REVISED 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.

This Revised Mitigated Negative Declaration (MND) was created in order to reflect the additional mitigation measures to the Hazards and Hazardous Materials section that were not included in the previously circulated draft MND. Updated language below is indicated with underline.

NAME OF PROJECT: 1707 Ringwood Avenue Residential

PROJECT FILE NUMBER: PDC14-038

PROJECT DESCRIPTION: Planned Development Zoning to rezone from A Agricultural to A(PD) Planned Development Zoning District to allow 4 residential units (two attached units and two detached units) on an approximately 0.29 gross acre site.

PROJECT LOCATION & ASSESSORS PARCEL NO.: The project site is located at 1707 Ringwood Avenue, approximately 720 feet southerly of McKay Drive in San José, California. The Assessor's Parcel Number (APN) is 244-34-016 on the Santa Clara County Assessor's Parcel Map.

COUNCIL DISTRICT: 4

APPLICANT CONTACT INFORMATION: JWC Investments, Julie Vuong, 1570 Mt Shasta Avenue, Milpitas, CA 95035

FINDING:

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

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

I. **AESTHETICS.** The project will not have a significant impact on aesthetics or visual resources, therefore no mitigation is required.

II. **AGRICULTURE AND FOREST RESOURCES.** The project will not have a significant impact on agriculture or forest resources, therefore no mitigation is required.

III. **AIR QUALITY.** The project will not have a significant impact on air quality, therefore no mitigation is required.

IV. **BIOLOGICAL RESOURCES.** The removal of mature trees on the project site may result in impacts to nesting raptors.

Mitigation Measure BIO-1: If possible, construction should be scheduled between September 1st and December 31st to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January 1st and April 30th, pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal; and between May 1st and August 31st, preconstruction surveys shall be conducted no more than 30 days prior to the initiation of construction activities or tree relocation or removal. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the State of California, Department of Fish & Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report to the City's Environmental Principal Planner indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning prior to the issuance of any grading or building permit.

V. **CULTURAL RESOURCES.** The demolition of existing structures may result in impacts to at least one potential historic resource. The grading and development of the site may result in impacts to archaeological resources.

Mitigation Measure CR-1: Construction crews should be alerted to the potential for the discovery of archaeological materials and human burials when the site is cleared, graded and trenched for utilities. Should any of the materials described below be discovered, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement shall be notified, and the archaeologist will examine the find and make appropriate recommendations prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery during monitoring would be submitted to the Director of Planning, Building and Code Enforcement.

Archaeological site indicators include but are not limited to the following: darker than surrounding soils of a friable nature, any evidence of fire (ash, charcoal, fire affected rock or earth), concentrations of rock, bone or fresh water and marine shellfish, and artifacts of these materials.

Of particular concern is the potential for discovery of human remains. Concentrations of what appear to be articulated bone (still retaining the shape of the animal and/or human) may mean that a cemetery component similar to those found around Murphy Road and the municipal golf course has been located. If human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped. The Santa Clara County Coroner shall be notified and make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) immediately. Once the NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.

VI. **GEOLOGY AND SOILS.** The project will not have a significant impact due to geology and soils, therefore no mitigation is required.

VII. **GREENHOUSE GAS EMISSIONS.** The project will not have a significant impact due to greenhouse gas emissions, therefore no mitigation is required.

VIII. **HAZARDS AND HAZARDOUS MATERIALS.** The project is located in an area with historical agricultural use therefore there is a chance that residual agricultural chemicals are present in the soil.

Mitigation Measure HAZ 1.1: After hardscape removal, but prior to the issuance of grading permits, the project proponent shall ensure shallow soil samples shall be taken in the vicinity of the construction area on-site to determine the levels of contamination in the soil from previous agricultural activities. If residual pesticides are not detected and/or are found to be below screening levels for public health and the environment, then there are no further conditions or requirements.

Mitigation Measure HAZ 1.2: If contaminated soils are found and are above regulatory environmental screening levels for public health and the environment, then the project proponent will implement appropriate management procedures, such as removal and/or capping of the pesticide-contaminated soil and implementation of a Site Management Plan (SMP) under regulatory oversight from the Santa Clara County Department of Environmental Health or Department of Toxic Substances (DSTC). Copies of the environmental investigations shall be provided to the Department of Planning, Building and Code Enforcement (PBCE) and the Environmental Services Department (ESD).

IX. **HYDROLOGY AND WATER QUALITY.** The project will not have a significant hydrology and water quality impact, therefore no mitigation is required.

X. **LAND USE AND PLANNING.** The project will not have a significant land use impact, therefore no mitigation is required.

XI. **MINERAL RESOURCES.** The project will not have a significant impact on mineral resources, therefore no mitigation is required.

XII. **NOISE.** The project will not have a significant noise impact, therefore no mitigation is required.

XIII. POPULATION AND HOUSING. The project will not have a significant population and housing impact, therefore no mitigation is required.

XIV. PUBLIC SERVICES. The project will not have a significant impact on public services, therefore no mitigation is required.

XV. RECREATION. The project will not have a significant impact on recreation, therefore no mitigation is required.

XVI. TRANSPORTATION / TRAFFIC. The project will not have a significant traffic impact, therefore no mitigation is required.

XVII. UTILITIES AND SERVICE SYSTEMS. The project will not have a significant impact on utilities and service systems, therefore no mitigation is required.

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE. The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **November 24th** any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or

2. Submit written comments regarding the information, analysis, and mitigation measures 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.

Harry Freitas, Director
Planning, Building and Code Enforcement

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Deputy

Re-circulation period, from November 4, 2015 to November 24, 2015.