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: Julian and Tripp Mixed Use Development Project

PROJECT FILE NUMBER: H21-050, H22-012, H22-001, and ER21-297

PROJECT DESCRIPTION: The proposed project consists of applications for three separate Site Development Permits to allow construction of a total of 913 multi-family residential units and approximately 14,820 square feet of commercial space across three sites. The development proposed for the site at 1298 Tripp Avenue (Residencias Arianna) consists of a single apartment building on four parcels, each six stories with one level of basement parking. A total of 235 units are proposed as well as approximately 820 square feet of ground floor commercial spaceThe development proposed for the site at 1325 E. Julian Street (Vila de Camila) would consist of 633 residential units and approximately 11,500 square feet of commercial space on a single parcel. The buildings would be 10 stories. The development proposed for the site at 1347 E. Julian Street (Casa Inclusiva) would consist of 45 residential units in a single, six-story, 63,097 square foot apartment building as well as approximately 2,500 square feet of ground floor commercial space on two adjacent parcels.

PROJECT LOCATION: 1298 Tripp Avenue, 380 North 26th Street, and 345 and 341 Wooster Avenue (Residencias Arianna, File No. H21-050); 1325 E. Julian Street (Vila de Camila, H22-012); 1347 E. Julian Street (Casa Inclusiva, H22-001).

ASSESSORS PARCEL NO.: 249-66-013, 249-66-040, 249-66-037, and 249-66-038 (Residencias Arianna, File No. H21-050); 249-65-061 (Vila de Camila, H22-012); 249-65-058 and 249-65-060 (Casa Inclusiva, H22-001)

COUNCIL DISTRICT: 3

APPLICANT CONTACT INFORMATION: Diridon Investments, LLC, Attn: Loida C. Kirkley, 1238 Sutter St., Ste 801, San Francisco, CA 94109

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 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.

Impact AQ-1: The proposed project would result in fugitive dust exceeding the Bay Area Air Quality Management District (BAAQMD) annual threshold of 0.3 particulate matter of 2.5 microns (PM2.5) as a result of construction activities.

MM AQ-1: Prior to the issuance of any demolition or grading permits, the project applicant shall include the following enhanced measures to reduce PM10 and PM2.5 from construction activities and incorporate them into project plans and implement them throughout construction to ensure that short-term health impacts to nearby sensitive receptors are avoided.

- Limit the simultaneous occurrence of excavation, grading, and ground-disturbing construction activities.
- Install wind breaks (e.g., trees, fences) on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity.
- Plant vegetative ground cover (e.g., fast-germinating native grass seed) in disturbed areas as soon as possible and watered appropriately until vegetation is established.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.
- Minimize the amount of excavated material or waste materials stored at the site.
- Hydroseed or apply non-toxic soil stabilizers to construction areas, including previously graded areas, that are inactive for at least 10 calendar days.

Impact AQ-2: Project construction would result in an infant cancer risk of 10.11 in one million and annual PM2.5 emissions of 0.34 μg/m3 at the maximally exposed individuals (MEIs), which exceeds the BAAQMD's cancer risk significance thresholds.

MM AQ-2: MM AQ-2: Prior to the issuance of any demolition, grading, or building permits (whichever occurs first), the project applicant shall prepare a construction operations plan with equipment verified by an air quality specialist that demonstrates off-road equipment used on-site to construct the project would achieve a fleet-wide average of a 10 percent reduction or more in diesel particulate matter (DPM) exhaust emissions. Specifically, this plan shall include, but is not limited to, the measures identified below:

- All diesel-powered construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA Tier 4 emission standards for particulate matter (PM10 and PM2.5).
- If use of Tier 4 equipment is not available, alternatively use equipment that meets U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that

altogether achieve a 10 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment; alternatively (or in combination).

- Use of electrical or non-diesel fueled equipment.
- As an alternative to the measures above, the project applicant could request a plan from a qualified air quality specialist that reduces on and near-site construction diesel particulate matter emissions by a minimum of 10 percent or greater. The plan shall be submitted to the City of San José Director of Planning, Building and Code Enforcement ort the Director's designee for review and approval prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest).

D. BIOLOGICAL RESOURCES.

Impact BIO-1: Construction activities associated with the project could result in the loss of fertile eggs of nesting raptors or other migratory birds, or nest abandonment.

MM BIO-1: The project applicant shall schedule demolition and 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).

If demolition and construction cannot be scheduled to occur between September 1st and January 31st (inclusive and as amended), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist or biologist to ensure that no nests shall be disturbed during project implementation. 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 immediately adjacent to the construction areas for nests.

If an active nest is found sufficiently close to work areas 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, 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 the Planning, Building, and Code Enforcement or the Director's designee.

E. CULTURAL AND TRIBAL CULTURAL RESOURCES.

Impact CR-1: The project may impact buried archaeological resources during excavation and construction activities.

MM CR-1.1: Cultural Sensitivity Training. Prior to issuance of any grading permit, the project applicant shall be required to conduct a Cultural Awareness Training for construction personnel. The training shall be facilitated by a qualified project archaeologist in

collaboration with a Native American representative registered with the Native American Heritage Commissions for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3. Documentation verifying that Cultural Awareness Training has been conducted shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee within seven days of completion of the training.

MM CR-2: Monitoring Plan. Prior to issuance of any demolition, grading, or building permits (whichever occurs first), a qualified archeologist, in consultation with a Native American representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3, shall prepare a monitoring plan for all earthmoving activities (includes demolition activities that could disturb native soil, any earthmoving−e.g., grading or excavation for foundations, footings, and trenching for underground utilities). The Plan shall be submitted to the Director of the Planning, Building, and Code Enforcement or the Director's designee for review. The plan shall include, but is not limited to, the following:

- Monitoring schedules
- Contact information
- Recommendation for monitoring methods
- Timing of reporting finds

MM CR-3: Sub-Surface Monitoring. A qualified archeologist in collaboration with a Native American monitor, registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3, shall also be present during applicable earthmoving activities in accordance with the Monitoring Plan in MM CR-2. These could include but not are not limited to, trenching, initial or full grading, lifting of foundation, boring on site, or major landscaping. Monitoring shall continue until it is determined by a qualified archeologist in collaboration with a Native American monitor that excavation has reached the maximum depth at which archaeological remains could be expected to occur.

MM CR-4 Evaluation. The project applicant shall notify the Director of Planning, Building, and Code Enforcement or Director's designee of any finds during the grading or other construction activities. Any historic or prehistoric material identified in the project area during the during excavation activities shall be evaluated for eligibility for listing in the California Register of Historic Resources as determined by the California Office of Historic Preservation. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation. The techniques used for data recovery shall follow the protocols identified in the approved treatment plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation. All documentation and recordation shall be submitted to the Northwest Information Center and Native American Heritage Commission (NAHC) Sacred Land Files, and/or equivalent prior to the issuance of an occupancy permit. A copy of the evaluation shall be submitted to the City of San José Department of Planning, Building, and Code Enforcement or the Director's designee.

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: Due to a portion of the site's historic use associated with various types of manufacturing facilities with documented evidence of past releases from former USTs for the addresses, 1325 and 1347 East Julian Street and the potential for the presence of Naturally Occurring Asbestos (NOA) in addition to the presence of a railroad track adjoining the western parcel boundary, there is a possibility to encounter environmental contamination in the soil, soil gas and/or groundwater in this portion of the project area. Additionally, due to the agricultural history associated with the address, 1298 Tripp Avenue, there is a potential that the shallow soil in this parcel contains residual organochlorine pesticides and/or pesticide-based metals arsenic and lead from historic pesticide application. If environmental impacts are present in the site's subsurface media and not mitigated, construction of the project could result in exposure of construction workers, occupants of adjacent properties and future site occupants to toxic and/or hazardous contamination.

MM HAZ-1: Prior to issuance of a grading permit, the project applicant shall retain a qualified environmental professional to complete a Phase II Environmental Site Assessment to determine if the prior site uses have resulted in an impact to the soil, soil gas and/or groundwater. The Phase II investigation should include collection and analysis of shallow soil samples for organochlorine pesticides and pesticide-based metals, arsenic and lead to evaluate past agricultural use associated with the site address, 1298 Tripp Avenue. The Phase II investigation for the site address, 1325 and 1347 East Julian Street should include collection and analysis of soil, soil gas and/or groundwater samples to investigate this portion of the site's historic uses and releases associated with former USTs in addition to evaluating any potential subsurface impacts due to the adjoining railroad spur. The Phase II investigation for 1325 and 1347 East Julian Street shall also include soil sampling and analysis for asbestos in accordance with the California Air resources Board (CARB) test method 435.

If the Phase II results indicate concentration of contaminants present in the subsurface above the applicable construction worker and residential environmental screening levels, the applicant must obtain regulatory oversight from the Department of Toxic Substances Control (DTSC), or the Santa Clara County Department of Environmental Health (SCCDEH) under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified environmental consultant under regulatory oversight and approval that identifies remedial measures and/or soil management practices to ensure construction worker safety and the health of future site occupants. If asbestos is present above 0.25%, the applicant shall prepare the Asbestos Dust Mitigation Plan and adhere to the requirements specified in the final regulation order for Asbestos Airborne Toxic Control Measure (ACTM) for Construction, Grading, Quarrying, and Surface Mining Operations, California Code of Regulations Title 17, Section 93105. The ADMP would include track-out prevention and control, storage piles, onsite traffic control, preparation of areas prior to earth moving activities, and control for offsite transport, consistent with the ACTM. The plan and evidence of regulatory oversight shall be provided to the Director of Planning, Building, and

Code Enforcement or Director's designee and the Environmental Compliance Officer in the City of San José 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

Impact NSE-1: Construction of the project would generate temporary increased noise levels exceeding 80 dBA Leq at the nearby residential and school land uses, in exceedance of the City's exterior threshold. Construction of the proposed project would also generate temporary increased noise levels within 500 feet of the residential and the school land uses for a period of over 12 months, which is defined as significant impact under General Plan Policy EC-1.7.

MM NSE-1: Construction Noise Logistics Plan: Prior to the issuance of any grading or building permits, the project applicant shall prepare and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any grading or demolition permits. As a part of the noise logistic plan, construction activities for the proposed project shall include, but are not limited to, the following best management practices:

- Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence (San José Municipal Code Section 20.100.450). Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of PBCE that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses. A temporary 10 to 12-foot noise barrier would provide 5 to 6 dBA attenuation for adjacent sensitive land uses when construction activities occur at the ground level.
- Erect a temporary noise control blanket barrier, where feasible, at the property line or on scaffolding just outside the proposed buildings facing of the residences represented by "Res-3" in Figure 32 during construction of the upper floors of buildings at Vila de Camila (1325 East Julian Street) to control construction noise when activities occur above the ground level. Since construction of Vila De Camila (1325 East Julian Street)

would be constructed in phases, with Buildings C and D (located at the rear of the site) to be built before Buildings A and B (located at the front of the site), the temporary noise control blanket barriers shall be installed at residences nearest to the active construction activities only.

- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines shall be strictly prohibited.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
- Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

Impact NSE-2: Operation of the project could result in operational noise from mechanical equipment that exceeds 55 dBA DNL at nearby residential land uses.

MM NSE-2: Prior to the issuance of any building permits and during final building design, the project applicant shall retain a qualified acoustical professional to prepare a detailed acoustical study to evaluate the potential noise generated by building mechanical equipment and demonstrate the necessary noise control to meet the City's 55 dBA DNL goal. Noise control features such as sound attenuators, baffles, and barriers shall be identified and evaluated to demonstrate that mechanical equipment noise would not exceed 55 dBA DNL at noise-sensitive locations around the project site. The noise control features identified by the study shall be incorporated into the project prior to issuance of a building permit. A copy of the acoustical study shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee for review and approval prior to the issuance of any building permits

Impact NSE-3: Construction of the project would generate vibration levels exceeding the General Plan threshold of 0.2 in/sec PPV or more at buildings of normal conventional construction adjoining each project site.

MM NSE-3: Prior to the issuance of any demolition or grading permits, the project applicant shall prepare a vibration monitoring plan to reduce vibration impacts resulting from construction of the project. The plan shall include, but is not limited to, the following measures to be implemented during construction of the proposed project where vibration levels due to construction activities would exceed 0.2 in/sec PPV at building adjoining each project site:

- A list of all heavy construction equipment to be used for this project known to produce high vibration levels (e.g., tracked vehicles, vibratory compaction, jackhammers, hoe rams, clam shovel drop, and vibratory roller, etc.) shall be submitted to the City by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort for reducing vibration levels below the thresholds.
- Place operating equipment on the construction site as far as possible from vibration-sensitive receptors.
- Smaller equipment to minimize vibration levels to below 0.2 in/sec PPV shall be used at the property lines adjoining adjacent buildings. For example, a smaller vibratory roller, such as the Caterpillar model CP433E vibratory compactor, could be used when compacting materials within 30 feet of the adjacent conventional building.
- Avoid using vibratory rollers and clam shovel drops near sensitive areas.
- Select demolition methods not involving impact tools.
- Modify/design or identify alternative construction methods to reduce vibration levels below the limits.
- Avoid dropping heavy equipment and use alternative methods for breaking up existing pavement, such as a pavement grinder, instead of dropping heavy objects, within 30 feet of adjacent buildings.
- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

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 – The project would not have a significant impact on this resource. Therefore, no mitigation is required.

R. TRIBAL CULTURAL RESOURCES – Refer to item E. Cultural and Tribal Cultural Resources above.

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

The public review period starts on **October 13, 2023,** and end on **November 2, 2023.** Before **November 2, 2023, 5:00pm**, 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

October 13, 2023

Date

Deputy

Tina Garg
Environmental Project Manager

Circulation Period: October 13, 2023, to November 2, 2023