

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: Roosevelt Park Apartments Mixed-Use Development

PROJECT FILE NUMBER: SP17-027

PROJECT DESCRIPTION: The applicant is seeking a Special Use Permit to allow the development of a new mixed-use nine-story affordable housing project with up to 80 dwelling units and up to 10,417 square feet of commercial uses with three affordable housing State density bonus concessions (setback, parking, and open space) on an approximately 0.47-gross-acre site in the *CP-Commercial Pedestrian* zoning district.

PROJECT LOCATION: 21 North 21st Street, approximately 250 feet north of East Santa Clara Street; San José

ASSESSOR'S PARCEL NO.: 467-12-001

COUNCIL DISTRICT: 3

APPLICANT CONTACT INFORMATION: First Community Housing, Inc., 75 East Santa Clara Street, Suite 1300, San José, CA 95113, Ava Kuo, Senior Project Manager, (408) 291-8650 ext. 27

FINDING

The Director of Planning, Building and Code Enforcement finds the project described above would not have a significant effect on the environment if the identified mitigation measures are incorporated into the project. The attached Draft Initial Study/Environmental Assessment (IS/EA) 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.

The following Mitigation Measures are included in the project to reduce potentially significant impacts 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 AIR-1: The project would result in a maximum residential cancer risk during construction activities that would exceed the BAAQMD significance threshold.

MM AIR-1.1: Exhaust emissions reduction: The project applicant shall develop a plan demonstrating that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 70 percent reduction in PM₁₀ exhaust emissions (assumed to be diesel particulate matter) or more. Feasible methods to achieve this reduction would include the following:

- All mobile diesel-powered off-road equipment larger than 25 horsepower and operating on the site for more than two days continuously shall meet, at a minimum, USEPA particulate matter emissions standards for Tier 4 engines or equivalent.
- The use of equipment that includes Tier 2 engines and CARB-certified Level 3 Diesel Particulate Filters (DPF), or alternatively-fueled equipment (i.e., non-diesel) would meet this requirement.
- The use of added exhaust devices, or a combination of measures, to meet this requirement, provided that these measures are approved by the City of San José Department of Supervising Environmental Planner, Planning, Building and Code Enforcement and demonstrated to reduce community risk impacts to a less than significant level.

MM AIR-1.2: Construction operations plan: Prior to issuance of any grading permit, the project applicant shall submit a construction operations plan to the City of San José Department of Supervising Environmental Planner, Planning, Building and Code Enforcement, that includes specifications of the equipment to be used during construction. The plan shall include a letter signed by a qualified air quality specialist which verifies that the equipment included in the plan meets the standards set forth in **MM AIR-1.1**.

D. BIOLOGICAL RESOURCES

Impact BIO-1: Demolition, grading, and construction activities and tree removal during nesting season could impact nearby migratory birds and raptors.

MM BIO-1.1: 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.

MM BIO-1.2: 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 nests.

MM BIO-1.3: 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 and then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts on active bird nests that may be present.

MM BIO-1.4: 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 Supervising Environmental Planner, City of San José Department of Planning, Building and Code Enforcement prior to issuance of any grading or building permits.

E. CULTURAL RESOURCES

Impact CUL-1: Construction activities could impact unknown archaeological resources.

MM CUL-1.1: Preliminary Investigation: Once the site has been cleared, a qualified archaeologist shall complete mechanical trenching to explore for buried historical and Native American resources. Trenching depths shall be consistent with the depths and range of excavation proposed, and the stratigraphy of the parcel. This investigation shall be completed prior to any construction or other ground disturbing activities required as part of the project. The results of the presence/absence exploration shall be submitted to the Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement for review and approval prior to issuance of any grading permit. Based on the findings of the presence/absence exploration, an archaeological resources treatment plan (as described in **MM CUL-1.2**) shall be prepared by a qualified archaeologist, if necessary.

MM CUL-1.2 Treatment Plan: If required by **MM CUL 1-1**, the project applicant shall retain a qualified archaeologist to prepare a treatment plan that reflects the permit-level detail pertaining to depths and locations of all ground disturbing activities. The treatment plan shall be prepared and submitted to the Supervising Environmental Planner and the Historic Preservation Officer of the City of San José Department of Planning, Building and

Code Enforcement prior to approval of any grading permit. The treatment plan shall contain, at a minimum:

- Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
- Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
- Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
- Detailed field strategy to record, recover, or avoid the finds and address research goals.
- Analytical methods.
- Report structure and outline of document contents.
- Disposition of the artifacts.
- Appendices: all site records, correspondence, and consultation with Native Americans, etc.

Implementation of the plan, by a qualified archaeologist shall be required prior to the issuance of any grading permits. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources.

MM CUL-1.3:

Accidental Discovery: In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement shall be notified, and a qualified archaeologist will examine the find. Project personnel shall not collect or move any cultural material.

- The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of any occupancy permits. Construction and potential impacts to the area(s) within a radius determined by the archaeologist shall not recommence until the assessment is complete. If the find does not meet the definition of a historical or archaeological resource, no further study or protection is necessary prior to project implementation. If the find does meet the definition of a historical or archaeological resource, then project activities shall avoid it. Project personnel shall not collect or move any cultural material. Fill soils that may be used for construction purposes shall not contain archaeological materials.
- If avoidance is not feasible, adverse effects to such resources shall be mitigated in accordance with the recommendations of the archaeologist. Recommendations shall include, but are not limited to,

collection, recordation, and analysis of any significant cultural materials. 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 per **MM CUL-1.2**, or otherwise equivalent as determined by the qualified archaeologist.

- Data recovery shall include excavation and exposure of features, field documentation, and recordation. A report of findings documenting any data recovery shall be submitted to the Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement and the Northwest Information Center (NWIC) prior to issuance of occupancy permits.

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

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

H. HAZARDS AND HAZARDOUS MATERIALS

Impact HAZ-1: Residual chemicals from lead-based paint and potential past releases from a cleaner and an automobile service station in the project vicinity may have migrated beneath the project site and could be encountered during construction.

MM HAZ-1.1: Preliminary investigation: Soil, soil gas, and groundwater investigations and testing shall be completed to determine the presence/absence and extent of residual chemical contamination on the project site. If testing determines that contaminants on the site exceed screening levels, additional mitigation measures shall be required, including soil removal and vapor barriers. The results of the preliminary investigation shall be submitted to the Santa Clara County Department of Environmental Health (SCCDEH) or equivalent agency. This can also be included in the submittal described in **MM HAZ-1.2** below. A copy of the preliminary investigation results shall be submitted to the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement and the Municipal Compliance Officer of the City of San José Environmental Services Department for approval prior to the issuance of any grading permits.

MM HAZ-1.2: Site Management Plan: Based on the results of the investigations described in **MM HAZ-1.1**, the SCCDEH will require a Site Management Plan (SMP) or similar document to manage the cleanup of potential contamination. If applicable, an SMP shall be prepared prior to issuance of any grading permits to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of contaminated soils, and shall include the following:

- A detailed discussion of the site background;
- Management of stockpiles, including sampling, disposal, and dust and runoff control including implementation of a stormwater pollution prevention program;
- Procedures to follow if evidence of an unknown historic release of hazardous materials is discovered during excavation or demolition; and
- A health and safety plan (HSP) for each contractor working at the site, in an area below grade, that addresses the safety and health hazards of each site operation phase, including the requirements and procedures for employee protection. The HSP shall outline proper soil handling procedures and health and safety requirements to minimize work and public exposure to hazardous materials during construction.
- The SMP shall be submitted to the SCCDEH (or equivalent agency) for review and approval. A copy of the approved SMP shall be submitted to the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement and the Municipal Compliance Officer of the City of San José Environmental Services Department for approval prior to the issuance of any grading permits.

I. HYDROLOGY AND WATER QUALITY – The project would not have a significant impact on this resource, therefore no mitigation is required.

J. LAND USE AND PLANNING – The project would not have a significant impact on this resource, therefore no mitigation is required.

K. MINERAL RESOURCES – The project would not have a significant impact on this resource, therefore no mitigation is required.

L. NOISE

Impact NOI-1: Construction noise generated by the proposed project could impact nearby noise-sensitive receptors.

MM NOI-1.1: Construction Best Management Practices: The project applicant shall develop a construction noise plan including, but not limited to, the following available controls:

- In accordance with Policy EC-1.7 of the City’s General Plan, the project applicant shall use the best available noise suppression devices and techniques during construction activities.
- The project applicant shall construct temporary noise barriers, where feasible, to screen stationary noise-generating equipment. Temporary eight-foot noise barrier fences would provide a 5 dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates

any cracks or gaps. Temporary noise barriers can be made from standard eight-foot sheets of plywood.

- The project applicant shall equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- The project applicant shall ensure that unnecessary idling of internal combustion engines shall be strictly prohibited.
- The project applicant shall ensure that stationary noise-generating equipment, such as air compressors or portable power generators, are located as far as possible from sensitive receptors as feasible. If they must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used to reduce noise levels at the adjacent sensitive receptors. Any enclosure openings or venting shall face away from sensitive receptors.
- The project applicant shall ensure that “quiet” air compressors and other stationary noise sources are used where technology exists.
- The project applicant shall ensure that construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.
- The project applicant shall ensure that a temporary noise control blanket barrier is erected, if necessary, along building façades facing construction sites if conflicts occur which cannot be remedied by appropriate scheduling. Noise control blanket barriers can be rented and quickly erected.
- The project applicant shall ensure that material stockpiles, as well as maintenance/equipment staging and parking areas, are located as far as feasible from residential receptors.
- The project applicant shall ensure that noise from construction workers’ radios are controlled to a point where they are not audible at existing residences bordering the project site.
- Prior to issuance of any grading permits, the project applicant shall prepare a detailed schedule for expected major noise-generating construction activities. The schedule shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- The project applicant shall post the schedule for expected major noise-generating activities and any subsequent changes to the schedule, and mail notices of the schedule to residents and other sensitive receptors (places of worship, senior homes, hospitals, etc.) within 30 feet of the project site.
- The project applicant shall 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 shall 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.

- The noise construction noise plan shall be submitted to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement for review and approval prior to issuance of a demolition or grading permit.

M. POPULATION AND HOUSING – The project would not have a significant impact on this resource, therefore no mitigation is required.

N. PUBLIC SERVICES – The project would not have a significant impact on this resource, therefore no mitigation is required.

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

P. TRANSPORTATION / TRAFFIC – The project would not have a significant impact on this resource, therefore no mitigation is required.

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

R. MANDATORY FINDINGS OF SIGNIFICANCE

The project would 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 mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Monday, January 7, 2019** any person may:

1. Review the Draft IS/EA and Draft MND as an informational document only; or
2. Submit written comments regarding the information in the Draft MND and analysis in the Draft IS/EA. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft IS/EA and 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 IS/EA and MND.

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

12/03/2018
Date

Jenny Mustain
Deputy

Circulation period: December 7, 2018 through January 7, 2019

Environmental Project Manager: Reema Mahamood