

MITIGATION MONITORING AND REPORTING PROGRAM

Blossom Hill Station Mixed-Use Project

File No. SP20-012

March 2022



PREFACE

Section 21081.6 of the California Environmental Quality Act (CEQA) requires a Lead Agency to adopt a Mitigation Monitoring and Reporting Program (MMRP) whenever it approves a project for which measures have been required to mitigate or avoid significant effects on the environment. The purpose of the monitoring and reporting program is to ensure compliance with the mitigation measures during project implementation.

The Environmental Impact Report (EIR) prepared for the Blossom Hill Station Mixed-Use project concluded that implementation of the project could result in significant effects on the environment and mitigation measures were incorporated into the proposed project or are required as a condition of project approval. This MMRP addresses those measures in terms of how and when they will be implemented.

This document does *not* discuss those subjects for which the EIR concluded that the impacts from implementation of the project would be less than significant.

I, Reyad Katwan, the applicant, on the behalf of Republic Urban Properties, hereby agree to fully implement the mitigation measures described below which have been developed in conjunction with the preparation of an EIR for the proposed project. I understand that these mitigation measures or substantially similar measures will be adopted as conditions of approval with my development permit request to avoid or significantly reduce potential environmental impacts to a less than significant level.

Project Applicant's Signature  _____

Date 3/9/22 _____

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
	Method of Compliance Or Mitigation Action	Timing of Compliance	Oversight Responsibility	Actions/Reports	Monitoring Timing or Schedule
Air Quality					
Impact AIR-1: Construction activities associated with the proposed project would expose sensitive receptors near the project site to toxic air contaminant (TAC) emissions in excess of the Bay Area Air Quality Management District cancer risk threshold of >10 per million.					
<p>MM AIR-1.1: Prior to issuance of any demolition, grading, and/or building permits (whichever occurs earliest), the project applicant shall submit a construction operations plan to the Director of Planning, Building and Code Enforcement or the Director’s designee that includes specifications of the equipment to be used during construction. The plan shall be accompanied by a letter signed by an air quality specialist, verifying that the equipment included in the plan meets the standards set forth below.</p> <ul style="list-style-type: none"> All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall, at a minimum, meet U.S. EPA Tier 4 final emission standards for particulate matter (PM10 and PM2.5). If Tier 4 equipment is not available, all construction equipment larger than 25 horsepower used at the site for more than two 	Submit a construction operations plan.	Prior to issuance of any demolition, grading, and/or building permits (whichever occurs earliest).	Director of Planning, Building and Code Enforcement or the Director’s designee	Review the construction operations plan to ensure it meets the specifications of the mitigation measure.	Prior to issuance of any demolition, grading, and/or building permits (whichever occurs earliest).

MITIGATIONS	MONITORING AND REPORTING PROGRAM				
	Documentation of Compliance [Project Applicant/Proponent Responsibility]		Documentation of Compliance [Lead Agency Responsibility]		
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<p>continuous days or 20 hours total shall meet U.S. Environmental Protection Agency (EPA) emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 88 percent or greater reduction in particulate matter exhaust in comparison to uncontrolled equipment.</p> <ul style="list-style-type: none"> • Use of alternatively fueled or electric equipment. • Stationary cranes and construction generator sets shall be powered by electricity. <p>Alternatively, the project applicant could develop a plan that reduces on- and near-site construction emissions by a minimum 88 percent or greater. The construction operations plan shall be reviewed and approved by the Director of Planning, Building and Code Enforcement or the Director’s designee prior to the issuance of any demolition, grading, or building permits (whichever occurs earliest).</p>					

BIOLOGICAL RESOURCES

Impact BIO-3: Demolition, grading, and construction activities and tree removal during the nesting season could impact nearby migratory birds and raptors.

MM BIO-3.1: Avoidance. The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 31st (inclusive), as amended.

Submit a statement to the Director of Planning, Building and Code Enforcement that construction activities will avoid the nesting season.

If the nesting season cannot be avoided, compliance with MM BIO-3.2 will be required.

Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).

Director of Planning, Building and Code Enforcement or the Director's designee

If demolition and construction activities would occur during the nesting season, ensure project compliance with MM BIO-3.2, MM BIO-3.3, and MM BIO-3.4.

Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).

MM BIO-3.2: Nesting bird surveys. If demolition and construction activities cannot be scheduled to occur between September 1st and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 15th inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.

Contract with a qualified ornithologist to complete pre-construction surveys. If active nests are discovered close to work areas, MM BIO-3.3 shall be initiated. The results of the pre-construction surveys shall be described in the report required by MM BIO-3.4.

Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest)

Director of Planning, Building and Code Enforcement or the Director's designee

Review the ornithologist report

Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).

MM BIO-3.3: Buffer zones. If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The no-disturbance buffer shall remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for two days or more and then resumes again during the

The ornithologist, in consultation with the California Department of Fish and Wildlife, to determine the extent of a construction free buffer zone to be established around the nest to ensure that bird nests are not disturbed during project construction. The construction free buffer zones shall be described in

Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).

Director of Planning, Building and Code Enforcement or the Director's designee

Review the ornithologist report.

Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).

<p>nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present.</p> <p>MM BIO-3.4: Reporting. Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the ornithologist's report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement, or the Director's designee, prior to issuance of any grading or building permits.</p>	<p>the report required by MM BIO-3.4.</p> <p>The ornithologist submits a report indicating the results of the survey and any designated buffer zones to the City's Director of Planning, Building and Code Enforcement or Director's designee. Print all measures on all construction documents, contracts, and project plans.</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).</p>	<p>Director of Planning, Building and Code Enforcement or the Director's designee</p>	<p>Review the ornithologist report for consistency with MM BIO-3.2 through MM BIO-3.4.</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).</p>
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CULTURAL RESOURCES

Impact CUL-1: Ground disturbing activities associated with project construction may result in impacts to unrecorded archaeological resources.

<p>MM CUL-1.1: Prior to issuance of the any grading permits, the project applicant shall submit evidence to the Director of Planning, Building and Code Enforcement or the Director's designee that an Archaeological Monitoring Contractor Awareness Training was held prior to ground disturbance. The training shall be facilitated by the project archaeologist in coordination with a Native American representative from a California Native American tribe that has consulted on the project, is registered with the Native American Heritage Commission (NAHC) for the City of San José and that is traditionally and culturally affiliated with the geographic area as described in Public Resources Code Section 21080.3.</p>	<p>Conduct an Archaeological Monitoring Contractor Awareness Training consistent with the mitigation measure and submit evidence to the Director of Planning, Building and Code Enforcement or the Director's designee.</p>	<p>Prior to the issuance of any grading permits.</p>	<p>Director of Planning, Building and Code Enforcement or the Director's designee</p>	<p>Review the evidence provided by the project applicant demonstrating that an Archaeological Monitoring Contractor Awareness Training was conducted.</p>	<p>Prior to the issuance of any grading permits</p>
<p>MM CUL-1.2: Prior to the issuance of any demolition or ground disturbance permits, the project applicant shall retain a qualified archaeologist to perform an extended Phase I Archaeological investigation of the project site including mechanical subsurface exploration. Subsurface exploration shall be conducted using either a backhoe or truck-mounted coring rig depending on the project restrictions. Subsurface soil samples shall be analyzed by a qualified archaeologist</p>	<p>A qualified archaeologist to perform an extended Phase I investigation and provide the agreement for the record.</p>	<p>Prior to the issuance of any demolition or ground disturbance permits.</p>	<p>Director of Planning, Building and Code Enforcement or the Director's designee</p>	<p>Review the extended Phase I investigation.</p>	<p>Prior to the issuance of any demolition or ground disturbance permits.</p>

to determine the potential for cultural resources within the project site.

MM CUL-1.3: If any archaeological resources are exposed, then a research design and treatment plan shall be prepared by a qualified archaeologist that is tailored to the kind(s) of resources identified. Once the research design and treatment plan is approved by the Director of Planning, Building and Code Enforcement or the Director’s designee, testing can begin. Testing shall be commensurate with the level of proposed impacts. After field testing, an evaluation report shall be prepared documenting the field work, analyzing the cultural materials recovered, defining the resource boundaries within the current project area of potential effect, and evaluating the resource to both the National Register of Historic Places and the California Register of Historic Resources. A Native American monitor is required during archaeological testing of any Native American resources. Once all of the steps outlined above have been completed, the project will be in compliance with Section 106 and CEQA. Submit a copy of the evaluation report to the Director of Planning, Building and Code Enforcement or the Director’s designee.

MM CUL-1.4: Prior to the issuance of any grading permits, the project applicant shall engage a Native American monitor registered with the NAHC to be present at the project site during all demolition and ground disturbance activities. Submit a copy of the agreement to the Director of Planning, Building and Code Enforcement or the Director’s designee.

The qualified archaeologist, to prepare a research design and treatment plan and submit the plan to the Director of Planning, Building and Code Enforcement or the Director’s designee for approval.

Implement testing. Following the completion of testing, prepare and submit an evaluation report to the Director of Planning, Building and Code Enforcement or the Director’s designee.

Engage a Native American monitor registered with the NAHC and submit agreement to the Director of Planning, Building and Code Enforcement or the Director’s designee for the record.

Prior to the issuance of any building permits.

Prior to the issuance of any grading permits.

Director of Planning, Building and Code Enforcement or the Director’s designee

Director of Planning, Building and Code Enforcement or the Director’s designee

Review and approve the research design and treatment plan; review evaluation report.

Confirm that a Native American monitor has been engaged. Receive copy of agreement.

Prior to the issuance of any building permits

Prior to the issuance of any grading permits

HAZARDS AND HAZARDOUS MATERIALS

Impact HAZ-1: Project construction could result in health risks to construction workers and nearby sensitive receptors from exposure to residual agricultural chemicals in the soil during ground disturbing activities.

MM HAZ-1.1: Prior to issuance of a demolition or grading permit, the project applicant shall retain a qualified environmental professional to complete a

Submit a Phase II soil contamination investigation

Prior to the issuance of any demolition or

Director of Planning, Building and Code

Review the Phase II soil

Prior to the issuance of any

<p>Phase II soil contamination investigation to evaluate past agricultural use. The Phase II shall include shallow soil sampling and analysis for organochlorine pesticides and pesticide-based metals, arsenic and lead to determine if these chemicals are present above Regional Water Quality Control Board (RWQCB) environmental screening levels (ESLs) for construction worker safety and residential uses. The results of the soil sampling and testing must be provided to the Director of Planning, Building and Code Enforcement or the Director’s designee, and the City’s Environmental Compliance Officer.</p> <p>If the Phase II results indicate soil concentrations above the RWQCB ESLs, the project applicant must obtain regulatory oversight from the Department of Toxic Substances Control, or the Santa Clara County Department of Environmental Health (SCCDEH) under their Site Cleanup Program. A Site Management Plan (SMP), Removal Action Plan (RAP), or equivalent document shall be prepared by a qualified environmental consultant under regulatory oversight and approval that identifies remedial measures and/or soil management practices to ensure construction worker safety and the health of future site occupants. The plan and evidence of regulatory oversight shall be provided to the Director of Planning, Building and Code Enforcement or the Director’s designee and the City’s Environmental Compliance Officer.</p>	<p>prepared by a qualified consultant.</p> <p>If the Phase II soil contamination investigation results indicate soil contamination above San Francisco Regional Water Quality Control Board ESLs for residential and/or construction worker safety, obtain regulatory oversight from SCCDEH.</p> <p>Prepare all documentation required by the SCCDEH.</p> <p>After regulatory oversight has been completed, submit a regulatory oversight completion letter.</p>	<p>grading (whichever occurs earliest).</p>	<p>Enforcement or the Director’s designee</p> <p>City of San José Environmental Compliance Officer</p>	<p>contamination investigation.</p>	<p>demolition or grading (whichever occurs earliest).</p>
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NOISE AND VIBRATION

Impact NOI-1: Project construction would occur for more than one year and be located within 500 feet of residential uses, exceeding the City’s threshold of significance for construction noise impacts.

<p>MM NOI-1.1: Prior to the issuance of any grading or demolition permits, the project applicant shall submit and implement a construction noise logistics plan that specifies hours of construction, noise and vibration minimization measures, posting and notification of construction schedules, equipment to be used, and designation of a noise disturbance coordinator to respond to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaints (e.g., beginning work too early, bad muffler, etc.) and institute reasonable</p>	<p>Contract with a qualified acoustical consultant to prepare a construction noise logistics plan in accordance with MM NOI-1.1.</p> <p>All recommendations of the noise logistics plan shall be printed on all construction</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest).</p>	<p>Director of Planning, Building and Code Enforcement or the Director’s designee</p>	<p>Review the construction noise logistics plan for compliance with MM NOI-1.1</p>	<p>Prior to the issuance of any demolition, grading, and/or building permits (whichever occurs earliest)</p>
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<p>measures warranted to correct the problem. The noise disturbance coordinator shall be in place prior to the start of construction. The noise logistic plan shall be signed by a qualified acoustical specialist verifying that this plan meets the reduction of noise levels and shall be submitted to the Director of Planning, Building and Code Enforcement or the Director's designee.</p> <p>As a part of the noise logistics plan construction activities for the proposed project shall include, but is not limited to, the following best management practices:</p> <ul style="list-style-type: none"> • In accordance with Policy EC-1.7 of the City's General Plan, use the best available noise suppression devices and techniques during construction activities. • Use "new technology" power construction equipment with state-of-the-art noise shielding and muffling devices. Equip all internal combustion engines with adequate mufflers and maintain all equipment in good mechanical condition to minimize noise created by faulty or poorly maintained engines or other components. • Construct temporary noise barriers, where feasible, to screen stationary noise-generating equipment when located within 200 feet of adjoining sensitive land uses. • Erect temporary noise barrier fences that would provide a 5 dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receptor and if the barrier is constructed in a manner that eliminates any cracks or gaps. • If stationary noise-generating equipment must be located near receptors, provide adequate muffling (with enclosures where feasible and appropriate). Face any enclosure openings or venting away from sensitive receptors. • Ensure that generators, compressors, and pumps are housed in acoustical enclosures • During final grading, substitute graders for bulldozers, where feasible. Use wheeled heavy 	<p>documents, contracts, and project plans.</p>	<p>Implement plan during all phases of construction.</p>			
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<p>equipment which are quieter than track equipment, where feasible.</p> <ul style="list-style-type: none"> • Substitute nail guns for manual hammering, where feasible. • Substitute electrically powered tools for noisier pneumatic tools, where feasible • Prohibit unnecessary idling of internal combustion engines. • Locate staging areas and stationary noise-generating equipment, including but not limited to cranes, as far as possible from noise-sensitive receptors, such as residential uses (a minimum of 200 feet) • The surrounding neighbors within 500 feet of the project site shall be notified two weeks prior to the start of construction of each construction phase; and the notice shall include how to report complaints of excessive noise. • Conspicuously post a telephone number for the disturbance coordinator at the construction site. 					
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TRANSPORTATION

Impact TRN-1: Project generated vehicle miles traveled (VMT) would exceed the City’s threshold of 10.12 VMT per capita for residential uses in the area by 2.5 VMT per capita, resulting in a significant VMT impact.

<p>MM TRA-1.1: Prior to issuance of any occupancy permits, the project applicant shall prepare a transportation demand management (TDM) plan for the project. The TDM plan shall include measures incorporated into the proposed project to reduce the project’s significant VMT impact by at least 0.74 VMT per capita.</p> <ul style="list-style-type: none"> • School Pool Program • Subsidized Transit Program • Voluntary Travel Behavior Change Program <p>The TDM plan shall be submitted to the Director of Planning, Building and Code Enforcement or the Director’s designee and shall include a trip cap for VMT monitoring purposes. Annual trip monitoring reports shall be submitted that demonstrate that project</p>	<p>Prepare a TDM plan. Submit the plan to the Director of Planning, Building and Code Enforcement or Director’s designee.</p> <p>Upon implementation, submit annual trip monitoring reports that demonstrate that project VMT is below threshold to the Director of Planning, Building and Code Enforcement or the Director’s designee. If the</p>	<p>Prior to issuance of any occupancy permits.</p> <p>Following issuance of occupancy permits and annually throughout the lifetime of the project.</p>	<p>Director of Planning, Building and Code Enforcement or the Director’s designee.</p>	<p>Review the annual trip monitoring reports and assess penalties for non-compliance in accordance with Council Policy 5-1, if warranted.</p>	<p>Prior to issuance of any occupancy permits.</p> <p>Following issuance of occupancy permits and annually throughout the lifetime of the project.</p>
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<p>generated VMT is below the significance threshold. If the annual trip monitoring report finds that the project is exceeding the established trip cap (102 AM trips and 139 PM trips), the project applicant shall be required to submit a follow-up report that demonstrates compliance with the trip cap requirements within a period not to exceed six months.</p>	<p>annual trip monitoring report finds that the project is exceeding the established trip cap, submit a follow-up report that demonstrates compliance with the trip cap requirements within a grace period, which typically will not exceed six months.</p>				
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Source: City of San José. *Environmental Impact Report for the Blossom Hill Station Mixed-Use Project*. March 2022.