CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Department of Planning, Building and Code Enforcement

HARRY FREITAS, DIRECTOR

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.

NAME OF PROJECT: 641 North Capitol Avenue Mixed-Use Project

PROJECT FILE NUMBER: PDC16-002, PD16-025 and PT16-035

PROJECT DESCRIPTION: the proposed project include two scenarios:

1. Proposed Project: The project proposes to demolish the existing single-family residence and remnants of the former agricultural buildings in order to develop the site with 188 residential units, up to 108,000 square feet of commercial/office uses, and approximately 1.07-acre publically accessible park. The project would include of a two-story medical office building containing up to 28,000 square feet of space in the southeast portion of the project site, an approximately 70,000 square foot self-storage warehouse facility, up to 5,000 square feet of dividable commercial space on the ground floor and up to 5,000 square feet of office space on the second floor.
2. Reduced Commercial/Increased Residential Project Scenario: Should the planned amount of jobs be reduced in the Urban Village for which the project site is located, the project proposes would construct two and three-story high-density residential units along the western boundary of the project site (adjacent to Interstate 680) in place of the 70,000 square foot public storage facility and 10 of the planned townhouses. The high-density residential development alternative would consist of 178 townhouses and 315 apartment units for a total of 493 units on the 10.6-acre project site. The "Reduced Commercial/Increased Residential Project Scenario" would still include the construction of the two-story medical office building containing up to 28,000 square feet of space in the southeast portion of the project site, the two-story commercial building containing up to 5,000 square feet of dividable commercial space on the ground floor, up to 6,000 square feet of office space on the second floor, and the approximately 1.07-acre publicly-accessible park located along Gimelli Way.

PROJECT LOCATION: The 10.64-acre project site consists of one parcel (APN 254-06-042) located at 641 North Capitol Avenue in the City of San José. The project site is located at the southwest intersection of Gimelli Way and North Capitol Avenue, and currently supports an existing single-family residence and former agricultural structures.

ASSESSORS PARCEL NO.: 254-06-042 **COUNCIL DISTRICT: 3**

APPLICANT CONTACT INFORMATION: City Ventures (Attn: Samantha Hauser), 444 Spear Street, San Francisco, CA 94105.

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the 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 will not have a significant impact on this resource, therefore no mitigation is required.

B. **AGRICULTURE AND FOREST RESOURCES.** The project will not have a significant impact on this resource, therefore no mitigation is required.

C. **AIR QUALITY.**

Impact AQ-1: Project construction would expose sensitive receptors to cancer risks from toxic air contaminants greater than accepted thresholds.

MM AIR-1.1: Construction, grading, trenching, and demolition equipment shall be selected to minimize emissions. The equipment selection shall include the following criteria:

- All mobile diesel-powered off-road equipment larger than 25 horsepower and operating on the project site for more than two days shall meet, at a minimum, U.S. Environmental Protection Agency particulate matter emissions standards for Tier 4 engines or equivalent. The construction contractor may use other minimization measures such as the use of equipment that includes California Air Resources Board (CARB)-certified Level 3 Diesel Particulate Filters or alternatively-fueled equipment (i.e., non-diesel), added exhaust devices, or a combination of measures, provided that these measures are approved by the City and demonstrated to reduce community risk impacts below Bay Area Air Quality Management District (BAAQMD) cancer risk thresholds.
- The project applicant shall submit a construction operations plan 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 equipment included in the plan meets the standards set forth in these mitigation measures.

D. **BIOLOGICAL RESOURCES.**

Impact BIO-1: Construction activities could impact nesting birds on or adjacent to the project site.

MM BIO-1.1: Construction activity, including tree removal, shall be scheduled to avoid the nesting season to the greatest extent feasible. The nesting season for most birds, including raptors in the San Francisco Bay area, extends from February 1st through August 31st.

MM BIO-1.2: If construction activity, including tree removal, is to occur during the avian nesting season (February 1st through August 31st) a qualified biologist shall conduct a pre-construction nesting bird survey to identify any nesting birds that may be located on the project or directly adjacent to the project site. The survey shall be completed no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February 1 through April 30) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1 through August 31). During this survey, the biologist shall inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that would be disturbed by construction, the biologist shall designate a construction-free buffer zone (typically 250 feet) to be established around the nest, in consultation with California Department of Fish and Wildlife (CDFW). The buffer would ensure that raptor or migratory bird nests shall not be disturbed during project construction.

MM BIO-1.3: The applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Environmental Supervising Planner of the City of San José Department of Planning, Building, and Code Enforcement, prior to the issuance of any grading permit.

E. **CULTURAL RESOURCES.** The project will not have a significant impact on this resource, therefore no mitigation is required.

F. **GEOLOGY AND SOILS.** The project will not have a significant impact on this resource, therefore no mitigation is required.

G. **GREENHOUSE GAS EMISSIONS.** The project will not have a significant impact on this resource, therefore no mitigation is required.

H. **HAZARDS AND HAZARDOUS MATERIALS.** The project will not have a significant impact on this resource, therefore no mitigation is required.

I. **HYDROLOGY AND WATER QUALITY.**

Impact HYD-1: The project would place housing and structures within a 100-year flood hazard area and could potentially exacerbate existing environmental hazards.

MM HYD-1.1: The project site shall be elevated such that the site is removed from the special flood hazard area by the implementing the following measures:

- The lowest elevation adjacent to each proposed structures shall be higher than the base flood elevation for the site.
- The finished floor elevation for all structures shall be a minimum of one (1) foot above the highest adjacent natural grade to each residential structure.

- The lowest floor of any residential structure must be at an elevation at or above the 100-year base flood elevations.
- Flood proofing of non-residential structures may be permitted as an alternative to raising the elevation and requires a flood proofing design certification by the City of San José Department of Public Works.
- Elevate the above ground building support utility systems such as HVAC, electrical, plumbing, air conditioning equipment, including ductwork, and other service facilities above the flood level or protect from potential flood damage.

J. **LAND USE AND PLANNING.** The project will not have a significant impact on this resource, therefore no mitigation is required.

K. **MINERAL RESOURCES.** The project will not have a significant impact on this resource, therefore no mitigation is required.

L. **NOISE.**

Impact NOI-1: Construction of the proposed project would last more than 12 months and would result in potential construction impacts in the vicinity of sensitive residential land uses

MM NOI-1.1: The project applicant shall prepare a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting or notification of construction schedules, and designation of a noise disturbance coordinator who shall respond to neighborhood complaints. Measures from this plan shall be included on all approved grading and building permit plans. The construction noise logistics plan shall be reviewed and approved by the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement prior to issuance of any grading permit and/or building permits. Measures to be included in the plan shall include, but not be limited to:

- Notifying the neighborhood of the construction activities and construction schedule (including estimated dates of various construction phases) at least one week and no more than three weeks prior to the start of construction.
- Prohibit unnecessary idling of internal combustion engines. Equipment shall be shut off when not in use and the maximum idling time shall be limited to five minutes.
- In order to minimize construction noise impacts, best available noise control practices and equipment (including mufflers, intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds) shall be used for all heavy earthmoving equipment, impact tools, compressors, engine generators, and diesel-fueled trucks. A letter from a qualified acoustic specialist shall be attached to the plan along with a list of proposed construction equipment, certifying that the proposed construction equipment includes the best available noise attenuating technologies.
- If impact equipment (e.g., jack hammers, pavement breakers, or rock drills) is needed during construction, hydraulically or electric-powered equipment shall be used wherever feasible to avoid the noise associated with compressed-air exhaust from pneumatically powered tools. However, where use of pneumatically powered tools is unavoidable, an exhaust muffler on the compressed-air exhaust shall be used. External jackets on the tools themselves shall also be used if available and feasible.

- Locate equipment at the work area as far away from the nearby residential areas as possible to maximize the distance to noise-sensitive receptors and to take advantage of any shielding that may be provided by other on-site equipment.
- Designate a "noise disturbance coordinator" who shall be responsible for responding to any local complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site.

MM NOI-1.2: Construction shall be limited to the hours of 7:00 am to 7:00 pm Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Any request for construction outside of these hours shall be approved through a Planned Development Permit Amendment 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.

MM NOI-1.3: Permitted work activities outside of specified construction hours shall be conducted exclusively within the interior of enclosed building structures provided that such activities are inaudible to existing adjacent residential uses. Exterior generators, water pumps, compressors, and idling trucks are not permitted. The project applicant shall be responsible for educating all contractors and subcontractors of said construction restrictions. Rules and regulation pertaining to all construction activities and limitations identified in this permit, along with the name and telephone number of the project applicant's appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site. The Director of Planning, Building, and Code Enforcement, at his/her discretion, may rescind provisions to allow extended hours of construction activities on weekends only upon written notice to the project applicant.

M. **POPULATION AND HOUSING.** The project will not have a significant impact on this resource, therefore no mitigation is required.

N. **PUBLIC SERVICES.** The project will not have a significant impact on this resource, therefore no mitigation is required.

O. **RECREATION.** The project will not have a significant impact on this resource, therefore no mitigation is required.

P. **TRANSPORTATION / TRAFFIC.** The project will not have a significant impact on this resource, therefore no mitigation is required.

Q. **UTILITIES AND SERVICE SYSTEMS.** The project will not have a significant impact on this resource, therefore no mitigation is required.

R. **MANDATORY FINDINGS OF SIGNIFICANCE.** The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a

substantial adverse effect on human beings as the mitigation measures above are incorporated.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **October 25, 2016**, 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.

Harry Freitas, Director
Planning, Building and Code Enforcement

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