

**Environmental Impact Assessment PLN2015-00034**

**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:** Osgood Residences

**PROJECT NO.:** PLN 2015-00034

**DESCRIPTION OF PROJECT:** The proposed project is a Design Review and a Vesting Tentative Tract Map (No. 8210) for a 93-unit residential condominium building on a 1.6 acre site at 42111 and 42183 Osgood Road located in a Transit Oriented Development (TOD) district. The proposed subdivision would be accessed via a new looped drive way leading from Osgood Road into the property and providing access to the guest parking spaces along the exterior of the building as well as a parking garage that would be located on the first floor of the building. The site would include landscaping and patio areas in the rear portion of the site as well as in three courtyards on the second floor that will function as common open space. All of the residences would be provided with a private balcony.

The project would contain 20 different floor plans with 20, one-bedroom units; 44, two-bedroom units and 29, three-bedroom units. The condominiums would range in size from 774 to 1570 square feet of living space. All residences would be provided with one parking stall that would be located at-grade in a common parking garage. The project was designed to use a mechanical parking conveyor system which would stack vehicles (two in height) across the parking garage. Thirteen guest parking spaces would be provided along the main driveway on the north side of the building and three guest parking spaces would be located on the south side of the building. There would be 31 guest parking spaces available in the parking garage. The building's main entrance would have a lobby and lounge area that would be oriented to Osgood Road.

The property is designated Residential-Urban in the General Plan, which requires a density of between 30 and 70 dwelling units per acre (du/acre). The proposed project has a density of 58 du/acre. The property is currently zoned R-3-27, Multifamily Residence District and is also located in a Transit Oriented Development (TOD) Overlay District, which is intended to facilitate higher density housing in proximity to transit (BART). A project located in a TOD overlay district requires a Design Review process with approval by the Planning Commission.

**LOCATION OF PROJECT:** 42111 & 42183 Osgood Road, Fremont, CA, 94539  
(APN: 525-339-4-8; 10)

**GEOGRAPHIC LOCATION WITHIN CITY:** Irvington Community Plan Area

**NAME OF AUTHORIZED AGENT OF APPLICANT:** Shaivali Desai, SiliconSage Builders

**MAILING ADDRESS OF APPLICANT OR AGENT:** 3255-2 Scott Boulevard, Suite 101, Santa Clara, CA 95054

**TYPE OF ENTITLEMENT SOUGHT:** Design Review and Vesting Tentative Tract Map No. 8210.

**EXPLANATION OF REASONS FOR THE FINDING:** A finding is proposed that this project will not have a significant effect on the environment. The project complies with development standards of the Fremont Municipal Code and General Plan. Mitigation measures are incorporated into the project addressing potential significant impacts.

The proposed development is a Design Review to allow the development of a 93 unit residential condominium building on a 1.6 acre site. The project is an infill development in an urban area that does not displace, destroy, or remove significant natural vegetation, wildlife, or natural resources and the project includes site plan, architectural and use controls in conformance with the City codes and policies, as well as with other responsible agency regulations. Mitigations measures were included to address noise from Osgood Road and the railroad located west of the site. Furthermore, the project includes specific mitigation measures addressing potential significant impacts related to minor and temporary increases in air pollutants will occur during grading of the site and off-hauling of surplus soils. Construction activities may also generate additional temporary particulate matter impacts to air quality. Because of the short duration of these construction activities, impacts will be less than significant with implementation measures.

**Public Hearing:** The Planning Commission is tentatively scheduled to consider the project at its March 12, 2015 meeting. Planning Commission meetings are held in the City Council Chambers at 3300 Capitol Avenue. All environmental documents are available for review at 39550 Liberty Street, Fremont.

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 20 days of the posting of this draft negative declaration. The comment period begins February 20, 2015 and ends March 12, 2015.

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 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 February 20, 2015.

Notice of Determination to be sent to:

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

IF THERE ARE ANY QUESTIONS OR COMMENTS, PLEASE CONTACT:

Terry Wong	Associate Planner	(510) 494-4456
NAME	TITLE	PHONE NUMBER

**Mitigation and Monitoring Plan (MMP) – Osgood Residences – Osgood Road (PLN2015-00034)**

<b>Impact</b>	<b>Mitigation Measure</b>	<b>Implementation</b>	<b>Monitoring Responsibility</b>	<b>Status / Timing</b>
<p>Air quality management/ air pollution control</p>	<p><b><i>Mitigation Measure Air-1:</i></b> <i>Prior to the issuance of a grading and/or building permit, whichever occurs first, the following best management practices shall be included in a dust control plan to limit particulate matter (dust emissions) and noted on construction plans along with the contact information for a designated crewmember responsible for the on-site implementation of the plan:</i></p> <ol style="list-style-type: none"> <li><i>1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered twice per day.</i></li> <li><i>2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.</i></li> <li><i>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.</i></li> <li><i>4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.</i></li> <li><i>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.</i></li> <li><i>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.</i></li> <li><i>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.</i></li> <li><i>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.</i></li> </ol>	<p>Developer/Contractor</p>	<p>City of Fremont Building Division</p>	<p>During site development work</p>

**Mitigation and Monitoring Plan (MMP) – Osgood Residences – Osgood Road (PLN2015-00034)**

<b>Impact</b>	<b>Mitigation Measure</b>	<b>Implementation</b>	<b>Monitoring Responsibility</b>	<b>Status / Timing</b>
Biological Resources	<p><b><i>Mitigation Measure Bio-1:</i></b> To mitigate any potential impact to future occupation of the site by burrowing owls, the following measures shall be incorporated into the project conditions of approval and written into the construction drawings:</p> <p>a) No more than 30 days prior to the start of construction activity, a focused survey for burrowing owls shall be conducted by a qualified biologist, in accordance with the most recent version of the California Department of Fish and Game (CDFG) protocol to identify active burrows on and within 250 feet of all construction and staging areas. The preconstruction surveys shall be conducted regardless of the time of year in which construction occurs. If there is a gap of more than 30 days in project activity in an undisturbed construction area, the area shall be re-surveyed prior to the recommencement of activity. Prior to the commencement of construction after the survey, a written verification by the biologist of the survey result shall be submitted to the City. If no occupied burrows are found in the survey area, no further action is necessary.</p> <p>b) In addition to preconstruction surveys, the contractor, in consultation with a biologist, shall provide an educational presentation for job site construction workers that explains and identifies burrowing owl considerations so as to avoid other accidental incidents when a biologist is not present. Written verification of participation in an educational program shall be provided by the biologist prior to initial commencement of work on the site and signs or posters shall be maintained on site in a prominent location visible to workers that identify burrowing owls.</p> <p>c) If occupied burrows are found in the survey area, on-site passive relocation techniques (e.g., one-way doors) may be used to encourage owls to move to alternative burrows outside of the impact area. Notification shall be given to the City upon discovery. A protection plan shall be prepared by the biologist and submitted for City review. Relocation or disturbance of owls cannot occur during the nesting season (April through August).</p>	Developer/Contractor	City of Fremont Building Division	During site development work

**Mitigation and Monitoring Plan (MMP) – Osgood Residences – Osgood Road (PLN2015-00034)**

<b>Impact</b>	<b>Mitigation Measure</b>	<b>Implementation</b>	<b>Monitoring Responsibility</b>	<b>Status / Timing</b>
	<p><i>A qualified biologist may verify through non-invasive methods that the burrow is no longer occupied and prevention measures may then be incorporated to prevent reoccupation during the nesting season.</i></p> <p><i>d) If a burrow is occupied during the nesting season, impacts shall be avoided by establishing a 250 foot buffer around the burrow where no activity shall occur. The size of the buffer area may be adjusted if a qualified biologist determines it would not be likely to have adverse effects on the burrow. No project activity shall commence within the buffer area until the nesting season has ended, or a qualified biologist confirms that the burrow is no longer occupied or that the young have fledged.</i></p> <p><b>Mitigation Measure Bio-2:</b> <i>If project-related activities are scheduled to occur during the nesting season (February 1 through August 31 for protected raptors and migratory birds), a focused survey of the work area for active nests of such birds shall be conducted by a qualified biologist within 15 days prior to the beginning of any project-related activities. If a lapse in the project-related work of 15 days or longer occurs during the nesting season, another focused survey will be required before project work can be reinitiated. If an active nest is found, the applicant/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 nest is no longer active. The final determination shall be made by the City of Fremont Planning Manager upon receipt of the biologist's recommendation.</i></p>			

**Mitigation and Monitoring Plan (MMP) – Osgood Residences – Osgood Road (PLN2015-00034)**

<b>Impact</b>	<b>Mitigation Measure</b>	<b>Implementation</b>	<b>Monitoring Responsibility</b>	<b>Status / Timing</b>
Cultural Resources	<p><b>Mitigation Measure Cult-1:</b> <i>If any archaeological or paleontological resources or human remains are encountered during grading or site disturbance, the following measures shall be implemented:</i></p> <ul style="list-style-type: none"> <li>• <i>All work shall cease within a 200-foot radius of the discovery until it can be evaluated by a qualified archaeologist. Work shall not continue until the archaeologist 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. If avoidance is not feasible, an alternative archaeological management plan shall be prepared that may include excavation. If human remains are discovered, the Alameda County Coroner’s office shall be notified as required by state law. All excavation and monitoring activities shall be conducted in accordance with the prevailing professional standards, as outlined in the CEQA Guidelines and by the California Office of Historic Preservation.</i></li> </ul> <p><b>Mitigation Measure Cult-2:</b> <i>Implement project improvement measure 1.0, which suggests modifications to the Landscape design that prioritize the ability to see the primary (northeast) and secondary (southeast and northwest) facades of the historic house from the public right-of-way.</i></p> <p><b>Mitigation Measure Cult-3:</b> <i>Follow measures outlined in Exterior Rehabilitation Plan (Siegel and Strain, July 2014) when conducting necessary repairs and remediation to the Historic Resource.</i></p>	Developer/Contractor	City of Fremont Building Division	During site development work

**Mitigation and Monitoring Plan (MMP) – Osgood Residences – Osgood Road (PLN2015-00034)**

<b>Impact</b>	<b>Mitigation Measure</b>	<b>Implementation</b>	<b>Monitoring Responsibility</b>	<b>Status / Timing</b>
Geology/ Hazardous Materials	<i><b>Mitigation Measure Haz/Water -1:</b> The developer shall place the top 18 inches of soil excavated from the eastern portion of the site in the fill area of the proposed driveway area and cap with 12 inches of approved import or on-site soil material. Further Best Management Practices shall be included during the grading of the site and a representative from Silicon Valley Soil Engineering shall be present during the commencement and throughout the grading operation of the site.</i>	Developer/Contractor	City of Fremont Building Division	During site development work
Noise	<p><i>Mitigation Measure Noise-1:</i> The project shall include the installation of windows and doors with sound insulation ratings in the range of Sound Transmission Class (STC) of 32 to 34 in units closest to Osgood Road and an STC of 32 to 36 for units closest to the Union Pacific Rail Road and BART rail lines and an STC of 28 to 30 for units on the north and south facing sides of the building.</p> <p><i>To mitigate exterior noise levels exceeding an acceptable Ldn of 65 dB(A), a 3-foot, six-inch tall solid railing shall be required in the three courtyards along the north edge of the building.</i></p> <p><i>Mitigation Measure Noise-2:</i> Prior to approval of final map and issuance of building permits for the construction of homes, the applicant shall retain the services of an acoustical consultant to verify adherence to the preliminary noise recommendations of the November 5, 2014 “Osgood Residences Environmental Noise and Ground-Bourne Vibration Assessment” prepared by Charles M. Slater Associates, Inc. and include final acoustic and vibration specifications for review by the Community Development Department of the City of Fremont during building permit plan check.</p>	Developer/Contractor	City of Fremont Building Division	During site development work