

MITIGATION MONITORING AND REPORTING PROGRAM

INTRODUCTION

Section 15097 of the California Environmental Quality Act (CEQA) requires all State and local agencies to establish monitoring or reporting programs for projects approved by a public agency whenever approval involves the adoption of either a “mitigated negative declaration” or specified environmental findings related to environmental impact reports.

The following is the Mitigation Monitoring and Reporting Program (MMRP) for the Winchester Assisted Living and Memory Care Facility Project (proposed project). The intent of the MMRP is to ensure implementation of the mitigation measures identified within the Initial Study/Mitigated Negative Declaration (IS/MND) for this project. Unless otherwise noted, the cost of implementing the mitigation measures as prescribed by this MMRP shall be funded by the applicant.

COMPLIANCE CHECKLIST

The MMRP contained herein is intended to satisfy the requirements of CEQA as they relate to the IS/MND for the proposed project, prepared by the Town of Los Gatos. This MMRP is intended to be used by Town staff and mitigation monitoring personnel to ensure compliance with mitigation measures during project implementation. Mitigation measures identified in this MMRP were developed in the IS/MND that was prepared for the proposed project. The MMRP will provide for monitoring of construction activities as necessary and in-the-field identification and resolution of environmental concerns.

The proposed project IS/MND presents a detailed set of mitigation measures that will be implemented throughout the lifetime of the proposed project. Mitigation is defined by CEQA Guidelines, Section 15370, as a measure that:

- Avoids the impact altogether by not taking a certain action or parts of an action;
- Minimizes impacts by limiting the degree or magnitude of the action and its implementation;
- Rectifies the impact by repairing, rehabilitating, or restoring the impacted environment;
- Reduces or eliminates the impact over time by preservation and maintenance operations during the life of the project; or
- Compensates for the impact by replacing or providing substitute resources or environments.

Monitoring and documenting the implementation of mitigation measures will be coordinated by the Town of Los Gatos. The applicant will be responsible for fully understanding and effectively implementing the mitigation measures contained within the MMRP. The Town will be responsible for monitoring compliance.

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The following table indicates the item number, the checklist questions the measure is designed to address, the measure text, the monitoring agency, implementation schedule, and an area for sign-off indicating compliance.

EXHIBIT 12

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IV-a	Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	IV-1 <i>A pre-construction survey for nesting birds shall be conducted by a qualified biologist within a 250-foot buffer around the project site boundaries, if feasible, not more than three days prior to site disturbance during the breeding season (February 1st to August 31st). If site disturbance commences outside the breeding season, a pre-construction survey for nesting birds is not required. Survey results shall be submitted to the Town of Los Gatos Community Development Department. If active nests of migratory birds are not detected within approximately 250 feet of the project site, further mitigation is not required. If nesting birds are detected, the applicant shall implement Mitigation Measure IV-2.</i>	Town of Los Gatos Community Development Department	No more than three days prior to site disturbance during the breeding season (February 1 st to August 31 st).	
		IV-2 <i>If nesting raptors or other migratory birds are detected on or adjacent to the site during the survey, an appropriate construction-free buffer shall be established around all active nests. Actual size of buffer would be determined by the project biologist, and would depend on species, topography, and type of activity that would occur in the vicinity of the nest. Typical buffers are 25 feet for non-raptors and up to 250 feet for raptors. The project buffer shall be monitored periodically by the project biologist to ensure compliance. After the nesting is completed, as determined by the biologist, the buffer shall no longer be required. Buffers shall remain in place for the duration of the breeding season or until a qualified biologist has confirmed that all chicks have fledged and are independent of their parents. Proof of</i>	Town of Los Gatos Community Development Department	During construction, if nesting raptors or other migratory birds are detected on or adjacent to the site during the pre-construction survey.	

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		<i>compliance with this Mitigation Measure shall be provided to the Town of Los Gatos Community Development Department prior to recommencing construction within the buffer area.</i>			
IV-e	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	IV-3 <i>The applicant shall comply with the Town of Los Gatos Tree Protection Ordinance and a tree removal permit shall be obtained from the Town for the removal of any on-site trees that qualify as a protected tree. If the trees proposed for removal are found to be in good condition, and the tree removal permit is granted primarily for the convenience of the applicant, then the full cost and responsibility of such removal shall be borne by the applicant including planting of replacement trees.</i> <i>Where replanting is impractical or infeasible, the property owner may pay an in-lieu fee in an amount approved by the Town Council. New trees planted on site shall have a trunk diameter of more than 1.5 inches. The above noted requirements shall be completed to the satisfaction of the Town of Los Gatos Parks and Public Works Department.</i>	Town of Los Gatos Parks and Public Works Department	Prior to any tree removal.	
		IV-4 <i>The project applicant shall comply with all recommendations included in the Arborist Report prepared for the proposed project by Arborist Resources (2021) to ensure that tree protection measures are incorporated into the project design and construction. Recommended tree protection measures include, but are not limited to, establishing tree protection zones (TPZs) and setbacks for each</i>	Town of Los Gatos Parks and Public Works Department Qualified Arborist	The language of this measure shall be included on all project improvement plans, prior to the initiation of construction.	

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		protected tree; installing tree protection fencing around each TPZ which would include warning signs stating, "WARNING - Tree Protection Zone - this fence shall not be removed and is subject to penalty according to Town Code 29.10.1025"; avoiding damaging or cutting roots with a diameter of two or more inches; avoiding the use of herbicides; establishing staging, cleanout areas, and all routes of access beyond unpaved areas beneath tree canopies; and conducting a site meeting with the general contractor and project arborist several weeks or months prior to demolition for the purpose of reviewing all tree protection measures. All relevant recommendations included in the Arborist Report shall be noted on project Improvement Plans. Compliance with the recommended tree protection measures shall be monitored by the Town of Los Gatos Parks and Public Works Department and a qualified arborist.			
V-b; V-c	Cause a substantial adverse change in the significance of a unique archaeological resource pursuant to Section 15064.5; or disturb any human remains, including those interred outside of dedicated cemeteries	V-1 If historic or archeological resources are encountered during subsurface excavation activities, all construction activities within a 100-foot radius of the resource shall cease until a qualified archaeologist determines whether the resource requires further study. The Town shall require that the applicant include a standard inadvertent discovery clause in every construction contract to inform contractors of this requirement. Any previously undiscovered resources found during construction shall be recorded on appropriate California Department of Parks and Recreation forms and evaluated for significance in terms	Town of Los Gatos Community Development Department	During construction, if historic or archeological resources are encountered during subsurface excavation activities.	

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		<p><i>of California Environmental Quality Act (CEQA) criteria by a qualified archaeologist. Potentially significant cultural resources consist of, but are not limited to, stone, bone, fossils, wood, or shell artifacts or features, including hearths, structural remains, or historic dumpsites.</i></p> <p><i>If the resource is determined to be significant under CEQA, the Town and a qualified archaeologist shall determine whether preservation in place is feasible. Such preservation in place is the preferred mitigation. If such preservation is infeasible, the qualified archaeologist shall prepare and implement a research design and archaeological data recovery plan for the resource. The archaeologist shall also conduct appropriate technical analyses, prepare a comprehensive written report and file it with the appropriate information center (California Historical Resources Information System), and provide for the permanent curation of the recovered materials.</i></p>			
		<p>V-2 <i>If human remains, or remains that are potentially human, are found during construction, all work shall be halted immediately within 200 feet, and a professional archeologist shall ensure reasonable protection measures are taken to protect the discovery from disturbance. The archaeologist shall notify the Contra Costa County Coroner (per §7050.5 of the State Health and Safety Code). The provisions of §7050.5 of the</i></p>	<p>Town of Los Gatos Community Development Department</p> <p>County Coroner</p> <p>NAHC, if County Coroner</p>	<p>During construction, if human remains, or remains that are potentially human, are found.</p>	

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		<p><i>California Health and Safety Code, §5097.98 of the California Public Resources Code, and Assembly Bill 2641 will be implemented. If the Coroner determines the remains are Native American and not the result of a crime scene, then the Coroner will notify the Native American Heritage Commission (NAHC), which then will designate a Native American Most Likely Descendant (MLD) for the project (§5097.98 of the Public Resources Code). The designated MLD will have 48 hours from the time access to the property is granted to make recommendations concerning treatment of the remains. If the applicant does not agree with the recommendations of the MLD, the NAHC can mediate (§5097.94 of the Public Resources Code). If an agreement is not reached, the qualified archaeologist or MLD must rebury the remains where they will not be further disturbed (§5097.98 of the Public Resources Code). This will also include either recording the site with the NAHC or the appropriate Information Center, using an open space or conservation zoning designation or easement, or recording a reinternment document with the county in which the property is located (AB 2641). Work cannot resume within the no-work radius until the lead agency, through consultation as appropriate, determines that the treatment measures have been completed to the Town's satisfaction.</i></p>	determines remains are Native American		
VII-ai; VII-a ii	Directly or indirectly cause potential substantial adverse effects, including the	<p><i>VII-1 The project applicant shall include all relevant 2019 CBSC standards, as recommended by the Design-Level Geotechnical Investigation prepared by Cornerstone Earth Group (2021)</i></p>	Town of Los Gatos Community	Included on all project improvement plans, prior to the	

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	risk of loss, injury, or death involving: Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area based on other substantial evidence of a known fault; or strong seismic ground shaking?	<i>on all project improvement plans to ensure that the recommended standards for development of foundations, subsurface improvements, etc. are incorporated into the project design and construction. All project improvement plans shall be reviewed by a licensed engineer and approved by the Town of Los Gatos Community Development Department and the Town's Engineer.</i>	Development Department Town Engineer	initiation of construction.	
VIII-a; VIII-b	Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment; or Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gasses?	<p><i>VIII-1 The following requirements shall be noted on project improvement plans, subject to review and approval by the Town of Los Gatos Community Development Department:</i></p> <ul style="list-style-type: none"> <i>• The proposed project shall be designed such that the project is built all-electric, and natural gas infrastructure shall be prohibited on-site; and</i> <i>• A minimum 10 electric vehicle (EV) capable parking spaces shall be included on-site, consistent with the Tier 2 CALGreen standards.</i> 	Town of Los Gatos Community Development Department	Included on all project improvement plans, prior to the initiation of construction.	
IX-b	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the likely release of	<p><i>IX-1 Following demolition and prior to issuance of a grading permit, a sampling grid shall be superimposed across the site and discrete shallow samples shall be collected. The samples shall be tested for organochlorine pesticides to determine whether Regional Water Quality Control Board Environmental Screening Levels (ESLs) are exceeded in any</i></p>	Town of Los Gatos Parks and Public Works Department SCCDEH	Following demolition and prior to issuance of a grading permit.	

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	hazardous materials into the environment?	<p><i>samples. The applicant shall submit a report to the Parks and Public Works Department for review and approval that includes, but is not limited to, sampling activities performed, relevant ESLs for identified contaminants, summary of contaminated concentrations, and locations where ESLs are exceeded, if any. If ESLs are exceeded in on-site soils, the impacted areas shall be removed and properly disposed of under oversight by the Santa Clara County Department of Environmental Health (SCCDEH) prior to issuance of a grading permit; and proof of remediation under SCCDEH oversight shall be provided to the Town of Los Gatos Parks and Public Works Department prior to grading. For larger quantities of soils that are non-hazardous, subject to approval by the Town of Los Gatos Parks and Public Works Department, such soils may generally be placed under interior roads, parking areas, or buildings during normal grading operations, and verification of proper handling and disposal.</i></p> <p><i>IX-2 Prior to issuance of a demolition permit for on-site structures, the project applicant shall consult with certified Asbestos and/or Lead Risk Assessors to complete an asbestos and lead survey. The completed asbestos and lead survey shall be submitted to the Town of Los Gatos Building Department for review and approval. If asbestos-containing materials or lead-containing materials are not discovered during the survey, further mitigation related to asbestos-containing materials or lead-</i></p>	<p>Town of Los Gatos Building Department</p> <p>SCCDEH</p>	<p>Prior to issuance of a demolition permit for on-site structures.</p>	

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		<p>containing materials shall not be required. If asbestos-containing materials and/or lead-containing materials are discovered by the survey, the project applicant shall prepare a work plan to demonstrate how the on-site asbestos-containing materials and/or lead-containing materials shall be removed in accordance with current California Occupational Health and Safety (Cal-OSHA) Administration regulations and disposed of in accordance with all CalEPA regulations, prior to the demolition and/or removal of the on-site structures. The plan shall include the requirement that work shall be conducted by a Cal-OSHA registered asbestos and lead abatement contractor in accordance with Title 8 CCR 1529 and Title 8 CCR 1532.1 regarding asbestos and lead training, engineering controls, and certifications. The applicant shall submit the work plan to the Town for review and approval. The Town has the right to defer the work plan to the SCCDEH for additional review. Materials containing more than one (1) percent asbestos that is friable are also subject to BAAQMD regulations. Removal of materials containing more than one (1) percent friable asbestos shall be completed in accordance with BAAQMD Section 11-2-303.</p>			
XIII-a	Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local	<p><i>XIII-1 Prior to approval of demolition permits the following requirements shall be noted on project improvement plans, subject to review and approval by the Town of Los Gatos Community Development Department:</i></p>	Town of Los Gatos Community Development Department	Noted on improvement plans, prior to approval of demolition permits.	

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	general plan or noise ordinance, or applicable standards of other agencies?	<ul style="list-style-type: none"> • Operational and Situational Controls: <ul style="list-style-type: none"> ○ All work on-site shall be restricted to the hours of 8:00 AM to 8:00 PM Weekdays, and 9:00 AM to 7:00 PM weekends and Holidays, pursuant to the requirements of the Town of Los Gatos Noise Ordinance. ○ All exterior stationary equipment shall be kept at least 100 feet from neighboring property lines unless acoustically shielded. ○ Material deliveries shall not be allowed on Sundays or Federal Holidays. ○ Cranes shall be located at least 100 feet from any neighboring property line with the exception of cranes or lifts necessary to dismantle scaffolding. ○ Material movement along the east and south sides of the site shall be minimized. ○ Stockpiles shall be located adjacent to neighbors as much as possible to help shield people from on-site noise generation. ○ Music shall not be audible off-site. ○ Dirt berming and stockpiling materials shall occur whenever 			

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		<p><i>possible to reduce noise to sensitive receptor locations.</i></p> <ul style="list-style-type: none"> ○ <i>Mobile equipment such as haul trucks, and concrete trucks, shall be kept off of local streets near residences as much as possible.</i> ○ <i>Vehicle paths shall be graded smooth as rough roads and paths can cause significant noise and vibration from trucks (particularly empty trucks) rolling over rough surfaces. Loud bangs and ground-borne vibration can occur.</i> <ul style="list-style-type: none"> • Interior Work: <ul style="list-style-type: none"> ○ <i>For interior work, the windows of the interior spaces facing neighbors where work is being performed shall be kept closed while work is proceeding.</i> ○ <i>Noise generating equipment indoors shall be located within the building to use building elements as noise screens.</i> • Equipment: <ul style="list-style-type: none"> ○ <u>Earth Removal:</u> <i>Use scrapers as much as possible for earth removal, rather than the noisier loaders and hauling trucks.</i> ○ <u>Backfilling:</u> <i>Use a backhoe for backfilling, as it is quieter than either dozers or loaders.</i> ○ <u>Ground Preparation:</u> <i>Use a motor grader rather than a</i> 			

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		<p><i>bulldozer for final grading. Wheeled heavy equipment is less noisy than track equipment. Use wheeled equipment rather than track equipment whenever possible, with the exception of work within the vibration distances shown in Table IV of the Noise Assessment Study. The soil conditions at the site indicate that wheeled equipment may generate higher levels of ground vibration than tracked equipment. Small, rubber tracked equipment, such as skid steers, would produce the lowest levels of noise and vibration</i></p> <ul style="list-style-type: none"> ○ <u><i>Building Construction:</i></u> <i>Nail guns shall be used where possible as they are less noisy than manual hammering.</i> ○ <u><i>Generators and Compressors:</i></u> <i>Use generators, compressors and pumps that are housed in acoustical enclosures rather than weather enclosures or none at all.</i> ○ <i>Use temporary power service from the utility company in lieu of generators wherever possible.</i> ○ <i>All stationary equipment shall be rated no higher than 85 dBA</i> 			

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		<p>at 25 feet under the equipment's most noisy condition.</p> <ul style="list-style-type: none"> ○ Circular saws, miter/chop saws and radial arm saws shall be used no closer than 50 feet from any residential property line unless the saw is screened from view by any and all residences using an air-tight screen material of at least two pounds per sf surface weight, such as three-quarter-inch plywood. ○ Use electrically powered tools rather than pneumatic tools whenever possible. ○ Mitigation of the construction phase noise at the site can be accomplished by using quiet or "new technology" equipment. ○ The greatest potential for noise abatement of current equipment shall be the quieting of exhaust noises by use of improved mufflers. ○ All internal combustion engines used at the project site shall be equipped with a type of muffler recommended by the vehicle manufacturer. ○ All equipment shall be in good mechanical condition so as to minimize noise created by faulty or poorly maintained 			

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		<p><i>engines, drive-trains and other components. Worn, loose or unbalanced parts or components shall be maintained or replaced to minimize noise and vibration.</i></p> <ul style="list-style-type: none"> ○ <i>Use wheeled equipment rather than tracked equipment whenever possible.</i> ○ <i>Use the lowest vibration inducing equipment when within the distance limits shown in Table IV of the Noise Assessment Study. Small grading and earth moving equipment, such as "Bobcat" size equipment shall be used.</i> <ul style="list-style-type: none"> • Noise Complaint Management: <ul style="list-style-type: none"> ○ <i>The project applicant shall designate a noise complaint officer. The officer shall be available at all times during construction hours by both telephone and email. Signs shall be posted at site entries.</i> ○ <i>Notify, in writing, all residential and noise sensitive commercial neighbors within 300 feet of the site of construction. The notification shall contain the name, phone number, and email address of the noise complaint officer. A flyer may be placed at the doors of the residences.</i> 			

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		<ul style="list-style-type: none"> A log of all complaints shall be maintained. The logs shall contain the name and address of the complainant, the date and time of the complaint, the nature/description of the noise source, a description of the remediation attempt or the reason remediation could not be attempted. 			
XIII-b	Generation of excessive groundborne vibration or groundborne noise levels?	Implementation of the previous Mitigation Measure XIII-1.	See Mitigation Measure XIII-1.	See Mitigation Measure XIII-1.	
XVII-a	Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?	<p><i>XVII-1 The following requirements shall be noted on project improvement plans, subject to review and approval by the Town of Los Gatos Parks and Public Works Department:</i></p> <ul style="list-style-type: none"> <i>A minimum of one long term and three short term bicycle parking spaces shall be included on-site, consistent with the VTA Bicycle Technical Guidelines; and</i> <i>A new crosswalk shall be installed to cross Shelburne Way at Winchester Boulevard. The crosswalk shall meet the standards of the Town of Los Gatos.</i> 	Town of Los Gatos Parks and Public Works Department	Included on all project improvement plans, prior to their approval.	
XVII-c; XVII-d	Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or	<p><i>XVII-3 The following requirement shall be noted on project improvement plans, subject to review and approval by the Town of Los Gatos Parks and Public Works Department:</i></p>	Town of Los Gatos Parks and Public Works Department	Included on all project improvement plans, prior to their approval.	

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	incompatible uses (e.g., farm equipment); or Result in inadequate emergency access?	<ul style="list-style-type: none"> <i>Red curbs shall be implemented adjacent to both sides of the project driveways to prohibit parking and ensure adequate sight distance.</i> 			
XVIII-a; XVIII-b	Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American Tribe, and that is: listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k); or a resource determined by the lead agency, in its discretion and supported by substantial	XVIII-1 <i>Implement Mitigation Measures V-1 and V-2.</i>	See Mitigation Measures V-1 and V-2.	See Mitigation Measures V-1 and V-2.	

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	evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.				

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