

**DRAFT
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.

NAME OF PROJECT: 485 S. Monroe Street

PROJECT FILE NUMBER: GP10-06-01 and PDC10-018

PROJECT DESCRIPTION: (1) A General Plan Amendment request to change the San Jose 2020 General Plan Land Use/Transportation Diagram land use designation from Office to Medium High Density Residential (12-25 DU/AC) on 5.3 acres of a larger 7.8-acre site and (2) a Planned Development Rezoning from R-M Multiple Residence District and CG Commercial General Zoning District to A(PD) Planned Development Zoning District to allow for the development of up to 104 townhomes and 90,000 square feet of office on the subject a 7.8 gross acre site

PROJECT LOCATION & ASSESSORS PARCEL NO.: The project is located on the west side of S. Monroe Street, approximately 400 feet north of Tisch Way. (APN's: 277-38-002; -006)

COUNCIL DISTRICT: 6

APPLICANT CONTACT INFORMATION: Silverstone Development, John McMorrow, 1733 Woodside Road, Suite 125, Redwood City, CA 94061

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

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

- I. **AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.

- II. AGRICULTURE RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- III. AIR QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- IV. BIOLOGICAL RESOURCES** –
- **MM BIO – 1.1:** If possible, construction should be scheduled between October and December (inclusive) to avoid the raptor nesting season. If this is not possible, pre-construction surveys for nesting raptors shall be conducted by a qualified ornithologist to identify active raptor nests that may be disturbed during project implementation. Between January and April (inclusive) pre-construction surveys shall be conducted no more than 14 days prior to the initiation of construction activities or tree relocation or removal. Between May and August (inclusive), pre-construction surveys no more than thirty (30) days prior to the initiation of these activities. The surveying ornithologist shall inspect all trees in and immediately adjacent to the construction area for raptor nests. If an active raptor nest is found in or close enough to the construction area to be disturbed by these activities, the ornithologist, shall, in consultation with the California Department of Fish and Game (CDFG), designate a construction-free buffer zone (typically 250 feet) around the nest. The applicant shall submit a report to the City’s Environmental Principal Planner indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning prior to the issuance of any grading or building permit.
- V. CULTURAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VI. GEOLOGY AND SOILS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VII. GREENHOUSE GAS EMISSIONS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VIII. HAZARDS AND HAZARDOUS MATERIALS** –
- **MM HAZ-1.1:** A qualified hazardous materials consultant shall be retained by the project proponent to develop a soil management plan for soils impacted by DDE and arsenic. Soils contaminated with DDE and/or arsenic shall either be removed or sequestered to prevent exposure to future residents. Measures to be considered in the soil management plan include the following:
 - Determination on whether the contamination and mitigation proposed warrant oversight from the appropriate regulatory agency (e.g., Department of Toxic Substances Control or Regional Water Quality Control Board);
 - Implementation of engineering controls such as containment with surface caps of impacted areas;

- Implementation of remedial actions such as limited excavation, in-situ treatment and/or redistribution to reduce or eliminate the potential long-term human health concerns; and
- Implementation of institutional controls such as deed restrictions requiring additional testing and remediation if surface caps are removed.

- **MM HAZ – 1.2:** The project site shall be viewed by a qualified environmental professional during demolition and pre-grading activities to observe areas of the property that are covered by the existing structure or pavement for such items as stained soils, septic systems, underground storage tanks, and/or unforeseen buried utilities; and, if found, a mitigation program shall be developed and implemented with measures such as soil testing, removal and/or off-site disposal at a permitted facility. Any storage tanks, wells, drums, and debris shall be removed under the guidance of a qualified environmental professional and in accordance with the San José Fire Department requirements, and a permit shall be obtained from the San José Fire Department as necessary.

IX. HYDROLOGY AND WATER QUALITY – The project will not have a significant impact on this resource, therefore no mitigation is required.

X. LAND USE AND PLANNING – The project will not have a significant impact on this resource, therefore no mitigation is required.

XI. MINERAL RESOURCES – The project will not have a significant impact on this resource, therefore no mitigation is required.

XII. NOISE –

- **MM NOI – 1.1:** The project shall implement the following measures to reduce interior noise levels to 45 dBA DNL:
 - Provide forced-air mechanical ventilation, satisfactory to the local building official, for townhouses with facades fronting South Monroe Street and/or the northern or southern facades of Parcel 1. This would allow occupants the option of keeping windows closed to control noise. Prior to issuance of building permits, the developer shall retain a qualified acoustical consultant to check the building plans for all units to ensure that interior noise levels can be sufficiently attenuated to 45 DNL to the satisfaction of the Director of Planning, Building and Code Enforcement.
 - Special building construction techniques may be required for townhouses fronting South Monroe Street to achieve an interior noise level of 45 dBA DNL or lower. These treatments could include, but are not limited to, sound rated windows and doors. The specification of necessary acoustical treatments shall be conducted by a qualified acoustical consultant during the final design stage. Results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City, along with the building plans, and approved prior to issuance of a building permit.

- **MM NOI – 1.2:** The project shall implement the following measures to reduce exterior noise levels:
 - Install 42-inch high solid railings at all patios and elevated decks of units having a direct or side view of Monroe Street and/or Tisch Way.
 - Ensure that all units on Parcel 1 have some private open space that is acoustically attenuated to a minimum 65 dBA DNL, to the satisfaction of the Director of Planning.
 - Post-construction mechanical equipment shall conform to the City’s General Plan limitation of 55 DNL at residential property lines and 60 DNL at commercial property lines.

- **MM NOI – 2.1:** Construction will be limited to the hours of 7:00 AM to 7:00 PM Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific construction noise mitigation plan and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.

- **MM NOI – 2.2:** The contractor shall use “new technology” power construction equipment with state-of-the-art noise shielding and muffling devices. All internal combustion engines used on the project site shall be equipped with adequate mufflers and shall be in good mechanical condition to minimize noise created by faulty or poor maintained engines or other components.

- **MM NOI – 2.3:** Locate stationary noise generating equipment as far as possible from sensitive receptors. Staging areas shall be located a minimum of 200 feet from noise sensitive receptors, such as residential uses.

- **MM NOI – 2.4:** Acoustically shield stationary equipment located near existing residential receivers.

- **MM NOI – 2.5:** The contractor shall prepare a construction plan identifying the 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.

- **MM NOI – 2.6:** Designate a “disturbance coordinator” who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem.

XIII. POPULATION AND HOUSING – The project will not have a significant impact on this resource, therefore no mitigation is required.

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

- XV. RECREATION** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVI. TRANSPORTATION / TRAFFIC** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVII. UTILITIES AND SERVICE SYSTEMS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVIII. MANDATORY FINDINGS OF SIGNIFICANCE** – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no additional mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **November 3, 2010**, any person may:

1. Review the Draft Mitigated Negative Declaration (MND) as an informational document only;
or
2. Submit written comments regarding the information, analysis, and mitigation measures 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.

Joseph Horwedel, Director
Planning, Building and Code Enforcement

Circulation period, from October 14, 2010 to November 3, 2010

Deputy

Revised 10.20.08 sbw

Dear Project Applicant or Lead Agency: You requested that DFG evaluate your project and determine if your project is eligible for a CEQA filing fee exemption based on your assertion the project has “no effect” on fish and wildlife. Please complete the information below and return this document by email. To qualify for a fee exemption, the “Brief Project Description” below must clearly indicate why the project has no effect on fish and wildlife. The fee is required even if the effect on fish and wildlife is minimal or de minimis. Information in the Brief Project Description should come directly from the CEQA document prepared for the project. DFG’s determination will be final.

Applicant Name:

Date Submitted:

Applicant Address:

Project Name:

CEQA Lead Agency: City of San Jose

CEQA Lead Agency contact:

CEQA Lead Agency Address and phone number: 200 East Santa Clara Street, T3, San Jose CA 95113

CEQA Document Type: (ND, MND, EIR):

SCH Number and/or local agency ID number:

Project Location:

Brief Project Description:

Describe clearly why the project has no effect on fish and wildlife: .