

MITIGATION MONITORING AND REPORTING PROGRAM

**Villa Del Sol Mixed-Use Project
File No. CP20-015**

January 2021



P R E F A C E

Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation.

The Initial Study/Mitigated Negative Declaration prepared for the Villa Del Sol Mixed-Use Project concluded that the implementation of the project could result in significant effects on the environment and mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This Mitigation Monitoring and Reporting Program addresses those measures in terms of how and when they will be implemented.

This document does *not* discuss those subjects for which the Initial Study/ Mitigated Negative Declaration concluded that the impacts from implementation of the project would be less than significant.

I, Caleb Rook, the applicant, on the behalf of Pacific West Communities, Inc., hereby agree to fully implement the mitigation measures described below which have been developed in conjunction with the preparation of an Initial Study/Mitigated Negative Declaration for my proposed project. I understand that these mitigation measures or substantially similar measures will be adopted as conditions of approval with my development permit request to avoid or significantly reduce potential environmental impacts to a less than significant level.

Project Applicant's Signature _____

Date 3-23-21

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
BIOLOGICAL RESOURCES					
IMPACT: The project could potentially have a substantial adverse effect, either directly or through habitat modifications, on any species identified as candidate, sensitive, or special status species in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.					
<p>MM BIO-1: The project would implement the following measures to avoid impacts to nesting migratory birds:</p> <ul style="list-style-type: none"> • Avoidance: 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 15th (inclusive), as amended. • Nesting Bird Surveys: If it is not possible to schedule demolition and construction between August 16th and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist 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 15th inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for 	<p>Schedule demolition and construction activities to avoid the nesting season.</p> <p>If demolition and construction activities cannot be scheduled to occur between August 16th and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed.</p> <p>A contract with a qualified ornithologist or biologist to perform the survey must be submitted to the Director (or the Director's designee), Planning, Building and Code</p>	<p>Prior to issuance of any grading, building, or demolition permits</p> <p>14days prior to the onset of construction activity from February 1 through April 30, inclusive; 30 days prior to the onset of construction activity from May 1 through August 15, inclusive.</p>	<p>Director of Planning, Building and Code Enforcement or Director's designee</p> <p>Director of Planning, Building and Code Enforcement or Director's designee</p>	<p>Provide a Statement that demolition and construction activities would avoid the nesting season.</p> <p>Receive the Pre-construction Survey Report</p>	<p>Prior to issuance of any grading, building, or demolition permits</p> <p>Prior to issuance of any grading, building, or demolition permits</p>

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<p>nests.</p> <p>• Buffer Zones: If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, 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. The no-disturbance buffer shall remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for two days or more then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present.</p> <p>• Reporting: Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the ornithologist's 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 the Director's designee, prior to issuance of any grading or building permits.</p>	<p>Enforcement prior to issuance of the grading permit or other ground disturbance permit.</p> <p>If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist shall determine the extent of a construction free buffer zone to be established around the nest.</p> <p>Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the ornithologist's report to the Director of Planning, Building and Code Enforcement or Director's designee</p>	<p>Prior to issuance of any tree removal or grading permits (whichever occurs first).</p>			
<p>IMPACT: The project could potentially have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.</p>					

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MM BIO-2: The project shall include specific design features to reduce the potential for bird collisions. Such design features shall include a prohibition on the use of reflective building materials or mirrors so the buildings appear less transparent, limitations on night lighting including shielding of lights, minimizing rooftop structures, and design features such as patterned or fritted glass. The project applicant shall provide the Director of Planning, Building and Code Enforcement or the Director's designee a written description of the measures and features of the building design that are intended to address potential impacts on birds along with the design plans showing the required building treatment details prior to issuance of a building permit.	Provide the Director of Planning, Building and Code Enforcement or the Director's designee a written description of the measures and features of the building design that address potential impacts on birds along with the design plans showing the required building treatment details.	Prior to issuance of any building permits.	Director (or the Director's designee), Planning, Building and Code Enforcement	Review and approve the written description of the measures and features of the building design that address potential impacts on birds along with the design plans showing the required building treatment details.	Prior to issuance of any building permits.
IMPACT: The project could potentially conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.					
See MM BIO-1 & BIO-2	See MM BIO-1 & BIO-2, above.				
HAZARDS AND HAZARDOUS MATERIALS					
IMPACT: The project could potentially create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.					
MM HAZ-1: Prior to issuance of a grading or other ground disturbance permit, the applicant shall contact the Santa Clara County Department of Environmental Health (SCCDEH) to discuss the proposed development and perform any additional investigations and/or develop a site management plan, remedial action plan or equivalent that addresses potential leaking underground storage tank (UST)-related contamination on the project site. The SCCDEH must	Coordinate with the SCCDEH to develop a site management plan or remedial action plan that addresses potential UST-related contamination on the project site. The plan must be reviewed and approved	Prior to issuance of any grading, demolition, or building permits	SCCDEH City of San José Environmental Compliance Officer and the Director of Planning, Building and Code Enforcement or Director's designee	The SCCDEH approved document	Prior to issuance of any grading, demolition, or building permits

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conclude that redevelopment of the project site into the proposed residential and commercial uses would not increase the risk of exposure associated with the existing contamination and adversely impact public health and the environment. A letter indicating the SCCDEH's determination shall be submitted to the City's Environmental Compliance Officer and the Director of Planning Building and Code Enforcement or the Director's designee prior to issuance of any ground disturbance or grading permit.	by the SCCDEH.				
MM HAZ-2: Prior to issuance of a grading permit or other ground disturbance permit, the applicant shall enter into the SCCDEH Site Cleanup Program to procure regulatory oversight for the non-UST related soil contamination on the project site. The applicant shall share all their previous environmental investigations with the SCCDEH. Before a grading permit is granted, the SCCDEH must conclude that redevelopment of the project site into proposed residential and commercial uses would not increase the risk of exposure associated with the existing contamination and adversely impact public health and the environment. A letter indicating the SCCDEH's determination shall be submitted to the City's Environmental Compliance Officer and the Director of Planning Building and Code Enforcement or the Director's designee prior to issuance of any ground disturbance or grading permit.	Enter SCCDEH Voluntary Cleanup Program to procure regulatory oversight for the non-UST related soil contamination on the project site	Prior to issuance of any grading, demolition, or building permits	SCCDEH City of San José Environmental Compliance Officer and the Director of Planning, Building, and Code Enforcement or Director's designee.	Oversee Cleanup Program Receive SCCDEH determination that redevelopment of the project site would not increase the risk of exposure associated with the existing contamination and adversely impact public health and the environment.	Prior to issuance of any grading, demolition, or building permits

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IMPACT: The project could potentially be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, could potentially create a significant hazard to the public or the environment.					
See MM HAZ-1 & HAZ-2	See MM HAZ-1 & HAZ-2				
TRANSPORTATION					
IMPACT: The project could potentially result in a substantial increase in hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).					
MM TRAN-1: Red curbs shall be implemented adjacent to the project driveway at Alum Rock Avenue to ensure adequate sight distance. The location of the red curbs shall be shown on the final plans and shall be approved by the Public Works Department before a grading permit is issued.	On final project plans, curbs adjacent to the project driveway shall be labeled.	Prior to issuance of a grading permit	Public Works Department and the Director (or the Director's designee), Department of Planning, Building and Code Enforcement	On final project plans, curbs adjacent to the project driveway shall be labeled.	Prior to issuance of a grading permit

Source: City of San José. 2021. Villa Del Sol Mixed-Use Project Initial Study.