

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE 1212-1224 SOUTH WINCHESTER BOULEVARD HOTEL 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, 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 1212-1224 South Winchester Boulevard Hotel Project under Planning File Nos. C19-031, and SP20-016 (the “Initial Study/Mitigated Negative Declaration”), all in accordance with the requirements of the California Environmental Quality Act of 1970, together with state and local guidelines implementing said Act, all as amended to date (collectively “CEQA”); and

WHEREAS, the 1212-1224 South Winchester Boulevard Hotel Project (the “Project”) analyzed under the Initial Study/Mitigated Negative Declaration consists of a rezoning from the R-1-8 Single-Family Residence Zoning District to the CP Commercial Pedestrian Zoning District and a Special Use Permit to demolish existing residential buildings, and remove all associated pavement, landscaping, and removal of nine trees, including four ordinance-size trees, to construct an approximately 107,079-square foot, six-story high, 119-room hotel with an approximately 49% parking reduction and an alternative parking arrangement on an approximately 0.69-gross acre site located on the east side of South Winchester Boulevard, approximately 270 feet south of Fireside Drive (1212-1224 South Winchester Boulevard) (Assessor’s Parcel Numbers 279-17-020, 279-17-021), 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-line 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. C19-031 and SP20-016). 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 (2) available for inspection by any interested person.

ADOPTED this ____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

1073-1087 S. Winchester Boulevard
Mixed-Use Project
File Nos.: SP20-002 and T20-003
August 2021



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/Mitigated Negative Declaration prepared for the 1073-1087 South Winchester Boulevard Mixed-Use 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, Henry Cord, the applicant, on the behalf of Adam Askari, the property owner, 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 Henry W. Cord

Date August 14, 2021



Planning, Building and Code Enforcement
CHRISTOPHER BURTON, DIRECTOR

EXHIBIT "A"
(File Nos. SP20-002 and T20-003)

1073-1087 S. Winchester Boulevard
Mixed-Use Project
File Nos: SP20-002 & T20-003

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					
Impact: The project could expose the sensitive receptors to substantial pollutant concentrations.					
<p>MM AQ-1: Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest), the project applicant shall submit a construction operation plan to the Director of Planning, Building and Code Enforcement or Director’s designee, demonstrating that the off-road equipment used for construction of the project achieve a fleet-wide average of at least 94 percent reduction in particulate matter exhaust emissions. All mobile diesel-powered off-road equipment operating on-site for more than two days and larger than 50 horsepower shall, at a minimum, meet U.S. Environmental Protection Agency (EPA) particulate matter emissions standards for Tier 4 engines or equivalent. Prior to the issuance of any demolition permits, the project applicant shall submit a construction operation plan to the Supervising Planner of the Environmental Review Division of the Department of Planning, Building and Code Enforcement, which includes specifications of the equipment to be used during construction and confirmation this requirement is met.</p>	<p>Prepare and submit a construction operation plan to Supervising Planner of the Department of Planning, Building and Code Enforcement.</p> <p>Implement all measures in the construction operation plan.</p>	<p>Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest).</p> <p>During construction activities.</p>	<p>Supervising Planner of the Department of Planning, Building and Code Enforcement.</p>	<p>Receive and approve Construction Operations Plan</p>	<p>Prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest).</p>



Planning, Building and Code Enforcement
CHRISTOPHER BURTON, DIRECTOR

EXHIBIT "A"
(File Nos. SP20-002 and T20-003)

1073-1087 S. Winchester Boulevard
Mixed-Use Project
File Nos: SP20-002 & T20-003

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
Other measures may be implemented to minimize construction period Diesel Particulate Matter (DPM) emissions to reduce the estimated cancer risk below the thresholds. The use of equipment that includes CARB-certified Level 4 Diesel Particulate Filters or alternatively-fueled equipment (i.e., non-diesel), added exhaust devices, or a combination of these measures could meet this requirement. If any of these alternative measures are proposed, the construction operations plans must include specifications of the equipment to be used during construction prior to the issuance of any demolition permits. The plan shall be accompanied by a letter signed by a qualified air quality specialist, verifying the equipment included in the plan meets the standards set forth in this mitigation measure.					
BIOLOGICAL RESOURCES					
Impact: The project may have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service.					
MM BIO-1: Initial site disturbance activities, including vegetation removal, shall not occur during the general avian nesting season (February 1 through August 31, inclusive). If construction activities cannot be scheduled to avoid nesting season, the project applicant shall retain a qualified biologist to conduct a preconstruction nesting bird survey to determine the presence/absence, location,	Schedule construction activities outside of nesting season (September 1st through January 31st). If construction activities cannot be scheduled between September 1st and	Prior to any site disturbance such as tree removal, or approval of grading, building or demolition permits	Director of Planning, Building and Code Enforcement or Director's designee	Review report of the results of the Nesting Bird Survey report and any designated buffer zones.	Prior to any tree removal, or approval of any grading, building or demolition permits (whichever occurs first).



Planning, Building and Code Enforcement

CHRISTOPHER BURTON, DIRECTOR

EXHIBIT "A"
(File Nos. SP20-002 and T20-003)

1073-1087 S. Winchester Boulevard
Mixed-Use Project
File Nos: SP20-002 & T20-003

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
<p>and status of nests on or adjacent to the project site. The extent of the survey buffer area surrounding the site shall be established by the qualified biologist to avoid direct and indirect impacts to nesting birds. To avoid the destruction of active nests and protect the reproductive success of birds protected by the Migratory Bird Treaty Act and California Fish and Game Code, nesting bird surveys shall be performed not more than 14 days prior to vegetation clearance and structure demolition.</p> <p>Following commencement of construction activities, no additional nesting bird surveys would be required.</p> <p>If active nests are discovered, an avoidance buffer for raptors, typically 250 feet, shall be established around such active nests and no construction shall be allowed within the buffer areas until a qualified biologist has determined the nest is no longer active (e.g., the nestlings have fledged and are no longer reliant on the nest). No ground disturbing activities shall occur within this buffer until the qualified biologist has confirmed breeding/nesting is complete and the young have fledged the nest. Nesting bird surveys are not required for construction activities occurring between September 1 and January 31, inclusive.</p> <p>Prior to any site disturbance, such as tree removal, or the issuance of any grading, building or demolition permits</p>	<p>January 31st (inclusive), a qualified ornithologist/biologist shall conduct preconstruction surveys and establish construction-free buffer zones.</p> <p>The ornithologist/biologist shall submit a report indicating the results of the survey and any designated buffer zones to the Director of Planning, Building, and Code Enforcement or Director's designee.</p>	<p>(whichever occurs first).</p>			



Planning, Building and Code Enforcement
CHRISTOPHER BURTON, DIRECTOR

EXHIBIT "A"
(File Nos. SP20-002 and T20-003)

1073-1087 S. Winchester Boulevard
Mixed-Use Project
File Nos: SP20-002 & T20-003

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
(whichever occurs first), the ornithologist/biologist shall submit a 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.					
NOISE					
Impact: The project could result in generation of a temporary increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance during construction of the project site.					
MM N-1: Construction Noise Logistics Plan: Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building, and Code Enforcement prior to the issuance of any grading or demolition permits.	Submit and implement Construction Noise Logistics Plan to the Director of Planning, Building and Code Enforcement or Director's designee.	Prior to issuance of any grading or demolition permits	Director of Planning, Building and Code Enforcement or Director's designee	Receive Construction noise logistics plan	Prior to issuance of any grading or demolition permits.



Planning, Building and Code Enforcement
CHRISTOPHER BURTON, DIRECTOR

EXHIBIT "A"
(File Nos. SP20-002 and T20-003)

1073-1087 S. Winchester Boulevard
Mixed-Use Project
File Nos: SP20-002 & T20-003

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
<p>As a part of the noise logistic plan and project, construction activities for the proposed project shall include, but is not limited to, the following best management practices:</p> <ul style="list-style-type: none"> • In accordance with Policy EC-1.7 of the City’s General Plan, utilize the best available noise suppression devices and techniques during construction activities. • Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence. • Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses. • Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment. • Prohibit unnecessary idling of internal combustion engines. • Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct 					



Planning, Building and Code Enforcement
CHRISTOPHER BURTON, DIRECTOR

EXHIBIT "A"
(File Nos. SP20-002 and T20-003)

1073-1087 S. Winchester Boulevard
Mixed-Use Project
File Nos: SP20-002 & T20-003

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
<p>temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.</p> <ul style="list-style-type: none"> • Utilize “quiet” air compressors and other stationary noise sources where technology exists. • Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site. • 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. • If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites. • Designate a “disturbance coordinator” who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a 					



Planning, Building and Code Enforcement

CHRISTOPHER BURTON, DIRECTOR

**1073-1087 S. Winchester Boulevard
Mixed-Use Project
File Nos: SP20-002 & T20-003**

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
<p>telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.</p> <ul style="list-style-type: none"> Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses 					
TRANSPORTATION/TRAFFIC					
Impact: The project exceeds the City's Vehicle Miles Traveled (VMT) threshold of 12.21 VMT per employee.					
<p>MM TR-1 Prior to the issuance of any building permits, the project applicant shall implement a Transportation Demand Management (TDM). The plan shall include an annual monitoring requirement establishing an average daily trip (ADT) cap of 36 AM peak-hour trips and 41 PM peak-hour trips. The annual monitoring report must demonstrate the project is within 10 percent of the ADT cap and must be prepared by a traffic engineer. If the</p>	<p>Prepare and implement a TDM plan. Submit a copy of the TDM plan to the Director of Planning, Building and Code Enforcement, or Director's designee and the Director of the City of San José</p>	<p>Prior to issuance of any building permits</p>	<p>Director of Planning, Building and Code Enforcement, or Director's designee and the Director of the City of San José Department of Public Works</p>	<p>Receive copy of TDM plan. Review compliance with one of the recommended measure options within the</p>	<p>Prior to issuance of any building permits</p>



Planning, Building and Code Enforcement
CHRISTOPHER BURTON, DIRECTOR

EXHIBIT "A"
(File Nos. SP20-002 and T20-003)

1073-1087 S. Winchester Boulevard
Mixed-Use Project
File Nos: SP20-002 & T20-003

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
<p>project is not in conformance with the trip cap, the project may add additional TDM measures to meet this trip cap. A follow-up report shall be required within six months. If the project is still out of conformance, penalties shall be assessed per Council Policy 5-1. A copy of the TDM plan shall be submitted to the Director of Planning, Building and Code Enforcement, or Director’s designee and the Director of the City of San José Department of Public Works prior to issuance of any building permits. The annual monitoring report shall be submitted to the Director of Planning, Building and Code Enforcement, or Director’s designee and the Director of the City of San José Department of Public Works within 10 days from anniversary of building occupancy.</p> <p>The project applicant shall implement one of the following mitigation measures:</p> <p><u>Option A:</u> Telecommuting and Alternative Work Schedules: Encourage 100% of the employees to telecommute, shift work schedules, or commute outside of peak congestion periods on a 9/80 schedule or 9 of 80</p>	Department of Public Works.			<p>transportation analysis</p> <p>Receive annual monitoring report and any follow-up reports</p>	<p>Within 10 days from anniversary of building occupancy.</p>



Planning, Building and Code Enforcement
CHRISTOPHER BURTON, DIRECTOR

EXHIBIT "A"
(File Nos. SP20-002 and T20-003)

1073-1087 S. Winchester Boulevard
Mixed-Use Project
File Nos: SP20-002 & T20-003

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
<p>hours on alternative work schedule. This measure reduces commute vehicle trips; or</p> <p><u>Option B:</u> Operate a Free Direct Shuttle: Provide shuttle service for at least 15 percent of the project employees that would serve the project site and areas with high concentrations of employed residents. This measure reduces drive-alone commute trips; or</p> <p><u>Option C:</u> Provide Ride-Sharing Programs: Organize a program to match individuals interested in carpooling who have similar commutes for at least 15 percent of the project employees. This measure promotes the use of carpooling and reduces the number of drive-alone trips; or</p> <p><u>Option D:</u></p> <p>1. Car Sharing Program: Provide subsidies and promotions, as well as dedicated parking spaces, for carsharing services such as ZipCar, Car2Go, and GetAround, etc for 100 percent of the project employees. Supporting a carsharing program gives people on-demand access to shared fleets of vehicles. Car-sharing reduces personal motorized vehicle dependence, which supports more walking, biking, carpooling, and transit use. Subject to negotiations with the City and possible negotiations with Car Share companies; and</p>					



Planning, Building and Code Enforcement

CHRISTOPHER BURTON, DIRECTOR

EXHIBIT "A"
(File Nos. SP20-002 and T20-003)

1073-1087 S. Winchester Boulevard
Mixed-Use Project
File Nos: SP20-002 & T20-003

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
<p>2. Commute Trip Reduction Marketing/Education: Implement marketing/educational campaigns that promote the use of transit, shared rides, and travel through active modes for 100 percent of the project employees. Strategies may include incorporation of alternative commute options into new employee orientations, event promotions, and publications; and</p> <p>3. Employee Parking “Cash Out” and on-site TDM coordinator: Require Project employers to offer parking "cash-out" for 60 percent of the project employees. Providing a "cash-out" incentives gives employees the choice to forgo subsidized/free parking for a cash payment equivalent to the cost that the employer would otherwise pay for the parking space. Providing an alternative to subsidized/free parking encourages commuters to travel by walking, biking, carpooling, and transit.</p>					

Source: 1073-1087 S. Winchester Boulevard Mixed-Use Project Initial Study, 2021