

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: 101 South Jackson Avenue Townhomes Project

PROJECT FILE NUMBERS: C19-027, H19-031, and T19-028

PROJECT DESCRIPTION: The applicant proposes a conventional rezoning of the project site from *R-1-8 Single-family Residence* to *MUN Mixed Use Neighborhood Zoning District* and construction of 14 two-story townhomes on a single parcel. The redevelopment would also include connecting Woodset Court to Woodset Drive through the parcel. The applicant was granted a permit by the City to demolish the single-story house and detached garage that was on the site because it posed a health and safety hazard.

PROJECT LOCATION: 101 South Jackson Avenue, San José, approximately 740 feet south of Alum Rock Avenue

ASSESSORS PARCEL NO.: 481-22-067

COUNCIL DISTRICT: 5

APPLICANT CONTACT INFORMATION: Habitat for Humanity East Bay/Silicon Valley, Attention: Kristi Bascom, 2619 Broadway, Oakland, CA 94612, (510) 906-2225, kbasc@habitatebsv.org

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.

Impact AIR-1: Project construction could potentially expose sensitive receptors to substantial pollutant concentrations in excess of BAAQMD thresholds of 10 in one million for diesel particulate matter and $0.3 \mu\text{g}/\text{m}^3$ for PM_{2.5} concentrations.

Mitigation Measure AQ-1

The project applicant shall select equipment during construction to minimize emissions. The project applicant shall submit a Construction Management Plan to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval, prior to issuance of any grading and building permits. The Construction Management Plan shall demonstrate that the off-road equipment used onsite to construct the project would achieve a fleet-wide average 85-percent reduction in PM_{2.5} exhaust emissions or more than the unmitigated cumulative total of $2.36 \mu\text{g}/\text{m}^3$. Options to achieve this reduction could include, but are not limited to, the following:

- All mobile diesel-powered off-road equipment larger than 25 horsepower and operating on the site for more than two days shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent.
- All equipment shall include California Air Resources Board (CARB)-certified Level 3 diesel particulate filters or alternatively fueled equipment (i.e., non-diesel).
- All equipment shall use added exhaust muffling and filtering devices as needed to meet the exhaust emissions reduction.

Mitigation Measure AQ-2

Prior to the issuance of any grading or building permits, the project applicant or contractor shall prepare a Construction Fugitive Dust Mitigation Plan and submit it to the Director of Planning, Building and Code Enforcement or the Director's designee for review and approval, which shall demonstrate at a minimum a 61 percent reduction in fugitive PM_{2.5} emissions relative to unmitigated conditions. Measures to reduce fugitive PM_{2.5} emissions during construction that may be incorporated into the Construction Fugitive Dust Mitigation Plan include but are not limited to, the following:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Apply non-toxic soil stabilizers consistent with manufacturer's recommendations to further reduce fugitive PM_{2.5} emissions beyond reductions achieved by site watering.
- Ground cover on disturbed areas shall be replaced as quickly as possible.
- Vehicle speeds on unpaved roads or disturbed areas of the project site shall be limited to 10 miles per hour or less.
- Streets shall be swept once a day and immediately after the period of heaviest vehicular trackout activity if visible soil materials are carried to adjacent roadways.
- Install wheel washers where vehicles enter and exit unpaved roads/disturbed areas onto paved roads or wash off trucks and any equipment leaving the site each trip.
- Suspend earth-moving activities when wind speeds exceed 25 miles per hour
- Post a publicly visible sign with the telephone number and person at the lead agency to contact regarding dust complaints.

The Construction Fugitive Dust Management Plan shall include measures beyond those identified by BAAQMD's Standard Permit Conditions, if needed, in order to demonstrate that the necessary reduction in fugitive PM_{2.5} described in this mitigation measure is achieved.

Alternate measures that meet the performance standards may be substituted for those measures described above.

D. BIOLOGICAL RESOURCES.

Impact BIO-1: The project could have a potential impact on migratory nesting birds during construction activities.

Mitigation Measure 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.

Mitigation Measure 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.

Mitigation Measure 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 then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present.

Mitigation Measure 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 Director of Planning, Building and Code Enforcement or the Director's designee, prior to issuance of any grading or building 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 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** – 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 less-than-significant impacts on air quality and biological resources. 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 May 5th, 2022** any person may:

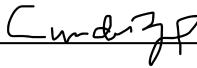
1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or

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, Director
Planning, Building and Code Enforcement

April 11, 2022

Date



Deputy

Reema Mahamood
Environmental Project Manager

Circulation period: April 15, 2022 to May 5, 2022