

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: Gschwend Residence Project

PROJECT FILE NUMBER: CP17-010/ER20-205

PROJECT DESCRIPTION: A Conditional Use Permit for the proposed Project consists of the construction of an approximately 4,464-square-foot single-family home that would be two stories and approximately 31 feet, 6 inches in height and include an approximately 1,441-square-foot attached garage, as well as related improvements including installation of a water well and tanks, a septic system, and a leach field.

PROJECT LOCATION: The approximately 16.86-acre Project site consists of two parcels located west of Santa Teresa Boulevard, south of the Bayliss Drive intersection.

ASSESSORS PARCEL NO.: 708-21-004 and APN 708-21-005 **COUNCIL DISTRICT:** 2

APPLICANT CONTACT INFORMATION: Marc Gschwend, 1805 Lencar Way, San Jose, CA 95124; Marcgschwend@outlook.com

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: Development of the Project site may result in impacts to the American badger and special-status birds including burrowing owl, white-tailed kite, loggerhead shrike, and grasshopper sparrow.

MM BIO-1: Preconstruction Surveys for the American Badger.

- a. Preconstruction surveys shall be conducted for the American badger no more than 14 days prior to the initiation of ground-disturbing activities. Surveys shall be conducted by a qualified wildlife biologist with experience and knowledge in identifying badger burrows and include walking parallel transects looking for badger burrows and sign. Any badger burrows identified shall be flagged and mapped.
- b. In the event active badger dens are identified, a no-work buffer of 200 feet shall be established around the den and associated occupied areas. If avoidance is not feasible, a biologist shall determine if the burrow is being used as an active maternity den through utilization of remote cameras. If young are determined to be present, the burrow shall be avoided until the young have vacated the burrow as determined by a qualified biologist. If the burrow is determined not to be an active maternity den and young are not present, in coordination with the CDFW, a one-way eviction door shall be installed between September 1 and January 1 to passively relocate the badger and to avoid impacts during the breeding season. If the badger digs back into the burrow, CDFW staff may allow the use of live traps to relocate badgers to suitable habitat from the area of Project impact.

MM BIO-2: Avoidance. To avoid disturbance of nesting and special-status birds, the Project applicant shall schedule activities related to the Project, including, but not limited to, vegetation removal, ground disturbance, construction, and demolition, to occur outside of the bird nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay Area, extends from February 1 through August 31 (inclusive).

MM BIO-3: Preconstruction Surveys. If vegetation removal and initial ground-disturbing activities cannot be scheduled to occur between September 1 and January 31 (inclusive), preconstruction surveys for nesting birds shall be completed by a qualified biologist or ornithologist to ensure that no nests will be disturbed during Project implementation. The nesting bird preconstruction survey shall be conducted within the Project boundary, including a 250-foot buffer (500-foot buffer for raptors), where accessible and appropriate. The survey shall be conducted by a qualified biologist familiar with the identification of avian species known to occur in the area. The preconstruction survey shall be completed no more than 7 days prior to the initiation of construction activities during the early part of the breeding season (February 1

through April 30, inclusive) and no more than 14 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31, inclusive). The surveys may be done concurrently with the American badger surveys described in COA-1. If active nests are found, the qualified biologist shall determine the extent of a construction-free buffer zone to be established around the nest, typically 250 feet, to ensure that active bird nests will not be disturbed during Project construction. The size of the buffer will vary depending upon the species, the proposed work activity, and existing disturbances associated with land uses on and near the site. The buffer zone shall be demarcated by the qualified biologist or ornithologist with bright orange construction fencing, flagging, construction lathe, or other means to mark the boundary. All construction personnel shall be notified as to the existence of the buffer zone and shall be instructed to avoid entering the buffer zone during the nesting season. No construction activities shall occur within this buffer until the qualified biologist or ornithologist has confirmed that breeding/nesting is completed and the young have fledged the nest. Encroachment into the buffer shall occur only at the discretion of the qualified biologist.

The project applicant shall submit a report to the City's Director of Planning, Building and Code Enforcement and Director of Public Works or Director's designee indicating the results of the survey and any designated buffer zones, and is to be completed to the satisfaction of the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any demolition or grading permits.

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

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

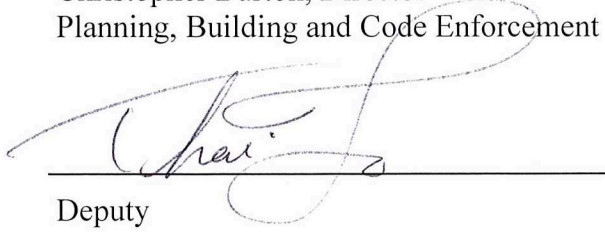
PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Thursday August 5, 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.

Christopher Burton, Director
Planning, Building and Code Enforcement

07/12/2021
Date


Deputy

Thai-Chau Le
Environmental Project Manager

Circulation period: **July 16, 2021 and ends on August 5, 2021**