

PDC08-061

OHLONE MIXED USE PROJECT

DEVELOPMENT STANDARDS (DRAFT)

Rev. 10/20/10

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).

USE ALLOWANCES:

1. Residential development ranging from: 680-800 attached residential units. The project shall comply with the City's Inclusionary Housing Ordinance.
2. Commercial development range: 24,000 – 30,000 gross square feet.
3. Permitted, Special and Conditional uses of the CN Commercial Neighborhood District, as amended. Special and Conditional Uses of the CN Commercial Neighborhood District, as amended may be considered with a Planned Development Permit Amendment.
4. Uses of the LI Light Industrial Zoning District, as amended may be allowed on blocks that do not include new residential development as proposed. The continuance of existing legal industrial uses is allowed. Any modifications or expansions of such uses will be subject to a Planned Development Permit. Such permits may be subject to site, landscape and sidewalks upgrades to ensure better compatibility with the proposed residential development and to facilitate good pedestrian connectivity between Auzerais Avenue and W. San Carlos Street. Interim uses of proposed blocks for parking lots and/or other use consistent with Midtown Specific Plan Policy 2.4 may be allowed upon the issuance of a Planned Development Permit. Construction staging for the subject development and/or off-site transit improvements may also be allowed with a Permit Adjustment.

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. Private streets shall include public access easements and shall not be gated. In the event that the project is phased (i.e. only one or two blocks built at first phase), the sidewalks improvements to provide good pedestrian connectivity to Auzerais Avenue and W. San Carlos Street shall be built with the first phase.

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. The street names for the new street referenced in these development standard are tentative and subject to final approval at the Tentative Map stage. Wide sidewalks shall be provided throughout the project to facilitate generous clearance for pedestrians and also opportunities for sidewalk cafes and/or outdoor displays, where adjacent to commercial frontages.

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.

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. No setbacks shall apply to fully depressed parking garages.

Sunol Street Setback: 5’ minimum (excluding minor architectural projections such as, but not limited to, awnings, fins signs, and balconies). At least 35 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. No setbacks shall apply to fully depressed parking garages.

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. No setbacks shall apply to fully depressed parking garages.

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. No setbacks shall apply to fully depressed parking garages.

Use Restrictions:

1. The ground floor frontages along San Carlos Street and Sunol Street shall be comprised of only commercial uses such as restaurants, retail, and personal services. Office uses, shall be limited to no more than 20% of the commercial frontage on San Carlos Street, and no more 50% of the Sunol frontage.
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.
5. A single, open plaza area, with direct access to San Carlos Street and Sunol Street shall be provided. This plaza shall be at least 5,000 square feet.
6. Parking lanes along private streets shall include sidewalks pop-outs (i.e. sidewalk areas without parking that extend to the edge of the travel lane) with a combined total length of at least 100 feet per street.

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.

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. No setbacks shall apply to fully depressed parking garages.

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. No setbacks shall apply to fully depressed parking garages.

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 (1st 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. No setbacks shall apply to fully depressed parking garages.

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. No setbacks shall apply to fully depressed parking garages.

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.
5. Parking lanes along private streets shall include sidewalks pop-outs (i.e. sidewalk areas without parking that extend to the edge of the travel lane) with a combined total length of at least 100 feet per street.

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 130 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.

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 (1st 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. No setbacks shall apply to fully depressed parking garages.

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 (1st 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. No setbacks shall apply to fully depressed parking garages.

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. No setbacks shall apply to fully depressed parking garages.

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. No setbacks shall apply to fully depressed parking garages.

Light Rail Transit R-O-W Setback: 10 feet minimum

Use Restrictions:

1. Block C must maintain at least 2,500 square feet of commercial uses facing Sunol Street.
2. No more than three (3) live/work units and one (1) residential unit shall be located on the ground floor facing the Sunol. The residential unit entrance and open space shall orient toward the proposed private street.
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.
4. A single, open plaza area, with direct access to Auzerais Avenue and Sunol Street shall be provided. This plaza shall be at least 4,000 square feet.
5. Parking lanes along private streets shall include sidewalks pop-outs (i.e. sidewalk areas without parking that extend to the edge of the travel lane) with a combined total length of at least 100 feet per street.

ARCHITECTURE: The project shall use high quality materials and finishes. The footprints of the three towers shall be staggered as noted in the setback standards. Façade designs oriented toward the same direction shall be treated so that there is adequate variation to avoid a similar appearance for each tower. Façades with ground floor residential uses, shall be substantially articulated with stoops, individual unit entrances, and/or common building entrances to help activate the appearance of the streetscape to the satisfaction of the Director of Planning at the Planned Development Permit stage.

PARKING REQUIREMENTS: No outdoor surface parking, except along streets, shall be allowed anywhere on the project site. Bicycle parking shall be provided for each block in accordance with the Title 20 (Zoning Ordinance) requirements, as amended.

RESIDENTIAL

Note: The table below includes a 10% reduction from the standard Zoning Ordinance parking requirements for uses in close proximity to transit. An alternating parking arrangement may be considered at the Planned Development Permit stage for partial use of surplus commercial parking areas within parking garages.

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	Based on bedroom count only
Units coupled with tandem parking or parking lifts	2.0 unit

Parking Exception for Street Parking: The overall residential and commercial parking requirement may be reduced by up to 10%, at the discretion of the Director of Planning at the Planned Development Permit stage, provided that the developer can demonstrate that adequate street parking along the public and private street frontages of the project (including both side of West Way) is provided in accordance with the standards identified for the this project.

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. The parking exception for street parking noted above may be applied to the commercial component of the project.

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" (or equivalent pass) 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 (or equivalent pass) 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 (or equivalent pass) 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). The minimum width shall be 6 feet, however a minor reduction in that width may be considered by the Director of Planning at the PD Permit stage if the overall size of open space area is increased beyond the overall minimum area requirements.

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:

Prior to the approval of a Planned Development Permit the developer shall place a Deed Restriction on 3.99 acres of property located at Auzerais and Sunol Streets to ensure 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 with the City's approval of the first Planned Development Permit.

CONTRIBUTION FOR TRANSIT IMPROVEMENTS: Prior to issuance of a Planned Development Permit, the developer has voluntarily agreed to contribute the sum of \$1,000,000. to be applied to the development and/or design and/or financing of the West San Carlos (WSC) station or other public transportation nodes that the City and VTA deem necessary.

PUBLIC INFRASTRUCTURE IMPROVEMENTS: A complete list of final conditions shall be applied at the Planned Development stage to the satisfaction of the Director of Public Works in accordance with the final memorandum. These include, but are not limited to the following:

1. 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.
2. Modify the traffic signal at the intersection of Sunol Street and West San Carlos Street to conform the project frontage to surrounding street alignment.
3. In accordance with CMP requirements, the project is required to implement “Immediate Actions” portion of the CMP TIA Guidelines. Measures may include:
 - i. Bike lockers, racks, and facilities at Transit Centers
 - ii. Bike storage at residential developments
 - iii. Improve roadside bicycle facilities
 - iv. Improve pedestrian facilities
 - v. Bus Stop improvements
 - vi. TDM programs and public information programs
 - vii. HOV parking preference program
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.
5. The In Lieu Undergrounding Fee shall be paid to the City for all frontages adjacent to Auzeais 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.) 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.
6. Applicant shall be responsible to remove and replace curb, gutter, and sidewalk damaged during construction of the proposed project.
7. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
8. 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.

9. 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.
10. Per Common Interest Development (CID) Ordinance, all common infrastructure improvements such as private streets shall be designed and constructed in accordance with the current CID standards.
11. Provide public pedestrian and public bike access easements over the proposed private streets (South Lane and Earle Street).

ENVIRONMENTAL MITIGATION: The following mitigation measures, or equivalent measures, shall be provided as part of this project to the satisfaction of the Director of Planning.

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.

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- 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 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.