limited to bike maps, carpooling options, transit maps, etc. Providing information for alternate commute methods can encourage employees to commute to work by walking, bicycling, or transit.

Prior to issuance of Public Works clearance, the project applicant shall submit the TDM plan to the City of San José Director of Planning, Building Code Enforcement or Director's designee and the Director of Public Works or Director's designee for review and approval.

- R. TRIBAL CULTURAL RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- S. UTILITIES AND SERVICE SYSTEMS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- T. WILDFIRE** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- U. MANDATORY FINDINGS OF SIGNIFICANCE.**

Cumulative impacts would be less than significant. The proposed Project would implement the identified mitigation measures and would have either have no impacts or less-than-significant impacts on riparian habitat or other sensitive natural communities, migration of species, or applicable biological resources protection ordinances. Therefore, the proposed Project would not contribute to any cumulative impact for these resources. The Project would not cause changes in the environment that have any potential to cause substantial adverse direct or indirect effects on human beings.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Friday, December 2, 2022** any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
2. Submit written comments regarding the information and analysis in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

CHRISTOPHER BURTON, Director
Planning, Building and Code Enforcement

November 4, 2022

Tina Garg Digitally signed by Tina Garg
Date: 2022.11.04 13:17:01
-07'00'

Date

Deputy

Bethelhem Telahun
Environmental Project Manager

Circulation period: November 9, 2022 to December 2, 2022