

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: Virginia Studios Project

PROJECT FILE NUMBER: C17-012 and H17-019

PROJECT DESCRIPTION: Rezone an approximately 1.8-acre site from A(PD) – Planned Development to R-M – Multiple Residence to allow the construction of 301 senior studio residential units. The project would require a Site Development Permit to allow the construction of the five-story below market-rate senior housing with 301 studio units and to allow three concessions (front and side setbacks and motorcycle parking) and two waivers (building height and private open space) on an approximately 1.8-acre site. The project would obtain a street vacation from the City for the northern segment of South 6th Street, between I-280 and East Virginia Street.

PROJECT LOCATION: Northwest corner of East Virginia Street and South 7th Street in San José

ASSESSORS PARCEL NO.: 472-25-092

COUNCIL DISTRICT: 3

APPLICANT: Alexis M. Gevorgian, AMG & Associates, LLC, 16633 Ventura Boulevard, Suite 1014, Encino, CA 91436-1859, (818) 380-2600

FINDING

The Director of Planning, Building and Code Enforcement finds the project described above will not have a significant effect on the environment if certain mitigation measures are incorporated into the project. The attached 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 aesthetics, therefore no mitigation is required.

B. AGRICULTURAL AND FORESTRY RESOURCES – The project would not have a significant impact on agricultural and forestry resources, therefore no mitigation is required.

C. AIR QUALITY

Impact AIR-1: Project construction activities would result in health risks above Bay Area Air Quality Management District (BAAQMD) thresholds at nearby sensitive receptors.

The project applicant shall implement the following mitigation measure to reduce construction-related health risks to nearby sensitive receptors to a less than significant level.

MM AIR-1.1: Prior to issuance of any grading permits, the project applicant shall develop a written plan demonstrating that mobile off-road equipment larger than 25 horsepower and operating at the site for more than two days continuously shall meet U.S. Environmental Protection Agency (USEPA) particulate matter emissions standards for Tier 4 engines or equivalent and all stationary pieces of construction equipment shall use best available control technology to reduce diesel particulate matter (DPM) or shall be gasoline- or alternative energy powered. Tier 2 engines that have exhaust systems equipped with California Air Resources Board (CARB) Level 3 verified diesel emission control system will also meet this requirement.

D. BIOLOGICAL RESOURCES

Impact BIO-1: Development of the project would impact nesting birds and raptors, if present onsite or in the immediate vicinity.

In conformance with the Fish and Game Code and the provisions of MBTA, the project applicant shall implement the following mitigation measures to reduce impacts to nesting birds (if present on or adjacent to the site) to a less than significant level.

MM BIO-1.1: Avoidance and Inhibit Nesting. Construction and tree removal/pruning activities shall be scheduled to avoid the nesting season. Tree removal and/or pruning shall be completed before the start of the nesting season to help preclude nesting. The nesting season for most birds and raptors in the San Francisco Bay Area extends from February 1st through August 31st, inclusive.

MM BIO-1.2: Preconstruction Survey(s). If construction activities cannot be scheduled between September 1st and January 31st, inclusive, then a qualified ornithologist shall conduct a preconstruction survey for nesting raptors and other migratory birds within on-site trees as well as all trees within 250 feet of the site to identify active bird nests that may be disturbed during project construction. This survey shall be completed no more than fourteen (14) days prior to the initiation of demolition/construction activities (including tree removal and pruning). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests.

If the survey does not identify any nesting birds that would be affected by construction activities, no further mitigation is required.

If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall designate a construction-free buffer zone to be established around the nest to ensure that no nests of species protected by the federal Migratory Bird Treaty Act (MBTA) and California Fish and Game Code are disturbed during construction activities. The buffer shall remain in place until a qualified ornithologist has determined that the nest is no longer active.

MM BIO-1.3: Reporting. A final written report on nesting birds and raptors, including survey methodology, survey date(s), map of identified active nests (if any), and protection measures (if required), shall be submitted to the City's Supervising Environmental Planner and be completed to the satisfaction of the Director of Planning, Building, and Code Enforcement prior to the issuance of any grading permits.

E. CULTURAL RESOURCES – The project would not have a significant impact on cultural resources, therefore no mitigation is required.

F. GEOLOGY AND SOILS – The project would not have a significant impact on geology and soils, therefore no mitigation is required.

G. GREENHOUSE GAS EMISSIONS – The project would not have a significant impact on greenhouse gas emissions, therefore no mitigation is required.

H. HAZARDS AND HAZARDOUS MATERIALS

Impact HAZ-1.1: Project implementation (e.g., excavation) could release as yet undetected residual hazardous waste which could expose construction workers, future residents, and/or the environment to a significant health risk during earthwork activities.

The project shall implement the following mitigation measure to ensure the site is appropriate for residential development:

MM HAZ-1.1: The project applicant shall submit the following completed hazardous materials investigations to the Santa Clara County Department of Environmental Health (SCCDEH) for review:

- Phase I Environmental Site Assessment (ESA) prepared by KCE Matrix on July 3, 2014.
- Subsurface ESA prepared by KCE Matrix on September 10, 2014.
- Technical Memorandum prepared by Environmental Partners, Inc. on June 4, 2015.
- Remedial Action Report prepared by Environmental Partners, Inc. on November 19, 2017).

The SCCDEH shall review the reports and determine if the site investigation is complete or if further remediation and/or investigation is required. The project applicant shall complete the necessary steps to obtain regulatory closure for the property, pursuant to SCCDEH direction.

Final approval that the site is suitable for residential development shall be issued by SCCDEH which shall be submitted to the City of San José Supervising Environmental Planner prior to issuance of any grading permits for project construction.

- I. HYDROLOGY AND WATER QUALITY** – The project would not have a significant impact on hydrology and water quality, therefore no mitigation is required.
- J. LAND USE AND PLANNING** – The project would not have a significant impact on land use and planning, therefore no mitigation is required.
- K. MINERAL RESOURCES** – The project would not have a significant impact on mineral resources, therefore no mitigation is required.
- L. NOISE AND VIBRATION** – The project would not have a significant noise and vibration impact, therefore no mitigation is required.
- M. POPULATION AND HOUSING** – The project would not have a significant impact on population and housing, therefore no mitigation is required.
- N. PUBLIC SERVICES** – The project would not have a significant impact on public services, therefore no mitigation is required.
- O. RECREATION** – The project would not have a significant impact on recreation, therefore no mitigation is required.
- P. TRANSPORTATION/TRAFFIC** – The project would not have a significant impact on transportation/traffic, therefore no mitigation is required.
- Q. UTILITIES AND SERVICE SYSTEMS** – The project would not have a significant impact on utilities and service systems, therefore no mitigation is required.
- R. MANDATORY FINDINGS OF SIGNIFICANCE**

With implementation of the mitigation measures identified above, and the standard permit conditions identified in the Initial Study, the project would not degrade the quality of the environment, substantially affect biological resources, or eliminate important examples of California history or prehistory. The mitigation measures and standard permit conditions would also ensure that the project's contribution to cumulative impacts would not be cumulatively considerable, and the project would not cause substantial adverse effects on human beings, either directly or indirectly.

PUBLIC REVIEW PERIOD

The Draft MND was circulated for public review from September 11, 2018 through October 1, 2018. Responses to written comments that were submitted during the comment period are included in the Response to Comments Memo attached to this Final MND.

Based on a peer review of the Greenhouse Gas Emissions modeling, the City revised the modeling to include refinements based on the project’s density, affordability, parking, and shorter senior citizen home to work trip lengths (compared to conventional, non-age restricted multi-family apartment developments that have longer home to work trip lengths). The results of the modeling showed that the project would generate approximately 1,100 MT of CO₂e per year, or 2.43 MT per service population, which is below the project-level threshold of 2.6 MT per service population needed to meet the State’s SB 32 2030 GHG emission target. The project, therefore, would result in a less than significant GHG impact and mitigation would not be needed. The Draft Initial Study in support of this MND has been appropriately revised with the deletions noted in ~~strike through~~ text and new additions in underlined text.

The overall finding for the project remains unchanged.

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

10/29/18
Date


Deputy

Environmental Project Manager: Reema Mahamood