

RESOLUTION NO.

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE 1921 and 1927 WEST SAN CARLOS STREET PROJECT MITIGATED NEGATIVE DECLARATION, FOR WHICH AN INITIAL STUDY WAS PREPARED, ALL IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND ADOPTING A RELATED MITIGATION MONITORING AND REPORTING PROGRAM

WHEREAS, prior to the adoption of this Resolution, the Director of Planning, Building and Code Enforcement of the City of San José prepared an Initial Study and approved for circulation a Mitigated Negative Declaration for the 1921 and 1927 West San Carlos Street Project under Planning File Nos. Burbank 45, C21-034, GP23-001, H23-005, T23-003, ER23-026 (the “Initial Study/Mitigated Negative Declaration”), all in accordance with the requirements of the California Environmental Quality Act (“CEQA”); and

WHEREAS, the Initial Study/Mitigated Negative Declaration analyzed the 1921 and 1927 West San Carlos Street Project (the “Project”), 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, whenever a lead agency approves a project requiring the implementation of measures to mitigate or avoid significant effects on the environment, CEQA requires a lead agency to adopt a Mitigation Monitoring and Reporting Program to ensure compliance with the mitigation measures during project implementation; 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 the 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 webpage (www.sanjoseca.gov) and are, by this reference, incorporated into this Resolution as if fully set forth herein; and

WHEREAS, the Project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code;

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

THAT THE CITY COUNCIL does hereby incorporate the foregoing recitals as if set forth in the body of this Resolution.

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. Burbank 45, C21-034, GP23-001/H23-005/T23-003/ER23-026). 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 webpage, and (2) Available for inspection by any interested person.

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ADOPTED this ____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

1921 and 1927 West San Carlos Street Project

File Nos. Burbank 45, C21-034, GP23-001/H23-005/T23-003/ER23-026

October 2024



PREFACE

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 prepared for the 1921 and 1927 West San Carlos Street 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.

The mitigation measures enumerated in this document would reduce the level of impact of potential environmental effects of the proposed action. In all cases, these mitigation measures would reduce the impact of effects determined to be significant prior to mitigation to less-than-significant levels.

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

I, Anthony Bahamondes, the applicant, on the behalf of PATH Villas at Buena Vista LLC, hereby agree to fully implement the mitigation measures described below which have been developed in conjunction with the preparation of an Initial Study for the 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 DocuSigned by:
Anthony Bahamondes
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Date **12/3/2024**



Planning, Building and Code Enforcement

CHRISTOPHER BURTON, DIRECTOR

File Nos. Burbank 45, C21-034, GP23-001/
H23-005/T23-003/ER23-026
1921 and 1927 West San Carlos
Street Project

MITIGATION MEASURES		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					
Impact AQ-1: Construction activities associated with the project could expose sensitive receptors near the project site to TAC emissions that could exceed the BAAQMD threshold for annual cancer risk of 10 per million by 6.41 per million.					
MM AQ-1: Prior to issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall prepare and submit a construction operations plan that includes specifications of the equipment to be used during construction to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's Designee. The plan shall be accompanied by a letter signed by a qualified air quality specialist, verifying that the plan meets the standards set forth below. <ul style="list-style-type: none"> For all construction equipment larger than 25 horsepower operating on the site for more than two days continuously or 20 total hours, shall, at a minimum meet EPA Tier 4 Final emission standards. If Tier 4 Final equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet EPA emission standards for Tier 3 engines and include particulate matter (PM) emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 85 percent reduction in PM exhaust and 40 percent reduction in NO_x in comparison to uncontrolled equipment. 		Construction equipment greater than 25 horsepower shall meet Tier 4, or, if Tier 4 is not available, Tier 3 emission standards.	Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest).	Director of Planning, Building and Code Enforcement or the Director's designee.	Review and approve verification documentation for construction operations plan and inclusion of requirement for such construction equipment in construction bid documents.
					Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest).



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<p>The construction operations plan prepared by the contractor and reviewed by the air quality specialist shall include, but not be limited to, the following.</p> <ul style="list-style-type: none"> • List of activities and estimated timing. • Equipment that would be used for each activity. • Manufacturer's specifications for each equipment that provides the emissions level; or the manufacturer's specifications for devices that would be added to each piece of equipment to ensure the emissions level meets the thresholds in the mitigation measure. <p>The Project applicant shall include this requirement in applicable bid documents and require compliance as a condition of contract. A copy of each equipment unit's certified tier specification and CARB or BAAQMD operating permit (if applicable) shall be available upon request at the time of mobilization of each applicable unit of equipment. The City shall require periodic reporting and provision of written documentation by contractors to ensure compliance and shall conduct regular inspections to the maximum extent feasible to ensure compliance.</p> <p>The construction contractor(s) shall maintain equipment maintenance records for the construction portion of the Project. All construction equipment must be tuned and maintained in compliance with the manufacturer's recommended maintenance schedule and specifications. Upon request for inspection, construction contractor(s) shall make available all</p>					



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maintenance records for equipment used on site within one business day (either hardcopy or electronic versions).					

Hazards and Hazardous Materials

Impact HAZ-1: An existing underground storage tank (UST) was determined to be present on the subject property. The removal and decommissioning of the UST has the potential to expose workers and members of the public to hazardous materials during construction and tank disturbing activities.

<p>MM HAZ-1: Prior to the issuance of any grading, demolition, or building permits, the project applicant shall complete a Geophysical Survey of the parcel to determine if all historical USTs and their associated pipelines have been removed.</p> <p>If USTs or associated pipelines are discovered the applicant shall complete, submit, and pay the required fees for 1.) a UST System Closure Permit Application with the County of Santa Clara Hazardous Materials Compliance Division (HMCD) and 2.) required closure documents with the SJFD Hazardous Materials Division. Closure of the USTs shall consist of removing the tanks and associated piping from the ground and performing soil sampling to evaluate if there is residual contamination from the former operation of the tank. Tank removal and soil sampling activities must be witnessed by a representative from both HMCD and SJFD. The tanks and associated piping are to be managed as hazardous waste once</p>	Confirm the absence of USTs on the project site through completion of a Geophysical Survey.	Prior to issuance of any grading, demolition, or building permit (whichever comes first).	Director of Planning, Building, and Code Enforcement or their designee and the Environmental Compliance Officer of the City of San José, and Santa Clara HMCD.	Coordinate with the Project applicant or the applicant's representative to ensure that the process will occur as required, and confirm completion.	Prior to issuance of any grading, demolition, or building permit (whichever comes first).
	The Project applicant shall complete, submit, and pay the required fees for a UST System Closure Permit Application with the County of Santa Clara HMCD and receive required closure documents with the SJFD Hazardous Materials Division				



Planning, Building and Code Enforcement
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EXHIBIT "A"
(File Nos. H23-005; T23-003; ER23-026)

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<p>removed unless they are cleaned onsite and certified as non-hazardous.</p> <p>After tank removal, a representative of HMCD will require soil sampling beneath the tanks. Samples will be submitted to a State certified laboratory for analysis. HMCD will review the soil analytical results to determine if the tank has leaked. If the tanks are determined to have leaked, HMCD will refer the site to the Local Oversight Program (LOP). The applicant will work with HMCD to determine next steps to investigate the contamination. HMCD may require additional testing to fully delineate the extent of contamination. Once the extent of contamination is defined, some form of remediation such as excavation, offsite disposal, capping in place, etc. will be performed to reduce potential exposure impacts to future construction/maintenance workers, residents, and the general public. Any contaminated soils shall be disposed of offsite at a licensed hazardous materials disposal site.</p>					
Impact HAZ-2: The concentrations of tetrachloroethene (PCE) on the project site exceed current regulatory environmental screening levels and are a potential health risk to future site users.					
MM HAZ-2: Prior to the issuance of any building permits, the applicant shall obtain regulatory oversight from the Santa Clara County Department of Environmental Health, the Regional Water Quality Control Board or Department of Toxic Substances Control to review the results of soil gas sampling to determine if further investigation and/or mitigation is required to ensure the future development does not pose a potential health risk to residences.	Obtain regulatory oversight from Santa Clara County Department of Environmental Health, the Regional Water Quality Control Board or Department of Toxic Substances Control to	Prior to issuance of any grading, demolition, or building permits.	Director of Planning, Building and Code Enforcement or the Director's designee, and the City's Environmental Compliance Officer.	Review the regulatory agency's approval of the Project plan for investigation and mitigation.	Prior to issuance of any grading, demolition, or building permits.



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		review soil gas samplings.			
Impact HAZ-3: The project's building height of 83 feet and 10 inches would exceed the Federal Aviation Administration (FAA)'s navigable airspace review filing criteria for any structure over 45 feet in height.					
MM HAZ-3: The project applicant shall submit to the FAA for airspace review and obtain a "Determination of No Hazard" for the proposed building's rooftop corners and any additional higher points. Prior to issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall submit the "Determination of No Hazard" from the FAA to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's Designee.		Obtain documentation of a "Determination of No Hazard" from the FAA.	Prior to 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 "Determination of No Hazard" to the extent required by the FAA. Prior to issuance of any demolition, grading, and/or building permits (whichever occurs earliest).
Noise and Vibration					
Impact NOI-1: Project construction would exceed the City's General Plan Policy EC-1.7 construction noise standards and would temporarily result in substantial noise-generating activities for more than 12 months adjacent to residential uses.					
MM NOI-1: Prior to issuance of any grading, demolition or building permit issuance (whichever comes first), the Project applicant shall provide a Construction Noise Logistics Plan that includes the following measures: <ul style="list-style-type: none"> Prior to issuance of any Grading or Building Permit, the Contractor shall provide evidence that at all times during construction activities an on-site construction staff member shall be designated as a Noise Disturbance Coordinator. Post signs at gates and other places where vehicles may congregate reminding operators of the State's Airborne 		Submit Construction Noise Logistics Plan that complies with all listed requirements.	Prior to issuance of any grading, demolition or building permit (whichever comes first).	Director of Planning, Building and Code Enforcement or the Director's designee	Approve Construction Noises Logistics Plan. Prior to issuance of any grading, demolition or building permits.



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<p>Toxic Control Measure (ATCM) limiting idling to no more than 5 minutes.</p> <ul style="list-style-type: none"> A sign regarding the construction schedule of the Project, legible at 50 feet, shall be posted at the Project construction site, and shall include the contact name and telephone number of the Noise Disturbance Coordinator. The sign shall be reviewed and approved by the Director of PBCE or Director's designee, prior to posting. The above construction schedule and notice shall be mailed to all property owners within 300 feet of the project site. Construction contracts for the Project shall specify that all construction equipment, fixed or mobile, shall be equipped with State required noise attenuation devices such as property operating and maintained mufflers. 					
Impact NOI-2: Project construction would exceed the City's General Plan Policy EC-2.3 construction vibration standards by approximately 0.79 PPV and would temporarily result in substantial vibration-generating activities to nearby off-site structures.					
MM NOI-2: The Project applicant will require contractor(s) to comply with a Vibration Management Plan and implement minimum allowable setbacks from nearby buildings/structures to the north and west for heavy machinery. For all new construction, the contractor(s) will not use pile drivers, pavement breakers, or blasting equipment. In addition, when construction is required in direct proximity to the existing residences to the north and/or the residences immediately west of the Project site, the contractor(s) will observe the following		Submit Vibration Management Plan that complies with listed requirements, and comply with all listed requirements.	Prior to issuance of any grading, demolition, or building permits.	Director of Planning, Building and Code Enforcement or the Director's designee.	Approve Vibration Management Plan.
					Prior to issuance of any grading, demolition, or building permits.



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minimum allowable setbacks for specified construction equipment: <ul style="list-style-type: none"> • Jackhammers shall not be used within 8 feet of any building. • Rock Breakers shall not be used within 12 feet of any building. • Loaded Trucks shall not be used within 14 feet of any building. • Large Bulldozers shall not be used within 15 feet of any building. 					
Tribal Cultural Resources					
Impact TRI-1: Project construction has the potential to uncover and/or damage potential tribal resources during ground disturbance.					
MM TRI-1: If tribal cultural resources are encountered during excavation and/or grading of the Project site, the Project applicant shall notify the Tamien Nation Representative of the discovery.		Notify Tamien Nation Representative of any discovery of tribal cultural resources during Project construction.	During ground disturbance activities.	Director of Planning, Building and Code Enforcement or the Director's designee.	Review tribal notification process if tribal cultural resources are encountered during construction.

Source: 1921 and 1927 West San Carlos Street Project Initial Study. (October 2024).