

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: 1520 West San Carlos Mixed Use Project

File Nos.: H23-004, T21-037 & ER21-039

Description: The proposed project is a Site Development Permit to permit the demolition of all existing buildings on-site (one commercial building and 11 residential structures) and the removal of 29 trees (26 ordinance-size and 3 non-ordinance-size) to allow for the construction of a mixed-use building consisting of 256 residential units and approximately 15,202 square feet of commercial space on the 1.62 -gross acre site. The project applicant is also requesting an approximately 38 percent parking reduction and a Tentative Map to combine the existing four lots into one lot for the development.

Location: 1520 West San Carlos Street, and 315, 325, 329, and 345 Willard Avenue

Assessor's Parcel No.: 277-18-021, 277-18-024, 277-18-025, 277-18-026

Council District: 6

Applicant Contact Information: MV3, Viji Mann, 22561 Poppy Drive, Cupertino, CA 408-396-2706

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
- C. **AIR QUALITY** –

Impact AIR-1: Construction activities associated with the proposed project would expose the maximum exposed individual (MEI) to a cancer risk of 61.34 cases per one million (for infants) which is which exceeds the Bay Area Air Quality Management District (BAAQMD) significance threshold of 10 cases

per one million and an annual PM_{2.5} level of 1.08, exceeding BAAQMD Community Risk single source thresholds of 0.03 µg/m³ of PM_{2.5} concentration.

MM-AIR-1.1: Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest), the project applicant shall submit a construction operations plan to the Director of Planning, Building and Code Enforcement or Director's designee that includes specifications of the equipment to be used during construction. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below.

- All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall, at a minimum, meet U.S. Environmental Protection Agency (EPA) Tier 4 final or interim emission standards for particulate matter (PM₁₀ and PM_{2.5}).
 - If use of Tier 4 equipment is not available, alternatively use equipment that meets U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 85 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment; alternatively (or in combination).
- Alternatively, the project applicant could develop a plan that reduces on and near-site construction diesel particulate matter emissions by a minimum of 85 percent or greater. The plan shall be accompanied by a letter signed by an air quality specialist and shall be submitted for review and approval by the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any demolition, grading, or building permits (whichever occurs first). Elements of the plan could include a combination of some of the following measures:
 - Use Tier 4 or alternatively fueled equipment (refer to first subbullet above),
 - Installation of electric power lines during early construction phases to avoid use of diesel generators and compressors,
 - Use of electrically-powered equipment,
 - Forklifts and aerial lifts used for exterior and interior building construction shall be electric or propane/natural gas powered,
 - Change in construction build-out plans to lengthen phases, and
- Implementation of different building techniques that result in less diesel equipment usage.

D. BIOLOGICAL RESOURCES.

Impact BIO-1: Construction activities associated with the proposed project could result in the loss of fertile eggs, nesting raptors or other migratory birds, or nest abandonment.

MM BIO-1.1: The project applicant shall avoid construction activities during 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).

MM BIO-1.2: If demolition and construction cannot be scheduled 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 will 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 31st inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

MM BIO-1.3: 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 (CDFW), 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.

MM BIO-1.4: Prior to any tree or vegetation removal, or approval of any grading or demolition permits (whichever occurs first), the ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the City's Director of Planning, Building and Code Enforcement or 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.**

Impact HAZ-1: The off-site sump/clarifier may have released hazardous wastes (oil, grease, disposed substances related to vehicle washing and detailing) that entered the ground through drains on-site, and these would represent a risk of hazards above worker screening levels during construction through accidental encountering of materials.

MM HAZ-1.1: Prior to the issuance of any demolition or grading permits, the project applicant shall retain a qualified environmental professional to conduct a Phase II soil, soil vapor and/or groundwater investigation to determine if the soil, soil vapor, and groundwater from former uses of the site have resulted in contamination concentrations above established Regional Water Quality Control Board (RWQCB) Environmental Screening Levels (ESLs). If the Phase II results indicate soil, soil vapor and/or groundwater contamination above ESLs, the project applicant shall enter into a regulatory oversight agreement with the Santa Clara County Department of Environment Health (SCCDEH), RWQCB, or Department of Toxic Substances Control (DTSC). The project applicant shall meet with the regulatory oversight agency and perform additional soil, soil gas and/or groundwater sampling and testing, as required, to adequately define the known and suspected contamination. A Site Management Plan (SMP), Corrective Action Plan (CAP), Remedial Action Plan (RAP), or other equivalent plan shall be prepared and submitted to the regulatory oversight agency for their approval. The plan shall include a Health & Safety Plan (HASP) and shall establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The plan and evidence of regulatory oversight shall be provided to the Director of Planning, Building and Code Enforcement or Director's Designee and the Environmental Compliance Officer in the City of San José's Environmental Services Department for review.

- 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-1.1: Construction noise would exceed ambient levels (above 80 dBA) over a one year period within 500 feet of residential uses or 200 feet of commercial or office uses, which exceeds the City thresholds defined in General Plan Policy EC-1.7.

MM-NOI-1: Prior to the issuance of any grading or demolition permits, whichever occurs first, the project applicant shall submit and implement a construction noise logistics plan consistent with General Plan Policy EC-1.7, that specifies the 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 contact. 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. The noise logistics plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any grading or demolition permits for review and approval, whichever occurs first.

Impact NOI-2.1: The proposed project would result in vibratory impacts levels up to 0.6 in/sec PPV during construction in exceedance of the General Plan Policy EC-2.3 threshold of 0.2 in/sec PPV at structures with normal conventional construction located within 10 feet of the proposed project.

MM-NOI-2.1: Prior to the issuance of any building permits, the project applicant shall prepare and submit a construction noise logistics plan to the Director of Planning, Building and Code Enforcement or Director's designee. The plan shall include vibration reduction measures to be implemented during all phases of construction when activities occur within 30 feet of the adjoining residential and mixed-use buildings. The following measures shall be included in the plan:

- A list of all heavy construction equipment to be used for this project known to produce high vibration levels (e.g., tracked vehicles, vibratory compaction, jackhammers, hoe rams, clam shovel drop, and vibratory roller, etc.) shall be submitted to the City by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort for reducing vibration levels below the thresholds.
- Place operating equipment on the construction site as far as possible from vibration-sensitive receptors.
- Use smaller equipment to minimize vibration levels to below 0.2 in/sec PPV shall be used at the property lines. For example, a smaller vibratory roller, such as the Caterpillar model CP433E vibratory compactor, could be used when compacting materials within 30 feet of the adjacent buildings.
- Avoid using vibratory rollers and clam shovel drops near sensitive areas.
- Select demolition methods not involving impact tools.
- Modify/design or identify alternative construction methods to reduce vibration levels below the limits.
- Avoid dropping heavy equipment and use alternative methods for breaking up existing pavement, such as a pavement grinder, instead of dropping heavy objects, within 30 feet of the adjacent buildings.
- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

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.

Impact TCR-1: Excavation and grading activities on the site could disturb and damage unrecorded subsurface resources.

MM TCR-1.1: A qualified Native American representative, registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area, will provide cultural sensitivity training to all construction personnel prior to the initial ground-breaking activities.

Documentation verifying that Cultural Awareness Training has been conducted shall be submitted to the Director of Planning, Building and Code Enforcement or the Director’s designee.

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 biological resources, cultural resources, hazards and hazardous materials, noise, transportation, and tribal cultural 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 **Tuesday, June 6, 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.

Chris Burton, Director
Planning, Building and Code Enforcement

5/12/2023

Date

Deputy

Cassandra van der Zweep
Environmental Project Manager

Circulation period: May 17, 2023 through June 6, 2023