

# **PDC08-061**

## **OHLONE MIXED USE PROJECT**

### **DEVELOPMENT STANDARDS (DRAFT)**

#### **Rev. 9/27/10**

**The following notes are to be incorporated on the final General Development Plan upon City Council Approval. These notes shall replace and/or take precedence over all other notes currently identified on said plan(s).**

#### **ALLOWED USES:**

1. Residential development ranging from: 680-800 attached residential units.
2. Commercial development range: 24,000 – 30,000 gross square feet.
3. Uses of the CN Commercial Neighborhood District, as amended. Conditional Uses of the CN Commercial Neighborhood District, as amended may be considered with a Planned Development Permit or Planned Development Permit Amendment.

#### **DEVELOPMENT STANDARDS:**

**Division of Site into Three Blocks.** The project site shall be divided into three blocks, each bound by public or private streets. Block A shall be located closest to San Carlos Street, Block C shall be located closest to Auzerais Avenue, and Block B located between the aforementioned blocks.

All setbacks as described below are measured from the property line, except for building elements adjacent to the proposed internal private streets, where the setbacks are measured from the face of curb adjacent to the parking lane.

#### **Block A:**

*Maximum/Minimum Height:* A residential tower shall be provided that encompasses 10-25% of the block foot print shall be provided. This tower shall be between 140 and 150 feet (11-15 stories above grade). All other buildings shall be limited to 65 feet (max.), except that minor roof top appurtenances such as stairwells, equipment screens, elevator towers, etc. placed more than 5 feet from the streetwall may extend up to 80 feet (max.). An "FAA Determination of No Hazard" shall be obtained prior to the issuance of a Building Permit. The tower height shall be also be subject to compliance with any adopted policies related to OEI (One Engine Inoperable) at the time of Planned Development Permit approval.

*San Carlos Street Setback:* 5' minimum (excluding minor architectural projections such as, but not limited to, awnings, fins signs, and balconies). At least 75 percent of the frontage shall have buildings where the first floor is within 10 feet of the minimum setback line. The

tower shall have a minimum/maximum setback of 20/25 feet for at least 70% of the building face oriented towards this street. There shall be a minimum 17 foot wide sidewalk (combination of public and private) between building and face of curb.

*Sunol Street Setback:* 5' minimum (excluding minor architectural projections such as, but not limited to, awnings, fins signs, and balconies). At least 40 percent of the frontage shall have buildings where the first floor is within 10' of the minimum setback line. The tower shall have a minimum setback of 80 feet. There shall be a minimum 16 sidewalk (combination of public and private) between building and face of curb.

*Earle Avenue Extension (New Private Street) Setback :* 20' minimum for building (12' for private or semi-private open space) from face of parking lane curb. The maximum building setback shall not exceed 30 feet. There shall be at least 3 linear feet of landscaping between the sidewalk and all private or semi-private open space areas. The tower shall have a minimum setback of 100 feet. There shall be a minimum 10' sidewalk (combination of public and/or private) between building and face of curb.

*West Street (New Street) Setback:* 10' minimum (excluding minor architectural projections such as, but not limited to, awnings, fins signs, and balconies). At least 50 percent of the frontage shall have buildings where the first floor maintain a 15' maximum setback. The tower shall have a minimum/maximum setback of 20/25 feet respectively for at least 50% of the building face oriented towards this street.. There shall be a minimum 14' sidewalk (combination of public and private) between building and face of curb.

*Use Restrictions:*

1. The ground floor frontages along San Carlos Street and Sunol Street shall be comprised of only commercial uses.
2. Garage access shall be limited to Earle Street and West Street.
3. The street level residential interface with Earle Avenue shall be comprised of units with direct individual access to the street including stoops and semi-private open space.
4. Commercial loading spaces may be provided along the curb of public or private streets.

**Block B:**

*Maximum/Minimum Height:* A residential tower shall be provided that encompasses 10-25% of the block foot print shall be provided. This tower shall be between 140 and 150 feet (11-15 stories above grade) and shall be offset from that of Block A. All other buildings shall be limited to 65 feet (max.), except that minor roof top appurtenances such as stairwells, equipment screens, elevator towers, etc. placed more than 5 feet from the streetwall may extend up to 80 feet (max.). An "FAA Determination of No Hazard" shall be obtained prior to the issuance of a Building Permit. The tower height shall be also be subject to compliance with any adopted policies related to OEI (One Engine Inoperable) at

the time of Planned Development Permit approval.

*Sunol Street Setback:* 10' minimum (excluding minor architectural projections such as, but not limited to, awnings, fins signs, and balconies). The tower shall have a minimum / maximum setback of 10-20 feet respectively for at least 50% of the building face oriented towards this street. There shall be a minimum 16 foot sidewalk (combination of public and private) between building and face of curb.

*Earle Avenue Extension (New Private Street) Setback :* 20' minimum for building, excluding stairs to podium level, (12' for private or semi-private open space) from face of parking lane curb. The maximum building setback shall not exceed 30 feet. There shall be at least 3 linear feet of landscaping between the sidewalk and all private or semi-private open space areas. The tower shall have a minimum/maximum setback of 30/40 feet respectively for at least 70% of the building face oriented towards this street.. There shall be a minimum 10' sidewalk (combination of public and/or private) between building and face of curb.

*West Street (New Street) Setback:* 10' minimum. At least 60 percent of the frontage shall have buildings where the first floor maintain a 15' maximum setback. of the total buildings (1<sup>st</sup> floor) facing this street shall maintain a 15' maximum setback. The tower shall have a minimum setback of 80 feet. There shall be a minimum 14' sidewalk (combination of public and private) between building and face of curb.

*South Lane (New Street) Setback:* 20' minimum for building (12' for private or semi-private open space) from face of parking lane curb. The maximum building setback shall not exceed 30 feet. There shall be at least 3 linear feet of landscaping between the sidewalk and all private or semi-private open space areas. The tower shall have a minimum setback of 100 feet. There shall be a minimum 10' sidewalk (combination of public and/or private) between building and face of curb.

*Use Restrictions:*

1. The ground floor frontages along Sunol Street shall be comprised of commercial uses or residential common use areas such as, but not limited to community rooms, recreation rooms, or lobbies.
2. No individual residential units shall be located on the ground floor adjacent to Sunol Street.
3. Garage access shall not be allowed from Sunol Avenue.
4. The street level residential interface with Earle Avenue and South Lane shall be comprised of units with direct individual access to the street including stoops and semi-private open space.

**Block C:**

*Maximum/Minimum Height:* A residential tower shall be provided that encompasses 10-25% of the block foot print shall be provided. This tower shall be between 110 and 125 feet (10-11 stories above grade). All other buildings shall be limited to 65 feet (max.), except that minor roof top appurtenances such as stairwells, equipment screens, elevator towers, etc. placed more than 5 feet from the streetwall may extend up to 80 feet (max.). An “FAA Determination of No Hazard” shall be obtained prior to the issuance of a Building Permit. The tower height shall be also be subject to compliance with any adopted policies related to OEI (One Engine Inoperable) at the time of Planned Development Permit approval.

*Sunol Street Setback:* 10’ minimum (excluding minor architectural projections such as, but not limited to, awnings, fins signs, and balconies). At least 50 percent of the total buildings (1<sup>st</sup> floor) facing this street shall maintain a 15 foot maximum setback. The tower shall have a minimum setback of 80 feet. There shall be a minimum 16 sidewalk (combination of public and private) between building and face of curb.

*Auzerais Avenue Setback:* 5’ minimum for building, 3’ for patios or other private/semi-private open space. There shall be at least 3 linear feet of landscaping between the sidewalk and all private or semi-private open space areas. At least 60 percent of the total buildings (1<sup>st</sup> floor) facing this street shall maintain a 15’ maximum setback. The tower shall have a minimum/maximum setback of 5/25 feet respectively. There shall be a minimum 12’ sidewalk (combination of public and private) between building and face of curb.

*South Lane (New Street) Setback:* 20’ minimum for building (12’ for private or semi-private open space) from face of parking lane curb. The maximum building setback shall not exceed 30 feet. There shall be at least 3 linear feet of landscaping between the sidewalk and all private or semi-private open space areas. The tower shall have a minimum setback of 100 feet. There shall be a minimum 10’ sidewalk (combination of public and/or private) between building and face of curb.

*West Street (New Street) Setback:* 10’ minimum for building, 3’ for patios or other private/semi-private open space. There shall be at least 3 linear feet of landscaping between the sidewalk and all private or semi-private open space areas. At least 60 percent frontage shall have buildings where the first floor maintain a 15’ maximum setback. The tower shall have a minimum/maximum setback of 10/25 feet respectively. There shall be a minimum 12’ sidewalk (combination of public and private) between building and face of curb.

*Light Rail Transit R-O-W Setback:* 10 feet minimum (a 1,500 square foot plaza adjacent to the LRT line shall be provided).

*Use Restrictions:*

1. Block C must maintain at least 2,500 square feet of commercial uses facing Sunol Street.
2. No more than four (4) live/work units and one (1) residential unit shall be located on the ground floor facing the Sunol.
3. The street level residential interface with South Lane shall be comprised of units with direct individual access to the street including stoops and semi-private open space.

**PARKING REQUIREMENTS:**

No outdoor surface parking, except along streets, shall be allowed anywhere on the project site.

RESIDENTIAL. All parking, in accordance with the table below shall be provided in a common parking garage, or along private and public frontages of the project and both sides of West Street (The parking on the west side of West Street may only be counted if the subject project constructs these parking spaces). In the event that public street parking is later eliminated as a result of activities such as street widening proposed by the City, the parking requirements for the project shall be deemed to be proportionally reduced and in compliance with the requirements noted below. Each block shall separately comply with the table below. At least 10% of the total parking requirement for each block shall be made available and accessible to guests. An alternating parking arrangement may be considered at the Planned Development Permit stage for partial use of surplus commercial parking provided within parking garages.

Note: The table below includes a 10% reduction from the standard Zoning Ordinance parking requirements for uses in close proximity to transit.

Unit Type	Requirement
Studio	1.35 per unit
1 Bedroom	1.35 per unit
2 Bedroom	1.62 per unit
3 Bedroom	1.8 per unit
Additional Bedrooms	.135 per unit
Live/Work Unit	Base on bedroom count only
Units with Tandem parking	2.0 unit

RETAIL/COMMERCIAL: Parking shall be provided at a rate of one space per 400 net square feet of tenant space for ground floor commercial uses, as per Title 20 as amended. All parking shall be provided in a common parking garage, or along public street frontages

in front of commercial tenant spaces. The project may utilize street parking on both sides of West Street. In the event that public street parking is later eliminated as a result of activities such as street widening proposed by the City, the parking requirements for the project shall be deemed to be proportionally reduced and in compliance with the requirements noted above. Each block shall separately comply with the parking requirements identified above.

Pursuant to the Developer's request per separate agreement and endorsement with "Transform", the Developer voluntarily agrees to the following conditions that shall also be placed as a condition within the PD Permit:

1. To provide a Valley Transportation Authority "Eco-Passes" to all future property owners or tenants.
  - a. Condominium unit owners shall be issued two passes at the time of close of escrow for each unit. The Eco-Passes shall be administered through the respective developer, and then the later by the home owners association.
  - b. Apartment tenants shall be issued two Eco-passes per unit on a monthly or yearly basis through 2055.
2. Developer may "provide unbundled" parking spaces for those units that have two bedrooms unless they are tandem parking stalls and assigned to a particular unit within each phase of development.

### **RESIDENTIAL OPEN SPACE REQUIREMENTS**

*Private Open Space* - 60 square feet per unit (for at least 50% of the units). This may be adjusted at a 1 square foot to 1 square foot ratio at the PD Permit stage for an increase in size of the common open space area(s).

*Common Open Space* - 100 square feet average per unit (this includes enclosed recreation space). 50% of the public plazas outside the setback area may be counted towards the common open space requirement.

### **PARK DEDICATION:**

Immediately after PD Zoning approval, the Developer shall place a Deed Restriction 3.99 acres of property located at Auzerais and Sunol Streets to insure the land is dedicated for City Parkland. During the PD Permit process, the Developer shall begin work with Planning, Public Works and Parks and Neighborhood Services and the District 6 Community on the design of Del Monte Park and construction Parks Agreement. The final land dedication by the Developer shall be determined in concurrence with the City's General Fund and its ability to maintain the parkland.

### **CONTRIBUTION FOR DEVELOPMENT OF FUTURE LIGHT RAIL TRANSIT (LRT)**

**STATION:** Prior to issuance of a Planned Development Permit, the developer has agreed to contribute the sum of \$1,000,000. per the sales contract with VTA for the development and construction of a Light Rail Transit Station and/or transit related improvements.

**PUBLIC INFRASTRUCTURE IMPROVEMENTS:** (Conditions to be added below to reflect the Final Public Works Memorandum). All conditions shall be addressed to the satisfaction of the Director of Public Works.

**Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

1. **Construction Agreement:** The public improvements conditioned as part of this permit require the execution of a Construction Agreement that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement includes privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
2. **Transportation:**
  - a) For the impact at the protected intersection of Meridian Avenue and West San Carlos Street, construct offsetting improvements equivalent to \$202,000. The offsetting improvements are identified through the Strong Neighborhood Initiative process and a list of improvements is currently established.
  - b) Contribute to the construction of the future Sunol Street LRT station. The City is currently working with the VTA, to establish the agreement for the LRT station that establishes a timeline, cost, and construction of the new station. The project will be required to pay a fair share contribution at the PD Permit stage.
  - c) Modify the traffic signal at the intersection of Sunol Street and West San Carlos Street to conform the project frontage to surrounding street alignment.
  - d) In accordance with CMP requirements, the project is required to implement “Immediate Actions” portion of the CMP TIA Guidelines. Some recommended measures may include:
    - Bike lockers, racks, and facilities at Transit Centers
    - Bike storage at residential developments
    - Improve roadside bicycle facilities
    - Improve pedestrian facilities
    - Bus Stop improvements
    - TDM programs and public information programs
    - HOV parking preference program
3. **Grading/Geology:**
  - a) A grading permit is required prior to the issuance of a Public Works Clearance.
  - b) If the project proposes to haul more than 10,000 cubic yards of cut/fill to or from the project site, a haul route permit is required. Prior to issuance of a grading permit, contact the Department of Transportation at (408)

535-3850 for more information concerning the requirements for obtaining this permit.

- c) Because this project involves a land disturbance of one or more acres, the applicant is required to submit a Notice of Intent to the State Water Resources Control Board and to prepare a Storm Water Pollution Prevention Plan (SWPPP) for controlling storm water discharges associated with construction activity. Copies of these documents must be submitted to the City Project Engineer prior to issuance of a grading permit.
  - d) The Project site is within the State of California Seismic Hazard Zone. A geotechnical investigation report addressing the potential hazard of liquefaction must be submitted to, reviewed and approved by the City Geologist prior to issuance of a grading permit or Public Works Clearance. The investigation should be consistent with the guidelines published by the State of California (CGS Special Publication 117A) and the Southern California Earthquake Center (SCEC, 1999). A recommended depth of 50 feet should be explored and evaluated in the investigation.
4. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) that include site design measures, source controls, and stormwater treatment controls to minimize stormwater pollutant discharges. Post-construction treatment control measures, shown on the project's Stormwater Control Plan, shall meet the numeric sizing design criteria specified in City Policy 6-29.
- a) The project's preliminary Stormwater Control Plan and numeric sizing calculations have been reviewed. At PD stage, submit the final Stormwater Control Plan and numeric sizing calculations.
  - b) Final inspection and maintenance information on the post-construction treatment control measures must be included on the final Stormwater Control Plan.
  - c) A post construction Final Report is required by the Director of Public Works from a Civil Engineer retained by the owner to observe the installation of the BMPs and stating that all post construction storm water pollution control BMPs have been installed as indicated in the approved plans and all significant changes have been reviewed and approved in advance by the Department of Public Works.
5. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
6. **Flood: Zone D**  
The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood zone D is an unstudied area where

flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for zone D.

7. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
8. **Parks:** This residential project is subject to either the requirements of the City's Park Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code) for the dedication of land and/or payment of fees in-lieu of dedication of land for public park and/or recreational purposes under the formula contained within in the Subject Chapter and the Associated Fees and Credit Resolutions.
9. **Undergrounding:**
  - a) The In Lieu Undergrounding Fee shall be paid to the City for all frontages adjacent to Auzerais Avenue and Sunol Street prior to issuance of a Public Works clearance. One hundred percent (100%) of the base fee in place at the time of payment will be due. (Currently, the base fee is \$395 per linear foot of frontage.)
  - b) The Director of Public Works may, at her discretion, allow the developer to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to Sunol Street in lieu of paying the Undergrounding Fee. Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.
10. **Street Improvements:**
  - a) Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
  - b) Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
  - c) Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
11. **SNI:** This project is located within the Burbank/Del Monte SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.
12. **Electrical:**
  - a) Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans

- b) Locate and protect existing electrical conduit in driveway and/or sidewalk construction.
  - c) To assist the Applicant in better understanding the potential cost implications resulting from these requirements, the electroliers along the project frontage can be evaluated during the Planning permit review stage. The Applicant will be required to submit a plan and the applicable fees to the PW Project Engineer for processing. The plan should show all project frontages and property lines. Evaluation will require approximately 15 working days.
13. **Street Trees:**
- a) The locations of the street trees will be determined at the street improvement stage. Street trees shown on this permit are conceptual only.
  - b) Contact the City Arborist at (408) 277-2756 for the designated street tree.
  - c) Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current “Guidelines for Planning, Design, and Construction of City Streetscape Projects”. Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings.
14. **Private Streets:**
- a) Per Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.
  - b) Provide public pedestrian and public bike access easements over the proposed private streets (South Lane and Earle Street).
  - c) The plan set includes details of private infrastructure improvements. The details are shown for information only; final design shall require the approval of the Director of Public Works.

## **ENVIRONMENTAL MITIGATION:**

### ***AESTHETICS***

#### **Design**

- SM AES-1: The mixed-use project design will conform to the City’s Midtown Specific Plan, Residential Design Guidelines and Commercial Design Guidelines.

#### **Trees**

- SM AES-2: Any tree that is removed will be replaced with the addition of a new tree(s) at the ratios shown in the City’s standard Tree Replacement Ratios table.

#### **Light and Glare**

- SM AES-3: Lighting on the site will conform to the City’s Outdoor Lighting Policy (4-3).

### **Temporary Construction Visual Impacts**

- SM AES-4: Public streets that are impacted by project construction activities will be swept and/or washed down daily.
- SM AES-5: Debris, rubbish and trash will be cleared from any onsite areas that are visible from a public street.

## ***AIR QUALITY***

### **Temporary Construction Air Quality**

- SM AQ-1: The following dust control measures will be implemented by contractors during demolition of existing structures.
  - Watering to control dust generation during demolition of structures and break-up of pavement;
  - Cover all trucks hauling demolition debris from the site;
  - Use dust-proof chutes to load debris into trucks whenever feasible. Watering will be used to control dust generation during transport and handling of recycled materials; and
  - All crushing or screening equipment used onsite for the recycling of materials will be permitted by the Bay Area Air Quality Management District or the State's Portable Equipment Statewide Registration Program, and utilize Best Available Control Technology for that type of equipment.
- SM AQ-2: The following construction practices will be implemented during all phases of construction to prevent visible dust emissions from leaving the site.
  - Water all active construction areas at least twice daily and more often during windy periods; active areas adjacent to existing land uses will be kept damp at all times, or will be treated with non-toxic stabilizers or dust palliatives;
  - Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
  - Pave, apply water at least three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
  - Sweep daily, or more often if necessary (preferably with water sweepers), all paved access roads, parking areas and staging areas at construction sites; water sweepers will vacuum up excess water to avoid runoff-related impacts to water quality;
  - Sweep streets daily, or more often if necessary (preferably with water sweepers), if visible soil material is carried onto adjacent public streets;
  - Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more);
  - Enclose, cover, water at least twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.) to prevent visible dust from leaving the site;
  - Limit traffic speed on unpaved roads to 15 mph;

- Install sandbags or other erosion control measures to prevent silt runoff to public roadways;
- Replant vegetation in disturbed areas as quickly as possible;
- Install wheel washers for all existing trucks, or wash off the tires or tracks of all trucks and equipment leaving the site;
- Install wind breaks, or plant trees/vegetative wind breaks at windward side(s) of construction areas;
- Suspend excavation and grading activities when winds instantaneous gusts exceed 25 mph; and
- Limit the area subject to excavation grading, and other construction activity at any one time.

***BIOLOGICAL RESOURCES***

**Trees**

- SM BIO-1: Any tree that is removed will be replaced with the addition of a new tree(s) at the ratios shown in the following Tree Replacement Ratios table.

**Tree Replacement Ratios**

Diameter of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
18 inches or greater	5:1	4:1	3:1	24-inch box
12 to 17 inches	3:1	2:1	None	24-inch box
Less than 12 inches	1:1	1:1	None	15-gallon container

x:x = tree replacement to tree loss ratio

**Note:** Trees greater than 18” diameter shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.

- SM BIO-2: The species and exact number of trees to be planted onsite and/or offsite will be determined at the development permit stage, in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.
- SM BIO-3: Replacement trees are to be above and beyond standard landscaping; required street trees do not count as replacement trees.
- SM BIO-4: In the event the project site does not have sufficient area to accommodate the required tree mitigation, one or more of the following measures will be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement, at the development permit stage:
  - The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees.

- An alternative site(s) will be identified for additional tree planting. Alternative sites may include local parks or schools or installation of trees on adjacent properties for screening purposes to the satisfaction of the Director of the Department of Planning, Building and Code Enforcement. Contact Jaime Ruiz, Parks, Recreation and Neighborhood Services Landscape Maintenance Manager, at 975-7214 or [jaime.ruiz@sanjoseca.gov](mailto:jaime.ruiz@sanjoseca.gov) for specific park locations in need of trees.
- A donation of \$300.00 per mitigation tree will be paid to Our City Forest for in-lieu offsite tree planting in the community. These funds will be used for tree planting and maintenance of planted trees for approximately three years. Contact Rhonda Berry, Our City Forest, at (408) 998-7337 x106 to make a donation. A donation receipt for offsite tree planting will be provided to the Planning Project Manager prior to issuance of a development permit.

### **Active Raptor Nests**

- MM BIO-1: If possible, construction should be scheduled between September 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 biologist 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 shall be conducted no more than thirty (30) days prior to the initiation of these activities. The surveying biologist 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 biologist shall, in consultation with the California Department of Fish and Game, designate a construction-free buffer zone (typically 250 feet) around the nest, which shall be maintained until after the breeding season has ended and/or a qualified biologist has determined that the young birds have fledged. 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 City's Environmental Principal Planner prior to the issuance of any grading or building permit.

### **Bats**

- MM BIO-2: Surveys for roosting bats shall be conducted by a qualified bat biologist no more than thirty (30) days prior to any building demolition or removal, or construction activities. If no bats are observed to be roosting in these features, then no further action would be required and construction activities could proceed. If a female or maternity colony of bats is found on the project site, and the project can be constructed without disturbance to the roosting colony, a qualified bat biologist shall designate buffer zones (both physical and temporal) as necessary to ensure the continued success of the colony; buffer zones may include a 200-foot buffer zone from the roost and/or timing of the construction activities outside the maternity roosting season (after July 31st and before March 1st).

- MM BIO-3: If an active maternity roost is known to occur on the site and the project cannot be conducted outside of the maternity roosting season, bats shall be excluded after July 31st and before March 1st to prevent the formation of new maternity colonies. Such exclusion shall occur, under the direction of a qualified bat biologist, by sealing openings and providing bats with one-way exclusion doors. Bat roosts shall be monitored as determined necessary by a qualified bat biologist, and the removal or displacement of bats shall be performed in conformance with California Department of Fish and Game requirements.
- MM BIO-4: A biologist report outlining the results of pre-construction bat surveys and any recommended buffer zones or other mitigation shall be submitted to the City's Environmental Principal Planner and shall be approved to the satisfaction of the Director of Planning prior to the issuance of any grading or building permit.

## ***CULTURAL RESOURCES***

### **Prehistoric Resources and Native American Burials**

- SM CULT-1: In the unlikely event that evidence of unknown prehistoric cultural resources (darker than surrounding soils containing evidence of fire – ash, charcoal, fire affected rock or earth; concentrations of stone, bone or freshwater shellfish; artifacts of these materials; and burials, both animal and human) is discovered during construction, work within 50 feet of the find will be stopped to allow adequate time for evaluation and mitigation, and a qualified professional archaeologist called in to make an evaluation; the material will be evaluated; and if significant, a mitigation program including collection and analysis of the materials prior to the resumption of grading, preparation of a report and curation of the materials at a recognized storage facility will be developed and implemented to the satisfaction of the Director of Planning and submitted to the City's Environmental Principal Planner.
- SM CULT-2: Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California: In the event of the discovery of human remains during construction, there will be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner will be notified by the developer and will make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he will notify the Native American Heritage Commission, who will attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the landowner will reinter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
- SM CULT-3: Any Native American human remains that are discovered and would be subject to disturbance will be removed and analyzed, a report will be prepared, and

the remains will be reburied in consultation and agreement with the Native American Most Likely Descendant designated by the Native American Heritage Commission. Prior to obtaining an occupancy permit, a copy of the report will be submitted to the City's Environmental Principal Planner to the satisfaction of the Director of Planning.

### **Prehistoric Resources**

- MM CULT-1: A qualified archaeologist shall be retained to inspect the ground surface after buildings on the park site have been removed to search for evidence of prehistoric archaeological deposits; if discovered, the resource shall be evaluated through a program of limited hand excavation and, if determined to be significant, a mitigation program including collection and analysis of the materials prior to the resumption of grading, preparation of a report and curation of the materials at a recognized storage facility shall be developed and implemented to the satisfaction of the Director of Planning and submitted to the City's Environmental Principal Planner.

## ***GEOLOGY AND SOILS***

### **Erosion**

- SM GEO-1: A City-approved Erosion Control Plan will be developed and implemented prior to approval of a grading permit or Public Works clearance with such measures as: 1) the timing of grading activities during the dry months, if feasible; 2) temporary and permanent planting of exposed soil; 3) temporary check dams; 4) temporary sediment basins and traps and/or 5) temporary silt fences.

### **Seismic Shaking**

- SM GEO-2: The proposed structures on the site will be designed and constructed in conformance with the Uniform Building Code Guidelines for Seismic Zone 4 to avoid or minimize potential damage from seismic shaking on the site.

### **Liquefaction**

- SM GEO-3: A geotechnical report addressing the potential liquefaction hazard will be submitted to, and reviewed and approved by, the City Geologist prior to issuance of a grading permit or Public Works clearance. The investigation should be consistent with the guidelines published by the State of California (CDMG Special Publication 117) and the Southern California Earthquake Center ("SCEC") report.

## **PARK SITE**

### **Soils Report**

- SM GEO-4: Detailed onsite investigations will be performed prior to the design and construction of park improvements, in order to determine the in-place conditions of the soils on the site and make appropriate recommendations for the design and construction of the park project that will be implemented as warranted.

## MIXED-USE SITE

### **Geotechnical Investigation**

- MM GEO-1: A design-level geotechnical investigation, performed in accordance with the recommendations of the geotechnical feasibility evaluation prepared by TRC, shall be conducted over the entire mixed-use site prior to the Planned Development Permit stage to evaluate potential impacts due to compressible soils, liquefaction, expansive soils, seismic shaking, etc.; and mitigation measures, including site grading requirements, utilization of special foundations and control of drainage, shall be developed and implemented as warranted.

## ***HAZARDS AND HAZARDOUS MATERIALS***

### **Airspace Safety**

- SM HAZ-1: A “No-Hazard Determination” will be obtained from the FAA for each building; and any lighting/marketing or subsequent construction notification conditions will be incorporated into the project at the Planned Development Permit stage.
- SM HAZ-2: An aviation easement over the project site will be dedicated to the City of San Jose at the Planned Development Permit stage.

### **Wells**

- SM HAZ-3: If a water and/or groundwater monitoring well(s) is found during grading operations that is no longer needed, a well destruction permit will be obtained from the Santa Clara Valley Water District, and the monitoring well(s) will be destroyed in accordance with District standards.

### **Septic Systems**

- SM HAZ-4: If a septic system is found during grading operations, it will be abandoned in accordance with the requirements of the Santa Clara County Sewage Disposal Ordinance.

### **Asbestos-Containing Materials (ACM)**

- SM HAZ-5: The structure(s) to be removed will first be surveyed for the presence of ACM prior to the demolition permit stage. If any suspect ACM are present, they will be sampled prior to demolition in accordance with NESHAP guidelines, and all potentially friable ACM will be removed prior to building demolition and disposed offsite at a permitted facility in accordance with NESHAP, Cal-OSHA and BAAQMD requirements.

### **Lead Based Paint (LBP)**

- SM HAZ-6: The structure(s) to be removed will first be surveyed for the presence of LBP prior to the demolition permit stage. If any suspect LBP is present, it will be sampled prior to demolition, and all potential LBP will be removed prior to building

demolition and disposed offsite at a permitted facility in accordance with EPA and OSHA requirements.

**Polychlorinated Biphenyls (PCBs)**

- SM HAZ-7: If a transformer(s) is to be removed or if leaks are observed, the transformer oil shall be tested for PCBs. If PCBs are detected, a mitigation program shall be developed to the satisfaction of the Environmental Compliance Officer of the City's Environmental Services Department and implemented. The mitigation program may include such measures as soil testing, removal, and/or offsite disposal at a permitted facility.

MIXED-USE SITE

**General**

- MM HAZ-1: Prior to issuance of a Grading Permit, a Soil Management Plan shall be developed for the mixed-use site to the satisfaction of the Environmental Compliance Officer of the City's Environmental Services Department. The Soil Management Plan shall establish practices for managing and handling buried structures, wells, debris and/or impacted soil if these materials/structures are encountered prior to or during demolition and/or site grading. The measures identified in the Soil Management Plan, including special handling and/or disposal measures, shall be implemented as warranted.

**Underground Storage Tanks**

- MM HAZ-2: Prior to issuance of Planned Development Permit, the Santa Clara County Department of Environmental Health and/or Regional Water Quality Control Board shall be contacted to verify that no further site characterization, remediation and/or monitoring and reporting activities are required or to establish any engineering controls to mitigate any residual contaminants for the proposed development – consisting of three multi-story apartment towers with below-grade parking extending approximately 12 feet below ground – with regard to the fuel leak case closure on the northwesterly portion of the mixed-use site and the open fuel leak case on the southeasterly portion.
- MM HAZ-3: Prior to issuance of a Grading Permit, a geophysical survey shall be performed across the mixed-use site to assist in identifying any undiscovered USTs. Currently, there are three USTs that are reportedly present in the site subsurface.
- MM HAZ-4: For those USTs that have been identified on the mixed-use site, and/or if a UST(s) is found, a closure plan shall be prepared and a permit for the removal of the UST(s) shall be obtained from the San Jose Fire Department and the UST(s) removed and inspected in accordance with City procedures. The soil and/or groundwater beneath the UST(s) shall be sampled for contamination in accordance with Santa Clara County Department of Environmental Health and/or Regional Water Quality Control Board requirements; and, if any contamination is found, a soils

mitigation program including measures such as in-situ soils treatment or soils removal, aeration and/or appropriate disposal, and groundwater extraction and/or monitoring will be developed and implemented to the satisfaction of the Director of Planning and the SCCDEH and/or RWQCB.

#### **Soil and/or Groundwater Contamination**

- MM HAZ-5: Prior to issuance of a Grading Permit, soil and groundwater in the northwesterly portion of the mixed-use site shall be sampled for petroleum hydrocarbons and other related contaminants of concern with the appropriate regulatory agency oversight (e.g., Santa Clara County Department of Environmental Health / Regional Water Quality Control Board). The applicant shall submit a letter to the Environmental Compliance Officer of the City's Environmental Services Department to confirm that any and all impacted soil found above the agreed-upon health protective cleanup criteria, such as environmental screening levels (ESLs) for residential land use, has been removed for offsite disposal at a permitted facility. In the event that affected groundwater in this area requires additional remediation, monitoring and/or other measures to reach appropriate health protective cleanup criteria, such as ESLs for residential land use, shall be identified and implemented in consultation with representatives of the Santa Clara County Department of Environmental Health, Regional Water Quality Control Board and the Environmental Compliance Officer of the City's Environmental Services Department.
- MM HAZ-6: Prior to issuance of a Grading Permit, soil and groundwater at 861 Auzerais Avenue in the southeasterly portion of the mixed-use site shall be sampled for petroleum hydrocarbons and other related contaminants of concern in order to fully define the extent of impact from the UST; and the work shall be done with the appropriate regulatory agency oversight (e.g., Santa Clara County Department of Environmental Health / Regional Water Quality Control Board). The applicant shall submit a letter to the Environmental Compliance Officer of the City's Environmental Services Department to confirm that any and all impacted soil found above the agreed-upon health protective cleanup criteria, such as environmental screening levels (ESLs) for residential land use, has been removed for offsite disposal at a permitted facility. In the event that affected groundwater in this area requires additional remediation, monitoring and/or other measures to reach appropriate health protective cleanup criteria, such as ESLs for residential land use, shall be identified and implemented in consultation with representatives of the Santa Clara County Department of Environmental Health, Regional Water Quality Control Board and the Environmental Compliance Officer of the City's Environmental Services Department.
- MM HAZ-7: Prior to issuance of a Grading Permit, groundwater near the southwesterly mixed-use site boundary adjacent to the former asphalt plant shall be sampled for petroleum hydrocarbons and other related contaminants of concern with the appropriate regulatory agency oversight (e.g., Santa Clara County Department of Environmental Health / Regional Water Quality Control Board). The applicant shall

submit a letter to the Environmental Compliance Officer of the City's Environmental Services Department to confirm that any and all impacted soil found above the agreed-upon health protective cleanup criteria, such as environmental screening levels (ESLs) for residential land use, has been removed for offsite disposal at a permitted facility. In the event that affected groundwater in this area requires additional remediation, monitoring and/or other measures to reach appropriate health protective cleanup criteria, such as ESLs for residential land use, shall be identified and implemented in consultation with representatives of the Santa Clara County Department of Environmental Health, Regional Water Quality Control Board and the Environmental Compliance Officer of the City's Environmental Services Department.

### **Soil Vapor**

- MM HAZ-8: The soil gas beneath the mixed-use site shall be sampled and analyzed for petroleum hydrocarbons and volatile organic compounds (VOCs) prior to issuance of a Grading Permit. If sufficiently elevated hydrocarbon and/or VOC concentrations are identified, potential migration of vapors into the new structures shall be mitigated by measures such as vapor barriers and/or active or passive gas collection and venting with the appropriate regulatory agency oversight (e.g., Santa Clara County Department of Environmental Health / Regional Water Quality Control Board).

### **Railroad Lines**

- MM HAZ-9: Prior to issuance of a Grading Permit, soil quality along the railroad spurs in the southwesterly portion of the mixed-use site and the railroad rights-of-way through the mixed-use site and along the southeasterly boundary shall be sampled for chemicals that may have been used for dust suppression and/or weed control. The extent of residual contamination, if present, may require regulatory oversight (e.g., Regional Water Quality Control Board or Department of Toxic Substances Control). The applicant shall submit a letter to the Environmental Compliance Officer of the City's Environmental Services Department to confirm that any and all impacted soil found above the agreed-upon health protective cleanup criteria, such as environmental screening levels (ESLs) for residential land use, has been removed for offsite disposal at a permitted facility.
- MM HAZ-10: Wooden rail ties associated with the railroad spurs in the southwesterly portion of the mixed-use site, and the railroad right-of-way through the mixed-use site, shall be removed and appropriately disposed.

### **PARK SITE**

#### ***General***

- MM HAZ-11: The park site shall be viewed by a qualified environmental professional during demolition and pre-grading activities to observe areas of the property that may have been obscured by existing structures 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, submitted to the Environmental Compliance Officer of the City's Environmental Services Department, and implemented with such measures as soil testing, removal and/or offsite disposal at a permitted facility.

### ***Railroad Lines***

- MM HAZ-12: Prior to issuance of a Grading Permit, soil in the area around the boring in the northern portion of the railroad spur area of the park site shall be sampled for arsenic. The applicant shall submit a letter to the Environmental Compliance Officer of the City's Environmental Services Department to confirm that any and all impacted soil found above the agreed-upon health protective cleanup criteria has been removed for offsite disposal at a permitted facility.
- MM HAZ-13: Wooden rail ties associated with the railroad spur in the easterly portion of the park site shall be removed and appropriately disposed.

## ***HYDROLOGY AND WATER QUALITY***

### **Water Quality**

#### **Construction**

- SM HYDRO-1: Prior to the commencement of any clearing, grading or excavation, the project will comply with the State Water Resources Control Board's National Pollutant Discharge Elimination System (NPDES) General Construction Activities Permit, to the satisfaction of the Director of Public Works, as follows:
  - The applicant will develop, implement and maintain a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of stormwater pollutants including sediments associated with construction activities; and
  - The applicant will file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB).
- SM HYDRO-2: The project will incorporate Best Management Practices (BMPs) into the project to control the discharge of stormwater pollutants including sediments associated with construction activities.
- SM HYDRO-3: The project applicant will comply with the City of San Jose Grading Ordinance, including erosion and dust control during site preparation and with the City of San Jose Zoning Ordinance requirements for keeping adjacent streets free of dirt and mud during construction. The following specific BMPs will be implemented to prevent stormwater pollution and minimize potential sedimentation during construction:
  - Restriction of grading to the dry season (April 15 through October 15) or meet City requirements for grading during the rainy season;

- Utilize onsite sediment control BMPs to retain sediment on the project site;
- Utilize stabilized construction entrances and/or wash racks;
- Implement damp street sweeping;
- Provide temporary cover of disturbed surfaces to help control erosion during construction; and
- Provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

### **Post-Construction**

- SM HYDRO-4: Prior to the issuance of a Planned Development Permit, the applicant must provide details of specific BMPs including, but not limited to, bioswales, disconnected downspouts, landscaping to reduce impervious surface area, and inlets stenciled “No Dumping – Flows to Bay” to the satisfaction of the Director of Planning, Building and Code Enforcement.
- SM HYDRO-5: The project will comply with Provision C.3 of NPDES permit Number CAS0299718, which provides enhanced performance standards for the management of stormwater of new development.
- SM HYDRO-6: The project will comply with applicable provisions of the following City Policies – 1) Post-Construction Urban Runoff Management Policy (6-29) which establishes guidelines and minimum BMPs for all projects; and 2) Post-Construction Hydromodification Management Policy (8-14) which provides for numerically-sized (or hydraulically-sized) TCMs.

## ***NOISE***

### **MIXED-USE SITE**

#### **Exterior Noise/Vibration**

- SM NOIS-1: Vehicular traffic and railway noise and/or vibration, and the potential for noise from the adjacent commercial and industrial businesses, will be disclosed in sales contracts or leases.

#### **Interior Noise**

- SM NOIS-2: Mechanical ventilation will be provided in accordance with Uniform Building Code requirements when windows are to be closed for noise control, to the satisfaction of the Chief Building Inspector.

#### **Equipment Generated Noise**

- SM NOIS-3: Post-construction mechanical equipment will conform to the City’s General Plan limitation of 55 dB DNL at residential property lines, 60 dB DNL at commercial property lines and 70 dB DNL at industrial property lines by utilizing

measures such as equipment selection, location, equipment barriers and/or enclosures, duct lining or silencers, and/or acoustical louvers.

#### MIXED-USE SITE and PARK SITE

##### **Temporary Construction Noise**

- SM NOIS-4: Construction activities will be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any onsite or offsite 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.
- SM NOIS-5: The contractor will 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 will be equipped with adequate mufflers and will be in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components.
- SM NOIS-6: Stationary noise-generating equipment will be located as far as possible from sensitive receptors. Staging areas will be located a minimum of 200 feet from noise-sensitive receptors, such as residential uses.
- SM NOIS-7: Unnecessary idling of internal combustion engines will be prohibited.

#### MIXED-USE SITE

##### **Exterior Noise**

###### **Residential**

- MM NOIS-1: 42-inch-high solid railings shall be constructed at all upper level balconies or decks around the perimeter of the site.

###### **Commercial**

- MM NOIS-2: A noise report shall be submitted at the Planned Development Permit stage to the satisfaction of the Director of Planning, Building and Code Enforcement, to identify measures such as, but not limited to, mechanical equipment, commercial operational activities, and limiting hours of operation for delivery; and the measures shall be implemented as warranted during commercial operation.

##### **Interior Noise**

###### **Residential**

- MM NOIS-3: Windows and sliding glass doors shall be operable and up to STC 36 or higher rated windows and doors shall be installed at all living spaces facing roadways around the perimeter of the site.

- MM NOIS-4: All residential units shall be equipped with forced air ventilation systems to allow the occupants the option of maintaining the windows closed to control noise, and maintain an interior noise level of 45 dB DNL.
- MM NOIS-5: Prior to issuance of building permits, the developer shall retain a qualified acoustical consultant to check the building plans for all residential units to ensure that interior noise levels will be attenuated to 45 dB DNL to the satisfaction of the Director of Planning, Building and Code Enforcement.

### **Commercial**

- MM NOIS-6: STC 33 to 36 or higher rated windows, depending on the amount of glass in the façade, shall be installed in the commercial portion of the project.
- MM NOIS-7: A noise report shall be submitted at the Planned Development Permit stage to the satisfaction of the Director of Planning, Building and Code Enforcement, to identify measures such as, but not limited to, commercial glass ratings, and the measures shall be implemented as warranted.

### **Ground-borne Vibration**

- MM NOIS-8: A vibration assessment shall be conducted at the Planned Development Permit stage and measures to achieve acceptable ground-borne vibration levels will be incorporated into the project to the satisfaction of the Director of Planning.

### **Temporary Construction Noise**

- MM NOIS-9: A “noise disturbance coordinator,” who will be responsible for responding to any local complaints about construction noise, shall be designated. The disturbance coordinator shall determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable measures warranted to correct the problem. A telephone number for the disturbance coordinator shall be conspicuously posted at the construction site.

## ***PUBLIC SERVICES***

### **Schools**

- SM PUB-1: A school impact fee will be paid to the San Jose Unified School District to offset the increased demands on school facilities caused by the proposed project, in accordance with California Government Code Section 65996.

### **Parks and Recreation**

- SM PUB-2: The project will conform to the City’s Park Impact Ordinance (PIO) and/or the Parkland Dedication Ordinance (PDO) (Municipal Code Chapters 14.25 and 19.38, respectively).

## ***TRANSPORTATION / TRAFFIC***

### **Freeway Segments**

- MM TRAF-1: The project shall implement TDM measures from the CMP TIA Guidelines, including measures such as bike lockers, racks and facilities at transit centers; bike storage at residential developments; improve roadside bicycle facilities; improve pedestrian facilities; bus stop improvements; TDM programs and public information programs; and HOV parking preference program to the satisfaction of the Director of Public Works.
- MM TRAF-2: A contribution toward the future San Carlos LRT Station shall be made with the project.
- MM TRAF-3: Any missing sidewalk between the project site and the existing Diridon LRT Station to the north shall be constructed.