

PROJECT GARLIC INDUSTRIAL SUBDIVISION MITIGATION MONITORING AND REPORTING PROGRAM

Introduction

CEQA Guidelines section 15097 requires public agencies to adopt reporting or monitoring programs when they approve projects subject to an environmental impact report or a negative declaration that includes mitigation measures to avoid significant adverse environmental effects. The reporting or monitoring program is to be designed to ensure compliance with conditions of project approval during project implementation in order to avoid significant adverse environmental effects.

The law was passed in response to historic non-implementation of mitigation measures presented in environmental documents and subsequently adopted as conditions of project approval. In addition, monitoring ensures that mitigation measures are implemented and thereby provides a mechanism to evaluate the effectiveness of the mitigation measures.

A definitive set of project conditions would include enough detailed information and enforcement procedures to ensure the measure's compliance. This monitoring program is designed to provide a mechanism to ensure that mitigation measures and subsequent conditions of project approval are implemented.

Monitoring Program

This monitoring program is applicable to the Project Garlic Industrial Subdivision based on the mitigation measures included in the adopted mitigated negative declaration. These mitigation measures are designed to eliminate or reduce significant adverse environmental effects to less-than-significant levels. These mitigation measures become conditions of project approval, which the project proponent is required to complete during and after implementation of the proposed project. The attached checklist is intended for monitoring the implementation of the adopted mitigation measures.

Monitoring Program Procedures

The City of Gilroy shall use the attached monitoring checklist for the proposed project. The monitoring program should be implemented as follows:

1. The Gilroy Community Development Department should be responsible for coordination of the monitoring program, including the monitoring checklist. The Community Development Department should be responsible for completing the monitoring checklist and distributing the checklist to the responsible individuals or agencies for their use in monitoring the mitigation measures.

2. Each responsible individual or agency will then be responsible for determining whether the mitigation measures contained in the monitoring checklist have been complied with. Once all mitigation measures have been complied with, the responsible individual or agency should submit a copy of the monitoring checklist to the Community Development Department to be placed in the project file. If the mitigation measure has not been complied with, the monitoring checklist should not be returned to the Community Development Department.
3. The Gilroy Community Development Department will review the checklist to ensure that appropriate mitigation measures and additional conditions of project approval included in the monitoring checklist have been complied with at the appropriate time, e.g., prior to issuance of a use permit, etc. Compliance with mitigation measures is required for project approvals.
4. If a responsible individual or agency determines that a non-compliance has occurred, a written notice should be delivered by certified mail to the project proponent within 10 days, with a copy to the Community Development Department, describing the non-compliance and requiring compliance within a specified period of time. If non-compliance still exists at the expiration of the specified period of time, construction may be halted and fines may be imposed at the discretion of the City of Gilroy.

Mitigation Monitoring Checklist

Step 1 Prior to Issuance of Grading Permits or Start of Construction Activities and During Construction Where Noted

Mitigation Measure

BIO-1 To avoid/minimize impacts to burrowing owls potentially occurring within the project site, the project applicant shall retain a biologist qualified in ornithology to conduct surveys for burrowing owl. The approved biologist shall conduct a two-visit (i.e., morning and evening) presence/absence survey at areas of suitable habitat on and adjacent to the project site boundary no less than 14 days prior to the start of construction or ground disturbance activities. Surveys shall be conducted according to methods described in the Burrowing Owl Survey Protocol and Mitigation Guidelines (California Burrowing Owl Consortium 1993) and the Staff Report on Burrowing Owl Mitigation (CDFW 2012). The applicant shall submit evidence of completion of the preconstruction survey to the City of Gilroy Planning Department prior to issuance of a grading permit. Because burrowing owls occupy habitat year-round, seasonal no-disturbance buffers, as outlined in the Burrowing Owl Survey Protocol and Mitigation Guidelines (CBOC 1993) and the Staff Report on Burrowing Owl Mitigation (CDFW 2012),

shall be in place around occupied habitat prior to and during any ground disturbance activities. The following table includes buffer areas based on the time of year and level of disturbance (CDFW 2012), unless a qualified biologist approved by the CDFW verifies through non-invasive measures that either: 1) birds have not begun egg laying and incubation; or 2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

Location	Time of Year	Level of Disturbance Buffers (meters)		
		Low	Med	High
Nesting Sites	April 1 – Aug 15	200 m	500 m	500 m
Nesting Sites	Aug 16 – Oct 15	200 m	200 m	500 m
Nesting Sites	Oct 16 – Mar 31	50 m	100 m	500 m

If burrowing owl is found and avoidance is not possible, burrow exclusion may be conducted by qualified biologists only during the non-breeding season, before breeding behavior is exhibited and after the burrow is confirmed empty through non-invasive methods, such as surveillance. Occupied burrows shall be replaced with artificial burrows at a ratio of one collapsed burrow to one constructed artificial burrow (1:1). Evicted burrowing owls may attempt to colonize or re-colonize an area that would be impacted, thus ongoing surveillance during project activities shall be conducted at a rate sufficient to detect burrowing owls if they return.

If surveys locate occupied burrows in or near construction areas, consultation with the CDFW shall occur to interpret survey results and develop a project-specific avoidance and minimization approach.

Party Responsible for Implementation: Project Applicant

Party Responsible for Monitoring: Gilroy Planning Division

Monitoring Notes:

Mitigation Measure

BIO-2 To avoid impacts to nesting birds during the nesting season (January 15 through September 15), to the extent feasible, construction activities that include any vegetation removal or ground disturbance (such as grading or grubbing) shall be conducted between September 16 and January 14, which is outside of the bird

nesting season. If construction activities commence during the bird nesting season, then a qualified biologist shall conduct a pre-construction survey for nesting birds to ensure that no nests would be disturbed during project construction.

If construction activities are scheduled during the nesting season (February 15 to August 30 for small bird species such as passerines; January 15 to September 15 for owls; and February 15 to September 15 for other raptors), a qualified biologist shall conduct nesting bird surveys. Two surveys for active nests of such birds shall occur within 10 days prior to start of construction, with the second survey conducted with 48 hours prior to start of construction. Appropriate minimum survey radius surrounding the work area is typically 250 feet for passerines, 500 feet for smaller raptors, and 1,000 feet for larger raptors. Surveys shall be conducted at the appropriate times of day to observe nesting activities.

If the qualified biologist documents active nests within the project site or in nearby surrounding areas, an appropriate buffer between each nest and active construction shall be established. The buffer shall be clearly marked and maintained until the young have fledged and are foraging independently. Prior to construction, the qualified biologist shall conduct baseline monitoring of each nest to characterize “normal” bird behavior and establish a buffer distance, which allows the birds to exhibit normal behavior. The qualified biologist shall monitor the nesting birds daily, or as otherwise required by the California Department of Fish and Wildlife, during construction activities and increase the buffer if birds show signs of unusual or distressed behavior (e.g., defensive flights and vocalizations, standing up from a brooding position, and/or flying away from the nest). If buffer establishment is not possible, the qualified biologist or construction foreman shall have the authority to cease all construction work in the area until the young have fledged and the nest is no longer active. This measure shall be implemented by the developer prior to start of construction activities.

Party Responsible for Implementation: Project Applicant

Party Responsible for Monitoring: Gilroy Planning Division

Monitoring Notes:

Mitigation Measure

BIO-3 Based on the current proposed plans, if the aquatic features shown in the Biological Resources Report and Aquatic Resource Delineation Report (Huffman-Broadway Group, Inc. 2020a, 2020b) are considered jurisdictional by the CDFW and/or RWQCB, the project may require one or more regulatory permits. To determine whether the drainage is considered jurisdictional, the applicant shall retain a qualified biologist/wetland regulatory specialist to initiate discussions with the RWQCB and CDFW for this purpose.

If impacts to a feature subject to state jurisdiction may occur, fill authorization will be sought from the RWQCB and/or the CDFW if determined necessary through the regulatory agency consultation process.

Party Responsible for Implementation: Project Applicant

Party Responsible for Monitoring: Gilroy Planning Division

Monitoring Notes:

Mitigation Measure

GEO-1 Prior to issuance of a grading permit, the Developer shall incorporate all of the geotechnical engineer’s recommendations into the project design, subject to review and approval by the City’s Public Works Department.

Party Responsible for Implementation: Project Developer

Party Responsible for Monitoring: Gilroy Public Works Department

Monitoring Notes:

Mitigation Measure

GEO-2 The developer shall prepare an erosion control plan that details appropriate methods to prevent and/or minimize erosion. The erosion control plan is subject to the review and approval of the City of Gilroy Public Works Department prior to the issuance of a grading permit.

In addition to the mitigation above, the proposed project would be required to comply with the General Plan Policy PH 2.6 with its Preliminary Grading and Drainage Plan, which requires all new development proposals to include a site plan detailing appropriate methods of erosion and deposition control during site development and subsequent use; and General Plan Policy PH 3.6, which requires new development to include landscaped areas for reducing runoff and increasing runoff absorption capacities and encourages the use of permeable paving materials, which would minimize the erosive effects of storm water (refer to Sheets C300, C600, and L100 illustrating the drainage management and landscaped areas proposed on the site).

Party Responsible for Implementation: Project Developer

Party Responsible for Monitoring: Gilroy Public Works Department

Monitoring Notes:

Mitigation Measure

GEO-3 Pursuant to the Geotechnical Engineering Study prepared by Condor Earth on July 8, 2020 for the project, the following recommendation shall be implemented in order to reduce impacts related to the potential for expansive soils onsite:

The foundation should extend below much of the zone of seasonal moisture variation or be constructed sufficiently stiff to move as rigid units with differential movement of foundations from heaving or settlement reduced to a value compatible with the proposed superstructure type and architectural finishes. The project structural engineer should take this into account when designing the foundations. Provided that the site is graded and all building pads are prepared in accordance with the recommendations provided in the geotechnical study, the conventional shallow foundation system would be appropriate for the proposed building foundations.

This recommendation shall be implemented prior to issuance of a grading permit subject to the review and approval by the City of Gilroy Public Works Department.

Party Responsible for Implementation: Project Developer

Party Responsible for Monitoring: Gilroy Public Works Department

Monitoring Notes:

Mitigation Measure

HYDRO-1 The project proponent shall prepare and submit Erosion Control Plans to the City of Public Works Department prior to the issuance of a grading permit. The Erosion Control Plans shall illustrate how the project’s grading phases would prevent or minimize erosion and siltation on- and off-site, such as the inclusion of Best Management Practices.

Party Responsible for Implementation: Project Developer

Party Responsible for Monitoring: Gilroy Public Works Department

Monitoring Notes:

Mitigation Measure

HYDRO-2 The project proponent shall prepare and submit a Storm Water Pollution Prevention Plan for review and approval by the City of Gilroy Public Works Department prior to issuance of a grading permit. The Storm Water Pollution Prevention Plan shall identify construction and post-construction Best Management Practices to prevent water pollution at the source.

Party Responsible for Implementation: Project Developer

Party Responsible for Monitoring: Gilroy Public Works Department

Monitoring Notes:

After the proposed MND was sent out for public review, City staff received an email from Canyon Sayers-Roods, a consultant/tribal monitor on behalf of the Indian Canyon Band of Costanoan Ohlone People. The email was in response to the City’s offer of consultation pursuant to SB18 and AB52. The consultation process was subsequently conducted and completed. No new impacts or potential impacts were identified during the consultation

process; however, the following mitigation measures were agreed to among the parties. These mitigation measures are in addition to the City's standard conditions of approval addressing the unexpected discovery of historic resources, unique archaeological resources, and Native American remains.

Mitigation Measure

TC-1 The applicant shall contract with a qualified Archaeologist or Native American Monitor to conduct Cultural Sensitivity Training prior to the start of grading and construction activities. The applicant shall provide evidence that the training has been conducted, prior to issuance of a grading permit, subject to review and approval by the Planning Division.

TC-2 The applicant shall contract with a qualified Archaeologist and a qualified Native American Monitor to be present on the project site during ground disturbing activities, which will assist in minimizing potential effects on potential cultural resources and ensure inadvertent impacts are mitigated. The applicant shall provide evidence that the qualified Archaeologist and qualified Native American Monitor will be onsite during ground disturbing activities, prior to issuance of a grading permit and subject to review and approval by the Planning Division.

The Archaeologist and Native American Monitor shall prepare weekly reports regarding the monitoring activities until ground disturbing activities have been completed. If tribal resources are discovered during these 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 Archaeologist and Native American Monitor shall evaluate the find. If the find is determined to be significant, appropriate mitigation measures shall be formulated by the Archaeologist and Native American Monitor and implemented by the responsible party.

Step 2 Prior to Issuance of Building Permits

Mitigation Measure

AQ-1 Prior to issuance of building permits, subject to review and approval by the City Planning Division, the applicant shall provide to the city details of a proposed vehicle reduction program for future employees of the project utilizing the Bay Area Commuter Benefits Program, 511.org rideshare program, or other local commuter benefits program.

Party Responsible for Implementation: Project Applicant

Party Responsible for Monitoring: Gilroy Planning Division

Monitoring Notes:

Mitigation Measure

AQ-2 Prior to issuance of building permits, subject to review and approval by the City Planning Division, the applicant for any phase shall include on the project plans the number of electric vehicle (EV) charging stations, dedicated vanpool and other high-occupancy vehicle (HOV) carpool spaces, bike racks, changing rooms and/or lockers on site, which would facilitate the use of ride-sharing and bicycles.

Implementation of these measures ensures that the proposed project, as mitigated, is consistent with the 2017 Clean Air Plan. The proposed project, therefore, does not have aspects that would interfere with or hinder implementation of the 2017 Clean Air Plan. Plan consistency related to GHG emissions is discussed in Section D.7, Greenhouse Gas Emissions, of this initial study.

Party Responsible for Implementation: Project Applicant

Party Responsible for Monitoring: Gilroy Planning Division

Monitoring Notes:

Mitigation Measure

GHG-1 If the City of Gilroy has adopted a qualified GHG reduction strategy prior to the time building permits are issued for the project, the applicant shall have the option to incorporate applicable GHG reduction measures identified in the GHG reduction strategy into the proposed project. Applicable measures from the reduction strategy shall be confirmed by the City of Gilroy. If the Planning Division finds that the project is consistent with the GHG reduction strategy, the significant project GHG impact would be reduced to less than significant and no further mitigation would be required.

If City has not adopted a qualified GHG reduction strategy prior to the time building permits are issued for the project, the applicant shall implement mitigation measure GHG-2.

Party Responsible for Implementation: Project Applicant

Party Responsible for Monitoring: Gilroy Planning Division

Monitoring Notes:

Mitigation Measure

GHG-2 Prior to issuance of building permits for the project proposed the applicant shall prepare a Greenhouse Gas (GHG) Reduction Plan. The GHG Reduction Plan shall demonstrate, with substantial evidence, that GHG emissions will be reduced to the year 2022 service population threshold of significance of 4.32 MT CO₂e per year per service population. This would require that the unmitigated project emissions of 3,173 MT CO₂e per year be reduced by 884 MT CO₂e per year [3,173 MT CO₂e – (4.32 MT CO₂e x 530 service population)] to 2,289 MT CO₂e.

The GHG Reduction Plan shall prioritize on-site GHG reduction design features. At a minimum, the Reduction Plan should include the GHG reduction measures listed below. Other feasible reduction measures may be substituted for the measures listed below provided that the City of Gilroy Planning Division Manager finds, based on substantial evidence provided by the applicant, that the substitute measures achieve an equal or greater volume of emissions reduction. Additional measures may be added by the applicant. A combination of the following measures can be included in the Reduction Plan:

- Implement the Transportation Demand Management Program strategies identified in mitigation measure TR-1 in this initial study to reduce VMT and associated mobile source GHG emissions from employee travel.
- Include sufficient plug-in capabilities for transport refrigeration units, if any, to eliminate the time that a transportation refrigeration system is powered by a fossil-fueled internal combustion engine while at the site.
- Exceed minimum CALGreen Code standards for bicycle parking and bicycle lockers; parking spaces dedicated for low-emitting, fuel efficient vehicles; and electric vehicle charging stations.
- Design buildings to exceed the current 2019 Title 24 energy efficiency standards by a minimum of five percent.
- All appliances installed in all buildings shall be Energy Star rated.
- Exceed higher than mandated parking lot lighting and area lighting energy efficient standards.
- Electrify truck loading docks.

In lieu of or in addition to one or more of the on-site measures above, the applicant may include in the Reduction Plan and take credit for GHG reductions resulting from making direct investments in off-site GHG reduction activities/programs in the vicinity. Examples of direct investments include building retrofit programs that pay for cool roofs, solar panels, solar water heaters, smart meters, energy efficient lighting energy efficient windows, and insulation. Other examples include financing programs for installing electric vehicle charging stations, electrifying school buses, or planting local urban forests.

The applicant may choose to retain a qualified air quality / GHG professional to quantify the GHG reductions that would result from implementing the Reduction Plan based on substantial evidence to be included in the Reduction Plan. The GHG reduction measures should be implemented even if their implementation would result in a GHG reduction, but the reduction cannot be reliably quantified. The GHG emissions reduction volume resulting from implementing the Reduction Plan measures may then be subtracted from the required 884 MT CO₂e per year reduction volume in order to reduce or avoid the significant GHG impact.

If the applicant elects to quantify the GHG emissions reductions from on-site measures and investments in off-site reduction programs and the reductions are insufficient to reduce project emissions by a minimum of 884 MT CO₂e per year

or more, the applicant may then secure the balance of the required GHG emissions reduction volume by purchasing and retiring carbon offset credits. The carbon offset credits shall meet the following performance standards:

- Carbon offset credits shall be issued by a recognized, reputable and accredited registry that mandates the use of established protocols for quantifying and issuing the offset credits. Credits issued based on protocols approved by CARB should be prioritized. Examples of such registries include the Climate Action Reserve, American Carbon Registry, and Vierra.
- The carbon offset credits should be generated from projects developed in the United States. Credits from projects developed internationally should not be used unless the applicant demonstrates with substantial evidence that sufficient carbon offsets from projects in the United States are unavailable. International offsets must be quantified and issued using established protocols that are recognized in the United States and that are issued by recognized, reputable and accredited registries.
- All carbon offset credits purchased to reduce GHG emissions, must meet the criteria of being real, quantifiable, permanent, verifiable, enforceable, and additional, consistent with the standards set forth in Health and Safety Code section 38562, subdivisions (d)(1) and (d)(2).

Prior to issuing building permits for the proposed project, the applicant shall submit the GHG Reduction Plan for review and approval of the City of Gilroy Planning Division Manager. The Reduction Plan shall demonstrate that GHG emissions from the project will be substantially reduced. If on-site design and off-site program investments do not result in reducing the GHG impact to less than significant, the applicant shall, prior to approval of occupancy permits, provide documentation in the form of an executed contract or other certification that the balance of emissions reduction required to reduce the GHG impact to less than significant has been obtained through purchase of carbon offset credits, subject to the performance standards listed above.

Party Responsible for Implementation: Project Applicant

Party Responsible for Monitoring: Gilroy Planning Division

Monitoring Notes:

Step 3 Prior to Issuance of an Occupancy Permit

Mitigation Measure

- TR-1 The applicant shall prepare and implement a Transportation Demand Management (TDM) program to reduce the project's VMT impact to a less-than-significant level. The TDM measures shall include, but not be limited to, any combination of the following components, as necessary to which would reduce the project's VMT impact to less than significant (i.e., below the established impact threshold of 17.12 miles per job):
- a. Telecommuting and Alternative Work Schedule Program (VTA TP08). This program (compressed work week) allows and encourages employees to telecommute from home when possible, or to shift work schedules to reduce vehicle miles traveled.
 - i. 80% of employees shall be assigned a four day/40-hour work shift.
 - b. Ridesharing Program and Commuter Benefits (VTA TP11, TP13). This program matches employees interested in carpooling who have similar commute patterns. This TDM strategy encourages the use of carpooling, which reduces the number of vehicle trips and thereby reduces VMT.
 - i. Employers shall strive to have 20 percent of eligible employees participate in this program through regular communications and incentives.
 - ii. Incentives shall include, but not be limited to, pre-tax benefits.
 - iii. The applicant shall provide dedicated carpool/vanpool parking spaces commensurate with the number of employees participating in this program.
 - iv. Employers shall provide "Guaranteed Ride Home Services," which provides employees who regularly (twice a week) carpool, vanpool, bike, walk or take transit to work with a free and reliable ride home when one of life's unexpected emergencies arise. Commuters may take advantage of this service up to four times per year to get home for unexpected emergencies such as a personal illness or a sick child. This service can also be used for unscheduled overtime when the employer mandates working late.
 - c. Provide transit passes to employees interested in public transit.
 - i. Transit passes shall off-set at least 25 percent in the participating employees' transit costs from home to work and back.

- d. The applicant shall provide a minimum of 10 bike racks (in a secure area) each, for both the phases of the project.

The TDM program shall be prepared prior to issuance of an occupancy permit, subject to review and approval by the Planning Division and the Public Works Department. The applicant may suggest substitutions to these measures that are equally or more effective than the presented measures. The Director of Planning is authorized to allow an amendment (but is not required to allow such amendment) to the TDM program upon making written findings, supported by substantial evidence, that the substituted measure or measures are as effective as those in the adopted TDM plan and that the amended TDM plan will result in meeting the above-referenced threshold (17.12 miles per job) for reducing VMT from the proposed project to a less-than-significant level.

End users of the project shall submit annual monitoring reports to demonstrate effectiveness.

Party Responsible for Implementation: Project Applicant and End Users

Party Responsible for Monitoring: Gilroy Planning Division and Public Works Department

Monitoring Notes:
