



Department of Planning, Building and Code Enforcement

JOSEPH HORWEDEL, DIRECTOR

**PUBLIC NOTICE**  
**INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION**  
**CITY OF SAN JOSÉ, CALIFORNIA**

*Project File Number, Description, and Location*

**PDC08-042:** Planned Development Rezoning from A(PD) Planned Development to A(PD) Planned Development Zoning District to reduce the landfill space available for refuse disposal by 240,000 cubic yards and to allow the continued use of materials recovery after landfill closure on a 70.3 gross acres site located approximately 1,200 feet northwesterly of the intersection of Los Esteros Road and Zanker Road. (Zanker Road Resource Management, LTD, Developer) Council District: 4

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location does not contain a listed toxic site.

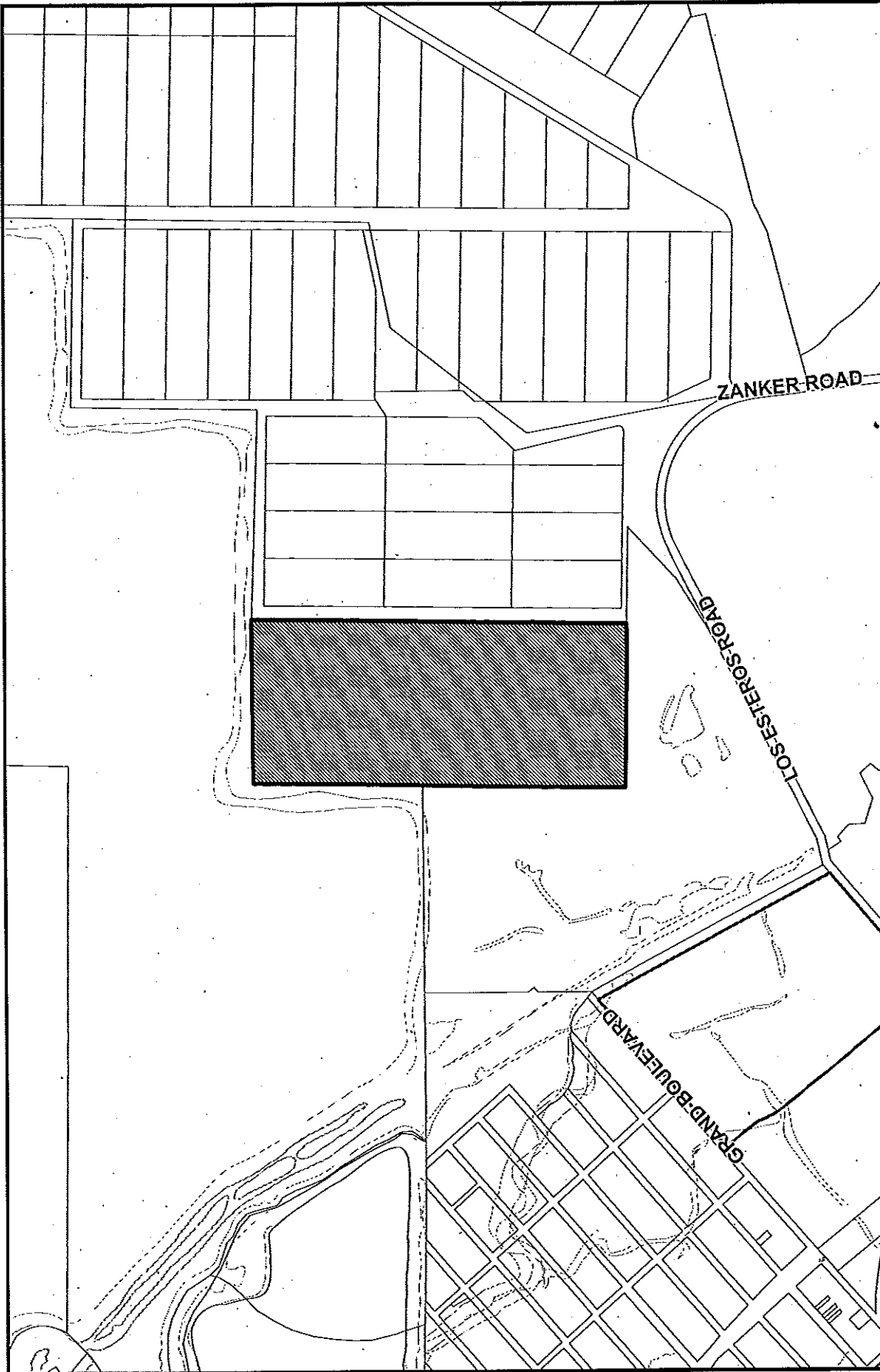
Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 2,000 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on **May 27, 2009**, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **April 27, 2009** and ends on **May 27, 2009**.

A public hearing on the project described above is tentatively scheduled for **May 27, 2009** at 6:30 p.m. in the City of San Jose Council Chambers, 200 East Santa Clara Street, San Jose, CA 95113. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 200 East Santa Clara Street, San José CA 95113-1905. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and online at <http://www.sanjoseca.gov/planning/eir/MND.asp> Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call **Sylvia Do** at (408) 535-7906.

Joseph Horwedel, Director  
Planning, Building and Code Enforcement

Circulated on: April 27, 2009

  
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Deputy



**File No: PDC08-042**

**District: 4**

**Quad No: 20**

Approx. Scale: 1" = 1,000'  
Map Created On: 08/06/2008  
Noticing Radius: 500 feet



**DRAFT**  
**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.

**NAME OF PROJECT:** Zanker Road Resource Recovery Operation and Landfill Planned Development Rezoning

**PROJECT FILE NUMBER:** PDC08-042

**PROJECT DESCRIPTION:** Planned Development Rezoning from A(PD) Planned Development to A(PD) Planned Development Zoning District to reduce the landfill space available for refuse disposal by 240,000 cubic yards and to allow the continued use of materials recovery after landfill closure and subsequent permits on a 70.3 gross acre site.

**PROJECT LOCATION & ASSESSORS PARCEL NO.:** Approximately 1,200 feet northwesterly of the intersection of Los Esteros Road and Zanker Road; APN 015-038-004.

**COUNCIL DISTRICT:** 4

**APPLICANT CONTACT INFORMATION:** Zanker Road Resource Management, LTD., Attn: Paul Lineberry, 625 Charles Street, San Jose, CA 95112

**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 this resource, therefore no mitigation is required.

- II. AGRICULTURE RESOURCES** – The project will not have an impact on this resource, therefore no mitigation is required.
- III. AIR QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- IV. BIOLOGICAL RESOURCES** – The following measures shall be implemented into the project to prevent impacts to biological resources:

#### **Wetlands**

- a. Prior to any grading of the perimeter road or side slopes of the landfill, silt fencing shall be installed upslope from the wetland boundary to ensure that dirt or other material does not slide into wetland areas. This fencing shall be inspected and repaired as necessary during grading and landfill cover installation to maintain proper function.
- b. Standard dust control measures, as outlined in Section 4.3.2 of this Initial Study, shall be implemented during all phases of final cover installation to minimize any adverse effects of dust mobilization on wetland habitats and any special-status species found in adjacent wetlands.
- c. Erosion and sedimentation also shall be controlled in conformance with a Final Closure and Postclosure Maintenance Plan for the ZRRROL facility approved by the California Integrated Waste Management Board (CIWMB), Regional Water Quality Control Board, LEA for the landfill. The Plan shall meet the specific technical requirements for landfill closure in Title 27.

#### **Burrowing Owl**

- a. To avoid the potential take of burrowing owls, pre-construction surveys shall be completed for this species by a qualified ornithologist within two weeks prior to new ground-disturbing activity that affects the lower portions of the levee side-slopes (i.e., below the existing perimeter road). The pre-construction surveys shall follow California Department of Fish and Game (CDFG) guidelines, and shall be completed regardless of the time of year in which work occurs. If burrowing owls are found within the impact area during the breeding season (February 1-August 31, or as otherwise determined by surveys and monitoring), no new activities (i.e., activities that are not currently ongoing at the site) or activities that could result in the destruction of an active burrow shall occur within 250 feet of any active burrows. During the non-breeding season, burrowing owls shall be passively evicted from their burrows by a qualified biologist using one-way doors, then the burrows back-filled, immediately prior to construction.

A report on the results of the pre-construction survey(s) for burrowing owls, including any required buffer zones or protection measures, shall be submitted to the City's Environmental Principal Planner to the satisfaction of the Director of Planning prior to the start of grading each year and/or at the start of a new phase of grading or landfill closure.

**Salt March Harvest Mouse and Salt March Wandering Shrew**

- a. Impacts to the salt marsh harvest mouse and the salt marsh wandering shrew shall be avoided by ensuring that soil or other materials do not enter the pickleweed-dominated wetlands surrounding the project site. Prior to any grading of the perimeter roads or side slopes, silt fencing shall be installed upslope from the wetland boundary to ensure that soil or other materials do not slide into the wetland areas. This fencing shall be inspected and repaired as necessary during grading to maintain proper function.
- b. Erosion and sedimentation also shall be controlled in conformance with a Final Closure and Postclosure Maintenance Plan for the ZRRROL facility approved by the California Integrated Waste Management Board (CIWMB), Regional Water Quality Control Board, LEA for the landfill. The Plan shall meet the specific technical requirements for landfill closure in Title 27.

- V. **CULTURAL RESOURCES** – The project will not have an impact on this resource, therefore no mitigation is required.
- VI. **GEOLOGY AND SOILS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VII. **HAZARDS AND HAZARDOUS MATERIALS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VIII. **HYDROLOGY AND WATER QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- IX. **LAND USE AND PLANNING** – The project will not have an impact on this resource, therefore no mitigation is required.
- X. **MINERAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XI. **NOISE** – The project will not have an impact on this resource, therefore no mitigation is required.
- XII. **POPULATION AND HOUSING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XIII. **PUBLIC SERVICES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XIV. **RECREATION** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XV. **TRANSPORTATION / TRAFFIC** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**XVI. UTILITIES AND SERVICE SYSTEMS** – The project will not have a significant impact on this resource, therefore no mitigation is required.

**XVII. 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 additional mitigation is required.

**PUBLIC REVIEW PERIOD**

Before 5:00 p.m. on **May 27, 2009**, 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.

Joseph Horwedel, Director  
Planning, Building and Code Enforcement

Circulated on: 4/27/09

  
Deputy

Adopted on: \_\_\_\_\_

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Deputy

Revised 10..20.08 sbw