

**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:** Race and Grand Residential Project

**PROJECT FILE NUMBER:** PDC17-019

**PROJECT DESCRIPTION:** Planned Development Zoning to rezone from the A(PD) Planned Development Zoning District to the A(PD) Zoning District to allow for the demolition of all buildings and structures on site and construct one of the two options: 1) 206 multi-family apartment units or 2) 116 multi-family and 90 senior apartment units.

**PROJECT LOCATION:** The project site is located west of Race Street, east of Grand Avenue, south of Park Avenue, and north of West San Carlos Street in the City of San José.

**ASSESSORS PARCEL NO.:** 261-42-007, -008, -011, -058, -069, -070, -071, -072, and -079.  
**COUNCIL DISTRICT:** 6

**APPLICANT CONTACT INFORMATION:** Vince Cantore, The CORE companies, 470 South Market Street, San Jose, CA 95113, Phone: 408.292.7841 x12

**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 AIR-1:** The project would result in a maximum residential cancer risk during construction activities that would exceed the BAAQMD significance threshold.

**MM AIR-1.1:** The project shall develop a plan demonstrating that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 37 percent reduction in PM10 exhaust emissions (assumed to be diesel particulate matter [DPM]) or more. Feasible methods to achieve this reduction would 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 continuously shall meet, at a minimum, U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent and include the use of equipment that includes CARB-certified Level 3 Diesel Particulate Filters.
- Use of alternatively-fueled equipment (i.e., non-diesel).
- Other measures may be the use of added exhaust devices, or a combination of measures, provided that these measures are approved by the City and demonstrated to reduce community risk impacts to a less than significant level.
- The project applicant shall prepare a construction operations plan that includes specifications of the equipment to be used during construction to demonstrate how a fleet-wide average 37 percent reduction in DMP emissions would be achieved.

The plan 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 demolition, grading, and/or building permits (whichever occurs earliest). The plan shall be accompanied by a letter signed by a qualified air quality specialist, verifying that the equipment included in the plan meets the standards set forth in this mitigation measure.

#### **D. BIOLOGICAL RESOURCES.**

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

**MM 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 31st (inclusive), as amended.

**MM BIO-1.2: Nesting Bird Surveys:** If it is not possible to schedule demolition and construction 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 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 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: 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.

**MM BIO-1.4: Reporting:** Prior to any tree 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 Supervising Environmental Planner.

## E. CULTURAL RESOURCES.

**Impact CUL-1:** Construction activities could impact unknown archaeological resources.

**MM CUL-1.1: Preliminary Investigation:** Once the buildings and structures have been demolished and the pavement and landscaping removed, a qualified archaeologist shall complete a presence/absence exploration to determine if there are any indications of discrete historic-era subsurface archaeological features. Shallow mechanical excavations shall be focused along the back part of the lot boundaries dividing the eastern and western parcels between Grand Avenue and Race Street where historical outbuildings were once situated. At least one trench shall be excavated to 15 feet deep to address the potential for subsurface Native American archaeological resources within the project area. The results of the presence/absence exploration 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 for review and approval prior to issuance of any grading permit. Based on the findings of the presence/absence exploration, an archaeological resources treatment plan (as described in MM CUL-1.2) shall be prepared by a qualified archaeologist if necessary.

**MM CUL-1.2 Treatment Plan:** If required by MM CUL-1.1, the project applicant shall retain a qualified archaeologist to prepare a treatment plan that reflects the permit-level detail pertaining to depths and locations of all ground disturbing activities. The treatment plan shall be prepared and submitted to the Supervising Environmental Planner and the Historic Preservation Officer of the City of San José Department of Planning, Building, and Code Enforcement prior to approval of any grading permit. The treatment plan shall contain, at a minimum:

- Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
- Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
- Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
- Detailed field strategy to record, recover, or avoid the finds and address research goals.
- Analytical methods.
- Report structure and outline of document contents.
- Disposition of the artifacts.
- Appendices: all site records, correspondence, and consultation with Native Americans, etc.

Implementation of the plan, by a qualified archaeologist, shall be required prior to the issuance of any grading permits. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources.

**MM CUL-1.3: Accidental Discovery:** 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. Construction and potential impacts to the area(s) within a radius determined by the archaeologist shall not recommence until the assessment is complete. If the finds do not meet the definition of a historical or archaeological resource, 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 it 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 avoidance is not feasible, adverse effects to such resources shall be mitigated in accordance with the recommendations of the archaeologist. 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. The techniques used for data recovery shall follow the protocols identified in the approved treatment plan per MM CUL-1.2, or otherwise equivalent as determined by the qualified archaeologist.

Data recovery shall include excavation and exposure of features, field documentation, and recordation. A final report 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 (NWIC) prior to issuance of occupancy permits.

- 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.**

**Impact HAZ-1:** Tetrachloroethylene was detected in soil gas samples on the project site indicating a past release originating offsite.

**MM HAZ-1.1: Preliminary Investigation:** Additional soil gas investigation and testing shall be completed to determine the extent of tetrachloroethylene (PCE) contamination on the project site. Based on the results of the investigation, additional mitigation measures may be required, including soil removal and vapor barriers. The results of the preliminary investigation shall be submitted to the Santa Clara County Department of Environmental Health (SCCDEH), or equivalent agency. This can also be part of the submittal as mentioned in MM HAZ 2.1 below. A copy of the preliminary investigation results shall be submitted 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 for approval prior to the issuance of any grading permits.

**Impact HAZ-2:** Shallow soils to be removed under the proposed project may include elevated hydrocarbon and metals concentrations, and removal of USTs may be needed as part of development.

**MM HAZ-2.1: Site Management Plan:** 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 the following documents:

- As mentioned in MM HAZ-1.1, soil gas investigation and testing shall be completed to determine the extent of PCE contamination on the project site. Based on the results of the investigation, the regulatory agency may require a Site Management Plan (SMP) or similar document to manage the cleanup of potential contamination.
- If applicable, a SMP shall be prepared prior to construction to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of lead-contaminated soils.
- 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;
  - Management of underground structures encountered, including utilities and/or underground storage tanks (also specified in MM HAZ-2.2);
  - 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 health and safety plan (HSP) for each contractor working at the site, in an area below grade, that addresses the safety and health hazards of each site operation phase, including the requirements and procedures for employee protection. The HSP shall outline proper soil handling procedures and health and safety requirements to minimize work and public exposure to hazardous materials during construction;
  - 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.

The SMP shall be submitted to the SCCDEH (or equivalent agency) for review and approval. A copy of the approved SMP shall be submitted 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 for approval prior to the issuance of any grading permits.

**MM HAZ-2.2: Discovery of USTs:** If USTs are encountered during demolition, construction, or grading activities, the project applicant shall notify SCCDEH and the City of San José Fire Department. Earthmoving activities shall be ceased until appropriate measures, approved by SCCDEH and/or the City of San José Fire Department, are taken to address the UST.

- I. HYDROLOGY AND WATER QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- 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 noise and vibration generated by the proposed project could impact nearby sensitive receptors.

**MM NOI-1.1: Construction Noise and Vibration Plan:** The project applicant shall develop and implement a Construction Noise and Vibration Logistics Plan during all phases of construction on the project site. The Plan shall be included as part of the contracts for construction workers and applicable supervisors. All measures shall be printed on all approved construction documents, contracts, and/or project plans. The project applicant shall submit a copy of all approved plans, construction documents, contracts, and/or project plans to the Supervising Environmental Planner prior to the issuance of any grading permit. The Plan shall include, but is not limited to, the following:

- A list of all potential equipment (including specs) that will be used during all earthmoving activities.
- A schedule of all earthmoving activities.
- Responsibilities of personnel on the site.
- Outreach strategies to inform nearby residences of construction hours and phase.
- Best management practices to reduce construction noise such as, but is not limited to, the following:
  - Construct solid plywood fences around construction sites adjacent to operational businesses, residences, or noise-sensitive land uses.
  - Utilize “quiet” models of air compressors and other stationary noise sources where technology exists.
  - Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment.
  - Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjoining noise-sensitive land uses.
  - Prohibit all unnecessary idling of internal combustion engines.
  - Notify all adjacent business, 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.
- The name and contact information (i.e., telephone number and email address) of the disturbance coordinator, who would be responsible for responding to complaints about construction noise, shall be posted at the construction site and included in the notice sent to neighboring noise-sensitive land uses regarding the construction schedule.

**MM NOI-1.2: Construction equipment:** In addition to MM NOI-1.1, the project applicant shall include the following requirements in all construction documents, contracts, and project plans to reduce vibration impacts to nearby residences and structures during construction activities.

- The contractor shall alert heavy equipment operators to the proximity of the adjacent structures so they can exercise care.
- The contractor shall retain a qualified firm to complete a pre- and post-construction cosmetic crack survey of the buildings adjacent to the southern boundary and shall repair

any cosmetic cracking that is reasonably determined to have occurred due to the construction, based on the recommendation of the qualified firm.

- Limit the use of heavy vibration-generating construction equipment within 30 feet of the northern and southern site boundaries.

**Impact NOI-2:** Mechanical equipment noise generated by the proposed project could impact nearby sensitive receptors.

**MM NOI-2.1: Mechanical equipment selection:** The project applicant shall select and design mechanical equipment that will reduce impacts on surrounding uses to comply with the City's 55 dBA DNL noise level requirement at the property boundary of the nearby noise-sensitive land uses. A qualified acoustical consultant shall be retained to review mechanical equipment noise levels prior to their installation to determine specific noise reduction measures necessary to comply with the City's noise level requirements. The results of the review shall be submitted to the Department of Planning, Building, and Code Enforcement along with the building plans and approved design, prior to issuance of any building permits. Noise reduction measures may include, but are not limited to, selection of equipment that emits low noise levels; and/or installation of noise barriers, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the nearest receptors. Alternate measures may include locating equipment in less noise-sensitive areas, such as the rooftop of the buildings away from the building's edge nearest the noise-sensitive receptors, where feasible. Alternate measures shall be reviewed by the Department of Planning, Building, and Code Enforcement prior to issuance of any building permits.

- 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, therefore no mitigation is required.

## **PUBLIC REVIEW PERIOD**

Before 5:00 p.m. on **Thursday February 1<sup>st</sup>, 2018** any person may:

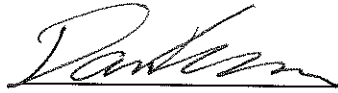
1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
2. Submit written comments regarding the information and analysis in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, 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, Interim Director  
Planning, Building and Code Enforcement

1/10/18

Date



Deputy

Circulation period: January 12, 2018 to February 1, 2018.