

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: Dove Hill Medical Care Project

PROJECT FILE NUMBER: PDC14-051 and PD16-019

PROJECT DESCRIPTION: The project proposed to rezone three acres ("development footprint") of the 21-acre site from Agriculture to A(PD) Planned Development for the demolition of all existing buildings, structures, trees and landscaping, and associated improvements, and to construct with a medical care facility with two buildings containing a total of 155 patient rooms and up to 248 beds, all within the development footprint of the three acres. The remaining 18 acres would stay zoned Agriculture and would be maintained as undeveloped, permanent private open space.

PROJECT LOCATION: A three-acre portion of a larger 21-acre site will be rezoned to a Planned Development (PD) zoning. The three acres include all of Assessor's Parcel Numbers (APNs) 679-08-003 and 679-09-001, as well as portions of APNs 679-08-002 and 679-09-002. The site is located at 4200 Dove Hill Road in south San José, adjacent to the east side of United States Highway 101 (US 101).

ASSESSORS PARCEL NO.: 679-08-003 and 679-09-001, 679-08-002 and 679-09-002.

COUNCIL DISTRICT: 8

APPLICANT CONTACT INFORMATION: Salvatore Caruso, Salvatore Caruso Design Corporation
980 El Camino Real, Suite 200, Santa Clara, CA 95050; (408) 998-4087

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

D. **BIOLOGICAL RESOURCES.**

Impact BIO-1: Project construction and landscaping associated with the proposed gardens at the edges of the development footprint could have the potential to introduce invasive or weedy species to the surrounding open space areas, which contain serpentine grassland habitat supporting rare, threatened and/or endangered plant species, including dudleya.

MM BIO-1.1: A qualified biologist, under contract to the project applicant, shall prepare and implement a Monitoring and Management Plan to preserve the serpentine habitat and special-status plant species present in the open space area above the project development footprint. The plan shall be developed in consultation with the Santa Clara Valley Habitat Agency. The Monitoring and Management Plan shall include, but is not limited to, the following components:

- Unauthorized human access to the open space area shall be prohibited and facility management staff shall be required to monitor for unauthorized use of the open space;
- Fencing shall be installed to separate the medical care facility from the open space to prevent unauthorized human access to the open space area during any demolition, grading, and construction phases;
- Periodic monitoring of the site (e.g., every two years or as determined by the biologist) by a biologist to determine whether unauthorized entry and disturbance, overgrowth by non-native plants, or other stressors are degrading the suitability of the open space for serpentine plants;
- Management activities to address unauthorized human use (e.g., fence repair);
- Management activities to prevent infestations of non-native plants (e.g., periodic grazing); and
- Best management practices for preventing the introduction of non-native species during construction or maintenance of landscaping.

The Monitoring and Management shall be reviewed and approved by the San José Department of Planning, Building, and Code Enforcement prior to issuance of any grading or demolition permit for the proposed project.

Impact BIO-2: Construction activities associated with the project could result in the loss of fertile eggs of nesting raptors or other migratory birds, or nest abandonment.

MM BIO-2.1: 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).

If demolition and construction activities cannot be scheduled to avoid the nesting season, pre-construction surveys for nesting raptors and other migratory nesting birds shall be conducted by a qualified ornithologist to identify active nests that may be disturbed during project implementation on-site and within 250 feet of the site. Projects that commence demolition and/or construction activities between February 1st and April 30th (inclusive), shall conduct a pre-construction survey for nesting birds no more than 14 days prior to initiation of construction, demolition activities, or tree removal. Between May 1st and August 31st (inclusive), the pre-construction survey shall be conducted no more than 30 days prior to initiation of construction,

demolition, or tree removal activities.

If an active nest is found in or within 250 feet of the project area, a qualified ornithologist, in consultation with the CDFW, shall determine the extent of a construction-free buffer zone (typically 250 feet for raptors and 100 feet for other birds) around the nest, to ensure that raptor or migratory bird nests would not be disturbed during ground disturbing activities. The construction-free buffer zones shall be maintained until after the nesting season has ended and/or the ornithologist has determined that the nest is no longer active.

The ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement prior to issuance of any tree removal, grading, demolition, and/or building permit or activities (whichever occur the earliest).

Impact BIO-3: Demolition of buildings on the site could result in injury and/or mortality of roosting bats.

MM BIO-3.1: Bat Surveys. Prior to removal of trees, demolition, grading, or building activities (whichever occurs the earliest), a survey of existing buildings shall be completed by a qualified bat biologist to determine whether the site supports a maternity roost of any bat species. The survey shall be conducted during the breeding season (March 1st to August 31st, inclusive). If the survey must be conducted during the non-breeding season (i.e., 1 September 1st to February 28st, inclusive), and if no evidence of bat roosts is found, it can be concluded that no maternity roost is present. However, if the survey is conducted during the non-breeding season and evidence of a bat day roost is observed, then prior to building demolition, a follow-up survey shall be completed during the breeding season (March 1st to August 31st, inclusive) to determine whether a maternity roost is present. If suitable roost sites are found but a visual survey is not adequate to determine presence or absence of bats (which would be particularly likely in the case of potential roost trees), acoustical equipment shall be used to determine occupancy. A preliminary report shall be submitted to the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement by the qualified bat biologist summarizing method of detection and recommendation of removal.

MM BIO-3.2: Bat Eviction. If a maternity roost would be impacted, and the roost supports either a special-status species or a regionally important proportion of the population of a non-special-status species (e.g., two percent or more, in the opinion of a qualified bat biologist), an alternative bat roost structure shall be provided. The design and placement of this structure shall be determined by the bat biologist based on the species of bat to be displaced, the location of the original roost, and the habitat conditions in the vicinity. This bat structure shall be established at least one month prior to removal of the original roost structure. This structure shall be checked during the breeding season for up to three years following completion of the project, or until it is found to be occupied by bats. This data shall be included in a finding report prepared by the bat biologist to provide information for future projects regarding the effectiveness of such structures in minimizing impacts to bats. This report shall be submitted to the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement at the end of the three year following the completion of the project, or when bats are detected in the structure (whichever occurs first).

A pre-demolition survey for roosting bats, following the methods described in MM BIO-3.1, shall be completed within 15 days prior to the commencement of demolition activities in a given area to determine whether bats have occupied a roost in or near the project's impact areas, or whether

they have abandoned a roost identified during the surveys described above. If a maternity roost of any bat species is present, the bat biologist shall determine the extent of a construction-free buffer around the active roost that will be maintained from March 1st until the young are flying, typically after August 31st.

If a day roost is found in a building that is to be removed, individual bats shall be safely evicted under the direction of a qualified bat biologist. Eviction of bats shall occur at night, so that bats will have less potential for predation compared to daytime roost abandonment. Eviction shall occur between September 1st and March 31st (inclusive), outside the maternity season, but will not occur during long periods of inclement or cold weather (as determined by the qualified bat biologist) when prey are not available or bats are in torpor. If a day roost is found within a building, eviction shall occur as directed by the bat biologist, such as by opening the roosting area to allow air flow through the cavity. Demolition shall then follow no sooner than the following day (i.e., there shall be no less than one night between initial disturbance for air flow and the demolition) to minimize predation during daylight. If determined infeasible by the bat biologist due to structural or safety concerns, one-way doors shall be used to evict bats from tree roosts. If use of a one-way door is not feasible, as determined by the bat biologist, or the exact location of the roost entrance in a tree is not known, the trees with roosts that need to be removed shall first be disturbed by removal of some of the trees' limbs not containing the bats. Such disturbance shall occur at dusk to allow bats to escape during the dark hours. These trees shall then be removed the following day. All activities shall be performed under the supervision of a qualified bat biologist.

MM BIO-3.3: Reporting. All survey results, recommendations, and actions taken shall be written into a final report and submitted by the project applicant to the satisfaction of the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement prior to issuance of any tree removal, grading, demolition, and/or building permits (whichever occur the earliest).

E. CULTURAL RESOURCES.

Impact CUL-1: Construction activities in the southern area of the project development footprint could disturb subsurface historic resources associated with the on-site historic-aged residential structures.

MM CUL-1.1: The following shall be included in the project to reduce impacts to anticipated subsurface historic resources in the southern area of the project site, in the vicinity of the existing residential structures:

- A qualified archaeologist shall monitor all subsurface construction activities and demolition in the southern area of the site developed with the residential structures.
- In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement shall be notified, and a qualified archaeologist will examine the find. Project personnel shall not collect or move any cultural material.
- The archaeologist shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of any occupancy permits. If the

finds do not meet the definition of a historical or archaeological resources, no further study or protection is necessary prior to project implementation. If the find(s) does meet the definition of a historical or archaeological resource, then the find shall be avoided by project activities. Project personnel shall not collect or move any cultural material. Fill soils that may be used for construction purposes shall not contain archaeological materials.

- ~~If project construction activities cannot avoid impacting the find, adverse effects to such resources shall be mitigated in accordance with the recommendations of the archaeologist and as approved by the City. Recommendations shall include, but are not limited to, collection, recordation, and analysis of any significant cultural materials. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation. Data recovery shall include excavation and exposure of features, field documentation, and recordation. A treatment plan including, but is not limited to, methodology of data recovery, recommendations of measures and conditions to minimize impacts to the finds shall be submitted and approved by Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement prior to commencement of recovery activities.~~
- A final report of findings documenting any data recovery shall be submitted to the Supervising Environmental Planner and Historic Preservation Officer of the City of San José Department of Planning, Building and Code Enforcement and the Northwest Information Center prior to issuance of building permits.

F. GEOLOGY AND SOILS.

Impact GEO-1: Grading and excavation activities at the project site could alter existing slope configurations resulting in landslide activation, exposing people and structures to damage and/or safety hazards.

MM GEO-1.1: The project applicant shall install retaining walls to provide support at the toe of slopes, where cuts are made into the slope, as shown on the project grading plan. Retaining walls shall be designed to withstand the applicable earth pressures, dependent on the slope inclination and backfill material, as determined by a qualified Geologist. Retaining wall engineering plans and a report by a qualified geologist shall be submitted to the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement prior to the issuance of any grading or building permit.

- 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.

Impact HAZ-1: The project site contains elevated levels of naturally occurring asbestos (NOA) in the soil. Airborne NOA during construction activities could be hazardous to construction workers and existing sensitive receptors in the project area. Future residents of the site could also be exposed to elevated levels of NOA.

MM HAZ-1.1: Under regulatory oversight from Bay Area Air Quality Management District (BAAQMD), the project shall prepare a site-specific Asbestos Dust Mitigation Plan (ADMP) for review and approval by the applicable regulatory agency prior to the issuance of any grading

permit. The ADMP shall be implemented during construction activities to reduce the potential for asbestos emissions during ground-disturbing activities. The ADMP and application shall be submitted to Bay Area Air Quality Management District (BAAQMD) for review and approval prior to issuance of any grading permits, consistent with the BAAQMD Naturally Occurring Asbestos Program. The Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement shall be copied on the ADMP submittal and any correspondence between BAAQMD and the contractor/developer regarding asbestos. The ADMP shall include dust and erosion control measures to eliminate or minimize the generation of dust and erosion associated with excavation activities, truck and vehicle traffic onto and off the site, and the effects of ambient wind traversing exposed soil, as detailed, but is not limited to, below:

- Each area proposed for work that may contain asbestos shall be sufficiently moisture conditioned before beginning work to minimize dust emissions during excavation and grading. If dust is observed, additional water must be applied.
- Water applied for dust control purposes can be treated with a small amount of a biodegradable wetting agent to increase dust suppression.
- All working surfaces (including haul roads and other roads subject to traffic) on material potentially containing asbestos shall be kept sufficiently moist so that visible dust is not emitted during grading or driving.
- Travel speeds of grading equipment and vehicles traveling in the grading area on-site must be limited.
- The exposed surface of loads transported on-site by scraper or truck must be kept sufficiently moist to minimize potential dust/asbestos emissions.
- Equipment operators must avoid excessive disturbance of asbestos-containing material such as overfilling of scrapers or pushing material over the sides of stockpiles.
- If significant downwind asbestos emissions are expected, given the location of the work and the wind directions, at least one of the following options must be implemented: limit the duration of the work as long as wind conditions are adverse, work at another location upwind from the area of concern, or erect a mist curtain downwind of the work area.
- The ADMP shall also include protocols for air monitoring of contaminants of concern documenting worker exposures and off-site migration of dust, if any, during soil disturbing activities.

Impact HAZ-2: Site construction workers and future patients may be exposed to elevated levels of the pesticides chlordane and dieldrin that were detected in soil samples at the site in the vicinity of the project.

MM HAZ-2.1: Prior to issuance of any grading permits, the project applicant shall conduct additional soil sampling near the project to existing residences the vertical and lateral extent of soil contamination. The Santa Clara County Department of Environmental Health and/or another regulatory agency shall be consulted to evaluate requirements for regulatory oversight. Remedial measures shall be established with oversight from the regulatory agency to reduce health risks to future users of the site from exposure to the impacted soil. Remedial measures may include: 1) excavation and off-site disposal of the impacted soil at a permitted facility; 2) the use of engineering and administrative controls, such as consolidation and capping of the soil on-site and land use covenants restricting certain activities/uses; and 3) a combination of the above. The project applicant shall submit a copy of the soil sampling report and proposed remedial measures to the Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement, and the Environmental Services Department prior to the issuance of any grading permits.

MM HAZ-2.2: Under regulatory oversight from the Santa Clara County Department of Environmental Health (SCCDEH) using their Voluntary Cleanup Program (VCP), or equivalent regulatory agency, the project applicant shall prepare a Site Management Plan (SMP) presenting the established remedial measures. The SMP shall be prepared by a qualified hazardous materials consultant to establish management practices for handling contaminated soil or other materials encountered during construction activities. The SMP shall include, but is not limited to, the following:

- A detailed discussion of the site background;
- Proper mitigation as needed for demolition of existing structures;
- Management of stockpiles, including sampling, disposal, and dust and runoff control including implementation of a stormwater pollution prevention program;
- Procedures to follow if evidence of an unknown historic release of hazardous materials (e.g., underground storage tanks, polychlorinated biphenyls, asbestos-containing materials, lead-based paint, etc.) is discovered during excavation or demolition;
- A section about regulatory agencies and protocol if underground storage tanks (USTs) are encountered during construction activities; and
- A section about regulatory agencies and protocol if complete removal of USTs is needed;
- Procedures for impacted soil excavation, soil stockpiling, off-haul, field observation by an environmental professional, confirmation sampling, and reporting requirements;
- Procedure for proper disposal of potentially contaminated soil or other materials, if applicable (as stated in MM HAZ 3.1);
- A Health and Safety Plan (HSP) shall be prepared to provide general health and safety guidance so that field activities can be completed in a manner that minimizes exposure to soils. Contractors shall also determine the requirements for worker training, based on the level of expected contact to soil associated with the contractor's activities and locations. The HSP shall contain provisions for limiting and monitoring chemical exposure to construction workers, chemical and non-chemical hazards, emergency procedures, and standard safety protocols.

The project applicant shall submit the SMP to the Santa Clara County Department of Environmental Health (or equivalent agency) for review and approval and provide a copy of the approved SMP to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement and Municipal Compliance Officer of the City of San José Environmental Services Department prior to the issuance of any grading permits.

Impact HAZ-3: If excavated soil generated during site development requires off-haul, the soil may be considered hazardous waste, and could contribute to contaminated runoff if disposed of improperly.

MM HAZ-3.1: The project applicant shall ensure that any soil off-haul from the site (including native soils or undocumented fill) is characterized and profiled prior to off-haul, including additional soil sampling and/or laboratory testing, as required, to further evaluate hazardous materials concentrations in the soil. The analytical results shall be forwarded to the receiving facility for comparison to their acceptance criteria. Soils shall be disposed of at a Class I hazardous landfill, if appropriate. Disposal procedures shall be included in the SMP as stated in MM HAZ-2.2. This measure shall be printed on all construction plans, documents, and contracts prior to the issuance of any grading permits.

I. HYDROLOGY AND WATER QUALITY.

Impact HYD-1: If on-site wells are improperly abandoned, they could contribute to pollutants in the ground water.

MM HYD-1.1: The project applicant shall ensure that on-site wells are properly removed in accordance with Santa Clara Valley Water District requirements prior to issuance of grading permits for the site. The project applicant shall obtain written confirmation from the Santa Clara Valley Water District documenting the proper abandonment of the wells and provide the documentation to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement prior to issuance of any grading permits.

Impact HYD-2: Abandoned on-site septic tanks that were used for discharges of hazardous materials could contribute to pollutants in groundwater during demolition.

MM HYD-2.1: The project applicant shall ensure that on-site septic systems are properly abandoned in accordance with applicable Santa Clara County Department of Environmental Health and other applicable regulations. A letter from the County Department of Environmental Health documenting proper septic tank abandonment shall be provided by the project applicant to the Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement prior to issuance of any grading permits.

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

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.

Impact TRAN-1: The connection from the project access roadway onto Dove Hill Road would not provide a 90-degree connection, which could limit the ability of drivers to see pedestrians, bicyclists and other cars.

MM TRAN-1.1: The project applicant shall ensure that the area from the project access roadway onto Dove Hill Road remain free and clear of obstructions to allow exiting vehicles to see pedestrians on the sidewalk and vehicles traveling on Dove Hill Road. A reduced speed limit of 15 miles per hour shall be implemented along the on-site project private road. Prior to the issuance of a grading permit, all measures shall be printed on contracts and plans and a

implementation plan shall be submitted to the Environmental Project Manager to identify, at a minimum:

- The methodologies are being proposed to meet the 15 miles per hour (e.g. speed bumps, signage, etc.)
- The methodologies are being proposed to clear any obstruction of exiting vehicles onto Dove Hill Road.

Proof of compliance to this implementation plan shall be submitted to the Supervising Environmental Planner prior to the issuance of Occupancy permit to ensure installation of appropriate structures and conformance to this measure has been met.

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, therefore no mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **Monday, April 30, 2018** 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.

Thai-Chau Le
Environmental Project Manager

Rosalynn Hughey, Director
Planning, Building and Code Enforcement

4/4/18
Date


Deputy

Circulation period: **April 9, 2018, to April 30, 2018.**