

1. California Environmental Quality Act (CEQA) Mitigation Monitoring and Reporting Program (MMRP) Status Report. (Planning, Building & Code Enforcement)



Memorandum

TO: TRANSPORTATION &
ENVIRONMENT COMMITTEE

FROM: Harry Freitas

SUBJECT: MMRP SEMI ANNUAL REPORT

DATE: April 12, 2017

Approved J. D. Syl Date 4/18/17

**SUBJECT: CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) MITIGATION
MONITORING AND REPORTING PROGRAM (MMRP) STATUS REPORT**

RECOMMENDATION

Staff recommends that the Committee accept the semiannual status report on the City of San Jose's CEQA Mitigation Monitoring and Reporting Program (MMRP) for the period of October 2016 to March 2017.

OUTCOME

The purpose of this semiannual status report is to provide the Transportation and Environment (T&E) Committee with a progress update on the mitigation compliance and conformance to CEQA's requirements under Section 15097, and more specifically, to highlight key accomplishments achieved in this reporting time. The Committee's attention to this Program has assisted with compliance and fulfillment of the City's environmental mitigation commitments.

BACKGROUND

This is the fifteenth progress report on the status of the implementation and improvements to the City's Mitigation Monitoring and Reporting Program. The Transportation and Environment Committee heard the prior status report on November 7, 2016.

CEQA requires that the City include feasible mitigation measures to reduce or eliminate potential significant environmental impacts as part of the City's approval of projects, including land use approvals and other actions taken by the City Council or other decision-making bodies. These mitigation measures are identified through an environmental analysis prepared for individual projects in the form of a Mitigated Negative Declaration (MND) or an Environmental Impact Report (EIR) under CEQA. At the time of approval, the City is required to make

findings as to how such projects will specifically avoid or substantially reduce its potential significant environmental effects through either modification of the project or the incorporation of environmental mitigation measures described in the project MND or EIR. CEQA mandates that the City adopt and implement a Mitigation Monitoring and Reporting Program (MMRP) for individual projects. Mitigation measures are required to be fully enforceable through permit conditions, agreements, or other measures with an expectation that there will be consequences to the project for non-compliance.

Over the past few years, staff has been working to improve the City's MMRP implementation to better conform to the requirements of CEQA and to further the City's goals for stewardship of the natural environment. The T&E Committee has been an active participant in this process, reviewing staff progress and making recommendations on a periodic basis.

ANALYSIS

This part of the report focuses on compliance for projects during grading permitting process. Development projects with required mitigation compliance associated with approval of grading permits are coordinated with the applicants, Department of Public Works, and the Environmental Services Department. The Planning Building and Code Enforcement (PBCE) Department's Environmental Review team leads and completes the review.

Mitigation Monitoring Report Card

Approved Projects

In the reporting period from October 2016 to March 2017, twenty-two (22) grading permits were reviewed and approved for mitigation compliance. The current reporting period's compliance review is summarized in Attachment A of this report.

Some of the projects include Modera Apartments in Downtown, Broadcom office development in North San Jose, First Community Housing's affordable housing project, residential development at the Flea Market site, Westfield Valleyfair Expansion, and McKean water tank construction.

Highlights include tribal consultation with the Ohlone tribe on one of the sites, soils remediation at several sites, protection of historic buildings adjacent to construction, and protection of trees and nesting birds.

Projects Under Review

Currently, the Environmental Review team is reviewing eighteen (18) projects for mitigation compliance for on-going grading permit review. These are not complete at the time of this report preparation but are on-going and enumerated in Attachment B.

Coordination and Training

As discussed in prior reports, the City continues to have improved compliance with mitigation requirements that must be satisfied prior to the issuance of a grading permit through enhanced coordination between Public Works and Planning staff.

On December 14, 2016, the Environmental Review team held a training session with Public Works engineers in the Development Services workgroup. The discussions centered around types of environmental reviews, understanding of mitigation monitoring requirements under CEQA, and mitigation requirements associated with the issuance of the grading permits. Further, Public Works and Environmental Review staff have a coordinated strategy to streamline mitigation compliance process. An "Environmental Compliance Program" instruction sheet is emailed to the grading permit applicants with a copy of the approved Mitigation Monitoring Reporting Program approved for their project. Further, this is followed with an email or phone conversation confirming the applicable measures, methodology, and the review process. The Environmental Review team meets weekly with the Public Works for close coordination and completion of MMRP compliance prior to the issuance of the grading and drainage permits.

EVALUATION AND FOLLOW-UP

Although this item does not meet any of the above criteria, information is posted on the Planning Division's Environmental Review web page.

CEQA

Not a project under CEQA, File No. PP10-069(a), City Organizational & Administrative Activities, Status Report.

/s/

HARRY FREITAS, DIRECTOR

Planning, Building and Code Enforcement

For questions please contact Meenaxi Panakkal, Supervising Environmental Planner, Environmental Review at (408) 535-7895.

Attachments: Attachment A – Approved Mitigation Compliance for Grading Permits from October 2016 – March, 2017

Attachment B –Mitigation Compliance for Grading Permits under Review [On-going]

ATTACHMENT A—Approved Mitigation Compliance for Grading Permits from October 2016 to March 2017

Grading Permit No.	Planning Permit	Project Name	Project Description	Grading Permit Description	Mitigation measures required to be completed prior to grading permit	Date Compliance Completed
3-06427	SP15-032	Capital Toyota at 775 Capitol Expressway	Special Use Permit to allow: 1) the demolition of existing buildings (totaling 110,512 square feet); 2) construction of a three-story, 195,000-square foot building; and 3) the incidental repair of vehicles in conjunction with passenger vehicle sales and a one-story carwash and detailing bay on a 8.85 gross acre site	Grading, storm drainage and storm water treatment control and retaining wall installation on an 8.58 gross acre site	Pre-construction Raptor Survey	1/5/2017
	SP14-032				Habitat Fees	
3-18215	PDC08-061	Ohlone: Block C at 1750 Junction Court	Planned Development Rezoning from HI Heavy Industrial Zoning District to A(PD) Planned Development Zoning District to remove three existing warehouse buildings and allow up to 825 multi-family residences and 50,000 square feet for commercial use on a 8.25 gross acre site	Grading operations to include approximately 3.54 acres of land disturbance for Block C of the Ohlone development.	Raptor survey, soil sampling, geotech, SMP.	10/4/2016
3-18883	H15-010	SAF Keep Storage at 1700 Junction Court	Site Development Permit to allow the construction of a three-story, approximately 121,722 square foot self-storage facility on an approximately 1.75 gross acre site	Grading, storm drainage and storm water treatment facility construction for a new self storage on a 1.75 gross acre site	Pre-construction Nesting Bird survey, Burrowing Owl Survey, Soils Clean-up, and Habitat Fees	2/16/2016
3-22133	PDC12-009, PDC13-050, PD16-017	Santana Row Lot 9 at Olsen Drive	Planned Development Permit to allow the construction of a 8-story, 320,000 square feet mixed commercial use building consisting of 30,000 sq ft ground floor retail, 290,000 sq ft office, one level of below grade parking under building, and 5-story parking structure, for a total of 1267 parking spaces on a 3.97 gross acre site	Site grading to allow the construction of a 8-story, 320,000 square feet mixed commercial use building consisting of 30,000 sqft ground floor retail, 290,000 sqft office, one level of below grade parking under building, and 5-story parking structure, on a 3.97 gross acre site	Pre-construction Nesting Bird survey, Soils Clean-up, and Habitat Fees	12/21/2016
3-18954	H15-007	Modera at 45 North San Pedro Street	Site Development Permit to allow the demolition of an existing 5,000 square foot commercial building, the construction of an eight-story building with up to 201 residential units, approximately 12,000 square feet of commercial space, and an integrated four-story parking garage on an approximately 1.07 gross acre project site	Grading for a eight-story building with up to 201 residential units, approximately 12,000 square feet of commercial space, and an integrated four-story parking garage on an approximately 1.07 gross acre project site	Archaeological survey; excavation & shoring plans for proximity to historic building; asbestos & lead paint presence survey and clean-up	12/8/2016
3-18254	H15-037	Broadcom at 250 Innovation Drive/3130 Zanker Drive	Site Development Permit to allow the removal of up to 110 ordinance size trees, façade improvements to two of the four existing office/R&D buildings, and the construction of 536,949 square feet of new office/R&D uses and other permitted uses of the IP Industrial Park Zoning District, two parking garages, and related site improvements at an existing office/R&D facility on a 25.53-gross acre site	Pad grading for Garage G1 only, disturbing 1.66 acres of a 20.93 gross acre site	Pre-construction Raptor Survey	1/27/2017 11/15/2016
3-18254	H15-037	Broadcom at 250 Innovation Drive/3130 Zanker Drive	Same as above	Phase 1: Grading, storm drainage, storm pump, and stormwater treatment measure installation for Phase I for an Office/ R& D Building Development on a 23.70 gross acre site	Archaeological monitoring, pre-grading raptor survey.	11/9/2016
3-18687	PDC14-024	Autozone at northeast corner of Cottle Road and Poughkeepsie Road	Planned Development Rezoning from IP(PD) Industrial Park Planned Development Zoning District to A(PD) Planned Development Zoning District to allow the demolition of the existing industrial park buildings (Buildings 025, 024, and 030) and associated site improvements, the removal of up to 385 trees from the site, and the construction of a new, approximately 204,000 square foot commercial facility (including a retail/ commercial use, with a single occupant greater than 100,000 square feet (with a garden center), and other retail/ commercial uses) on a 18.75 gross acre site	Grading for Autozone	Raptor/bird/bat surveys, burrowing owl survey, tree protection	2/28/2017

3-13788	PD07-064 PDA07-094-01	FCH South 2nd Street Studios at 1140 South 2nd Street	Planned Development Permit Amendment to modify the permit expiration condition of Planned Development Permit PD07-094 that allows the construction of 135 affordable housing units with 9,121 square feet of retail on a 1.16 gross acre site	Grading, storm drainage and storm water treatment measures installation for a mixed use building on a 1.16 gross acre site	Tree Protection Plan	12/15/2016
3-13430	PDC06-004 PD11-032	Solaia Project at 4280 Monterey Road	A Planned Development Permit to allow up to (1) single-family detached, 37 single-family attached residential units and associated site improvements, including the removal of existing site improvements and ordinance size trees, on a 4.67 gross acre site	Stockpiling only	This approval is limited to stockpiling only.	10/3/2016
3-08375	PD14-004, PDA14-004	Valley Christian Portables at 100 Skyway Drive	Planned Development Permit to allow six modular buildings at an existing private school (Valley Christian High School) on 52.68 gross acre site	Grading and storm drainage installation for 6 modular buildings (5 classrooms and 1 restroom) on a 0.334 acre of a 52.68 gross acre site	Transportation Demand Management Plan and HCP fees	10/13/2016
3-01686	CP16-013	Downtown College Prep	Conditional Use Permit to allow a public secondary school (grades 5-12) use with a maximum enrollment of 1,237 students in buildings totaling 84,998 square feet; and a Site Development Permit to allow the demolition of a 7,027 square foot building, a 10,527 square foot expansion of a legal nonconforming structure, and site improvements on an approximately 3.69 gross acres site	Minor site grading for an approximately 3.69 gross acres site for a school	Risk Management Plan for Soil Contamination	10/5/2016
3-15293	PDC07-100 / PD07-015 /	Neilson Court	Planned Development Rezoning from R-1-S Residence Zoning District to A (PD) Planned Development Zoning District to allow one existing and five new single-family detached residences and subsequent subdivision on a 1.7 gross acre site	Grading Plan for 3 new lots on Neilson Court	Soils Remediation Plan for top soil	10/24/2017
3-15461	PD12-024, PD13-007	North Apple Campus	Planned Development Permit to allow construction of two R&D/Office buildings (6-story, 250,330sf and 6-story, 188,275sf), one 2-story, 11,842sf amenity building, and surface parking on a 22.86 acre portion of a 43 acre site	Soil Remediation only	Soil Remediation	10/30/2016
3-16680	PD16-002	Flea Market Remediation Grading [Tract No. 10160]	Planned Development Permit to allow up to 162 single family attached residential units and a 3.6 acre park on 9.0 gross acre site. (converted from PDA08-025-03)	Remedial Grading of 6.9 gross acres at the Flea Market Development	Remedial Grading permit issued on 7/13 for soil remediation.	11/29/2016
3-16680	PDC16-001 / PD16-002	Flea Market Grading [Tract No. 10377 (PT15-067)]	Vesting Tentative Map to subdivide one (1) parcel into up to three (3), and allow up to 551 residential condominiums and up to 45 commercial condominiums on a 6.3 gross acre site	Grading operations to include approximately 6.9 acres of land disturbance for the Flea Market Tract 10377 development [KB Homes].	The Remediation Reports from EnGeo sent in October after completion of the clean-up. This is "after the act" reporting situation.	10/26/2016
3-16802	PDC04-110 / PD15-048	Pinn Brothers Homes on Oaknoll on 4973 San Felipe Road	Planned Development Rezoning from A and A(PD) District to A(PD) District to allow 38 Single-family detached residences on a 15.3 gross acres site	Grading and Drainage for 13 single-family, detached homes on 3.19 gross acre site at the western terminus of Clara Smith Place	Scope for pre-cultural has been modified from the adopted MMRP as the site has high potential for prehistoric resources, especially burials. No nesting and tri-colored blackbirds found in Sept, 2016. Human remains found on site. MLA in consultation	9/30/2016 2/27/2017 2/27/2017
3-18759	PDC13-034 / PD15-014	Almaden Terrace	Planned Development Rezoning from the R-1-S Single Family Residence Zoning District to the RM(PD) Planned Development Zoning District to allow development of up to 96 residential units in a 5-story building on an approximately 1.73 gross acre site	Grading to replace one or more single-family homes and small businesses with 96 condominiums in a five story building on an approximately 1.73 gross acre site.	Pre-con surveys, tree protection, soil sampling.	2/3/2017
3-18759	PDC13-034	Our Lady of La Vane at 1807	Planned Development Rezoning from the R-1-S Single Family Residence	Grading to replace one or more single-family homes and small	Preconstruction Bird Survey. Tree Protection	2/3/2017

		Almaden Road	Zoning District to the RM(PD) Planned Development Zoning District to allow development of up to 96 residential units in a 5-story building on an approximately 1.73 gross acre site	businesses with 96 condominiums in a five story building on an approximately 1.73 gross acre site.	measures, and soils sampling	
3-11204	CP14-029	McKean Water Tank at 21143 McKean Road	Conditional Use Permit to allow a 1,000,000 gallon water tank with a 3,300 foot long pipeline and a development variance to increase the allowable height from 35 feet to 45 feet in the R-1-1 zoning district.	Grading and Drainage for a 1 million gallon water tank	Biotics surveys, notices to CDFW, USACE, tree removal permits from county, tree protection and HCP compliance	2/22/2017 On-going
3-05161	H06-027	Westfield Valleyfair Expansion at 2855 Stevens Creek Blvd.	Valleyfair permit adjustment to allow demolish existing garage and expand buildings	Parking garage grading & mass excavation for parking structure	Trees removed and no pre-construction bird surveys required	3/24/2017
3-03433	CP15-014 C15-008	CVS/Saratoga at 1804 Saratoga Avenue	Conditional Use Permit to allow the demolition of three existing commercial buildings totaling 15,960 square feet, the construction of a 14,700-square foot commercial building with a drive-through (CVS Pharmacy), and the off-sale of alcohol on a 1.48 gross acre site	Grading permit for construction of a CVS pharmacy	Preconstruction bird surveys, Soils Management Plan, Vibration Report	3/30/2017

ATTACHMENT B—Mitigation Compliance for Grading Permits under Review, March 2017

Grading Permit No.	Planning Permit	Project Name	Project Description	Grading Permit Description	Mitigation Measures Required
3-18928	H14-037 T14-029	iStar Fairfield NSP3 Tower	Site Development Permit to allow a high-rise, 18-story development with up to 313 residential units, approximately 1,400 square feet of commercial space and three levels of above-grade parking on an approximately 1.52 gross acre site	Grading, Storm drainage and shoring for entire project	Pre-construction bird surveys, archaeological monitoring, geotechnical results and Soils Management Plan. HCP fees also applies
3-14681	H14-037 T14-029	iStar SFD/SFA RES	Planned Development Permit to approve a street network for twelve residential blocks, lot pattern and unit configuration, and stormwater control facilities, and the removal of 34 ordinance size trees, on a 25.2-gross acre site	On-site grading to install hydromodification basin and vault for the iStar multi-family residence	crack survey for fruit dehydrator building prior to grading, monitor for any vibration damage to building, repair any damage. HCP Fees apply
3-14681	H14-037 T14-029	iStar SFD/SFA RES	Planned Development Permit to approve a street network for twelve residential blocks, lot pattern and unit configuration, and stormwater control facilities, and the removal of 34 ordinance size trees, on a 25.2-gross acre site	Rough Grading for single family and multi family pads.	Pre-grading tree protection measures, Pre-construction surveys for raptors & bats. Archaeological monitor on-site. Soil management plan.
3-18215	PT12-014 PD12-013 PDC08-061	Ohlone: Block B	Planned Development Rezoning from HI Heavy Industrial Zoning District to A(PD) Planned Development Zoning District to remove three existing warehouse buildings and allow up to 825 multi-family residences and 50,000 square feet for commercial use on a 8.25 gross acre site	Grading operations to include approximately 2.63 acres of land disturbance for Block B of the	Raptor survey, soil sampling, geotech, and soils management plan
3-18219	H14-021	William Plaza	Site Development Permit to allow the construction of an approximately 20,000 square foot commercial shopping center with surface parking, and the removal of four ordinance size trees and six non-ordinance size trees in the CP Commercial Pedestrian Zoning District on an approximately 1.37 gross acre site	Grading to construct 2 commercial buildings [20,000 sq.ft. total]	Raptor survey, soil sampling, geotech and soils management plan
3-18273	PD15-039 PT15-043	Mazzone	Planned Development Permit to demolish an existing single-family residence and construct eight (8) detached single-family residences on a 1.81-gross acre site	Grading, drainage, and storm water treatment control construction	Pre-grading bird survey, habitat and mitigation monitoring plan for riparian habitat
3-12986	PDC14-030 PDC15-022 PD16-009	Canyon Creek Plaza	Canyon Creek Plaza - Planned Development to allow the construction of an approximately 8,377 square foot office and retail use in an existing commercial shopping center on an approximately 8.33 gross acre site	Grading for the entire project	Pre-grading bird surveys
3-10952	PDC02-046 PDC15-051 PD15-061	Delmas Avenue	A Planned Development Permit to allow the construction of a mixed use development with up to 1.04 million square feet for office/retail and up to 325 multi-family attached residences on a 8.93 gross acre site.	Mass Excavation and temporary shoring for a new office and residential development	TDM Plan, Soils Remediation, Health and Safety Plan, Groundwater Control Plan, Vibration Monitoring, Tree Protection Plan, Pre-construction Bird Survey,
3-10278	C98-020 H16-013	River Corporation Building	Site Development Permit to allow the construction of a 6-story 191,397 square feet commercial office building (on a site previously approved for a 7-story building) including new parking configuration, landscaping, and amenity space on a 12.34 gross acre site	Grading for the entire project	Pre-construction Bird Surveys, Paleontological resources awareness training, Geotech investigation

3-06948		Evergreen Circle	Planned Development Rezoning from the R-1-8 Single-Family Residence and CO - Commercial Office Zoning Districts to the A(PD) Planned Development Zoning District to allow: up to 344,000 square feet of commercial/retail; 250 residential dwelling units; and 17 acres of public	Grading permit for Evergreen Circle	Archaeological testing, Geological testing
3-06892	PDA93-018-02 PD93-018	Guadalupe Mines Landfill - Gas Facility	Planned Development Permit Amendment to: 1) decommission and deconstruct the existing landfill-gas-to-energy (LFGTE) facility and enclosed flare located within the eastern portion of the permitted landfill solid waste disposal area and 2) construct a new LFGTE facility and enclosed flare on an existing paved area adjacent to the existing materials recovery facility and equipment maintenance shop building on	Creek bank stabilization for 5 acres along Guadalupe Creek, including 12,573 sq.ft. of disturbed area and 16,100 sq.ft. of temporary access road	Pre-construction bird survey; Archaeological monitor; Geotech; Soils Management Plan HCP applies
3-01399	PD15-067	The Reserve	Planned Development Permit to allow for the demolition of an existing apartment complex and the development of up to 636 multi-family residential units and 8,000 square feet of commercial space on 7.68 gross acre site.	Grading for a mixed use project with 120,000 CY of cut and export. Shoring and on-site storm water collection and conveyance system may be required.	Pre-construction bird surveys, tree protection plan, hazardous materials remediation
3-16802		Pinn Brothers Homes on Oaknoll	Planned Development Rezoning from A and A(PD) District to A(PD) District to allow 38 Single-family detached residences on a 15.3 gross acres site	Mass grading-ongoing with excavation of human remains [Archaeologist present]	Pre-grading bird and Burrowing owl surveys; pre-grading cultural survey; human remains found. On-going excavation and treatment plan.
3-16850		Vespaio@Diridon 138 Stockton Avenue	Planned Development Permit to allow the demolition of existing commercial and storage buildings, allow the construction of a 7-story mixed-use development with 164 residential units and a minimum of 37,500 square feet of commercial space, and removal of seven ordinance size trees on an approximately 1.72 gross acre site.	Grading, storm water drainage and storm water treatment measures	Post-demolition soil survey, if contaminants exceed regulatory levels, then SMP required
3-22145		The Graduate	Site Development Permit to construct a 19-story mixed-use development with 260 multi-family residential units and 14,800 square feet of commercial uses on a 1.46 gross acre site	Grading, storm water drainage, storm water treatment measures and retaining wall with temporary shoring	Preconstruction raptor surveys; preliminary field investigation for potential cultural and historic resources and treatment plan
3-18407		Communications Hill	Planned Development Pre/Rezoning from A(PD), A-Ag, R1-8 (County), & A1(County) to A(PD) for the proposed development of the approximately 331.6-acre site located at Communications Hill consisting of up to 2,200 residential units, including single family detached & attached, and multi-family residential; up to 67,500 square feet of retail/commercial space, up to 1.44 million square feet of industrial park uses, parks, trails, a school site and related off-site public infrastructure. The project also includes related General Plan Amendments (GP13-002) and the Annexation (Comm Hill 1) of approximately 310.2 acres.	Mass grading for Phase 2 on 125 acres	Soils Management Plan, Pre-construction bird survey, Tree Protection Plan
3-18273		Tract No. 10383 Mazzone	Planned Development Permit to demolish an existing single-family residence and construct eight (8) detached single-family residences on a 1.81-gross acre site.	Grading, drainage, and stormwater treatment control construction	Pre-construction Bird Surveys HCP requirements
3-18213		Lands of Paz	Planned Development Rezoning request to allow for the demolition of one (1) existing single-family detached residence and the development of two (2) new single-family detached residences on a 1.67 gross acres site	Grading and retaining wall	Asbestos Dust Mitigation Plan