

FINAL

Gilroy 2040 General Plan EIR

SCH# 2015082014

September 23, 2020



Prepared by
EMC Planning Group

Gilroy 2040 General Plan

FINAL ENVIRONMENTAL IMPACT REPORT

SCH# 2015082014

PREPARED FOR

City of Gilroy Community Development Department

7351 Rosanna Street

Gilroy, CA 95020-6197

Tel 408.846.0451

PREPARED BY

EMC Planning Group Inc.

301 Lighthouse Avenue Suite C

Monterey, CA 93940

Tel 831.649.1799

Fax 831.649.8399

www.emcplanning.com

September 23, 2020

This document was produced on recycled paper.



TABLE OF CONTENTS

1.0	INTRODUCTION.....	1-1
2.0	COMMENTS ON THE DRAFT EIR	2-1
2.1	CEQA Requirements.....	2-1
2.2	Comments on the Draft EIR and Responses to Comments	2-1
3.0	CHANGES TO THE DRAFT EIR.....	3-1
3.1	CEQA Requirements.....	3-1
3.2	Changes Made.....	3-1
4.0	REVISED SUMMARY	4-1
ES.1	CEQA Requirements.....	4-1
ES.2	Proposed Project Summary	4-1
ES.3	Summary of Significant Impacts and Mitigation Measures	4-2
ES.4	Areas of Known Controversy	4-2

Tables

Table S-1	Revised Summary of Significant Impacts and Mitigation Measures.....	4-3
-----------	---	-----

INTRODUCTION

The City of Gilroy, acting as the lead agency, determined that the proposed Gilroy 2040 General Plan (hereinafter “proposed project”) might result in significant adverse environmental effects, as defined by the California Environmental Quality Act (“CEQA”) Guidelines section 15064.

The City of Gilroy had a draft EIR prepared to evaluate the potentially significant adverse environmental impacts of the proposed project, in compliance with CEQA and the CEQA Guidelines. The draft EIR was circulated for public review from June 26, 2020 to August 10, 2020 and public comment was received. CEQA Guidelines section 15200 indicates that the purposes of the public review process include sharing expertise, disclosing agency analysis, checking for accuracy, detecting omissions, discovering public concerns, and soliciting counter proposals.

This final EIR has been prepared to address comments received during the public review period and, together with the draft EIR, constitutes the complete EIR for the proposed project. This final EIR is organized into the following four sections:

- Section 1 contains an introduction to this final EIR.
- Section 2 contains written comments on the draft EIR, as well as the responses to those comments.
- Section 3 contains changes to the draft EIR.
- Section 4 contains a revised summary.

This side intentionally left blank.

COMMENTS ON THE DRAFT EIR

2.1 CEQA REQUIREMENTS

CEQA Guidelines section 15132(c) requires that the final EIR contain a list of persons, organizations, and public agencies that have commented on the draft EIR. A list of the correspondence received during, as well as after, the public review period is presented below.

CEQA Guidelines sections 15132(b) and 15132(d) require that the final EIR contain the comments that raise significant environmental points in the review and consultation process, and written response to those comments be provided. A copy of each comment letter or other form of correspondence received during the public review period is provided. The number of each letter is included at the top of the first page of each letter. Numbers inserted along the margin of each comment letter identify individual comments for which a response is provided. Responses corresponding to the numbered comments are presented immediately following each letter.

Where required, revisions have been made to the text or graphics of the draft EIR. Comments that trigger changes to the draft EIR are so noted as part of the response. Changes to the draft EIR are included in Section 3.0, Changes to the Draft EIR.

2.2 COMMENTS ON THE DRAFT EIR AND RESPONSES TO COMMENTS

The following correspondence that included comments on the draft EIR was received during the 45-day public review period (June 26, 2020 to August 10, 2020) on the draft EIR:

1. Native American Heritage Commission (July 6, 2020);
2. California Department of Conservation – Geologic Energy Management Division (July 31, 2020);

2.0 COMMENTS ON THE DRAFT EIR

3. Erik Medina, Gilroy Resident (July 31, 2020);
4. California Department of Transportation (Caltrans) District 4 (August 7, 2020);
5. Bay Area Air Quality Management District (August 10, 2020);
6. Local Agency Formation Commission (LAFCO) of Santa Clara County (August 10, 2020);
7. Sierra Club, Loma Prieta Chapter (August 10, 2020);
8. Open Space Authority Santa Clara Valley (August 10, 2020);
9. Valley Water (August 10, 2020);
10. County of Santa Clara Roads and Airports Department (August 10, 2020);
11. Soft Lights (August 10, 2020);
12. County of Santa Clara Department of Planning and Development (August 10, 2020); and

The following comment letter was received after the 45-day public comment period ended:

13. Local Agency Formation Commission (LAFCO) of Santa Clara County (August 12, 2020).

NATIVE AMERICAN HERITAGE COMMISSION

July 6, 2020

Cindy McCormick, Senior Planner
City of Gilroy

Via Email to: cindy.mccormick@ci.gilroy.ca.us

Re: SCH#2015082014, Gilroy 2040 General Plan Project, Santa Clara County, California

Dear Ms. McCormick:

1 | The Native American Heritage Commission (NAHC) has reviewed the Draft Environmental Impact Report (DEIR)/Mitigated Negative Declaration (MND) or Negative Declaration prepared for the project referenced above. The review may have included the Cultural Resources Section, Archaeological Report, Appendices for Cultural Resources Compliance, as well as other informational materials. We have the following concerns:

- 2 | • There does not appear to be evidence that possible mitigation measures were developed in consultation with the traditionally, culturally affiliated California Native American Tribes, for example when resources are found, avoidance or conservation easements.
- 3 | • There does not appear to be any evidence in mitigation measures of what to do for inadvertent finds of Native American remains in accordance with Health and Safety Code 7050.5.

4 | The California Environmental Quality Act (CEQA)¹, specifically Public Resources Code section 21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant effect on the environment.² If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an environmental impact report (EIR) shall be prepared.³ In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources with the area of project effect (APE).

5 | CEQA was amended in 2014 by Assembly Bill 52 (AB 52).⁴ **AB 52 applies to any project for which a notice of preparation or a notice of negative declaration or mitigated negative declaration is filed on or after July 1, 2015.** AB 52 created a separate category for "tribal cultural resources"⁵, that now includes "a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment."⁶ Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource.⁷ Your project may also be subject to **Senate Bill 18 (SB 18)** (Burton, Chapter 905, Statutes of 2004), Government Code 65352.3, if it also involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space. **Both SB 18 and AB 52 have tribal consultation requirements.** Additionally, if your

¹ Pub. Resources Code § 21000 et seq.
² Pub. Resources Code § 21084.1; Cal. Code Regs., tit. 14, § 15064.5 (b); CEQA Guidelines Section 15064.5 (b)
³ Pub. Resources Code § 21080 (d); Cal. Code Regs., tit. 14, § 15064 subd.(a)(1); CEQA Guidelines § 15064 (a)(1)



CHAIRPERSON
Laura Miranda
Luiseno

VICE CHAIRPERSON
Reginald Pagaling
Chumash

SECRETARY
Merri Lopez-Keifer
Luiseno

PARLIAMENTARIAN
Russell Attebery
Karuk

COMMISSIONER
Marshall McKay
Wintun

COMMISSIONER
William Mungary
Paiute/White Mountain Apache

COMMISSIONER
Julie Tumamait-Stenslie
Chumash

COMMISSIONER
[Vacant]

COMMISSIONER
[Vacant]

EXECUTIVE SECRETARY
Christina Snider
Pomo

NAHC HEADQUARTERS
1550 Harbor Boulevard
Suite 100
West Sacramento,
California 95691
(916) 373-3710
nahc@nahc.ca.gov
NAHC.ca.gov

7 | project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal
consultation requirements of Section 106 of the National Historic Preservation Act of 1966⁸ may also apply.

8 | **Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable
laws.**

9 | Agencies should be aware that AB 52 does not preclude agencies from initiating tribal consultation with tribes that
are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52. For that
reason, we urge you to continue to request Native American Tribal Contact Lists and Sacred Lands File searches from
the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>. Additional information
regarding AB 52 can be found online at [http://nahc.ca.gov/wp-
content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf](http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf), entitled "Tribal Consultation Under AB 52:
Requirements and Best Practices".

10 | The NAHC recommends lead agencies consult with all California Native American tribes that are traditionally and
culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid
inadvertent discoveries of Native American human remains and best protect tribal cultural resources.

11 | A brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural
resources assessments is also attached.

If you have any questions or need additional information, please contact me at my email address:
Sarah.Fonseca@nahc.ca.gov.

Sincerely,



Sarah Fonseca
Cultural Resources Analyst

Attachment

cc: State Clearinghouse

Pertinent Statutory Information:

Under AB 52:

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements: Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a **lead agency** shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice. A **lead agency** shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project.⁴ and **prior to the release of a negative declaration, mitigated negative declaration or environmental impact report.** For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code § 65352.4 (SB 18).⁵

The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

- a. Alternatives to the project.
- b. Recommended mitigation measures.
- c. Significant effects.⁶

1. The following topics are discretionary topics of consultation:

- a. Type of environmental review necessary.
- b. Significance of the tribal cultural resources.
- c. Significance of the project's impacts on tribal cultural resources.

If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency.⁷

With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process **shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code sections 6254 (r) and 6254.10.** Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public.⁸

If a project may have a significant impact on a tribal cultural resource, **the lead agency's environmental document shall discuss** both of the following:

- a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
- b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code section 21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource.⁹

Consultation with a tribe shall be considered concluded when either of the following occurs:

- a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
- b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached.¹⁰

Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code section 21080.3.2 **shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program**, if determined to avoid or lessen the impact pursuant to Public Resources Code section 21082.3, subdivision (b), paragraph 2, and shall be fully enforceable.¹¹

If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, **the lead agency shall consider feasible mitigation** pursuant to Public Resources Code section 21084.3 (b).¹²

An environmental impact report **may not be certified**, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:

⁴ Pub. Resources Code § 21080.3.1, subds. (d) and (e)

⁵ Pub. Resources Code § 21080.3.1 (b)

⁶ Pub. Resources Code § 21080.3.2 (a)

⁷ Pub. Resources Code § 21080.3.2 (a)

⁸ Pub. Resources Code § 21082.3 (c)(1)

⁹ Pub. Resources Code § 21082.3 (b)

¹⁰ Pub. Resources Code § 21080.3.2 (b)

¹¹ Pub. Resources Code § 21082.3 (a)

¹² Pub. Resources Code § 21082.3 (e)

- a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code sections 21080.3.1 and 21080.3.2 and concluded pursuant to Public Resources Code section 21080.3.2.
- b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
- c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code section 21080.3.1 (d) and the tribe failed to request consultation within 30 days.¹³

This process should be documented in the Tribal Cultural Resources section of your environmental document.

Under SB 18:

Government Code § 65352.3 (a) (1) requires consultation with Native Americans on general plan proposals for the purposes of “preserving or mitigating impacts to places, features, and objects described § 5097.9 and § 5091.993 of the Public Resources Code that are located within the city or county’s jurisdiction. Government Code § 65560 (a), (b), and (c) provides for consultation with Native American tribes on the open-space element of a county or city general plan for the purposes of protecting places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.

- SB 18 applies to **local governments** and requires them to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. Local governments should consult the Governor’s Office of Planning and Research’s “Tribal Consultation Guidelines,” which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf
- **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a “Tribal Consultation List.” If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.**¹⁴
- There is no Statutory Time Limit on Tribal Consultation under the law.
- **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research,¹⁵ the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code sections 5097.9 and 5097.993 that are within the city’s or county’s jurisdiction.¹⁶
- **Conclusion Tribal Consultation:** Consultation should be concluded at the point in which:
 - The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation.¹⁷

NAHC Recommendations for Cultural Resources Assessments:

- Contact the NAHC for:
 - A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project’s APE.
 - A Native American Tribal Contact List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
 - The request form can be found at <http://nahc.ca.gov/resources/forms/>.
- Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - If part or the entire APE has been previously surveyed for cultural resources.
 - If any known cultural resources have been already been recorded on or adjacent to the APE.
 - If the probability is low, moderate, or high that cultural resources are located in the APE.
 - If a survey is required to determine whether previously unrecorded cultural resources are present.

¹³ Pub. Resources Code § 21082.3 (d)

¹⁴ (Gov. Code § 65352.3 (a)(2)).

¹⁵ pursuant to Gov. Code section 65040.2,

¹⁶ (Gov. Code § 65352.3 (b)).

¹⁷ (Tribal Consultation Guidelines, Governor’s Office of Planning and Research (2005) at p. 18).

- If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

Examples of Mitigation Measures That May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:

- Avoidance and preservation of the resources in place, including, but not limited to:
 - Planning and construction to avoid the resources and protect the cultural and natural context.
 - Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
- Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - Protecting the cultural character and integrity of the resource.
 - Protecting the traditional use of the resource.
 - Protecting the confidentiality of the resource.
- Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
- Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed.¹⁸
- Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated.¹⁹

The lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.

- Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources.²⁰ In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
- Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
- Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code section 7050.5, Public Resources Code section 5097.98, and Cal. Code Regs., tit. 14, section 15064.5, subdivisions (d) and (e) (CEQA Guidelines section 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

¹⁸ (Civ. Code § 815.3 (c)).

¹⁹ (Pub. Resources Code § 5097.991).

²⁰ per Cal. Code Regs., tit. 14, section 15064.5(f) (CEQA Guidelines section 15064.5(f)).

Response to Letter #1 from Native American Heritage Commission (July 6, 2020)

1. **Comment.** This comment is an introduction stating that the Native American Heritage Commission has review the draft EIR, mitigation negative declaration or negative declaration prepared for the Gilroy 2040 General Plan. They indicate they may have also reviewed the Cultural Resources Section, Archaeological Report, Appendices for Cultural Resources Compliance, as well as other information materials.

Response. This comment does not raise an environmental issue and; therefore, no response is required. No changes to the draft EIR are required.

2. **Comment.** This comment states that there is no evidence that possible mitigation measures were developed in consultation with California Native American Tribes.

Response: The City did offer consultation with the tribes; however, no response to the offer was received. Senate Bill 18 requires public agencies to consult with Native Americans on general plan proposals. As discussed in Section 3.5, Cultural Resources, in the draft EIR, in compliance with Senate Bill 18, the City of Gilroy initiated consultation with the following five Native American tribes identified by the Native American Heritage Commission in 2015: Amah Mutsun Tribal Band, Amah Mutsun Tribal Band of Mission San Juan Bautista, Indian Canyon Mutsun Band of Coastonooan, Muwekma Ohlone Indian Tribe of the SF Bay Area, and The Ohlone Indian Tribe. The tribal representatives contacted did not offer any comments or concerns regarding the Gilroy 2040 General Plan. Therefore, no further consultation pursuant to SB 18 was required.

Assembly Bill 52 requires public agencies to consult, during the CEQA process, with a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice. To date, the City of Gilroy has received no requested notice. Therefore, no consultation pursuant to AB 52 is required. Also, see the discussion in the preceding paragraph regarding the City's consultation offer to the Amah Mutsun Tribal Band, Amah Mutsun Tribal Band of Mission San Juan Bautista, Indian Canyon Mutsun Band of Coastonooan, Muwekma Ohlone Indian Tribe of the SF Bay Area, and The Ohlone Indian Tribe.

Therefore, the City complied with the requirements of SB 18 and AB 52. No additional offers of consultation are required associated with adoption of the Gilroy 2040 General Plan. No changes to the draft EIR are required.

3. **Comment.** This comment states that there does not appear to be evidence of mitigation measures of what to do for inadvertent finds of Native American remains in accordance with Health and Safety Code 7050.5.

Response. Regarding mitigation measures, the City of Gilroy applies the following standard conditions of approval to development projects:

In the event of an accidental discovery or recognition of any human remains, Developer shall include the following language in all grading, site work, and construction plans:

“If human remains are found during earth-moving, grading, or construction activities, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the coroner of Santa Clara County is contacted to determine that no investigation of the cause of death is required. If the coroner determines the remains to be Native American the coroner shall contact the Native American Heritage Commission within 24 hours. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descendent (MLD) from the deceased Native American. The MLD may then make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and associated grave goods as provided in Public Resources Code Section 5097.98. The landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further disturbance if: a) the Native American Heritage Commission is unable to identify a MLD or the MLD failed to make a recommendation within 24 hours after being notified by the commission; b) the descendent identified fails to make a recommendation; or c) the landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.”

In the event of an accidental discovery of archaeological resources during grading or construction activities, Developer shall include the following language on any grading, site work, and construction plans issued for the project site:

“If archaeological or cultural resources are discovered during earth-moving, grading, or construction activities, all work shall be halted within at least 50 meters (165 feet) of the find and the area shall be staked off immediately. The monitoring professional archaeologist, if one is onsite, shall be notified and evaluate the find. If a monitoring professional archaeologist is not onsite, the City shall be notified immediately and a qualified professional archaeologist shall be retained (at Developer’s expense) to evaluate the find and report to the City. If the find is determined to be significant, appropriate mitigation measures shall be formulated by the professional archaeologist and implemented by the responsible party.”

Additionally, the 2040 Gilroy General Plan includes the following goal and policies protecting archaeological and tribal resources:

Goal NCR-5

Encourage the preservation of historic and culturally significant buildings, sites, and resources to enrich the sense of place and appreciation of the city’s history. [New Goal, Consultants]

Policies

NCR 5.2 Historic and Pre-historic Archaeological Resources and CEQA. Discretionary projects subject to the California Environmental Quality Act (CEQA) which will include disturbance of the existing ground surface of the project site will require a records search from the Northwest Information Center to determine if there are any known resources within a project area. If the results of the records search indicate the potential existence of historic or pre-historic archaeological resources on the project site, preparation of an archaeological survey will be required. [New Policy, Consultants] RDR

NCR 5.3 Archaeological Resources Protection. Ensure that all projects involving ground-disturbing activities include procedures to protect archaeological resources if discovered during excavation. Projects shall follow CEQA and other applicable State laws. [New Policy, Consultants] RDR

NCR 5.4 Historic Preservation. Encourage public and private efforts for the preservation of historic and architecturally significant buildings and sites, archeological sites, and other landmarks. [Existing GP, 5.01, modified] MPSP

NCR 5.6 Preservation Funding and Incentives. Strive to obtain State and Federal funding for the preservation of buildings and sites of historical merit and consider public/private partnerships for capital and program improvements including historic preservation components. [Existing GP, 5.02, modified] IGC JP

Mitigation Measure CR-1 in the EIR requires the following modifications to Goal NCR 5 to assist in mitigating significant impacts on historic resources.

CR 1. To reduce the likelihood of impacts to significant historic structures and historic archaeological resources, as well as unique and tribal archaeological resources resulting from publication of the locations of these ~~culturally significant~~ resources, the following modifications shall be made to Gilroy 2040 General Plan Goal NCR 5, Policy NCR 5.2, Policy NCR 5.5, and Implementation Program 7:

Goal NCR 5 ~~Encourage the preservation of~~ Preserve significant historic and ~~culturally significant~~ buildings, sites, and resources to enrich the sense of place and appreciation of the city's history.

Policy NCR 5.5 ~~Cultural~~ Historic Resources Inventory. Maintain and periodically update the city's inventory of historically ~~and culturally~~ significant buildings to meet current State and Federal historic preservation guidelines.

NCR 5.10 Historic Building Demolition. Consistent with Goal NCR 5, ~~P~~ prior to approving the demolition of historically significant buildings, evaluate alternatives including structural preservation, relocation or other mitigation in an Environmental Impact Report (EIR), and demonstrate that financing has been secured for replacement use.

Implementation Program 7, ~~Cultural~~ Historic Resources Inventory. Maintain and update every five years, the historic resource inventory to evaluate, register, and protect Gilroy's historic resources. The inventory should be publicly accessible and regularly updated.

Mitigation Measure CR-2 in the draft EIR requires the following modifications to Policy NCR 5.2 to assist in mitigating significant impacts on significant historic and archaeological resources.

Policy NCR 5.2 Historic and Prehistoric Archaeological Resources and CEQA. Discretionary projects subject to the California Environmental Quality Act (CEQA) which ~~will require a records search from the Northwest Information Center to determine if there are any known resources within a project area. If the results of the records search indicate the potential existence of historic or pre-historic archaeological resources~~

on the project site, preparation of an archaeological survey will be required. include disturbance of the existing ground surface of the project site will require an archaeological survey and records search if the project site is located in a moderate to high archaeological sensitivity zone as identified on Figure 3.5-1 of the General Plan EIR, or if other evidence suggests the project site to be archaeologically sensitive.

No changes to the draft EIR are required.

4. **Comment.** This comment states that an EIR is required for a project that may cause a substantial adverse change in the significance of an historical resource.

Response. The draft EIR was prepared for the Gilroy 2040 General Plan that evaluated the potential for general plan implementation to have an effect on historical resources. See Section 3.5 Cultural Resources. No changes to the draft EIR are required.

5. **Comment.** This comment is regarding Assembly Bill 52.

Response. See response to comment 2 above regarding the City's compliance with AB 52. No changes to the draft EIR are required.

6. **Comment.** This comment is regarding Senate Bill 18.

Response. See response to comment 2 above regarding the City's compliance with SB 18. No changes to the draft EIR are required.

7. **Comment.** This comment states that if the Gilroy 2040 General Plan is subject to the federal National Environmental Policy Act, the tribal consultation requirements of Section 106 of the National Historic Preservation Act may also apply.

Response. The Gilroy 2040 General Plan is not subject to the National Environmental Policy Act and therefore, tribal consultation requirements of Section 106 of the National Historic Preservation Act do not apply. No changes to the draft EIR are required.

8. **Comment.** This comment suggests that the City consult with legal counsel about compliance with AB 52 and SB 18, as well as compliance with any other applicable laws.

Response. See response to comment #2 above regarding the City's compliance with AB 52 and SB 18. See response to comment #4 above regarding compliance with CEQA. No changes to the draft EIR are required.

9. **Comment.** This comment is regarding AB 52 timeframes and encourages the City to continue to request Native American Tribal Contact Lists and Sacred Lands File searches from the Commission.

Response. This comment is noted, but is not regarding the draft EIR. This comment will be forwarded to City staff for review and consideration. No changes to the draft EIR are required.

10. **Comment.** This comment recommends lead agency consult with tribes as early as possible in order to avoid inadvertent discoveries of native American Human Remains and best protect tribal cultural resources.

Response. See the response to comment #2 above. The City initiated consultation in 2015, early in the general plan update process. No changes to the draft EIR are required.

11. **Comment.** This comment indicates that brief summary of portions of AB 52 and SB 18, as well as the NAHC's recommendations for conducting cultural resources assessments is also attached.

Response. This comment is noted, but is not regarding the draft EIR. This comment will be forwarded to City staff for review and consideration.

12. **Comment.** The commenter has provided "pertinent statutory information" regarding AB 52.

Response. The City complied with AB 52. See response to comment #2 above. No changes to the draft EIR are required.

13. **Comment.** The commenter has provided "pertinent statutory information" regarding SB 18.

Response. The City complied with SB 18. See response to comment #2 above. No changes to the draft EIR are required.

14. **Comment.** The commenter has provided recommendations for cultural resources assessments. Recommendations include a Sacred Lands File search, contacting Native American Tribal Contacts, an archaeological records search through the California Historical Research Information System Center; and an archaeological inventory survey.

Response. These steps were taken when preparing the General Plan Background Report and the draft EIR, with the exception of the archaeological inventory survey. For a general plan EIR, it is not feasible for an archaeologist to survey the entire land with the Urban Growth Boundary for surface evidence of possible buried resources.

2.0 COMMENTS ON THE DRAFT EIR

However, an archaeological sensitivity map was prepared based upon the records search, as well as the archaeologist's professional opinion of archaeologically sensitive areas. No changes to the draft EIR are required.

15. **Comment.** This comment provides examples of mitigation measures that may be considered to avoid or minimize significant adverse impacts to tribal cultural resources.

Response. See the response to comment #2 above regarding the City's standard conditions of approval, as well as General Plan policies, that address impacts to cultural and tribal resources. No changes to the draft EIR are required.



July 31, 2020

VIA EMAIL

Ms. Cindy McCormick
City of Gilroy
7351 Rosanna Street
Gilroy, CA 95020
Email: Cindy.McCormick@cityofgilroy.org

Dear Ms. McCormick:

GILROY 2040 GENERAL PLAN ENVIRONMENTAL IMPACT REPORT (EIR), STATE
CLEARINGHOUSE NO. 2015082014

The California Geologic Energy Management Division (CalGEM) has received and reviewed the above referenced project released June 22, 2020. CalGEM provides the following comments regarding the Gilroy 2040 General Plan EIR.

- 1 | 1. With the mission of safeguarding public health and protecting the environment, CalGEM administers regulations and procedures pertaining to all oil and gas wells on California public and private land and offshore. Operators must obtain CalGEM approval and permits for a variety of activities, including drilling, reworking, and plugging and abandoning oil wells. Wells must be constructed and maintained in accordance with CalGEM regulations. No well work may be performed on any oil, gas, or geothermal well without written approval from CalGEM. This includes, but is not limited to, mitigating leaking gas or other fluids from abandoned wells, modifications to well casings, and/or any re-abandonment work.
- 2 | 2. There are three plugged and abandoned oil and gas exploration wells that were drilled in and near the southeast portion of Gilroy. These wells are labeled as dry holes and are presently located in agricultural areas. Approximately 3.5 miles southwest of Gilroy is the Sargent Oil Field, which contains 71 active, idle, and plugged and abandoned oil wells. Please visit CalGEM's website to view oil and gas well locations at <https://maps.conservation.ca.gov/doggr/wellfinder>
- 3 | 3. Prior to development activities near oil and gas wells, including the three plugged and abandoned wells located in and near southeast Gilroy, please

contact CalGEM for a review and recommendations. Public Resources Code (PRC) section 3208.1 establishes well reabandonment responsibility when a previously plugged and abandoned well will be impacted by planned property development or construction activities. Local permitting agencies, property owners, and/or developers should be aware of, and fully understand, that significant and potentially dangerous issues may be associated with development near oil, gas, and geothermal wells.

4

CalGEM categorically advises against building over, or in any way impeding access to oil, gas, or geothermal wells. Impeding access to a well could result in the need to remove any structure or obstacle that prevents or impedes access including, but not limited to, buildings, housing, fencing, landscaping, trees, pools, patios, sidewalks, roadways, and decking. Maintaining sufficient access is considered the ability for a well servicing unit and associated necessary equipment to reach a well from a public street or access way, solely over the parcel on which the well is located. A well servicing unit, and any necessary equipment, should be able to pass unimpeded along and over the route, and should be able to access the well without disturbing the integrity of surrounding infrastructure.

There are no guarantees a well abandoned in compliance with current CalGEM requirements as prescribed by law will not start leaking in the future. It always remains a possibility that any well may start to leak oil, gas, and/or water after abandonment, no matter how thoroughly the well was plugged and abandoned. CalGEM acknowledges wells plugged and abandoned to the most current CalGEM requirements as prescribed by law have a lower probability of leaking in the future, however there is no guarantees that such abandonments will not leak.

PRC section 3208.1 gives CalGEM the authority to order or permit the re-abandonment of any well where it has reason to question the integrity of the previous abandonment, or if the well is not accessible or visible. Responsibility for re-abandonment costs may be affected by the choices made by the local permitting agency, property owner, and/or developer in considering the general advice set forth in this letter. The PRC continues to define the person or entity responsible for reabandonment as:

- a) **The property owner** - If the well was plugged and abandoned in conformance with CalGEM requirements at the time of plugging and abandonment, and in its current condition does not pose an immediate danger to life, health, and property, but requires additional work solely because the owner of the property on which the well is located proposes

construction on the property that would prevent or impede access to the well for purposes of remedying a currently perceived future problem, then the owner of the property on which the well is located shall obtain all rights necessary to reabandon the well and be responsible for the reabandonment.

- b) **The person or entity causing construction over or near the well** - If the well was plugged and abandoned in conformance with CalGEM requirements at the time of plugging and abandonment, and the property owner, developer, or local agency permitting the construction failed either to obtain an opinion from the supervisor or district deputy as to whether the previously abandoned well is required to be reabandoned, or to follow the advice of the supervisor or district deputy not to undertake the construction, then the person or entity causing the construction over or near the well shall obtain all rights necessary to reabandon the well and be responsible for the reabandonment.
- c) **The party or parties responsible for disturbing the integrity of the abandonment** - If the well was plugged and abandoned in conformance with CalGEM requirements at the time of plugging and abandonment, and after that time someone other than the operator or an affiliate of the operator disturbed the integrity of the abandonment in the course of developing the property, then the party or parties responsible for disturbing the integrity of the abandonment shall be responsible for the reabandonment.

No well work may be performed on any oil, gas, or geothermal well without written approval from CalGEM. Well work requiring written approval includes, but is not limited to, mitigating leaking gas or other fluids from abandoned wells, modifications to well casings, and/or any other abandonment or re-abandonment work. CalGEM also regulates the top of a plugged and abandoned well's minimum and maximum depth below final grade. California Code of Regulations (CCR) section 1723.5 states well casings shall be cut off at least 5 feet but no more than 10 feet below grade. If any well needs to be lowered or raised (i.e. casing cut down or casing riser added) to meet this regulation, a permit from CalGEM is required before work can start.

CalGEM makes the following additional recommendations to the local permitting agency, property owner, and developer:

5

- a) To ensure that present and future property owners are aware of (a) the existence of all wells located on the property, and (b) potentially significant issues associated with any improvements near oil or gas wells, CalGEM recommends that information regarding the above identified well(s), and

any other pertinent information obtained after the issuance of this letter, be communicated to the appropriate county recorder for inclusion in the title information of the subject real property.

- b) CalGEM recommends that any soil containing hydrocarbons be disposed of in accordance with local, state, and federal laws. Please notify the appropriate authorities if soil containing significant amounts of hydrocarbons is discovered during development.

6

As indicated in PRC section 3106, CalGEM has jurisdictional authority over the drilling, operation, maintenance, and abandonment of oil, gas, and geothermal wells, and attendant facilities, to prevent, as far as possible, damage to life, health, property, and natural resources, damage to underground oil, gas, and geothermal deposits, and damage to underground and surface waters suitable for irrigation or domestic purposes. In addition to CalGEM's authority to order work on wells pursuant to PRC sections 3208.1 and 3224, it has authority to issue civil and criminal penalties under PRC sections 3236, 3236.5, and 3359 for violations within CalGEM's jurisdictional authority. CalGEM does not regulate grading, excavations, or other land use issues.

Thank you for considering CalGEM's comments. If you have any questions, please contact our District office at (805) 937-7246 or via email at CalGEMCoastal@conservation.ca.gov.

Sincerely,



Patricia A. Abel
Coastal District Deputy

cc: Chrono
CEQA
CEQA HQ

Response to Letter #2 from California Department of Conservation – Geologic Energy Management Division (CalGEM) (July 31, 2020)

CalGEM does not provide comments on the draft EIR, but they do present concerns regarding the potential for development on or near three (3) plugged and abandoned oil and gas exploration wells that were drilled in and near the southeast portion of Gilroy. CalGEM indicates that local permitting agencies, property owners, and/or developers should be aware of, and fully understand, that significant and potentially dangerous issues may be associated with development near oil, gas, and geothermal wells.

1. **Comment.** This comment explains the mission of the Geologic Energy Management Division (CalGEM).

Response. This comment does not raise an environmental issue and therefore, no response is required. No changes to the draft EIR are required.

2. **Comment.** This comment identifies three plugged and abandoned oil and gas exploration wells.

Response. These wells are located in the general vicinity of Southside Drive, the wastewater treatment plant, and the Miller Slough. According to the mapping on the website provided in comment #2, these wells appear to be on property designated by the existing General Plan, as well as the Gilroy 2040 General Plan, as General Industrial and Public and Quasi Public Facility.

This comment does not raise an environmental issue and therefore, no further response is provided. No changes to the draft EIR are required.

3. **Comment.** The commenter requests that the City contact CalGEM for review and recommendation when development is proposed near oil and gas wells.

Response. This comment does not raise an environmental issue and therefore, no further response is provided. This comment will be forwarded to City staff for review and consideration. No changes to the draft EIR are required.

4. **Comment.** CalGEM categorically advises against building over, or in any way impeding access to oil, gas, or geothermal wells. This comment identifies the responsibilities for the following parties: property owner, person or entity causing construction over or near the well, and the part or parties responsible for disturbing the integrity of the abandonment.

Response. As indicated in response to comment #2 above, the abandoned wells appear to be on property designated by the general plan as General Industrial and Public and Quasi Public Facility. Therefore, there is the potential for development proposal to occur on the properties. See response to comment #5 below. No changes to the draft EIR are required.

5. **Comment.** CalGem makes the following recommendations to the City of Gilroy, and property owners and developers of the subject properties:

- a) To ensure that present and future property owners are aware of (a) the existence of all wells located on the property, and (b) potentially significant issues associated with any improvements near oil or gas wells, CalGEM recommends that information regarding the above identified well(s), and any other pertinent information obtained after the issuance of this letter, be communicated to the appropriate county recorder for inclusion in the title information of the subject real property.
- b) CalGEM recommends that any soil containing hydrocarbons be disposed of in accordance with local, state, and federal laws. Please notify the appropriate authorities if soil containing significant amounts of hydrocarbons is discovered during development.

Response. Regarding recommendation “a” above, it does not raise an environmental issue. This comment will be forwarded to City staff for review and consideration. No changes to the draft EIR are required.

Regarding recommendation “b” above, City staff has indicated that they will identify the properties in the City’s GIS system, so that if and when development is proposed near one of these wells, the appropriate process will be undertaken and appropriate measures put in place in consultation with CalGEM.

No changes are necessary to the draft EIR; however, City staff has agreed to include the location of the wells in the City of Gilroy GIS system. City staff is adding an implementation program to the Gilroy 2040 General Plan to address procedural request. No changes to the draft EIR are required.

6. **Comment.** This comment is regarding CalGEM’s jurisdictional authority over the drilling, operation, maintenance, and abandonment of oil, gas, and geothermal wells, and attendance facility. They also indicate that they do not regulate grading, excavations, or other land use issues.

Response. This comment does not raise an environmental issue and therefore, no response is necessary. No changes to the draft EIR are required.

From: noreply@civicplus.com [<mailto:noreply@civicplus.com>]

Sent: Friday, July 31, 2020 2:32 PM

To: Public Information Office; Rachelle Bedell

Subject: Online Form Submittal: Email the City

Email the City

Your Personal Information

Please be assured that the information you will provide in this section will be used for the sole purpose of replying back to this inquiry.

First & Last Name	Erik Medina
Address1	1241 Juniper Drive, Apt A
City	Gilroy
State	CA
Zip	95020
Contact Email	erikmedina09@gmail.com

Your Message.

Subject	Climate Action Plan
---------	---------------------

Details

1

Dear city,

I am a Gilroy resident with the hope that our city is taking appropriate actions in the face of climate change in the coming years.

I found an Environmental Impact Report (EIR) online in regard to the Gilroy 2040 General Plan: http://www.gilroy2040.com/wp-content/uploads/2020/06/Gilroy-2040-General-Plan-EIR_Public-

[Review-Draft_sm.pdf](#)

I am wondering if the mitigation measures discussed in that report are being considered. Maybe we are required to apply some of the considerations-- if so, I apologize for the ignorance.

Just wanted you to know that I care as a citizen about our environment and about our changing climate, as they pertain to the health of our and future generations.

Thank you!

Erik

Email not displaying correctly? [View it in your browser.](#)

Response to Letter #3 from Erik Medina, Gilroy Resident (July 31, 2020)

1. **Comment.** Mr. Medina asks if the mitigation measures discussed in the draft EIR are being considered.

Response. The City of Gilroy is required to implement mitigation measures in the draft EIR. Additionally, on August 5, 2020, City staff reached out to Mr. Medina directly to convey this information, and to offer clarification and assistance, as necessary to address Mr. Medina's questions and concerns. No changes to the draft EIR are required.

DEPARTMENT OF TRANSPORTATION

DISTRICT 4
OFFICE OF TRANSIT AND COMMUNITY PLANNING
P.O. BOX 23660, MS-10D
OAKLAND, CA 94623-0660
PHONE (510) 286-5528
TTY 711
www.dot.ca.gov



*Making Conservation
a California Way of Life.*

August 7, 2020

SCH # 2015082014
GTS # 04-SCL-2020-00772
GTS ID: 18541
SCL/VAR/VAR

Cindy McCormick, Senior Planner
City of Gilroy
7351 Rosanna Street
Gilroy, CA 95020

Gilroy 2040 General Plan – Draft Environmental Impact Report (DEIR)

Dear Cindy McCormick:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Gilroy 2040 General Plan. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system. The following comments are based on our review of the June 2020 DEIR.

Project Understanding

The city of Gilroy lies at the junction of two important transportation corridors: US-101 and State Route (SR)-152. The Gilroy 2040 General Plan, which updates the previously adopted Gilroy 2020 General Plan, will provide a framework for inter-jurisdictional coordination of planning efforts among officials, city staff and other government agencies. The Gilroy 2040 General Plan is made up of two documents: Background Report and Policy Document. As the essence of the 2040 General Plan, the Policy Document contains nine elements: Land Use, Mobility, Economic Prosperity, 2015-2023 Housing, Public Facilities and Services, Parks and Recreation, Natural and Cultural Resources, Potential Hazards, and Environmental Justice.

This General Plan retains the existing Urban Growth Boundary. The development potential resulting from this General Plan includes up to 6,477 new housing units (single-family and multi-family), an additional population of 19,576 and 21,434 new jobs, which could be reached assuming all under-utilized land is

redeveloped and vacant land is developed, all consistent with the land use designations in the Gilroy 2040 General Plan Land Use Diagram-Preferred Alternative.

Highway Operations

As indicated in the Appendix G, Transportation Report, the results of the transportation analysis show that seven freeway segments and four freeway ramps are projected to operate at an unacceptable level of service under 2040 General Plan conditions. In addition to the proposed possible freeway segment and freeway ramp improvements identified in the report, please also consider the following freeway improvement projects:

- US-101/SR-25 Interchange
- SR-25/Bolsa Road Roundabout
- SR-152 Realignment project

Vehicle Trips Reduction

With the enactment of Senate Bill (SB) 743, Caltrans is focusing on transportation infrastructure that supports smart growth and efficient development to ensure alignment with State policies using efficient development patterns, innovative travel demand reduction strategies, multimodal improvements, and Vehicle Miles Traveled (VMT) as the primary transportation impact metric.

Based on the results of the VMT evaluation in the DEIR, both the residential VMT and employment VMT projections under the Gilroy 2040 General Plan conditions would be above the threshold established by the city. The Mitigation Measure session indicated that the implementation of TRANS-1 would reduce VMT, but there is no guarantee that these measures would reduce this significant impact to a less-than-significant level.

If projects within the General Plan do not achieve the VMT reduction goals, the city should also consider next steps to take to achieve those targets. Please ensure that the Transportation Demand Management (TDM) programs should be documented with annual monitoring reports by a TDM coordinator to demonstrate effectiveness. For more TDM options to be considered to further reduce VMT, please refer to the Federal Highway Administration's *Integrating Demand Management into the Transportation Planning Process: A Desk Reference* (Chapter 8). The reference is available online at: <http://www.ops.fhwa.dot.gov/publications/fhwahop12035/fhwahop12035.pdf>.

Lead Agency

As the Lead Agency, the City of Gilroy is responsible for all project mitigation, including any needed improvements to the State Transportation Network (STN). The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Yunsheng Luo at Yunsheng.Luo@dot.ca.gov. Additionally, for future notifications and requests for review of new projects, please contact LDIGR-D4@dot.ca.gov.

Sincerely,



Mark Leong
District Branch Chief
Local Development - Intergovernmental Review

cc: State Clearinghouse

Response to Letter #4 from Caltrans District 4

1. **Comment.** The commenter asks for the following to be considered in the Gilroy 2040 General Plan, in addition to the proposed possible freeway segment and freeway ramp improvements identified in the (Transportation Analysis) report: US101/SR25 Interchange; SR25/Bolsa Road Roundabout; and SR152 Realignment.

Response. The identified freeway improvements (US-101/SR-25 Interchange, SR-25 Bolsa Road Roundabout, and SR-152 Realignment Project) are included in the 2040 Gilroy General Plan as part of the required future roadway network. No changes to the draft EIR are required.

2. **Comment.** The commenter states that the mitigated measure indicated that the implementation of TRANS-1 would reduce VMT, but there is no guarantee that these measures would reduce this significant impact to a less-than-significant level. The commenter requests that the Transportation Demand Management (TDM) measures are effective in reducing VMT by requiring monitoring and reporting.

Response. Regarding VMT and TDM, as stated in Mitigation Measure TRANS-1, the City of Gilroy will review and update the Gilroy 1999 Transportation Demand Management program to be consistent with the Gilroy 2040 General Plan and VTA Congestion Management Plan. However, since Gilroy has not implemented TDM programs in the past, there is no available information on the effectiveness of such measures. Therefore, the necessary VMT reductions cannot be assured, resulting in the identification of VMT impacts as significant and unavoidable. No changes to the draft EIR are required.

3. **Comment.** The commenter states that, as the lead agency, the City of Gilroy is responsible for all project mitigation, including any needed improvements to the State Transportation Network (STN).

Response. Regarding improvements to the State Transportation Network (STN), the Gilroy General Plan includes improvements to several Caltrans facilities in order to support the planned land use growth. These include improvements to US 101, SR 152, and the connection of Santa Teresa Boulevard to SR 25. Although these improvements will be implemented through impact fees, grants, and other City and developer contributions in conjunction with VTA and Caltrans funding, it is the responsibility of Caltrans to make the improvements to the state highway system. No changes to the draft EIR are required.



**BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT**

August 10, 2020

Julie Wyrick, Planning Division Manager
Gilroy Community Development Department
7351 Rosanna Street
Gilroy, CA 95020-6197

RE: City of Gilroy 2040 General Plan – Draft Environmental Impact Report

Dear Ms. Wyrick,

Bay Area Air Quality Management District (Air District) staff has reviewed the draft Environmental Impact Report (DEIR) for the City of Gilroy’s 2040 General Plan (Plan). As an update to the City’s 2020 General Plan, the Plan will be used by the Gilroy City Council, Planning Commission, and City staff to make decisions with direct or indirect land use implications. It provides a framework for City regulatory measures, administrative procedures, and inter-jurisdictional coordination of planning efforts among officials, City staff, and other government agencies. The Plan includes potential development of up to 6,477 new housing units, a population increase of 19,756 new residents, and 21,434 new jobs.

Air Quality

Vehicle Miles Traveled (VMT)

Air District staff commends the City for its commitment to increasing housing diversity and density, focusing future growth in higher-density residential neighborhoods, and promoting transit-oriented development. However, the DEIR concludes that implementation of the Plan would result in significant and unavoidable air quality impacts due to an increase in vehicle miles traveled (VMT). Air District staff encourages the City to fully evaluate and adopt all feasible mitigation to reduce these significant impacts. Additional feasible mitigation measures to reduce VMT and/or vehicle emissions that we recommend include the following:

- Expanding Policy NCR 3.7 by creating a Transportation Demand Management Program that includes funding for zero-emission transportation projects, including a neighborhood electric vehicle program, community shuttle/van services and car sharing, and enhancement of active transportation incentives, among others,
- Providing the funding and infrastructure for new, and connections to, existing bicycle and pedestrian projects that improve access to transit, employment, and major activity centers,
- Updating the code of ordinances to reduce parking requirements, eliminating parking minimums, and imposing parking maximums,

ALAMEDA COUNTY

John J. Bauters
Pauline Russo Cutter
Scott Haggerty
Nate Miley

CONTRA COSTA COUNTY

John Gioia
David Hudson
Karen Mitchoff
(Secretary)
Mark Ross

MARIN COUNTY

Katie Rice

NAPA COUNTY

Brad Wagenknecht

SAN FRANCISCO COUNTY

VACANT

Shamann Walton 1
Tyrone Jue
(SF Mayor’s Appointee)

SAN MATEO COUNTY

David J. Canepa
Carole Groom
Davina Hurt

SANTA CLARA COUNTY

Margaret Abe-Koga
Cindy Chavez
(Vice Chair)
Liz Kniss
Rod G. Sinks
(Chair)

SOLANO COUNTY

James Spering 2
Lori Wilson

SONOMA COUNTY

Teresa Barrett
Shirlee Zane

Jack P. Broadbent 3
EXECUTIVE OFFICER/APCO

Connect with the 4
Bay Area Air District:



-
- 5 | • Adopting a Transportation Management Ordinance to require carpool, electric vehicle, and/or vanpool preferential parking spaces close to the major employment areas,
 - 6 | • Adopting a Safe Routes to School Program that encourages youth to walk or ride bicycles to schools and developing Safe Routes to Transit programs for pedestrians and bicyclists, and
 - 7 | • Promoting ridesharing and last-mile connections.

8 | *Construction Emissions*

The DEIR states that implementation of the Plan would be consistent with the Air District's 2017 Clean Air Plan control measures, with the exception of TR22: Construction, Freight and Farming Equipment. Air District staff appreciates the City for including Mitigation Measure AQ-1 to reduce construction emissions by requiring the use of low-emission construction equipment for public and private projects, consistent with the 2017 Clean Air Plan. However, this Mitigation Measure could be strengthened with the following additional considerations:

- 9 | • Require the use of zero-emission or the highest tier engines commercially available for all construction vehicles and equipment, and
- 10 | • Where construction-related emissions would exceed the applicable *Thresholds of Significance*, implement *Additional Construction Mitigation Measures* (Table 8-3 in BAAQMD's CEQA Guidelines).

11 | **Greenhouse Gas Emissions**

According to the DEIR, the Plan would have interim significant and unavoidable greenhouse gas (GHG) emission impacts. Our understanding is that interim impacts means that impacts are interim until the Qualified GHG Reduction Plan is adopted and implemented. In addition to policies included in Appendix C of the DEIR (Gilroy 2040 General Plan Draft Goals, Policies, and Programs), Air District staff recommends implementing the following additional feasible measures to fully mitigate these impacts:

- 12 | • Amend Mitigation Measure GHG-1 to further enhance Policy NCR 3.14, Prepare a Qualified GHG Reduction Plan, to include the following:
 - Pursue funding through grants and any other appropriate funding mechanisms, in addition to pursuing funding through new development. Potential funding and capacity resources are listed below. Please note that while some funding sources may not currently be available, they should be considered for future phases of the Plan's implementation:
 - California Air Resources Board's list of programs and projects at other State agencies that receive Cap-and-Trade Funds (<https://ww2.arb.ca.gov/our-work/programs/california-climate-investments/cci-funded-programs>),
 - California State Coastal Conservancy's Climate Ready Grant Program for Greenhouse Gas Mitigation and Adaptation Planning (<https://scc.ca.gov/climate-change/climate-ready-program/>), and

- 13 |
 - Climate Corps (<https://www.climatecorps.org/>) and CivicSpark (<https://civicspark.lgc.org/>) fellowship programs for capacity assistance while drafting the Qualified GHG Reduction Plan.
 - Amend Mitigation Measure GHG-2 to include the following:
 - Ensure the Qualified Greenhouse Gas (GHG) Reduction Strategy includes the following as outlined in BAAQMD’s CEQA Guidelines:
 - Baseline inventory of GHG emissions from all sources,
 - Emission reduction targets that are consistent with state goals,
 - Enforceable GHG emission reduction strategies and performance measures,
 - Enforcement and monitoring tools to ensure regular review of progress toward the emissions reduction targets, and
 - Progress reports to the public and responsible agencies and plan revisions as appropriate.Please see BAAQMD’s CEQA Guidelines for further details, and CEQA Guidelines Section 15183.5.
 - Ensure that the Qualified GHG Reduction Strategy aligns with and achieves state targets, including consistency with the most recent draft of the California Air Resources Board’s AB 32 Scoping Plan, the State’s 2030 and 2050 climate goals outlined in SB 32, the State’s Carbon Neutrality by 2045 goal pursuant to Executive Order B-55-18, and SB 100, the 100 Percent Clean Energy Act of 2018.
 - Set a more ambitious target (2 years) for the development of a Qualified GHG Reduction Strategy and include a timeline goal for its implementation.
 - Include a commitment to monitor, measure, and report VMT and vehicle GHG emissions as part of the Qualified GHG Reduction Strategy.

14 | Air District staff for many years has assisted cities and counties in developing local GHG emissions inventories and developing local climate action plans. We would be happy to work with City staff in providing data, policy guidance, or other support.

15 | **Environmental Justice**

The Plan also includes an Environmental Justice element, which identifies the City’s Equity and Engagement District. As part of the Plan, Policy EJ 3.1 develops an Air Purification Home Retrofit Program that explores the feasibility of a program to help residents retrofit their homes to filter air contaminants and purify the air inside. To further reduce existing and potential future pollution burdens in the Equity and Engagement District, Air District staff recommends the following:

- 16 |
 - Expand Policy EJ 3.1 to include schools and community centers—and new development outside the District—with the goal of creating clean air and cooling centers that can serve as multi-benefit and community-level mitigations for air pollution and climate impacts such as urban heat island effects. This recommendation aligns with AB 836, the Wildfire Smoke Clean Air Centers for Vulnerable Populations Incentive Pilot Program (https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB836).

- 17 | Additionally, forthcoming work at the Air District on clean air centers could provide opportunities for multi-benefit State and other funding for clean air centers. Clean air centers can also be seen as Resiliency Hubs which would allow for additional resiliency funding opportunities with the State.
- 17 | • Clearly identify the Equity and Engagement District in a higher resolution map, preferably an online and interactive map, so that street names are visible, and community members can easily interpret the map.
 - 18 | • Develop a land use diagram identifying overlay zones around existing and planned sources of toxic air contaminants and fine particulate matter (PM_{2.5}), including zones at least 500 feet on each side of all freeways and high-volume roadways, as well as identifying potential residential-industrial interfaces. See the Air District's Planning Healthy Places best practices for reducing exposure and emissions from local sources of air pollutants for additional mitigations: <https://www.baaqmd.gov/plans-and-climate/planning-healthy-places>.
 - 19 | • Consider amending Policy EJ 3.3, Noise Attenuation for Existing Development (feasibility of sound walls between Highway 101 and adjacent residential neighborhoods, and Policy LU 3.11 (sound walls designed with visually compatible and scenic attributes). Staff recommends both policies include vegetative buffers to mitigate pollution exposure and provide GHG mitigation co-benefits. For more information on vegetative buffers and other best practices for reducing exposure to local air pollution, see BAAQMD's Planning Healthy Places Guidance Appendix B: https://www.baaqmd.gov/~media/files/planning-and-research/planning-healthy-places/php_may20_2016-pdf.pdf?la=en.
 - 20 | • Involve representative experts in the public health field to review the Environmental Justice element such as the County of Santa Clara Public Health Department.

Air District staff is available to assist the City in addressing these comments. If you have any questions or would like to discuss Air District recommendations further, please contact Josephine Fong, Environmental Planner, at (415) 749-8637 or jfong@baaqmd.gov, or Kelly Malinowski, Senior Environmental Planner, at (415) 749-8673 or kmalinowski@baaqmd.gov.

Sincerely,



Greg Nudd
Deputy Air Pollution Control Officer

cc: BAAQMD Director Margaret Abe-Koga
BAAQMD Vice Chair Cindy Chavez
BAAQMD Director Liz Kniss
BAAQMD Chair Rod G. Sinks

Response to Letter #5 from BAAQMD

1. **Comment.** Air district staff commends the City for its commitment to increasing housing diversity and density, focusing future growth in higher-density residential neighborhoods, and promoting transit-oriented development. However, the draft EIR concludes that implementation of the Gilroy 2040 General Plan would result in significant and unavoidable air quality impacts due to an increase in vehicle miles traveled (VMT). Air district staff encourages the City to fully evaluate and adopt all feasible mitigation to reduce these significant impacts. Additional feasible mitigation measures to reduce VMT and/or vehicle emissions were recommended (see the following comments).

Response. This comment is acknowledged. Please see the responses below regarding each recommendation.

2. **Comment/Recommendation.** Expanding Policy NCR 3.7 by creating a Transportation Demand Management Program that includes funding for zero-emission transportation projects, including a neighborhood electric vehicle program, community shuttle/van services and car sharing, and enhancement of active transportation incentives, among others.

Response. This comment is regarding the Gilroy 2040 General Plan, not the draft EIR. The City of Gilroy will create a Transportation Demand Management Program (see Mitigation Measure TRANS-1) and will consider all feasible measures to reduce VMT, consistent with the Gilroy 2040 General Plan policies and implementation programs. No changes to the draft EIR are required.

3. **Comment/Recommendation.** Providing the funding and infrastructure for new, and connections to, existing bicycle and pedestrian projects that improve access to transit, employment, and major activity centers.

Response. The Gilroy 2040 General Plan includes the following policies and implementation measures addressing infrastructure promoting bicycle and pedestrian projects: M 1.1, 1.5, M 1.6, M 1.7, M 1.9, M 2.1, M 2.2, M 2.5, M 2.7, .M 3.1, M 3.2, M 3.3, M 3.4, M 3.5, M 3.6, M 3.7, M 3.8, M 3.9, M 3.10, M 3.11, M 3.12, M 3.13, M 3.14, M 3.15, M 3.16, M 3.17, M 3.18. Specifically, regarding funding, M 3.18, Grant Funding for Facilities and Programs, is to identify regional, state, and federal funding programs and secure funding for pedestrian and bicycle facilities and programs. The City of Gilroy will consider the applicable general plan policies when updating the City's capital improvement program each year. No changes to the draft EIR are required.

4. **Comment Recommendation.** Updating the code of ordinances to reduce parking requirements, eliminating parking minimums, and imposing parking maximums.

Response. This comment is regarding the Gilroy Municipal Code, not the draft EIR. However, the City of Gilroy will review existing parking requirements as part of the Zoning Code update, and consider modifying parking standards, in line with SB 375 and other applicable laws and regulations. No changes to the draft EIR are required.

5. **Comment Recommendation.** Adopting a Transportation Management Ordinance to require carpool, electric vehicle, and/or vanpool preferential parking spaces close to the major employment areas.

Response. This comment is not regarding the draft EIR. However, the City of Gilroy will encourage carpool, electric vehicle, and/or vanpool preferential parking spaces close to the major employment areas as part of a Transportation Demand Management Program (Mitigation Measure TRANS-1). No changes to the draft EIR are required.

6. **Comment/Recommendation.** Adopting a Safe Routes to School Program that encourages youth to walk or ride bicycles to schools and developing Safe Routes to Transit programs for pedestrians and bicyclists.

Response. This comment is not regarding the draft EIR. However, Gilroy 2040 General Plan policies include TR7, M 1.6, M 2.1, M 2.7, M 3.14, M 4.2, and M 5.2 that address safety for pedestrians and bicyclists and Safe Routes to School. No changes to the draft EIR are required.

7. **Comment/Recommendation.** Promoting ridesharing and last-mile connections.

Response. This comment is not on the draft EIR. However, the City of Gilroy will consider all feasible measures as part of the Transportation Demand Management Program (Mitigation Measure TRANS-1).

8. **Comment.** The draft EIR states that implementation of the Gilroy 2040 General Plan would be consistent with the air district's 2017 Clean Air Plan control measures, with the exception of TR22: Construction, Freight and Farming Equipment. Air district staff appreciates the City for including Mitigation Measure AQ-1 to reduce construction emissions by requiring the use of low-emission construction equipment for public and private projects, consistent with the 2017 Clean Air Plan. However, this Mitigation Measure could be strengthened with the following additional considerations (see the following comments).

Response. This comment is acknowledged. Please see the responses below regarding each recommendation.

9. **Comment/Recommendation.** Require the use of zero-emission or the highest tier engines commercially available for all construction vehicles and equipment.

Response. This measure is not required to ensure air quality construction impacts are less than significant. No changes to the draft EIR are required.

10. **Comment/Recommendation.** Where construction-related emissions would exceed the applicable Thresholds of Significance, implement Additional Construction Mitigation Measures (Table 8-3 in BAAQMD's CEQA Guidelines).

Response. Mitigation Measure AQ-1 has been amended with the following additional language: Where construction-related emissions would exceed the applicable Thresholds of Significance, the City of Gilroy will consider, on a case-by-case basis, implementing Additional Construction Mitigation Measures (Table 8-3 in BAAQMD's CEQA Guidelines). See Section 3.0, Changes to the Draft EIR.

11. **Comment.** According to the draft EIR, the Gilroy 2040 General Plan would have interim significant and unavoidable greenhouse gas (GHG) emission impacts. Our understanding is that interim impacts means that impacts are interim until the Qualified GHG Reduction Plan is adopted and implemented. In addition to policies included in Appendix C of the DEIR (Gilroy 2040 General Plan Draft Goals, Policies, and Programs), air district staff recommends implementing the following additional feasible measures to fully mitigate these impacts (see the following comments).

Response. This comment is acknowledged. Please see the responses below regarding each recommendation.

12. **Comment/Recommendation.** Amend Mitigation Measure GHG-1 to further enhance Policy NCR 3.14, Prepare a Qualified GHG Reduction Plan, to include the following: Pursue funding through grants and any other appropriate funding mechanisms, in addition to pursuing funding through new development. The commenter then provides websites to three possible funding sources.

Response. Mitigation Measure GHG-1 has been amended with the following additional language: Pursue funding through grants and any other appropriate funding mechanisms, including California Air Resources Board's list of programs and projects, California State Coastal Conservancy's Climate Ready Grant Program, Climate Corps, and CivicSpark. See Section 3.0, Changes to the Draft EIR.

13. **Comment/Recommendation.** Amend Mitigation Measure GHG-2 to include the following: Ensure the Qualified Greenhouse Gas (GHG) Reduction Strategy includes the following as outlined in BAAQMD's CEQA Guidelines....; Ensure that the Qualified GHG Reduction Strategy aligns with and achieves state targets, including consistency with the most recent draft of the California Air Resources Board's AB 32 Scoping Plan, the State's 2030 and 2050 climate goals outlined in SB 32, the State's

Carbon Neutrality by 2045 goal pursuant to Executive Order B-55-18, and SB 100, the 100 Percent Clean Energy Act of 2018. Set a more ambitious target (2 years) for the development of a Qualified GHG Reduction Strategy and include a timeline goal for its implementation. Include a commitment to monitor, measure, and report VMT and vehicle GHG emissions as part of the Qualified GHG Reduction Strategy.

Response. When drafting the Climate Action Plan / Qualified Greenhouse Gas (GHG) Reduction Strategy, the City will consider recommendations outlined in BAAQMD's CEQA Guidelines, and any requirements of AB 32, SB 32, Executive Order B-55-18, and SB 100. The City will make an effort to adopt a Climate Action Plan / Qualified Greenhouse Gas Reduction Strategy within 2 years, but will retain the current timeline of 3 years for implementation. No changes to the draft EIR are required.

14. **Comment.** Air district staff for many years has assisted cities and counties in developing local GHG emissions inventories and developing local climate action plans. We would be happy to work with City staff in providing data, policy guidance, or other support.

Response. This comment is acknowledged. It does not raise an environmental issue. However, City staff will reach out to the air district as needed. No changes to the draft EIR are necessary.

15. **Comment.** The Gilroy 2040 General Plan also includes an Environmental Justice element, which identifies the City's Equity and Engagement District. As part of the Plan, Policy EJ 3.1 develops an Air Purification Home Retrofit Program that explores the feasibility of a program to help residents retrofit their homes to filter air contaminants and purify the air inside. To further reduce existing and potential future pollution burdens in the Equity and Engagement District, Air District staff recommends the following (see the following comments):

Response. This comment is acknowledged. Please see the responses below regarding each recommendation.

16. **Comment/Recommendation.** Expand Policy EJ 3.1 to include schools and community centers—and new development outside the District—with the goal of creating clean air and cooling centers that can serve as multi-benefit and community-level mitigations for air pollution and climate impacts such as urban heat island effects. This recommendation aligns with AB 836, the Wildfire Smoke Clean Air Centers for Vulnerable Populations Incentive Pilot Program. Additionally, forthcoming work at the Air District on clean air centers could provide opportunities for multi-benefit State and other funding for clean air centers. Clean air centers can also be seen as Resiliency Hubs which would allow for additional resiliency funding opportunities with the State.

Response. This is a comment on the Gilroy 2040 General Plan, not on the draft EIR. However, the City will expand Policy EJ 3.1 to include schools and community centers.

17. **Comment/Recommendation.** Clearly identify the Equity and Engagement District in a higher resolution map, preferably an online and interactive map, so that street names are visible, and community members can easily interpret the map.

Response. This comment is not on the draft EIR. However, the City will look at means of creating a higher resolution map of the Equity and Engagement District, so that street names are visible, and community members can easily interpret the map, which will be included on the City's website.

18. **Comment/Recommendation.** Develop a land use diagram identifying overlay zones around existing and planned sources of toxic air contaminants and fine particulate matter (PM_{2.5}), including zones at least 500 feet on each side of all freeways and high-volume roadways, as well as identifying potential residential-industrial interfaces. See the air district's Planning Healthy Places best practices for reducing exposure and emissions from local sources of air pollutants for additional mitigations.

Response. This comment is not on the draft EIR. While it would be infeasible to diagram existing and planned sources of toxic air contaminants and fine particulate matter (PM_{2.5}), City staff will review the air district's Planning Healthy Places best practices for reducing exposure and emissions from local sources of air pollutants.

19. **Comment/Recommendation.** Consider amending Policy EJ 3.3, Noise Attenuation for Existing Development (feasibility of sound walls between Highway 101 and adjacent residential neighborhoods, and Policy LU 3.11 (sound walls designed with visually compatible and scenic attributes). Air district staff recommends both policies include vegetative buffers to mitigate pollution exposure and provide GHG mitigation co-benefits. For more information on vegetative buffers and other best practices for reducing exposure to local air pollution, see BAAQMD's Planning Healthy Places Guidance Appendix B.

Response. This comment is on the Gilroy 2040 General Plan, not on the draft EIR. However, while the City does not intend to amend Policy EJ 3.3 or Policy LU 3.11 for existing development at this time, the City of Gilroy will review and consider the air district information on vegetative buffers and other best practices for reducing exposure to local air pollution. No changes to the draft EIR are required.

20. **Comment/Recommendation.** Involve representative experts in the public health field to review the Environmental Justice element such as the County of Santa Clara Public Health Department.

Response. The City of Gilroy did send the draft EIR to the County of Santa Clara for review and comment. Comments were received from the Roads and Airport Department and the Department of Planning and Development, but not from the Public Health Department. No changes to the draft EIR are required.



**Local Agency
Formation Commission
of Santa Clara County**

777 North First Street
Suite 410
San Jose, CA 95112

SantaClaraLAFCO.org

Commissioners

Rich Constantine
Susan Ellenberg
Sequoia Hall
Sergio Jimenez
Linda J. LeZotte
Mike Wasserman
Susan Vicklund Wilson

Alternate Commissioners

Cindy Chavez
Maya Esparza
Yoriko Kishimoto
Russ Melton
Terry Trumbull

Executive Officer
Neelima Palacherla

August 10, 2020

VIA E-MAIL [PlanningDivision@cityofgilroy.org]

Cindy McCormick
City of Gilroy Planning Division
7351 Rosanna Street
Gilroy, CA 95020

RE: City of Gilroy 2040 General Plan Draft Environmental Impact Report

1

Thank you for providing the Local Agency Formation Commission (LAFCO) of Santa Clara County with an opportunity to review and provide comments on the City of Gilroy 2040 General Plan Draft Environmental Impact Report (General Plan DEIR).

Thank you for clarifying that Santa Clara LAFCO is a Responsible Agency under the California Environmental Quality Act (CEQA) with regard to Urban Service Area (USA) amendment applications by the City, applications which, the DEIR states, Gilroy intends to submit to LAFCO based on CEQA documents tiered from the General Plan EIR. (DEIR, p. ES-8.)

In its role as a responsible agency, Santa Clara LAFCO submits the following comments on the DEIR, comments which it anticipates supplementing in short order.

LAFCO Requests that the City Adopt the Environmentally Superior Alternative, Alternative 2: Reduced Urban Growth Boundary

2

Thank you for evaluating a project alternative that plans for anticipated future growth within the existing City limits and City USA. This alternative (Alternative 2: Reduced Urban Growth Boundary) reduces the amount of developable land by 1,177 acres and as a result, environmental impacts would not occur on that acreage. The DEIR identifies Alternative 2: Reduced Urban Growth Boundary as the Environmentally Superior Alternative to the proposed General Plan but opines that this Alternative can be rejected because it does not fully achieve the project objectives of the General Plan 2040 Project.

3

However, it appears that based on review of the proposed basis for rejecting the Environmentally Superior Alternative, it does not find Alternative 2 infeasible- it simply favors a project that supports development outside the City's existing limits. LAFCO disagrees that growth outside of City limits is a reasonable project objective of the General Plan 2040 and requests that the City adopt Alternative 2 and

implement policies and programs to address its growth goals within the City limits/ USA.

4 LAFCO encourages the City to accommodate its projected growth in as compact and efficient manner as possible as this approach to planning for growth will help prevent sprawl, promote efficient service provision, ensure more efficient use of existing urbanized areas, and protect open space and agricultural lands; and help to minimize climate change risks consistent with the goals of the regional Sustainable Communities Strategies - Plan Bay Area 2040.

The DEIR Provides Inadequate Analysis of the Ability of Utilities and Public Services to Serve General Plan 2040

5 The DEIR states that the City intends to tier from the EIR for those projects that require LAFCO approval. Use of the tiering procedure does not, however, permit the City to defer an analysis of reasonably foreseeable significant environmental impacts to a later stage of review to avoid addressing those impacts in the General Plan EIR. (CEQA Guidelines §15152(b).) While tiering allows the City to defer analysis of some of the details of later phases of long-term projects until it comes up for approval, CEQA's information disclosure requirements are not satisfied by simply asserting that information will be provided in the future. (*Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 431.)

6 A significant environmental impact is ripe for evaluation in a first-tier EIR when it is a reasonably foreseeable consequence of the action proposed for approval and the agency has "sufficient reliable data to permit preparation of a meaningful and accurate report on the impact." (*Los Angeles Unified Sch. Dist. v City of Los Angeles* (1997) 58 CA4th 1019, 1028.) When the first-tier EIR does not provide a detailed evaluation of project-level impacts, EIRs on subsequent projects will ordinarily have to provide an independent analysis of the significant environmental impacts specific to those later projects. (*In re Bay-Delta Programmatic Env't'l Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1173.)

Here, the DEIR's analysis of the adequacy of utilities and public services to serve the growth anticipated in General Plan 2040 improperly defers the analysis of reasonably foreseeable significant environmental impacts, and thus improperly avoid addressing those impacts in the EIR. For instance, the DEIR relies on a 2004 Water System Master Plan for discussion of water capacity deficiencies, which it appears to concede is a dated document as it states that it will have to be updated after the General Plan 2040 is adopted. (DEIR, p. 3-311.) But this is the definition of improper deferment of analysis of the reasonably foreseeable consequences of the actions proposed for approval in a first-tier document.

7 LAFCO anticipates providing the City with supplemental comments on the DEIR in the near future and looks forward to working with the City to ensure that a fully adequate EIR is produced.

Thank you again for providing us with the opportunity to comment on this important project. If you have any questions regarding these comments, please contact Dunia Noel, Assistant Executive Officer at dunia.noel@ceo.sccgov.org.

Sincerely,

A handwritten signature in cursive script that reads "Npalacherla".

Neelima Palacherla
LAFCO Executive Officer

Cc: LAFCO Members s

Response to Letter #6 from LAFCO of Santa Clara County

1. **Comment.** Thank you for clarifying that Santa Clara LAFCO is a Responsible Agency under the California Environmental Quality Act (CEQA) with regard to Urban Service Area (USA) amendment applications by the City, applications which, the DEIR states, Gilroy intends to submit to LAFCO based on CEQA documents tiered from the General Plan EIR. (DEIR, p. ES-8.)

Response. The draft EIR, page ES-8 does not state that “Gilroy intends to submit to LAFCO based on CEQA documents tiered from the General Plan EIR.” Page ES-8 of the draft EIR does present the following statement about how tiering is encouraged and allowed by the CEQA Guidelines. “As allowed and encouraged by CEQA Guidelines section 15152, Tiering, the City of Gilroy has the authority to tier environmental analysis for later projects. Tiering allows a later EIR or negative declaration to concentrate solely on the issues specific to the later project, and provide some measure of streamlining the environmental document on the later project.” Although the City has the authority to tier future environmental review documents from this general plan EIR, the City has made no commitments of intent regarding future environmental review documents. No changes to the draft EIR are required.

2. **Comment.** LAFCO requests that the City adopt the environmentally superior alternative, Alternative 2: Reduced Urban Growth Boundary. Thank you for evaluating a project alternative that plans for anticipated future growth within the existing City limits and City USA. This alternative (Alternative 2: Reduced Urban Growth Boundary) reduces the amount of developable land by 1,177 acres and as a result, environmental impacts would not occur on that acreage. The DEIR identifies Alternative 2: Reduced Urban Growth Boundary as the Environmentally Superior Alternative to the proposed General Plan but opines that this Alternative can be rejected because it does not fully achieve the project objectives of the General Plan 2040 Project.

Response. LAFCO staff is requesting that the City adopt Alternative 2: Reduced Urban Growth Boundary. This request is acknowledged. This comment also states that the draft EIR rejects Alternative 2 as infeasible. There is no such language, or intent, in the draft EIR.

3. **Comment.** However, it appears that based on review of the proposed basis for rejecting the Environmentally Superior Alternative, it does not find Alternative 2 infeasible- it simply favors a project that supports development outside the City’s existing limits. LAFCO disagrees that growth outside of City limits is a reasonable project objective of the General Plan 2040 and requests that the City adopt Alternative 2 and implement policies and programs to address its growth goals within the City limits/ USA.

Response. See response to comment #2 above. Additionally, the draft EIR does not “find” the proposed project, or any alternative, feasible or infeasible, nor does it favor or disfavor a project that supports development outside the City’s existing limits. The draft EIR did evaluate the environmental impacts of the City’s proposed land use plan, which was developed through months of numerous community meetings. The proposed land use plan includes the Urban Growth Boundary approved by the City of Gilroy voters in 2016. Upon completion of this final EIR, City staff will make a recommendation to the City decision makers regarding adoption of the general plan. Specific findings are required if the City chooses to reject the environmentally superior alternative. The commenter disagrees that growth outside of City limits is a reasonable project objective, but provides no evidence for this opinion. No changes to the draft EIR are required.

4. **Comment.** LAFCO encourages the City to accommodate its projected growth in as compact and efficient manner as possible as this approach to planning for growth will help prevent sprawl, promote efficient service provision, ensure more efficient use of existing urbanized areas, and protect open space and agricultural lands; and help to minimize climate change risks consistent with the goals of the regional Sustainable Communities Strategies - Plan Bay Area 2040.

Response. This comment is acknowledged. It does not raise an environmental issue. This comment will be forwarded to City staff for review and consideration. No changes to the draft EIR are required.

5. **Comment.** The DEIR provides inadequate analysis of the ability of utilities and public services to serve General Plan 2040. The DEIR states that the City intends to tier from the EIR for those projects that require LAFCO approval. Use of the tiering procedure does not, however, permit the City to defer an analysis of reasonably foreseeable significant environmental impacts to a later stage of review to avoid addressing those impacts in the General Plan EIR. (CEQA Guidelines §15152(b).) While tiering allows the City to defer analysis of some of the details of later phases of long-term projects until it comes up for approval, CEQA’s information disclosure requirements are not satisfied by simply asserting that information will be provided in the future. (*Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 431.)

Response. This comment also addresses the tiering process. See response to comment #1 above. Additionally, the ability of the City of Gilroy to provide utilities and public services to serve General Plan 2040 are addressed in the following draft EIR sections: 3.13, Police Protection Services; 3.14, Fire Protection Services; 3.15, School Facilities; 3.16, Parks and Recreation Facilities; 3.18, Water Service; 3.19, Wastewater Services; and 3.20, Solid Waste Facilities. Environmental impacts of provided these utilities and public services are evaluated at the “community-level”

throughout the draft EIR (e.g. aesthetics, agricultural resources, biological resources, etc.) as defined by Public Resources Code § 21159.20, and further discussed in Public Resources Code § 21159.24. No changes to the draft EIR are required.

6. **Comment.** A significant environmental impact is ripe for evaluation in a first-tier EIR when it is a reasonably foreseeable consequence of the action proposed for approval and the agency has “sufficient reliable data to permit preparation of a meaningful and accurate report on the impact.” (Los Angeles Unified Sch. Dist. v City of Los Angeles (1997) 58 CA4th 1019, 1028.) When the first-tier EIR does not provide a detailed evaluation of project-level impacts, EIRs on subsequent projects will ordinarily have to provide an independent analysis of the significant environmental impacts specific to those later projects. (*In re Bay-Delta Programmatic Env’t Impact Report Coordinated Proceedings* (2008) 43 Cal.4th 1143, 1173.)

Here, the DEIR’s analysis of the adequacy of utilities and public services to serve the growth anticipated in General Plan 2040 improperly defers the analysis of reasonably foreseeable significant environmental impacts, and thus improperly avoid addressing those impacts in the EIR. For instance, the DEIR relies on a 2004 Water System Master Plan for discussion of water capacity deficiencies, which it appears to concede is a dated document as it states that it will have to be updated after the General Plan 2040 is adopted. (DEIR, p. 3-311.) But this is the definition of improper deferment of analysis of the reasonably foreseeable consequences of the actions proposed for approval in a first-tier document.

Response. As discussed in Section 1.0, Introduction, of the draft EIR, CEQA Guidelines section 15146 states “The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR. An EIR on a construction project will necessarily be more detailed in the specific effects of the project than will be an EIR on the adoption of a local general plan or comprehensive zoning ordinance because the effects of the construction can be predicted with greater accuracy. An EIR on a project such as the *adoption or amendment of a comprehensive zoning ordinance or a local general plan* (emphasis added) should focus on the secondary effects that can be expected to follow from the adoption or amendment, *but the EIR need not be as detailed as an EIR on the specific construction projects that might follow* (emphasis added).” Therefore, this draft EIR evaluates the secondary impacts associated with adoption and implementation of the Gilroy 2040 General Plan, and the City will, when required, conduct additional environmental review on specific development projects (both public and private) when such projects are proposed.

The draft EIR adequately evaluates the environmental impacts associated with the provision of public services. Environmental evaluation was not improperly deferred and no changes to the draft EIR are required.

2.0 COMMENTS ON THE DRAFT EIR

7. **Comment.** LAFCO anticipates providing the City with supplemental comments on the DEIR in the near future and looks forward to working with the City to ensure that a fully adequate EIR is produced.

Response. This comment does not raise an environmental issue and therefore, no response is required. See LAFCO's supplemental letter (#13), provided after the end of the public review period. However, the City has chosen to fully respond to that letter in this final EIR.



August 10, 2020

To: Cindy McCormick, Senior Planner

Dear Ms. McCormick:

1

The mission of the Sierra Club is to practice and promote the responsible use of the earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment.

The Sierra Club Loma Prieta Chapter (SCLP) would like to submit the following comments regarding the DEIR for the Gilroy 2040 General Plan, with concerns regarding climate change and greenhouse gas emissions, wildlife and habitat, and smart growth.

2

1) The overwhelming support of Gilroy's voters for the Urban Growth Boundary in 2016 shows the importance of maintaining open space and a "rural" atmosphere in and around Gilroy. In the stated objectives of the Plan, to "Balance Growth and Open Space" should be the first objective, not the third.

2) Again in recognition of the demonstrated will of the majority of Gilroy residents to maintain open space, we recommend that "Alternative 2: the Reduced Urban Growth Boundary" Alternative be chosen over the Plan's "Preferred" Alternative. The Gilroy city boundary should not be extended into open space areas outside the current city boundary.

3

3) Alternative 1 ("Preferred") has significant and unavoidable impacts: greenhouse gas (GHG) emissions, Air Quality, and vehicle miles travelled (VMT). Minimization of contributions to climate change needs to be considered a high priority of any project, as climate change is widely recognized to be one of highest "existential threats" of our time.

4

4) Analysis of traffic (and GHG emission) impacts from the Plan extends only as far north as Dunne Avenue in Morgan Hill, and south to Highway 25. It is reasonable to assume that traffic will also increase farther north into San Jose, south into Monterey County, and on Pacheco Pass Highway toward Los Baños. These areas are currently impacted by commute traffic, which will only increase with the population increase that this project will accommodate. The traffic

analysis provides projections that depend on use of mass transit that is not yet available and that is not assured as part of the project.

5 | 5) The DEIR defers analysis of impacts and mitigation to future site specific development projects. This includes impacts to wildlife corridors and “Reserve Systems” (per Santa Clara County Habitat Conservation Plan), as well as to special status species and to sensitive habitats. Deferring to future analysis and determining impacts to be Less Than Significant is not consistent with the terms of CEQA compliance.

6 | 6) The DEIR does not address increased mortalities to bird and other wildlife species from increased traffic, and bird strikes with new buildings and development.

7 | 7) The analysis of the impacts of light pollution, and proposed mitigation is inadequate. The proposed policy regarding light pollution is to “encourage measures to limit light pollution from outdoor sources, and direct outdoor lighting downward and away from wildlife habitat.”

Artificial light at night contributes to light pollution, and is biologically disruptive for living beings. Migratory birds are attracted to light and collide with buildings and other structures. Their migratory flight paths can be altered, and in some extreme cases, birds become trapped in beams of artificial light and die of exhaustion. Many species of mammals will avoid areas illuminated by artificial light at night.

Steps need to be included to require (not just encourage) that lighting be measured and regulated to avoid impacts to birds and other wildlife. Light pollution has dramatic impacts on many wildlife species and is largely unaddressed.

8 | 8) We find the conclusion that the project will not adversely impact groundwater to be questionable. Groundwater depletion is compared to that predicted in the population growth analysis made in 2015, before the Urban Growth Boundary. It is not clear that either the 2015 analysis, or the current one, with a slightly lower population projection, accurately predict groundwater conditions during “drought” conditions. With observed changes in rainfall with climate change, we cannot count on historic average rainfall for the future. “Drought” may become the norm.

9 | Thank you for consideration of these comments. Again, we recommend that the City comply with the intent of its residents, as demonstrated in 2016 with the passage of the Urban Growth Boundary initiative, and comply with CEQA to minimize impacts to the environment, including habitat for birds and other wildlife. Please choose an alternative that will protect the existing open space around the periphery of the City, and help minimize climate change by reducing traffic and GHG.

Sincerely,

Martha Schauss
Wildlife Committee
Loma Prieta Chapter, Sierra Club

Response to Letter #7 from Sierra Club, Loma Prieta Chapter

1. **Comment.** The overwhelming support of Gilroy’s voters for the Urban Growth Boundary in 2016 shows the importance of maintaining open space and a “rural” atmosphere in and around Gilroy. In the stated objectives of the Plan, to “Balance Growth and Open Space” should be the first objective, not the third.

Response. The Guiding Principles of the General Plan, noted on page 2-20 (Project Description) of the General Plan Draft EIR, are not listed in order of importance. All Guiding Principles are of equal importance to the City of Gilroy’s residents, business owners, and City Council. Rearranging the order of the guiding principles at the request of one agency, group (e.g., the Sierra Club), or individual, could be construed as placing that group’s interests above others. No changes to the draft EIR or draft General Plan are necessary.

2. **Comment.** Again, in recognition of the demonstrated will of the majority of Gilroy residents to maintain open space, we recommend that “Alternative 2: the Reduced Urban Growth Boundary” Alternative be chosen over the Plan’s “Preferred” Alternative. The Gilroy city boundary should not be extended into open space areas outside the current city boundary.

Response. The existing Urban Growth Boundary, approved by initiative in 2016 by the voters in Gilroy, is represented by the proposed Gilroy 2040 General Plan, not by Alternative 2. No changes to the draft EIR or draft General Plan are necessary.

3. **Comment.** Alternative 1 (“Preferred”) has significant and unavoidable impacts: greenhouse gas (GHG) emissions, Air Quality, and vehicle miles travelled (VMT). Minimization of contributions to climate change needs to be considered a high priority of any project, as climate change is widely recognized to be one of highest “existential threats” of our time.

Response. Alternative 1 is the existing General Plan, not the proposed Gilroy 2040 General Plan. Alternative 1 also result in significant and unavoidable impacts, many of which are greater than the proposed Gilroy 2040 General Plan. The draft EIR does not identify Alternative 1 as the preferred alternative. No changes to the draft EIR are required.

4. **Comment.** Analysis of traffic (and GHG emission) impacts from the Plan extends only as far north as Dunne Avenue in Morgan Hill, and south to Highway 25. It is reasonable to assume that traffic will also increase farther north into San Jose, south into Monterey County, and on Pacheco Pass Highway toward Los Baños. These areas are currently impacted by commute traffic, which will only increase with the population increase that this project will accommodate. The traffic analysis provides projections that depend on use of mass transit that is not yet available and that is not assured as part of the project.

Response. In order to increase capacity on the deficient freeway ramps (all which were assumed to be served by a ramp meter) the ramp meter rate must be increased to be able to serve a larger number of vehicles per hour. A higher meter service rate, however, would require additional lanes on the freeway in order to service the additional traffic. As mentioned in the Transportation Analysis report, The VTP 2040 identifies the widening of US 101 to include an HOV lane in both the southbound and northbound directions between Cochrane Road in Morgan Hill and Monterey Road in Gilroy and improvements at the US 101/SR 25 interchange. These improvements will be implemented through impact fees, grants, and other City and developer contributions, in conjunction with VTA and Caltrans funding.

The GP EIR focuses on the Gilroy transportation system and what needs to be done in Gilroy to accommodate growth. Accommodating traffic increases outside of Gilroy would be the subject of the respective County plans.

The VTP 2040 includes two planned transit projects in Gilroy: the Caltrain electrification project which would include increased service to Gilroy, and the proposed High-Speed Rail (HSR) project. Improvements to the Caltrain track (electrification) are currently underway between the San Francisco Station and the Tamien Station in San Jose with anticipated completion date in 2022. The Caltrain improvements are included in the VTA and MTC traffic models, thus, these improvements also were included in the Gilroy 2040 General Plan model. The proposed HSR project, however, is a long-term project and it is unknown when it would be completed. Therefore, as a conservative approach, the HSR project is not included in the Gilroy 2040 General Plan model. No changes to the draft EIR are required.

5. **Comment.** The DEIR defers analysis of impacts and mitigation to future site specific development projects. This includes impacts to wildlife corridors and “Reserve Systems” (per Santa Clara County Habitat Conservation Plan), as well as to special status species and to sensitive habitats. Deferring to future analysis and determining impacts to be Less Than Significant is not consistent with the terms of CEQA compliance.

Response. Biological resources are addressed in Section 3.4, Biological Resources. Wildlife corridors are addressed beginning on page 3-146, Adverse Effects on Wildlife Movement, and discusses how the Habitat Plan Reserve System assist to mitigate impacts. Except for existing, designated open space, there are no areas identified as “Reserve System” in the Habitat Plan (Figure 5-4). The draft EIR does state that site-specific future development projects will be evaluated during the Habitat Plan permitting process for their potential impacts on the proposed Reserve System. This is a requirement of the Habitat Plan.

As described in Section 5 of the Habitat Plan, the plan uses a hybrid approach in which maps display conservation priorities on a regional scale. Land acquisition will be undertaken in accordance with a detailed set of requirements, while maintaining flexibility in how the Reserve System is ultimately assembled. Although the final boundaries of the system cannot be known, the general location, size, configuration, and protected resources of the reserves are described in the identified conservation actions.

The section of the Habitat Plan continues on to describe how specific parcels have not been determined as reserve system vs. not reserve system, but how they are evaluated over time for whether to be added to the system. The acquisition process is complicated, and includes evaluating each potential parcel for how it would benefit a covered species or sensitive land cover, or provide linkage/connectivity between other preserved open space areas. Chapter 5 of the final Habitat Plan presents multiple detailed tables regarding acquisition strategies for reserve lands.

The Habitat Plan geobrowser shows lands immediately adjacent to Gilroy's pre-2016 Urban Growth Boundary mapped as "Urban Reserve System Interface Zones" – basically a big buffer around the old Urban Growth Boundary where parcels would have to be evaluated over time as to whether they should be part of the reserve system or not. So it is our understanding that the reserve system takes shape over time as land acquisitions become possible, and other than areas within the Gilroy Urban Growth Boundary already designated as Open Space (shown in purple and light green on Figure 5-4 of the Habitat Plan), it appears that development is assumed to possibly occur within the entire UGB (except for the mapped existing open spaces) and the reserve system will be formed outside the areas that are subject to urban growth/development.

The biological resources section of the draft EIR also address Adverse Effects on Special-Status Plant and Wildlife Species and Protected Nesting Birds begins on page 3-138. Adverse Effects on Sensitive Natural Communities begins on page 3-141. Adverse Effects on Jurisdictional Wetlands and Waterways begins on page 3-143, and Adverse Effects on Regulated Trees begins on page 3-148.

The draft EIR does not defer this analysis and no changes to the draft EIR are necessary.

6. **Comment.** The DEIR does not address increased mortalities to bird and other wildlife species from increased traffic, and bird strikes with new buildings and development.

Response. CEQA guidelines require an analysis of whether a proposed project may, "have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and

Game or U.S. Fish and Wildlife Service.” Impacts to common wildlife species, including birds (not nesting), are not addressed under CEQA. A proposed project also cannot, “Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.” Gilroy is already developed for residential, commercial, industrial and public uses. According to the California Essential Habitat Connectivity Project, the City of Gilroy and immediate surroundings are designated with “limited connectivity opportunity” (2020). California Essential Habitat Connectivity Project. 2020. BIOS Habitat Connectivity Viewer; Accessed August 17, 2020. <https://wildlife.ca.gov/Data/BIOS>. Although buildout of the general plan may result in an incremental increase in mortality of common wildlife, this increase is considered insignificant in comparison to the extent of existing development. No changes to the draft EIR are necessary.

7. **Comment.** The analysis of the impacts of light pollution, and proposed mitigation is inadequate. The proposed policy regarding light pollution is to “encourage measures to limit light pollution from outdoor sources, and direct outdoor lighting downward and away from wildlife habitat.”

Artificial light at night contributes to light pollution, and is biologically disruptive for living beings. Migratory birds are attracted to light and collide with buildings and other structures. Their migratory flight paths can be altered, and in some extreme cases, birds become trapped in beams of artificial light and die of exhaustion. Many species of mammals will avoid areas illuminated by artificial light at night.

Steps need to be included to require (not just encourage) that lighting be measured and regulated to avoid impacts to birds and other wildlife. Light pollution has dramatic impacts on many wildlife species and is largely unaddressed.

Response. The limitation of light pollution is addressed in general plan EIR sections for biological resources and aesthetics. There is no specific guidance in CEQA addressing potential impacts to special-status species as a result of increased light and glare under biological resources. However, proposed projects are analyzed to determine if they would “Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area” as part of the analysis under aesthetics. As discussed on page 3-29 of the DEIR, policy NCR 1.10 addresses light pollution by encouraging the use of measures to limit exterior light pollution and requires that outdoor lighting is directed downward. Policy LU 8.12 and PFS 8.10 require efficient exterior lighting fixtures that maximize energy efficiency while providing effective lighting. PFS 8.10 further requires compatibility with the neighborhood context. Policies NCR 3.1 and 3.12 are primarily intended to promote energy conservation in existing public and private buildings; however, the accompanying implementing programs also address the replacement of older

lighting technologies in parking lots and public spaces, which would also reduce the intensity of lighting effects in these areas. Implementation of these policies, in addition to project-specific compliance with Gilroy Municipal Code section 30.50.44(c) and with the city's Architectural and Site Review process, would reduce the potentially significant impact of light pollution to both humans and wildlife species to a less-than-significant level. No changes to the draft EIR are necessary.

8. **Comment.** We find the conclusion that the project will not adversely impact groundwater to be questionable. Groundwater depletion is compared to that predicted in the population growth analysis made in 2015, before the Urban Growth Boundary. It is not clear that either the 2015 analysis, or the current one, with a slightly lower population projection, accurately predict groundwater conditions during "drought" conditions. With observed changes in rainfall with climate change, we cannot count on historic average rainfall for the future. "Drought" may become the norm.

Response. The draft EIR did not conclude that the project would "not adversely impact groundwater." Conversely, the draft EIR concluded that the project *would adversely* affect groundwater, but that the adverse impact would be less than significant (page 3-312.)

The groundwater impact analysis in the draft EIR is based primarily on the following documents: the *2015 City of Gilroy Urban Water Management Plan*, the *2015 Santa Clara Valley Water District Urban Water Management Plan*, and the *2016 Santa Clara Valley Water District Groundwater Management Plan*.

Urban water management plans assess the reliability of water supply in average water years, single-dry water years, and multiple-dry water years. The details of Gilroy's urban water management plan are included in Section 7.2, Reliability by Type of Year, of that plan.

Therefore, the analysis in the draft EIR did address drought conditions. No changes to the draft EIR are necessary.

9. **Comment.** Thank you for consideration of these comments. Again, we recommend that the City comply with the intent of its residents, as demonstrated in 2016 with the passage of the Urban Growth Boundary initiative, and comply with CEQA to minimize impacts to the environment, including habitat for birds and other wildlife. Please choose an alternative that will protect the existing open space around the periphery of the City, and help minimize climate change by reducing traffic and GHG.

Response. See response to comments 1 and 2 above. No changes to the draft EIR are required.



Cindy McCormick, Senior Planner
City of Gilroy
7351 Rosanna Street
Gilroy, CA 95020

August 10, 2020

Re: Gilroy General Plan 2040 Draft EIR

Dear Ms. McCormick,

Thank you for the opportunity to comment on the Gilroy General Plan Draft EIR (Draft EIR), which examines environmental impacts associated with the proposed Gilroy 2040 General Plan (Plan). The Plan retains the 2016 voter-approved Urban Growth Boundary with the purpose of protecting the unique character of Gilroy and the agriculture and open space character of the surrounding areas.

1 | The Santa Clara Valley Open Space Authority (Authority) is a public, independent special district created by the California State Legislature in 1993 at the urging of community leaders who saw the importance of maintaining the ecological integrity of the region. The Authority conserves the natural environment, supports agriculture, and connects people to nature by protecting open spaces, natural areas, and working farms and ranches for future generations. The Authority’s jurisdiction encompasses the unincorporated rural, agricultural, and open space lands that surround the City of Gilroy. The Authority worked in close partnership with Santa Clara County to prepare the Santa Clara Valley Agricultural Plan (<https://www.sccgov.org/sites/dpd/OrdinancesCodes/Studies/Pages/CAPP>).

After reviewing the Draft EIR, the Authority would like to provide the following comments on the Draft EIR for the City’s consideration:

Support for Reduced Urban Growth Boundary Alternative

2 | The Draft EIR’s analysis of Alternative 2: Reduced Urban Growth Boundary demonstrates that this alternative avoids the significant and unavoidable impacts of the Gilroy 2040 General Plan (Proposed Project), and is reported in the Draft EIR to be environmentally superior from the standpoint of aesthetics, agricultural resources, air quality, biological resources, cultural resources, geologic hazards, greenhouse gas emissions, hazardous materials and wildfire hazards, stormwater and flooding, groundwater, mineral resources, noise, fire protection facilities, school facilities, park and recreation facilities, transportation and mobility, wastewater service, solid waste facilities, and energy conservation. Alternative 2 results in fewer impacts than the Proposed Project by every measure in the Draft EIR and should be considered for approval, or should be the basis of a revised alternative that maintains the same boundary as Alternative 2 while meeting project objectives.

33 Las Colinas Lane
San Jose, CA 95119
408.224.7476 T
408.224.7548 F
openspaceauthority.org



Identification of lands that are subject to the City's Agricultural Mitigation Policy's buffer provisions

3

The Draft EIR states that the City's Agricultural Mitigation Policy "... requires the establishment of buffers to minimize conflicts between agricultural and non-agricultural land uses. The buffer must consist of a 100-foot buffer area and 50-foot transition area for a total depth of 150 feet, measured from the edge of the County-designated agricultural, agricultural preserve, or greenbelt area. All new developments adjacent to County-designated agricultural, agricultural preserve, agricultural open space, greenbelt/agricultural buffer areas shall be required to provide the buffer. Generally, this would apply to development at the southern and eastern boundaries of the Urban Growth Area."

4

The Draft EIR's assessment that agricultural buffers would generally apply to development in the southern and eastern portions indicates that it may be overlooking lands in other areas that may require buffers under the City Agricultural Mitigation Policy. The Plan and Draft EIR should identify where agricultural, agricultural preserve, or greenbelt areas are located, and what areas require buffers under the City Agricultural Mitigation Policy. Specifically, the Plan and Draft EIR should evaluate the Agricultural mitigation policy's nexus with:

5

6

7

- Santa Clara County's Agricultural Preserve that was adopted in 2006 (PLN01 050206)
- County General Plan Designations that are classified by the County as "Resource Conservation Areas", including but not limited to Agriculture, Hillsides, Ranchlands, and Open Space Reserve.
- Agricultural Resource Areas identified in the County adopted Santa Clara Valley Agricultural Plan.

Description of the Santa Clara Valley Open Space Authority

8

The Draft EIR's description of the Authority misstates our creation date and does not reflect the Authority's name change that was formalized in 2015. Please update section 3-6 to include "The Santa Clara Valley Open Space Authority is a public, independent special district created by the California State Legislature in 1993 at the urging of community leaders who saw the importance of maintaining the ecological integrity of the region. The Authority conserves the natural environment, supports agriculture, and connects people to nature by protecting open spaces, natural areas, and working farms and ranches for future generations. Although the City of Gilroy is not a member of the Authority, parcels just outside the city limits within the Gilroy 2040 General Plan Planning Area/Sphere of influence are within the jurisdiction of the Authority."

Thank you for the opportunity to provide comment and for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Andrea Mackenzie". The signature is written in a cursive, flowing style.

Andrea Mackenzie
General Manager

Response to Letter #8 from Open Space Authority Santa Clara Valley

1. **Comment.** The Santa Clara Valley Open Space Authority (Authority) is a public, independent special district created by the California State Legislature in 1993 at the urging of community leaders who saw the importance of maintaining the ecological integrity of the region. The Authority conserves the natural environment, supports agriculture, and connects people to nature by protecting open spaces, natural areas, and working farms and ranches for future generations. The Authority's jurisdiction encompasses the unincorporated rural, agricultural, and open space lands that surround the City of Gilroy. The Authority worked in close partnership with Santa Clara County to prepare the Santa Clara Valley Agricultural Plan (<https://www.sccgov.org/sites/dpd/OrdinancesCodes/Studies/Pages/CAPP>).

Response. This comment does not raise an environmental issue and therefore, no response is required.

2. **Comment.** Support for reduced urban growth boundary alternative. The Draft EIR's analysis of Alternative 2: Reduced Urban Growth Boundary demonstrates that this alternative avoids the significant and unavoidable impacts of the Gilroy 2040 General Plan (Proposed Project), and is reported in the Draft EIR to be environmentally superior from the standpoint of aesthetics, agricultural resources, air quality, biological resources, cultural resources, geologic hazards, greenhouse gas emissions, hazardous materials and wildfire hazards, stormwater and flooding, groundwater, mineral resources, noise, fire protection facilities, school facilities, park and recreation facilities, transportation and mobility, wastewater service, solid waste facilities, and energy conservation. Alternative 2 results in fewer impacts than the Proposed Project by every measure in the Draft EIR and should be considered for approval, or should be the basis of a revised alternative that maintains the same boundary as Alternative 2 while meeting project objectives.

Response. This commenter's preference for Alternative 2 is acknowledged. However, the commenter states that this alternative "avoids the significant and unavoidable impacts of the Gilroy 2040 General Plan." This is not correct. Although Alternative 2 would result in fewer impacts, Section 4.5, Alternatives, in the draft EIR, concludes that Alternative 2 would also result in significant and unavoidable impacts of loss of important farmland, operational criteria air pollutant emissions resulting from an increase in vehicle miles traveled, greenhouse gas emissions, and vehicle miles traveled.

3. **Comment.** The Draft EIR states that the City's Agricultural Mitigation Policy "... requires the establishment of buffers to minimize conflicts between agricultural and non-agricultural land uses. The buffer must consist of a 100-foot buffer area and 50-foot transition area for a total depth of 150 feet, measured from the edge of the

County-designated agricultural, agricultural preserve, or greenbelt area. All new developments adjacent to County-designated agricultural, agricultural preserve, agricultural open space, greenbelt/agricultural buffer areas shall be required to provide the buffer. Generally, this would apply to development at the southern and eastern boundaries of the Urban Growth Area.”

The Draft EIR’s assessment that agricultural buffers would generally apply to development in the southern and eastern portions indicates that it may be overlooking lands in other areas that may require buffers under the City Agricultural Mitigation Policy.

Response. Regarding the Gilroy Agricultural Mitigation Policy, the commenter notes that the draft EIR states that the requirement for agricultural buffers “*generally* [emphasis added] would apply to development at the southern and eastern boundaries of the Urban Growth Areas,” and indicates that the discussion may be overlooking lands in other areas that may require buffers under the Gilroy Agricultural Mitigation Policy. The fact that most prime and important farmland are located at the southern and eastern boundaries of the Urban Growth Area, does not preclude buffers to the north and west where required by the Gilroy Agricultural Mitigation Policy. There is nothing in the draft EIR analysis of agricultural resources impacts that alleviates the requirements for development subject to the Gilroy Agricultural Mitigation Policy.

4. **Comment.** The Plan and Draft EIR should identify where agricultural, agricultural preserve, or greenbelt areas are located, and what areas require buffers under the City Agricultural Mitigation Policy.

Response. The Gilroy 2040 General Plan and the draft EIR identify existing and proposed land use designations within the City’s existing urban growth boundary. No changes to the urban growth boundary are proposed as part of this general plan update. Gilroy’s Agricultural Mitigation Policy (AMP) was adopted May 3, 2004 as an implementation measure from the Gilroy 2002 General Plan, and most recently updated January 4, 2016. It was discussed in the draft EIR in Section 3.2, Agricultural Resources, and is included in its entirety in Appendix D of the draft EIR. The “Preferred Preservation Areas” are identified in Attachment 1 of the AMP. They are lands in the Santa Clara County Agricultural Preserve, specifically the agricultural lands located outside of Gilroy’s General Plan boundary and within Gilroy Sphere of Influence (AGM, page 2). Lands that require agricultural mitigation are identified in Attachments 2, 3, and 4 of the AGM. Mitigation requirements are not limited to these lands but would include the loss of agricultural land due to the conversion to urban uses (including actions such as urban service area amendments, extension of services, or annexation) when certain criteria are met, the details of which are included in the AGM (ibid, pages 2-4). Mitigation is “one acre of agricultural land

shall be protected for every one acre that is changed to a non-agricultural zoning classification and/or converted to a non-agricultural use (1:1 ratio of land) (ibid, page 2). Requirements for agricultural buffers, including the width and location of required buffers, are detailed on page 5 of the AMP.

5. **Comment.** Specifically, the Plan and Draft EIR should evaluate the Agricultural mitigation policy's nexus with the Santa Clara County's Agricultural Preserve that was adopted in 2006 (PLN01 050206).

Response. The South County's agricultural preserves are properties in Williamson Act contracts. Properties within the Gilroy Planning Area/Sphere of Influence are presented in Figure 3.2-2, Williamson Act Contract Parcels, in the draft EIR. The majority, but not all, are located east and south of the Gilroy Urban Growth Boundary. There are no Williamson Act parcels within the Urban Growth Boundary. There is no nexus between the Gilroy AMP and the South County Agricultural Preserve. The AMP does not conflict with Williamson Act contracts.

6. **Comment.** Specifically, the Plan and Draft EIR should evaluate the Agricultural mitigation policy's nexus with the County General Plan Designations that are classified by the County as "Resource Conservation Areas", including but not limited to Agriculture, Hillside, Ranchlands, and Open Space Reserve.

Response. County General Plan designations are discussed in Section 3.2, Agricultural Resources, in the draft EIR (page 3.41). The designations for land outside of the Gilroy Urban Service area include Ranchlands, Open Space Reserve, Agriculture Large Scale, Agricultural Medium Scale, and Hillside. The Gilroy AMP identifies preferred preservation areas, which are the agricultural lands located in the Santa Clara County agricultural preserve, specifically the agricultural lands located outside of Gilroy's General Plan boundary and within Gilroy's Sphere of Influence (See Attachment 1 "Preferred Preservation Areas" in the AMP). There is no nexus between the Gilroy AMP and the County General Plan land use designations. The AMP does not conflict with the County's General Plan land use designations adjacent to the City's Urban Growth Boundary.

7. **Comment.** Specifically, the Plan and Draft EIR should evaluate the Agricultural mitigation policy's nexus with the Agricultural Resource Areas identified in the County adopted Santa Clara Valley Agricultural Plan.

Regarding Agricultural Resource Areas identified in the January 3, 2018 *Final Draft Santa Clara Valley Agricultural Plan (VAP)*, found online on the Open Space Authority website, this plan is discussed in Section 3.2, Agricultural Resources, in the draft EIR (page 3.42). The VAP acknowledges that "The cities of Gilroy and Morgan Hill also have agricultural protection policies intended to preserve agricultural land and maintain a viable agricultural industry." Map 3-3, Potential Development of

Farmland, present the urban growth limits of Gilroy as of the 2002 General Plan. The urban growth boundary was significantly reduced by the 2016 Urban Growth Boundary Initiative, which was approved by the voters in Gilroy, and therefore, this map should be updated to show the reduced urban growth boundary for Gilroy. There is no nexus between the Gilroy AMP and the Santa Clara Valley Agricultural Plan, as the City of Gilroy is not subject to the objectives and policies in the VAP.

The draft EIR adequately addresses impacts to important farmland and no changes to the draft EIR are necessary.

8. **Comment.** Description of the Santa Clara Valley Open Space Authority. The Draft EIR's description of the Authority misstates our creation date and does not reflect the Authority's name change that was formalized in 2015. Please update section 3-6 to include "The Santa Clara Valley Open Space Authority is a public, independent special district created by the California State Legislature in 1993 at the urging of community leaders who saw the importance of maintaining the ecological integrity of the region. The Authority conserves the natural environment, supports agriculture, and connects people to nature by protecting open spaces, natural areas, and working farms and ranches for future generations. Although the City of Gilroy is not a member of the Authority, parcels just outside the city limits within the Gilroy 2040 General Plan Planning Area/Sphere of influence are within the jurisdiction of the Authority."

Response. This change has been made to the text of the draft EIR. See Section 3.0, Changes to the Draft EIR.



File: 32994
Various

August 10, 2020

Ms. Cindy McCormick
City of Gilroy
Planning Division
7351 Rosanna Street
Gilroy, CA 95020

Subject: Attention: General Plan 2040 Draft EIR

Dear Ms. McCormick:

The Santa Clara Valley Water District (Valley Water) has reviewed the Draft Environmental Impact Report (DEIR) for the City's Draft Gilroy 2040 General Plan, received by Valley Water on June 24, 2020. Valley Water has the following comments:

DEIR

- 1 | **Page 2-20, Section 2.4 Vision Statement:** there is a typo in the last sentence of the vision statement on the word "thropplughout", which probably should read "throughout".
- 2 | **Page 3-31, Environmental Setting, Importance of Agriculture in Santa Clara County:** This section notes that agriculture has historically been the economic base for Gilroy. Agriculture in and around Gilroy is largely dependent on groundwater resources (see section 3.10).
- 3 | **Page 3-110, Wetlands and Waterways:** The text refers to "...Valley Water drainage ditches..." Valley Water requests this phrase be changed to "...Valley Water flood protection channels..."
- 4 | **Page 3-111, Regulated Trees:** the first sentence of that section is either missing a capital letter to start the sentence or missing a word or phrase.
- 5 | **Page 3.144, first full paragraph:** The text refers to "...Valley Water drainage ditches..." Valley Water requests this phrase be changed to "...Valley Water flood protection channels..."
- 6 | **Page 3-187, Subsidence:** The following sentence isn't accurate and should be removed: "However in the vicinity of Gilroy, Valley Water maintains a minimum level of groundwater capacity to minimize the potential for land subsidence due to groundwater extractions from the Llagas Subbasin (Santa Clara Valley Water District 2019)."



Ms. Cindy McCormick

Page 2

August 10, 2020

Based on the reference provided in that sentence, the ‘Santa Clara Valley Water District 2019’ citation is the 2018 Annual Groundwater Report published by Valley Water. That 2018 Annual report doesn’t make any statement in support of the sentence in question. In the 2018 Annual Report (and other Annual Reports), it reads “Subsidence has never been observed in the Coyote Valley or the Llagas Subbasin, so there is no related outcome measure in those areas.” As such, Valley Water has not established groundwater level targets to minimize the potential for land subsidence in the Llagas Subbasin. That groundwater management practice is only done in the Santa Clara Subbasin.

7 **Page 3-215, first paragraph:** The text in parentheses reads “(see related discussions in Section 3.11, Groundwater)”. However, the Groundwater section is numbered Section 3.10 in the EIR, not 3.11. This should be fixed.

8 **Page 3-254, Hazardous Material Regulations:** The groundwater within the Recharge Area, as shown on Figure 3.10-1, is highly sensitive to contamination from chemical leaks and spills. Siting of new commercial or industrial facilities that store hazardous chemicals, whether in underground storage tanks or above ground, should be avoided in the sensitive Recharge Areas, if possible, to minimize the risk to groundwater. If the siting of chemical storage facilities in the Recharge Area cannot be avoided, we recommend requiring storage systems have enhanced leak detection and containment features that surpass the minimum legal requirements. This concern could be addressed in Goal NCR 4.3 Drinking Water Quality (page 3-265) or similar goal(s) to protect groundwater quality.

9 **Page 3-276, Surface Waters:** Recommend deleting second sentence of first paragraph. A blanket statement that Valley Water is responsible for operation of these channels is misleading and potentially inaccurate.

10 **Page 3-276, Surface Waters:** References to Ronan Channel should also include the following alternative names: West Branch Llagas Creek or Reach 9B of the PL-566 project.

11 **Page 3-276, Surface Waters:** Second-to-last bullet: Recommend replacing text as follows: “Llagas Creek is a mostly unimproved natural creek that runs southeast out of the Santa Cruz Mountains to the Pajaro River. Flood protection improvements along portions of Llagas Creek, West Branch Llagas Creek, North Morey Channel, South Morey Channel, Lions Creek, and East Little Llagas Creek, known as PL-566, were constructed by the Soil Conservation Service (now Natural Resources Conservation Service) and are maintained by Valley Water.”

12 **Page 3-276, Surface Waters:** Last bullet: Recommend replacing text as follows: “Uvas Creek is a mostly unimproved natural creek that runs southeast out of the Santa Cruz Mountains to the Pajaro River. Flood protection improvements along a portion of Uvas Creek were constructed by the U.S. Army Corps of Engineers and are maintained by Valley Water.”

13 **Page 3-276, FEMA Flood Zones and Page 3-277, Figure 3.9-1:** Valley Water recommends mentioning that the portion of the Uvas Creek overflow floodplain, generally east of Highway 101, is currently mapped incorrectly and state that the City will work with FEMA to correct the mapping error.

Ms. Cindy McCormick

Page 3

August 10, 2020

14 **Page 3-280, Flood Protection:** Replace the first six sentences of the “Flood Protection” paragraph as follows: “While not intended for flood protection, Uvas Dam and Chesbro Dam (on Uvas Creek and Llagas Creek, respectively) are operated and maintained by Valley Water for water supply purposes. The California Department of Water Resources, Division of Safety of Dams, provides dam safety oversight and conducts regular inspections of the dams. In addition to incidental flood protection provided by the dams, flood protection projects have been completed within the city. Flood protection improvements along portions of Llagas Creek, West Branch Llagas Creek, North Morey Channel, South Morey Channel, Lions Creek, and East Little Llagas Creek, known as PL-566, were constructed by the Soil Conservation Service (now Natural Resources Conservation Service) and are maintained by Valley Water. Flood protection improvements along a portion of Uvas Creek were constructed by the U.S. Army Corps of Engineers and are maintained by Valley Water.”

15 **Page 3-280, Storm Water Runoff and Water Quality:** In the Storm Water Runoff and Water Quality section, it would be worthwhile including language about the homeless/encampments situation and how it affects creeks (e.g., increased debris, pollutants, erosion, associated water quality and environmental impacts, increased risk to public and those charged with inspecting and maintaining creeks, etc.).

16 **Page 3-296, Conclusion:** The DEIR Impact of Increases Storm Water Runoff is considered less than significant based on policies under the Goal PFS 5. However, Valley Water believes either an additional policy be created or a modification of Policy PFS 5.2 be made prior to concluding the impact is less than significant. See comment on Policy PFS 5.2, below.

Page 3-300, last paragraph: We suggest replacing the existing paragraph with the text below to correct several inaccurate statements:

17 “The Llagas Subbasin occupies a northwest trending structural depression. The Llagas Subbasin has a surface area of about 87 square miles, and is about 15 miles long, three miles wide at its northern boundary, and six miles wide at its southern boundary. The subbasin extends from the groundwater divide at Cochrane Road near the city of Morgan Hill in the north to the Pajaro River in the south. The Llagas Subbasin is comprised of both confined areas (where clay layers impede infiltration and water movement), and recharge areas, where groundwater can move relatively freely within the soil.

Recharge areas occur in the northern part of the subbasin and along elevated lateral edges; groundwater in these areas is generally found in unconfined conditions. More extensive fine-grained deposits in the southern portion of the basin separate upper and lower aquifer zones. Within this confined area, wells deeper than about 150 feet experience confined aquifer conditions. Figure 3.10-1, Llagas Subbasin, shows the Llagas Subbasin in relation to the City of Gilroy 2040 Planning Area/Sphere of Influence and the Urban Growth Boundary.”

18 **Page 3-301, Storage Capacity, first paragraph:** While each of the three sentences in this paragraph are individually accurate, the ordering is confusing and somewhat misleading. We recommend splitting these separate ideas into two paragraphs, as follows:

Ms. Cindy McCormick

Page 4

August 10, 2020

“Storage Capacity. According to Valley Water’s 2017 Annual Groundwater Report, end of year groundwater storage of more than 300,000 acre-feet falls within the normal stage (Stage 1) of Valley Water’s Water Shortage Contingency Plan, indicating good water supply conditions.

Valley Water also stores water supply banked underground at Semitropic Water Storage District near Bakersfield. Valley Water’s Semitropic groundwater bank reserves were at 100 percent of capacity, or 349,970 acre-feet as of December 31, 2019 (Valley Water 2020).”

Also, the references section has three references that are Valley Water (2020), and one of the 2020 references has a broken link. Please fix the reference so that it is clear which 2020 reference is the correct one for this sentence in question. The Annual Report referenced here is unclear and the link is broken. Valley Water’s annual groundwater report for 2020 will not be available until summer 2021. The details of this reference should be fixed.

Page 3-301, Storage Capacity, second paragraph: The text in the following paragraph is not accurate as written:

19 “Valley Water estimated the operational storage capacity of the Llagas Subbasin to be 150,000 acre-feet (Santa Clara Valley Water District 2016).”

First, the reference in this sentence doesn’t seem correct. In the references section of the EIR, the ‘Santa Clara Valley Water District 2016’ is listed as:

Santa Clara Valley Water District. May 2016. *2015 South County Recycled Water Master Plan Update*. San Jose, CA. Accessed online at: <https://www.valleywater.org/yourwater/recycled-and-purified-water>.

The correct reference is Valley Water’s 2016 Groundwater Management Plan, which states on page 4-16 that “The District has previously estimated the operational storage capacity of the Llagas Subbasin to range between 152,000 and 165,000 AF.” The EIR already has cited the 2016 Groundwater Management Plan. Therefore, we suggest changing the sentence to: “Valley Water estimated the operational storage capacity of the Llagas Subbasin to range between 152,000 and 165,000 acre-feet (Santa Clara Valley Water District 2016).”

20 **Page 3-301, Storage Capacity, fifth paragraph, first sentence:** The following sentence: “Over-drafting the subbasin could alter the hydraulic gradient and thus result in significant adverse impacts to water quality, particularly in the Gilroy area.”

While it is true that over-drafting could alter the hydraulic gradient and affect the water quality, the primary concern about over-drafting is the loss of groundwater storage or quantity. We suggest adding the concern that over-draft affects groundwater storage (quantity), too.

21 **Page 3-302, Groundwater Recharge, first sentence:** The following sentence: “Gilroy’s groundwater supply is dependent on natural recharge from surface water runoff as well as additional recharge provided by Valley Water through raw water imports”

Ms. Cindy McCormick

Page 5

August 10, 2020

It is important to note here that the managed recharge program by Valley Water is supported by both raw water imported from outside the county and from local supplies from within the county, including the local reservoirs.

22 | **Page 3-305, Drinking water:** This section should not reference recycled water, which is used for non-potable use only. Also, Valley Water is a wholesaler for treated water in North County. We are the countywide groundwater sustainability agency.

23 | **Page 3-307, Sustainable Groundwater Act of 2014:** Some details of this paragraph should be updated. First, the sentence “The Department of Water Resources is currently taking the initial steps in developing implementation guidance.” is outdated. DWR has already provided implementation guidance for SGMA. Second, DWR has approved both Valley Water as the Groundwater Sustainability Agency (GSA) for the Llagas Subbasin and Valley Water’s Alternative for a Groundwater Sustainability Plan (GSP) in July, 2019. Also note that SGMA is not included on the list of abbreviations and acronyms on page 1-7.

24 | **Page 3-310, Valley Water Groundwater Management Plan (2016):** The section includes the following sentence: “The plan covers the Santa Clara and Llagas subbasins, located entirely in Santa Clara County and satisfies the objectives of the Sustainable Groundwater Management Act (SGMA).”

We suggest revising it to:

“The plan covers the Santa Clara and Llagas subbasins, located entirely in Santa Clara County and satisfies the objectives of the Sustainable Groundwater Management Act (SGMA) as an Alternative for a Groundwater Sustainability Plan (GSP). DWR approved Valley Water’s Alternative GSP in July 2019.”

25 | **Page 3-312, Thresholds of Significance:** We suggest the following change to this sentence “...a net deficit in aquifer volume or a ...”, to read “...a net deficit in groundwater volume or a ...”.

26 | **Page 3-312, Analysis, Impacts, and Mitigation:** This is a similar comment to the text from page 3-301. The following two sentences seem to be incorrectly indicating that the Semitropic storage should be compared to Valley Water’s Water Shortage Contingency Plan. Here are the two sentences:
“According to Valley Water’s 2017 Annual Groundwater Report, end of year groundwater storage of more than 300,000 acre-feet falls within the normal stage (Stage 1) of Valley Water’s Water Shortage Contingency Plan, indicating good water supply conditions. Valley Water’s Semitropic groundwater bank reserves were at 100 percent of capacity, or 349,970 acre-feet as of December 31, 2019 (Valley Water 2020).”

Valley Water uses groundwater storage in the Santa Clara and Llagas Subbasins when comparing to the 300,000 AF in the Water Shortage Contingency Plan, not the volume of groundwater in the Semitropic bank. A better second sentence would state the groundwater in storage in the Santa Clara and Llagas Subbasins in 2019 in comparison to the normal stage 1 of the Water Shortage Contingency Plan.

27 | **Page 3-319, Groundwater:** Section 3.10 concludes that impacts to groundwater recharge from future growth and expanded impervious surface will be less than significant with “*compliance with local and*

Ms. Cindy McCormick

Page 6

August 10, 2020

state requirements for reductions in impervious surfaces, storm water retention and detention, infiltration, Low Impact Development and Best Management Practices.” These regulations focus more on protection of water quality versus minimizing loss of natural groundwater recharge. Gilroy should adopt a policy to specifically protect natural groundwater recharge in the unconfined areas of the Llagas Subbasin in addition to protection of water quality. In addition, these regulations may reduce loss of natural groundwater recharge, but do not fully eliminate the loss. Development permitted under the proposed General Plan, when considered with development likely to occur in Morgan Hill and unincorporated Santa Clara County, is likely to result in a measurable decrease in natural groundwater recharge. This impact should be fully considered in Section 4.1 under cumulative impacts. Also in Section 4.1 under Groundwater Resources the EIR states that Gilroy represents only 3.9% of countywide water use. As most of the county relies on a separate groundwater basin (the Santa Clara Subbasin), this comparison is inappropriate. The EIR should focus on Gilroy’s share of the Llagas groundwater subbasin where it represents a much greater share.

DEIR, Appendix C

28 Gilroy 2040 General Plan proposes a number of policies in regard to water conservation. Both Policy NCR 3.10 and PFS 3.8 promote achieving a 20 percent reduction in per-capita water use from 2009 levels by 2020 consistent with the State’s 20x2020 Water Conservation Plan. Since 2020 has already arrived, Valley Water suggests that the policies be altered to more forward thinking and set further targets for future years. Some suggestions include adoption of New Development Standards, incorporation of Advanced Metering Infrastructure, and the promotion of Green Streets as part of Gilroy’s stormwater collection (potentially as part of Goal PFS-5).

Policy PFS 5.2 is a mitigation for Increased Storm Water Runoff. However, Valley Water believes that in order for PFS 5.2 to provide sufficient mitigation for increased storm runoff and mitigate the potential for increased flood risk, this policy must be amended to or another policy created to clarify that stormwater from new development or redevelopment and/or the provision of a storm collection system should be designed to not exceed the existing capacity of receiving creeks and channels. The current policy PFS 5.2 suggests that the storm collection system only needs to be designed to convey runoff to the receiving creek or channel with no provision to ensure that the receiving creek or channel can accept the runoff without adverse flooding impacts.

If you have any questions, please contact me at (408) 630-3157 or kthai@valleywater.org. Please reference Valley Water File No. 32994 on any future correspondence.

Sincerely,

DocuSigned by:

 786F93119889446...

Kevin Thai
 Assistant Engineer II
 Community Projects Review Unit

cc: U. Chatwani, V. De La Piedra, D. Mody, M. Richert, M. Martin, Y. Arroyo, K. Thai, File

Response to Letter #9 from Valley Water

1. **Comment.** Page 2-20, Section 2.4 Vision Statement: there is a typo in the last sentence of the vision statement on the word “thropplughout,” which probably should read “throughout.”

Response. Comment noted. The word should have been “throughout.”

2. **Comment.** Page 3-31, Environmental Setting, Importance of Agriculture in Santa Clara County: This section notes that agriculture has historically been the economic base for Gilroy. Agriculture in and around Gilroy is largely dependent on groundwater resources (see section 3.10).

Response. Comment noted. It does not raise an environmental issue and therefore, no further response is provided.

3. **Comment.** Page 3-110, Wetlands and Waterways: The text refers to “...Valley Water drainage ditches...” Valley Water requests this phrase be changed to “...Valley Water flood protection channels...”

Response. This change has been made to the text of the draft EIR. See Section 3.0, Changes to the Draft EIR.

4. **Comment.** Page 3-111, Regulated Trees: the first sentence of that section is either missing a capital letter to start the sentence or missing a word or phrase.

Response. Comment noted. The “C” in city should have been capitalized.

5. **Comment.** Page 3.144, first full paragraph: The text refers to “...Valley Water drainage ditches...” Valley Water requests this phrase be changed to “...Valley Water flood protection channels...”

Response. This change has been made to the text of the draft EIR. See Section 3.0, Changes to the Draft EIR.

6. **Comment.** Page 3-187, Subsidence: The following sentence isn’t accurate and should be removed: “However in the vicinity of Gilroy, Valley Water maintains a minimum level of groundwater capacity to minimize the potential for land subsidence due to groundwater extractions from the Llagas Subbasin (Santa Clara Valley Water District 2019).”

Based on the reference provided in that sentence, the ‘Santa Clara Valley Water District 2019’ citation is the 2018 Annual Groundwater Report published by Valley Water. That 2018 Annual report doesn’t make any statement in support of the sentence in question. In the 2018 Annual Report (and other Annual Reports), it reads

“Subsidence has never been observed in the Coyote Valley or the Llagas Subbasin, so there is no related outcome measure in those areas.” As such, Valley Water has not established groundwater level targets to minimize the potential for land subsidence in the Llagas Subbasin. That groundwater management practice is only done in the Santa Clara Subbasin.

Response. Changes have been made to the text of the draft EIR to address these comments. See Section 3.0, Changes to the Draft EIR.

7. **Comment.** Page 3-215, first paragraph: The text in parentheses reads “(see related discussions in Section 3.11, Groundwater)”. However, the Groundwater section is numbered Section 3.10 in the EIR, not 3.11. This should be fixed.

Response. Comment noted. The Groundwater section is 3.10.

8. **Comment.** Page 3-254, Hazardous Material Regulations: The groundwater within the Recharge Area, as shown on Figure 3.10-1, is highly sensitive to contamination from chemical leaks and spills. Siting of new commercial or industrial facilities that store hazardous chemicals, whether in underground storage tanks or above ground, should be avoided in the sensitive Recharge Areas, if possible, to minimize the risk to groundwater. If the siting of chemical storage facilities in the Recharge Area cannot be avoided, we recommend requiring storage systems have enhanced leak detection and containment features that surpass the minimum legal requirements. This concern could be addressed in Goal NCR 4.3 Drinking Water Quality (page 3-265) or similar goal(s) to protect groundwater quality.

Response. Policy NCR 4.3 requires that city drinking water meets the required and recommended standards set forth by the State of California. Valley Water’s recommendation to require that all storage systems have enhanced leak detection and containment features that surpass the minimum legal requirements would be unnecessary for projects that would be sufficiently mitigated under general state requirements. Otherwise, projects that have the potential to contaminate groundwater due to chemical leaks and spills will be evaluated on a case-by-case basis and mitigated accordingly. Furthermore, while the City does not anticipate new hazardous materials facilities within the Recharge Area shown on Figure 3.10-1; all underground storage tanks are currently and would continue to be required to pass enhanced leak detection (ELD) testing and all aboveground tanks are required to have modern containment and spill control features (e.g. overfill prevention, spill control, secondary containment, and Best Management Practices). No changes to the draft EIR are necessary.

9. **Comment.** Page 3-276, Surface Waters: Recommend deleting second sentence of first paragraph. A blanket statement that Valley Water is responsible for operation of these channels is misleading and potentially inaccurate.

Response. This change has been made to the text of the draft EIR. See Section 3.0, Changes to the Draft EIR.

10. **Comment.** Page 3-276, Surface Waters: References to Ronan Channel should also include the following alternative names: West Branch Llagas Creek or Reach 9B of the PL-566 project.

Response. This change has been made to the text of the draft EIR. See Section 3.0, Changes to the Draft EIR.

11. **Comment.** Page 3-276, Surface Waters: Second-to-last bullet: Recommend replacing text as follows: "Llagas Creek is a mostly unimproved natural creek that runs southeast out of the Santa Cruz Mountains to the Pajaro River. Flood protection improvements along portions of Llagas Creek, West Branch Llagas Creek, North Morey Channel, South Morey Channel, Lions Creek, and East Little Llagas Creek, known as PL-566, were constructed by the Soil Conservation Service (now Natural Resources Conservation Service) and are maintained by Valley Water."

Response. This change has been made to the text of the draft EIR. See Section 3.0, Changes to the Draft EIR.

12. **Comment.** Page 3-276, Surface Waters: Last bullet: Recommend replacing text as follows: "Uvas Creek is a mostly unimproved natural creek that runs southeast out of the Santa Cruz Mountains to the Pajaro River. Flood protection improvements along a portion of Uvas Creek were constructed by the U.S. Army Corps of Engineers and are maintained by Valley Water."

Response. This change has been made to the text of the draft EIR. See Section 3.0, Changes to the Draft EIR.

13. **Comment.** Page 3-276, FEMA Flood Zones and Page 3-277, Figure 3.9-1: Valley Water recommends mentioning that the portion of the Uvas Creek overflow floodplain, generally east of Highway 101, is currently mapped incorrectly and state that the City will work with FEMA to correct the mapping error.

Response. FEMA is aware of the discrepancy between published FEMA maps and the area in question. FEMA makes map changes every 10 years; documented in addendums issued by FEMA. The City completed a hydrology study in this area in 1995. The base flood elevations under this study form the basis for development. FEMA recognizes this flood study as the "correct" technical document to use versus

published FEMA maps. For the record, the Uvas Creek Overflow Floodplain Delineation Sector Map, prepared by Schaaf & Wheeler for the City of Gilroy in 1993, is included at the end of this response.

14. **Comment.** Page 3-280, Flood Protection: Replace the first six sentences of the “Flood Protection” paragraph as follows: “While not intended for flood protection, Uvas Dam and Chesbro Dam (on Uvas Creek and Llagas Creek, respectively) are operated and maintained by Valley Water for water supply purposes. The California Department of Water Resources, Division of Safety of Dams, provides dam safety oversight and conducts regular inspections of the dams. In addition to incidental flood protection provided by the dams, flood protection projects have been completed within the city. Flood protection improvements along portions of Llagas Creek, West Branch Llagas Creek, North Morey Channel, South Morey Channel, Lions Creek, and East Little Llagas Creek, known as PL-566, were constructed by the Soil Conservation Service (now Natural Resources Conservation Service) and are maintained by Valley Water. Flood protection improvements along a portion of Uvas Creek were constructed by the U.S. Army Corps of Engineers and are maintained by Valley Water.”

Response. This change has been made to the text of the draft EIR. See Section 3.0, Changes to the Draft EIR.

15. **Comment.** Page 3-280, Storm Water Runoff and Water Quality: In the Storm Water Runoff and Water Quality section, it would be worthwhile including language about the homeless/encampments situation and how it affects creeks (e.g., increased debris, pollutants, erosion, associated water quality and environmental impacts, increased risk to public and those charged with inspecting and maintaining creeks, etc.).

Response. The City is aware of homeless activities throughout Gilroy including adjacent to / within the creeks. However, City staff does not believe that homeless encampments need to be singled out when it comes to environmental impacts on the creeks. Furthermore, Valley Water, with support from the Gilroy Police Department, provides creek clean ups within the City limits. No changes to the draft EIR are necessary.

16. **Comment.** Page 3-296, Conclusion: The DEIR Impact of Increases Storm Water Runoff is considered less than significant based on policies under the Goal PFS 5. However, Valley Water believes either an additional policy be created or a modification of Policy PFS 5.2 be made prior to concluding the impact is less than significant. See comment on Policy PFS 5.2, below.

Response. The commenter does not provide justification for an additional policy. The City of Gilroy will modify policies related to water conservation, in compliance with new State and/or Regional mandates, as applicable. No changes to the draft EIR are required. Additionally, see response to comment #28 below.

17. **Comment.** Page 3-300, last paragraph: We suggest replacing the existing paragraph with the text below to correct several inaccurate statements:

“The Llagas Subbasin occupies a northwest trending structural depression. The Llagas Subbasin has a surface area of about 87 square miles, and is about 15 miles long, three miles wide at its northern boundary, and six miles wide at its southern boundary. The subbasin extends from the groundwater divide at Cochrane Road near the city of Morgan Hill in the north to the Pajaro River in the south. The Llagas Subbasin is comprised of both confined areas (where clay layers impede infiltration and water movement), and recharge areas, where groundwater can move relatively freely within the soil.

Recharge areas occur in the northern part of the subbasin and along elevated lateral edges; groundwater in these areas is generally found in unconfined conditions. More extensive fine-grained deposits in the southern portion of the basin separate upper and lower aquifer zones. Within this confined area, wells deeper than about 150 feet experience confined aquifer conditions. Figure 3.10-1, Llagas Subbasin, shows the Llagas Subbasin in relation to the City of Gilroy 2040 Planning Area/Sphere of Influence and the Urban Growth Boundary.”

Response. This change has been made to the text of the draft EIR. See Section 3.0, Changes to the Draft EIR.

18. **Comment.** Page 3-301, Storage Capacity, first paragraph: While each of the three sentences in this paragraph are individually accurate, the ordering is confusing and somewhat misleading. We recommend splitting these separate ideas into two paragraphs, as follows:

“Storage Capacity. According to Valley Water’s 2017 Annual Groundwater Report, end of year groundwater storage of more than 300,000 acre-feet falls within the normal stage (Stage 1) of Valley Water’s Water Shortage Contingency Plan, indicating good water supply conditions.

Valley Water also stores water supply banked underground at Semitropic Water Storage District near Bakersfield. Valley Water’s Semitropic groundwater bank reserves were at 100 percent of capacity, or 349,970 acre-feet as of December 31, 2019 (Valley Water 2020).”

Also, the references section has three references that are Valley Water (2020), and one of the 2020 references has a broken link. Please fix the reference so that it is clear which 2020 reference is the correct one for this sentence in question. The Annual Report referenced here is unclear and the link is broken. Valley Water's annual groundwater report for 2020 will not be available until summer 2021. The details of this reference should be fixed.

Response. This change has been made to the text of the draft EIR. See Section 3.0, Changes to the Draft EIR. The three sources have been modified. Although links may have been broken, the web addresses are still correct.

19. **Comment.** Page 3-301, Storage Capacity, second paragraph: The text in the following paragraph is not accurate as written:

"Valley Water estimated the operational storage capacity of the Llagas Subbasin to be 150,000 acre-feet (Santa Clara Valley Water District 2016)." First, the reference in this sentence doesn't seem correct. In the references section of the EIR, the 'Santa Clara Valley Water District 2016' is listed as:

Santa Clara Valley Water District. May 2016. 2015 South County Recycled Water Master Plan Update. San Jose, CA. Accessed online at:

<https://www.valleywater.org/yourwater/recycledand-purified-water>.

The correct reference is Valley Water's 2016 Groundwater Management Plan, which states on page 4-16 that "The District has previously estimated the operational storage capacity of the Llagas Subbasin to range between 152,000 and 165,000 AF." The EIR already has cited the 2016 Groundwater Management Plan. Therefore, we suggest changing the sentence to: "Valley Water estimated the operational storage capacity of the Llagas Subbasin to range between 152,000 and 165,000 acre-feet (Santa Clara Valley Water District 2016)."

Response. The reference is correctly sourced as follows on page 5-13 of the draft EIR as follows and the requested change has been made to the text of the draft EIR. See Section 3.0, Changes to the Draft EIR.

Santa Clara Valley Water District. *Groundwater Management Plan*. November 2016.

Available at

<https://s3.us-west-2.amazonaws.com/assets.valleywater.org/2016%20Groundwater%20Management%20Plan.pdf>

20. **Comment.** Page 3-301, Storage Capacity, fifth paragraph, first sentence: The following sentence: "Over-drafting the subbasin could alter the hydraulic gradient and thus result in significant adverse impacts to water quality, particularly in the Gilroy area."

While it is true that over-drafting could alter the hydraulic gradient and affect the water quality, the primary concern about over-drafting is the loss of groundwater storage or quantity. We suggest adding the concern that over-draft affects groundwater storage (quantity), too.

Response. This change has been made to the text of the draft EIR. See Section 3.0, Changes to the Draft EIR.

21. **Comment.** Page 3-302, Groundwater Recharge, first sentence: The following sentence: “Gilroy’s groundwater supply is dependent on natural recharge from surface water runoff as well as additional recharge provided by Valley Water through raw water imports”

It is important to note here that the managed recharge program by Valley Water is supported by both raw water imported from outside the county and from local supplies from within the county, including the local reservoirs.

Response. This change has been made to the text of the draft EIR. See Section 3.0, Changes to the Draft EIR.

22. **Comment.** Page 3-305, Drinking water: This section should not reference recycled water, which is used for nonpotable use only. Also, Valley Water is a wholesaler for treated water in North County. We are the countywide groundwater sustainability agency.

Response. This change has been made to the text of the draft EIR. See Section 3.0, Changes to the Draft EIR.

23. **Comment.** Page 3-307, Sustainable Groundwater Act of 2014: Some details of this paragraph should be updated. First, the sentence “The Department of Water Resources is currently taking the initial steps in developing implementation guidance.” is outdated. DWR has already provided implementation guidance for SGMA. Second, DWR has approved both Valley Water as the Groundwater Sustainability Agency (GSA) for the Llagas Subbasin and Valley Water’s Alternative for a Groundwater Sustainability Plan (GSP) in July, 2019. Also note that SGMA is not included on the list of abbreviations and acronyms on page 1-7.

Response. This change has been made to the text of the draft EIR. See Section 3.0, Changes to the Draft EIR.

24. **Comment.** Page 3-310, Valley Water Groundwater Management Plan (2016): The section includes the following sentence: “The plan covers the Santa Clara and Llagas subbasins, located entirely in Santa Clara County and satisfies the objectives of the Sustainable Groundwater Management Act (SGMA).”

We suggest revising it to: “The plan covers the Santa Clara and Llagas subbasins, located entirely in Santa Clara County and satisfies the objectives of the Sustainable Groundwater Management Act (SGMA) as an Alternative for a Groundwater Sustainability Plan (GSP). DWR approved Valley Water’s Alternative GSP in July 2019.”

Response. This change has been made to the text of the draft EIR. See Section 3.0, Changes to the Draft EIR.

25. **Comment.** Page 3-312, Thresholds of Significance: We suggest the following change to this sentence “...a net deficit in aquifer volume or a ...”, to read “...a net deficit in groundwater volume or a ...”.

Response. This comment does not raise an environmental issue and therefore, no response is required. No changes to the draft EIR are required.

26. **Comment.** Page 3-312, Analysis, Impacts, and Mitigation: This is a similar comment to the text from page 3-301. The following two sentences seem to be incorrectly indicating that the Semitropic storage should be compared to Valley Water’s Water Shortage Contingency Plan. Here are the two sentences: “According to Valley Water’s 2017 Annual Groundwater Report, end of year groundwater storage of more than 300,000 acre-feet falls within the normal stage (Stage 1) of Valley Water’s Water Shortage Contingency Plan, indicating good water supply conditions. Valley Water’s Semitropic groundwater bank reserves were at 100 percent of capacity, or 349,970 acre-feet as of December 31, 2019 (Valley Water 2020).”

Valley Water uses groundwater storage in the Santa Clara and Llagas Subbasins when comparing to the 300,000 AF in the Water Shortage Contingency Plan, not the volume of groundwater in the Semitropic bank. A better second sentence would state the groundwater in storage in the Santa Clara and Llagas Subbasins in 2019 in comparison to the normal stage 1 of the Water Shortage Contingency Plan.

Response. This change has been made to the text of the draft EIR. See Section 3.0, Changes to the Draft EIR.

27. **Comment.** Page 3-319, Groundwater: Section 3.10 concludes that impacts to groundwater recharge from future growth and expanded impervious surface will be less than significant with “*compliance with local and state requirements for reductions in impervious surfaces, storm water retention and detention, infiltration, Low Impact Development and Best Management Practices.*” These regulations focus more on protection of water quality versus minimizing loss of natural groundwater recharge. Gilroy should adopt a policy to specifically protect natural groundwater recharge in the unconfined areas of the Llagas Subbasin in addition to protection of water

quality. In addition, these regulations may reduce loss of natural groundwater recharge, but do not fully eliminate the loss. Development permitted under the proposed General Plan, when considered with development likely to occur in Morgan Hill and unincorporated Santa Clara County, is likely to result in a measurable decrease in natural groundwater recharge. This impact should be fully considered in Section 4.1 under cumulative impacts. Also in Section 4.1 under Groundwater Resources the EIR states that Gilroy represents only 3.9% of countywide water use. As most of the county relies on a separate groundwater basin (the Santa Clara Subbasin), this comparison is inappropriate. The EIR should focus on Gilroy's share of the Llagas groundwater subbasin where it represents a much greater share.

Response. The central goal of low impact development (LID) regulations for large projects (ones that create or replaces 22,500 square feet or more of impervious surface) is that the post-development runoff is not greater than pre-development runoff. As a result, post-development run-off, or recharge, should not be less than predevelopment recharge (since run-off is basically the opposite of recharge in this case). Therefore, no changes to the draft EIR are required.

28. **Comment.** DEIR, Appendix C. Gilroy 2040 General Plan proposes a number of policies in regard to water conservation. Both Policy NCR 3.10 and PFS 3.8 promote achieving a 20 percent reduction in per-capita water use from 2009 levels by 2020 consistent with the State's 20x2020 Water Conservation Plan. Since 2020 has already arrived, Valley Water suggests that the policies be altered to more forward thinking and set further targets for future years. Some suggestions include adoption of New Development Standards, incorporation of Advanced Metering Infrastructure, and the promotion of Green Streets as part of Gilroy's stormwater collection (potentially as part of Goal PFS-5). Policy PFS 5.2 is a mitigation for Increased Storm Water Runoff. However, Valley Water believes that in order for PFS 5.2 to provide sufficient mitigation for increased storm runoff and mitigate the potential for increased flood risk, this policy must be amended to or another policy created to clarify that stormwater from new development or redevelopment and/or the provision of a storm collection system should be designed to not exceed the existing capacity of receiving creeks and channels. The current policy PFS 5.2 suggests that the storm collection system only needs to be designed to convey runoff to the receiving creek or channel with no provision to ensure that the receiving creek or channel can accept the runoff without adverse flooding impacts.






Response. For smaller projects in the areas of the unconfined Llagas sub-basin, the City will include a policy in the General Plan to encourage project design to maintain post project flows to be the same as pre-project flows. It should be noted, however, that the City's stormwater standards for Tier 3 projects indicate offsite discharge is

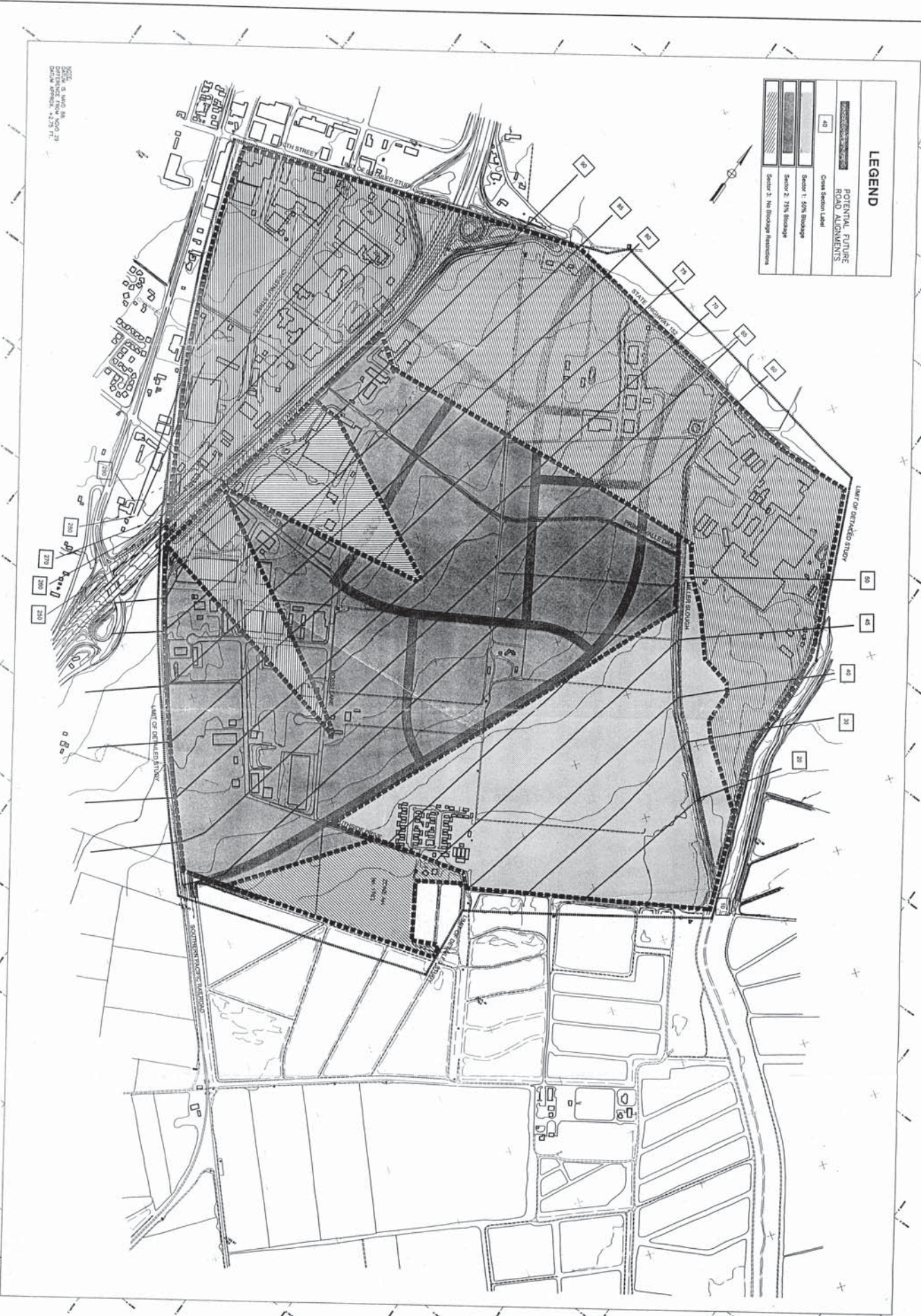
prohibited up to the 95th percentile storm event, for Tier 2 projects treat and release is allowed, and Tier 1 projects allow a more passive design 'best practices' to minimize runoff.

Regarding cumulative groundwater impacts, Section 4.1, Cumulative Impacts, has been revised to document the proposed project's and cumulative projects' demand of the Llagas Groundwater Subbasin.

Regarding the stormwater run-off and Valley Water's concern about development overflowing of the receiving creeks and channels, the City currently follows the Regional Board's requirements when it comes to run-off from a development site. City staff reviews projects for both stormwater treatment requirements, and also for peak stormwater flow to make sure that existing pre-construction flows from the site are not exceeded by any construction activities that occur on-site. The project designer is required to hold water on-site and meter it off-site at the same flow rate, or less, than original or pre-construction conditions. Therefore, development within Gilroy should not be increasing flows to any receiving body through our development activities. No new policies to the General Plan are necessary and no changes to the draft EIR are required.

DATE: 11-13-95
 DRAWING NO.: 95-001-23
 SHEET NO.: 1 OF 2

LEGEND	
	POTENTIAL FUTURE ROAD ALIGNMENTS
	Cross Section Label
	Sector 1: 50% Storage
	Sector 2: 75% Storage
	Sector 3: No Storage Restriction



Schaaf & Wheeler
 CONSULTING CIVIL ENGINEERS
 173-C N. Morrison Ave.
 San Jose, CA 95126
 (408) 297-4848

UVAS CREEK OVERFLOW FLOODPLAIN DELINEATION - SECTOR MAP


SCALE: 1" = 400 FEET

 DATE: 11-13-95

Table 2 Existing and Projected Supply vs Demand Comparison (Llagas Subbasin)
 Gilroy - Morgan Hill Supply Analysis
 City of Gilroy and City of Morgan Hill

Demand Condition	2020 (AFY)	2025 (AFY)	2030 (AFY)	2035 (AFY)
1	2	3	4	5
Existing and Projected Water Supply of the Llagas Subbasin				
Natural Groundwater Recharge	22,400	22,400	22,400	22,400
Local Surface Water	16,000	18,100	20,300	21,500
SCVWD CVP Deliveries	10,700	10,700	10,700	10,400
Recycled Water Supply	2,800	3,100	3,700	3,700
Total without Recycled Water	49,100	51,300	53,400	54,300
Total with Recycled Water	51,900	54,300	57,100	58,000
Existing and Projected Average Daily Water Demands for the Llagas Subbasin				
City of Gilroy	9,200	10,300	11,600	12,900
City of Morgan Hill	7,000	7,600	8,200	8,700
Other Groundwater Users	32,000	33,000	33,800	34,100
Total	48,200	50,900	53,600	55,700
Supply vs Demand Comparison - Excluding Recycled Water				
Difference (Supply - Demand)	900	400	-200	-1,400
Percent of Total Supply	98%	99%	100%	103%
Supply vs Demand Comparison - Including Recycled Water				
Difference (Supply - Demand)	3,700	3,400	3,500	2,300
Percent of Total Supply	93%	94%	94%	96%

Notes:

1. Source: 2015 Gilroy UWMP

3/4/2019



101 Skyport Drive
San Jose, CA 95110-1302
(408) 573-2460 FAX 441-0276

August 10, 2020

Cindy McCormick,
Cindy.McCormick@ci.gilroy.ca.us

Senior Planner
City of Gilroy | Planning Division
7351 Rosanna Street, Gilroy, CA 95020

SUBJECT: Notice of Availability of a Draft Environmental Impact Report for the Gilroy 2040 General Plan (GGP)

Dear Ms. McCormick,

The County of Santa Clara Roads and Airports Department (The County) appreciates the opportunity to review the Notice of Availability of a Draft Environmental Impact Report for the Gilroy 2040 General Plan (GGP).

1

Regarding the Transportation and Circulation Element of the City’s 2040 General Plan, you may be aware that in 2008, County Roads and Airports staff worked with the City of Gilroy, Caltrans, and the VTA on the South County Circulation Study. The Study aimed to target congestion on South County roads and highways due to constraints on north-south corridor travel. It recommended a series of improvements on US 101 and improvements to express transit routes, some of which have been completed to date, and it also recommended a series of roadway capacity improvements on local City roads and arterial County roads such as Santa Teresa Boulevard. The extension and build-out of Santa Teresa Boulevard through the County to connect with the US 101 between Castro Valley Road and the US 101 has been viewed as a long-term improvement project since the inception of Santa Teresa Boulevard itself in the mid-twentieth century. However, since then local land use in the County has evolved to the point of discouraging growth and development in the rural parts of the County and the potential extension of Santa Teresa Boulevard is located outside of the Urban Growth Boundary. For these reasons the County is not actively pursuing the extension of the road. Also, the County has never classified Santa Teresa Expressway as an expressway. To that end, we request the removal of references on maps in Chapter 3 of the General Plan that imply future extension of Santa Teresa Boulevard, and imply that its road classification is an expressway, as it is not.

Other specific comments related to our review of the EIR and General Plan include the following:

2

1. If the City sees the need or desire to extend Santa Teresa Blvd to US 101, the County requests additional circulation and traffic analysis reported in the Final EIR.
2. The General Plan should discuss the impacts of High-Speed Rail and provide plans to provide connectivity for pedestrians, bicyclists, and communities on either side of the tracks, exploring the potential of grade-separation crossings for connectivity at signalized intersections.



- 3 | 3. We recognize that SB 743 no longer recognizes level of service traffic analyses as determinate of environmental significant impacts, however for the purposes of safety and operational impacts on county roads, we request that individual development projects include appropriate traffic analyses.
- 4 | 4. From the NOP published in 2015, Santa Clara County Roads and Airports Department requested that the evaluation of impacts on non-city roads and highways be provided in the EIR. The GGP DEIR states that 63 of the study intersections are located within the City of Gilroy and 14 are located within unincorporated Santa Clara County. We question why there are only 10 listed instead of the 14 identified Santa Clara County's facilities in Appendix G, page 27, under Study Intersections.
- 5 | 5. In Appendix G - Any recommended proposed improvements at County locations on Table 11 and Figure 14 are subject to County review and approval and should be identified in the individual GGP projects' TIA documents. We recommend that both VMT and LOS methodologies be used for operational and safety analyses.
- 6 | 6. The General Plan's TDM policy should include specific reference or specific TDM strategies for the orange-colored high-density development located off of Santa Teresa Boulevard where there is currently no existing or planned transit.
- 7 | 7. The County believes that the baseline VMT should be comparable to County's unincorporated areas' baseline VMT within the same zones. The VMT analysis should reference why the baseline VMT differs from the VTA's Basemap tool.
- 8 | 8. The General Plan traffic analysis should consider increasing ramp capacity on deficient freeway ramps.
- 9 | 9. When available, please provide project plans for the County's review that impact County facilities including Santa Teresa Blvd, Buena Vista/101 interchange, Masten/Fitzgerald, and Monterey intersection improvements. Please coordinate any private development projects seeking a County encroachment permit with our Land Development Unit at permits@rda.sccgov.org.
- 10 | 10. When new traffic signals systems are installed, Maintenance Agreements will be needed with the County to maintain/operate signals at County intersections.
- 11 | 11. On Figure M-2, there are numerous Class II bicycle facilities proposed on County roads where we currently have no facilities designated or planned. Please remove these facilities from the map and the County will work with the City through the development of the County Active Transportation Plan to determine appropriate facilities on County roads.
- 12 | 12. New intersections along Buena Vista Ave are closely spaced apart (500-1000 ft). The County does not recommend installing signals at all these intersections without County concurrence.
- 13 | 13. The County recommends adding a second NBT lane to Santa Teresa & Fitzgerald in addition to other improvements.
- 14 | 14. The County recommends separating and adding NBR lane to Monterey & Buena Vista in addition to other improvements.

We commend the City's work on the General Plan and look forward to continued partnership with you in our joint efforts for achieving sustainable, vibrant communities and continued goals for protecting the rural integrity of the County's open and agricultural spaces. If you have any questions or concerns about these comments, please contact me at 408-573-2482 or ellen.talbo@rda.sccgov.org.

Thank you,



Ellen Talbo, AICP
County Transportation Planner

Response to Letter #10 from County of Santa Clara Roads and Airports Department

1. **Comment.** Regarding the Transportation and Circulation Element of the City's 2040 General Plan, you may be aware that in 2008, County Roads and Airports staff worked with the City of Gilroy, Caltrans, and the VTA on the South County Circulation Study. The Study aimed to target congestion on South County roads and highways due to constraints on north-south corridor travel. It recommended a series of improvements on US 101 and improvements to express transit routes, some of which have been completed to date, and it also recommended a series of roadway capacity improvements on local City roads and arterial County roads such as Santa Teresa Boulevard. The extension and build-out of Santa Teresa Boulevard through the County to connect with the US 101 between Castro Valley Road and the US 101 has been viewed as a long-term improvement project since the inception of Santa Teresa Boulevard itself in the mid-twentieth century. However, since then local land use in the County has evolved to the point of discouraging growth and development in the rural parts of the County and the potential extension of Santa Teresa Boulevard is located outside of the Urban Growth Boundary. For these reasons the County is not actively pursuing the extension of the road. Also, the County has never classified Santa Teresa Expressway as an expressway. To that end, we request the removal of references on maps in Chapter 3 of the General Plan that imply future extension of Santa Teresa Boulevard, and imply that its road classification is an expressway, as it is not. If the City sees the need or desire to extend Santa Teresa Blvd to US 101, the County requests additional circulation and traffic analysis reported in the Final EIR.

Response. The City considers the extension of Santa Teresa Boulevard a critical part of the north-south circulation network in Gilroy, and as a parallel route to U.S. Highway 101 for local residents.

The City has considered Santa Teresa Boulevard an expressway based on its characteristics along most of its length within the city limits. South of First Street, Santa Teresa Boulevard has the characteristics of an arterial, defined as a roadway with primary function to deliver traffic from collector roadways to expressways or freeways. North of First Street, Santa Teresa Boulevard is clearly an expressway based on the raised center median, sound walls along a number of segments, multiple lanes and limited access. Santa Teresa Boulevard, therefore, should be considered an expressway within Gilroy in within the Gilroy General Plan.

Regarding the extension of Santa Teresa Boulevard to U.S. Highway 101 at the SR 25 Interchange, the City, VTA and the County have been jointly working on a VTA sponsored project for several years related to the reconstruction of this interchange. After further consultation with Ms. Talbo (Department of Roads and Airports), it

was understood that Caltrans is not supportive of the temporary Castro Valley Road connection to the planned interchange's southbound off-ramp, connection which would continue to provide access to US 101 from Castro Valley Road and be removed with completion of the Santa Teresa Boulevard extension to the interchange (Phase II of the interchange project). With Caltrans' new position, changes to the design options for the project are required as well as further information and discussions with VTA and Caltrans. Therefore, Ms. Talbo has requested that the City disregard the comment regarding the extension of Santa Teresa Boulevard to the U.S. Highway 101 at the SR 25 Interchange as this project continues to be studied. No changes to the draft EIR are required.

2. **Comment.** The General Plan should discuss the impacts of High-Speed Rail and provide plans to provide connectivity for pedestrians, bicyclists, and communities on either side of the tracks, exploring the potential of grade-separation crossings for connectivity at signalized intersections.

Response. The City of Gilroy's General Plan EIR is not the appropriate mechanism for identifying potential environmental impacts of the San Jose-Merced segment of the California's High-Speed Rail. The City of Gilroy, the County of Santa Clara Roads and Airports Department, and all other individuals and jurisdictions who may be impacted by the California High-Speed Rail had an opportunity to provide comments on the potential environmental impacts of the High-Speed Rail directly to the California High Speed Rail Authority (Authority). The Authority made the Draft EIR/EIS for the San Jose-Merced segment of the California's High-Speed Rail available for public review beginning on April 24, 2020. The public review period closed on June 23, 2020. County of Santa Clara Roads and Airports Department concerns about the environmental impacts of the High-Speed Rail should have been sent directly to the Authority. Likewise, on June 22, 2020, the City of Gilroy submitted comments directly to the Authority on the Draft EIR/EIS for the San Jose-Merced segment of the California's High-Speed Rail program. The Authority has not yet provided a response to the City of Gilroy's comments, but will be made available to the public, upon publication of the Final EIR for the San Jose-Merced segment of the California's High-Speed Rail. No changes to the draft EIR are required.

3. **Comment.** We recognize that SB 743 no longer recognizes level of service traffic analyses as determinate of environmental significant impacts, however for the purposes of safety and operational impacts on county roads, we request that individual development projects include appropriate traffic analyses.

Response. This comment is noted. It does not raise an environmental issue and therefore, no further response is necessary. No changes to the draft EIR are required.

4. **Comment.** From the NOP published in 2015, Santa Clara County Roads and Airports Department requested that the evaluation of impacts on non-city roads and highways be provided in the EIR. The GGP DEIR states that 63 of the study intersections are located within the City of Gilroy and 14 are located within unincorporated Santa Clara County. We question why there are only 10 listed instead of the 14 identified Santa Clara County's facilities in Appendix G, page 27, under Study Intersections.

Response. This comment does not raise an environmental issue. However, as mentioned above, a total of 63 intersections are located within the Gilroy city limits and 14 intersections are located within unincorporated Santa Clara County. However, 21 of those intersections (both City of Gilroy and Santa Clara County intersections) also are under the jurisdiction of Caltrans, which is what the list of study intersections referenced in this comment shows. Four of the Santa Clara County intersection are under the jurisdiction of Caltrans, and are listed as such on the list of study intersections. These intersections are:

- 3. US 101 SB Ramps and Masten Avenue;
- 4. US 101 NB Ramps and Masten Avenue;
- 10. US 101 SB Ramps and Buena Vista Avenue (future); and
- 11. US 101 NB Ramps and Buena Vista Avenue (future).

In total, 77 intersections were evaluated, 63 of which are located within the City of Gilroy (including 17 Caltrans intersections) and 14 which are located within unincorporated Santa Clara County (including 4 Caltrans intersections). No changes to the draft EIR are required.

5. **Comment.** In Appendix G - Any recommended proposed improvements at County locations on Table 11 and Figure 14 are subject to County review and approval and should be identified in the individual GGP projects' TIA documents. We recommend that both VMT and LOS methodologies be used for operational and safety analyses.

Response. This comment is noted. It does not raise an environmental issue and therefore, no further response is necessary.

6. **Comment.** The General Plan's TDM policy should include specific reference or specific TDM strategies for the orange-colored high-density development located off of Santa Teresa Boulevard where there is currently no existing or planned transit.

Response. Since July 1, 2020 the City is following OPR guidelines related to using VMT in our environmental documents related to the study of traffic for development projects. Typically, mitigation for projects that have difficulty meeting VMT

thresholds is to implement TDM measures. Gilroy is in a transitional phase right now and will be finalizing our policy related to VMT in the next few months which will lead to the City developing a separate TDM Policy document to address VMT deficiencies. The City will include several types of TDM strategies and tools in the document to address deficiencies as indicated in the comment. No changes to the draft EIR are necessary.

7. **Comment.** The County believes that the baseline VMT should be comparable to County's unincorporated areas' baseline VMT within the same zones. The VMT analysis should reference why the baseline VMT differs from the VTA's Basemap tool.

Response. While the Gilroy model is based on the VTA's Bi-County model, there are several differences between those models that cause the VMT calculations to be different:

- a. The Gilroy model is more focused on simulating travel patterns between Gilroy/South Santa Clara County and the three AMBAG counties: San Benito, Santa Cruz and Monterey counties. As a result, the Gilroy model base year traffic assignments on U. S. Highway 101 and other facilities in the larger Gilroy area compare much better against observed traffic counts and travel patterns than those developed with the VTA model. This indicates that the Gilroy model, as could be expected, is more accurate in producing existing travel patterns, which affects VMT, in the southern part of Santa Clara County than the VTA model.
- b. The TAZ and roadway system in Gilroy used in the Gilroy model is much more refined. The Gilroy model has 262 TAZ's representing the larger Gilroy area versus 59 TAZ's in the VTA model.
- c. The Gilroy land use data used in the Gilroy model represents 2017 development levels while the VTA model land uses are based on 2015 land use assumptions.

No changes to the draft EIR are required.

8. **Comment.** The General Plan traffic analysis should consider increasing ramp capacity on deficient freeway ramps.

Response. This comment does not raise an environmental issue. However, in order to increase capacity on the deficient freeway ramps (all which were assumed to be served by a ramp meter) the ramp meter rate must be increased to be able to serve a larger number of vehicles per hour. A higher meter service rate, however, would require additional lanes on the freeway in order to service the additional traffic. As mentioned in the Transportation Analysis report, The VTP 2040 identifies the

widening of US 101 to include an HOV lane in both the southbound and northbound directions between Cochrane Road in Morgan Hill and Monterey Road in Gilroy and improvements at the US 101/SR 25 interchange. These improvements will be implemented through impact fees, grants, and other City and developer contributions, in conjunction with VTA and Caltrans funding. No changes to the draft EIR are required.

9. **Comment.** When available, please provide project plans for the County's review that impact County facilities including Santa Teresa Blvd, Buena Vista/101 interchange, Masten/Fitzgerald, and Monterey intersection improvements. Please coordinate any private development projects seeking a County encroachment permit with our Land Development Unit at permits@rda.sccgov.org.

Response. This comment is noted. It does not raise an environmental issue and therefore, no further response is necessary. No changes to the draft EIR are required.

10. **Comment.** When new traffic signals systems are installed, Maintenance Agreements will be needed with the County to maintain/operate signals at County intersections.

Response. This comment is noted. It does not raise an environmental issue and therefore, no further response is necessary. No changes to the draft EIR are required.

11. **Comment.** On Figure M-2, there are numerous Class II bicycle facilities proposed on County roads where we currently have no facilities designated or planned. Please remove these facilities from the map and the County will work with the City through the development of the County Active Transportation Plan to determine appropriate facilities on County roads.

Response. This comment does not raise an environmental issue. However, the proposed bike facilities on County roadways will remain on the Gilroy Bike Map even though they might not be currently shown in County documents or on the County map. A note will be added that the proposed bike facilities are on County facilities, and that the City of Gilroy will work with the County to ensure that the facilities are included during the development of the County's Active Transportation Plan. Cities have planning documents that consider bicycle facilities across multi-jurisdictional boundaries so that bike facilities don't stop at the City limits. No changes to the draft EIR are required.

12. **Comment.** New intersections along Buena Vista Ave are closely spaced apart (500-1000 ft). The County does not recommend installing signals at all these intersections without County concurrence.

Response. This comment is noted. It does not raise an environmental issue and therefore, no further response is necessary. No changes to the draft EIR are required.

2.0 COMMENTS ON THE DRAFT EIR

13. **Comment.** The County recommends adding a second NBT lane to Santa Teresa & Fitzgerald in addition to other improvements.

Response. This comment is noted. It does not raise an environmental issue and therefore, no further response is necessary. No changes to the draft EIR are required.

14. **Comment.** The County recommends separating and adding NBR lane to Monterey & Buena Vista in addition to other improvements.

Response. This comment is noted. It does not raise an environmental issue and therefore, no further response is necessary. No changes to the draft EIR are required.

From: Mark Baker <mbaker@softlights.org>
Date: August 10, 2020 at 5:52:59 PM PDT
To: Planning Division - Public <PlanningDivision@cityofgilroy.org>
Subject: Gilroy Draft EIR and Light Pollution

Dear Gilroy Planning Division,

1

Soft Lights (www.softlights.org) is an advocacy organization dedicated to educating decision makers about the dangers of light pollution and LED lights. We would like to take this opportunity to comment on the Draft EIR for the Gilroy 2040 General Plan.

First, thank you for all your efforts in putting together a plan to keep and make Gilroy a sustainable, beautiful and livable environment. Our comments will relate to lighting and light pollution.

The Draft EIR seems to be missing the section on Light Pollution. Light pollution has been increasing at an unsustainable rate of over 2% per year. This pollution is damaging the darkness resource that is a fundamental component of biological systems.

2

Executive Summary:

(1) Darkness is a fundamental and necessary resource for biological systems and therefore must be protected.

(2) Artificial Light at Night (ALAN) damages darkness, costs money, uses energy and causes health problems for humans, wildlife and the entire biological ecosystem.

(3) Blue wavelength light (380 nanometers to 500 nanometers) can lead to photoreceptor death in the eye, and when used at night, disrupts proper functioning of circadian rhythms.

(4) Human eyes and the human brain have evolved over millions of years to view and make sense of light reflected from objects. Light emitted directly into the eye interferes with this process.

(5) Flashing lights using Light Emitting Diode technology is an unsafe distraction and can cause emotional harm to sensitive receptors such as those with Sensory Processing Sensitivity.

(6) The federal Americans with Disabilities Act prohibits discrimination due to light sensitivity disabilities.

(7) Artificial light is a pollutant that must be regulated.

3 | We request that the Gilroy Draft EIR include actions to eliminate light pollution.

4 | 1) The EIR did not specify a maximum color temperature for outdoor lights. We have found that 2700 Kelvin is the maximum tolerable color temperature for those who have Sensory Processing Sensitivity (SPS). Even 3000K can cause emotional disturbances ranging from mild annoyance to migraine headaches and nausea.

The federal Americans with Disabilities Act prohibits discrimination against those with light sensitivity disabilities. Therefore, the EIR should specify 2700K as the maximum color temperature to ensure that outdoor lighting does not discriminate against the approximately 20% of the population that has light sensitivity.

5 | 2) The EIR does not make mention of the million billion stars above us. Therefore, we ask that the EIR be updated to focus efforts on ensuring that residents can view the Milky Way at night. This means eliminating light pollution, which can be done by setting a standard BUG rating of B0, U0 and G0 for Backlight, Uplight and Glare, and by requiring that outdoor lighting be severely dimmed or turned off from 11pm to 6am.

6 | 3) We know that circadian rhythms are negatively impacted by light pollution. A recent study showed the light pollution is increasing the chances of our children developing bipolar disorder. Therefore, we ask that the EIR address the issue of Artificial Light at Night and propose design guidelines that protect our Darkness resource that is a fundamental need of all biological systems.

7 | 4) LED billboards are a distraction danger and cause mental anguish for people with SPS. We request that the EIR recommend prohibiting advertising LED billboards.

8 | 5) LED flashing/strobing lights are rapidly being deployed on buildings, vehicles and other objects. These lights are incompatible with human biology and are making our lives miserable. The EIR is an excellent place to specify that LED flashing/strobing lights must be prohibited.

Thank you for allowing us this chance to provide input.

Sincerely,

Mark Baker, B.S.E.E.

Soft Lights

www.softlights.org

Response to Letter #11 from Soft Lights

1. **Comment.** Soft Lights (www.softlights.org) is an advocacy organization dedicated to educating decision makers about the dangers of light pollution and LED lights. We would like to take this opportunity to comment on the Draft EIR for the Gilroy 2040 General Plan. First, thank you for all your efforts in putting together a plan to keep and make Gilroy a sustainable, beautiful and livable environment. Our comments will relate to lighting and light pollution. The Draft EIR seems to be missing the section on Light Pollution. Light pollution has been increasing at an unsustainable rate of over 2% per year. This pollution is damaging the darkness resource that is a fundamental component of biological systems.

Response. The draft EIR does address lighting impacts. See section 3.1, Aesthetics pages 3-4, 3-9, 3-28, and 3-29. The impact discussion is on pages 3-28 and 3-29.

Muni Code section 30.50.44 states “(c) Exterior Lighting. No unobstructed beam of exterior lighting shall be directed outward from the site toward any residential use or public right-of-way. Lighting shall be constructed or located so that only the intended area is illuminated and off-site glare is fully controlled.”

Additionally, the City applies the following standard condition of approval to projects with lighting: “Parking lot and exterior light fixtures shall be full cutoff type so that lighting is directed downward only, minimizing glare and light pollution, and shall not cast light on any adjacent property or roadway. Developer shall recess or conceal any under-canopy lighting elements so they are not directly visible from any public area. Prior to issuance of building permits, Developer shall submit a lighting plan with details of the proposed fixtures and locations to the satisfaction of the Community Development Director or designee.”

In addition to City Code Section 30.50.44, Section 27.A.5.a.2 reads as follows: “Avoid bright colors and glossy or glare producing building finishes on structures facing the stream or riparian areas. Avoid night time lighting, direct lighting away from and maximize the distance of lighting from the riparian corridor.” The 2040 Natural Resources Chapter includes policy NCR 1.10 Light Pollution. The City of Gilroy will add a similar policy to the land use chapter as follows: “Encourage measures to limit light pollution from outdoor sources, and direct outdoor lighting downward and away from sensitive receptors.”

The City is currently updating the zoning code and plans to revise lighting regulations consistent with General Plan policies. No changes to the draft EIR are necessary.

2. **Comment.** Executive Summary: (1) Darkness is a fundamental and necessary resource for biological systems and therefore must be protected. (2) Artificial Light at Night (ALAN) damages darkness, costs money, uses energy and causes health problems for humans, wildlife and the entire biological ecosystem. (3) Blue wavelength light (380 nanometers to 500 nanometers) can lead to photoreceptor death in the eye, and when used at night, disrupts proper functioning of circadian rhythms. (4) Human eyes and the human brain have evolved over millions of years to view and make sense of light reflected from objects. Light emitted directly into the eye interferes with this process. (5) Flashing lights using Light Emitting Diode technology is an unsafe distraction and can cause emotional harm to sensitive receptors such as those with Sensory Processing Sensitivity. (6) The federal Americans with Disabilities Act prohibits discrimination due to light sensitivity disabilities. (7) Artificial light is a pollutant that must be regulated.

Response. This comment presents various general physical and emotional health concerns with light but does not provide a comment on the draft EIR, or raise an environmental issue. No response is necessary. No changes to the draft EIR are required.

3. **Comment.** We request that the Gilroy Draft EIR include actions to eliminate light pollution.

Response. See responses to requests below.

4. **Comment** – Request 1) The EIR did not specify a maximum color temperature for outdoor lights. We have found that 2700 Kelvin is the maximum tolerable color temperature for those who have Sensory Processing Sensitivity (SPS). Even 3000K can cause emotional disturbances ranging from mild annoyance to migraine headaches and nausea.

The federal Americans with Disabilities Act prohibits discrimination against those with light sensitivity disabilities. Therefore, the EIR should specify 2700K as the maximum color temperature to ensure that outdoor lighting does not discriminate against the approximately 20% of the population that has light sensitivity.

Response. This comment does not raise an environmental issue. The draft EIR included sufficient analysis to determine if the general plan would create a new source of substantial light or glare that would adversely affect day or nighttime views in the area. No changes to the draft EIR are required.

5. **Comment.** Request 2) The EIR does not make mention of the million billion stars above us. Therefore, we ask that the EIR be updated to focus efforts on ensuring that residents can view the Milky Way at night. This means eliminating light pollution,

which can be done by setting a standard BUG rating of B0, U0 and G0 for Backlight, Uplight and Glare, and by requiring that outdoor lighting be severely dimmed or turned off from 11pm to 6am.

Response. See response to comment number 1 above. Additionally, the draft EIR included sufficient analysis to determine if the general plan would create a new source of substantial light or glare that would adversely affect day or nighttime views in the area. No changes to the draft EIR are required.

6. **Comment.** Request 3) We know that circadian rhythms are negatively impacted by light pollution. A recent study showed the light pollution is increasing the chances of our children developing bipolar disorder. Therefore, we ask that the EIR address the issue of Artificial Light at Night and propose design guidelines that protect our Darkness resource that is a fundamental need of all biological systems.

Response. This comment does not raise an environmental issue. The draft EIR included sufficient analysis to determine if the general plan would create a new source of substantial light or glare that would adversely affect day or nighttime views in the area. No changes to the draft EIR are required.

7. **Comment** – Request 4) LED billboards are a distraction danger and cause mental anguish for people with SPS. We request that the EIR recommend prohibiting advertising LED billboards.

Response. This comment does not raise an environmental issue. The draft EIR included sufficient analysis to determine if the general plan would create a new source of substantial light or glare that would adversely affect day or nighttime views in the area. No changes to the draft EIR are required.

8. **Comment** – Request 5) LED flashing/strobing lights are rapidly being deployed on buildings, vehicles and other objects. These lights are incompatible with human biology and are making our lives miserable. The EIR is an excellent place to specify that LED flashing/strobing lights must be prohibited.

Response. This comment does not raise an environmental issue. The draft EIR included sufficient analysis to determine if the general plan would create a new source of substantial light or glare that would adversely affect day or nighttime views in the area. No changes to the draft EIR are required.

County of Santa Clara

Department of Planning and Development

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, CA 95110
Phone: (408) 299-5700
www.sccplandev.org



August 10, 2020

Julie Wyrick, Planning Manager
Community Development Department
7351 Rosanna St.
Gilroy, CA 95020

Dear Ms. Wyrick:

The County of Santa Clara Department of Planning and Development submits the following comments on the Draft EIR for the City of Gilroy's 2040 General Plan Update.

1

The Draft EIR evaluated an alternative that would reduce the current *Urban Growth Boundary* to the area corresponding to Gilroy's existing city limits. This would represent a total reduction in acreage of 1,177 acres, 573 acres of which is designated as Prime Farmland or Farmland of Statewide Importance. As a result, Alternative 2 would reduce the Significant and Unavoidable Impact of Loss of Important Farmland by approximately 50 percent. And the Draft EIR determined that is the environmentally superior alternative under CEQA. Moreover, this alternative would support two of the key land use objectives of the Santa Clara Valley Agricultural Plan—reducing future conversion of important farmland and avoiding conflicts between agricultural and non-agricultural uses. It should be noted that in the past 30 years, Santa Clara County has lost 21,171 acres of its farm and range land. Alternative 2 represents an opportunity for the City of Gilroy to help slow down this troubling trend, and the County urges the City to adopt it in place of the proposed General Plan.

Sincerely,

Bharat Singh
Principal Planner, County of Santa Clara
County Government Center, East Wing, 7th Floor

Response to Letter #12 from County of Santa Clara Department of Planning and Development

1. **Comment.** The Draft EIR evaluated an alternative that would reduce the current Urban Growth Boundary to the area corresponding to Gilroy’s existing city limits. This would represent a total reduction in acreage of 1,177 acres, 573 acres of which is designated as Prime Farmland or Farmland of Statewide Importance. As a result, Alternative 2 would reduce the Significant and Unavoidable Impact of Loss of Important Farmland by approximately 50 percent. And the Draft EIR determined that is the environmentally superior alternative under CEQA. Moreover, this alternative would support two of the key land use objectives of the Santa Clara Valley Agricultural Plan—reducing future conversion of important farmland and avoiding conflicts between agricultural and non-agricultural uses. It should be noted that in the past 30 years, Santa Clara County has lost 21,171 acres of its farm and range land. Alternative 2 represents an opportunity for the City of Gilroy to help slow down this troubling trend, and the County urges the City to adopt it in place of the proposed General Plan.

Response. This comment is noted. The County expresses their support of Alternative 2, which limits growth to within the existing city limits. The comment does not question the adequacy of the draft EIR. No changes to the draft EIR are required.



**Local Agency
Formation Commission
of Santa Clara County**

777 North First Street
Suite 410
San Jose, CA 95112

SantaClaraLAFCO.org

Commissioners

Rich Constantine
Susan Ellenberg
Sequoia Hall
Sergio Jimenez
Linda J. LeZotte
Mike Wasserman
Susan Vicklund Wilson

Alternate Commissioners

Cindy Chavez
Maya Esparza
Yoriko Kishimoto
Russ Melton
Terry Trumbull

Executive Officer
Neelima Palacherla

August 12, 2020

VIA E-MAIL [PlanningDivision@cityofgilroy.org]

Cindy McCormick
City of Gilroy Planning Division
7351 Rosanna Street
Gilroy, CA 95020

RE: City of Gilroy 2040 General Plan Draft Environmental Impact Report

1 | In its role as a Responsible Agency, on August 10, 2020, Santa Clara LAFCO provided comments to the City of Gilroy regarding its 2040 Draft Environmental Impact Report (DEIR). As indicated in that letter, the following presents LAFCO’s additional comments on the DEIR which are offered to help ensure that a fully adequate EIR is produced.

Agricultural Resources

2 | Please discuss LAFCO’s definition of “prime agricultural land” and LAFCO’s Agricultural Mitigation Policies in the “Regulatory Setting.”

In 2007, Santa Clara LAFCO adopted Agricultural Mitigation Policies to provide guidance to property owners, potential applicants and cities on how to address agricultural mitigation for LAFCO proposals and to provide a framework for LAFCO to evaluate and process in a consistent manner, LAFCO proposals that involve or impact agricultural lands. As such, Santa Clara LAFCO policies call for local agencies to first avoid creating adverse impacts to agricultural lands from the outset, such as steering development away from agricultural lands to avoid their conversion to other uses. This most efficiently occurs at the time a city or county is updating its general plan and the issue can be viewed at a regional level and not based on an individual proposal. If avoidance is not possible, Santa Clara LAFCO policies call for local agencies to minimize the adverse impacts by considering alternatives in the location, siting and scale of a project; utilizing design features such as agricultural buffers, and /or adopting regulations such as Right to Farm ordinances, in order to minimize conversion and impacts on / conflicts with, agricultural operations or uses. Only when all efforts to avoid and minimize conversion of agricultural lands have been exhausted do Santa Clara LAFCO policies call for mitigation.

Under Government Code §56064 of the CKH Act, “prime agricultural land means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

- a. Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
- b. Land that qualifies for rating 80 through 100 Storie Index Rating.
- c. Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935.
- d. Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
- e. Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.”

3

The DEIR states that under buildout conditions, development within the Urban Growth Boundary could result in the conversion of up to 1,119 acres of important farmland (prime farmland and farmland of statewide importance) and that this loss is considered a significant, adverse environmental impact. The DEIR states that “even with implementation of the city’s general plan policies and agricultural land mitigation policy that includes purchase of replacement agricultural lands or permanent conservation easement requirements, the loss of important farmland is still considered significant and unavoidable.”

However, Table S-1 does not include this information. Please include this information about impacts and the measures to mitigate this impact in Table S-1

4

Please also clarify whether future developers will need to comply with the city’s Agricultural Mitigation Policy, including but not limited to “Section 1.02 Agricultural Mitigation Requirements.” If such mitigation is not required, please explain why.

Greenhouse Gas Emissions

5

Within this section, please include an analysis of the Gilroy 2040 General Plan’s consistency with Plan Bay Area, the long-range Regional Transportation Plan and Sustainable Community Strategy for the nine-county San Francisco Bay Area. Plan Bay Area provides a land use vision, that if implemented, would achieve the greenhouse gas emissions reductions targets for the region.

Police and Fire Protection Facilities

6 | In reviewing the DEIR's discussion of the potential impacts of the Project on police and fire facilities and services that could lead to physical impacts on the environment, the DEIR bases its analysis on the assumption that "at 2040 General Plan buildout the population of Gilroy would be approximately 73,430 persons...." "at buildout the population of Gilroy is estimated to be 73,430 persons." (DEIR, pp. 3-356; 3-362.) However, the Project Description states, on DEIR page 2-14, Table 2.2-2, that the projected population under full buildout of the 2040 General Plan is 75,684. This inconsistency means that the DEIR's Police and Fire Protection Facilities analysis is based on a lower population (2,254 persons lower) than is detailed in the Project Description, and also relied on in other sections of the DEIR, such as the water facilities analysis (see DEIR p. 3-442). This error must be corrected, and new analysis provided so that substantial evidence supports the EIR's conclusions regarding the potential impacts of the Project on police and fire facilities and services that could lead to physical impacts on the environment.

Fire Protection Facilities

7 | The DEIR's analysis of the potential impacts of the Project on fire facilities and services that could lead to physical impacts on the environment concludes that development under buildout of the 2040 General Plan could trigger the need for construction of new facilities. (DEIR, p. 3-262.) However, the DEIR concludes that the impacts would be less than significant because "it can be expected that construction and operation of future new or modified fire prevention facilities would have similar impacts as would construction and operations of other types of new development within the proposed Urban Growth Boundary." (DEIR, p. 3-363.) But, if this is the case, then why does the DEIR conclude that impacts are less than significant and fail to identify and recommend adoption of proposed mitigation measures to mitigate the impacts of this new development. The EIR must be revised to detail and recommend those mitigation measures that must be adopted to reduce significant impacts, rather than, incorrectly, stating that the impact would be less than significant and no additional mitigation is required.

8 | The DEIR references a document 2019 Master Plan Update City of Gilroy Fire Department, but it is unclear if this plan has been adopted given that the only citation provided is to "Citygate Associates, 2019, Volume 2." (DEIR, 3-362.) Please clarify and identify what adopted 2019 Master Plan policies will reduce the impacts to Fire Protection Facilities of development under the 2040 General Plan. If the Plan has not been adopted the EIR must be revised appropriately.

Water Service Facilities

9 | This section of the DEIR contains the following significance threshold "potentially significant if inconsistent with city's Water System Master Plan." (DEIR, p. 3-442.) However, CEQA does not allow a lead agency to treat a plan, here the Water

System Master Plan, as the baseline for its environmental analysis of the impacts of the 2040 General Plan buildout on water services facilities. (*See Environmental Planning & Info. Council v County of El Dorado* (1982) 131 Cal.App.3d 350 [EIR on proposed new plan must address existing level of physical development as baseline for impact analysis, not existing plan, even if new plan would allow less growth than existing plan].) Accordingly, this section of the DEIR must be revised to present an analysis of the Project’s potential impacts on water service facilities based on the existing level of water facilities development.

Wastewater Facilities

10

This section of the DEIR states that the development under the 2040 General Plan would trigger the “need for new or expanded wastewater collection and treatment facilities, the construction of which would cause significant environmental effects.” (DEIR, p. 3-449.) The DEIR further states that construction of these facilities “would have similar impacts as would construction and operation of other types of new development within Gilroy,” and “mitigation measures referenced in other sections of this EIR that serve to avoid or reduce potential impacts from new development would also avoid or reduce impacts of expanded or new sewer system and wastewater facilities.” (Id.) However, the DEIR then concludes “therefore, impact would be less than significant and no additional mitigation is required.” (Id.) This is incorrect. The DEIR states that there **are** mitigation measures necessary to avoid or reduce impacts of expanded or new sewer system and wastewater facilities, but neither identifies these measures, nor recommends their adoption in order to reduce significant impacts related to the construction and operation of expanded and/or new sewer system and wastewater facilities. The EIR must be revised to detail and recommend those mitigation measures that must be adopted to reduce significant impacts, rather than, incorrectly, stating that the “impact would be less than significant and no additional mitigation is required.”

Thank you again for providing us with the opportunity to provide additional comments on this important project. If you have any questions regarding these comments, please contact Dunia Noel, Assistant Executive Officer at dunia.noel@ceo.sccgov.org.

Sincerely,



Neelima Palacherla
LAFCO Executive Officer

Cc: LAFCO Members

Response to Letter #13 from LAFCO of Santa Clara County

1. **Comment.** In its role as a Responsible Agency, on August 10, 2020, Santa Clara LAFCO provided comments to the City of Gilroy regarding its 2040 Draft Environmental Impact Report (DEIR). As indicated in that letter, the following presents LAFCO's additional comments on the DEIR which are offered to help ensure that a fully adequate EIR is produced.

Response. This comment is noted. LAFCO is a responsible agency, as they have jurisdiction over urban service area amendments. This comment does not raise an environmental issue and therefore, no response is necessary. No changes to the draft EIR are required.

2. **Comment.** Please discuss LAFCO's definition of "prime agricultural land" and LAFCO's Agricultural Mitigation Policies in the "Regulatory Setting." In 2007, Santa Clara LAFCO adopted Agricultural Mitigation Policies to provide guidance to property owners, potential applicants and cities on how to address agricultural mitigation for LAFCO proposals and to provide a framework for LAFCO to evaluate and process in a consistent manner, LAFCO proposals that involve or impact agricultural lands. As such, Santa Clara LAFCO policies call for local agencies to first avoid creating adverse impacts to agricultural lands from the outset, such as steering development away from agricultural lands to avoid their conversion to other uses. This most efficiently occurs at the time a city or county is updating its general plan and the issue can be viewed at a regional level and not based on an individual proposal. If avoidance is not possible, Santa Clara LAFCO policies call for local agencies to minimize the adverse impacts by considering alternatives in the location, siting and scale of a project; utilizing design features such as agricultural buffers, and /or adopting regulations such as Right to Farm ordinances, in order to minimize conversion and impacts on / conflicts with, agricultural operations or uses. Only when all efforts to avoid and minimize conversion of agricultural lands have been exhausted do Santa Clara LAFCO policies call for mitigation.

Under Government Code §56064 of the CKH Act, "prime agricultural land means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

- a. Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
- b. Land that qualifies for rating 80 through 100 Storie Index Rating.

- c. Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935.
- d. Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
- e. Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.”

Response. LAFCO has jurisdiction over urban service area amendments. These requested changes have been made to the text of the draft EIR. See Section 3.0, Changes to the Draft EIR.

3. **Comment.** The DEIR states that under buildout conditions, development within the Urban Growth Boundary could result in the conversion of up to 1,119 acres of important farmland (prime farmland and farmland of statewide importance) and that this loss is considered a significant, adverse environmental impact. The DEIR states that “even with implementation of the city’s general plan policies and agricultural land mitigation policy that includes purchase of replacement agricultural lands or permanent conservation easement requirements, the loss of important farmland is still considered significant and unavoidable.” However, Table S-1 does not include this information. Please include this information about impacts and the measures to mitigate this impact in Table S-1.

Response. The significant and unavoidable loss of farmland discussed in Section 3.2, Agricultural Resources, was inadvertently not included in the Summary. Table S-1 has been revised to include this impact. See Section 4.0, Revised Summary.

4. **Comment.** Please also clarify whether future developers will need to comply with the city’s Agricultural Mitigation Policy, including but not limited to “Section 1.02 Agricultural Mitigation Requirements.” If such mitigation is not required, please explain why.

Response. Development projects subject to the Gilroy Agricultural Mitigation Policy will be required to comply with the policy. No changes to the draft EIR are required.

5. **Comment.** Greenhouse Gas Emissions. Within this section, please include an analysis of the Gilroy 2040 General Plan's consistency with Plan Bay Area, the long-range Regional Transportation Plan and Sustainable Community Strategy for the nine-county San Francisco Bay Area. Plan Bay Area provides a land use vision, that if implemented, would achieve the greenhouse gas emissions reductions targets for the region.

Response. A discussion of the Gilroy 2040 General Plan's consistency with Plan Bay Area has been added to the text of the draft EIR. The project is consistent with Plan Bay Area. See Section 3.0, Changes to the Draft EIR.

6. **Comment.** Police and Fire Protection Facilities. In reviewing the DEIR's discussion of the potential impacts of the Project on police and fire facilities and services that could lead to physical impacts on the environment, the DEIR bases its analysis on the assumption that "at 2040 General Plan buildout the population of Gilroy would be approximately 73,430 persons..." "at buildout the population of Gilroy is estimated to be 73,430 persons." (DEIR, pp. 3-356; 3-362.) However, the Project Description states, on DEIR page 2-14, Table 2.2-2, that the projected population under full buildout of the 2040 General Plan is 75,684. This inconsistency means that the DEIR's Police and Fire Protection Facilities analysis is based on a lower population (2,254 persons lower) than is detailed in the Project Description, and also relied on in other sections of the DEIR, such as the water facilities analysis (see DEIR p. 3-442). This error must be corrected, and new analysis provided so that substantial evidence supports the EIR's conclusions regarding the potential impacts of the Project on police and fire facilities and services that could lead to physical impacts on the environment.

Response. Section 3.14, Fire Protection Facilities has been revised to reflect the correct population projection of 75,684. See Section 3.0, Changes to the Draft EIR, for the revised text. No changes were made to the conclusions. Implementation of General Plan policies associated with fire protection services would be sufficient to adequately serve buildout of Gilroy. The development of fire stations is part of the general plan buildout, the environmental effects of which are evaluated through the EIR. No other changes to the draft EIR are required.

Section 3.13, Police Protection Facilities has been revised to reflect the correct population projection of 75,684. See Section 3.0, Changes to the Draft EIR, for the revised text. Regarding Police Protection Facilities, according to Police Chief Smithee (communications with consultant, August 20, 2020), the current size and design of the Police Facility is sufficient to meet the needs of our community through build out of the general plan. The three percent adjustment to the population numbers, and subsequent personnel projections is not significantly enough to trigger a re-design and expansion. No other changes to the draft EIR are required.

7. **Comment.** Fire Protection Facilities. The DEIR's analysis of the potential impacts of the Project on fire facilities and services that could lead to physical impacts on the environment concludes that development under buildout of the 2040 General Plan could trigger the need for construction of new facilities. (DEIR, p. 3-262.) However, the DEIR concludes that the impacts would be less than significant because "it can be expected that construction and operation of future new or modified fire prevention facilities would have similar impacts as would construction and operations of other types of new development within the proposed Urban Growth Boundary." (DEIR, p. 3-363.) But, if this is the case, then why does the DEIR conclude that impacts are less than significant and fail to identify and recommend adoption of proposed mitigation measures to mitigate the impacts of this new development. The EIR must be revised to detail and recommend those mitigation measures that must be adopted to reduce significant impacts, rather than, incorrectly, stating that the impact would be less than significant and no additional mitigation is required.

Response. This comment is acknowledged. The development of fire stations is part of the general plan buildout, the environmental effects of which are evaluated through the EIR, some of which are less than significant, significant, and significant and unavoidable. These corrections have been made to the text of the draft EIR. See Section 3.0, Changes to the Draft EIR.

The commenter requests that the EIR include separate mitigation measures for the construction of new fire facilities, should they be required. As discussed in the draft EIR, the city has undertaken significant steps towards adding a fourth fire station in the southwest Glen Loma area in partnership with a developer. According to the Gilroy Dispatch, on December 4, 2019, the City Council approved revised plans for the proposed facility within the Glen Loma Ranch Specific Plan area. Expected operational date is 2022. The environmental impacts of construction of the fire station were evaluated in the *Glen Loma Ranch Specific Plan EIR*.

Additionally, as discussed in the draft EIR, project-specific environmental impacts of constructing additional individual fire protection facilities, should they be needed, to support the growth anticipated under the proposed Gilroy 2040 General Plan cannot be determined at this time because the site-specific locations and designs of future facilities are not known.

Fire facilities are an allowed use within most land use designations included in the adopted general plan and the proposed Gilroy 2040 General Plan. It can be expected that construction and operation of future new or modified fire prevention facilities would have similar impacts as would construction and operation of other types of new development within the proposed Urban Growth Boundary. Applicable general plan policies and mitigation measures presented in the draft EIR would be applied to a new fire station, in the same manner as these policies and mitigation measures

would apply to all other land uses identified in the 2040 General Plan, including but not limited to residential, commercial, industrial, parks, and other public facilities.

8. **Comment.** The DEIR references a document 2019 Master Plan Update City of Gilroy Fire Department, but it is unclear if this plan has been adopted given that the only citation provided is to “Citygate Associates, 2019, Volume 2.” (DEIR, 3-362.) Please clarify and identify what adopted 2019 Master Plan policies will reduce the impacts to Fire Protection Facilities of development under the 2040 General Plan. If the Plan has not been adopted the EIR must be revised appropriately.

Response. Regarding fire protection facilities, there are a number of factors that are considered with regard to planned stations and population growth, such as where the growth occurs, the increase in call volume, and if current stations could be reconfigured to support added staffing in order to maintain the adopted Standards of Cover performance measures.

The Standards of Cover Performance Measures adopted by the City Council in December of 2019 calls for a fourth fire station now for the south side of town within the Glen Loma Ranch subdivision, and potentially a fifth fire station if Gilroy expands in the northeastern quadrant. This is spelled out in the 2019 Master Plan Update, page 47, Section 2-2019, Recommendation #6 (Mark Bisbee, City of Gilroy Interim Fire Chief, communication with consultant, August 20, 2020). There is nothing in the draft EIR that implies policies in the master plan would reduce environmental impacts. No changes to the draft EIR are required.

9. **Comment.** Water Service Facilities. This section of the DEIR contains the following significance threshold “potentially significant if inconsistent with city’s Water System Master Plan.” (DEIR, p. 3-442.) However, CEQA does not allow a lead agency to treat a plan, here the Water System Master Plan, as the baseline for its environmental analysis of the impacts of the 2040 General Plan buildout on water services facilities. (*See Environmental Planning & Info. Council v County of El Dorado* (1982) 131 Cal.App.3d 350 [EIR on proposed new plan must address existing level of physical development as baseline for impact analysis, not existing plan, even if new plan would allow less growth than existing plan].) Accordingly, this section of the DEIR must be revised to present an analysis of the Project’s potential impacts on water service facilities based on the existing level of water facilities development.

Response. New water facilities or expansion of existing water facilities are not environmental resources that must be evaluated in an EIR. There is no requirement for an EIR to present an analysis of a project’s potential impacts on water service facilities. The intent of the California legislature is to address environmental resources (not infrastructure), such as clean air and water, enjoyment of aesthetic, natural, scenic, and historic environmental qualities, freedom from excessive noise, to prevent the elimination of fish or wildlife species due to man’s activities, and to

preserve for future generations representations all plant and animal communities and examples of the major periods of California history (Public Resources Code §21001).

The City's environmental checklist questions related to water facilities, which are fashioned after the State CEQA Guidelines Appendix G example initial study checklist, is meant to identify if there is a need for new facilities that could, if constructed, result in impacts to environmental resources as described above. The purpose for the discussion in the draft EIR regarding water facilities was to identify whether there were any new or expanded water facilities that were not already anticipated in the city's water master plan. The no impact determination was an acknowledgment that adoption of the general plan would not result in the need for new or modified water facilities that were not already existing, or planned for by the City. It was not meant to indicate that any water infrastructure improvements that would be required either by the City of Gilroy or by private development projects would not result in environmental impacts. Water infrastructure improvements that would be required to be constructed by either the City of Gilroy or by private development projects are inherently included in the buildout of the proposed project (Gilroy 2040 General Plan). The environmental impacts associated with buildout of the General Plan are addressed in the EIR.

However, language has been added to the draft EIR, that clarifies this issue. See Section 3.0, Changes to the Draft EIR.

10. **Comment.** Wastewater Facilities. This section of the DEIR states that the development under the 2040 General Plan would trigger the "need for new or expanded wastewater collection and treatment facilities, the construction of which would cause significant environmental effects." (DEIR, p. 3-449.) The DEIR further states that construction of these facilities "would have similar impacts as would construction and operation of other types of new development within Gilroy," and "mitigation measures referenced in other sections of this EIR that serve to avoid or reduce potential impacts from new development would also avoid or reduce impacts of expanded or new sewer system and wastewater facilities." (Id.) However, the DEIR then concludes "therefore, impact would be less than significant and no additional mitigation is required." (Id.) This is incorrect. The DEIR states that there are mitigation measures necessary to avoid or reduce impacts of expanded or new sewer system and wastewater facilities, but neither identifies these measures, nor recommends their adoption in order to reduce significant impacts related to the construction and operation of expanded and/or new sewer system and wastewater facilities. The EIR must be revised to detail and recommend those mitigation measures that must be adopted to reduce significant impacts, rather than, incorrectly, stating that the "impact would be less than significant and no additional mitigation is required."

2.0 COMMENTS ON THE DRAFT EIR

Response. This comment is noted. Language has been added to the draft EIR for clarification that development of wastewater infrastructure projects that may be necessary associated with buildout of the general plan are addressed throughout the EIR. See Section 3.0, Changes to the Draft EIR.

CHANGES TO THE DRAFT EIR

3.1 CEQA REQUIREMENTS

CEQA Guidelines section 15132 requires that a final EIR contain either the draft EIR or a revision of the draft EIR. This final EIR incorporates the draft EIR by reference and includes the revisions to the draft EIR, as presented on the following pages. Note that the revised summary is presented in Section 4.0 Revised Summary.

3.2 CHANGES MADE

This section contains text from the draft EIR with changes indicated. Additions to the text are shown with double-underlined text (underline) and deletions are shown with double strikethrough text (~~strikethrough~~). Explanatory notes in italic text (*italic*) precede each revision. The following changes are made:

The following modification is made on page 3-6 in response to a comment from the Santa Clara Valley Open Space Authority.

~~**Santa Clara County Open Space Authority.** The Santa Clara County Open Space Authority is an independent special district that maintains multi-use trails for hikers, bicyclists, and equestrians and is committed to opening new lands to visitors as funding allows. The trails are open every day of the year and are free to the public. They also manage lands to the east of Gilroy in the Diablo Foothills and Palassou Ridge, east of Coyote Lake and the Coyote Lake Harvey Bear Ranch County Park. Although the City of Gilroy is not a member of the authority, parcels just outside the city limits within the Gilroy 2040 General Plan Planning Area/Sphere of influence are within the jurisdiction of the open space authority. The authority was created in 1992 through state legislation with a mission to “preserve, protect and manage, for the use and enjoyment of all people, a well-balanced system of urban and non-urban areas of outstanding scenic, recreational and agricultural importance.” Parcels of land within Gilroy city limits are not in the jurisdiction of the open space authority.~~

Santa Clara Valley Open Space Authority. The Santa Clara Valley Open Space Authority is a public, independent special district created by the California State Legislature in 1993 at the urging of community leaders who saw the importance of maintaining the ecological integrity of the region. The Authority conserves the natural environment, supports agriculture, and connects people to nature by protecting open spaces, natural areas, and working farms and ranches for future generations. Although the City of Gilroy is not a member of the Authority, parcels just outside the city limits within the Gilroy 2040 General Plan Planning Area/Sphere of influence are within the jurisdiction of the Authority.

The following modification is made to page 3-42 in response to a comment from Santa Clara County LAFCO.

Santa Clara County LAFCO. In 2007, Santa Clara LAFCO adopted Agricultural Mitigation Policies to provide guidance to property owners, potential applicants and cities on how to address agricultural mitigation for LAFCO proposals and to provide a framework for LAFCO to evaluate and process in a consistent manner, LAFCO proposals that involve or impact agricultural lands. Urban Service Area amendment proposals are subject to review and approval by LAFCO. LAFCO has no authority over other proposals in the City of Gilroy. As such, Santa Clara LAFCO policies call for local agencies to first avoid creating adverse impacts to agricultural lands from the outset, such as steering development away from agricultural lands to avoid their conversion to other uses. This most efficiently occurs at the time a city or county is updating its general plan and the issue can be viewed at a regional level and not based on an individual proposal. If avoidance is not possible, Santa Clara LAFCO policies call for local agencies to minimize the adverse impacts by considering alternatives in the location, siting and scale of a project; utilizing design features such as agricultural buffers, and /or adopting regulations such as Right to Farm ordinances, in order to minimize conversion and impacts on / conflicts with, agricultural operations or uses. Only when all efforts to avoid and minimize conversion of agricultural lands have been exhausted do Santa Clara LAFCO policies call for mitigation.

Under Government Code §56064 of the CKH Act, “prime agricultural land means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

- a. Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
- b. Land that qualifies for rating 80 through 100 Storie Index Rating.
- c. Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as

defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935.

- d. Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
- e. Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years."

The following modifications are made to AQ-1 on page 3-85 in response to a comment from the Bay Area Air Quality Management District.

- AQ-1.** Add the following new policy to the Gilroy 2040 General Plan Natural and Cultural Resources element:

Reduce Construction Emissions. Require the use of low emissions construction equipment for public and private projects, consistent with the air district 2017 Clean Air Plan.

Where construction-related emissions would exceed the applicable Thresholds of Significance, the City of Gilroy will consider, on a case-by-case basis, implementing Additional Construction Mitigation Measures (Table 8-3 in BAAQMD's CEQA Guidelines).

The following modifications are made on page 3-102 for clarification.

- AQ-3.** Add the following new policy to the Gilroy 2040 General Plan Natural and Cultural Resources element:

Sensitive Receptors within 500 feet of U.S. Highway 101. Require modeling of toxic air contaminants, and include mitigation as may be appropriate, prior to approval of new residential development within 500 feet of U.S. Highway 101, to ensure significant health risks are mitigated.

- AQ-4.** Add the following new policy to the Gilroy 2040 General Plan Natural and Cultural Resources element:

Sensitive Receptors within 500 feet of Existing Point Sources or Existing Heavy Industrial Designated Areas. Require modeling of toxic air contaminants, and include mitigation as may be appropriate, prior to approval of new residential development within the Downtown Specific Plan within 500 feet of existing point sources with screening factors in excess of thresholds, or within 500 feet of areas designated Heavy Industrial, to ensure significant health risks are mitigated.

AQ-5. Add the following new policy to the Gilroy 2040 General Plan Natural and Cultural Resources element:

New Industrial Uses within 500 feet of Sensitive Receptors. Require modeling, and include mitigation as may be appropriate, of toxic air contaminants prior to approval of new industrial development within 500 feet of residential uses, Neighborhood District designations, or the Downtown Specific Plan, to ensure significant health risks are mitigated.

The following modification is made on page 3-110 in response to a comment from Valley Water.

Wetlands and waterways in the 2040 Gilroy General Plan Planning Area/Sphere of Influence, especially Uvas Creek and Llagas Creek, fall under the jurisdiction of the U.S. Army Corps of Engineers (USACE), California Department of Fish and Wildlife (CDFW), and Central Coast Regional Water Quality Control Board (RWQCB). As noted in Section 3.9, Storm Water and Flooding, several major creeks/drainage channels, large wetland features, and numerous Valley Water ~~drainage ditches~~ flood protection channels are located within or traverse the Urban Growth Boundary (refer also to Section 3.9, Storm Water and Flooding). In addition to these features, smaller drainage and other wetland features such as seasonal ponds and vernal pools may also be present within the Urban Growth Boundary, which may also fall under the jurisdiction of these resource agencies. Such features provide regionally important riparian and aquatic natural habitats that support a diverse variety of both common and special-status plant and wildlife species.

The following modification is made on page 3-144 in response to a comment from Valley Water.

As noted in Section 3.9, several major creeks/drainage channels, large wetland features, and numerous Valley Water ~~drainage ditches~~ flood protection channels are located within or traverse the Urban Growth Boundary. In addition to these features, smaller drainage and other wetland features may also be present within the Urban Growth Boundary, and could be affected by future development allowed by the Gilroy 2040 General Plan. Site-specific features would need to be identified in the field during the planning stages for future development projects.

The following modification is made on page 3-171 for clarification.

- CR 1.** To reduce the likelihood of impacts to significant historic structures and historic archaeological resources, as well as unique and tribal archaeological resources resulting from publication of the locations of these ~~culturally significant~~ resources, the following modifications shall be made to Gilroy 2040 General Plan Goal NCR 5, Policy NCR 5.2, Policy NCR 5.5, and Implementation Program 7:

Goal NCR 5 ~~Encourage the preservation of~~ Preserve significant historic ~~and culturally significant~~ buildings, sites, and resources to enrich the sense of place and appreciation of the city's history.

Policy NCR 5.5 ~~Cultural~~ Historic Resources Inventory. Maintain and periodically update the city's inventory of historically ~~and culturally~~ significant buildings to meet current State and Federal historic preservation guidelines.

NCR 5.10 Historic Building Demolition. Consistent with Goal NCR 5, ~~P~~ prior to approving the demolition of historically significant buildings, evaluate alternatives including structural preservation, relocation or other mitigation in an Environmental Impact Report (EIR), and demonstrate that financing has been secured for replacement use.

Implementation Program 7, ~~Cultural~~ Historic Resources Inventory. Maintain and update every five years, the historic resource inventory to evaluate, register, and protect Gilroy's historic resources. The inventory should be publicly accessible and regularly updated.

The following modification is made on page 3-173 for clarification.

- CR 2.** To reduce the likelihood of significant impacts to unique archaeological resources resulting from disturbance and/or publication of the locations of these ~~culturally significant~~ resources, the following modifications shall be made to Gilroy 2040 General Plan Goal NCR 5, Policy NCR 5.2, Policy NCR 5.5, and Implementation Program 7:

Goal NCR 5 ~~Encourage the preservation of~~ Preserve significant historic ~~and culturally significant~~ buildings, sites, and resources to enrich the sense of place and appreciation of the city's history.

Policy NCR 5.2 Historic and Prehistoric Archaeological Resources and CEQA. Discretionary projects subject to the California Environmental Quality Act (CEQA) which ~~will require a records search from the Northwest Information Center to~~

~~determine if there are any known resources within a project area. If the results of the records search indicate the potential existence of historic or pre-historic archaeological resources on the project site, preparation of an archaeological survey will be required. include disturbance of the existing ground surface of the project site will require an archaeological survey and records search if the project site is located in a moderate to high archaeological sensitivity zone as identified on Figure 3.5-1 of the General Plan EIR, or if other evidence suggests the project site to be archaeologically sensitive.~~

Policy NCR 5.5 ~~Cultural~~ Historic Resources Inventory. Maintain and periodically update the city's inventory of historically ~~and culturally~~ significant buildings to meet current State and Federal historic preservation guidelines.

Implementation Program 7, ~~Cultural~~ Historic Resources Inventory. Maintain and update every five years, the historic resource inventory to evaluate, register, and protect Gilroy's historic resources. The inventory should be publicly accessible and regularly updated.

The following modification is made on page 3-187 in response to a comment from Valley Water.

Subsidence. Subsidence can occur as the result of groundwater extraction, decomposition of highly organic soils, or seasonal drying of expansive clay soils. Santa Clara County experienced subsidence associated with over-withdrawal of groundwater during the period from about 1915 to 1969 (Santa Clara Valley Water District 2019). Most subsidence occurred in the northern portion of Santa Clara Valley. ~~However in the vicinity of Gilroy, Valley Water maintains a minimum level of groundwater capacity to minimize the potential for land subsidence due to groundwater extractions from the Llagas Subbasin (Santa Clara Valley Water District 2019).~~ Subsidence has never been observed in the Coyote Valley or the Llagas Subbasin, so there is no related outcome measure in those areas. As such, Valley Water has not established groundwater level targets to minimize the potential for land subsidence in the Llagas Subbasin. Valley Water's 2016 Groundwater Management Plan sets forth objectives so that "groundwater supplies are managed to optimize water supply reliability and minimize land subsidence" and that "groundwater is protected from existing and potential contamination, including salt water intrusion."

The following is added on page 3-228 in response to a comment from Santa Clara County LAFCO.

Plan Bay Area. Plan Bay Area is the Bay Area's Sustainable Community Strategy, adopted to reduce GHG emissions from land use and transportation, as required by SB 375. Plan Bay Area integrates land use and transportation strategies by establishing priority development

areas (PDAs) to accommodate the majority of future growth in the region. PDAs include infill areas within a city usually served by transit, such as historic downtowns and underutilized commercial strips.

Gilroy contains one designated PDA that includes Downtown Gilroy. The 2005 Downtown Gilroy Specific Plan area provides guidance for development within the designated PDA. Downtown Gilroy is envisioned as a historical neighborhood that is economically vibrant, pedestrian-oriented, and a local and visitor destination. The Gilroy 2040 General Plan identifies this area as mixture of retail, entertainment, visitor-serving, and commercial uses, and includes policies that are in-line with the regional objectives for land use and transportation. Therefore, the Gilroy 2040 General Plan would encourage development consistent with the overall goals and objectives of Plan Bay Area.

The following modifications are made to GHG-1 on page 3-239 in response to a comment from the Bay Area Air Quality Management District.

GHG-1. To further enhance GHG reductions from community activities and provide CEQA streamlining benefits for analysis of GHG impacts, Gilroy 2040 General Plan Policy NCR 3.14 shall be replaced, as follows:

~~NCR 3.14 Maximum Greenhouse Gas Emission Reductions. Pursue funding through new development as a means to minimize taxpayer funding. Implement the maximum feasible number of greenhouse emission reduction measures in order for the General Plan to achieve the status of a CEQA Qualifying Climate Action Plan, and the accompanying CEQA streamlining benefits. (See CEQA Guidelines, § 15183.5 (b)(1)).~~

NCR 3.14 Prepare a Qualified GHG Reduction Plan. Pursue funding through new development for preparation of a qualified GHG reduction plan. Pursue funding through grants and any other appropriate funding mechanisms, including California Air Resources Board's list of programs and projects, California State Coastal Conservancy's Climate Ready Grant Program, Climate Corps, and CivicSpark. The plan may be prepared by amending the Gilroy 2040 General Plan or by preparing a separate GHG reduction plan. In either case, requirements for a qualified GHG reduction plan as identified in CEQA Guidelines, § 15183.5 (b)(1) must be met. Accordingly, definition and implementation of GHG reduction measures in addition to those identified in Gilroy 2040 General Plan policies and programs may be required to show progress towards meeting the reduction targets established in the GHG reduction plan.

The following modifications are made to GHG-2 on page 3-239 in response to a comment from the Bay Area Air Quality Management District.

GHG-2. To implement modified policy NCR 3.14 identified in mitigation measure GHG-1, the Gilroy 2040 General Plan shall include an implementation program entitled “Qualified GHG Reduction Plan.” The implementation program shall require that that city prepare and adopt a qualified GHG reduction plan within three years of the date the Gilroy 2040 General Plan is adopted.

When drafting the Climate Action Plan / Qualified Greenhouse Gas (GHG) Reduction Strategy, the City will consider recommendations outlined in BAAQMD’s CEQA Guidelines, and any requirements of AB 32, SB 32, Executive Order B-55-18, and SB 100.

The following modifications are made on page 3-276 in response to a comment from Valley Water.

Listed below are the major channels and watercourses located within the Urban Growth Boundary. ~~Valley Water is responsible for the operation of the listed major channels and watercourses:~~

- Miller Slough is located in the central portion of the city and drains east to the Ronan Channel;
- Ronan Channel, also known as Reach 9B of the PL-566 project, or West Branch Llagas Creek, drains the northern and northwestern portion of the city east to Llagas Creek. This is an improved channel that provides 100-year flood control channel capacity to several smaller channel reaches in the city;
- Princevalle Channel provides storm water drainage for the southern portion of the city, and conveys runoff east to Llagas Creek;
- Llagas Creek is mostly an unimproved natural creek that runs southeast out of the Santa Cruz Mountains to the Pajaro River. Flood protection improvements along portions of Llagas Creek, West Branch Llagas Creek, North Morey Channel, South Morey Channel, Lions Creek, and East Little Llagas Creek, known as PL-566, were constructed by the Soil Conservation Service (now Natural Resources Conservation Service) and are maintained by Valley Water; and
- Uvas Creek is mostly an unimproved natural creek that runs southeast out of the Santa Cruz Mountains to the Pajaro River. Flood protection improvements along a portion of Uvas Creek were constructed by the U.S. Army Corps of Engineers and are maintained by Valley Water. A levee paralleling Uvas Creek to the north protects the city from 100-year flood flows.

The following modifications are made on page 3-280 in response to a comment from Valley Water.

Flood Protection

~~While not intended for flood control, Uvas Creek and Llagas Creek are dammed and receive controlled releases from reservoirs upstream of Gilroy. Chesbro Reservoir controls flows within the Llagas Creek channel and Uvas Reservoir controls flows within Uvas Creek channel. The reservoirs and dams are operated by Valley Water and are used for water supply. Additionally, the U.S. Army Corps of Engineers (USACE) is responsible for conducting regular inspections of the dams. In addition to the unintentional flood control provided by the reservoirs, several flood control projects have been completed within the city. These projects consist of the PL-566 channel (Ronan Channel) and levee improvements on Llagas Creek and its tributaries, and the USACE levee improvements on Uvas Creek.~~

While not intended for flood protection, Uvas Dam and Chesbro Dam (on Uvas Creek and Llagas Creek, respectively) are operated and maintained by Valley Water for water supply purposes. The California Department of Water Resources, Division of Safety of Dams, provides dam safety oversight and conducts regular inspections of the dams. In addition to incidental flood protection provided by the dams, flood protection projects have been completed within the city. Flood protection improvements along portions of Llagas Creek, West Branch Llagas Creek, North Morey Channel, South Morey Channel, Lions Creek, and East Little Llagas Creek, known as PL-566, were constructed by the Soil Conservation Service (now Natural Resources Conservation Service) and are maintained by Valley Water. Flood protection improvements along a portion of Uvas Creek were constructed by the U.S. Army Corps of Engineers and are maintained by Valley Water. Additionally, areas within the Gilroy 2040 General Plan Planning Area/Sphere of Influence are subject to inundation from dam failure, as indicated in [Figure 3.9-2, Dam Failure Inundation Area](#). In addition to potential inundation hazards of the Chesbro Dam and Uvas Dam, northern portions of the Urban Growth Boundary are also in the potential dam failure inundation area from Anderson Dam, located east of Morgan Hill.

The following modifications are made on page 3-300 in response to a comment from Valley Water.

The Llagas Subbasin occupies a northwest trending structural depression. The Llagas Subbasin has a surface area of about 87 square miles, and is about 15 miles long, three miles wide at its northern boundary, and six miles wide at its southern boundary. The subbasin extends from the groundwater divide at Cochrane Road near the city of Morgan Hill in the north and to the Pajaro River in the south. It is interconnected with the Santa Clara Valley and Coyote Valley subbasins to the north, and is divided into three hydrographic units: the northern part and its elevated lateral edges constitute the forebay, and its southern flat interior part is divided into upper and lower aquifer zones. The Llagas Sub-basin is comprised of confined areas with clay layers that impede infiltration and water movement,

~~and recharge areas, in which groundwater can move relatively freely within the soil. Groundwater usage in the southern Santa Clara Valley is generally found in unconfined conditions, however, due to deep Lacustrine clay deposits, wells around 500 feet do experience confined aquifer conditions. The Llagas Subbasin is comprised of both confined areas (where clay layers impede infiltration and water movement), and recharge areas, where groundwater can move relatively freely within the soil.~~

Recharge areas occur in the northern part of the subbasin and along elevated lateral edges; groundwater in these areas is generally found in unconfined conditions. More extensive fine-grained deposits in the southern portion of the basin separate upper and lower aquifer zones. Within this confined area, wells deeper than about 150 feet experience confined aquifer conditions. Figure 3.10-1, Llagas Subbasin, shows the Llagas Subbasin in relation to the City of Gilroy 2040 Planning Area/Sphere of Influence and the Urban Growth Boundary.

The following modifications are made on page 3-301 in response to a comment from Valley Water.

~~**Storage Capacity.** Valley Water also stores water supply banked underground at Semitropic Water Storage District near Bakersfield. According to Valley Water's 2017 Annual Groundwater Report, end of year groundwater storage of more than 300,000 acre feet falls within the normal stage (Stage 1) of Valley Water's Water Shortage Contingency Plan, indicating good water supply conditions. Valley Water's Semitropic groundwater bank reserves were at 100 percent of capacity, or 349,970 acre feet as of December 31, 2019 (Valley Water 2020).~~

Storage Capacity. According to Valley Water's 2017 Annual Groundwater Report, end of year groundwater storage of more than 300,000 acre-feet falls within the normal stage (Stage 1) of Valley Water's Water Shortage Contingency Plan, indicating good water supply conditions.

Valley Water also stores water supply banked underground at Semitropic Water Storage District near Bakersfield. Valley Water's Semitropic groundwater bank reserves were at 100 percent of capacity, or 349,970 acre-feet as of December 31, 2019 (Valley Water 2020).

Valley Water estimated the operational storage capacity of the Llagas Subbasin to range between 150,000 152,000 and 165,000 acre-feet (Santa Clara Valley Water District 2016). Historical water levels were at their lowest during the 1977 drought year, while the highest water levels were experienced during the El Nino year of 1998. According to Valley Water's February 2020 groundwater report, the groundwater level in the Llagas Subbasin (San Martin) index well is about eight feet higher than January 2019 and about 13 feet higher than the five-year average. The January 2020 managed recharge estimate is 1,300 acre-feet, which is 130 percent of the five-year average. Compared to the January averages of the last five years (2015-2019), the estimated January 2020 managed recharge is higher for the Santa Clara Plain, the Coyote Valley, and the Llagas Subbasin.

Over-drafting the subbasin could alter the hydraulic gradient and thus result in significant adverse impacts to groundwater storage, as well as water quality, particularly in the Gilroy area.

The following modifications are made on page 3-302 in response to a comment from Valley Water.

Groundwater Recharge. Gilroy's groundwater supply is dependent on natural recharge from surface water runoff as well as additional recharge provided by Valley Water through raw water imports. The managed recharge program by Valley Water is supported by both raw water imported from outside the county and from local suppliers from within the county, including the local reservoirs.

The following modifications are made on page 3-305 in response to a comment from Valley Water.

Drinking Water. The City of Gilroy provides potable water service to its residential, commercial, industrial, and institutional customers within the city limits. The city's potable water supply is provided by a series of groundwater wells, supplemented ~~by recycled water and~~ storage reservoirs. The city operates reservoirs throughout the city, as well as being served by reservoirs owned and operated by Valley Water ~~the SCWVD~~.

The following modifications are made on page 3-307 in response to a comment from Valley Water.

Sustainable Groundwater Act of 2014. This act provides a framework for sustainable management of groundwater supplies by local authorities, with a limited role for state intervention, if necessary, to protect the resource. The act requires the formation of local groundwater sustainability agencies that must assess conditions in their local water basins and adopt locally-based management plans. The act provides a 20-year timeframe for achievement of long-term groundwater sustainability. The Department of Water Resources ~~is currently taking the initial steps in developing~~ has developed implementation guidance for the Sustainable Groundwater Management Act. Local groundwater sustainability agencies must be established by June 2017. The Department of Water Resources has ranked the Llagas Sub-basin as a high priority basin under the act, noting that nitrate has impacted a significant number of private domestic wells due to historic and ongoing agricultural activities and septic systems, and that perchlorate is also a problem (California Department of Water Resources 2014). In July 2019, the Department of Water Resources approved Valley Water as the Groundwater Sustainability Agency for the Llagas Subbasin, and also approved Valley Water's 2016 Groundwater Management Plan as an alternative for a Groundwater Sustainability Plan.

The following modifications are made on page 3-310 in response to a comment from Valley Water.

Valley Water Groundwater Management Plan (2016). This 2016 plan describes Valley Water’s comprehensive groundwater management framework, including existing and potential actions to achieve basin sustainability goals and ensure continued sustainable groundwater management. The plan covers the Santa Clara and Llagas subbasins, located entirely in Santa Clara County and satisfies the objectives of the Sustainable Groundwater Management Act (SGMA) as an Alternative for a Groundwater Sustainability Plan, which was approved by the Department of Water Resources in July 2019. The groundwater management plan includes groundwater supply management programs that replenish the groundwater basin, sustain the basin’s water supplies, help to mitigate groundwater overdraft, and sustain storage reserves for use during dry periods. The plan also includes groundwater monitoring programs that provide data to assist Valley Water in evaluating and managing the groundwater basin.

The following modifications are made on page 3-312 in response to a comment from Valley Water.

Buildout of the Gilroy 2040 General Plan would increase population and increase demand for potable water, which would lead to increased groundwater extractions from the Llagas Subbasin. According to Valley Water’s 2017 Annual Groundwater Report, end of year groundwater storage of more than 300,000 acre-feet falls within the normal stage (Stage 1) of Valley Water’s Water Shortage Contingency Plan, indicating good water supply conditions. ~~Valley Water’s Semitropic groundwater bank reserves were at 100 percent of capacity, or 349,970 acre-feet as of December 31, 2019.~~ The groundwater in storage in the Santa Clara and Llagas Subbasins in 2019 compares to the normal Stage 1 in the Water Shortage Contingency Plan. (Valley Water 2020). Valley Water’s groundwater master plan outcome measure 5.4.1, Groundwater Storage, calls for maintaining greater than 17,000 acre-foot capacity in the Llagas Subbasin. According to the February 2020 groundwater report, the groundwater level in the Llagas Subbasin (San Martin) index well is about eight feet higher than January 2019 and about 13 feet higher than the five-year average. The January 2020 managed recharge estimate is 1,300 acre-feet, which is 130 percent of the five-year average. Compared to the January averages of the last five years (2015-2019), the estimated January 2020 managed recharge is higher for the Santa Clara Plain, the Coyote Valley, and the Llagas Subbasin. Valley Water continues to implement the comprehensive conjunctive management, groundwater monitoring, and groundwater protection programs described in the 2015 groundwater management plan. As a result, conditions in the Santa Clara and Llagas subbasins remained sustainable and groundwater levels and storage in the two subbasins have recovered to pre-drought conditions due to proactive drought response, improved water supplies, and significant recharge.

The following modification is made on page 3-356 in response to a comment from Santa Clara County LAFCO.

At 2040 General Plan buildout, the population of Gilroy would be approximately ~~73,430~~ 75,684 persons (based on an increase of ~~17,502~~ 19,756 persons), which would require approximately ~~110~~ 117 sworn officers (an additional ~~41~~ 48 sworn officers) plus ~~68~~ 72 non-sworn staff for a total of ~~178~~ 189 personnel, according to the 2004 Master Plan for Gilroy Police Facility. When the 273-square-foot per personnel standard (City of Gilroy 2004, pp. 4-5) is applied to buildout projections, approximately ~~48,594~~ 51,597 square feet of police facility space would be necessary to accommodate a projected staff size of ~~178~~ 189. The police department's current facility is approximately 49,000 square feet in size.

As previously reported in the Staffing section of this EIR, the current police facility opened in May 2007 and was designed for 40-year use (Police Chief Scot Smithee, email message, February 10, 2020). According to Chief Smithee (communications with consultant, August 20, 2020), the current size and design of the Police Facility is sufficient to meet the needs of the community through build out. The three percent adjustment to the population numbers, and subsequent personnel projections would not change significantly enough to trigger a re-design and expansion. Therefore, the current police station is adequately sized to accommodate the increase in staff and the construction of a new or modified police station is not required. No further discussion is required.

The following modification is made to the 1st full paragraph on page 3-362 in response to a comment from Santa Clara County LAFCO.

Growth anticipated by the proposed Gilroy 2040 General Plan would result in a substantial population increase and a subsequent increase in demand for fire prevention and emergency services. At buildout, the population of Gilroy is estimated to be ~~73,430~~ 75,684, which would require an additional ~~33~~ 35 firefighters or a total of ~~74~~ 76 firefighters to meet the Gilroy Fire Department's target staffing standard of one firefighter per 1,000 people.

The following modification is made to the 1st full paragraph on page 3-364 in response to a comment from Santa Clara County LAFCO.

Conclusion

The construction of new fire stations is included in the buildout scenario of the Gilroy 2040 General Plan, the environmental impacts of which are evaluated throughout this EIR. Implementation of the Gilroy 2040 General Plan goals and policies, as well as the mitigation measures presented in this draft EIR, would reduce some of the potentially significant environmental impacts to fire protection services associated with the provision of new fire stations to a less-than-significant level. Other environmental impacts are potentially significant and unavoidable. No additional mitigation is required.

The following language is added to page 3-442 in response to a comment from Santa Clara County LAFCO.

Water infrastructure improvements consistent with the City's water master plan that would be required to be constructed by either the City of Gilroy or by private development projects are inherently included in the buildout of the proposed project (Gilroy 2040 General Plan) and do not need to be evaluated separately. The environmental impacts associated with buildout of the General Plan, including all required infrastructure (e.g. water and wastewater) and public service facilities (e.g. fire stations and public parks), are addressed in the EIR, and are summarized in Table S-1 in the Summary.

The following language is made to page 3-449 in response to a comment from Santa Clara County LAFCO.

Implementation of the above-referenced policies, as well as the mitigation measures presented throughout this EIR and summarized in Table S-1 in the Summary, would reduce the impact of buildout of the Gilroy 2040 General Plan ~~land use designations; but would not avoid the need for including~~ new or expanded wastewater collection and treatment facilities, the construction of which could cause significant environmental effects. Project-specific environmental impacts of future construction of new or modified sewer conveyance and wastewater treatment facilities to support the city's growth anticipated under the Gilroy 2040 General Plan and maintain service level for the City of Morgan Hill cannot be determined because the locations and site-specific designs of future facilities are not yet known.

However, it can be expected that construction and operation of new sanitary sewer and wastewater treatment facilities would have similar impacts as would construction and operation of other types of new development within Gilroy. The site-specific environmental impacts of required new facilities would be analyzed once specific development projects for these facilities are proposed. Consequently, Gilroy 2040 General Plan policies and mitigation measures referenced in other sections of this EIR that serve to avoid or reduce potential impacts from new development (and summarized in Table S-1 in the Summary) would also avoid or reduce impacts of expanded or new sewer system and wastewater treatment facilities. Therefore, ~~impacts would be less than significant and~~ no additional mitigation is required.

Implementation of the Gilroy 2040 General Plan will require new or expanded wastewater facilities, but not beyond those identified in the *City of Gilroy Sewer System Master Plan* as a result of the 2016 Urban Growth Boundary Initiative. Therefore, the environmental impacts associated with the provision of wastewater service ~~would be less than significant~~ addressed throughout this EIR and no additional mitigation would be required.

The following modification is made on page 4-7 in response to a comment from Valley Water.

According to the Valley Water Urban Water Management Plan, if reserves are low at the beginning of a single dry year, Valley Water might need to call for water use reductions in combination with using reserves. Under 2040 demand conditions, reserves are insufficient at the beginning of the year to meet County demands without overdrawing the groundwater reserves. Therefore, while groundwater supplies are sufficient to meet the demand associated with implementation of the general plan and implementation of the general plan would not have an individually significant impact on the groundwater basin, when considered with the demand of the County as a whole, the increased demand associated with general plan implementation could result in a cumulatively significant contribution to water demand, such that it could impact the groundwater basin. The Valley Water Urban Water Management Plan projected countywide water demand in 2040 to be 435,100 acre-feet with Gilroy's contribution to this demand at 17,100 acre-feet (3.9 percent) (see Table 4-1) Valley Water would likely call for a five to 10 percent reduction in water use in such a year, consistent with its Water Shortage Contingency Plan. Additional projects and programs may include additional long-term water conservation savings, water recycling, recharge capacity, storm water capture and reuse, banking, and storage. ~~While the water demand associated with implementation of the General Plan may contribute to the depletion of groundwater supplies, at 3.9 percent of the total countywide demand, it is unlikely this contribution would be cumulatively considerable.~~

Akel Engineering prepared a technical memorandum titled *City of Gilroy and City of Morgan Hill Sustainable Water Management Planning* in September 2019 for the cities of Gilroy and Morgan Hill to document water supply alternatives analysis and project ranking for the Llagas and Coyote Valley Groundwater Subbasins. Table 2 presents the Existing and Projected Supply vs Demand Comparison (Llagas Subbasin), which is included at the end of this response. The table indicates that the City of Gilroy's existing water demand of the Llagas Subbasin is 9,200 AFY and the projected 2035 demand is 12,900 AFY. These volumes represent 19 percent and 23 percent, respectively of the entire demand for water in the subbasin. Additionally, the data shows that the existing and projected groundwater demand from the Llagas Subbasin would not exceed the existing and projected groundwater supply. Therefore, the proposed projects contribution to groundwater demand is not cumulatively considerable.

The following sources on page 5-15 are revised as follows:

Valley Water 2020a. ~~*Annual Report for Calendar Year 2020*~~ *2020 Calendar and 2018-19 Fiscal Year Annual Report*. Accessed online January 28, 2020. Available online at:
<https://www.valleywater.org/sites/default/files/2020%20Calendar%20and%20Annual%20Report.pdf>

3.0 CHANGES TO THE DRAFT EIR

Valley Water 2020b. Anderson Dam Seismic Retrofit Webpage. Updated January 2020.
Available online at: <https://www.valleywater.org/anderson-dam-project>

Valley Water 2020c. Water Tracker. February 2020.
<https://www.valleywater.org/sites/default/files/2020-02/Water%20Tracker%20February%202020.pdf>

Valley Water 2020d. *FY 2019-20 Protection and Augmentation of Water Supplies*. February 2019.
Available at: <https://www.valleywater.org/sites/default/files/PAWS%202019.pdf>

REVISED SUMMARY

Where changes to the draft EIR text described in Section 3.0, Changes to the Draft EIR, also require changes to the Summary contained in the draft EIR, the Summary changes are identified below.

ES.1 CEQA REQUIREMENTS

CEQA Guidelines Section 15123 requires an EIR to contain a brief summary of the proposed project and its consequences. This summary identifies each significant effect and the proposed mitigation measures and alternatives to reduce or avoid that effect; areas of controversy known to the lead agency; and issues to be resolved, including the choice among alternatives and whether or how to mitigate the significant effects.

This summary also includes a brief summary of the project description. Detailed project description information, including figures illustrating the project location and components, is included in Section 4.0 Project Description.

ES.2 PROPOSED PROJECT SUMMARY

Detailed project description information, including figures illustrating the project location and components, is included in Section 2.0 Project Description.

The draft Gilroy 2040 General Plan contains the following nine elements: land use, mobility, economic prosperity, housing, public facilities and services, parks and recreation, natural and cultural resources, potential hazards, and environmental justice. Each proposed element contains a set of goals, policies, and programs.

The plan retains the existing Urban Growth Boundary, approved by initiative in 2016 by the voters in Gilroy, with the purpose of protecting the unique character of Gilroy and the agriculture and open space character of the surrounding areas. The development potential includes up to 6,477 new housing units (single-family and multi-family), an additional

population of 19,756, and 21,434 new jobs. This development potential could be reached assuming all under-utilized land is redeveloped and vacant land is developed, all consistent with the land use designations in the proposed Gilroy 2040 General Plan Land Use Diagram.

ES.3 SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION MEASURES

This EIR has identified significant impacts that would be associated with implementation of the 2040 General Plan. [Table S-1: Revised Summary of Significant Impacts and Mitigation Measures](#), provides a summary of these impacts and a summary of measures, in addition to 2040 General Plan proposed goals and policies, that are proposed to mitigate the impacts.

ES.4 AREAS OF KNOWN CONTROVERSY

CEQA Guidelines section 15123, Summary, requires a discussion of areas of controversy known to the lead agency including issues raised by agencies and the public. The following issues were raised by public agencies in comments on the 2020 Notice of Preparation. Issues raised during the 2014 Notice of Preparation period are not listed here as many of the issues were associated with a much larger development area than what is currently identified in the 2040 General Plan. In 2016, the people of the City of Gilroy approved an Urban Growth Boundary by initiative to protect the unique character of the city and the agriculture and open space character of the surrounding areas. The 2040 General Plan does not propose to expand the existing Urban Growth Boundary. Although the Notice of Preparation responses from 2014 are not summarized here, each of the issues raised are addressed in the EIR.

Native American Heritage Commission (February 4, 2020)

The commission reminded the City of Gilroy to comply with the noticing and consultation requirements of AB52 and SB18. This legislation requires a lead agency to consult with California Native American Tribes that are traditionally and cultural affiliated with the geographic area affect by a project. No such tribes have requested consultation pursuant to AB52. The City of Gilroy offered consultation under SB18 and no responses were received. Therefore, the city has adequately completed with both AB52 and SB18.

California Department of Fish and Wildlife, Bay Delta Region (February 25, 2020)

The department expressed concerns regarding possible impacts to 16 special-status animals and plants species and requested the EIR evaluate the potential impacts associated with each species. The department also expressed concern that the City of Gilroy continue to comply with the Santa Clara Valley Habitat Conservation Plan and address those special-status species that are not covered under the habitat plan. Section 3.4, Biological Resources, addresses all of the issues raised by the department.

Table S-1 Revised Summary of Significant Impacts and Mitigation Measures

New Significant Impact	Significance Level without Mitigation	Mitigation Measure(s)	Significance Level after Mitigation
<u>Agricultural Resources</u>			
<u>Loss of up to 1,119 Acres of Important Farmland (Prime Farmland and Farmland of Statewide Importance) (Project Level and Cumulative)</u>	Significant	<u>Gilroy 2040 General Plan Policy LU 6.7 regarding Gilroy's agricultural mitigation policy, provides some mitigation relief to the significant loss of important farmland. However, even with implementation of the city's general plan policies and agricultural land mitigation policy that includes purchase of replacement agricultural lands or permanent conservation easement requirements, the loss of important farmland is still considered significant and unavoidable.</u> <u>Development subject to the Gilroy Agricultural Mitigation Policy will be required to comply with the policy.</u>	<u>Significant and Unavoidable</u>
<u>Air Quality</u>			
<u>Inconsistent with the Clean Air Plan Project Level and Cumulative</u>	Significant	AQ-1. Add the following new policy to the Gilroy 2040 General Plan Natural and Cultural Resources element: Reduce Construction Emissions. Require the use of low emissions construction equipment for public and private projects, consistent with the air district 2017 Clean Air Plan. <u>Where construction-related emissions would exceed the applicable Thresholds of Significance, the City of Gilroy will consider, on a case-by-case basis, implementing Additional Construction Mitigation Measures (Table 8-3 in BAAQMD's CEQA Guidelines).</u>	Less than Significant
	Significant	AQ-2. Add the following new policy to the Gilroy 2040 General Plan Natural and Cultural Resources element: Implement Dust-Control Measures. Require the implementation of the air district's dust control measures during construction of individual projects, consistent with the air district 2017 Clean Air Plan.	Less than Significant
<u>Increase in Operational Criteria Air Pollutant Emissions Resulting from an Increase in Vehicle Miles Traveled Will Degrade Air Quality Project Level and Cumulative</u>	Significant	No mitigation. Although the Gilroy 2040 General Plan includes numerous policies that are intended to reduce VMT, it is not possible to accurately quantify the VMT reductions that would result, and therefore, there is no assurance that VMT could be reduced by the required 32.6 percent that would reduce the impact to a less-than-significant level.	Significant and Unavoidable

New Significant Impact	Significance Level without Mitigation	Mitigation Measure(s)	Significance Level after Mitigation
Adverse Effects to Sensitive Receptors from Toxic Air Contaminants <u>Project Level and Cumulative</u>	Significant	AQ-3. Add the following new policy to the Gilroy 2040 General Plan Natural and Cultural Resources element: Sensitive Receptors within 500 feet of U.S. Highway 101. Require modeling of toxic air contaminants, <u>and include mitigation as may be appropriate</u> , prior to approval of new residential development within 500 feet of U.S. Highway 101, <u>to ensure significant health risks are mitigated</u> .	Less than Significant
	Significant	AQ-4. Add the following new policy to the Gilroy 2040 General Plan Natural and Cultural Resources element: Sensitive Receptors within 500 feet of Existing Point Sources or Existing Heavy Industrial Designated Areas. Require modeling of toxic air contaminants, <u>and include mitigation as may be appropriate</u> , prior to approval of new residential development within the Downtown Specific Plan within 500 feet of existing point sources with screening factors in excess of thresholds, or within 500 feet of areas designated Heavy Industrial, <u>to ensure significant health risks are mitigated</u> .	Less than Significant
	Significant	AQ-5. Add the following new policy to the Gilroy 2040 General Plan Natural and Cultural Resources element: New Industrial Uses within 500 feet of Sensitive Receptors. Require modeling of toxic air contaminants, <u>and include mitigation as may be appropriate</u> , prior to approval of new industrial development within 500 feet of residential uses, Neighborhood District designations, or the Downtown Specific Plan, <u>to ensure significant health risks are mitigated</u> .	Less than Significant
Biological Resources			
Adverse Effect on Special-Status Plant and Wildlife Species <u>and Protected Nesting Birds</u>	Significant	BIO-1. Modify the proposed language for Gilroy 2040 General Plan Policy NCR 1.7 (Rare, Threatened, and Endangered Species) as follows: NCR 1.7 Rare, Threatened, and Endangered <u>Special-Status Species</u> . <u>Special-status species are those listed as Endangered, Threatened, or Rare, or as Candidates for listing by the U.S. Fish and Wildlife Service (USFWS) and/or California Department of Fish and Wildlife (CDFW), or as Rare Plant Rank 1B or 2B species by the California Native Plant Society (CNPS). This designation also includes CDFW Species of Special Concern and Fully Protected Species.</u> For special-status species that are not among the 18 covered species in the Habitat Plan, minimize future development in areas that support State or Federally listed rare, threatened, or endangered <u>such</u> species. Conduct focused surveys per applicable regulatory agency protocols as appropriate to determine if such species occur on a given project site, as determined necessary by a qualified biologist. If development of occupied habitat must occur, <u>species impacts shall be avoided or minimized, and if required by a regulatory agency or the CEQA process, loss of wildlife habitat or individual plants should be fully compensated on the site.</u> If off-site mitigation is necessary, it should occur within the Gilroy Planning Area whenever possible, <u>with a</u>	Less than Significant

New Significant Impact	Significance Level without Mitigation	Mitigation Measure(s)	Significance Level after Mitigation
		<p>priority given to existing habitat mitigation banks. Habitat mitigation shall be accompanied by a long-term management plan and monitoring program prepared by a qualified biologist, <u>and include provisions for protection of mitigation lands in perpetuity through the establishment of easements and adequate funding for maintenance and monitoring.</u> [Existing GP, 20.04, modified]</p>	
Adverse Effect on Jurisdictional Wetlands and Waterways	Significant	<p>BIO-2. Add the following new policy to the Gilroy 2040 General Plan Natural and Cultural Resources element:</p> <p>Assess Potential Wetland Impacts. Applicants of projects on sites where potential jurisdictional wetlands or waterways are present shall retain a qualified biologist/wetland regulatory specialist to conduct a site investigation and assess whether wetland or waterway features are jurisdictional with regard to the U.S. Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), Santa Clara Valley Habitat Plan, and/or California Department of Fish and Wildlife (CDFW). This investigation will include assessing potential impacts to wetland and riparian habitats, and determining whether any stream buffers/riparian setbacks are required by the Santa Clara Valley Habitat Plan. If a feature is found to be jurisdictional or potentially jurisdictional, the applicant shall comply with the appropriate permitting process with each agency claiming jurisdiction prior to disturbance of the feature, and a qualified biologist/wetland regulatory specialist shall conduct a detailed wetland delineation if necessary.</p>	Less than Significant
Cultural Resources			
Adverse Change in the Significance of a Historic Resource	Significant	<p>CR 1. To reduce the likelihood of impacts to significant historic structures and historic archaeological resources, as well as unique and tribal archaeological resources resulting from publication of the locations of these culturally significant resources, the following modifications shall be made to Gilroy 2040 General Plan Goal NCR 5, Policy NCR 5.2, Policy NCR 5.5, and Implementation Program 7:</p> <p>Goal NCR 5 Encourage the preservation of <u>Preserve significant</u> historic and culturally significant buildings, sites, and resources to enrich the sense of place and appreciation of the city's history.</p> <p>Policy NCR 5.5 Cultural Historic Resources Inventory. Maintain and periodically update the city's inventory of historically and culturally significant buildings to meet current State and Federal historic preservation guidelines.</p> <p>NCR 5.10 Historic Building Demolition. <u>Consistent with Goal NCR 5,</u> P prior to approving the demolition of historically significant buildings, evaluate alternatives including structural preservation, relocation or other mitigation <u>in an Environmental Impact Report (EIR),</u> and demonstrate that financing has been secured for replacement use.</p> <p>Implementation Program 7, Cultural Historic Resources Inventory. Maintain and update every five years, the historic resource inventory to evaluate, register, and protect Gilroy's historic resources. The inventory should be publicly accessible and regularly updated.</p>	Less than Significant

New Significant Impact	Significance Level without Mitigation	Mitigation Measure(s)	Significance Level after Mitigation
Adverse Change in the Significance of a Unique Archaeological Resource	Significant	<p>CR 2. To reduce the likelihood of significant impacts to unique archaeological resources resulting from disturbance and/or publication of the locations of these culturally significant resources, the following modifications shall be made to Gilroy 2040 General Plan Goal NCR 5, Policy NCR 5.2, Policy NCR 5.5, and Implementation Program 7:</p> <p>Goal NCR 5 Encourage the preservation of <u>Preserve significant historic and culturally significant</u> buildings, sites, and resources to enrich the sense of place and appreciation of the city's history.</p> <p>Policy NCR 5.2 Historic and Prehistoric Archaeological Resources and CEQA. Discretionary projects subject to the California Environmental Quality Act (CEQA) which will require a records search from the Northwest Information Center to determine if there are any known resources within a project area. If the results of the records search indicate the potential existence of historic or pre-historic archaeological resources on the project site, preparation of an archaeological survey will be required. include disturbance of the existing ground surface of the project site will require an archaeological survey and records search if the project site is located in a moderate to high archaeological sensitivity zone as identified on Figure 3.5-1 of the General Plan EIR, or if other evidence suggests the project site to be archaeologically sensitive.</p> <p>Policy NCR 5.5 Cultural <u>Cultural</u> Historic Resources Inventory. Maintain and periodically update the city's inventory of historically and culturally significant buildings to meet current State and Federal historic preservation guidelines.</p> <p>Implementation Program 7, Cultural <u>Cultural</u> Historic Resources Inventory. Maintain and update every five years, the historic resource inventory to evaluate, register, and protect Gilroy's historic resources. The inventory should be publicly accessible and regularly updated.</p>	Less than Significant
Disturb Native American Human Remains	Significant	Implementation of both CR-1 and CR-2 identified above.	Less than Significant

New Significant Impact	Significance Level without Mitigation	Mitigation Measure(s)	Significance Level after Mitigation
Greenhouse Gas Emissions			
Generate a Volume of GHG Emissions in 2040 That May Have a Significant Impact on Climate Change <u>Project Level and Cumulative</u>	Significant	<p>GHG-1. To further enhance GHG reductions from community activities and provide CEQA streamlining benefits for analysis of GHG impacts, Gilroy 2040 General Plan Policy NCR 3.14 shall be replaced, as follows:</p> <p><u>NCR 3.14 Maximum Greenhouse Gas Emission Reductions. Pursue funding through new development as a means to minimize taxpayer funding. Implement the maximum feasible number of greenhouse emission reduction measures in order for the General Plan to achieve the status of a CEQA Qualifying Climate Action Plan, and the accompanying CEQA streamlining benefits. (See CEQA Guidelines, § 15183.5 (b)(1)).</u></p> <p><u>NCR 3.14 Prepare a Qualified GHG Reduction Plan. Pursue funding through new development for preparation of a qualified GHG reduction plan. Pursue funding through grants and any other appropriate funding mechanisms, including California Air Resources Board's list of programs and projects, California State Coastal Conservancy's Climate Ready Grant Program, Climate Corps, and CivicSpark. The plan may be prepared by amending the Gilroy 2040 General Plan or by preparing a separate GHG reduction plan. In either case, requirements for a qualified GHG reduction plan as identified in CEQA Guidelines, § 15183.5 (b)(1) must met. Accordingly, definition and implementation of GHG reduction measures in addition to those identified in Gilroy 2040 General Plan policies and programs may be required to show progress towards meeting the reduction targets established in the GHG reduction plan.</u></p>	Interim Significant and Unavoidable
	Significant	<p>GHG-2. To implement modified policy NCR 3.14 identified in mitigation measure GHG-1, the Gilroy 2040 General Plan shall include an implementation program entitled "Qualified GHG Reduction Plan." The implementation program shall require that that city prepare and adopt a qualified GHG reduction plan within three years of the date the Gilroy 2040 General Plan is adopted.</p> <p><u>When drafting the Climate Action Plan / Qualified Greenhouse Gas (GHG) Reduction Strategy, the City will consider recommendations outlined in BAAQMD's CEQA Guidelines, and any requirements of AB 32, SB 32, Executive Order B-55-18, and SB 100.</u></p>	Interim Significant and Unavoidable
Conflict with an Applicable Plan, Policy, or Regulation Adopted for the Purpose of Reducing GHG Emissions <u>Project Level and Cumulative</u>	Significant	Implementation of both GHG-1 and GHG-2 identified above.	Interim Significant and Unavoidable

New Significant Impact	Significance Level without Mitigation	Mitigation Measure(s)	Significance Level after Mitigation
Transportation and Mobility			
Increase in Vehicle Miles Traveled <u>Project Level and Cumulative</u>	Significant	<p>TRANS-1. To reduce vehicle miles traveled, the city shall review and update Gilroy's 1999 Transportation Demand Management program (Municipal Code Chapter 25B) to be consistent with the Gilroy 2040 General Plan and Valley Transportation Authority Congestion Management Plan. A new general plan policy and implementation program shall be added to the Gilroy 2040 General Plan Mobility Implementation Program.</p> <p>Policy</p> <p>Transportation Demand Management. Review and update the Transportation Demand Management program for consistency with Gilroy 2040 General Plan and Valley Transportation Authority Vehicle Miles Traveled reduction strategies.</p> <p>Implementation Programs</p> <ol style="list-style-type: none"> 1. Average Vehicle Ridership Goals. Update the average vehicle ridership goal for Gilroy for the year 2040 to achieve and measure progress towards a net increase in the use of commute alternatives and a reduction in vehicle trips. 2. Update Municipal Code Chapter 25B. Update this code chapter to: <ol style="list-style-type: none"> a. Provide guidance to project applicants in identifying possible project-specific Transportation Demand Management measures that can be implemented to reduce Vehicle Miles Traveled and increase bicycle and pedestrian opportunities and vehicle ridership as part of the development review process, b. List Transportation Demand Management services and incentives that can be implemented by employers that reduce trips, and c. Establish a five-year review cycle to measure the efficacy of program objectives and adjust the program as needed. 	Significant and Unavoidable

Source: EMC Planning Group