

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Stephen M. Haase

**SUBJECT:** SEE BELOW

**DATE:** July 29, 2004

**COUNCIL DISTRICT:** Citywide  
**SNI AREAS:** All

**SUBJECT: AN ORDINANCE AMENDING SECTION 20.50.100 OF TITLE 20, THE ZONING CODE, TO MODIFY THE USES ALLOWED IN THE INDUSTRIAL ZONING DISTRICTS.**

## RECOMMENDATION

The Planning Commission voted 7-0-0 to recommend that the City Council adopt the proposed ordinance amending Title 20, the Zoning Code, of the San Jose Municipal Code pertaining to allowing additional uses in the IP Industrial Park District.

## BACKGROUND

On July 28, 2004, the Planning Commission held a public hearing to consider the proposed ordinance to allow additional uses in the IP Industrial Park District and to simplify the permit process for the same uses in the LI Light Industrial and HI Heavy Industrial districts. The Planning staff recommended approval of the proposed ordinance, as outlined in the attached staff report.

The proposed ordinance was originally approved by the City Council on March 30, 2004 as an urgency ordinance. The current proposal makes those code changes permanent. Staff is recommending a permanent ordinance, because the economic downturn is still in place and San Jose needs to continue to provide land use flexibility to increase the number of businesses operating in the city's industrial areas.

Commissioner Dhillon had concerns regarding the process for selecting the uses that were considered for inclusion in the Industrial Park Zoning District and the amount of flexibility of the Zoning District inferred by the proposal. He also expressed some desire for considering streamlining the current Conditional Use Permit process for Mixed Industrial Overlay areas, which allow a limited array of commercial uses in the industrial the areas with the issuance of a Conditional Use Permit.

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Staff explained that the purpose of the Mixed Industrial Overlay is separate from the intent of the proposed ordinance. Staff explained that the commercial uses permitted with a Conditional Use Permit and limited in size in the areas designated with the Mixed Industrial Overlay is a General Plan issue as opposed to a process issue which is the intent of the proposed ordinance. Along with their recommendation for approval of the proposed ordinance, Planning Commission voted to forward to the City Council a recommendation to explore additional opportunities to streamline the permit requirement for those commercial uses requiring Conditional Use Permits in the Mixed Industrial Overlay.

Commissioner Zito asked for clarification on the enumerated uses and the physical form in which these uses typically appear. He expressed concern for residential interface with the uses to be added to the Industrial Park Zoning District. Staff explained that the current development regulations in the Industrial Zoning Districts, including the Industrial Park Zoning District, address residential interface issues with required setbacks from residential zoning districts. Commissioner Zito also expressed concern over the increased flexibility of the district proposed due to the economic downturn, which is not anticipated to last indefinitely and which may not be desired in the future with a more healthy economy. Staff explained that a lack of controversy experienced in the past with those specific uses, that required Conditional Use Permits before the urgency ordinance, supported the proposal to streamline the process to require Special Use Permits and that providing added flexibility is not anticipated to diminish the intent and integrity of the Industrial Park Zoning District.

Commissioner James asked for a clarification on whether "roll up doors," identified in the staff report, was the sole criteria for determining which uses were considered for inclusion in the proposal. Staff explained that was not the only criteria. The reason for providing the example in the staff report was to provide an example of the multi-purpose building design that could easily accommodate the industrial uses identified in the Industrial Park Zoning District.

### **PUBLIC OUTREACH**

On March 15, 2004, a public hearing notice was sent to the San Jose Post Record for publishing in the March 19, 2004 edition. This notice included the Planning Commission and City Council hearing dates for both the urgency ordinance and the proposed ordinance revision. In addition, copies of the hearing notice were e-mailed to members of the industrial development community. As standard practice, staff posted the staff report and draft ordinance as well as the hearing dates on the Department's website.

This item was discussed at the PBCE Developer Roundtable in March 2004, and there was no opposition.

Prior to the March 30, 2004 City Council action on the urgency ordinance, staff received one comment letter asking for a greatly expanded range of allowable uses in the IP Zoning District.

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In staff's opinion, a more limited range of additional uses is appropriate to maintain the overall character of the IP Industrial Park District.

### **COORDINATION**

Preparation of the proposed ordinance has been coordinated with the City Attorney's Office.

### **CEQA**

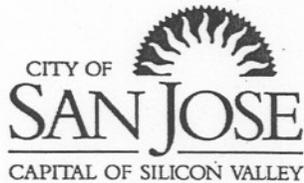
The proposed ordinance, PP04-03-073, was found exempt from CEQA per Section 15061(b)(3). Any project-specific impacts from a development proposal under the revised IP Industrial Park District regulations would be analyzed as a part of the development proposal.

  
for STEPHEN M. HAASE, SECRETARY  
Planning Commission

Attachment

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SMH:phs





# Memorandum

**TO:** PLANNING COMMISSION

**FROM:** Stephen M. Haase

**SUBJECT:** SEE BELOW

**DATE:** July 23, 2004

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**COUNCIL DISTRICT:** Citywide  
**SNI AREAS:** All

**SUBJECT: AN ORDINANCE AMENDING SECTION 20.50.100 OF TITLE 20, THE ZONING CODE, TO MODIFY THE USES ALLOWED IN THE INDUSTRIAL ZONING DISTRICTS.**

## RECOMMENDATION

Planning staff recommends that the Planning Commission recommend that the City Council approve the proposed ordinance amending Title 20, the Zoning Code, of the San Jose Municipal Code pertaining to allowing additional uses in the IP Industrial Park District.

## BACKGROUND

The City Council adopted Economic Development Strategy identifies a specific tactic to create greater land use flexibility in order to attract and retain businesses in San Jose. Currently, there are approximately 20 million square feet of vacant industrial and office space in San Jose and over 66 million square feet in Silicon Valley (source: Colliers International, Q4 2003). As a first step towards this tactic and to give San Jose a favorable position in the current competitive market, staff is recommending an ordinance to facilitate the absorption (i.e., occupancy) of vacant industrial buildings in the IP Industrial Park Zoning District with a wider array of businesses than currently allowed in the Zoning Code, Title 20. The desired outcome of the proposed ordinance would be a reduction of vacant space and a strengthening of the City's employment lands with viable economic activities. Another possible outcome may be reduced pressure to convert employment lands to other uses.

The City Council adopted an urgency version of the proposed ordinance at its March 30, 2004 meeting. The proposed ordinance would make the changes effected under the urgency ordinance permanent.

## ANALYSIS

Under the current Zoning Code, the IP Industrial Park Zoning District allows a limited variety of uses, such as business and administrative offices, research and development, and light manufacturing uses. Industrial uses are allowed in the IP Industrial Park District, as long as any hazardous or nuisance impacts of the proposed operation can be mitigated through design controls.

In the current economic environment, there are a large number of vacant buildings in the IP Industrial Park District. Many of the vacant buildings are single story that could be occupied by a wider variety of industrial uses due to the fact that the buildings have roll-up doors. In some cases, these vacant buildings are generally too old to attract high-end office uses, but at the same time are in a Zoning District that allows limited industrial uses.

The proposed regulations would increase the variety of types of uses that would be allowed in the IP Industrial Park District, which would allow greater flexibility to property owners in a down economy.

The proposed ordinance also changes the permit process for a small number of uses from a Conditional Use Permit to a Special Use Permit. This change shifts the decision-maker from the Planning Commission (City Council on appeal) to the Director of Planning, with the Planning Commission as an appeal body. The net effect of the change would be to improve response times to new development requests, which should facilitate absorption of vacant industrial buildings.

The proposed ordinance would allow Medium Manufacturing and Assembly and Processing Laboratory uses with a Special Use Permit. These uses are currently prohibited in the IP Industrial Park District. This would allow property owners additional flexibility to lease their buildings to a variety of tenants. Medium Manufacturing and Assembly covers a wide range of industrial uses, including manufacturing from unprocessed raw materials, provided that the finished product is non-combustible and non-explosive. Medium manufacturing uses can produce noise and vibrations that are perceptible to adjacent land users, as long as those impacts do not rise to the level of nuisance. The Special Use Permit requirement would allow staff to condition proposed uses appropriately to minimize potential adverse impacts.

The proposed ordinance would also change the following uses from being allowed with a Conditional Use Permit to being allowed with a Special Use Permit: Warehouse/Distribution Facility, Wholesale Sale Establishment, and Common Carrier Depot.

The use table would also be amended to allow the Common Carrier Depot use in the LI Light Industrial and HI Heavy Industrial Districts with a Special Use Permit. This change is to maintain consistency across the Industrial Districts. The changes to the industrial use table are summarized below.

**Table 1. Proposed Changes to the Industrial Zoning Districts.**

USE	Industrial Zoning Districts					
	Current			Proposed		
	IP	LI	HI	IP	LI	HI
Laboratory, Processing	-	P	P	S	P	P
Manufacturing and Assembly, Medium	-	P	P	S	P	P
Warehouse/Distribution Facility	C	P	P	S	P	P
Wholesale Sale Establishment	C	P	P	S	P	P
Common Carrier Depot	C	C	C	S	S	S

Note: IP – Industrial Park; LI – Light Industrial; HI – Heavy Industrial; C – Conditional uses; S – Uses requiring a Special Use Permit; P – Permitted uses; “-“ – Not Permitted.

The proposed changes to the IP Industrial Park District are consistent with and support the recently adopted Economic Development Strategy by making existing employment lands more viable in a down economy.

The changes are also consistent with the General Plan, by focusing on uses that have a minimum of adverse impacts, and by providing a process for conditioning the proposed uses.

Staff is recommending a permanent ordinance, because the economic downturn is still in place and San Jose needs to continue to provide land use flexibility to increase the number of businesses operating in the city’s industrial areas.

**PUBLIC OUTREACH**

On March 15, 2004, a public hearing notice was sent to the San Jose Post Record for publishing in the March 19, 2004 edition. This notice included the Planning Commission and City Council hearing dates for both the urgency ordinance and the proposed ordinance revision. In addition, copies of the hearing notice were e-mailed to members of the industrial development community. As standard practice, staff posted the staff report and draft ordinance as well as the hearing dates on the Department’s website.

This item was discussed at the PBCE Developer Roundtable in March 2004, and there was no opposition.

Prior to the March 30, 2004 City Council action, staff received one comment letter asking for a greatly expanded range of allowable uses in the IP Zoning District. In staff’s opinion, a more

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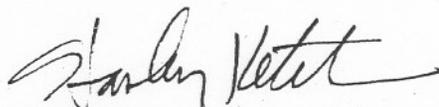
limited range of additional uses is appropriate to maintain the overall character of the IP Industrial Park District.

### COORDINATION

Preparation of the proposed ordinance and this memorandum have been coordinated with the City Attorney's Office.

### CEQA

The proposed ordinance, PP04-03-073, was found exempt from CEQA per Section 15061(b)(3). Any project-specific impacts from a development proposal under the revised IP Industrial Park District regulations would be analyzed as a part of the development proposal.

  
for STEPHEN M. HAASE, DIRECTOR  
Planning, Building, and Code Enforcement