905 N. Capitol

SCH Summary Form – Additional Page

Impacts and Mitigation Measures

C. Air Quality

Impact AQ-1: Project construction would result in an infant cancer risk of 23.86 in one million at the maximally exposed individual (MEI), which exceeds the BAAQMD's cancer risk significance threshold of 10 in one million.

Mitigation Measure AQ-1: Prior to the issuance of any demolition, grading, or building permits (whichever occurs first), the project applicant shall prepare a construction operations plan with equipment verified by a qualified air quality specialist that demonstrates off-road equipment used on-site to construct the project would achieve a fleetwide average of a 60 percent reduction or more in diesel particulate matter (DPM) exhaust emissions. Specifically, this plan shall include, but is not limited to, the measures identified below:

- All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet U.S. EPA Tier 4 emission standards for particulate matter (PM_{10} and $PM_{2.5}$). If use of Tier 4 equipment is not available, alternatively use equipment that meets U.S. EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve a 60 percent reduction in particulate matter exhaust in comparison to uncontrolled equipment; alternatively (or in combination).
- Use of electrical or non-diesel fueled equipment.

The construction operations plan shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or the Director's designee prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest).

Biological Resources

Impact BIO-1: Construction activities associated with the project could result in the loss of fertile eggs of nesting raptors or other migratory birds, or nest abandonment.

Mitigation Measure BIO-1: 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 demolition and construction cannot be scheduled to occur between September 1st and January 31st (inclusive and as amended), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist or biologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th, inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 31st, inclusive). During this survey, the qualified ornithologist/biologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

If an active nest is found sufficiently close to work areas to be disturbed by construction, the qualified ornithologist/biologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction.

Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the qualified ornithologist/biologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of the Planning, Building, and Code Enforcement or the Director's designee.

Impact BIO-2: Construction activities associated with the project could result in the disturbance of maternal roosting of bats.

Mitigation Measure BIO-2: If project construction is planned during the bat reproductive season (May 1 through September 15, inclusive), the project applicant shall retain a qualified bat specialist or wildlife biologist to conduct site surveys to characterize bat utilization within and adjacent to the project site and potential bat species present prior to construction. Based on the results of these initial surveys, one or more of the following shall occur:

- If it is determined that bats are not present adjacent to the site, no additional mitigation is required.
- If it is determined that bats are utilizing the trees adjacent to the site and may be impacted by the proposed project, pre-construction surveys shall be conducted within 50 feet of construction limits no more than 30 days prior to the start of construction. If, according to the bat specialist, no bats or bat signs are observed in the course of the pre-construction surveys, construction may proceed. If bats and/or bat signs are observed during the pre-construction surveys, the qualified bat specialist or wildlife biologist shall determine if disturbance will jeopardize the roost (i.e., maternity, foraging, day, or night).
- If a single bat and/or only adult bats are roosting, removal of trees, buildings, or other suitable habitat may proceed after the bats have been safely excluded from the roost. Exclusion techniques shall be determined by the qualified bat specialist or wildlife biologist and would depend on the roost type.
- If an active maternity roost is detected, avoidance is preferred. Work in the vicinity of the roost (buffer to be determined by qualified bat specialist or wildlife biologist) shall be postponed until the qualified bat specialist or wildlife biologist monitoring the roost determines that the young have fledged and are no longer dependent on the roost. The monitor shall ensure that all bats have left the area of disturbance prior to initiation of pruning and/or removal of trees that would disturb the roost.
- Prior to any tree removal, or approval of any grading or demolition permits (whichever occurs first), the qualified bat specialist or wildlife biologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of the Planning, Building, and Code Enforcement or the Director's designee.

With implementation of the identified mitigation measures, the project's impact to nesting birds and raptors, as well as roosting bats, would be less than significant.

Cultural Resources

Impact CR-1: The project may impact archaeological deposits during excavation and construction activities. This impact would be reduced to a less than significant level with the following mitigation.

Mitigation Measure CR-1.1: **Cultural Sensitivity Training.** Prior to issuance of any grading permit, the project applicant shall be required to conduct a Cultural Awareness Training for construction personnel. The training shall be facilitated by a qualified project archaeologist in collaboration with a Native American 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. Documentation verifying that Cultural Awareness Training has been conducted shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee.

Mitigation Measure CR-1.2: **Monitoring Plan.** Prior to issuance of any demolition, grading, or building permits (whichever occurs first), a qualified archeologist, in consultation with a Native American 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 prepare a monitoring plan for all earthmoving activities. The Plan shall be submitted to the Director of the Planning, Building, and Code Enforcement or the Director's designee for review. The plan shall include, but is not limited to, the following:

- Monitoring schedules
- Contact information
- Recommendation for monitoring methods
- Timing of reporting finds

Mitigation Measure CR-1.3: **Monitoring Plan. Sub-Surface Monitoring.** A qualified archeologist in collaboration with a Native American monitor, 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 also be present during applicable earthmoving activities in accordance with in the Monitoring Plan in MM CR-1.2. These could include but not are not limited to, trenching, initial or full grading, lifting of foundation, boring on site, or major landscaping.

Mitigation Measure CR-1.4: **Evaluation.** The project applicant shall notify the Director of the City of San José Department of Planning, Building, and Code Enforcement or Director's designee of any finds during the grading or other construction activities. Any historic or prehistoric material identified in the project area during the during excavation activities shall be evaluated for eligibility for listing in the California Register of Historic Resources as determined by the California Office of Historic Preservation. Data recovery methods may include, but are not limited to, backhoe trenching, shovel test units, hand augering, and hand-excavation. The techniques used for data recovery shall follow the protocols identified in the approved treatment plan. Data recovery shall include excavation and exposure of features, field documentation, and recordation. All documentation and recordation shall be submitted to the Northwest Information Center and Native American Heritage Commission (NAHC) Sacred Land Files, and/or equivalent prior to the issuance of an occupancy permit. A copy of the evaluation shall be

submitted to the City of San Jose Department of Planning, Building, and Code Enforcement or the Director's designee.

Hazards and Hazardous Materials

Impact HAZ-1: The Phase I recommended preparation and implementation of self-directed Soil Site Management Plan to address any unknown and unexpected issues that may be encountered during construction; thus, the proposed project could potentially result in a significant hazard to the public or the environment from hazardous materials release if unknown and unexpected issues are encountered during construction.

Mitigation Measure HAZ-1: Prior to issuance of any grading permits or earthmoving activities, the project applicant shall retain a qualified environmental consultant and prepare a Site Management Plan (SMP) to guide activities during demolition, excavation, and initial construction to ensure that potentially contaminated soils are identified, characterized, removed, and disposed of properly. The purpose of the SMP is to establish appropriate management practices for handling impacted soil, any potential offsite impacts from the underground storage tank (UST) identified in the adjoining property and/or other unknown materials (e.g., sumps, tanks, stained soils, etc.) that may be encountered during construction activities. The SMP shall provide the protocols for sampling of in-place soil to facilitate the profiling of the soil for appropriate off-site disposal or reuse, and for construction worker safety, dust mitigation during construction and potential exposure of contaminated soil to future users of the site. The SMP shall also include a health and safety plan and protocols for reporting contamination to a regulatory agency and obtaining regulatory oversight. The SMP shall be submitted to City of San José Department of Planning, Building, and Code Enforcement or the Director's designee and the Supervising Environmental Compliance Officer in the City of San José's Environmental Services Department.

Noise & Vibration

Impact NSE-1: Ambient levels at the surrounding sensitive uses would potentially be exceeded by 5 dBA Leq or more at various times throughout construction. Project construction is expected to last for a period of approximately 25 months. Since project construction would last for a period of more than one year and is within 500 feet of existing residential uses and within 200 feet of existing commercial uses, this temporary construction impact would be considered significant in accordance with General Plan Policy EC-1.7.

Mitigation Measure NSE-1: **Construction Noise Logistics Plan.** Prior to the issuance of any grading or building permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator. The noise disturbance coordinator shall respond to neighborhood complaints and shall be in place prior to the start of construction and implemented during construction to reduce noise impacts on neighboring residents and other uses. The noise logistic plan shall be submitted to the Director of Planning, Building and Code Enforcement or Director's designee prior to the issuance of any grading or demolition permits. As a part of the construction noise logistics plan, construction activities for the proposed project shall include, but are not limited to, the following best management practices:

- Prohibit pile driving.

- Construction activities shall be limited to the hours between 7:00 AM and 7:00 PM, Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence (San José Municipal Code Section 20.100.450).
- Construct temporary noise barriers, where feasible, to screen mobile and stationary construction equipment. The temporary noise barrier fences provide noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines shall be strictly prohibited.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise source and noise-sensitive receptors nearest the project site during all project construction.
- A temporary noise control blanket barrier shall be erected, if necessary, along building facades facing construction sites. This mitigation would only be necessary if conflicts occurred which were irresolvable by proper scheduling.
- If impact pile driving is proposed, foundation pile holes shall be predrilled to minimize the number of impacts required to seat the pile. Pre-drilling foundation pile holes is a standard construction noise control technique. Pre-drilling reduces the number of blows required to seat the pile.
- Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
- The project applicant shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
- Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.

Impact NSE-2: Construction of the project would generate vibration levels exceeding the General Plan threshold 0.2 in/sec PPV or more at buildings of normal conventional construction located within 25 feet of the project site.

Mitigation Measure NSE-2: **Construction Vibration Monitoring, Treatment, and Reporting Plan**. Prior to the issuance of any grading permits, the project applicant shall implement a construction vibration monitoring plan to document conditions prior to, during, and after vibration generating construction activities. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. The construction vibration monitoring plan shall include, but not be limited to, the following measures:

- The report shall include a description of measurement methods, equipment used, calibration certificates, and graphics as required to clearly identify vibration-monitoring locations.
- A list of all heavy construction equipment to be used for this project and the anticipated time duration of using the equipment that is known to produce high vibration levels (clam shovel drops, vibratory rollers, hoe rams, large bulldozers, caisson drillings, loaded trucks, jackhammers, etc.) shall be submitted to the Director of Planning or Director's designee of the Department of Planning, Building, and Code Enforcement by the contractor. This list shall be used to identify equipment and activities that would potentially generate substantial vibration and to define the level of effort required for continuous vibration monitoring. Phase demolition, earth-moving, and ground impacting operations so as not to occur during the same time period.
- Prohibit the use of heavy vibration-generating construction equipment within 30 feet of adjacent buildings.
- Use a smaller vibratory roller, such as the Caterpillar model CP433E vibratory compactor, when compacting materials within 30 feet of adjacent buildings. Only use the static compaction mode when compacting materials within 15 feet of buildings.
- Document conditions at all structures located within 30 feet of construction prior to, during, and after vibration generating construction activities with the agreement of property owners. All plan tasks shall be undertaken under the direction of a licensed Professional Structural Engineer in the State of California and be in accordance with industry-accepted standard methods. Specifically:
    - Vibration limits shall be applied to vibration-sensitive structures located within 30 feet of all construction activities identified as sources of high vibration levels.
    - Performance of a photo survey, elevation survey, and crack monitoring survey for each structure of normal construction within 30 feet of all construction activities identified as sources of high vibration levels. Surveys shall be performed prior to any construction activity, in regular intervals during construction, and after project completion of vibration generating construction activities, and shall include internal and external crack monitoring in the structures, settlement, and distress, and shall document the condition of the foundations, walls and other structural elements in the interior and exterior of said structures.
- Avoid dropping heavy equipment and use alternative methods for breaking up existing pavement, such as a pavement grinder, instead of dropping heavy objects, within 30 feet of adjacent buildings.
- The contractor shall alert heavy equipment operators to the close proximity of the adjacent structures so they can exercise extra care.
- Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.

- Develop a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before and after construction conditions. Construction contingencies shall be identified for when vibration levels approached the limits.
- At a minimum, vibration monitoring shall be conducted during demolition and excavation activities.
- Conduct a post-construction survey on structures where either monitoring has indicated high vibration levels or complaints of damage has been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.

Transportation

Impact TR-1: The project daily VMT generated by the project would be 10.86 per capita, which exceeds the residential threshold of 10.12 daily VMT per capita. Since the VMT generated by the project would exceed the threshold of significance for residential uses in the area, the project would result in a significant transportation impact on VMT. The project proposes a Transportation Demand Management (TDM) program that will include the measures below.

Mitigation Measure TR-1.1: Prior to the issuance of any development permits, the project applicant shall prepare plans that illustrate the design of the site enhancements, and shall coordinate with the City Parks, Recreation, & Neighborhood Services, Department of Transportation, and the Department of Public Works to incorporate the following:

- Bike Access Improvements. Construct Class IV protected bike lanes along both sides of N. Capitol Avenue between Penitencia Creek Road and Gilchrist Road per the San Jose Better Bike Plan 2025. These bikeway segments would connect the eastern and western trailheads of the Penitencia Creek Trail along N. Capitol Avenue. Implementation of these improvements would require coordination with the City of San José Department of Parks, Recreation & Neighborhood Services (PRNS).
- Pedestrian Network Improvements. Construct a new crosswalk along the south leg of the N. Capitol Avenue/Penitencia Creek Road intersection, including pedestrian signal heads with push buttons and ADA curb ramps. This would provide an additional connection for Penitencia Creek Trail between the eastern and western trailheads.
- Traffic Calming Measures. Narrow the existing travel lane widths along N. Capitol Avenue between Penitencia Creek Road and Gilchrist Road in conjunction with the construction of Class IV protected bike lanes. The project shall also install an all-way stop control and crosswalks at the intersection of Penitencia Creek Road and Kestral Way.

Final plans shall be submitted and review at the Public Improvement Plan. Improvements shall be constructed prior to the issuance of the final occupancy permit.

Mitigation Measure TR-1.2: Prior to issuance of any development or occupancy permits for the apartment complex, the project applicant shall implement the following Transportation Demand Management (TDM) Plan for the apartment component:

- Car Sharing Program. Provide subsidized memberships to a car sharing program eligible to 90% of residents.
- Voluntary Travel Behavior Change Program. Provide a travel behavior change program which includes mass communication campaigns and travel feedback programs that encourage use of using transit, walking, and biking. It is expected that 75% of residents will participate.

Mitigation Measure TR-1.3: **On-site TDM Coordinator and Annual Monitoring.** Prior to the issuance of any development or occupancy permits for the apartment complex, the project applicant shall provide a draft TDM plan (including one or more options above) prior to issuance of Planning Permit for review and approval. Prior to clearance for building occupancy, a final TDM Plan shall be submitted and shall include an annual monitoring requirement establishing an average daily trip (ADT) cap of 120 AM peak-hour trips and 146 PM peak-hour trips. The annual monitoring shall be prepared by a qualified traffic engineer and the report must demonstrate the project is within 10% of the ADT cap. If the project is not in conformance with the trip cap, the project must add additional TDM measures to meet the trip cap. A follow up report shall be required within six months of the last approved TDM. If the project is still out of conformance, penalties will be assessed. The TDM Coordinator shall be responsible for submitting the monitoring reports to the Director of Department of Public Works or Director's designee and Director of City of San José Planning, Building and Code Enforcement Department or the Director's designee for the life of the project.