

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE 101 SOUTH JACKSON AVENUE TOWNHOMES PROJECT MITIGATED NEGATIVE DECLARATION, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AS AMENDED, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM

WHEREAS, the City of San José (“City”) acting as lead agency under the California Environmental Quality Act of 1970, together with State and local guidelines implementing said Act, all as amended to date (collectively “CEQA”), prepared the Mitigated Negative Declaration and supporting Initial Study for the 101 South Jackson Avenue Townhomes Project (Planning File Nos. C19-027, H19-031, and T19-028), and

WHEREAS, the Initial Study analyzed the environmental impacts of demolishing an existing single-family residence and constructing 14 multi-family residences with State Density Bonus concessions for a reduction in the side setback and setback to the public right-of-way, and a waiver for a reduction in private open space on an approximately 0.86-gross acre site located at 101 South Jackson Avenue (Assessor’s Parcel Number 481-22-067), San José, California; and

WHEREAS, the Initial Study/Mitigated Negative Declaration concluded that implementation of the Project could result in certain significant effects on the environment and identified mitigation measures that would reduce each of those significant effects to a less-than-significant level; and

WHEREAS, in connection with the approval of a project involving the preparation of an initial study/mitigated negative declaration that identifies one or more significant environmental effects, CEQA requires the decision making body of the lead agency to

incorporate feasible mitigation measures that would reduce those significant environmental effects to a less-than-significant level; and

WHEREAS, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA also requires a lead agency to adopt a mitigation monitoring and reporting program to ensure compliance with the mitigation measures during project implementation, and such a mitigation monitoring and reporting program has been prepared for the Project for consideration by the decision-maker of the City of San José as lead agency for the Project (the “Mitigation Monitoring and Reporting Program”); and

WHEREAS, the City of San José is the lead agency on the Project, and the City Council is the decision-making body for the proposed approval to undertake the Project; and

WHEREAS, the City Council has reviewed and considered the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project and intends to take actions on the Project in compliance with CEQA and state and local guidelines implementing CEQA; and

WHEREAS, the Initial Study/Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program for the Project are on file in the Office of the Director of Planning, Building and Code Enforcement, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, are available for inspection by any interested person at that location and on the Department of Planning, Building and Code Enforcement website, and are, by this reference, incorporated into this Resolution as if fully set forth herein;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE:

THAT THE CITY COUNCIL does hereby make the following findings: (1) it has independently reviewed and analyzed the Initial Study/Mitigated Negative Declaration and other information in the record and has considered the information contained therein, prior to acting upon or approving the Project, (2) the Initial Study/Mitigated Negative Declaration prepared for the Project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA, and (3) the Initial Study/ Mitigated Negative Declaration represents the independent judgment and analysis of the City of San José, as lead agency for the Project. The City Council designates the Director of Planning, Building and Code Enforcement at the Director’s Office at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, as the custodian of documents and records of proceedings on which this decision is based.

THAT THE CITY COUNCIL does hereby find that based upon the entire record of proceedings before it and all information received that there is no substantial evidence that the Project will have a significant effect on the environment and does hereby adopt the Mitigated Negative Declaration and related Mitigation Monitoring and Reporting Program prepared for the Project (Planning File Nos. C19-027, H19-031, and T19-028). The Mitigation Monitoring and Reporting Program for the Project is attached hereto as Exhibit “A” and fully incorporated herein. The Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program are: (1) on file in the Office of the Director of Planning, Building and Code Enforcement, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, and on the Department of Planning, Building and Code Enforcement’s website, and (2) available for inspection by any interested person.

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ADOPTED this ____ day of _____, 2022, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

**101 South Jackson Avenue Townhomes Project
File Nos. C19-027, H19-031, AND T19-028**

April 2022





Planning, Building and Code Enforcement
CHRISTOPHER BURTON, DIRECTOR

101 South Jackson Avenue Townhomes Project
File Nos. C19-027 H19-031, AND T19-028

P R E F A C E

Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation.

The Initial Study/ Mitigated Negative Declaration prepared for the 101 South Jackson Avenue Townhomes Project concluded that the implementation of the project could result in significant effects on the environment and mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This Mitigation Monitoring and Reporting Program addresses those measures in terms of how and when they will be implemented.

This document does *not* discuss those subjects for which the Initial Study/ Mitigated Negative Declaration concluded that the impacts from implementation of the project would be less than significant.

I, Kristi Bascom, the applicant, on the behalf of Habitat for Humanity EB/SV, hereby agree to fully implement the mitigation measures described below which have been developed in conjunction with the preparation of an Initial Study/Mitigated Negative Declaration for my proposed project. I understand that these mitigation measures or substantially similar measures will be adopted as conditions of approval with my development permit request to avoid or significantly reduce potential environmental impacts to a less-than-significant level.

Project Applicant's Signature *Kristi Bascom*

Date 4/11/2022



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MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
Air Quality					
The project could potentially expose sensitive receptors to substantial pollutant concentrations in excess of BAAQMD thresholds of 10 in one million for diesel particulate matter and 0.3 µg/m³ for PM2.5 concentrations.					
<p>MM AQ-1: The project applicant shall select equipment during construction to minimize emissions. The project applicant shall submit a Construction Management Plan to the Director of Planning, Building and Code Enforcement or the Director’s designee for review and approval, prior to issuance of any grading and building permits. The Construction Management Plan shall demonstrate that the off-road equipment used onsite to construct the project would achieve a fleet-wide average 85-percent reduction in PM2.5 exhaust emissions or more than the unmitigated cumulative total of 2.36 µg/m³. Options to achieve this reduction could include, but are not limited to, the following:</p> <ul style="list-style-type: none"> All mobile diesel-powered off-road equipment larger than 25 horsepower and operating on the site for more than two days shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent. All equipment shall include California Air Resources Board (CARB)-certified Level 3 diesel particulate filters or alternatively fueled equipment (i.e., non-diesel). All equipment shall use added exhaust muffling and filtering devices as needed to meet the exhaust emissions reduction. 	<p>Prepare the Construction Management Plan.</p> <p>Submit the plan to the Director of Planning, Building and Code Enforcement or the Director’s designee</p>	<p>Prior to issuance of any grading or building permits or other ground disturbance permit.</p>	<p>Director of Planning, Building and Code Enforcement, or the Director’s designee.</p>	<p>Receive a copy of the Construction Management Plan</p> <p>Verify that the off-road equipment used onsite to construct the project would achieve a fleet-wide average 85-percent reduction in PM2.5 exhaust emissions or more.</p>	<p>Prior to issuance of any grading or building permits.</p>



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<p>MM AQ-2: Prior to the issuance of any grading or building permits, the project applicant shall prepare and implement a Construction Fugitive Dust Mitigation Plan to the Director of Planning, Building and Code Enforcement or the Director’s designee for review and approval, which shall demonstrate at a minimum a 61 percent reduction in fugitive PM_{2.5} emissions relative to unmitigated conditions. Measures to reduce fugitive PM_{2.5} emissions during construction that may be incorporated into the Construction Fugitive Dust Mitigation Plan include but are not limited to, the following:</p> <ul style="list-style-type: none"> • Water active construction areas at least twice daily or as often as needed to control dust emissions. • Apply non-toxic soil stabilizers consistent with manufacturer’s recommendations to further reduce fugitive PM_{2.5} emissions beyond reductions achieved by site watering. • Ground cover on disturbed areas shall be replaced as quickly as possible. • Vehicle speeds on unpaved roads or disturbed areas of the project site shall be limited to 10 miles per hour or less. • Streets shall be swept once a day and immediately after the period of heaviest vehicular trackout activity if visible soil materials are carried to adjacent roadways. • Install wheel washers where vehicles enter and exit unpaved roads/disturbed areas onto paved roads or 	<p>Prepare and implement the Construction Fugitive Dust Mitigation Plan.</p> <p>Submit the plan to the Director of Planning, Building and Code Enforcement or the Director’s designee</p>	<p>Prior to issuance of any grading or building permits or other ground disturbance permit.</p>	<p>Director of Planning, Building and Code Enforcement, or the Director’s designee.</p>	<p>Receive a copy of the Construction Fugitive Dust Mitigation Plan.</p> <p>Verify the project meets a minimum 61 percent reduction in fugitive PM_{2.5} emissions relative to unmitigated conditions.</p>	<p>Prior to issuance of any grading or building permits.</p>



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<p>wash off trucks and any equipment leaving the site each trip.</p> <ul style="list-style-type: none"> Suspend earth-moving activities when wind speeds exceed 25 miles per hour Post a publicly visible sign with the telephone number and person at the lead agency to contact regarding dust complaints. <p>The Construction Fugitive Dust Management Plan shall include measures beyond those identified by BAAQMD’s Standard Permit Conditions, if needed, in order to demonstrate that the necessary reduction in fugitive PM_{2.5} described in this mitigation measure is achieved. Alternate measures that meet the standards may be substituted for those measures described above.</p>					
BIOLOGICAL RESOURCES					
The project could have a potential impact on migratory birds during construction activities.					
<p>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 15th (inclusive), as amended.</p>	<p>Submit a statement to the Director of Planning, Building and Code Enforcement that construction activities will avoid the nesting season.</p> <p>If the nesting season cannot be avoided, compliance with MM BIO-1.2 will be required.</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest)</p>	<p>Director of Planning, Building and Code Enforcement or the Director’s designee</p>	<p>If demolition and construction activities would occur during the nesting season, ensure project compliance with MM BIO-1.2, MM BIO-1.3, and MM BIO-1.4.</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).</p>



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<p>MM BIO-1.2: Nesting Bird Surveys. If it is not possible to schedule demolition and construction between August 16th 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 15th inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests</p>	<p>Contract with a qualified ornithologist to complete pre-construction surveys. If active nests are discovered close to work areas, MM BIO-1.3 shall be initiated. The results of the pre-construction surveys shall be described in the report required by MM BIO-1.4.</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest)</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest)</p>	<p>Review the ornithologist report</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).</p>
<p>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. The no-disturbance buffer shall remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for two days or more then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present.</p>	<p>The ornithologist, in consultation with the California Department of Fish and Wildlife, to determine the extent of a construction free buffer zone to be established around the nest to ensure that bird nests are not disturbed during project construction. The construction free buffer zones shall be described in the report required by MM BIO-1.4.</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).</p>	<p>Director of Planning, Building and Code Enforcement or the Director’s designee</p>	<p>Review the ornithologist report.</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).</p>



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MM BIO-1.4: Reporting. Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the ornithologist’s report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement or the Director’s designee, prior to issuance of any grading or building permits.	The ornithologist submits a report indicating the results of the survey and any designated buffer zones to the City’s Director of Planning, Building and Code Enforcement or Director’s designee. Print all measures on all construction documents, contracts, and project plans.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).	Director of Planning, Building and Code Enforcement or the Director’s designee	Review the ornithologist report for consistency with MM BIO-1.2 through MM BIO-1.4.	Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).

Source: City of San José. 2022. *101 South Jackson Avenue Townhomes Project Initial Study.*