



# Memorandum

**TO:** TRANSPORTATION &  
ENVIRONMENT COMMITTEE

**FROM:** Chris Burton

**SUBJECT:** SEE BELOW

**DATE:** October 13, 2021

Approved

Date

10/18/21

**SUBJECT: CALIFORNIA ENVIRONMENTAL QUALITY ACT MITIGATION  
MONITORING AND REPORTING PROGRAM SEMI-ANNUAL STATUS  
REPORT**

## **RECOMMENDATION**

Accept the semi-annual status report on the California Environmental Quality Act (CEQA) Mitigation Monitoring and Reporting Program (MMRP) for the period of April 2021 through September 2021.

## **OUTCOME**

The purpose of this semi-annual report is to provide the Transportation and Environment Committee with an update on the mitigation compliance program and conformance to CEQA's requirements for mitigation monitoring under CEQA Guidelines Section 15097. Specifically, this report highlights the ongoing projects and key accomplishments achieved during the reporting period. The Committee's attention to this Program has assisted with compliance and fulfillment of the City's environmental mitigation commitments.

## **BACKGROUND**

This is the 24<sup>th</sup> progress report on the status of the implementation and improvements to the City's MMRP. CEQA requires that the City include feasible mitigation measures to reduce or eliminate potentially 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 environmental analyses

prepared for individual projects in the form of Mitigated Negative Declarations or Environmental Impact Reports under CEQA. At the time of approval, the City is required to make findings as to how each project will specifically avoid or substantially reduce its potentially significant environmental effects through either modification of the project or the incorporation of environmental mitigation measures described in the Mitigated Negative Declaration or Environmental Impact Report. CEQA mandates that the City adopt and implement an 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. The timing for mitigation measure implementation and compliance is mostly prior to the issuance of the grading permit. However, under certain circumstances, some mitigation measures may be required to be implemented post-occupancy or as part of ongoing measures during project operations.

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 Transportation and Environment Committee has been an active participant in this process, reviewing staff progress and making recommendations periodically.

## **ANALYSIS**

This part of the report focuses on mitigation compliance for projects during the grading permitting process as the timing for most compliance is triggered with grading. The Department of Planning, Building, and Code Enforcement (PBCE) Environmental Review team lead the review of required mitigation compliance associated with projects that include approval of grading permits. PBCE's efforts are coordinated with applicants, the Department of Public Works (DPW), and the Environmental Services Department.

### **Mitigation Monitoring Report Card**

#### ***Approved Projects***

In the reporting period from April 2021 through September 2021, eight (8) projects completed the mitigation compliance requirements following their MMRP adopted as part of the entitlement review under CEQA. The current reporting period's completed project list is summarized in Attachment A of this report with the project name, project description, completed mitigations requirements, and review completion dates.

The number of projects completing mitigation compliance during this reporting period is steady compared with the last two reporting periods. Six (6) projects completed mitigation compliance review in the last reporting period between October 2020 and March 2021, and ten (10) projects completed the mitigation compliance review process between April and September 2020. While mostly working remotely during this time, PBCE's Environmental Review team coordinated with applicants, consultants, and DPW staff to ensure MMRP requirements were met on time.

Some of the projects that completed mitigation compliance review in this reporting period include four (4) residential projects (including the first phase of a large multifamily residential project - Winchester Ranch), two (2) commercial projects, one (1) church, and one (1) senior living facility. Typical mitigation compliance requirements for these projects include the demonstration of compliance with measures to reduce construction air quality, preconstruction bird surveys, archaeological resources management, confirmation of approved site management plans for residual soil contamination, and compliance with construction noise mitigation. Some projects also included measures to protect historic resources from damage during construction (e.g., Winchester Ranch).

### ***Projects Under Review***

The Environmental Review team is currently reviewing 39 projects for compliance with the adopted MMRPs. This includes 22 projects that have been inactive since the last reporting period and several multi-phase projects which completed mitigation monitoring for earlier phases (Cityview Plaza and Winchester Ranch). Attachment B of this report lists these projects by their project name, project description, grading permit description, and pending mitigation requirements.

Since the start of the current reporting period in April 2021, an additional 18 projects started the MMRP compliance review process, five (5) of which completed MMRP compliance within the current reporting period. This is an increase of three (3) new projects from the 13 new projects during the previous reporting period.

### **EVALUATION AND FOLLOW-UP**

In the next report to the Transportation and Environment Committee, staff will provide updates to the monitoring activity between October 2021 and March 2022. The next report to the Committee is scheduled for May 2022.

### **PUBLIC OUTREACH**

Information related to the CEQA MMRP and the latest reports will be updated on the Planning Division's Environmental Review web page at this link: <https://www.sanjoseca.gov/your-government/departments/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/mitigation-monitoring-reports>.

### **CEQA**

Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action.

October 13, 2021

**Subject: CEQA Mitigation Monitoring and Reporting Program Semi-Annual Status Report**

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/s/

Christopher Burton, Director

Planning, Building and Code Enforcement

For questions, please contact David Keyon, Principal Planner, at [david.keyon@sanjoseca.gov](mailto:david.keyon@sanjoseca.gov).

**Attachments:**

Attachment A: Approved Mitigation Compliance for Grading Permits from April 2021 through September 2021.

Attachment B: On-going Mitigation Compliance for Grading Permits under Review as of September 2021.