

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: Columbus Park Project

PROJECT FILE NUMBER: ER20-025

PROJECT DESCRIPTION: Public project to demolish all existing park facilities and recreational equipment on-site and construct two new soccer fields, lawn practice areas, a kids’ soccer area, a play area, four pickleball courts, one futsal/pickleball/basketball court, and two new horseshoe pitches. The redeveloped park would also include a picnic area, restrooms, a pedestrian paseo, two gravel surface parking lots, a 525-square-foot maintenance building and a storage shed. The project would also vacate Spring Street between West Taylor Street and Ashbury Street, reconfigure Irene, Asbury, and Walnut Streets to a one-way loop road around the site. The project would remove all 105 existing trees and plant 133 new 24-inch box trees.

PROJECT LOCATION: The project site is the existing Columbus Park site, bound by Asbury Street to the north, West Taylor Street to the south, Irene Street to the east, and Walnut Street to the west, in the City of San José.

ASSESSORS PARCEL NO.: 259-07-115 and 259-08-103

COUNCIL DISTRICT: 6

APPLICANT CONTACT INFORMATION: City of San José, Department of Public Works (Attn: Chris Mastrodiscasa); 200 East Santa Clara St, 6th floor, San José, CA 95113; (408)775-5700; chris.mastrodiscasa@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**– The project would not have a significant impact on this resource, therefore no mitigation is required.

D. **BIOLOGICAL RESOURCES.**

Impact BIO-1: Development of the proposed project would result in impacts to nesting birds, if present on the site at the time of construction.

MM BIO-1.1: Prior to any tree removal, or any grading or demolition activities (whichever occurs first), 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). Construction activities include any site disturbance such as, but not limited to, tree trimming or removal, demolition, grading, and trenching.

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 shall be disturbed during 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 ornithologist shall inspect all trees and other possible nesting habitats on-site and within 250 feet of the site for nests.

MM BIO-1.3: If an active nest is found within 250 feet of the project area 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 for raptors and 100 feet for other birds), to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

MM BIO-1.4: Prior to any tree removal, or any grading or demolition activities (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 or Director’s designee of the Department of Planning, Building and Code Enforcement.

E. **CULTURAL RESOURCES.**

Impact CUL-2: Project ground disturbing activities could result in a substantial adverse change in the significance of an archaeological resource.

MM CUL-2.1: Prior to the start of construction activities, the project applicant shall be required to submit evidence that Cultural Awareness Training will be provided to construction personnel prior to ground disturbance. The training shall be facilitated by the project archaeologist in coordination with a 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 as described in Public Resources Code Section 21080.3.

MM CUL-2.2: *Monitoring.* On-going during ground-disturbing construction activities, the project shall implement the following construction practices and protocols to avoid and minimize potential

impacts to unknown archaeological resources:

- A qualified archaeologist shall monitor archaeologically sensitive areas during initial ground disturbance to determine whether historic-era archaeological resources are present in the project area.
- If any archaeological resources are exposed during construction, these should be briefly documented, tarped for protection, and left in place and an archaeological resources treatment plan as described in MM CR-2.3 shall be prepared by a qualified archaeologist.
- If no resources are discovered, the consulting archaeologist shall submit a report to the Director of Planning, Building and Code enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer verifying that the required monitoring occurred and that no further mitigation is necessary.

MM CUL-2.3: Treatment Plan. If required by MM CR-2.2 (i.e., any archaeological resources are exposed during construction), the project applicant shall prepare a treatment plan that reflects permit-level detail pertaining to depths and locations of excavation activities. The treatment plan shall be prepared and submitted to the Director of the City of San José Department of Planning, Building and Code Enforcement or Director's designee prior to the start of any grading activities. 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).
- Monitoring schedules and individuals
- 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.
- Security approaches or protocols for finds.
- 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-2.4: Evaluation. The project applicant shall notify the Director of the City of San José Department of Planning, Building and Code Enforcement or Director's designee of any finds during the preliminary field investigation, grading, or other construction activities. Any historic or prehistoric material identified in the project area during the preliminary field investigation and during excavation activities shall be evaluated for eligibility for listing in the California Register of Historic Resources as determined by the California Office of Historic Preservation. 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. Data recovery shall include excavation and exposure of features, field documentation, and recordation. All documentation and recordation shall be submitted to the Northwest Information Center and Native American Heritage Commission (NAHC) Sacred Land Files, and/or equivalent prior to the issuance of an occupancy permit. A copy of the evaluation shall be submitted to the City of San José Department of Planning, Building and Code Enforcement or Director's designee.

- 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 result in impact to construction workers, neighboring properties, future site users and the environment from exposure to potentially hazardous soil.

MM HAZ-1.1: Prior to the start of a site grading activities the project proponent shall retain a qualified environmental professional to complete a Phase II Environmental Site Assessment to address further evaluate the extent of soils impacted by arsenic and lead on-site. The Phase II ESA shall include the collection of soil samples at a depth of 18 inches in the proposed project area for analysis of arsenic and lead to determine if planned grading for the sports fields and courts would remove all impacted soils or if additional targeted excavation is warranted. Results of the Phase II will be provided to the Director or Director’s designee of the City of San José Department of Planning, Building and Code Enforcement, and the Environmental Services Department Municipal Compliance Officer.

The applicant shall obtain regulatory oversight from the Regional Water Quality Control Board (RWQCB), Department of Toxic Substances Control (DTSC) or Santa Clara County Department of Environment Health (SCCDEH) under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document must be prepared by a qualified hazardous materials consultant. The plan 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 or Director’s designee of the City of San José Department of 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** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- 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 **Monday, August 5, 2024** 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

July 10, 2024

 Date



 Deputy

Bethlehem Telahun
 Environmental Project Manager

Circulation period: July 16, 2024 to August 5, 2024