

Summary Form for Electronic Document Submittal

Form F

Lead agencies may include 15 hardcopies of this document when submitting electronic copies of Environmental Impact Reports, Negative Declarations, Mitigated Negative Declarations, or Notices of Preparation to the State Clearinghouse (SCH). The SCH also accepts other summaries, such as EIR Executive Summaries prepared pursuant to CEQA Guidelines Section 15123. Please include one copy of the Notice of Completion Form (NOC) with your submission and attach the summary to each electronic copy of the document.

SCH #: _____

Project Title: Evergreen Village Townhome Project

Lead Agency: City of San José

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Phone Number: (408) 794-7386

Project Location: San José
City

Santa Clara
County

Project Description (Proposed actions, location, and/or consequences).

The project consists of a Planned Development (PD) Rezoning from A(PD) to MUN(PD) and a Planned Development (PD) Permit to construct 16 new multi-family residential units (townhomes) in three buildings on the 1.5-acre project site.

Identify the project's significant or potentially significant effects and briefly describe any proposed mitigation measures that would reduce or avoid that effect.

The Proposed Project would have potentially significant effects that would be reduced to less than significant with implementation of mitigation measures. Below is a list of each affected resource area and the applicable mitigation measures. Please see the Summary Form attachment for a description of each mitigation measure.

Biological Resources: BIO-1 and BIO-2.

Hazards and Hazardous Materials: HAZ-1

If applicable, describe any of the project's areas of controversy known to the Lead Agency, including issues raised by agencies and the public.

There are no known areas of controversy for the project.

Provide a list of the responsible or trustee agencies for the project.

N/A

MITIGATION MEASURES

Biological Resources

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), 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 breeding season (February 1st through August 31st, inclusive). During this survey, the 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 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 ornithologist/biologist shall submit a report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building, and Code Enforcement or the Director's designee.

BIO-2 Prior to issuance of any grading or building permits, the project applicant shall incorporate the following measures.

- Preconstruction Surveys: Prior to issuance of any grading or building permits, preconstruction surveys shall be conducted for burrowing owls regardless of whether impacts are to occur during the breeding or non-breeding season. These surveys consist of a minimum of two surveys conducted for a minimum of a 3-hour period within 1 hour of sunrise and/or sunset, with the first survey no more than 14 days prior to initial construction activities (i.e., vegetation removal, grading, excavation, etc.) and the second survey conducted no more than two days prior to initial construction activities. The survey shall ensure complete visual coverage of the site and a 250-foot radius of the site. These survey results shall be documented in a letter report to be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee for review and approval.

- Burrowing Owl Monitoring Plan: If burrowing owls are observed during the preconstruction surveys, occupied burrows shall be identified by the qualified biologist and a buffer shall be established. The qualified biologist shall submit a Burrowing Owl Monitoring Plan that shall include, but would not be limited to, the following:
 - Identification of appropriate non-disturbance buffers (i.e., 250-foot) around all active burrows as identified and defined by a qualified biologist.
 - Determination of nests and occupancy (i.e., vacant or not)
 - Determination of protocols to relocate nests, collapse suitable vacant burrows, or other equivalent protocol to ensure the safety of owls and habitat, consistent with Santa Clara Valley Habitat Plan (SCVHP) protocols.
 - Protocols for monitoring during non-nesting seasons if owls are found.
 - Protocols for avoidance measures.
 - Protocols for on-going reporting to the necessary agency.

Only after the biologist determines that the active burrow has become vacant can the non-disturbance buffer zone be removed. This Monitoring Plan shall be documented in a letter report to be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee for review and approval.

- Non-nesting Season Avoidance Measures: Should a burrowing owl be located onsite in the non-breeding season (September 1 through January 31, inclusive), construction activities would not be allowed within the 250-foot buffer of the active burrow(s) used by any burrowing owl unless the following avoidance measures are adhered to. These include, but are not limited to, the following:
 - The qualified biologist monitors the owls for at least 3 days prior to construction to determine baseline nesting and foraging behavior (i.e., behavior without construction).
 - The qualified biologist monitors the owls during construction and finds no change in owl nesting and foraging behavior in response to construction activities, ending the monitoring requirement.
 - However, if the qualified biologist finds that there is any change in owl nesting and foraging behavior as a result of construction activities, these activities will cease within the 250-foot buffer. Construction cannot resume within the 250-foot buffer until the adults and juveniles from the occupied burrows have moved out of the project site. The results of this evaluation shall be documented in a letter report to be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee.
 - If monitoring indicates that the nest is abandoned prior to the end of nesting season and the burrow is no longer in use by owls, the non-disturbance buffer zone may be removed. The biologist will excavate the burrow to prevent reoccupation after receiving approval from the Wildlife Agencies.

These avoidance measures shall be documented in a letter report to be submitted to the Director of Planning, Building, and Code Enforcement or Director's designee for review and approval.

- Nesting Season Reduced Buffer Exception: For permission to engage in construction activities within 250 feet of such burrows during the nesting season (February 1 through August 31, inclusive), an Avoidance, Minimization, and Monitoring Plan shall be prepared by a qualified biologist and approved by the SCVHP Implementing Agency (i.e., the City of San José) and the Wildlife Agencies prior to such encroachment. The plan shall ensure that burrowing owls and active nests are not impacted by the encroachment, based on the professional judgement of the qualified biologist, and shall include the same criteria for non-nesting season encroachment.

Hazards and Hazardous Materials

HAZ-1 Prior to issuance of any grading permits, the applicant shall retain a qualified consultant to collect shallow soil samples that will be taken in the near surface soil in the proposed project area and tested for organochlorine pesticides and pesticide-based metals such as 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. The sampling methodology should follow the Department of Toxic Substances (DTSC) Interim Guidance for Sampling Agricultural Properties (Third Revision) dated August 7, 2008. The result of soil sampling and testing will be provided to the Director of Planning, Building and Code Enforcement or the Director's designee and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

If pesticide contaminated soils are found in concentrations above the appropriate regulatory environmental screening levels for the proposed project the applicant shall obtain regulatory oversight from the Santa Clara County Department of Environmental Health (or Department of Toxic Substances Control) 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 must 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 Supervising Environmental Planner of the City of San José Department of Planning, Building, and Code Enforcement, and the Environmental Compliance Officer in the City of San José's Environmental Services Department.