

CITY OF SANTA CLARA, CALIFORNIA

1075 Pomeroy Avenue Residential Subdivision

MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)

SEPTEMBER 2017



1075 Pomeroy Avenue Residential Subdivision Project

Mitigation Monitoring and Reporting Program (MMRP)

1. Introduction

Assembly Bill (AB) 3180, enacted by the California Legislature in 1988, requires lead agencies to prepare and adopt a program to monitor and/or report on all mitigation measures required in conjunction with certification of an Environmental Impact Report (EIR) or adoption of a Mitigated Negative Declaration pursuant to the California Environmental Quality Act (CEQA).

A public agency must certify an EIR or adopt a Mitigated Negative Declaration when approving a discretionary project that could significantly affect the environment in an adverse manner. The monitoring or reporting program is intended to ensure the successful implementation of measures that public agencies impose to reduce or avoid the significant adverse impacts identified in an environmental document. Adoption of the monitoring program is to occur when a public agency makes the findings to approve a project requiring an EIR or when adopting a Mitigated Negative Declaration. There is no statutory requirement for a lead agency to circulate a monitoring program for public review prior to adopting the program.

The monitoring program should specify the steps whereby implementation of project mitigation measures can be verified during project construction and operation. Typically, the monitoring program should, for each mitigation measure, identify the entity responsible for implementing the measure and an individual, qualified professional, or agency responsible for ensuring compliance. The monitoring program should also identify: the action or actions required to ensure compliance; when and how frequently monitoring should occur; a mechanism for reporting compliance or non-compliance; and an agency that receives and monitors the reports on compliance. AB 3180, as promulgated in Public Resources Code Section 21081.6, does not require a mitigation monitoring program to include measures imposed to mitigate the environmental effects of less-than-significant impacts.

AB 3180 does not provide State reimbursement for implementing the mitigation monitoring requirements because local agencies have the authority to levy fees sufficient to pay for such programs. Local agencies may recover the monitoring and reporting costs through charging a service fee pursuant to Government Code sections 65104 and 66000 *et seq.*

2. Monitoring Program

The purpose of this Mitigation Monitoring and Reporting Program (MMRP) is to present a thorough approach for monitoring the implementation of the measures required to mitigate the significant and potentially significant impacts identified in the *1075 Pomeroy Avenue Residential Subdivision Project Initial Study & Mitigated Negative Declaration*. The monitoring program identifies each mitigation measure for a significant impact and specifies the means for verifying successful implementation. Failure to comply with all required mitigation measures will constitute a basis for withholding building permits or undertaking legal enforcement actions.

Project Approvals

Prior to each successive approval during development of the proposed project, the City of Santa Clara Planning Division shall confirm via the MMRP table (included in this document) proper implementation of all mitigation measures required to that point in time. If any mitigation measures have not been implemented as required, the permit or other approval shall be

withheld until successful implementation of the measure has been confirmed by the City. If noncompliance of required mitigation measures occurs following completion of construction and project occupancy, the failure shall be grounds for revocation of the occupancy permit(s) for the project, or other enforcement action by the City Attorney.

MMRP Table

The heart of this document is the MMRP table, which identifies the monitoring and reporting requirements for each mitigation measure identified in the Mitigated Negative Declaration. More specifically, the table provides the following information for each mitigation measure:

- **Impact Summary**— a brief one-sentence summary statement of the impact being mitigated.
- **Mitigation Measure**— the verbatim text of the mitigation measure as adopted by the City. In some cases, the measure may differ slightly from the language presented in the Mitigated Negative Declaration circulated for public review.
- **Implementation Responsibility**— the entity responsible for implementing the mitigation measure.
- **Monitoring Responsibility**— the person or agency responsible for physically verifying that the mitigation measure has been implemented and for recording the verification in the MMRP table. In some cases, an outside regulatory agency may be involved in determining or ensuring mitigation compliance, but reporting of compliance in the MMRP table is the responsibility of City staff in all cases.
- **Timing/Frequency of Monitoring**— the phase of the project during which monitoring activities must occur and/or milestone(s) at which single-event monitoring activities must occur followed by how often monitoring activities must occur. Typically, the monitoring occurs once, weekly, or monthly.

Reporting

Reporting shall be satisfied by a written notation in the space provided for each mitigation measure in the MMRP table, as noted above. The MMRP table shall be maintained on file at the offices of the Planning Division until, at a minimum, all mitigation measures have been successfully implemented and verified.

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Mitigation Measure	Implementation Responsibility	Monitoring Responsibility	Timing/ Frequency of Monitoring
AIR QUALITY			
<p>Impact: Generation of airborne particulate matter during construction.</p> <p>Mitigation Measure AQ-1: BAAQMD Required Dust Control Measures: The contractor shall reduce construction-related air pollutant emissions by implementing BAAQMD's basic fugitive dust control measures, including:</p> <ul style="list-style-type: none"> • All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered at least two times per day. • All haul trucks transporting soil, sand, or other loose material off site shall be covered. • 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. • All vehicle speeds on unpaved roads shall be limited to 15 mph. • All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. • 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 [CCR]). Clear signage shall be provided for construction workers at all access points. • All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator. • Post a publicly visible sign with the telephone number and person to contact at the Lead Agency 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. 	Project Sponsor and Construction Contractor	<p>Bay Area Air Quality Management District (BAAQMD),</p> <p>City of Santa Clara Planning and Inspection Department</p>	During all phases of construction

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BIOLOGICAL RESOURCES			
<p>Impact: Potential adverse effects on nesting birds.</p> <p>Mitigation Measure BR-1: If any site grading or project construction will occur during the general bird nesting season (February 1st through August 31st), a bird nesting survey shall be conducted by a qualified raptor biologist prior to any grading or construction activity. The survey shall encompass both trees on the project site and trees on adjoining properties if the biologist determines that nesting birds in nearby trees could be adversely affected by project construction activities. If conducted during the early part of the breeding season (January to April), the survey shall be conducted no more than 14 days prior to initiation of grading/construction activities; if conducted during the late part of the breeding season (May to August), the survey shall be performed no more than 30 days prior to initiation of these activities. If active nests are identified, a 250-foot fenced buffer (or an appropriate buffer zone determined in consultation with the California Department of Fish and Wildlife) shall be established around the nest tree and the site shall be protected until September 1st or until the young have fledged. A biological monitor shall be present during earth-moving activity near the buffer zone to make sure that grading does not enter the buffer area.</p>	Project Sponsor	<p>City of Santa Clara Planning and Inspection Department</p> <p>Independent Raptor Biologist</p>	During all phases of construction
CULTURAL RESOURCES			
<p>Impact: Potential damage to significant archaeological or historical resources.</p> <p>Mitigation Measure CR-1: In the event that prehistoric or historic resources are encountered during excavation and/or grading of the site, all activity within a 50-foot radius of the find shall be stopped, the Director of Planning and Inspection shall be notified, and a qualified archeologist or paleontologist shall examine the find and make appropriate recommendations. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A professional-quality report of findings documenting any data recovery during monitoring shall be submitted to the Director of Planning and Inspection and the Northwest Information Center at Sonoma State University in Rohnert Park. The project sponsor shall fund and implement the mitigation in accordance with Section 15064.5(c)–(f) of the <i>CEQA Guidelines</i> and Public Resources Code Section 21083.2.</p>	<p>Project Sponsor/ Project Construction Superintendent</p> <p>Archaeological Monitor (if applicable)</p>	<p>City of Santa Clara Planning and Inspection Department</p>	<p>Prior to issuance of Demolition Permit or Grading Permit</p> <p>During all phases of construction</p>
<p>Impact: Potential damage to buried human remains of Native Americans.</p> <p>Mitigation Measure CR-2: In the event that human remains are discovered during excavation and/or grading of the site, all activity</p>	<p>Project Sponsor/ Grading Contractor</p> <p>Archaeological Monitor</p>	<p>City of Santa Clara Planning and Inspection Department</p> <p>Archaeological Monitor</p>	During all phases of construction

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within a 50-foot radius of the find shall be stopped. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) immediately. Once the NAHC identifies the most likely descendants, the descendants will make recommendations regarding the proper burial, which shall be implemented in accordance with Section 15064.5(e) of the <i>CEQA Guidelines</i> .	(if applicable)	(if applicable)	
Impact: Potential damage to paleontological resources. Mitigation Measure CR-3: If any paleontological resources are encountered during site grading or other construction activities, all ground disturbance shall be halted until the services of a qualified paleontologist can be retained to identify and evaluate the scientific value of the resource(s) and, if necessary, recommend mitigation measures to document and prevent any significant adverse effects on the resource(s). Significant paleontological resources shall be salvaged and deposited in an accredited and permanent scientific institution, such as the University of California Museum of Paleontology (UCMP).	Project Sponsor/ Grading Contractor Archaeological Monitor (if applicable)	City of Santa Clara Planning and Inspection Department Independent Professional Paleontologist (if applicable)	During all phases of construction
HAZARDS AND HAZARDOUS MATERIALS			
Impact: Potential exposure of construction workers to pesticide residue in soils. Mitigation Measure HM-1: Prior to issuance of a grading permit, the project sponsor shall retain the services of a qualified environmental assessor to conduct a Phase I Environmental Site Assessment (ESA) in accordance with the procedures included in Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process published by the American Society for Testing and Materials (ASTM). If the Phase I ESA does not identify a need for subsurface testing of soils, no further mitigation would be required. If the Phase I ESA recommends subsurface testing of soils to further characterize the risk at the site, the project sponsor shall commission a qualified environmental assessor to perform a Phase II ESA, which will include conducting the subsurface testing in accordance with the recommendations presented in the Phase I ESA. The results of the Phase I ESA, and the Phase II ESA, if required, shall be presented in a professional report(s) to be submitted to the Santa Clara Planning Division. If the Phase II ESA identifies soil contamination in excess of applicable standards for residential properties, site remediation shall be performed in accordance with the Phase II ESA recommendations and satisfactory cleanup levels shall be achieved prior to commencement of any project construction activities. The Santa Clara Building Division shall confirm site cleanup prior to	Project Sponsor	City of Santa Clara Building Division	Prior to issuance of Grading Permit

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<p>issuance of a grading permit.</p> <p style="text-align: center;">OR</p> <p>In lieu of conducting the Phase I ESA, the project sponsor may elect to retain the services of a qualified environmental assessor to conduct a limited program of subsurface testing, collecting the minimum number of soil samples stipulated in the applicable ASTM standards and submitting the samples for analysis by a State-certified laboratory for pesticides, lead, and arsenic. If the results identify soil contamination in excess of applicable standards for residential properties, site remediation shall be performed in accordance with the limited Phase II ESA recommendations and satisfactory cleanup levels shall be achieved prior to commencement of any project construction activities. The Santa Clara Building Division shall confirm site cleanup prior to issuance of a grading permit.</p>			
<p>Impact: Potential exposure of construction workers to hazardous asbestos-containing building materials.</p> <p>Mitigation Measure HM-2: Prior to issuance of a demolition permit for the existing buildings on the site, a comprehensive survey for asbestos-containing building materials (ACBM) shall be conducted by a qualified asbestos abatement contractor. Sampling for ACBM shall be performed in accordance with the sampling protocol of the Asbestos Hazard Emergency Response Act (AHERA). If ACBM is identified, all friable asbestos shall be removed prior to building demolition by a State-certified Asbestos Abatement Contractor, in accordance with all applicable State and local regulations. The Bay Area Air Quality Management District (BAAQMD) shall be notified ten days in advance of any required abatement work. To document compliance with the applicable regulations, the project sponsor shall provide the City of Santa Clara Building Inspection Division with a copy of the notice required by BAAQMD for asbestos abatement work, prior to and as a condition of issuance of the demolition permit.</p>	Project Sponsor	City of Santa Clara Building Division	Prior to issuance of Demolition Permit
<p>Impact: Potential exposure of construction workers to hazardous lead-based paint.</p> <p>Mitigation Measure HM-3: Prior to issuance of a demolition permit for the existing buildings on the site, a survey for lead-based paint (LBP) shall be conducted by a qualified lead assessor. If LBP is identified, lead abatement shall be performed in compliance with all federal, State, and local regulations applicable to work with LBP and disposal of lead-containing waste. A State-certified Lead-Related Construction Inspector/Assessor shall provide a lead clearance report after the lead abatement work in the buildings is completed. The project sponsor shall provide a copy of the lead clearance report to the City of Santa Clara Building Inspection Division prior to issuance of a demolition permit.</p>	Project Sponsor	City of Santa Clara Building Division	Prior to issuance of Demolition Permit