

CITY OF UNION CITY, CALIFORNIA

Seven Hills Estates Residential Subdivision

MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)

MAY 2021



Seven Hills Estates Residential Subdivision Project

Mitigation Monitoring and Reporting Program (MMRP)

1. Introduction

Assembly Bill (AB) 3180, enacted by the California Legislature in 1988, requires lead agencies to prepare and adopt a program to monitor and/or report on all mitigation measures required in conjunction with certification of an Environmental Impact Report (EIR) or adoption of a Mitigated Negative Declaration pursuant to the California Environmental Quality Act (CEQA).

A public agency must certify an EIR or adopt a Mitigated Negative Declaration when approving a discretionary project that could significantly affect the environment in an adverse manner. The monitoring or reporting program is intended to ensure the successful implementation of measures that public agencies impose to reduce or avoid the significant adverse impacts identified in an environmental document. Adoption of the monitoring program is to occur when a public agency makes the findings to approve a project requiring an EIR or when adopting a Mitigated Negative Declaration. There is no statutory requirement for a lead agency to circulate a monitoring program for public review prior to adopting the program.

The monitoring program should specify the steps whereby implementation of project mitigation measures can be verified during project construction and operation. Typically, the monitoring program should, for each mitigation measure, identify the entity responsible for implementing the measure and an individual, qualified professional, or agency responsible for ensuring compliance. The monitoring program should also identify: the action or actions required to ensure compliance; when and how frequently monitoring should occur; a mechanism for reporting compliance or non-compliance; and an agency that receives and monitors the reports on compliance. AB 3180, as promulgated in Public Resources Code Section 21081.6, does not require a mitigation monitoring program to include measures imposed to mitigate the environmental effects of less-than-significant impacts.

AB 3180 does not provide State reimbursement for implementing the mitigation monitoring requirements because local agencies have the authority to levy fees sufficient to pay for such programs. Local agencies may recover the monitoring and reporting costs through charging a service fee pursuant to Government Code sections 65104 and 66000 *et seq.*

2. Monitoring Program

The purpose of this Mitigation Monitoring and Reporting Program (MMRP) is to present a thorough approach for monitoring the implementation of the measures required to mitigate the significant and potentially significant impacts identified in the *Seven Hills Estates Residential Subdivision Project Initial Study/Mitigated Negative Declaration*. The monitoring program identifies each mitigation measure for a significant impact and specifies the means for verifying successful implementation. Failure to comply with all required mitigation measures will constitute a basis for withholding building permits or undertaking legal enforcement actions.

Project Approvals

Prior to each successive approval during development of the proposed project, the City of Union City Economic and Community Development Department shall confirm via the MMRP table (included in this document) proper implementation of all mitigation measures required to that point in time. If any mitigation measures have not been implemented as required, the permit or other approval shall be withheld until successful implementation of the measure has been confirmed by the City. If

noncompliance of required mitigation measures occurs following completion of construction and project occupancy, the failure shall be grounds for revocation of the occupancy permit(s) for the project, or other enforcement action by the City Attorney.

MMRP Table

The heart of this document is the MMRP table, which identifies the monitoring and reporting requirements for each mitigation measure identified in the Mitigated Negative Declaration. More specifically, the table provides the following information for each mitigation measure:

- **Impact Summary**— a brief one-sentence summary statement of the impact being mitigated.
- **Mitigation Measure**— the verbatim text of the mitigation measure as adopted by the City. In some cases, the measure may differ slightly from the language presented in the Mitigated Negative Declaration circulated for public review.
- **Implementation Responsibility**— the entity responsible for implementing the mitigation measure.
- **Monitoring Responsibility**— the person or agency responsible for physically verifying that the mitigation measure has been implemented and for recording the verification in the MMRP table. In some cases, an outside regulatory agency may be involved in determining or ensuring mitigation compliance, but reporting of compliance in the MMRP table is the responsibility of City staff in all cases.
- **Monitoring Activity**— all activities necessary to verify successful implementation of the mitigation measure. Where certain monitoring activities are verified during the normal course of project review and approvals (e.g., verification of compliance with building codes), such verification has been noted but has not been incorporated into the MMRP, and no separate reporting is required beyond that which normally occurs.
- **Timing/Frequency of Monitoring**— the phase of the project during which monitoring activities must occur and/or milestone(s) at which single-event monitoring activities must occur followed by how often monitoring activities must occur. Typically, the monitoring occurs once, weekly, or monthly.
- **Date & Monitor's Initials/Status/Comments**— the initials of the Responsible Monitor verifying that implementation of the mitigation measure has been satisfactorily completed. A notation shall be provided for each required occurrence of monitoring and/or verification, as stipulated in the MMRP table for each mitigation measure. The notation by the proper monitor should be dated and initialed, and should note any irregularities or problems in compliance. When final implementation of a mitigation measure has been verified by the designated monitor, a notation of full and completed implementation shall be made in this space.

Reporting

Reporting shall be satisfied by a written notation in the space provided for each mitigation measure in the MMRP table, as noted above. The MMRP table shall be maintained on file at the offices of the Economic and Community Development Department until, at a minimum, all mitigation measures have been successfully implemented and verified.

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Mitigation Measure	Implementation Responsibility	Monitoring Responsibility	Monitoring Activity	Timing/ Frequency of Monitoring	Date & Monitor's Initials/ Status/Comments
AIR QUALITY					
<p>Impact: Generation of airborne particulate matter during construction.</p> <p>Mitigation Measure AQ-1: The property owner/applicant shall require the construction contractor to reduce the severity of project construction period dust and equipment exhaust impacts by complying with the following control measures:</p> <ul style="list-style-type: none"> • All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. • All haul trucks transporting soil, sand, or other loose material off-site shall be covered. • All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. • All vehicle speeds on unpaved roads shall be limited to 15 mph. • All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. • Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. • All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. • Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations. 	<p>Project Sponsor and Construction Contractor</p>	<p>Bay Area Air Quality Management District (BAAQMD), City of Union City Economic & Community Development Department</p>	<p>Monthly site visits shall be made by City staff to verify compliance with requirements. Additional site visits shall be promptly made in response to any complaints received by the City or BAAQMD. Any excessive dust observed shall be discussed with the project sponsor and reported in the MMRP table.</p>	<p>During construction/ Monthly and in response to complaints</p>	

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<p>Impact: Generation of criteria air pollutants during construction.</p> <p>Mitigation Measure AQ-2: <i>BAAQMD Basic and Enhanced Emissions Reduction Measures.</i> The construction contractor shall reduce construction-related air pollutant emissions by implementing BAAQMD's basic fugitive dust control measures, including:</p> <ul style="list-style-type: none"> • Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. • All construction equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. • Where access to alternative sources of power are available, portable diesel engines shall be prohibited. • All construction equipment greater than 25 horsepower (hp) and operating for more than 20 total hours over the entire duration of construction activities shall be equipped with engines that meet or exceed CARB Tier 4 off-road emission standards.¹ Exemptions can be made for specialized equipment where Tier 4 engines are not commercially available within 200 miles of the project site. The construction contract must identify these pieces of equipment, document their unavailability, and ensure that the equipment operate on no less than CARB-approved Tier 3 engines with a CARB Level 3 Verified Diesel Emissions Control Device. 	Project Sponsor and Construction Contractor	Bay Area Air Quality Management District (BAAQMD), City of Union City Economic & Community Development Department	Monthly site visits shall be made by City staff to verify compliance with requirements. Additional site visits shall be promptly made in response to any complaints received by the City or BAAQMD. Any excessive dust observed shall be discussed with the project sponsor and reported in the MMRP table.	During construction/ Monthly and in response to complaints	
BIOLOGICAL RESOURCES					
<p>Impact: Potential adverse effects on special-status plants.</p> <p>Mitigation Measure BR-1: Prior to commencement of grading or other site disturbance, a qualified plant biologist</p>	Project Sponsor	City of Union City Economic & Community	A qualified plant biologist hired by the City of Union City and paid for by the project sponsor shall conduct and document the	Verification of pre-construction rare plant survey: Prior to issuance	

¹ Tier 4 emission standards were phased-in over the period of 2008 through 2015.

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<p>shall conduct a rare plant survey during the overlapping blooming period (April through June) for the three special-status plant species identified as having potential to occur on the project site. The survey shall be performed in accordance with guidelines for rare plant surveys published by the California Department of Fish and Wildlife (CDFW) and the California Native Plant Society (CNPS). Any rare, threatened, or endangered plant species, including but not limited to those listed in Attachment 2, Table 2, of the August 2019 biological resources assessment report prepared for the project by Olberding Environmental, Inc., shall be identified and mapped. If any special-status plant species are found on the site, the biologist shall consult with the U.S. Fish and Wildlife Service (USFWS) and/or CDFW to identify appropriate mitigation to protect the species. Any further mitigation recommended by USFWS and/or CDFW shall be implemented prior to the initiation of site grading or other site disturbance. The results of the rare plant survey, as well as any additional mitigation requirements identified by USFWS and/or CDFW, as applicable, and the successful implementation of those requirements, shall be documented by the biologist in a letter report to be submitted to the Union City Planning Division. The City shall not issue a grading permit until these requirements have been satisfied.</p>		<p>Development Department Qualified Plant Biologist</p>	<p>required pre-construction rare plant survey during the overlapping blooming period (April through June) for the three special-status plant species. If special-status plants are found during the survey, Planning staff shall verify that the biologist has consulted with the USFWS and/or CDFW, as applicable, and has implemented any further mitigation recommended by USFWS and/or CDFW prior to the initiation of site grading. Planning staff shall verify receipt of a letter report from the biologist documenting the successful implementation of any additional mitigation requirements identified by the wildlife agencies.</p>	<p>of grading permit/ Once Verification of written report from the biologist documenting consultation with USFWS and/or CDFW, as applicable, and documenting successful implementation of additional mitigation requirements, if applicable: Prior to issuance of grading permit/ Once</p>	
<p>Impact: Potential adverse construction effects on nearby nesting raptors and other special-status bird species.</p> <p>Mitigation Measure BR-2: If site grading or other project construction activities would take place during the bird nesting season (February through August), pre-construction surveys of the project site and the adjacent large trees shall be conducted by a qualified wildlife biologist to identify any nesting passerine birds or raptors (birds of prey). The surveys shall be conducted within 14 days prior to the commencement of the tree removal or site grading activities. If any bird listed under the Migratory Bird Treaty Act is found to be nesting within the project site or adjacent trees, a protective buffer zone shall be established by the biologist to protect the nesting site. This buffer shall be a minimum of 75 feet from the project activities for passerine birds, and a minimum of 200 feet for raptors. The distance shall be determined by the biologist, based on the sensitivity of the birds nesting and site conditions, such as whether the nest is in a line-of-sight of the construction activities. The nest site(s) shall be monitored by the</p>	<p>Project Sponsor</p>	<p>City of Union City Economic & Community Development Department Biological Monitor</p>	<p>A qualified biologist hired by the City of Union City and paid for by the project sponsor shall conduct and document the required pre-construction nesting survey. If an active nest of a protected bird species is found during the survey, Planning staff shall receive written confirmation from the Biological Monitor that a protective buffer zone was successfully installed and maintained throughout the construction period until the young have fledged.</p>	<p>Verification of nesting bird survey: Prior to issuance of grading permit/ Once Verification of confirmation from Biological Monitor that protective buffer has been established: Prior to issuance of grading permit/ Once Verification of confirmation from Biological Monitor that protective buffer has been</p>	

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<p>biologist at least weekly during construction to see if the birds are stressed by the construction and if the protective buffer needs to be increased. Once the young have fledged and are flying well enough to avoid project construction zones (typically by August), project construction can proceed without further regard to the nest site(s).</p>				<p>maintained for the required period: Throughout construction/ Monthly</p>	
<p>Impact: Potential adverse effects on Alameda whipsnake. Mitigation Measure BR-3: A pre-construction survey of the project site for the potential presence of Alameda whipsnake shall be conducted by a qualified wildlife biologist no more than 48 hours prior to commencement of ground disturbance or vegetation removal. If any whipsnakes are identified, the biologist shall develop appropriate mitigation to protect the species and compensate for lost Alameda whipsnake habitat. The mitigation shall be determined in consultation with the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) and implemented to the satisfaction of those agencies. Incidental take permits shall be obtained from these agencies prior to the City issuing a grading permit.</p>	<p>Project Sponsor</p>	<p>City of Union City Economic & Community Development Department Qualified Wildlife Biologist</p>	<p>A qualified biologist hired by the City of Union City and paid for by the project sponsor shall conduct and document the required pre-construction whipsnake survey within the stipulated time frame. If any whipsnakes are found during the survey, Planning staff shall verify that the biologist has consulted with the USFWS and CDFW, as applicable, and has implemented any further mitigation recommended by USFWS and/or CDFW prior to the initiation of site grading. Planning staff shall verify issuance of incidental take permits, if required, and receipt of a letter report from the biologist documenting the successful implementation of any additional mitigation requirements identified by the wildlife agencies.</p>	<p>Verification of pre-construction whipsnake survey: Prior to issuance of grading permit/ Once Verification of issuance of incidental take permits, if required: Prior to issuance of grading permit/ Once Verification of written report from the biologist documenting consultation with USFWS and/or CDFW, as applicable, and documenting successful implementation of additional mitigation requirements, if applicable: Prior to issuance of grading permit/ Once</p>	

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CULTURAL RESOURCES					
<p>Impact: Potential damage to significant archaeological or historical resources.</p> <p>Mitigation Measure CUL-1: City Staff shall advise the Project Construction Superintendent, Project Inspector, and Building Inspector at a pre-construction conference of the potential for encountering cultural resources during construction and the applicant's responsibilities per CEQA should resources be encountered. This advisory shall also be printed on the Plans and Specification Drawings for this project.</p>	<p>City of Union City Economic & Community Development Department</p> <p>Project Engineer</p>	<p>City of Union City Economic & Community Development Department</p>	<p>City staff shall conduct pre-construction meeting as indicated and record the date and participants on this MMRP table. City staff shall verify the inclusion on construction plans and specification drawings the advisory to stop work in the event buried archaeological resources are encountered during construction, following by notification of City staff.</p>	<p>Prior to grading or ground disturbance/ Once</p>	
<p>Impact: Potential damage to significant archaeological or historical resources.</p> <p>Mitigation Measure CUL-2: Throughout site grading and all other ground-disturbing project construction activities, a qualified archaeological monitor shall be present to observe the construction activities in order to identify any historic or prehistoric cultural resources that could be encountered during the ground-disturbing activities. In the event that any cultural resources are discovered, all ground disturbance within 100 feet of the find shall be halted until the archaeologist can evaluate the resource(s) and, if necessary, recommend mitigation measures to document and prevent any significant adverse effects on the resource(s). (Construction personnel shall not collect any cultural resources.) Any further mitigation measures recommended by the archaeologist shall be implemented and construction shall not resume in the vicinity of the find until the archaeologist has authorized the resumption of work. The results of any additional archaeological effort required through the implementation of this measure and/or Mitigation Measure CUL-3 shall be presented in a professional-quality report, to be submitted to the Union City Planning Division and the Northwest Information Center at Sonoma State University in Rohnert Park.</p>	<p>Project Sponsor/ Project Construction Superintendent</p> <p>Archaeological Monitor</p>	<p>City of Union City Economic & Community Development Department</p>	<p>City staff shall receive written verification from the Archaeological Monitor that monitoring was successfully completed.</p>	<p>Prior to issuance of occupancy permits/ Once</p>	
<p>Impact: Potential damage to significant buried human remains.</p> <p>Mitigation Measure CUL-3: In the event that any human remains are encountered during site disturbance, all</p>	<p>Project Sponsor/ Project Construction Superintendent</p>	<p>City of Union City Economic & Community Development Department</p>	<p>If human remains are encountered during construction, City staff shall receive written verification from the Archaeological Monitor that</p>	<p>Within 3 weeks of completion of mitigation requirements/ Once</p>	

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ground-disturbing work shall cease immediately and a qualified archaeologist shall notify the Office of the Alameda County Coroner and advise that office as to whether the remains are likely to be prehistoric or historic period in date. If determined to be prehistoric, the Coroner's Office will notify the Native American Heritage Commission of the find, which, in turn, will then appoint a "Most Likely Descendant" (MLD). The MLD in consultation with the archaeological consultant and the City, will advise and help formulate an appropriate plan for treatment of the remains, which might include recordation, removal, and scientific study of the remains and any associated artifacts. After completion of analysis and preparation of the report of findings, the remains and associated grave goods shall be returned to the MLD for reburial.	Archaeological Monitor		proper notification, treatment, documentation, and return of remains occurred.		
GEOLOGY AND SOILS					
<p>Impact: Potential erosion impacts to downslope residential properties in proximity to project lots 1, 2, and 3.</p> <p>Mitigation Measure GS-1: Prior to the initiation of site grading, the construction contractor shall erect a silt barrier fence along the site boundary along the northwest side of the site, downslope of proposed lots 1, 2, and 3.</p>	Project Sponsor/ Construction Contractor	City of Union City Economic & Community Development Department	Prior to issuance of a grading permit, Planning staff shall confirm installation of the silt barrier. Monthly site visits shall be made by City staff to verify the silt barrier is properly maintained until the slope has been revegetated or potential soil erosion is prevented by other means.	<p>Confirmation of installation of the silt barrier: Prior to issuance of grading permit/ Once</p> <p>Verification that silt barrier has been maintained for the required period: Throughout construction/ Monthly</p>	
<p>Impact: Potential damage to significant buried paleontological resources.</p> <p>Mitigation Measure GS-2: If any paleontological resources—such as fossilized bone, teeth, shell, tracks, trails, casts, molds, or impressions—are encountered during site grading or other construction activities, all ground disturbance within 100 feet of the find shall be halted until the services of a qualified paleontologist can be retained to identify and evaluate the scientific value of the resource(s) and, if necessary, recommend mitigation measures to document and prevent any significant adverse effects on the resource(s). Any further mitigation measures</p>	Project Sponsor	City of Union City Economic & Community Development Department	City staff shall verify the inclusion in all construction contracts pertaining to grading or other ground-disturbing activities the provisions for work stoppage stipulated in Mitigation Measure GS-2. If paleontological resources are encountered during construction, City staff shall ensure the find is evaluated by a qualified paleontologist. City staff shall conduct weekly (or more frequent) site inspections to	<p>Verification of contract provisions: Prior to issuance of grading permit/ Once</p> <p>Site inspections: During grading or ground disturbance/ Weekly, or more frequently</p>	

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recommended by the paleontologist shall be implemented and construction shall not resume in the vicinity of the find until the paleontologist has authorized the resumption of work. Significant paleontological resources shall be salvaged and deposited in an accredited and permanent scientific institution, such as the University of California Museum of Paleontology (UCMP).			verify implementation of any mitigation recommended by the paleontologist. Inspections shall continue until mitigation implementation is deemed complete by the paleontologist. City staff shall receive written verification from the paleontologist that any recovered significant paleontological resources have been salvaged and deposited in an appropriate scientific institution.	Written verification that paleontological resources have been salvaged and deposited in an appropriate scientific institution: Prior to issuance of occupancy permits/ Once	
NOISE					
<p>Impact: Potential exposure of neighboring residents to excessive construction noise.</p> <p>Mitigation Measure NOI-1: All construction activity involving the operation of heavy construction equipment shall be limited to the hours of 8:30 a.m. to 6:00 p.m. weekdays, with no such activity allowed on weekends or holidays.</p>	Project Sponsor/ Construction Contractor	City of Union City Economic & Community Development Department	Prior to issuance of a grading permit, Planning staff shall confirm that construction contracts stipulate the allowed hours of construction. If the City receives complaints about noise during construction, Planning staff shall conduct a site visit to discuss the problem with the construction contractor and ensure construction hours are being observed.	Verification of contract provisions: Prior to issuance of grading permit/ Once During construction/ In response to complaints	
<p>Impact: Potential exposure of existing neighboring residents to excessive construction noise.</p> <p>Mitigation Measure N-1 (from General Plan EIR): Construction Noise Reduction. For projects involving impact pile-drivers that are located within 400 feet of noise-sensitive receptors, projects involving sonic pile-drivers that are located within 200 feet of construction, and projects without pile-driving that are located within 175 feet from noise-sensitive receptors, the following mitigation would be required:</p> <ul style="list-style-type: none"> • Equipment Staging Areas. Equipment staging shall be located in areas that will create the greatest distance feasible between construction-related noise sources and noise-sensitive receptors. 	Project Sponsor/ Construction Contractor	City of Union City Economic & Community Development Department	From General Plan EIR MMRP: Inspect project site to ensure noise reduction measures are being implemented.	From General Plan EIR MMRP: During construction: Periodically	

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<ul style="list-style-type: none"> • Electrically-Powered Tools and Facilities. Electrical power shall be used to run air compressors and similar power tools and to power any temporary structures, such as construction trailers or caretaker facilities. • Smart Back-up Alarms. Mobile construction equipment shall have smart back-up alarms that automatically adjust the sound level of the alarm in response to ambient noise levels. Alternatively, back-up alarms shall be disabled and replaced with human spotters to ensure safety when mobile construction equipment is moving in the reverse direction. • Additional Noise Attenuation Techniques. During the clearing, earth moving, grading, and foundation/conditioning phases of construction, temporary sound barriers shall be installed and maintained between the construction site and the sensitive receptors. Temporary sound barriers shall consist of sound blankets affixed to construction fencing or temporary solid walls along all sides of the construction site boundary facing potentially sensitive receptors. 					