

MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

PROJECT NAME: 5977 Silver Creek Valley Road Warehouse

PROJECT FILE NUMBER: H21-047

PROJECT DESCRIPTION: The applicant proposes to develop the vacant site located at 5977 and 6001 Silver Creek Valley Road in San José with industrial uses consistent with the General Plan and zoning district regulations. The applicant proposes an approximately 281,873 square foot industrial warehouse building, which includes up to 10,000 square feet of office space (including mezzanine), outdoor employee amenity area, up to 40 loading dock doors, up to 54 truck trailer stalls and space for up to 4,000 amps of expandable power. The proposed building would be approximately 50 feet high and could be split into 100,000 square foot interior areas to provide flexibility of uses for multiple industrial occupants. The facility would have space for up to 195 on site workers. The project site would be accessible via two driveways on Silver Creek Valley Road and two driveways on Fontanoso Way. These access points would lead into a surface lot with 210 parking spaces. The project would connect to existing utilities located in Silver Creek Valley Road and Fontanoso Way.

PROJECT LOCATION: 5977 – 6001 Silver Creek Valley Road

ASSESSORS PARCEL NOS.: 679-02-011 & 679-02-012

COUNCIL DISTRICT: 2

APPLICANT CONTACT INFORMATION: Duke Realty (Jason Bernstein), 1904 Franklin Street, 8th Floor, Oakland, CA 94612; jason.bernstein@dukerealty.com; (451) 298.3325

FINDING

The Director of Planning, Building and Code Enforcement finds the project described above would not have a significant effect on the environment if certain mitigation measures are incorporated into the project. The attached Initial Study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this Mitigated Negative Declaration (MND), has made or agrees to make project revisions that will clearly mitigate the potentially significant effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

- A. **AESTHETICS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- B. **AGRICULTURE AND FORESTRY RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.

C. **AIR QUALITY** – The project would not have a significant impact on this resource, therefore no mitigation is required.

D. **BIOLOGICAL RESOURCES**

Impact BIO-1: Development of the proposed project would result in impacts to nesting birds, if present on or near the site at the time of construction.

MM BIO-1.1:

Prior to the issuance of any demolition, grading or building permits (whichever occurs first), 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).

MM BIO-1.2:

If demolition and construction cannot be scheduled between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist 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 shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests. Any surveys produced prior will also be provided to the Director of Planning Building and Code Enforcement.

MM BIO-1.3:

If an active nest is found sufficiently close to work areas to be disturbed by construction, the qualified ornithologist 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.

MM BIO-1.4:

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

Impact BIO-2: Construction during the nesting season (February 1st to August 31st, inclusive) would indirectly impact nesting tricolored blackbird if a nesting colony was found within Coyote Creek within 250 feet of construction activities.

The proposed project would implement MM BIO-1.1 through MM BIO-1.4 which would require pre-construction surveys to identify if nesting birds are located in vegetation on or near the construction area. If found, a buffer would be established for the blackbird habitat. Therefore, with mitigation implemented, the proposed project would have a less than significant impact on special status species.

E. **CULTURAL RESOURCES** – The project would not have a significant impact on this resource,

therefore no mitigation is required.

- F. **ENERGY** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- G. **GEOLOGY AND SOILS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- H. **GREENHOUSE GAS EMISSIONS**

Impact GHG-1: The proposed project would not be compliant with the 2030 Greenhouse Gas Reduction Strategy and would result in cumulative increases in greenhouse gas emissions.

MM GHG-1.1:

Prior to issuance of any certificates of occupancy, the project applicant shall prepare an Electricity Provision Plan that demonstrates 100% carbon free electricity supply for site operations. The Electricity Provision Plan shall be submitted to the Director of Planning, Building, and Code Enforcement or Director’s designee prior to issuance of certificate of occupancy. The plan shall demonstrate that there would be sufficient carbon-free electricity supply for tenant operations such that 100% of the electricity used for site operations is carbon free. For example, this could be achieved by the following measures:

- Enrollment in San José Clean Energy (SJCE) TotalGreen program which includes 100 percent renewable energy;
- Installation of a solar photovoltaic (PV) system or other source of renewable energy generation on-site, or otherwise acquire energy from the local utility that has been generated by renewable sources, that would provide 100 percent of the expected building load. The PV requirement is subject to the utility provider agreeing to serve and facilitate the use of PV. Should utility provider limit the off-site export, the proposed project may utilize a battery energy storage system (BESS) to lower off-site export while maintaining on-site renewable generation to off-set consumption;
- A combination of an on-site PV system and utility provided carbon-free electricity.

- I. **HAZARDS AND HAZARDOUS MATERIALS** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- J. **HYDROLOGY AND WATER QUALITY** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- K. **LAND USE AND PLANNING** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- L. **MINERAL RESOURCES** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- M. **NOISE** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- N. **POPULATION AND HOUSING** – The project would not have a significant impact on this resource, therefore no mitigation is required.

O. PUBLIC SERVICES – The project would not have a significant impact on this resource, therefore no mitigation is required.

P. RECREATION – The project would not have a significant impact on this resource, therefore no mitigation is required.

Q. TRANSPORTATION

Impact TRAN-1: The proposed project would exceed the industrial VMT per employee threshold of 14.37 VMT by 5.8 percent during operations of the project.

MM TRAN-1:

Prior to issuance of any grading permits, the project applicant shall mitigate the significant VMT impact by implementing a variety of VMT reduction strategies. The project applicant shall implement the following multi-modal infrastructure improvements to incentivize alternative modes of travel and reduce VMT generation for the site:

- Construct a crosswalk on the west leg of the Silver Creek Valley Road and Fontanoso Way intersection. Potential signal and utility modifications would be needed to implement the improvement. This improvement will satisfy VMT reduction strategies for Pedestrian Network Improvement by increasing pedestrian access beyond the project development frontage.
- Extend the Class IV protected bike lanes along Silver Creek Valley Road beyond the project frontage westward to the northeast corner of the US-101 Off-Ramp-Coyote Road/Silver Creek Valley Road intersection connecting to the Coyote Creek Trail per City of San Jose Better Bike Plan 2025. This improvement will satisfy VMT reduction strategies for Bike Access Improvement by improving access to the Coyote Creek Trail and reducing the project's distance to the nearest existing bicycle facility from approximately 300 feet to 10 feet.
- Implement a new bus stop along the project frontage at the northwest corner of the Silver Creek Valley Road/Fontanoso Way intersection (as a pair with the existing WB bus stop) to increase transit accessibility. The final design would require coordination with VTA and the City.

R. TRIBAL CULTURAL RESOURCES – The project would not have a significant impact on this resource, therefore no mitigation is required.

S. UTILITIES AND SERVICE SYSTEMS – The project would not have a significant impact on this resource, therefore no mitigation is required.

T. WILDFIRE – The project would not have a significant impact on this resource, therefore no mitigation is required.

U. MANDATORY FINDINGS OF SIGNIFICANCE

Cumulative impacts would be less than significant. The proposed Project would implement the identified mitigation measures and would have either have no impacts or less-than-significant impacts on biological resources, greenhouse gas emissions, and transportation. Therefore, the proposed Project would not contribute to any cumulative impact for these resources. The Project would not cause changes in the environment that have any potential to cause substantial adverse

direct or indirect effects on human beings.

PUBLIC REVIEW PERIOD

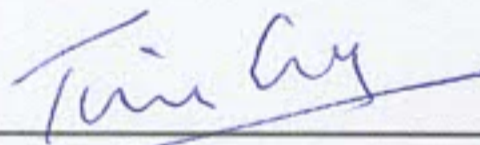
Before 5:00 p.m. on **Monday, August 8, 2022** any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
2. Submit written comments regarding the information and analysis in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND.

Christopher Burton, Director
Planning, Building and Code Enforcement

July 19, 2022

Date



Deputy

Cort Hitchens
Environmental Project Manager

Circulation period: July 20, 2022 to August 8, 2022