

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING THE 15980 CARLTON AVENUE RESIDENTIAL 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**, prior to the adoption of this Resolution, the Planning Director of the City of San José prepared an Initial Study and approved for circulation a Mitigated Negative Declaration for the 15980 Carlton Avenue Residential Project under Planning File Nos. PDC17-049, PD17-023, PT17-050 (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 15980 Carlton Avenue Residential Project (the “Project”) analyzed under the Initial Study/Mitigated Negative Declaration consists of a Planned Development Rezoning from R-M Multiple Residence District to the R-M(PD) Planned Development Zoning District, a Planned Development Permit and Tentative Map to allow for the demolition and removal of all existing structures, pavements and utilities, and subdivide the site into six parcels to construct six two-story residential condominiums on an approximately 0.48 gross acre site located at 15980 Carlton Avenue, situated on the south side of Carlton Avenue, approximately 290 feet west of National Avenue, in the City of San José (Assessor’s Parcel Number 421-13-060), 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

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**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, 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 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 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. PDC17-049, PD17-023, PT17-050). 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, 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 \_\_\_\_\_, 2017, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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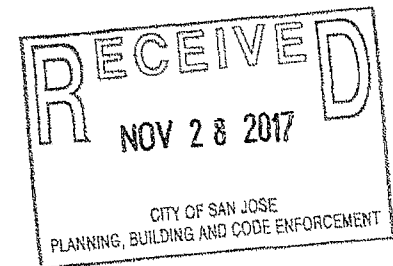
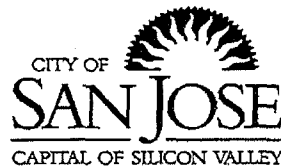
TONI J. TABER, CMC  
City Clerk

# MITIGATION MONITORING AND REPORTING PROGRAM

## 15980 CARLTON AVENUE RESIDENTIAL PROJECT

File Nos. PDC17-049, PD17-023, PT17-050

CITY OF SAN JOSE  
November 2017



## 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 15980 Carlton Avenue Residential 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, Carroll Peterson, the applicant, on the behalf of Carlton Lot 22 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, where feasible.

Project Applicant's Signature \_\_\_\_\_

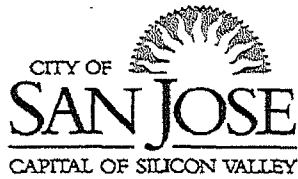
Date 11/27/17



*Planning, Building and Code Enforcement*  
ROSALYNN HUGHEY, INTERIM DIRECTOR

15980 Carlton Avenue Residential  
Project  
File Nos. PDC17-049, PD17-023,  
PT17-050

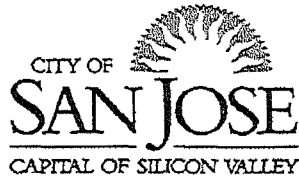
MITIGATIONS		MONITORING AND REPORTING PROGRAM			
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
<b>BIOLOGICAL RESOURCES</b>					
<b>Impact BIO-1:</b> Tree removal, demolition, grading, and other construction activities occur during breeding season could result in a significant impact to nesting raptors.					
<b>MM-BIO-1.1:</b> 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).  If it is not possible to schedule demolition and construction between September 1st and January 31st (inclusive) to avoid the nesting season, pre-construction surveys for nesting raptors and other migratory nesting birds shall be conducted by a qualified ornithologist to identify active nests that may be disturbed during project implementation on-site and within 250 feet of the site. Projects that commence demolition and/or construction activities between February 1st and April 30 <sup>th</sup> (inclusive) shall conduct a pre-construction survey for nesting birds no more than 14 days prior to initiation of construction, demolition activities, or tree removal. Between May 1st and August 31 <sup>st</sup> (inclusive), the pre-construction survey shall be conducted no more than 30 days prior to initiation of construction, demolition, or tree removal activities.	Avoid construction activities during nesting seasons.  If avoiding construction activities during nesting seasons is not feasible, a pre-construction nesting bird survey shall be conducted by a qualified ornithologist and construction-free buffer zones shall be designated around any discovered nest.  Following completion of the preconstruction survey, the project applicant shall submit a report prepared by a qualified ornithologist to document the results of the survey and any designated construction-free buffer zones.	Prior to issuance of any grading, demolition, and/or building permits.	Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement.	Confirm that demolition and construction activities are scheduled outside of the nesting season.  Review the preconstruction survey report indicating the results of the survey and any designated buffer-zones.	Prior to issuance of any grading, demolition, and/or building permits.



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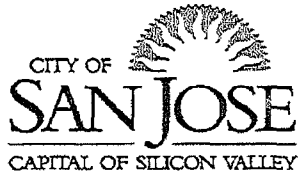
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<p>If an active nest is found in or close enough to the project area to be disturbed by construction activities, a qualified ornithologist, in consultation with the California Department of Fish and Wildlife (CDFW), shall determine the extent of a construction free buffer zone (typically 250 feet for raptors and 100 feet for other birds) around the nest, to ensure that raptor or migratory bird nests would not be disturbed during ground disturbing activities. The construction-free buffer zones shall be maintained until after the nesting season has ended and/or the ornithologist has determined that the nest is no longer active.</p> <p>The ornithologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Supervising Environmental Planner of the City of San José Department of Planning, Building and Code Enforcement prior to any tree removal activities, demolition, grading and/or building permits (whichever occurs first).</p>					
<b>HAZARDS AND HAZAROUS MATERIALS</b>					
<b>Impact HAZ-1:</b> Construction workers could be exposed to soils with elevated concentrations of pesticides and lead during ground disturbance activities.					
MM HAZ-1.1: Under regulatory oversight from the Santa Clara County Department of Environmental Health (SCCDEH) using their Voluntary Cleanup Program (VCP), or equivalent regulatory agency, the project applicant shall prepare the following documents:		Preparation and submittal of a Proposed Mitigation Plan, Site Management Plan and Health Safety Plan.	Prior to issuance of any grading permit; during construction.	Santa Clara County Department of Environmental Health (SCCDEH) or equivalent agency.	SCCDEH (or equivalent agency) reviews and approve SMP and HSP, if applicable.
					Prior to the issuance of any grading permits.



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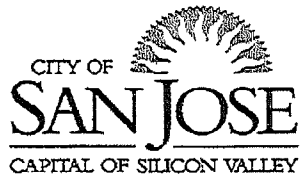
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<ul style="list-style-type: none"> <li>• A proposed mitigation plan for removing the areas of contaminated soil (as discussed in Mitigation Measure MM-HAZ 1.2) for approval by the regulatory agency.</li> <li>• The regulatory agency may require a Site Management Plan (SMP) or similar document to manage the cleanup of contaminated soil.</li> <li>• If applicable, a SMP shall be prepared prior to construction to reduce or eliminate exposure risk to human health and the environment, specifically, potential risks associated with the presence of lead-contaminated soils. The SMP shall include, but is not limited to, the following elements to mitigate potential risks associated with environmental conditions:               <ul style="list-style-type: none"> <li>○ A detailed discussion of the site background;</li> <li>○ Proper procedures as needed for demolition of existing structures;</li> <li>○ Management of stockpiles, including sampling, disposal, and dust and runoff control including implementation of a stormwater pollution prevention program;</li> <li>○ Procedures for transporting and disposing the waste material generated during removal activities;</li> </ul> </li> </ul>			Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement.	A copy SMP, HSP, and confirmation from SCCDEH (or equivalent agency) shall be reviewed by City of San José Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement.	

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<ul style="list-style-type: none"> <li>Procedures for stockpiling soil on-site, if such stockpiling is necessary;</li> <li>Provisions for collecting additional soil samples in previously inaccessible areas to confirm the extent of soil contamination, following demolition activities</li> <li>Procedures to ensure that fill and cap materials are verified as clean;</li> <li>Truck routes for export of soil;</li> <li>Staging and loading procedures and record keeping requirements.</li> <li>Procedures to follow if evidence of an unknown historic release of hazardous materials (e.g., underground storage tanks, polychlorinated biphenyls [PCBs], asbestos containing materials, lead-based paint, etc.) is discovered during excavation or demolition activities.</li> </ul> <p>The SMP shall be submitted to the SCCDEH, or equivalent regulatory agency, for review and approval. Copies of the approved SMP shall be provided to the City's Department of Planning, Building and Code Enforcement, and Environmental Services Department prior to issuance of any grading permits.</p>					

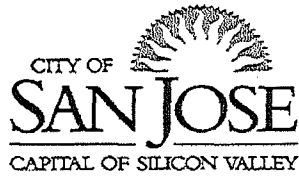


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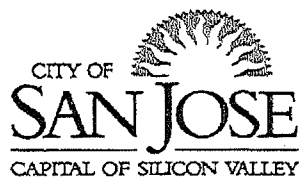
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<ul style="list-style-type: none"> <li>All contractors and subcontractors at the project site shall develop a health and safety plan (HSP) specific to their scope of work and based upon the known environmental conditions for the site. Each HSP shall be implemented under the direction of a Site Safety and Health Officer. The HSP shall include, but not limited to, the following elements, as applicable:               <ul style="list-style-type: none"> <li>Provisions for personal protection and monitoring exposure to construction workers;</li> <li>Procedures to be undertaken in the event that contamination is identified above action levels or previously unknown contamination is discovered;</li> <li>Procedures for the safe storage, stockpiling, and disposal of contaminated soils;</li> <li>Provisions for the on-site management and/or treatment of contaminated groundwater during extraction or dewatering activities;</li> <li>Emergency procedures and responsible personnel.</li> </ul> </li> </ul> <p>The HSP shall be submitted to the SCCDEH, or equivalent regulatory agency, for review and approval. Copies of the approved HSP</p>					

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shall be provided to the City's Department of Planning, Building and Code Enforcement, and Environmental Services Department prior to issuance of any grading permits.					
<b>MM HAZ-1.2:</b> The project applicant shall excavate and remove the top 12 inches of surface soil within the three areas of concern (Cell S-3, S-4, and S-40), identified in Figure 2 of the Analytical Soil Sampling Services - Phase II report completed by Silicon Valley Soil Engineering (September 22, 2016), from the project site, and transport the excavated soils to the appropriate licensed landfill facility prior to the issuance of any building permits. The project applicant shall coordinate with the SCCDEH, or equivalent agency, to prepare a plan (this could also be part of the SMP in MM HAZ-1.1) for the soil removal work. A copy of the plan shall be submitted to the Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement prior to the issuance of any grading permit to ensure the applicant has coordinated with the appropriate regulatory agency. A final report shall be submitted to the Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement prior to the issuance of any building permit to ensure removal of all contaminated soil is complete.	<p>Submit a removal plan (could be part of the SMP identified in MM HAZ-1.1) prior to the issuance of any grading permit.</p> <p>In addition, submit a final report to verify the contaminated soil has been removed prior to the issuance of any building permit.</p>	<p>Prior to the issuance of any grading permit and building permit.</p>	<p>SCCDEH or equivalent agency.</p> <p>Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement.</p>	<p>SCCDEH (or equivalent agency) reviews and approve SMP and HSP (refer to MM HAZ-1.1) and confirm contaminated soil removal procedures.</p> <p>A copy of the procedure and confirmation from the SCCDEH (or equivalent agency) shall be reviewed by City of San José Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement.</p>	<p>Prior to the issuance of any grading permit.</p>



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NOISE					
Impact NOI-1: Demolition, grading, and construction activities could result in vibration levels exceeding 0.2 in/sec PPV threshold at the three adjacent residences to the project site.					
MM NOI-1.1: The project applicant shall prohibit the use of heavy vibration-generating construction equipment, such as vibratory rollers or excavation using clam shell or chisel drops, and prohibit dropping heavy objects or equipment within 30 feet of any adjacent residential building. This measure shall be printed on all construction, grading, and demolition plans and contracts.  In addition, the project applicant shall submit a construction plan to the Supervising Environmental Planner of the Department of Planning, Building and Code Enforcement prior to tree removal, demolition permits, grading permits, or building permits (whichever is earlier). The construction plan shall include, but is not limited to: <ul style="list-style-type: none"><li>a list of construction equipment,</li><li>specifications of equipment,</li><li>identification of when certain equipment will be utilized,</li><li>construction schedule.</li></ul>	Print measure on all construction, grading, and demolition plans and contracts.  Submit a copy of the construction plan.	Prior to tree removal, demolition permits, grading permits, or building permits (whichever is earlier).	Supervising Environmental Planner of the Department of Planning, Building, and Code Enforcement.	Review construction, grading and demolition plans and contracts with this measure incorporated.  Review construction plan and schedule.	Prior to tree removal, demolition permits, grading permits, or building permits (whichever is earlier).

Source: Initial Study for the 15980 Carlton Avenue Residential Project, November 2017.