

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: Fire Station No. 32 Project

PROJECT FILE NUMBER: ER22-068

PROJECT DESCRIPTION: Public Project to demolish an existing structure on site and construct a new, one-story 7,827 square foot fire station with two apparatus bays, which would serve as the new San José Fire Department Fire Station No. 32. The proposed improvements consist of the construction of a new fire station building, hardscape areas, landscaping, and underground utilities to support the fire station.

PROJECT LOCATION: The 1.12-acre site is located at 1138 Olinder Court, the northeast corner of Olinder Court and Felipe Avenue, in the Little Saigon neighborhood of San José, immediately southwest of I-280 and U.S. 101.

ASSESSORS PARCEL NO.: 472-10-108

COUNCIL DISTRICT: 7

APPLICANT CONTACT INFORMATION: City of San José, Department of Public Works (Attn: Dominic Onorato); 200 East Santa Clara St, 6th floor, San José, CA 95113; (408)535-8407;
Domenic.Onorato@sanjoseca.gov

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: Cancer risk from construction activities would be 20.0 per million, which exceeds the single-source significance threshold of 10 per million, at the residence with maximum impact, assuming infant exposure.

MM AIR-1: Tier 4 Engines. Prior to the start of construction activities, the project proponent shall prepare a construction operations plan that demonstrates that the off-road equipment used on-site to construct the Project would at minimum achieve a fleet-wide average 95-percent reduction in mass of exhaust emissions of diesel particulate matter (DPM). Specifically, this plan shall include, but is not limited to, the measures identified below:

- All diesel-powered off-road equipment larger than 25 horsepower operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 4 engines with CARB-certified Level 3 Diesel Particulate Filters, or equivalent. Exceptions could be made for equipment that includes CARB-certified Level 3 Diesel Particulate Filters or equivalent. Equipment that is electrically powered or uses non-diesel fuels would also meet this requirement
- Provide electric power if feasible to avoid use of diesel-powered generator sets and other portable equipment.

Off-road equipment descriptions and information shall be provided, including, but not limited to, equipment type, equipment manufacturer, equipment identification number, engine model year, engine certification (Tier rating), horsepower, and engine serial number.

Prior to the start of any construction activities, the Project proponent shall submit the construction operations plan and records of compliance to the Director of Planning, Building and Code Enforcement or the Director's designee.

D. BIOLOGICAL RESOURCES.

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

MM BIO-1.1: Nesting Bird Protection Measures.

- **Avoidance:** To the extent possible, the project proponent shall schedule all 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). Construction activities include any site disturbance such as, but not limited to, tree trimming or removal, demolition, grading, and trenching.
- **Nesting Bird Surveys:** If construction activities cannot be scheduled between September 1st and January 31st (inclusive), pre-construction nesting bird surveys shall be completed by a qualified biologist to ensure that active nests are not disturbed by construction activities. 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 31st inclusive). During this survey, the biologist shall inspect all trees and other possible nesting habitats on-site and within 250 feet of the site for nests.
- **Buffer Zone:** If an active nest is found within 250 feet of the project area to be disturbed by construction, the ornithologist/biologist, 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 nests are not disturbed during construction. The no-disturbance buffer shall remain in place until the biologist determines the nest is no longer active or if 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 on active bird nests that may have been established during the pause in construction.

- Reporting: Prior to any construction activities, the ornithologist/biologist shall submit a report indicating the results of the surveys and any designated buffer zones to the satisfaction of the Director of the Department of Planning, Building and Code Enforcement or the Director's designee.

E. CULTURAL RESOURCES.

Impact CUL-1: Project ground disturbing activities could result in significant impacts to unrecorded archaeological resources

MM CUL-1: *Cultural Resource Awareness Training.* Prior to the start of construction activities, the project proponent shall be required to submit evidence that a Cultural Awareness Training will be provided to construction personnel prior to ground disturbances. The training shall be facilitated by the project archaeologist in coordination with a Native American representative registered with the Native American Heritage Commissions for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.

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: Development of the proposed project could potentially expose construction workers and the public to soil, soil vapor and/ or groundwater contamination from former onsite underground storage tank (USTs) or an off-site leaking underground storage tank (LUST) source during the demolition and construction phases of the project, and future site occupants to soil vapor contamination after construction.

MM HAZ-1.1: *Site Management Plan and Vapor Intrusion Measures.* Prior to the commencement of construction activities, the City shall enter into an agreement with the Santa Clara County Department of Environmental Health (SCCDEH) under their Site Cleanup Program. The proponent shall meet with the SCCDEH and perform additional soil, soil gas and/or groundwater sampling and testing to adequately define the known and suspected contamination from past agricultural use and former onsite underground storage tank (USTs) and an off-site leaking underground storage tank (LUST). A Site Management Plan (SMP), Corrective Action Plan, Remedial Action Plan, or other equivalent plan shall be prepared and submitted to the SCCDEH for their approval. The Plan must include a Health & Safety Plan (HASP) and must establish remedial measures and/or soil management practices (including sampling protocols) to ensure construction worker safety and the health of future workers and visitors. The SMP shall include a plan for management of soil during demolition/construction, dust control measures, and waste management. A management survey and test pit investigation shall also be performed to identify the potential presence of buried metallic objects, such as USTs or piping.

Additionally, based on the results of soil vapor samples, the planned structure shall incorporate vapor intrusion mitigation measures (VIMS) to help reduce the potential for vapor intrusion into the future structure in accordance with SCCDEH oversight and recommendations.

The Plan and evidence of regulatory oversight shall be provided to the Supervising Environmental Planner of the City of San José Planning, Building, and Code Enforcement, and the Environmental Compliance Officer in the City of San José’s Environmental Services Department.

- 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: Sensitive receptors in the project area would be intermittently exposed to high noise levels during project construction.

MM NOI-1: *Construction Noise Logistics Plan.*

Prior to the start of construction activities, the project proponent shall submit 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 a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses.

- Pile Driving is prohibited
- Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
- Equip all internal combustion–driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Prohibit unnecessary idling of internal combustion engines.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining noise-sensitive land uses.
- Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
- Notify all adjacent businesses, residences, and other noise-sensitive land uses of the construction schedule in writing and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
- If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
- 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.
- Limit construction hours to 7 a.m. to 7p.m., Monday through Friday for any on site or off-site work within 500 feet of any residential unit. Construction outside of these hours may

be approved through a development permit based on a site-specific “construction noise mitigation plan” and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses. Because it is anticipated that certain construction activities (such as continuous pours of concrete foundations) may require work outside normally permitted construction hours (e.g., overnight), the project’s Planned Development Permit would allow for such construction activities, subject to conditions of approval, including performance standards, imposed by the City to limit noise impacts.

- 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 **Wednesday, May 31, 2023** 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

May 10, 2023

Date

Tina Jarg

Deputy

Bethlehem Telahun
Environmental Project Manager

Circulation period: May 10, 2023 to May 31, 2023