

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 if implemented. “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: Villa Del Sol Mixed-Use Project

PROJECT FILE NUMBER: CP20-015

PROJECT DESCRIPTION: The applicant seeks a Conditional Use Permit to allow construction of a six-story mixed-use building with 3,650 square feet of commercial space, podium parking on the ground floor, and 194 units of 100-percent affordable multi-family units on the upper floors in the Alum Rock Urban Village Plan, in the MS-G Zoning District.

PROJECT LOCATION: 1936 Alum Rock Avenue, San José

ASSESSORS PARCEL NO.: 48119003

COUNCIL DISTRICT: 5

APPLICANT CONTACT INFORMATION: Pacific West Communities, Inc., 430 East State Street, Suite 100, San Jose, CA 95120; (949) 599-6069.

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 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 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** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- D. **BIOLOGICAL RESOURCES.**

Impact BIO-1: Implementation of the Project could have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.

Mitigation Measure BIO-1: The applicant would implement the following measures to avoid construction impacts to nesting migratory birds:

- 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 nests.
- 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 ornithologist 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.
- 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.

Impact BIO-2: Implementation of the project would 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.

Mitigation Measure 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.

- E. **CULTURAL RESOURCES** – The project would not have a significant impact on this resource, therefore, no mitigation is required.
- 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: Implementation of the Project could 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 and be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5

Mitigation Measure HAZ-1: Prior to issuance of a grading or other ground disturbance permit, the applicant shall contact the 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 UST-related contamination on the project site. The SCCDEH must 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.

Mitigation Measure HAZ-2: Prior to issuance of a grading permit or other ground disturbance permit, the applicant shall enter into the SCCDE 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.

- 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** – The project would not have a significant impact on this resource, therefore, no mitigation is required.
- 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 / TRAFFIC**
Impact: Implementation of the project could substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible use (e.g., farm equipment).
- Mitigation Measure 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.
- R. TRIBAL CULTURAL RESOURCES** – The project would not have a significant impact on this resource, therefore, no mitigation is required.
- 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 applicant for the proposed Project would implement the identified mitigation measures ensuring that potential impacts to nesting birds, on bird collisions, from hazards and hazardous substances, and from hazards due to design features. These potential impacts are localized to the project site and would be less than significant with the identified mitigation measures. Thus, 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

Before 5:00 p.m. on **February 15, 2021** 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.

Rosalynn Hughey, Director
Planning, Building and Code Enforcement



1/20/21

Date

Deputy

Reema Mahamood
Environmental Project Manager

Circulation period: January 25, 2021 through February 15, 2021