

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE AUZERAIS AVENUE RESIDENTIAL PROJECT ADDENDUM TO THE DIRIDON STATION AREA PLAN ENVIRONMENTAL IMPACT REPORT, DOWNTOWN STRATEGY 2000 ENVIRONMENTAL IMPACT REPORT, THE ENVISION SAN JOSE 2040 GENERAL PLAN ENVIRONMENTAL IMPACT REPORT, THE GENERAL PLAN SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT, AND ADDENDA THERETO, 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 Final Program Environmental Impact Report for the Diridon Station Area Plan (“DSAP FEIR”), which analyzed the environmental impacts of future development as established in the Diridon Station Area Plan; and

WHEREAS, the Planning Commission of the City certified said DSAP FEIR, which certification was not appealed; and

WHEREAS, in connection with the adoption of a resolution approving said Diridon Station Area Plan (Planning File No. PP09-163), the City Council adopted Resolution No. 77096 on July 14, 2014, setting forth certain findings pertaining to the DSAP FEIR and adopting a mitigation monitoring and reporting program, all pursuant to the provisions of CEQA; and

WHEREAS, the City prepared, completed, and adopted in accordance with CEQA the Final Program Environmental Impact Report for the Downtown Strategy 2000 (“Downtown Strategy FPEIR”), which analyzed the environmental impacts of future development in the expanded Greater Downtown Area as established by the Downtown Strategy 2000 long-range program to allow high density infill development and the expansion of the Greater Downtown Area; and

WHEREAS, the Planning Commission of the City certified said Downtown Strategy FPEIR, which certification was not appealed; and

WHEREAS, in connection with the adoption of a resolution approving said Downtown Strategy 2000 Plan (Planning File No. PP03-123), the City Council adopted Resolution No. 72767 on June 21, 2005, setting forth certain findings pertaining to the Downtown Strategy FPEIR and adopting a mitigation monitoring and reporting program, all pursuant to the provisions of CEQA; and

WHEREAS, the City prepared, completed, and adopted in accordance with CEQA the Final Program Environmental Impact Report for the Envision San José 2040 General Plan (“General Plan FPEIR”), which analyzed the environmental impacts set forth from the land use and development assumptions of the Envision San José 2040 General Plan; and

WHEREAS, the Planning Commission of the City certified said General Plan FPEIR, which certification was not appealed; and

WHEREAS, in connection with the adoption of a resolution approving said Envision San José 2040 General Plan (Planning File No. PP09-011), the City Council adopted Resolution No. 76041 on November 1, 2011, setting forth certain findings pertaining to

the General Plan FPEIR and adopting a mitigation monitoring and reporting program, all pursuant to the provisions of CEQA; and

WHEREAS, subsequent to said actions on the General Plan FPEIR, the City prepared, completed, and adopted in accordance with CEQA the Supplemental EIR (“SEIR”) for the Envision San José 2040 General Plan, Greenhouse Gas Reduction Strategy (Planning File No. PP15-060); and

WHEREAS, the Planning Commission of the City certified said SEIR, which certification was not appealed; and

WHEREAS, the City Council adopted Resolution No. 77617 on December 15, 2015 setting forth certain findings pertaining to the SEIR, all pursuant to the provisions of CEQA; and

WHEREAS, prior to the adoption of this Resolution, the Planning Director of the City of San José prepared and approved an Addendum to the DSAP FEIR, Downtown Strategy FPEIR, the General Plan FPEIR, SEIR and Addenda thereto for the Auzerais Avenue Residential Project under Planning File Nos. C17-009, SP17-016, and T17-015 (the “Addendum”), all in accordance with CEQA; and

WHEREAS, the Auzerais Avenue Residential Project (the “Project”) analyzed under the Addendum consists of a conventional rezoning from the LI Light Industrial and R-2 Two-Family Residence District Zoning Districts to the DC Downtown Zoning District to allow residential uses; a Special Use Permit to demolish the existing buildings and allow the construction of a six-story residential building including podium parking and up to 130 attached residential units; and a Tentative Map to combine three lots into two lots and subdivision of 130 condominium units, on a 1.05 gross acre site located on the north

side of Auzerais Avenue (425 & 433 Auzerais) and west side of Delmas Avenue (383 Delmas) in San José, California; and

WHEREAS, as further described in the Addendum, the implementation of the Project would not result in new significant effects on the environment beyond those already identified in the previously approved DSAP FEIR, Downtown Strategy FPEIR, General Plan FPEIR, SEIR, and Addenda thereto nor will the Project result in an increase in the severity of significant effects identified in the DSAP FEIR, Downtown Strategy FPEIR, General Plan FPEIR, SEIR, and Addenda thereto and identified mitigation measures, as amended, would continue to reduce each of those significant effects to a less-than significant level; and

WHEREAS, although the Project will not result in any new significant effect or increase in the severity of an existing significant effect on the environment, revisions to standard measures and mitigation measures are being made to reflect current General Plan policies and current protocols, which have been updated to incorporate applicable mitigations from the DSAP FEIR, Downtown Strategy FPEIR, General Plan FPEIR, and SEIR into the Project; and

WHEREAS, the related mitigation measures are described in the Addendum; and

WHEREAS, a related Mitigation Monitoring and Reporting Program (“Mitigation Monitoring and Reporting Program”) was prepared that incorporates certain mitigation measures from the previously certified DSAP FEIR, Downtown Strategy FPEIR, General Plan FPEIR and SEIR, which have been updated and refined to reflect the current regulatory context; 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 DSAP FEIR, Downtown Strategy FPEIR, General Plan FPEIR, SEIR and the Addendum, including the 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 DSAP FEIR, Downtown FPEIR, General Plan FPEIR, SEIR and the Addendum thereto and related Mitigation Monitoring and Reporting Program for the Project are on file in the Office of the Director of Planning, 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 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 DSAP FEIR, Downtown Strategy FPEIR, General Plan FPEIR, and SEIR, as all modified by the Addendum, as well as other information in the record and has considered the information contained therein, prior to acting upon or approving the Project, (2) the Addendum modifying the DSAP FEIR, Downtown Strategy FPEIR, General Plan FPEIR, and SEIR prepared for the Project has been completed in compliance with CEQA and is consistent with state and local guidelines implementing CEQA, and (3) the Addendum modifying the DSAP FEIR, Downtown Strategy FPEIR, General Plan FPEIR, and SEIR 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 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 Addendum and related Mitigation Monitoring and Reporting Program prepared for the Project (Planning File Nos. C17-009, SP17-016, and T17-015). The Mitigation Monitoring and Reporting Program is attached hereto as Exhibit A and is fully incorporated herein by this reference. The DSAP FEIR, Downtown Strategy FPEIR, General Plan FPEIR, SEIR, and Addenda thereto and the Addendum and Mitigation Monitoring and Reporting Program are: (1) on file in the Office of the Director of Planning, located at 200 East Santa Clara Street, 3rd Floor Tower, San José, California, 95113, and (2) available for inspection by any interested person.

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ADOPTED this _____ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

AUZERAIS AVENUE RESIDENTIAL DEVELOPMENT **File Nos. C17-009, SP17-016 & T17-015**

February 2018



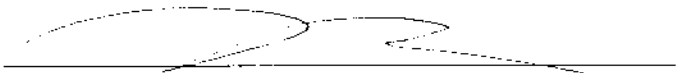
P R E F A C E

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/Addendum prepared for the Auzevais Avenue Residential Development 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 identifies those measures and how and when they will be implemented.

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

I, Zhenzhen Li, the applicant, on the behalf of Auzevais project, hereby agree to fully implement the Mitigation Measures described below, which have been developed in conjunction with the preparation of an Initial Study/Addendum 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, where feasible.

Project Applicant's Signature 
Date 5-1-2018



Planning, Building and Code Enforcement
ROSALYNN HUGHEY, INTERIM DIRECTOR

**Auzerais Avenue Residential
Development**
File Nos. C17-009, SP17-016 & T17-015

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 AIR-1: Emissions from diesel-operated construction equipment during project construction would result in significant health impacts to nearby sensitive receptors.					
<p>MM AIR-1.1: The project applicant shall develop a plan demonstrating that the off-road equipment used to construct the project would achieve a fleet-wide average 60 percent reduction in diesel particulate matter (DPM) emissions. Measures that can be implemented to achieve this reduction include, but are not limited to, the following:</p> <ul style="list-style-type: none"> All mobile diesel-powered off-road equipment larger than 50 horsepower and operating on the site for more than two days continuously shall meet, at a minimum, U.S. Environmental Protection Agency (U.S. EPA) particulate matter emissions standards for Tier 2 engines or equivalent. All diesel-powered portable equipment (i.e., aerial lifts, air compressors, forklifts, generators, and welders) operating on the site for more than two days shall meet U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent. Implementation of additional measures that reduce construction period DPM emissions such as the use 	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p> <p>The proposed plan to achieve a fleet-wide average 60 percent reduction in diesel particulate matter (DPM) emissions shall be submitted to the Supervising Environmental Planner of the Planning, Building and Code Enforcement Department for review/approval.</p>	<p>Prior to issuance of any grading permits.</p>	<p>Supervising Environmental Planner of Department of Planning, Building, and Code Enforcement</p>	<p>Ensure that all measures are printed on all construction documents, contracts, and project plans.</p> <p>Review/approve the proposed plan to achieve a fleet-wide average 60 percent reduction in DPM emissions.</p>	<p>Prior to issuance of any grading permits.</p>



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<p>of equipment with CARB-certified Level 3 Diesel Particulate Filters, alternatively-fueled equipment (i.e., non-diesel), and/or additional exhaust devices shall be considered.</p> <p>The proposed plan to achieve a fleet-wide average 60 percent reduction in diesel particulate matter (DPM) emissions shall be submitted to the Supervising Environmental Planner of the Planning, Building and Code Enforcement Department prior to issuance of any grading permits.</p>					
BIOLOGICAL RESOURCES					
Impact BIO-1: If project demolition and tree removals occur during the breeding season, the project could result in a significant impact to nesting raptors.					
<p>MM BIO-1: Tree removal and construction shall be scheduled 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).</p> <p>If avoidance of the nesting season is not possible, a qualified ornithologist shall complete a pre-construction survey to identify active raptor nests that may be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of demolition/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</p>	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p> <p>Avoid construction activities during nesting season. If not possible, pre-construction surveys shall be conducted by a qualified ornithologist and construction-free buffer zones shall be designated around active nests.</p>	<p>Prior to the issuance of any grading or building permits.</p>	<p>Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement.</p>	<p>Ensure that all measures are printed on all construction documents, contracts, and project plans.</p> <p>Review/approve pre-construction survey report, if applicable.</p>	<p>Prior to issuance of any grading or building permits.</p>



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	Method of Compliance or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<p>late part of the breeding season (May 1st through August 31st, inclusive), unless a shorter pre-construction survey is determined to be appropriate based on the presence of a species with a shorter nesting period, such as Yellow Warblers, and as determined by the ornithologist. During this survey, the ornithologist will inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests. If an active nest is found in an area that will be disturbed by construction, the ornithologist shall designate a construction-free buffer zone (typically 250 feet) to be established around the nest, in consultation with the California Department of Fish and Wildlife (CDFW) to ensure that raptor and/or migratory bird nests will not be disturbed during project construction.</p> <p>The project applicant shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, prior to the issuance of any grading or building permit.</p>	<p>Submit a report indicating the results of the preconstruction survey and any designated buffer zones to the Supervising Environmental Planner at the Department of Planning, Building and Code Enforcement.</p>				
<p>Impact BIO-2: Project demolition of old buildings and/or mature trees could result in a significant impact to bats.</p>					
<p>MM BIO-2.1: Pre-demolition surveys for roosting bats shall be completed by a qualified biologist no more than 30 days prior to any building demolition activities. If a colony of bats is found on the project site, and the project can be constructed without disturbance to the roosting colony, a qualified bat</p>	<p>All measures shall be printed on all construction documents, contracts, and project plans.</p>	<p>Prior to the issuance of any grading, building, or tree removal permits.</p>	<p>Supervising Environmental Planner of the City of San José Department of Planning, Building,</p>	<p>Ensure that all measures are printed on all construction documents,</p>	<p>Prior to the issuance of any grading, building, or tree removal permits.</p>



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<p>biologist shall designate buffer zones (both physical and temporal) as necessary to ensure the continued success of the colony.</p> <p>If any active bat nurseries are found within construction areas, CDFW shall be notified. Construction-free zones may be required around the bat nursery. If permitted by CDFW, the bats may be removed from the buildings or trees by a bat biologist until demolition is complete.</p> <p>A biologist report outlining the results of pre-construction surveys and any recommended buffer zones shall be submitted to the satisfaction of the City's Supervising Environmental Planner prior to the issuance of any grading, building, or tree removal permits.</p>	<p>Pre-demolition surveys shall be completed by a qualified biologist and construction-free buffer zones shall be designated around active colonies.</p> <p>Submit a report indicating the results of the survey and any designated buffer zones or other mitigation to the Supervising Environmental Planner at the Department of Planning, Building and Code Enforcement.</p>		and Code Enforcement.	contracts, and project plans. Review/approve pre-demolition survey report.	

Source: Addendum to the Diridon Station Area Plan Environmental Impact Report (SCH#2011092022), San José Downtown Strategy 2000 Environmental Impact Report (SCH#2003042127), and Envision San José 2040 General Plan Environmental Impact Report (SCH#2009072096), Supplemental Environmental Impact Report, and Addenda there to for the Auzerais Avenue Residential Project (File Nos. C17-009, SP17-016 & T17-015), February 2018.