

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Loesch
Erik L. Soliván
Jim Shannon

SUBJECT: See Below

DATE: November 15, 2024

Approved



Date:

11/21/24

COUNCIL DISTRICT: 9

SUBJECT: Actions Related to the Emergency Interim Housing Project at Cherry Avenue

RECOMMENDATION

(a) Adopt a resolution:

- (1) Ratifying the City Manager's authorization to execute a Collaborative Use Agreement with the Santa Clara Valley Water District allowing for an emergency interim shelter/housing community on the District's Cherry Avenue property;
- (2) Authorizing the City Manager, or her designee, to negotiate and execute all related necessary agreements:
 - i. supporting the State of California and Santa Clara Valley Water District in their efforts to fund portions of the project and to implement the requirements of the Collaborative Use Agreement; and
 - ii. exercising any option period(s), amendments, or agreements to extend the term of the Collaborative Use Agreement under substantially similar terms;
- (3) Determining the City may award a Project Delivery Agreement to DignityMoves to deliver the Emergency Interim Housing project at Cherry Avenue without a competitive procurement under the "idle act" exception in Section 1217(i)(6) of the City of San José Charter;
- (4) Authorizing the Director of Public Works to negotiate, award, and execute a Project Delivery Agreement at a maximum guaranteed amount not to exceed \$15,000,000 for the development of an Emergency Interim Housing project at Cherry Avenue with DignityMoves, in accordance with the requirements of this memorandum and subject to the appropriation of funds; and

- (5) Authorizing the Director of Public Works to approve a 10% contingency for the project.
- (b) Adopt the following 2024-2025 Appropriation Ordinance Amendments in the Real Property Transfer Tax Fund:
 - (1) Decrease the Interim Housing Construction and Operations (15% Homeless Support Programs) appropriation to the Housing Department by \$1,000,000; and
 - (2) Increase the Interim Housing – Cherry appropriation to the Public Works Department by \$1,000,000.
- (c) Adopt the following 2024-2025 Appropriation Ordinance Amendments in the General Fund:
 - (1) Decrease the Emergency Housing – Emergency Housing Construction and Operation City-wide Expenses appropriation to the Housing Department by \$1,000,000;
 - (2) Decrease the Interim Housing Construction and Operation City-wide Expenses appropriation to the Housing Department by \$1,350,000; and
 - (3) Establish the Interim Housing – Cherry Capital Improvements appropriation to the Public Works Department in the amount of \$2,350,000.

SUMMARY AND OUTCOME

Approval of the recommendation authorizes the Director of Public Works to negotiate and execute a Project Delivery Agreement with DignityMoves to complete design and develop a new Emergency Interim Housing facility at the Santa Clara Valley Water District's (Valley Water) Cherry Avenue site for up to 150 beds (currently designed for approximately 136 beds) at a maximum guaranteed amount not to exceed \$15,000,000 and approve a 10% contingency to provide funding for any unanticipated work necessary for the proper completion or construction of the project, subject to the appropriation of funds.

The recommendation will also retroactively approve the execution of the Collaborative Use Agreement between the City and Valley Water for the use of approximately two acres as an Emergency Interim Housing site for a 10-year term. Additionally, the recommendation enables the City Manager, or her designee, to negotiate and execute agreement(s) with the State of California (State), to receive funds of up to \$10,000,000 to support project development and delivery and to extend the term of the Collaborative Use Agreement. The recommended budget actions provide the final amount of local City funding to enable project construction.

BACKGROUND

Project Development

On June 6, 2023, City Council directed staff to pursue a Valley Water-owned parcel at Cherry Avenue as an Emergency Interim Housing site, including an adjacent Water Resources Protection Zone, for the Governor's State Small Home Initiative.

On February 6, 2024, the Cherry Avenue project was approved by City Council as a Committed Addition to the 2024-2025 General Fund Base Budget, certifying that all operating and maintenance costs associated with the project will be included in future Five-Year General Fund Forecasts, beginning with the 2025-2029 Forecast.

The Cherry Avenue site is located on Cherry Avenue, between the Almaden Ranch Shopping Center and adjacent to the Guadalupe River (**Attachment A** – Project Location Map – Cherry Avenue Site). The useable portion of the parcel is approximately two acres. Given the proximity to the Guadalupe River, determining the feasibility and practicality of the site required evaluation within the context and regulations of the required waterway setbacks. Typically, Category 1 waterways, which the Guadalupe River is, require a 100-foot setback for development. A 100-foot setback applied to this site would have limited the number of units/beds to less than 50, making the site impractical from a cost benefit standpoint.

Valley Water and the City determined that the project would qualify for a 50-foot setback from top of bank exception under the Santa Clara Valley Habitat Agency guidelines. The Habitat Agency agreed with the City's determination. The 50-foot setback would be the minimum setback allowed and will enable 128 units at the site, in line with the current design layout.

Governor's Small Homes Initiative

In March 2023, Governor Newsom announced, with local leaders from around the State, including Mayor Mahan, that California would be leading and funding an initiative to help address unsheltered homelessness by identifying sites and designing and delivering interim shelter housing in select California cities, such as San José, Los Angeles, San Diego, and Sacramento.

In July 2024, after successfully partnering on the City's Emergency Interim Housing project at the Santa Clara Valley Transportation Authority's Cerone Bus Yard, the City and the State sought to identify whether there was an additional Emergency Interim Housing community that could be constructed with the help of additional State funds, in an amount of up to \$10,000,000. The City and the Governor's office representatives determined that the Cherry Avenue project was an appropriate project to be the recipient of the additional State funding.

Philanthropic Partnership with DignityMoves

On June 18, 2024, staff received City Council direction to expedite the delivery of the Emergency Interim Housing project at Cherry Avenue by adopting the most expedient delivery method with a goal of opening the site for operations by September 30, 2025. Staff considered different project delivery approaches that would best align the project to be complete by this challenging target date, including exploring partnerships with other agencies and philanthropic partners to combine resources and reduce the cost of development through public-private partnerships.

In May 2024, the City entered into a project delivery agreement for the Emergency Interim Housing at Via del Oro project with DignityMoves, a non-profit organization dedicated to ending homelessness through interim supportive housing development. The partnership was modeled after a similar philanthropic delivery approach used for the successful completion of the Guadalupe Emergency Interim Housing Project in 2023. In addition to project management expertise in delivering interim housing projects, DignityMoves raised and contributed over \$3,000,000 to the Via del Oro project for construction and project management services. DignityMoves has extensive experience with developing interim housing solutions across the state and brought Gensler Architects and Swinerton Construction as its design and construction partners. Currently, the Via del Oro project is under construction and is on track to be completed in early 2025.

In July 2024, DignityMoves contacted the City and expressed interest in partnering again for the Cherry Avenue project, utilizing much of the same philanthropic approach as the Via del Oro project. In partnership with DignityMoves, the City also proposed utilizing many of the same design approaches implemented at the Via del Oro project, to assist with expediting scope and programming decisions.

On September 30, 2024, DignityMoves pledged over \$2,400,000 to the City in philanthropic donations, including approximately \$1,250,000 in service discounts, to support the project development costs at Cherry Avenue. DignityMoves is also proposing to bring aboard the same design and construction partners, Gensler Architects and Swinerton Construction, for this project to fast-track project implementation, capitalizing on their experience with the City's Via del Oro project. Like the Via del Oro project, Gensler Architects and Swinerton Construction have contributed to the service discounts mentioned above.

ANALYSIS

Concept Design

A concept design for the Emergency Interim Housing project at Cherry Avenue is shown in **Attachment B – Final Concept Design and Community Layout**. The proposed scope of work for the project includes:

- Capacity for up to 128 sleeping units and 136 beds;
- Shared use private individual combination bathroom/shower units;
- Shared combination laundry units (washer/dryer);
- Kitchen/food storage/food preparation units;
- Community intake and offices for administration and client/support services;
- Basic outdoor seating, tables, shade structures;
- Dog run/pet relief area;
- Fire access road;
- Parking (52 stalls); and
- Utilities, including sanitary sewer, storm water treatment, electrical service, domestic water, fire suppression, and internet/communications.

The project will utilize sleeping cabins and community buildings, similar to those being installed at the Via del Oro project, that are California Department of Housing and Community Development certified to support rapid design and development, provide quality facilities, control costs, and achieve a competitive cost per unit and per bed.

Water Resources Protection Zone

In developing the layout and setback exception, numerous factors were considered and incorporated, including the sensitive nature of the waterways, an existing Valley Water maintenance road aligned near the 50-foot setback area, and numerous encampments existing on the site and within the desired setbacks along this reach of waterway. Part of Valley Water's interest in having the City develop interim housing on this property was to assist with the unsheltered encampments, on the site and in this reach of riparian waterway, being relocated into an Emergency Interim Housing community and to be able to protect the waterway from the impacts of encampments.

After further collaboration, the City and Valley Water staff developed the concept of creating a Water Resources Protection Zone from Blossom Hill Road in the south to Branham Road in the north. The Water Resources Protection Zone aims to safeguard this section of the affected waterway by helping individuals in encampments find shelter through collaborative efforts between the City and Valley Water, enhancing efforts to help ensure the waterway remains clear of encampments in the future and that previously encamped areas are designated as no-camping zones. A workplan will need to be developed in collaboration with Valley Water to develop strategies to ensure the Water Resources Protection Zone is kept free of the prohibited items, including fires,

litter, encampments, or other environmentally incompatible uses. In addition, the City will develop a plan to identify shelter options for people displaced by construction of the site during the construction period.

Collaborative Use Agreement with Valley Water

A Collaborative Use Agreement between the City, as tenant, and Valley Water, as landlord, was executed September 19, 2024, allowing for the City's development of an Emergency Interim Housing community consisting of up to 125 units on Valley Water's property at assessor's parcel numbers 458-16-035 and a portion of 458-14-032. The term of the agreement will expire on December 31, 2035, and a subsequent five-year option term would expire on December 31, 2040. The compensation to Valley Water for the Collaborative Use Agreement consists of the community benefits of the Emergency Interim Housing site and outreach as well as housing placement services provided by the City. In particular, the City will assist with outreach services and/or offers of housing to individuals presently residing on Valley Water property within the area encompassed by Guadalupe River Reach 12. Unsheltered individuals residing within Guadalupe River Reach 12 will be provided first priority for housing at the Cherry Avenue Emergency Interim Housing community for the first 30 days following the completion of the project's development. After the initial 30 days, the City may prioritize the remaining units to be used for individuals within its targeted outreach areas, and other high priority encampment areas.

Funding Agreement with the State

As noted above, the Governor's office agreed to provide additional State funds of up to \$10,000,000 to facilitate the development of the Cherry Avenue site, with the exact dollar amount dependent on the number of beds provided in the project. Therefore, alongside the lease agreement with Valley Water for the Cherry Avenue property, the City must also execute an agreement with the California Department of General Services to facilitate the proper development of the interim community. The agreement focuses on necessary funding transfers from the State to the City as part of the Governor's Small Homes Initiative.

The Public Works and Housing Departments share joint responsibilities under the proposed State grant, each with distinct focus areas regarding the terms and conditions upon execution. The Public Works Department is charged with ensuring that grant funds are utilized strictly within the original scope outlined in the agreement, specifically targeting the development of at least 100 beds and necessary infrastructure. Additionally, the Public Works Department oversees compliance with the operational terms related to infrastructure needs. Post construction, the Housing Department will assume the roles of asset manager and property manager and will coordinate the delivery of supportive services to the residents. The Housing Department is charged with operating the Cherry Avenue site in compliance with the State grant, from the

selection of eligible occupants to the successful transition of residents to permanent housing.

Staff's recommendation authorizes the City Manager, or her designee, to negotiate and execute such funding transfers and other agreements, in the best interest of the City, to move the Cherry Avenue Emergency Interim Housing project forward, subject to the appropriation of funds. Once the agreement is executed, actions to recognize and appropriate the funding will be recommended as part of a future budget process. Based on the current design of 136 beds, the City expects to receive approximately \$9,000,000 in State funding. However, it is important to note that the funding from the State will not be sufficient on its own to construct units for up to 150 people at the Cherry Avenue site. The State funds will be leveraged with City and philanthropic funds in order to complete the project as summarized in the Cost Summary/Implications section below.

Project Delivery Agreement with DignityMoves

Staff recommends authorizing the Director of Public Works to negotiate and execute a project delivery agreement with DignityMoves to design and construct the Cherry Avenue project. This authorization would allow staff to move seamlessly into construction as quickly as possible.

The City will pay DignityMoves a negotiated lump-sum amount not to exceed \$15,000,000 to complete design work and construct the project in accordance with City-approved construction documents. The exact amount of the contract will be confirmed once construction documents are completed later this calendar year and documented in a project delivery agreement with DignityMoves. The not-to-exceed amount of \$15,000,000 is after deducting \$2,400,000 in donations and fee reductions for total cost of \$17,400,000, of which \$13,500,000 is estimated for construction costs and approximately \$3,900,000 is estimated for design and management fees, as outlined in the **Table** on page nine of this memorandum. The not-to-exceed amount of \$15,000,000 is based on the conceptual design package and associated current cost estimates provided by DignityMoves and submitted to the City for review at the end of October. The project will continue with the design phase through the end of this calendar year, with design completion and construction start anticipated in January 2025 and completion by September 2025.

The final contractual lump-sum amount will include all deductions for philanthropic contributions, both through monetary donations and service fee discounts from DignityMoves, Gensler Architects, Swinerton Construction, and other subcontractors totaling at least \$2,400,000, as outlined in the below **Table**.

The City will require DignityMoves to comply with State prevailing wage and labor compliance, as well as the City's Project Labor Agreement. In addition, the agreement would require DignityMoves to provide payment and performance bonds from Swinerton Construction with the City named as a co-obligee, and standard insurance (including

builder's at-risk insurance), licensing, site security, superintendence, and other typical requirements of other design and construction contracts. DignityMoves, as the developer of the project, may delegate performance of work to others, and as such the requirements outlined by the City and that performance shall be deemed as "DignityMoves' performance." DignityMoves will contract with Gensler Architects and Swinerton Construction to design and construct the project.

Idle Act Exception to Bidding

The San José City Charter generally requires the City to competitively procure construction contracts. However, the San José City Charter also sets forth several exceptions to this general requirement. One exception is Section 1217(i)(6), which provides an exception if the solicitation of bids would be an "idle act." San José Municipal Code Section 27.46.020 states that "idle act" "means that soliciting bids would not provide any significant value or benefit to the City considered in the context of the purpose and goals of Public Bidding."

In September 2024, DignityMoves estimated the construction costs to be about \$12,000,000, based on conceptual designs, and agreed to fundraise for at least 20% of the total construction cost. At the writing of this memorandum, DignityMoves, Gensler Architects, and Swinerton Construction have secured over \$2,400,000 in donations and fee discounts, consistent with 20% of this initial construction cost estimate, and will continue to fundraise, as needed, to maintain the 20% threshold as the construction cost estimate becomes better defined. With the significant contributions of over \$2,400,000 secured thus far, and DignityMoves continuing fundraising efforts, City staff concluded that soliciting bids for the project would not provide any significant value or benefit to the City. Since DignityMoves has committed to fundraising 20% of the construction costs and has already secured 18% (\$2,400,000 out of \$13,500,000) of the current estimated construction costs, soliciting bids would not result in the City being able to deliver the project for less than the amount it is paying DignityMoves to complete the project.

Delivery Cost Estimate for the Emergency Interim Housing Project at Cherry Avenue

The **Table** below details the current estimated site and project development costs, including philanthropic donations and fee discounts, for the Emergency Interim Housing project at Cherry Avenue. These cost estimates are based on a conceptual level understanding of the project's design and serve as the basis for the not-to-exceed amount proposed in this memorandum.

Table
Current Estimated Project Cost – Emergency Interim Housing Project at Cherry Avenue

Cost Element	Description	Estimated Cost
A. Total Estimated Construction Hard Cost	Total estimated construction hard cost, not including deductions for donations and discounts. Includes site preparation, grading, drainage, site paving, storm water treatment, utility installation, modular buildings, modular building foundations and connections, and installation of various site amenities.	\$13,500,000
B. DignityMoves Planning, Design, and Project Management Fees	Includes professional fees from the DignityMoves team, including Gensler Architects and Swinerton Construction, for preliminary concept development, initial site layout, survey, geotechnical work, design development, construction documents, project management, and construction management.	\$3,900,000
C. Philanthropic Donations, Fee Discounts	Philanthropic donations by DignityMoves and professional fee discounts by DignityMoves, Gensler Architects, and Swinerton Construction.	(\$2,400,000)
D. SUB-TOTAL	Estimated total cost of Project Delivery Agreement, after deductions for donations and fee discounts.	\$15,000,000
E. City Staff Project Delivery Costs	Engineering and design, plan review/approval, project management, code and construction inspection, and permitting, including fire, life, and safety compliance.	\$2,000,000
F. Estimated Project Contingency Cost	For unforeseen conditions, unanticipated work, and/or changes necessary during construction (10% of Estimated Construction Hard Cost per City Council Policy).	\$1,350,000
G. TOTAL ESTIMATED PROJECT COST	Estimated total cost to the City to design and construct the Emergency Interim Housing project at Cherry Avenue, after deductions for donations and discounts to the City.	\$18,350,000

Given the City and DignityMoves are continuing to refine and finalize both the project design and the overall project cost estimate, staff believes delegating authority to award a Project Delivery Agreement in an amount not to exceed \$15,000,000 with a contingency of 10% of the construction costs, is appropriate and sufficient. Staff

considers these costs to be reasonable for delivering the project, based on the complexity of the site, number of units proposed, and cost of development for previously built Emergency Interim Housing sites. If the cost will exceed \$15,000,000, staff will return to City Council for an additional delegation of authority.

Alignment with Citywide Housing Goals

The construction of the Emergency Interim Housing at Cherry Avenue project is key in advancing the City's broader goals as outlined in the Mayor's March Budget Message as approved by the City Council. This project will contribute to the overall goal of having 1,000 operational Emergency Interim Housing units Citywide, enhancing the City's capacity to address homelessness and provide stable housing solutions for this vulnerable population.

EVALUATION AND FOLLOW-UP

No additional follow up action with City Council is expected at this time related to project construction. Recommended actions to recognize and appropriate State funding and award an operating contract will be brought forward at a later time.

COST SUMMARY/IMPLICATIONS

This project cost of \$18,350,000 will be funded from a mix of external funds (approximately \$9,000,000 from the State), General Fund (\$2,350,000), and Measure E funds within the Real Property Transfer Tax Fund that were previously designated for interim housing (\$7,000,000). The City is anticipating at least \$9,000,000, up to \$10,000,000, from the State of California as part of the State's Small Homes Initiative to fund the construction of the currently planned 136 beds at the Cherry Avenue project. Once the agreement is executed with the State, actions to recognize and appropriate the funding will be recommended as part of a future budget process, such as 2024-2025 Mid-Year Budget Review.

In the General Fund, funding is available from two appropriations, \$1,000,000 in the Emergency Housing - Emergency Housing Construction and Operation City-Wide Expenses appropriation and \$1,350,000 in the Interim Housing Construction and Operation City-Wide Expenses appropriation. The recommended budget actions reallocates and consolidates this \$2,350,000 to establish a new Interim Housing – Cherry Capital Improvements appropriation in the General Fund. The State funding of an estimated \$9,000,000, once received, will be added to this General Fund appropriation. In the Real Property Transfer Tax Fund, the Interim Housing – Cherry appropriation of \$6,000,000 was previously established as part of the 2023-2024 Annual Report, and another \$1,000,000 is recommended to be reallocated from the Interim

Housing Construction and Operations appropriation to the Interim Housing – Cherry appropriation.

The City's previous 2025-2029 Five-Year Forecast and Revenue Projections released March 1, 2024 estimated the preliminary construction cost of the Cherry Avenue e Emergency Interim Housing site at \$15,000,000 with annual operating cost projected at \$3,600,000 beginning in Fiscal Year 2025-2026. This estimate was based on a facility with 96 beds, which translated to an approximate construction cost of \$156,000 per bed. Since the forecast, the project scope has expanded from 96 beds to a planned 136 beds to maximize utilization of the site and existing infrastructure, as well as available State funding. Increasing capacity will also allow for the possibility in the future to place individuals relocated from the waterways. This increase has adjusted the total construction cost to \$18,350,000, effectively lowering the per-bed construction cost to approximately \$135,000. Operating costs, projected to start in fall of 2025, are currently estimated at \$5,100,000 annually based on an estimated operating cost of approximately \$37,500 per bed. However costs are subject to change based on the Request for Proposal to select an operator, maintenance and repair needs, and site specific requirements.

1. TOTAL COST OF PROJECT:

City Project Delivery Cost*	\$2,000,000
Contract Agreement Amount	\$15,000,000
City Owned Contingency	\$1,350,000
Total Project Costs	\$18,350,000

* Project delivery includes \$500,000 for project management and design review services and \$1,500,000 for construction management and inspection services.

2. COST ELEMENTS OF AGREEMENT/CONTRACT AS RECOMMENDED AS PART OF THE MEMORANDUM:

The cost elements of the agreement, as outlined in the analysis of this memorandum, include planning, design and project management of the project, site development and installation of utilities, and installation of modular buildings and equipment. The agreement is currently estimated not to exceed \$15,000,000, based on design development documents currently being reviewed by the City. This estimate will be refined further as the City finalizes negotiations with DignityMoves and the final agreement amount, including an updated breakdown in costs (as shown in the **Table** on page nine) will be outlined and provided in the executed agreement.

BUDGET REFERENCE

The table below identifies the fund and appropriations to fund the contract recommended as part of this memorandum and remaining project costs, including project delivery, construction, and contingency costs.

HONORABLE MAYOR AND CITY COUNCIL

November 15, 2024

Subject: Actions Related to the Emergency Interim Housing Project at Cherry Avenue

Page 12

Fund No.	Appn. No.	Appropriation Name	Total Appropriation	Rec. Budget Action	Amount for Project	2024-2025 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
404	230G	Interim Housing Construction and Operations (15% HSP)	\$2,000,000	(\$1,000,000)	\$0	1009	10/22/2024 31130
404	230Z	Interim Housing – Cherry	\$6,000,000	\$1,000,000	\$7,000,000	N/A	10/22/2024 31130
001	217P	Emergency Housing - Emergency Housing Construction and Operation	\$1,066,805	(\$1,000,000)	\$0	884	10/22/2024 31130
001	229S	Interim Housing Construction and Operation	\$7,900,000	(\$1,350,000)	\$0	887	10/22/2024 31130
001	NEW	Interim Housing – Cherry	\$0	\$2,350,000	\$2,350,000	N/A	N/A

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, the City Manager's Office of Economic Development and Cultural Affairs, and the Planning, Building, and Code Enforcement Department.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the December 3, 2024 City Council meeting.

Community Engagement is expected to align with the Community Advisory Committee practices of our Emergency Interim Housing communities within the City. Recently, staff, along with DignityMoves, presented concepts to the Erickson Neighborhood Association, to engage with community members on the Cherry Avenue Emergency Interim Housing development and design process.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

File No. ER24-015, Determination of Consistency with the Mitigated Negative Declaration for the Emergency Interim Housing Programs project (File No. ER22-198, Resolution No. 2023-380). (**Attachment C** – Determination of Consistency with the Mitigated Negative Declaration).

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

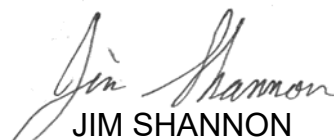
MATT LOESCH

Director of Public Works

/s/

ERIK L. SOLIVÁN

Housing Director


JIM SHANNON
Budget Director

HONORABLE MAYOR AND CITY COUNCIL

November 15, 2024

Subject: Actions Related to the Emergency Interim Housing Project at Cherry Avenue

Page 14

For questions, please contact Katherine Brown, Assistant Director, Public Works, at katherine.brown@sanjoseca.gov, or Cupid Alexander, Deputy Director, Housing Department, at cupid.alexander@sanjoseca.gov.

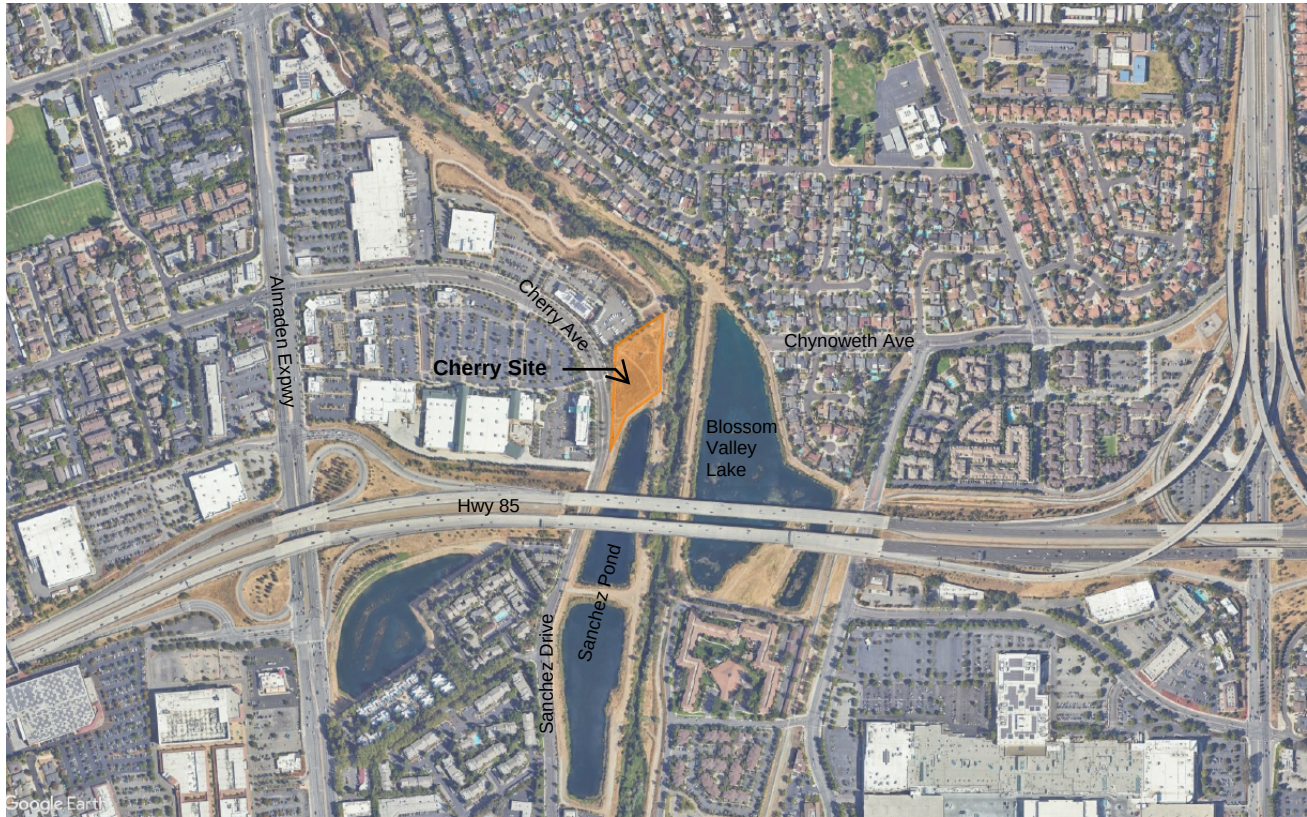
ATTACHMENTS

Attachment A – Project Location Map – Cherry Avenue Site

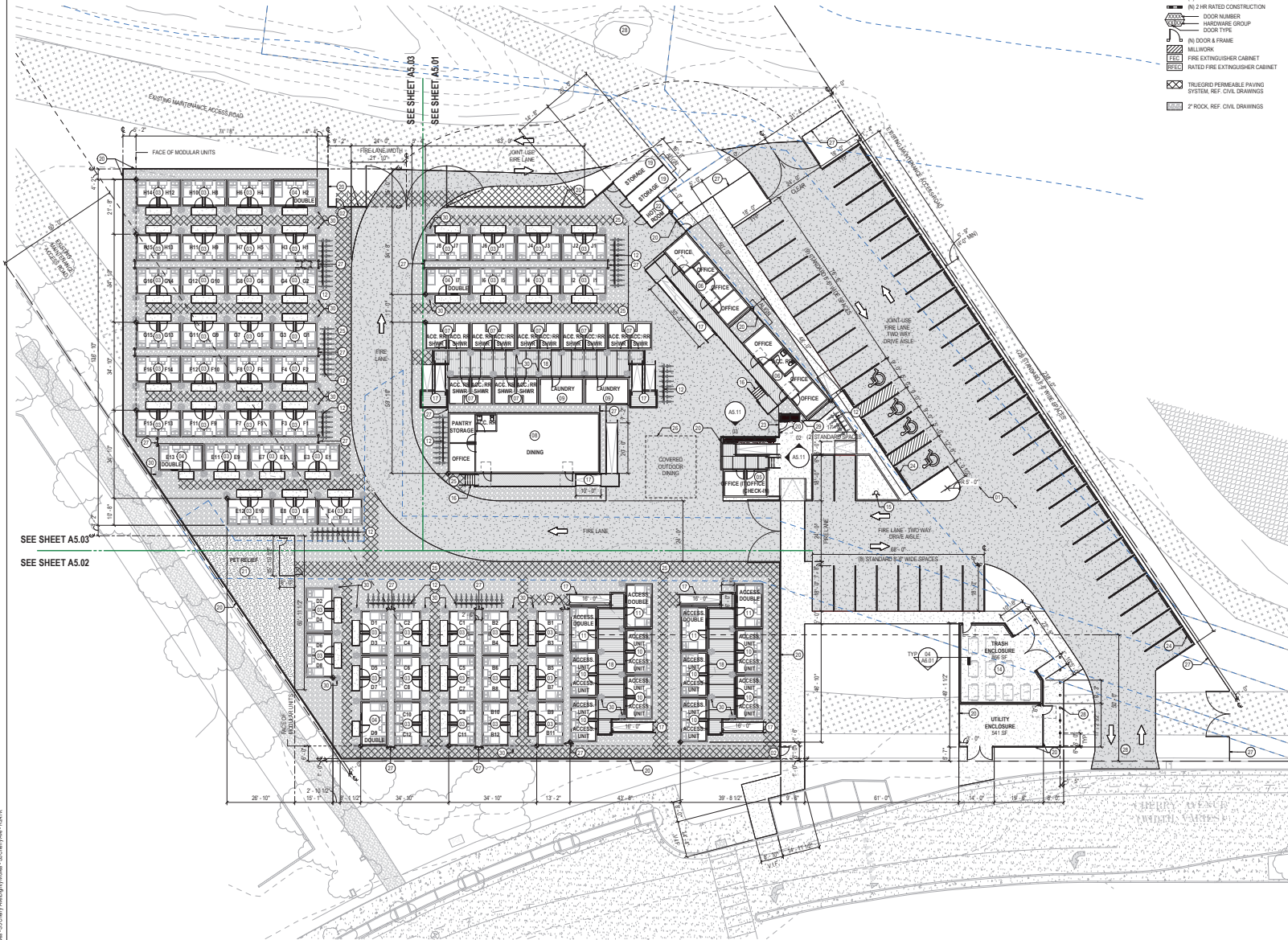
Attachment B – Final Concept Design and Community Layout

Attachment C – Determination of Consistency with the Mitigated Negative Declaration

Attachment A - Project Location Map - Cherry Avenue Site



ATTACHMENT B - FINAL CONCEPT DESIGN AND COMMUNITY LAYOUT



LEGEND

- AREA NC
- (E) CONSTRUCTION TO REMAIN
- (E) 1 HR RATED CONSTRUCTION TO REMAIN
- (E) 2 HR RATED CONSTRUCTION TO REMAIN
- (E) DOOR & FRAME TO REMAIN
- (N) NON-RATED CONSTRUCTION
- (N) 1 HR RATED CONSTRUCTION
- (N) 2 HR RATED CONSTRUCTION
- DOOR NUMBER
- HARDWARE GROUP
- DOOR TYPE
- WALLWORK
- FIRE EXTINGUISHER CABINET
- RATED FIRE EXTINGUISHER CABINET
- TRUEGRID PERMEABLE PAVING SYSTEM, REF. CIVIL DRAWINGS
- 2" ROCK, REF. CIVIL DRAWINGS

SHEET NOTES

- PARKING STALLS TOTAL INCLUDING 1 VEH ACCESSIBLE & 3 STANDARD ACCESSIBLE SPACES
- ALTERNATING ACCESSIBLE POINT OF ENTRY
- PREFABRICATED RESIDENTIAL TWO-ROOM MODULAR UNIT (REFERENCE MODULAR FABRICATOR DRAWINGS FOR MORE INFORMATION) WITH SITE-BUILT 7' X 10' CONCRETE LANDING AT ENTRY
- PREFABRICATED RESIDENTIAL ONE-ROOM MODULAR UNIT (REFERENCE MODULAR FABRICATOR DRAWINGS FOR MORE INFORMATION) WITH SITE-BUILT 7' X 9' CONCRETE LANDING AT ENTRY
- PREFABRICATED ACCESSIBLE CHECK-IN TWO-ROOM MODULAR UNIT (REFERENCE MODULAR FABRICATOR DRAWINGS FOR MORE INFORMATION) WITH PRE-ENGINEERED ALUM. ACCESSIBLE RAMP, DECK & RAILING SYSTEM
- PREFABRICATED ACCESSIBLE MOBILE OFFICE TRAILER, AXELS REMOVED, WITH VINYL SKIRTING (REFERENCE COMMERCIAL MODULAR MFG DRAWINGS FOR MORE INFORMATION) WITH PRE-ENGINEERED ALUM. ACCESSIBLE RAMP, DECK, STAIR AND RAILING SYSTEM, DELEGATED DESIGN PER COMMERCIAL MODULAR MFG
- PREFABRICATED ACCESSIBLE RESTROOM & SHOWER TWO-ROOM MODULAR UNIT, 50% OF QUANTITY TO MEET ACCESSIBILITY REQUIREMENTS, PER CBC CH 11B (REFERENCE MODULAR FABRICATOR DRAWINGS FOR MORE INFORMATION)
- PREFABRICATED ACCESSIBLE MOBILE MEAL, PREP AND DINING TRAILER, AXELS REMOVED, WITH VINYL SKIRTING (REFERENCE COMMERCIAL MODULAR MFG DRAWINGS FOR MORE INFORMATION) WITH PRE-ENGINEERED ALUM. ACCESSIBLE RAMP, DECK, STAIR AND RAILING SYSTEM, DELEGATED DESIGN PER COMMERCIAL MODULAR MFG
- PREFABRICATED ACCESSIBLE LAUNDRY ROOM MODULAR UNIT (REFERENCE MODULAR FABRICATOR DRAWINGS FOR MORE INFORMATION) WITH (2) ACCESSIBLE WASHER, (2) ACCESSIBLE DRYER & (4) STACKED WASHER/DRYER COMBINATION UNITS
- PREFABRICATED ACCESSIBLE TWO-ROOM RESIDENTIAL MODULAR UNIT, (REFERENCE MODULAR FABRICATOR DRAWINGS FOR MORE INFORMATION)
- PREFABRICATED ACCESSIBLE ONE-ROOM RESIDENTIAL DOUBLE OCCUPANCY MODULAR UNIT (REFERENCE MODULAR FABRICATOR DRAWINGS FOR MORE INFORMATION)
- BICYCLE RACKS
- TRASH ENCLOSURE WITH CURB TO ACCOMMODATE (3) 3-CUBIC YARD DUMPSTERS, CONFIGURATION TO BE COORDINATED WITH RECYCLING AND GARBAGE COLLECTION SERVICE
- NEW FIRE HYDRANT, FINAL LOCATION TO BE DETERMINED BASED ON EXISTING UTILITIES AND COORDINATION WITH PRELIMINARY DEPARTMENTMENTS
- PRE-ENGINEERED ALUM. STAIR & RAILING SYSTEM WITH LEVELING FEET, STARTS TO COMPLY WITH CBC 1011, CBC 11B.8.4.1 AND 11B.8.4.2, FOR EXISTING CLEAR WIDTHS, RISERS, TREADS, UNIFORMITY, LANDING DEPTHS, AND HANDRAILS, HANDRAILS TO COMPLY WITH CBC 11A FOR HANDRAIL EXTENSIONS, CLEARANCES AND PROJECTIONS
- PRE-ENGINEERED ALUM. ACCESSIBLE RAMP WITH INTEGRATED RAILING AND LEVELING FEET RAMP TO COMPLY WITH CBC 11B.8.4.1 AND 11B.8.4.2, FOR EXISTING CLEAR WIDTHS, RISERS, TREADS, UNIFORMITY, LANDING DEPTHS, AND HANDRAILS, HANDRAILS TO COMPLY WITH CBC 11A FOR HANDRAIL EXTENSIONS, CLEARANCES AND PROJECTIONS
- PRE-ENGINEERED ALUM. ACCESSIBLE DECK & RAILING SYSTEM WITH LEVELING FEET
- 8' X 20' CONEX SHIPPING CONTAINER, PAINTED, COLOR TBD
- CEILING PRIVACY FENCE, 6' 0" HIGH
- DOG RELIEF WITH PET WASTE STATION, 4' 0" HIGH
- CEILING PRIVACY FENCE ON INTERIOR SIDE OF SITE, 6' 0" HIGH CEDAR FENCE ON EXTERIOR, SURFACE MATERIAL, TBD
- 8' X 10' CONEX SHIPPING CONTAINER (INTEGRATED GATES) W/ OPERATOR PROVIDED (SEE BUS HOT BOX) CONTAMINATION CHAMBER, STAFF USE ONLY
- MAIN POINT OF ENTRY AND EXITS
- WHEEL STOP, TYP. SEE CIVIL DRAWINGS
- PEDESTRIAN PATHWAY SHOWN AS CROSSHATCH THROUGHOUT, TRAILING WITH CURBED RAIL, REFER TO CIVIL DRAWINGS
- PRE-ENGINEERED FABRIC SHADE STRUCTURE W/ SURFACE MOUNT ANCHOR BOLTS & PLATES, SIZE AND COLOR TBD
- CHAIN LINK FENCE, 6' 0" HIGH
- BOLLARD, TYP. SEE STRUCTURAL DRAWINGS
- MAIL PACKAGE DROP MAILBOXES COM MODEL #4075, U.S.D. FOR ANCHORAGE
- PLANTER, TYP

GENERAL NOTES

- SEE G SHEET SERIES FOR SYMBOLS, ABBREVIATIONS, GENERAL NOTES & TYPICAL MOUNTING LOCATIONS, HEIGHTS AND ALIGNMENTS
- GO TO VERIFY UNITS OF MEASUREMENT SCOPE WITH NEW CONSTRUCTION SCOPE PRIOR TO COMMENCING WORK
- SEE CONSULTANT AND INDOOR DRAWINGS FOR RELATED SCOPE OF WORK AND ADDITIONAL INFORMATION, ARCHITECTURAL DRAWINGS TAKE PRECEDENCE ON LOCATION OF DEVICES
- CONTRACTOR SHALL PROVIDE NON-COMBUSTIBLE BRACING FOR ALL WALL MOUNTED EQUIPMENT
- ALL NEW PENETRATIONS AND OPENINGS IN THE BUILDING ENVELOPE SHALL BE SEALED TO LIMIT INTRUSION AND EXFILTRATION, PATCH WATERPROOFING TO MAINTAIN WATER TIGHT BUILDING ENVELOPE
- COORDINATE AND ALIGN ALL ACCESS PANELS WITH NEW CONSTRUCTION, WHERE ACCESS PANELS CONFLICT WITH CONSTRUCTION, RELOCATE PANELS AS REQUIRED, VERIFY LAYOUT WITH ARCHITECT PRIOR TO INSTALLATION
- ALL DOORS TO COMPLY TO 5 POUND MAXIMUM OPENING FORCE LIMIT PER CBC 11B.8.9.1
- ALL LOOSE FURNITURE BY OTHERS, SHOWN FOR REFERENCE ONLY, MINIMUM OF 5% OF SEATING SPACES AND STANDING SPACES AT DINING SURFACES SHALL COMPLY WITH CBC 11B.8.9.1
- FOR ROOM ELEVATIONS AND FINISH FLOOR HEIGHTS, REFERENCE MODULAR FABRICATOR DRAWINGS

KEY PLAN



Dignity Moves
5200 Cherry Avenue
San Jose, CA 95118

Gensler

While editing the title block, select & change the Family Type via the Type selector in the Gensler Office Information

BKF ENGINEERS

CIVIL ENGINEER
200 Shattuck Drive, Suite 200
Redwood City, CA 94065
Tel: 650.482.6300

PAE

MEP ENGINEER
48 Golden Gate Avenue
San Francisco, CA 94102
Tel: 415.392.7200

Degenkolb

STRUCTURAL ENGINEER
375 Beale Street, Suite 500
San Francisco, CA 94105
Tel: 415.392.6952

Date: 11/14/2024 Description: ISSUE FOR DESIGN DEVELOPMENT

Seal / Signature

NOT FOR CONSTRUCTION

Project Name
Dignity Moves - SJ Cherry Ave

Project Number
001.3865.000

Description
CONSTRUCTION PLAN

Scale
As indicated

A1.11

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DETERMINATION OF CONSISTENCY WITH THE MITIGATED NEGATIVE DECLARATION

Pursuant to Sections 15064 and 15162 of the CEQA Guidelines, the City of San José has determined that the project described below does not involve significant effects, and the project is consistent with the project description analyzed in the Mitigated Negative Declaration (MND) for the Emergency Interim Housing (EIH) Programs (File No. ER22-198) and adopted by City Council Resolution No. RES2023-380 on October 24, 2023. Therefore, the City of San José can act on this project as being within the scope of the EIH Programs MND.

File Number and Project Name: File. ER24-015, Cherry Avenue Site

This EIH project would accommodate up to 116 sleeping units. Communal spaces would include restrooms and showers, dining areas, laundry facilities, and outdoor community space with a pet run and a smoking area. Storage facilities for residents would also be provided. Case management and 24-hour security would be provided. In addition to the sleeping units, structures on the site would include one or more communal buildings, storage units, a single guard shack, and an insect eradicator shed. All structures would be temporary. This EIH site is expected to be in operation for a maximum of 10 years or less depending upon need. After operations cease, all structures would be removed, and the project site would be returned as much as possible to existing conditions.

Location: Cherry Avenue, San José, CA 95134, APN: 458-16-035

Council District: 9

The environmental impacts of this project were addressed in the MND and supporting Initial Study entitled “Emergency Interim Housing Programs Project” that was adopted by City Council Resolution No. RES2023-380 on October 24, 2024. Specifically, the following impacts were reviewed and found to be adequately considered by the MND:

- | | |
|--|--|
| ☒ Aesthetics | ☒ Mineral Resources |
| ☒ Agriculture and Forestry Resources | ☒ Noise and Vibration |
| ☒ Air Quality | ☒ Population and Housing |
| ☒ Biological Resources | ☒ Public Services |
| ☒ Cultural Resources | ☒ Recreation |
| ☒ Energy | ☒ Transportation |
| ☒ Geology and Soils | ☒ Utilities and Service Systems |
| ☒ Hazards and Hazardous Materials | ☒ Wildfire |
| ☒ Hydrology and Water Quality | ☒ Mandatory Findings of Significance |
| ☒ Land Use and Planning | |

ANALYSIS:

There are many designs and structures that are used for transitional housing units and the market is rapidly developing to provide various forms of the actual units. The EIH Programs MND analyzed the option with the greatest massing for a conservative analysis of project impacts. For this project the sleeping cabin units would be single-story modular singles, doubles, and Americans with Disabilities Act (ADA) units. These units are smaller than the two-story modular units analyzed in the EIH Programs MND. All other aspects of the project in terms of services, access, fencing, and safety features are comparable to what was analyzed in the EIH Programs MND.

Because this EIH project will have a smaller massing and less intensive development than that analyzed in the EIH Programs MND, this project is consistent with the analysis in that document. Furthermore, the City

consulted with the Habitat Agency and received a Habitat Conservation Plan Condition 11 Exception for the temporary development of a parcel adjacent to a Category 1 stream. See approved Exception Request attached below.

A Mitigation Monitoring and Report Program (MMRP) was adopted for the EIH Programs MND (see attached, below). That MMRP identified Mitigation Measures for potential air quality, hydrology and water quality, and tribal cultural resources impacts based on the location of the project site. The potential impacts on these resources for this Via del Oro EIH site are discussed below:

Impact Air-1: Future projects located within 1,000 feet of existing sensitive receptors could result in a significant health risk impact from toxic air contaminants during construction: The nearest residences to this project site are within 500 feet to the east, and a hotel is located approximately 200 feet to the north of the site (see Figure 1). Therefore, Mitigation Measures AIR-1.1 and 1.2 would apply to this project.

Impact HYD-1: Construction of EIH projects within Special Flood Hazard Areas or in proximity to waterways could increase the risk of project inundation: This project site is in Zone D of the FEMA Flood Insurance Rate Map Panel 06085C0263H (see Figure 2). Zone D is not a Special Flood Hazard Area. Therefore, Mitigation Measure HYD-1.1 does not apply to this project.

Impact TCR-1: Construction of EIH projects within one mile of a creek, or 1,000 feet of a known Tribal Cultural Resource, could result in significant impacts to unknown Tribal Cultural Resources from ground disturbing activities: The project site is adjacent to Guadalupe River and is in an archaeologically sensitive area (see Figure 3). Therefore, Mitigation Measure TCR-1.1 would apply to this project.

In compliance with Mitigation Measure TCR-1.1, the City will initiate consultation with Tamien Nation and come to an agreement on any additional measures that may be required.

Based on the above analysis, Mitigation Measures AIR-1.1 and 1.2 and TCR-1.1 are required for this project. The project will be subject to the Standard Permit Conditions identified in the EIH Program MND (see attached, below).

There would be no new significant environmental impacts that would result from this project pursuant to CEQA Guidelines 15162. No further analysis under CEQA is required.

Christopher Burton, Director
Planning, Building and Code Enforcement

1/31/24

Date


Deputy

Environmental Project Manager: Reema Mahamood

Attachments:

Approved Habitat Conservation Plan Condition 11 Exception Request
MMRP
Figures
Standard Permit Conditions



Santa Clara Valley Habitat Plan

CONDITION 11 EXCEPTION REQUEST

Date	April 3, 2023
Subject	Stream and Riparian Setback Condition (Condition 11) Exception for Cherry Ave EIH City of San Jose
Recommendation	Approve exception to 100ft setback to not less than 50ft from top of bank
Reviewed by	Don Arnold, Planner

The City of San Jose is requesting an exception from Condition 11, Stream and Riparian Setback Condition for their project titled Cherry Ave Emergency Interim Housing (EIH) (“Project”). The Project is located within the City of San Jose (“City”) on an undeveloped 2.52-acre lot along Cherry Avenue, north of State Route 85 and the Sanchez Percolation Ponds, and adjacent to the Guadalupe River (see Figure 1). The City would develop this site for EIH to house currently unhoused persons with the ultimate goal of transitioning them into permanent housing.

The City would install 12 single story modular buildings, each containing 8 residential units, totaling 96 residential units. Each residential unit will include a bedroom and a bathroom. Other modular buildings include a one-story administrative building, a one-story laundry facility and multiple storage units. Common areas for gatherings both indoor and outdoor will be developed. The 2.52-acre lot would have a perimeter fence around the entire site. All areas within the perimeter fence will be considered permanently developed under the Santa Clara Valley Habitat Plan (“Plan”).

The Guadalupe River is a Category 1 Stream, within the Urban Service Limit, with a slope of <30%, thus requiring a 100-foot stream setback from top of bank. According to the request, the stream setback exception is for encroachment into the 100-foot setback as it exists within the fire lane on the empty lot. This encroachment will vary along the Project boundary but will not allow any permanent development within 50-feet of top of bank at this site.

For all proposed exceptions to the stream setbacks (inside or outside the urban service area), exceptions will be considered based on the following factors:

1. The existence of legal uses within the setback.
2. The extent to which meeting the required setback would result in a demonstrable hardship (i.e., denies an owner any economically viable use of his land or adversely affects recognized real property interests) for the applicant.

3. The extent to which meeting the required setback would require deviation from, exceptions to, or variances from other established policies, ordinances or standards regarding grading, access, water supply, wastewater treatment, disposal systems, geologic hazards, zoning, or other established code standards.
4. The stream setback exception does not preclude achieving the biological goals and objectives of the Habitat Plan or conflict with other applicable requirements of the Habitat Plan and local policies.

Exception Applicability and Evaluation

The proposed project would install emergency modular housing for 96 residences and related housing services (laundry facilities, meeting space), plus parking spaces for vehicles. The proposed encroachment varies from 1-foot up to 50-feet into the Guadalupe River Category 1 required stream setback of 100-feet.

The following Condition 11 criteria are cited as findings for the recommendation of the is Stream Setback Exception Request:

1. The existence of legal uses within the setback.

The 2.52-acre project site is owned by Valley Water and is adjacent to the Guadalupe River. The majority of the site is empty lot with an existing maintenance road between the site and the riparian buffer. The use and maintenance of the fire lane/maintenance road within the 100-foot setback are legal uses. Valley Water has water recharge facilities and a flood control project existing within the 100-foot setback as well.

The site is also adjacent to existing commercial development. A number of human disturbances (both legal and illegal) occurring on site are likely to continue for the foreseeable future. This project may address some of those concerns if implemented.

2. The extent to which meeting the required setback would result in a demonstrable hardship (i.e., denies an owner any economically viable use for his land or adversely affects recognized real property interests) for the applicant.

Maintaining the 100-foot setback would reduce the developable land by a significant percentage and cut the number of residential units to below the minimum needed to make this site feasible. Finding locations for EIH sites in the City is a formidable challenge because of the cost of property which has pushed people out of their homes. This has created a need for the City to provide opportunities to its residents to transition into affordable housing and out of the cycle of homelessness.

3. The extent to which meeting the required setback would require deviation from, exceptions to, or variances from other established policies, ordinances or standards regarding grading, access, water supply, wastewater treatment, disposal systems geologic hazards, zoning, or other established code standards.

For a site to be a feasible EIH site, the site must be able to support 80-100 units. Meeting the required setback of 100-feet would not allow the minimum 80 units to be installed and would force the City to deviate from the standard established for EIH sites.

4. The stream setback exception does not preclude achieving the biological goals and objectives of the Habitat Plan or conflict with other applicable requirements of the Habitat Plan and local policies.

The EIH site is adjacent to Reach 12 of the Upper Guadalupe River Flood Control Project. The EIH site is also adjacent to a creek within the geographic scope of the Fisheries and Aquatic Habitat Collaborative Effort (FAHCE). These two large-scale efforts have species and natural communities impacts that they are mitigating for and should be consulted as to the limitations this project may put on their efforts.

It is true that no Plan sensitive land covers will be impacted by this project, however that does not mean that important habitat functions do not exist. We concur with the wildlife agency comments that there are potentially important habitat functions for the Western Pond Turtle and other wildlife on this site. This loss of upland (foraging/nesting/etc..) habitat adjacent to streams is why the stream setback was established.

The EIH installation and perimeter fencing should help remove some of the existing impacts occurring on the site, resulting from illegal encampments. The inclusion within the Water Resources Protection Zone, with increased patrolling, physical barriers, and perimeter activations should also improve and maintain the biological resources on site. Having dedicated funds for maintaining the biological functions of this site would help support the goals and objectives the Plan.

Approval of the stream setback exception would not preclude achievement of the biological goals and objectives of the Habitat Plan or conflict with other applicable requirements of the Habitat Plan and local policies.

Determination

Based on the justification provided by the City and Valley Water, in consultation with USFWS and CDFW, the Santa Clara Valley Habitat Agency recommends approval of a reduced stream setback of up to 50 feet from top of bank for this site.

All applicable fees must be paid for areas granted an exception.

Figure 1. Site Map



Attachment 1: Wildlife Agency Comments

Below are the comments from the state and federal wildlife agencies concerning the stream setback exception request for the Cherry Ave EIH project.

Blinn, Brenda@Wildlife <Brenda.Blinn@wildlife.ca.gov>

I don't have any additional comments from what Joseph outlines below. I don't see how a conservation easement would be feasible on a portion of the property, but restoration and enhancement measures should be a component of the proposed project to mitigate for impacts.

Thanks,

Brenda

Here are my comments on the City of San Jose's Cherry Avenue Emergency Interim Housing (EIH) Project Riparian and Stream Setback Condition (Condition 11) exception request.

1. At one of the recent Guadalupe One Watershed public meetings that Valley Water hosted, several comments were made about concerns about stream setback exceptions and their impacts to steelhead and other riparian species and wildlife corridors. Guadalupe River is one of the important Central California Coast steelhead streams. Valley Water's Fish and Aquatic Habitat Collaborative (FAHCE) program is required to enhance habitat for Central California Coast steelhead along the Guadalupe River under the settlement agreement. CDFW, NMFS, USFWS, and several NGOs are Initialing Parties (IP) to the FAHCE program and work collaboratively with Valley Water to ensure the success of FAHCE in restoring and improving habitat for steelhead. Thus allowing the City of San Jose and Valley Water a stream setback exception along the Guadalupe River would seem to counter the collaborative efforts of the FAHCE program to enhance habitat for steelhead along the Guadalupe River. I defended the Santa Clara Valley Habitat Plan (SCVHP) at the recent Guadalupe One Watershed public meeting by saying that in only rare cases are stream setback exceptions allowed. Will the Cherry Avenue EIH project have a public review and comment period and public meetings so that NGOs, NMFS, SFRWQCB, and the public can comment on the proposed stream setback exception? At a minimum, Valley Water and the City of San Jose should bring this project to the FAHCE IP meeting for review and comment by the FAHCE IP members and should incorporate any recommendations from the FAHCE IP.
2. The issue of the many unhoused encampments along riparian corridors in San Jose was also raised as a concern for steelhead, other riparian species, wildlife corridors, and water quality at the recent Guadalupe One Watershed public meeting. The proposed Cherry Avenue EIH with its proposal to provide emergency interim housing for the unhoused on a site that currently has an unhoused encampment would help reduce the effects of unhoused encampments in the area and associated

trash and water quality issues along Guadalupe Creek which would be consistent with the goals of FAHCE, but if the project is allowed a stream setback exception it would reduce the benefits to steelhead, western pond turtle, riparian birds, other riparian species, water quality, and wildlife corridors along the Guadalupe River. The Guadalupe River riparian corridor is the only wildlife corridor available to wildlife in the area; thus granting the stream setback exception would further encroach into the narrow wildlife corridor. At a minimum, if the stream setback exception is granted, there should be a requirement for dedicated funding for an ongoing trash cleanup program at the site and within the Water Resources Protection Zone shown in Figure 7. Fencing should be installed to prevent the public from entering the riparian corridor as was done for another City of San Jose residential development project that was granted a stream setback exception under the SCVHP---in that case a conservation easement was recorded on the undeveloped portions of the property next to the stream to preclude any future disturbance of the riparian area. The proposed Cherry Avenue EIH should similarly grant a conservation easement for any undeveloped portions of the property. The fencing that is installed to keep people out of the riparian corridor should have a gap at the bottom to allow western pond turtles and amphibians to pass through similar to what Valley Water did for the Singleton Road bridge project along Coyote Creek to allow western pond turtles access to adjacent grassland nesting and dispersal habitat at the City of San Jose's landfill.

3. p. 3, *"The City and Valley Water would coordinate to evaluate a mixture of patrol, physical barriers, perimeter activations and other mechanisms to ensure ongoing preservation of the Water Resources Protection Zone. These options are in line with other efforts implemented by the City at other sensitive locations. The City expects to engage with Valley Water in the development and ongoing preservation of the Water Resources Protection Zone. The area currently has unauthorized tent camps which has adversely impacted the riparian area along the Guadalupe River. The proposed EIH project together with the Water Resources Protection Zone would reduce or eliminate the illegal dumping and debris along the riverbank, and the damage to sensitive resources."* Comment: Valley Water and the City of San Jose should bring this project to the FAHCE IP meeting as soon as possible for review and comment by the FAHCE IP members and should incorporate any recommendations from the FAHCE IP for protection and preservation of the Water Resources Protection Zone. There should be ongoing funding for a trash cleanup program with the Water Resources Protection Zone shown in Figure 7.
4. *"Encroachment into the 150-foot or 100-foot buffer would not create an impact because there are no sensitive species or habitat on the project site."* Comment: Western pond turtles have been observed just upstream and downstream of the project site according to the CNDDDB. The project site contains suitable grassland nesting and dispersal habitat for the western pond turtle which the stream setback exception would impact. Suitable sunny, grassland nesting habitat for the western pond turtle should be restored, maintained, and protected from disturbance within the Water Resources Protection

Zone to mitigate for the loss of nesting habitat within the stream setback. Suitable basking habitat for the western pond turtle should be installed along the Guadalupe River and in the ponds within the Water Resources Protection Zone.

5. The federal candidate monarch butterfly may breed, forage, and disperse in the project area and the Water Resources Protection Zone. Should plant, restore, and maintain suitable breeding and nectar habitat for the monarch butterfly at the Water Resources Protection Zone due to the loss of suitable breeding and nectar habitat for the monarch butterfly from the proposed project including within the stream setback exception area. Should plant early-emerging milkweed species and early-emerging nectar plants for the western monarch butterfly in addition to nectar plants that are available throughout the breeding and migratory period for the western monarch butterfly. Should implement the USFWS's conservation recommendations for the western monarch butterfly in the proposed project and the Water Resources Protection Zone including avoidance and minimization measures and planting appropriate milkweed and nectar plant species: <https://xerces.org/publications/planning-management/western-monarch-butterfly-conservation-recommendations>

Thanks,

Joseph

Joseph Terry (he/him)
Senior Fish and Wildlife Biologist
Coast Bay Division
U.S. Fish and Wildlife Service
Sacramento Fish and Wildlife Office
2800 Cottage Way, Suite W-2605
Sacramento, CA 95825

Work cell phone (916)943-6721
email address: joseph.terry@fws.gov

MITIGATION MONITORING AND REPORTING PROGRAM

Emergency Interim Housing Programs Project

File No. ER22-198

September 2023



PREFACE

Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) 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 (IS/MND) prepared for the Emergency Interim Housing Programs 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 MMRP 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 IS/MND concluded that the impacts from implementation of the project would be less than significant.

The City of San José hereby agrees to fully implement the mitigation measures described below, which have been developed in conjunction with the preparation of an IS/MND for the Project. The City understands that these mitigation measures, or substantially similar measures, will be adopted as conditions of approval to avoid or significantly reduce potential environmental impacts to less than significant levels.

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Implementation Actions		Compliance Reporting		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
AIR QUALITY					
Impact AIR-1: Future projects located within 1,000 feet of existing sensitive receptors could result in a significant health risk impact from toxic air contaminants during construction.					
MM AIR-1.1: Emergency Interim Housing (EIH) projects proposing development within 1,000 feet of existing sensitive receptors as defined by the Bay Area Air Quality Management District (BAAQMD) shall have a qualified air quality consultant prepare a site-specific construction and operational health risk assessment (HRA). If the HRA demonstrates that the health risk exposures for adjacent sensitive receptors will be less than the BAAQMD project-level thresholds, no additional mitigation is necessary.	A qualified air quality consultant shall prepare a construction and operational HRA as described in MM AIR-1.1. The HRA will be submitted to the City for review.	Prior to any tree removal, grading, demolition, and/or building activity.	Director of Planning, Building and Code Enforcement or Director's designee.	Review and approve the HRA.	Prior to any tree removal, grading, demolition, and/or building activity.
MM AIR-1.2: If the HRA demonstrates that the health risk exposures for adjacent receptors will be above BAAQMD project-level thresholds, projects shall implement the following measures during all phases of construction: Use Tier 4 engines for all off-road equipment greater than 50 horsepower and operating for more	The City shall implement the measures described in MM AIR-1.2 during all phases of construction. Measures shall be printed on all construction documents, contracts, and project plans.	During all phases of construction.	Director of Planning, Building and Code Enforcement or Director's designee.	Ensure that all appropriate measures identified in the HRA to reduce emissions below the thresholds are printed on all	During all phases of construction.

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Implementation Actions		Compliance Reporting		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
than 20 total hours over the entire duration of construction activities. Implement fugitive dust best management practices (as outlined in the Standard Permit Conditions) and, if necessary, enhanced dust control measures recommended by BAAQMD. The need for enhanced measures shall be determined by the findings in the HRA. Use portable electrical equipment where commercially available and practicable to complete construction. Construction contractors shall utilize electrical grid power instead of diesel generators when (1) grid power is available at the construction site; (2) when construction of temporary power lines is not necessary to provide power to portions of the site distant from existing utility lines; and (3) when use of portable extension lines is practicable given construction safety and operational limitations.				construction documents, contracts, and project plans.	
HYDROLOGY AND WATER QUALITY					
Impact HYD-1: Construction of EIH projects within Special Flood Hazard Areas or in proximity to waterways could increase the risk of project inundation.					

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Implementation Actions		Compliance Reporting		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
MM HYD-1.1: EIH projects located within 100-year and 500-year floodplains (Federal Emergency Management Agency [FEMA] Zone AE, A, AH, or AO) shall have the first finished floor of all proposed structures raised above the base flood elevation consistent with the requirements of the Municipal Code (Floodplain Ordinance 17.08) and General Plan policies EC-5.1 and IN-3.7.	The City shall implement measure MM HYD-1.1 during the development review process and during construction. Measures shall be printed on all construction documents, contracts, and project plans.	Prior to any tree removal, grading, demolition, and/or building activity	Director of Planning, Building and Code Enforcement or Director's Designee.	Review and approve design plans.	Prior to any tree removal, grading, demolition, and/or building activity.
TRIBAL CULTURAL RESOURCES					
Impact TCR-1: Construction of EIH projects within one mile of a creek, or 1,000 feet of a known Tribal Cultural Resource, could result in significant impacts to unknown Tribal Cultural Resources from ground disturbing activities.					
MM TCR-1.1: Upon identification of an EIH site, the City shall notify tribal representatives of Tribes with a traditional or cultural affiliation in the City of San José who have requested consultation under AB 52. Notification shall be made via electronic mail, and such notification shall include a site address, Assessor's Parcel Number(s), a location map, and conceptual site plan (if available). The notification shall also include information on proposed grading and trenching. Tribal representatives will have 30 days from the date of the notice to respond and request consultation and/or additional mitigation measures depending on the	Once future project sites are identified the City shall notify tribal representatives as described in MM TCR-1.1. If the additional mitigation measures are required, the City shall prepare an ARTP, provide at least one cultural sensitivity training to construction personnel prior to the initial ground-	During the development review process. For additional mitigation required, during construction.	Director of Planning, Building and Code Enforcement or Director's Designee.	Notify tribal representatives of development once future project sites are identified.	During the development review process. For additional mitigation required, during construction.

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Implementation Actions		Compliance Reporting		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
characteristics of the site and the project. Additional mitigation measures may include, but are not limited to, the following: • Preparation of an Archaeological Research Treatment Plan (ARTP), which will include guidelines if resources are discovered during site construction. • Conducting a cultural sensitivity training for construction workers in coordination with a Native American Tribal representative from a Tribe with a traditional or cultural affiliation in the City of San José and registered with the Native American Heritage Commission (NAHC). • Engagement of a Native American Tribal Monitor from a Tribe with a traditional or cultural affiliation in the City of San José and registered with the NAHC to be present during ground disturbing activities. • Engagement of an archaeological monitor to be present during ground disturbing activities.	breaking activities with a qualified Native American Tribal representative, and engage with tribal representatives and/or archaeological monitor to be present during ground disturbing activities, as described in MM TCR-1.1. The ARTP and evidence of the cultural sensitivity training shall be submitted to the Director of Planning, Building and Code Enforcement or Director's Designee. Measures shall be printed on all construction documents, contracts, and project plans.				

Source: City of San José. *Emergency Interim Housing Programs Initial Study*. June 2023.



Figure 1 - Site Location

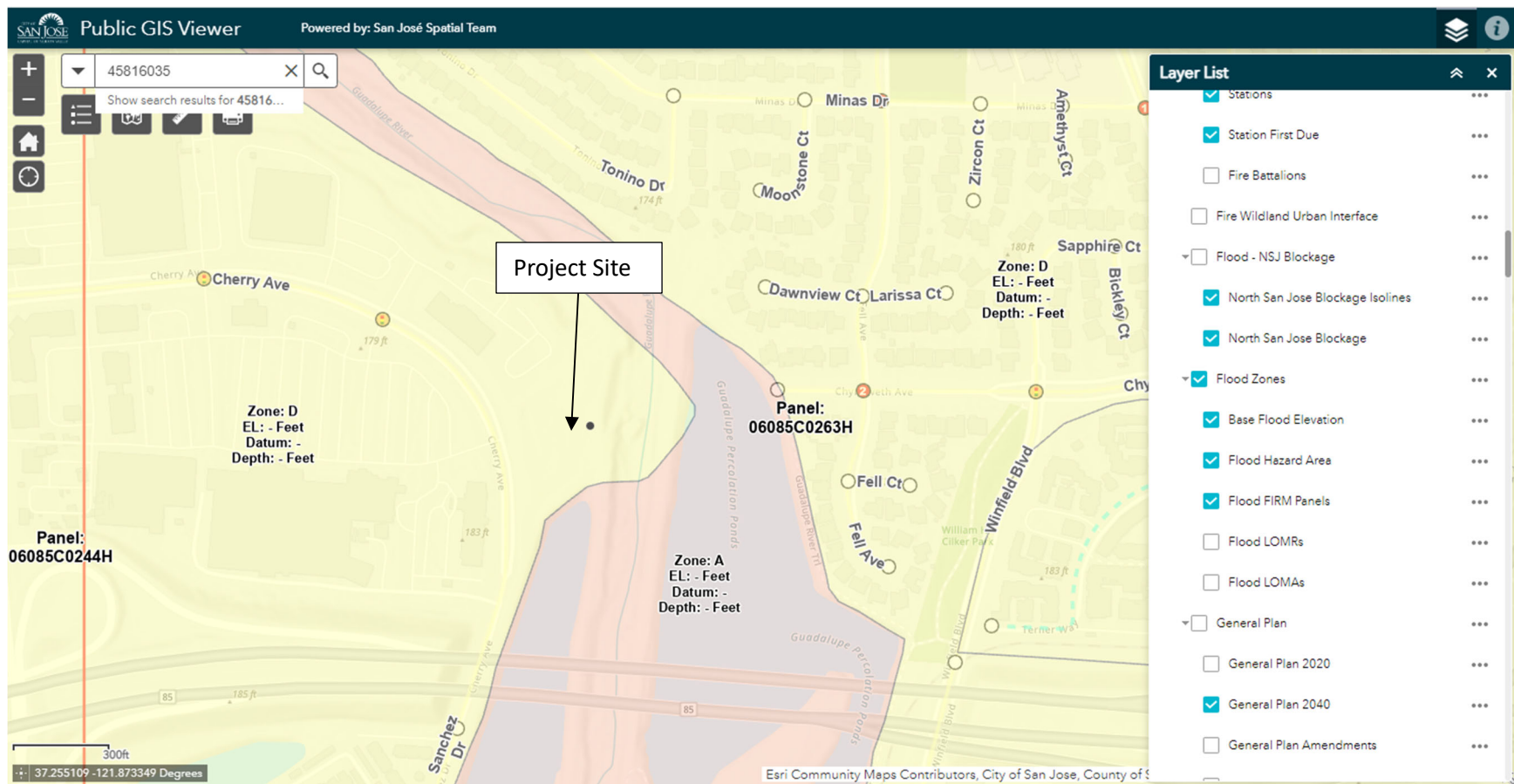


Figure 2 - Flood Zone

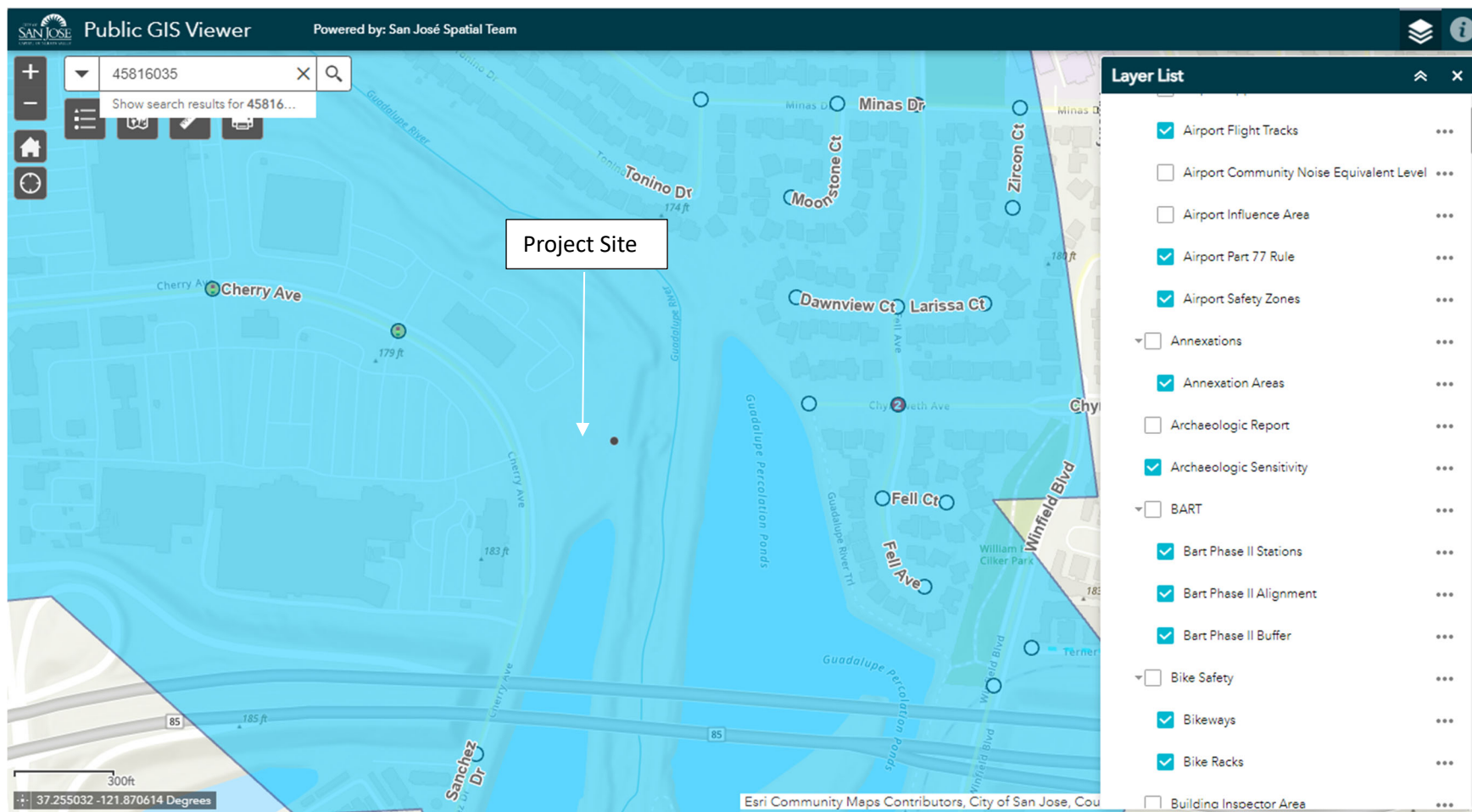


Figure 3 - Archaeological Sensitivity Areas

EMERGENCY INTERIM HOUSING PROGRAMS MITIGATED NEGATIVE DECLARATION
(PLANNING FILE NO. ER22-198)

STANDARD PERMIT CONDITIONS FOR ALL EIH PROGRAMS

Standard Permit Conditions:

Construction Emissions:

The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:

- Water active construction areas at least twice daily or as often as needed to control dust emissions.
- Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
- Remove visible mud or dirt track-out onto adjacent public roads using wet-power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Pave new or improved roadways, driveways, and sidewalks as soon as possible.
- Lay building pads as soon as possible after grading unless seeding or soil binders are used.
- Limit all vehicle speeds on unpaved roads to 15 mph.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
- Maintain and properly tune construction equipment in accordance with manufacturer's specifications. A certified mechanic shall check all equipment prior to operation to determine that equipment is in proper operating condition.
- Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.

following Standard Permit Conditions required for CEQA compliance.

Standard Permit Conditions:

- **Nesting Birds:**

- Construction shall be scheduled to avoid the nesting season (February 1 to August 31). If it is not feasible to schedule construction between September 1 and January 31, pre-construction nesting bird surveys shall be completed prior to tree removal or construction activities in order to avoid impacts to nesting birds. Surveys shall be completed by a qualified biologist no more than 14 days before demolition or construction activities begin. During this survey, the biologist or ornithologist shall inspect all trees and other nesting habitats in and immediately adjacent to the construction areas for nests.
- If an active nest is found in an area that would be disturbed by construction, the ornithologist shall designate an adequate buffer zone to be established around the nest, in consultation with the California Department of Fish and Wildlife (CDFW). The buffer would ensure that nests shall not be disturbed during project construction. The no-disturbance buffer shall remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for seven days or more and then resumes again during the nesting season, an additional survey would be necessary to avoid impacts on active bird nests that may be present.
- The applicant shall submit a report indicating the results of the survey and any designated buffer zones to the Director of Planning, Building and Code Enforcement prior to construction.

Standard Permit Condition:

Santa Clara Valley Habitat Plan. The project may be subject to applicable Habitat Plan conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant shall submit the Santa Clara Valley Habitat Plan Coverage Screening Form ((<https://www.scv-habitatagency.org/DocumentCenter/View/151/Coverage-Screening-Form?bidId=>) to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of all applicable fees prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at <https://scv-habitatagency.org/178/Santa-Clara-Valley-Habitat-Plan>.

Standard Permit Condition:

Subsurface Cultural Resources. If prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning, Building and Code Enforcement (PBCE) or the Director's

designee and the City's Historic Preservation Officer shall be notified, and a qualified archaeologist in consultation with a Native American Tribal representative registered with the Native American Heritage Commission for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3 shall examine the find. The archaeologist in consultation with the Tribal representative shall 1) evaluate the find(s) to determine if they meet the definition of a historical or archaeological resource; and (2) make appropriate recommendations regarding the disposition of such finds prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery shall be submitted to the Director of PBCE or the Director's designee, the City's Historic Preservation Officer and the Northwest Information Center (if applicable). Project personnel shall not collect or move any cultural materials.

Standard Permit Condition:

Human Remains. If any human remains are found during any field investigations, grading, or other construction activities, all provisions of California Health and Safety Code Sections 7054 and 7050.5 and Public Resources Code Sections 5097.9 through 5097.99, as amended per Assembly Bill 2641, shall be followed. If human remains are discovered during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The project applicant shall immediately notify the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the qualified archaeologist, who shall then notify the Santa Clara County Coroner. The Coroner will make a determination as to whether the remains are Native American. If the remains are believed to be Native American, the Coroner will contact the Native American Heritage Commission (NAHC) within 24 hours. The NAHC will then designate a Most Likely Descendant (MLD). The MLD will inspect the remains and make a recommendation on the treatment of the remains and associated artifacts. If one of the following conditions occurs, the landowner or his authorized representative shall work with the Coroner to reinter the Native American human remains and associated grave goods with appropriate dignity in a location not subject to further subsurface disturbance:

- The NAHC is unable to identify a MLD or the MLD failed to make a recommendation within 48 hours after being given access to the site.
- The MLD identified fails to make a recommendation; or
- The landowner or his authorized representative rejects the recommendation of the MLD, and mediation by the NAHC fails to provide measures acceptable to the landowner.

Standard Permit Conditions:

- **Soil Erosion/Loss of Topsoil:**
 - All excavation and grading work shall be scheduled in dry weather months or construction sites shall be weatherized.
 - Stockpiles and excavated soils shall be covered with secured tarps or plastic sheeting.
 - Ditches shall be installed, if necessary, to divert runoff around excavations and graded areas.

Standard Permit Condition:

If vertebrate fossils are discovered during construction, all work on the site shall stop immediately, Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement shall be notified, and a qualified professional paleontologist shall assess the nature and importance of the find and recommend appropriate treatment. Treatment may include, but is not limited to, preparation and recovery of fossil materials so that they can be housed in an appropriate museum or university collection and may also include preparation of a report for publication describing the finds. The project applicant shall be responsible for implementing the recommendations of the qualified paleontologist. A report of all findings shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building and Code Enforcement.

Standard Permit Conditions:

Construction-related water quality.

- Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
- Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
- All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
- Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
- All trucks hauling soil, sand, and other loose materials shall be covered and all trucks shall maintain at least two feet of freeboard.
- All paved access roads, parking areas, staging areas and residential streets adjacent to the construction sites shall be swept daily (with water sweepers).
- Vegetation in disturbed areas shall be replanted as quickly as possible.

- All unpaved entrances to the site shall be filled with rock to remove mud from tires prior to entering City streets. A tire wash system shall be installed if requested by the City.
- The project applicant shall comply with the City of San José Grading Ordinance, including implementing erosion and dust control during site preparation and with the City of San José Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction.

Standard Permit Condition:

Post-construction impacts.

- The project shall design and construct low-impact development (LID) stormwater treatment control measures to treat runoff from impervious surfaces.