

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: 2880 Alum Rock Mixed-Use Project

PROJECT FILE NUMBER: CP20-025

PROJECT DESCRIPTION: Conditional Use Permit to demolish an existing vacant 8,200-square foot commercial building and associated surface parking for the construction of a six-story, mixed-use building, and a six-story podium-style residential building. The project will include 164 residential units (100 percent affordable), consisting of 92 studio units, 58 one-bedroom units, and 14 two-bedroom units, as well as a leasing office, mail room, and other residential amenities. The project will also have approximately 7,500 square feet of commercial space on the first and second floors of the proposed mixed-use building. A total of 102 parking stalls would be provided for the residential and commercial uses with 42 stalls available in enclosed parking garages below the proposed buildings and 60 stalls available in an open parking lot surrounding the proposed buildings. The project will remove five non-native trees, and plant 15 new trees.

PROJECT LOCATION: The 1.32-acre project site is located at 2880 Alum Rock Avenue, near the intersection of Alum Rock Avenue and Cedar Lane, in the City of San José.

ASSESSORS PARCEL NO.: 484-20-040

COUNCIL DISTRICT: 5

APPLICANT CONTACT INFORMATION: Pacific West Communities, Inc. (Atten: Darren Berberian); 430 East State Street, Suite 100, Eagle, Idaho, 83616; (949) 599-6069; darrenb@tpchousing.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: The project could potentially have a substantial adverse effect, on nesting birds.

MM BIO-1: Avoidance: Prior to the issuance of any demolition, grading, tree removal or building permits (whichever occurs first), 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 31st (inclusive), as amended.

Nesting Bird Surveys: If demolition and construction activities cannot be scheduled to occur between September 1st 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 within 250 feet of the construction areas for nests.

Buffer Zones: If an active nest is found within 250 feet of the 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 for raptors and 100 feet for other birds), 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.

Reporting: Prior to any tree removal and construction activities or issuance of any demolition, grading or building permits (whichever occurs first), the ornithologist shall submit 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.

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, therefore no mitigation is required.
- M. NOISE.**

Impact NOI-1: The project could potentially result in temporary noise impacts during the construction period.

MM NOI-1: Prior to the issuance of any demolition, grading or building permits, the project applicant shall prepare and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of noise disturbance coordinator who would respond to neighborhood complaints will be required to be in place prior to the start of construction (i.e., prior to grading permits) and implemented during construction to reduce noise impacts on neighboring residents and other uses. The construction noise logistics plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee for review prior to issuance of any demolition, grading, or building permits.

- 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.** – 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

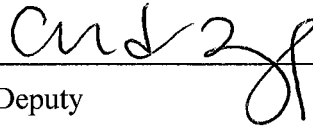
Before 5:00 p.m. on **Thursday, September 2, 2021** any person may:

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

8/10/2021

Date



Deputy

Bethlehem Telahun
Environmental Project Manager

Circulation period: August 13, 2021 to September 2, 2021