

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: Columbus Park Redevelopment Project

PROJECT FILE NUMBER: ER20-025

PROJECT DESCRIPTION: Public project to demolish all existing park facilities and recreational equipment on-site and construct new lighted multi-sport playing fields and courts, restrooms, a picnic area, and a maintenance building. The approximately 12.5-acre project site includes Columbus Park in San José and an undeveloped parcel located to the east of the park. The project would also reconfigure Irene, Asbury, and Walnut Streets as a one-directional perimeter access roads, construct a new parking lot on the eastern project boundary, temporarily close Spring Street between Asbury and West Taylor Street, and construct a new pedestrian paseo in its place. As a part of the park redevelopment, the park will be renamed Janet Gray Hayes Park.

PROJECT LOCATION: The project site is bounded by Asbury Street to the north, West Taylor Street to the south, Guadalupe River Park to the east, and Walnut Street to the west, in the City of San José.

ASSESSORS PARCEL NO.: 259-07-115, 259-08-103 and 259-08-103

COUNCIL DISTRICT: 6

APPLICANT CONTACT INFORMATION: City of San José, Department of Public Works (Attn: Chris Mastrodiscasa); 200 East Santa Clara St, 6th floor, San José, CA 95113; (408)535-8300; chris.mastrodiscasa@sanjoseca.gov

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 the site at the time of construction.

MM BIO-1.1: The project proponent 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 ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

MM BIO-1.3: If an active nest is found sufficiently close to work areas to be disturbed by construction, the 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. The no-disturbance buffer shall remain in place until the biologist determines the nest is no longer active. If construction ceases for two days or more then resumes again during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present.

MM BIO-1.4: Prior to any tree removal, or the start of any grading or demolition activities (whichever occurs first), the 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 or Director's designee of the Department of Planning, Building and Code Enforcement.

E. **CULTURAL RESOURCES.**

Impact CUL-2: Ground disturbing activities associated with project construction may result in impacts to unrecorded archaeological resources.

MM CUL-2.1: *Monitoring.* The project proponent shall implement the following construction practices and protocols proposed as part of the project to avoid and minimize potential impacts to unknown archaeological resources:

- All construction crews and their supervisors shall receive cultural resources training by a qualified archaeologist before construction begins.
- A qualified archaeologist shall monitor archaeologically sensitive areas during initial ground disturbance to determine whether historic-era archaeological resources are present in the project area.
- If no resources are discovered, the consulting archaeologist shall submit a report to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee and the City's Historic Preservation Officer verifying that the required monitoring occurred and that no further mitigation is necessary.

MM CUL-2.2: *Treatment Plan.* If MM CUL-2.1 is applicable, the project proponent shall prepare a treatment plan that reflects permit-level detail pertaining to depths and locations of excavation activities. The treatment plan shall be prepared and submitted to the Director of the City of San José Department of Planning, Building, and Code Enforcement or Director’s designee prior to start of any grading activities. The treatment plan shall contain, at a minimum:

- Identification of the scope of work and range of subsurface effects (including location map and development plan), including requirements for preliminary field investigations.
- Description of the environmental setting (past and present) and the historic/prehistoric background of the parcel (potential range of what might be found).
- Monitoring schedules and individuals
- Development of research questions and goals to be addressed by the investigation (what is significant vs. what is redundant information).
- Detailed field strategy to record, recover, or avoid the finds and address research goals.
- Analytical methods.
- Report structure and outline of document contents.
- Disposition of the artifacts.
- Security approaches or protocols for finds.
- Appendices: all site records, correspondence, and consultation with Native Americans, etc. Implementation of the plan, by a qualified archaeologist, shall be required prior to any grading activities. The treatment plan shall utilize data recovery methods to reduce impacts on subsurface resources.

MM CUL-2.3: *Evaluation.* The project proponent 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 preliminary field investigation, grading, or other construction activities. Any historic or prehistoric material identified in the project area during the preliminary field investigation and 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 occupancy. A copy of the evaluation shall be submitted to the City of San José Department of Planning, Building, and Code Enforcement or Director’s designee.

MM CUL-2.4: Prior to the start of construction activities, the project proponent shall be required to submit evidence that Cultural Awareness Training will be provided to construction personnel prior to ground disturbance. The training shall be facilitated by the project archaeologist in coordination 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.

- 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** – The project would not have a significant impact on this

resource, therefore no mitigation is required.

I. HAZARDS AND HAZARDOUS MATERIALS.

Impact HAZ-1: Development of the proposed project could result in impacts to construction workers, neighboring properties, future site users and the environment from exposure to potentially hazardous soil and/or soil gas due to past agricultural use.

MM HAZ-1.1: Prior to the start of site grading activities the project proponent shall retain a qualified environmental professional to complete a Phase II Environmental Site Assessment to address the concerns and recommendations posed in the Phase I Environmental Site Assessment (Phase I ESA) completed by AEI consultants Inc. dated July 2, 2021. The Phase II ESA shall include the collection of shallow soil samples in the proposed project area for analysis of organochlorine pesticides and pesticide-based metals arsenic and lead to determine if contaminants from previous agricultural operations occur at concentrations above established construction worker safety and residential standard environmental screening levels. Additionally, the Phase II shall include testing for any other contaminants determined necessary by the environmental professional based on the occupation of the site by people experiencing homelessness. Results of the Phase II will be provided to the Director of the Department of Planning, Building and Code Enforcement or Director's designee, and the Environmental Services Department Municipal Compliance Officer.

MM HAZ-1.2: If the Phase II results indicate soil, soil gas and/or groundwater contamination above regulatory environmental screening levels, the proponent shall obtain regulatory oversight from the Regional Water Quality Control Board (RWQCB), Department of Toxic Substances Control (DTSC) or Santa Clara County Department of Environment Health (SCCDEH) under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document must be prepared by a qualified hazardous materials consultant. The plan shall establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The Plan and evidence of regulatory oversight shall be provided to the Director of the Department of Planning, Building, and Code Enforcement or Director's designee, and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

- 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** – The project would not have a significant impact on this resource, therefore no mitigation is required.
- 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 riparian habitat or other sensitive natural communities, migration of species, or applicable biological resources protection ordinances. 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 **Thursday, March 2, 2023** 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

February 2, 2023

Tina Garg Digitally signed by Tina Garg
 Date: 2023.02.02 22:42:39 -08'00'

Date

Deputy

Bethlehem Telahun
 Environmental Project Manager

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