

DRAFT MITIGATED NEGATIVE DECLARATION

The following proposed project has been reviewed, pursuant to the provisions of Resolution No. 3231, as amended, of the City Council of the City of Fremont for the purpose of determining the likelihood of a significant adverse environmental impact occurring as a result of project completion.

NAME OF PROJECT: Dias Residential

PROJECT NO.: PLN2014-00195

DESCRIPTION OF PROJECT: The proposed project includes a Rezoning from Open Space to Preliminary and Precise Planned District (P-2014-00195), Tentative Tract Map, Historical Architectural Review, Cancellation of an Agricultural Preserve Contract, and Preliminary Grading Plan to facilitate preservation of an existing single-story house, demolition of outbuildings (including barn, chicken coop, garage, sheds, and windmill), and development of 20 detached, single-family homes on 4.5 net acres of an approximately 10.3-acre site within the Hill Area (Central) and Mission San Jose Community Plan Area of the City of Fremont. The project site at 42232 Mission Boulevard (APN: 513-0450-006-02) is located on the lower portion of the hillside area northeast of Mission Boulevard and just over 1,000 feet to the northwest of Interstate 680 (I-680).

LOCATION OF PROJECT: 42232 Mission Boulevard, Fremont, CA 94536 (APN: 513-0450-006-02)

GEOGRAPHIC LOCATION WITHIN CITY: Mission San Jose Community Plan Area

NAME OF AUTHORIZED AGENT OF APPLICANT: Robson Homes (attn.: Jake Lavin)

MAILING ADDRESS OF APPLICANT/AGENT: 2185 The Alameda, #150, San Jose, CA 95126

TYPE OF ENTITLEMENT(S) SOUGHT: Tentative Tract Map, Rezoning to a Planned District, Preliminary Grading Plan, and Historical Architectural Review.

EXPLANATION OF REASONS FOR THE FINDING: A finding is proposed that this project will not have a significant effect on the environment. The project is an infill development that is consistent with the General Plan land use designation for the subject property. Furthermore, the project includes specific mitigation measures which address potentially-significant impacts to air quality from dust generation during construction, to cultural resources during grading activities or site disturbance, to the public health from potential exposure to hazardous materials from the removal of contaminated soils, to biological resources (specifically nesting birds, bats, burrowing owls, American badgers, and special status plant species), and to future occupants of the project from exposure to noise generated by traffic along State Highway 238 (Mission Boulevard).

Public Hearing: The City's Historical Architectural Review Board is currently scheduled to consider the project on Thursday, November 6, 2014. All Historical Architectural Review Board meetings are held in the City Council Chambers located at 3300 Capitol Avenue, Fremont, CA 94538. All environmental documents are available for review by the public at the Planning Division office located at 39550 Liberty Street, Fremont, CA 94538.

Any comments as to whether the Draft Mitigated Negative Declaration should become final or whether an EIR should be prepared for the project must be submitted within 30 days of the posting of this Draft Mitigated Negative Declaration. **The comment period begins October 3, 2014 and ends November 3, 2014.**

If this Draft Mitigated Negative Declaration becomes final by any approval agency other than the City Council, any person who wishes to protest such final action must do so within ten days of the date it becomes final by the filing of a written protest with the City Clerk and by payment of the required protest fee. If this Draft Mitigated Negative

Declaration becomes final by City Council action, any person who disagrees with Council action may seek judicial review.

Posted within the Development Services Center on October 3, 2014.

Notice of Determination to be sent to:

- | | | | |
|-------------------------------------|---|-------------------------------------|---------------|
| <input checked="" type="checkbox"/> | Posting of Notice | <input checked="" type="checkbox"/> | County Clerk |
| <input checked="" type="checkbox"/> | Mailed to owners of contiguous property | <input checked="" type="checkbox"/> | Clearinghouse |
| <input type="checkbox"/> | Publish notice | | |

IF THERE ARE ANY QUESTIONS OR COMMENTS, PLEASE CONTACT:

Bill Roth	Associate Planner	510-494-4450
NAME	TITLE	PHONE NUMBER

Mitigation and Monitoring Plan (MMP) – Dias Residential (PLN2014-00195)

Impact	Mitigation Measure	Implementation	Monitoring Responsibility	Status / Timing
<p>Air quality management/ air pollution control</p>	<p><u>Mitigation Measure Air-1:</u> Prior to the issuance of a grading permit, the following best management practices shall be included in a dust control plan to limit fugitive dust emissions and noted on the grading and construction plans along with the contact information for a designated crew member responsible for the on-site implementation of the dust control plan:</p> <ol style="list-style-type: none"> 1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered twice per day. 2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered. 3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. 4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour. 5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. 6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Clear signage shall be provided for construction workers at all access points. 7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. 8. Post a publicly visible sign with the telephone number and person to contact at the City of Fremont regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations. 	<p>Civil and General Contractors</p>	<p>City of Fremont Public Works Department and Building Division</p>	<p>Dust control plan to be included in building permit plans prior to issuance of permit. Measures shall be implemented during all grading & construction activities.</p>

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Air quality management/ air pollution control	<p><u>Mitigation Measure Air-2: If the Final Grading Plan for the Project indicates that 10,000 cubic yards of soil or more will be exported from the site, Mitigation Measure MM Air-2 will be required.</u> Additional Construction Mitigation Measure for Projects potentially Above the BAAQMD Thresholds of Significance.</p> <ol style="list-style-type: none"> 1. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe. 2. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph. 3. Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction. Wind breaks should have at maximum 50 percent air porosity. 4. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established. 5. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time. 6. All trucks and equipment, including their tires, shall be washed off prior to leaving the site. 7. Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel. 8. Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent. 9. Minimizing the idling time of diesel powered construction equipment to two minutes. 10. The project shall develop a plan demonstrating that the off-road equipment (more than 50 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 20 percent NOX reduction and 45 percent PM reduction compared to the most recent ARB fleet average. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available. 11. Use low VOC (i.e., ROG) coatings beyond the local requirements (i.e., Regulation 8, Rule 3: Architectural Coatings). 12. Requiring that all construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NOx and PM. 13. Requiring all contractors use equipment that meets CARB's most recent certification standard for off-road heavy duty diesel engines. 	Civil and General Contractors	City of Fremont Public Works Department and Building Division	Dust control plan to be included in building permit plans prior to issuance of permit. Measures shall be implemented during all grading & construction activities.

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Biological Resources	<p><u>Mitigation Measure Bio-1.1:</u> Pre-Construction Surveys. If project-related activities are scheduled to occur during the nesting season (February 1 through August 31 for protected raptors and migratory birds), a pre-construction survey will be conducted by a qualified biologist for nesting birds within the onsite trees as well as all trees within 250 feet of the site within 30 days prior to the beginning of any project-related activities. If a lapse in the project-related work of 30 days or longer occurs during the nesting season, another survey shall be required before project work can be reinitiated. If an active nest is found, the permittee (applicant or developer) shall establish a buffer area that surrounds the nest location. The width of the buffer shall be determined by the survey biologist and shall be dependent on the location of the nest and the affected species. No project-related work or activities shall be permitted within the buffer area until the biologist has determined the young are self-sufficient from their parents. The final determination shall be made by the City of Fremont Planning Manager upon receipt of the biologist's recommendation.</p> <p><u>Mitigation Measure Bio-1.2a:</u> A pre-construction survey will be conducted by a qualified biologist for burrowing owls within 30 days of the on-set of construction. This survey will be conducted according to methods described in the Staff Report on Burrowing Owl Mitigation (CDFW 2012). All suitable habitats of the site will be covered during this survey.</p> <p><u>Mitigation Measure Bio-1.2b:</u> If pre-construction surveys undertaken during the breeding season (February 1 through August 31) locate active nest burrows within or near construction zones, these nests, and an appropriate buffer around them (as determined by a qualified biologist) will remain off-limits to construction until the breeding season is over or until a qualified biologist has determined that the natal burrow is no longer in use.</p>	Applicant, Civil, and/or General Contractors, with consultation from qualified wildlife biologist	City of Fremont Planning Division	Prior to issuance of building permit if the permit is to be issued during the nesting season.

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Biological Resources	<p><u>Mitigation Measure Bio-1.2c:</u> During the non-breeding season (September 1 through January 31), resident owls may be relocated to alternative habitat. The relocation of resident owls must be according to a relocation plan prepared by a qualified biologist. Passive relocation will be the preferred method of relocation. This plan must provide for the owl's relocation to nearby lands possessing available nesting and foraging habitat.</p> <p><u>Mitigation Measure Bio-1.3a:</u> A detailed bat survey shall be conducted prior to demolition of onsite buildings or removal of eucalyptus trees (eucalyptus trees are not currently proposed for removal, however, should plans change to remove eucalyptus trees, preconstruction surveys would be necessary). If a non-breeding and non-wintering bat colony is found, the individuals should be humanely evicted via the partial dismantlement of the buildings prior to demolition under the direction of a qualified bat specialist to ensure that no harm or "take" would occur to any bats as a result of demolition activities.</p> <p><u>Mitigation Measure Bio-1.3b:</u> If a maternity colony or overwintering colony is detected in the buildings, then a construction-free buffer should be established around the structure and remain in place until it has been determined that the nursery is no longer active. Demolition should preferably be done between March 1 and April 15 or August 15 and October 15 to avoid interfering with an active nursery and/or overwintering bats. Mitigation would not be required for the loss of roosting or foraging habitat for bats, as such habitat is abundantly available regionally.</p> <p><u>Mitigation Measure Bio-1.3c:</u> The Townsend's big-eared bat is currently undergoing review to be listed as Endangered under the California Endangered Species Act and is afforded all protections of a fully Endangered species during the review process. If a Townsend's big-eared bat maternity colony is detected (typical maternity dates are between April 15 and October 15) during surveys, a take permit (2081 Application) from the CDFW may be required, including a discussion of take avoidance, minimization, and compensation.</p>	Applicant, Civil, and/or General Contractors, with consultation from qualified wildlife biologist	City of Fremont Planning Division	Prior to issuance of building permit if the permit is to be issued during the nesting season.

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Biological Resources	<p><u>Mitigation Measure Bio-1.4a</u>: Pre-construction surveys conducted for burrowing owls should also be used to determine the presence or absence of badgers in the development footprint.</p> <p><u>Mitigation Measure Bio-1.4b</u>: If an active badger reproductive den is identified during preconstruction surveys within or immediately adjacent to the construction envelope, a construction-free buffer of up to 300 ft. should be established around the den. Because badgers are known to use multiple burrows in a breeding burrow complex, a biological monitor should be present onsite during construction activities to ensure the buffer is adequate to avoid direct impact to individuals or nest abandonment. The monitor would be necessary onsite until it is determined that young are of an independent age and construction activities would not harm individual badgers. Once it has been determined that badgers have vacated the site, the burrows can be collapsed or excavated, and ground disturbance can proceed.</p> <p><u>Mitigation Measure Bio-1.4c</u>: If an active day-use den is identified during preconstruction surveys, a construction-free buffer will be established around the den and a biological monitor will monitor the den with tracking medium and possibly wildlife cameras until the badger has left the den and it is no longer in use. Once it has been determined that badgers have vacated the site, the burrows can be collapsed or excavated, and ground disturbance can proceed.</p> <p><u>Mitigation Measure Bio-1.5</u>: Surveys of special status plant species should be conducted by a qualified biologist in the appropriate season to determine the presence and extent of these species onsite. For the species listed above, two surveys should occur: one in Spring (April or May) and the other in Fall (early October). Should these species occur onsite, additional mitigation may be warranted. The final determination on any additional mitigation shall be made by the City of Fremont Planning Manager upon receipt of the biologist's recommendation.</p>	Applicant, Civil, and/or General Contractors, with consultation from qualified wildlife biologist	City of Fremont Planning Division	Prior to issuance of building permit if the permit is to be issued during the nesting season.

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Cultural Resources	<p><u>Mitigation Measure Cult-1.1:</u> Discovery of Archaeological Resources. If prehistoric or historic-period cultural materials are unearthed during ground-disturbing activities, all work within 200 feet of the find shall halt until a qualified archaeologist and Native American representative can assess the significance of the find. Prehistoric materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or tool making debris; culturally darkened soil (“midden”) containing heat-affected rocks and artifacts; stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and battered-stone tools, such as hammerstones and pitted stones. Historic-period materials might include stone, concrete, or adobe footings and walls; filled wells or privies; and deposits of metal, glass, and/or ceramic refuse. If the find is determined to be potentially significant, the archaeologist, in consultation with the Native American representative, will develop a treatment plan that could include site avoidance, capping, or data recovery.</p> <p><u>Mitigation Measure Cult-1.2:</u> Discovery of Human Remains. In the event of the discovery of human remains during construction or demolition, there shall be no further excavation or disturbance of the site within a 200 foot radius of the location of such discovery, or any nearby area reasonably suspected to overlie adjacent remains. The Alameda County Coroner shall be notified and shall 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 shall notify the Native American Heritage Commission within 24 hours. The Commission shall 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 land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.</p>	Developer/Contractor	City of Fremont Building and Environmental Services Divisions	During site development work

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Cultural Resources	<p><u>MM Cult-1.3:</u> Discovery of Paleontological resources. In the event of the discovery of Paleontological resources during construction or demolition, there shall be no further excavation or disturbance of the site within a 200 foot radius of the location of such discovery until it can be evaluated by a qualified archeologist or paleontologist. Work shall not continue until the archeologist or paleontologist conducts sufficient research and data collection to make a determination as to the significance of the resource. If the resource is determined to be significant and mitigation is required, the first priority shall be avoidance and preservation of the resource. All feasible recommendations of the paleontologist shall be implemented. Mitigation may include, but not limited to, in-field documentation and recovery of specimens, laboratory analysis, preparation of a report detailing the methods and findings of the investigation, and curation at an appropriate paleontological collection facility.</p>	Developer/Contractor	City of Fremont Building and Environmental Services Divisions	During site development work
Hazardous Materials	<p><u>Mitigation Measure Haz-1:</u> Prior to issuance of building and/or grading permits for site development, remediation work to remove known contaminants or Recognized Environmental Conditions (RECs) at the subject property shall be implemented to the satisfaction of the Alameda County Water District (ACWD), City of Fremont Fire Department, California Department of Toxic Substance Control (DTSC), or other appropriate agency having jurisdiction, depending on the location (e.g., depth) and the type of REC found and the jurisdictional purview of the agencies. Completion of the remediation work and procurement of an appropriate closure document or written statement that the remediation work has been satisfactorily completed and without further conditions or obligations shall be submitted to the satisfaction of the City of Fremont Community Development Department. Compliance with this mitigation may require the applicant or their agent to complete a Preliminary Endangerment Report, Voluntary Cleanup Agreement or other documentation as determined by the appropriate agency, and receive concurrence that the site's RECs have been resolved.</p>	Developer/Contractor	City of Fremont Fire Department and Alameda County Water District	Prior to issuance of demolition and/or building permit(s).

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Noise	<p><u>MM Noise-1.1a (Sound Walls)</u>: To reduce exterior noise levels generated from uses on Mission Boulevard to an Ldn of 60 dB(A), an eight foot high sound-rated barrier (with respect to the elevation of the backyard grade height) will be installed to shield the backyards adjacent to Mission Boulevard. A six foot high sound-rated barrier will be installed to shield any portion of the backyard of Lot 20 that is directly exposed to Mission Boulevard.</p> <p><u>MM Noise-1.1b (Windows and Exterior Doors)</u>: To reduce interior noise levels to an Ldn of 45 dB(A) in habitable rooms, the windows and exterior doors for habitable rooms on all new buildings shall be Sound Transmission Class (STC) 30 or higher. For the west, south, and east elevations of the proposed houses on Lots 1, 2, and 3, STC 35 assemblies shall be used for bedrooms on the first floors, STC 32 assemblies shall be used for living rooms on the first floors, STC 40 assemblies shall be used for bedrooms on the second floors (and above), and STC 35 assemblies shall be used for living rooms on the second floors (and above). For the west, south, and east elevations of the proposed house on Lot 20, STC 32 assemblies shall be used for bedrooms and STC 28 assemblies shall be used for living rooms.</p> <p><u>MM Noise-1.1c (Ventilation)</u>: To ensure windows of the new buildings may remain closed to reduce interior noise levels of habitable spaces to an Ldn of 45 dB(A), an alternate means of providing outside air (e.g., HVAC, Z-ducts) shall be installed on all new buildings.</p>	Developer/Contractor	City of Fremont Planning and Building Divisions	During project design and construction