

Mitigation Monitoring and Reporting Program

# 143 & 151 E. Main Street Mixed-Use Project

March 21, 2025



Prepared by  
**EMC Planning Group**



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# Mitigation Monitoring and Reporting Program

## 1.1 Introduction

CEQA Guidelines section 15097 requires public agencies to adopt reporting or monitoring programs when they approve projects subject to an environmental impact report or a negative declaration that includes mitigation measures to avoid significant adverse environmental effects. The reporting or monitoring program is to be designed to ensure compliance with conditions of project approval during project implementation in order to avoid significant adverse environmental effects.

The law was passed in response to historic non-implementation of mitigation measures presented in environmental documents and subsequently adopted as conditions of project approval. In addition, monitoring ensures that mitigation measures are implemented and thereby provides a mechanism to evaluate the effectiveness of the mitigation measures.

A definitive set of project conditions would include enough detailed information and enforcement procedures to ensure the measure's compliance. This monitoring program is designed to provide a mechanism to ensure that mitigation measures and subsequent conditions of project approval are implemented.

## 1.2 Monitoring and Reporting Program

The basis for this monitoring program is the mitigation measures included in the project mitigated negative declaration. These mitigation measures are designed to eliminate or reduce significant adverse environmental effects to less than significant levels. These mitigation measures become conditions of project approval, which the project proponent is required to complete during and after implementation of the proposed project.

The attached checklist is proposed for monitoring the implementation of the mitigation measures. This monitoring checklist contains all appropriate mitigation measures in the mitigated negative declaration.

## 1.3 Monitoring and Reporting Program Procedures

The Town of Los Gatos shall use the attached monitoring checklist for the proposed project. The monitoring program should be implemented as follows:

1. The Town of Los Gatos Community Development Department should be responsible for coordination of the monitoring program, including the monitoring checklist. The Community Development Department should be responsible for completing the monitoring checklist and distributing the checklist to the responsible individuals or agencies for their use in monitoring the mitigation measures.
2. Each responsible individual or agency will then be responsible for determining whether the mitigation measures contained in the monitoring checklist have been complied with. Once all mitigation measures have been complied with, the responsible individual or agency should submit a copy of the monitoring checklist to the Community Development Department to be placed in the project file. If the mitigation measure has not been complied with, the monitoring checklist should not be returned to the Community Development Department.
3. The Town of Los Gatos Community Development Department will review the checklist to ensure that appropriate mitigation measures and additional conditions of project approval included in the monitoring checklist have been complied with at the appropriate time, e.g. prior to issuance of a use permit, etc. Compliance with mitigation measures is required for project approvals.
4. If a responsible individual or agency determines that a non-compliance has occurred, a written notice should be delivered by certified mail to the project proponent within 10 days, with a copy to the Community Development Department, describing the non-compliance and requiring compliance within a specified period of time. If non-compliance still exists at the expiration of the specified period of time, construction may be halted and fines may be imposed at the discretion of the Town of Los Gatos.

## 1.4 Monitoring and Reporting Checklist

### Step 1 - Prior to Issuance of Ground-Disturbing Activities Including Demolition or Tree Removal Permits

- AQ-1 The applicant shall prepare a Construction Management Plan for review and approval by the Town of Los Gatos Community Development Department prior to the start of any ground-disturbing activities, including tree removal. The Construction Management Plan shall include the following measures to reduce toxic air contaminant emissions during construction:
- a. Heavy-duty diesel vehicles will have 2010 or newer model year engines, in compliance with the California Air Resources Board's Truck and Bus Regulation;
  - b. Idling of construction equipment and heavy-duty diesel trucks will be avoided where feasible, and if idling is necessary, it will not exceed three minutes;

- c. All construction equipment will be maintained and properly tuned in accordance with manufacturer’s specifications and will be checked by a certified visible emissions evaluator; and
- d. All non-road diesel construction equipment will, at a minimum, meet Tier 3 emission standards listed in the Code of Federal Regulations Title 40, Part 89, Subpart B, §89.112. Further, where feasible, construction equipment will use alternative fuels such as compressed natural gas, propane, electricity, or biodiesel.

*Party Responsible for Implementation:*      *Developer*

*Party Responsible for Monitoring:*      *Town of Los Gatos Community Development Department*

**Monitoring Notes:**

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- BIO-1      To avoid impacts to nesting birds during the nesting season (January 15 through September 15), construction activities within or adjacent to the project site boundary that include any tree or vegetation removal, demolition, or ground disturbance (such as grading or grubbing) should be conducted between September 16 and January 14, which is outside of the bird nesting season. If this type of construction is scheduled during the nesting season (February 15 to August 30 for small bird species such as passerines; January 15 to September 15 for owls; and February 15 to September 15 for other raptors), a qualified biologist shall conduct nesting bird surveys.
- a. One survey for active bird nests shall occur within 48 hours prior to ground disturbance. Appropriate minimum survey radii surrounding each work area are typically 250 feet for passerines, 500 feet for smaller raptors, and 1,000 feet for larger raptors. The survey shall be conducted at the appropriate time of day to observe nesting activities. Locations off the site to which access is not available may be surveyed from within the site or from public areas. If no nesting birds are found, a letter report confirming absence will be prepared and submitted to the Town of Los Gatos Community Development Department and no further mitigation is required.
  - b. If the qualified biologist documents active nests within the project site or in nearby surrounding areas, an appropriate buffer between each nest and active construction shall be established. The buffer shall be clearly marked and maintained until the young have fledged and are foraging independently. Prior to construction, the qualified biologist shall conduct baseline monitoring of each nest to characterize “normal” bird behavior and establish a buffer distance, which allows the birds to

exhibit normal behavior. The qualified biologist shall monitor the nesting birds daily during construction activities and increase the buffer if birds show signs of unusual or distressed behavior (e.g., defensive flights and vocalizations, standing up from a brooding position, and/or flying away from the nest). If buffer establishment is not possible, the qualified biologist or construction foreman shall have the authority to cease all construction work in the area until the young have fledged and the nest is no longer active. Once the absence of nesting birds has been confirmed, a letter report will be prepared and submitted to the Town of Los Gatos.

*Party Responsible for Implementation:*        *Developer*

*Party Responsible for Monitoring:*        *Town of Los Gatos Community Development Department*

**Monitoring Notes:**

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BIO-2        Per Town Code Section 26.20.010 and Chapter 29, Article 1, Division 2, the developer shall obtain a tree removal permit prior to the removal of protected trees on private or Town property. The project developer shall abide by any tree replacement ratios and/or in-lieu payments, tree protection measures, and best management practices required by the tree removal permit and/or within the arborist report dated October 24, 2024 ([Appendix D](#)).

*Party Responsible for Implementation:*        *Developer*

*Party Responsible for Monitoring:*        *Town of Los Gatos Community Development Department*

**Monitoring Notes:**

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CUL-1        The following language shall be incorporated into any plans associated with tree removal, grading, and construction, “In the event that archaeological resources are encountered during ground disturbing activities, contractor shall temporarily halt or divert excavations within 50 meters (165 feet) of the find until it can be evaluated. All potentially significant archaeological deposits shall be evaluated to demonstrate whether the resource is eligible



for inclusion on the California Register of Historic Resources, even if discovered during construction. If archaeological deposits are encountered, they will be evaluated and mitigated simultaneously in the timeliest manner practicable, allowing for recovery of materials and data by standard archaeological procedures. For indigenous archaeological sites, this data recovery involves the hand-excavated recovery and non-destructive analysis of a small sample of the deposit. Historic resources shall also be sampled through hand excavation, though architectural features may require careful mechanical exposure and hand excavation.

Any previously undiscovered resources found during construction activities shall be recorded on appropriate California Department of Parks and Recreation (DPR) forms and evaluated for significance by a qualified Archaeologist. Significant cultural resources consist of but are not limited to stone, bone, glass, ceramics, fossils, wood, or shell artifacts, or features including hearths, structural remains, or historic dumpsites.”

*Party Responsible for Implementation:*        *Developer*

*Party Responsible for Monitoring:*        *Town of Los Gatos Community Development Department*

**Monitoring Notes:**

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CUL-2     The following language shall be incorporated into any plans associated with tree removal, demolition, grading, and construction, “In the event that human remains (or remains that may be human) are discovered at the project site, Public Resource Code Section 5097.98 must be followed. All grading or earthmoving activities shall immediately stop within 50 meters (165 feet) of the find. The Santa Clara County Coroner will be notified immediately, and the coroner shall be permitted to examine the remains as required by California Health and Safety Code Section 7050.5(b).

Section 7050.5 requires that excavation be stopped in the vicinity of discovered human remains until the coroner can determine whether the remains are those of a Native American. If human remains are determined as those of Native American origin, the project proponent shall comply with the state relating to the disposition of Native American burials that fall within the jurisdiction of the NAHC (Public Resource Code [PRC] § 5097). The coroner shall contact the Native American Heritage Commission (NAHC) to determine the most likely descendant(s) (MLD). The MLD shall complete his or her inspection and make recommendations or preferences for treatment within 48

hours of being granted access to the site. The MLD will determine the most appropriate means of treating the human remains and associated grave artifacts, and shall oversee the disposition of the remains. In the event the NAHC is unable to identify an MLD or the MLD fails to make a recommendation within 48 hours after being granted access to the site, the landowner or his/her authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity within the project area in a location not subject to further subsurface disturbance if: a) the Native American Heritage Commission is unable to identify the MLD or the MLD failed to make a recommendation within 48 hours after being allowed access to the site; b) the descendent identified fails to make a recommendation; or c) the landowner or his authorized representative rejects the recommendation of the descendent, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.”

*Party Responsible for Implementation:*        *Developer*

*Party Responsible for Monitoring:*        *Town of Los Gatos Community Development Department*

**Monitoring Notes:**

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GEO-2    The following measure shall be included in project plans, prior to issuance of a demolition permit:

“If paleontological resources are uncovered during demolition, grading or other on-site excavation activities, construction activities in the area shall be suspended. The developer shall retain a qualified paleontologist to examine the site and identify protective measures to be implemented to protect the paleontological resource. The measures shall be subject to review and approval by the Community Development Director.”

*Party Responsible for Implementation:*        *Developer*

*Party Responsible for Monitoring:*        *Town of Los Gatos Community Development Department*

**Monitoring Notes:**

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- N-1 The project developer shall ensure that no individual piece of construction equipment produce a noise level exceeding 85 dBA at 25 feet. Prior to the start of ground disturbing activities, the applicant shall demonstrate compliance with this requirement to the Town of Los Gatos Building Department for review and verification.
- The project developer shall also ensure that best management practices are incorporated during construction activities. The following shall be placed on all ground-disturbing project plans:
  - All construction equipment shall be properly maintained and muffled as to minimize noise generation at the source.
  - Noise-producing equipment shall not be operating, running, or idling while not in immediate use by a construction contractor.
  - All noise-producing construction equipment shall be located and operated, to the extent possible, at the greatest possible distance from any noise-sensitive land uses.
  - Locate construction staging areas, to the extent possible, at the greatest possible distances from any noise-sensitive land uses.
  - Signs shall be posted at the construction site and near adjacent sensitive receptors displaying hours of construction activities and providing the contact phone number of a designated noise disturbance coordinator.

*Party Responsible for Implementation:*      *Applicant*

*Party Responsible for Monitoring:*      *Town of Los Gatos Building Department*

**Monitoring Notes:**

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## **Step 2 - Prior to Issuance of Grading Permits**

- GEO-1 The applicant shall prepare a soils report addressing, but not limited to: foundation and retaining wall design recommendations, and impacts associated with lateral spreading, subsidence, or collapse. The soils report shall be submitted to the Town Building Division for review and approval prior to issuance of a grading permit. All

recommendations outlined in the soils report shall be incorporated into the project design.

*Party Responsible for Implementation:*      *Developer*

*Party Responsible for Monitoring:*      *Town of Los Gatos Building Division*

**Monitoring Notes:**

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HAZ-1      The project developer shall conduct soil vapor testing on the project site prior to issuance of a grading permit. The results of the soil vapor testing shall be reviewed by the Town Engineer and only with approval by the Town Engineer can any grading and earth-moving construction activities take place.

If soil vapor testing comes back with concentration levels that exceed safety thresholds for residential uses, the Town Engineer shall determine if Environmental Solutions should provide recommendations for construction of the project. If soil vapor testing comes back with concentration levels below safety thresholds, no further action is necessary.

*Party Responsible for Implementation:*      *Developer*

*Party Responsible for Monitoring:*      *Town of Los Gatos Engineer*

**Monitoring Notes:**

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**Step 3 - Prior to Issuance of Building Permits**

AQ-2      The project applicant shall ensure that MERV 13 air filtration systems, or an equivalent system, are included in the design and operations of the proposed project. Prior to the issuance of building permits, the applicant shall submit detailed plans and specifications demonstrating compliance with this requirement to the Town of Los Gatos Building Department for review and verification. These plans shall identify the locations and

specifications of the air filtration systems and confirm they meet the performance standards for particulate and airborne pollutant removal.

The air filtration systems must be operational prior to the issuance of a certificate of occupancy. Verification of proper installation and functionality shall be conducted by a licensed professional and documented in a final compliance report, which must be submitted to the Town of Los Gatos Building Department for approval. The property owner or operator shall also establish a maintenance plan for the air filtration system to ensure ongoing performance in accordance with manufacturer specifications.

*Party Responsible for Implementation:*      *Developer*

*Party Responsible for Monitoring:*      *Town of Los Gatos Building Division*

**Monitoring Notes:**

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GHG-1    The project developer shall incorporate the following GHG emissions reduction performance standard into the final project design:

- No permanent natural gas infrastructure shall be permitted as part of the project plans; no natural gas shall be made available through permanent natural gas infrastructure. The project shall be all electric.

Final plans for the development shall be reviewed by the Town Community Development Department prior to issuance of a building permit to ensure this performance standard is incorporated into the project design. Verification of development consistent with this performance standard shall be assured prior to approval of occupancy permits.

*Party Responsible for Implementation:*      *Developer*

*Party Responsible for Monitoring:*      *Town of Los Gatos Community Development Department*

**Monitoring Notes:**

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## Step 4 - Prior to Issuance of Occupancy Permits

AQ-2 The project applicant shall ensure that MERV 13 air filtration systems, or an equivalent system, are included in the design and operations of the proposed project. Prior to the issuance of building permits, the applicant shall submit detailed plans and specifications demonstrating compliance with this requirement to the Town of Los Gatos Building Department for review and verification. These plans shall identify the locations and specifications of the air filtration systems and confirm they meet the performance standards for particulate and airborne pollutant removal.

The air filtration systems must be operational prior to the issuance of a certificate of occupancy. Verification of proper installation and functionality shall be conducted by a licensed professional and documented in a final compliance report, which must be submitted to the Town of Los Gatos Building Department for approval. The property owner or operator shall also establish a maintenance plan for the air filtration system to ensure ongoing performance in accordance with manufacturer specifications.

*Party Responsible for Implementation:* Developer

*Party Responsible for Monitoring:* Town of Los Gatos Building Department

### Monitoring Notes:

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GHG-1 The project developer shall incorporate the following GHG emissions reduction performance standard into the final project design:

- No permanent natural gas infrastructure shall be permitted as part of the project plans; no natural gas shall be made available through permanent natural gas infrastructure. The project shall be all electric.

Final plans for the development shall be reviewed by the Town Community Development Department prior to issuance of a building permit to ensure this performance standard is incorporated into the project design. Verification of development consistent with this performance standard shall be assured prior to approval of occupancy permits.

*Party Responsible for Implementation:* Developer

*Party Responsible for Monitoring:* Town of Los Gatos Community Development Department

**Monitoring Notes:**

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N-2 The project developer shall install mechanical ventilation or air conditioning for all residential units so that windows and doors can remain closed for sound insulation purposes. Implementation of this measure is subject to review and approval by the Town Building Department, prior to issuance of an occupancy permit.

*Party Responsible for Implementation: Developer*

*Party Responsible for Monitoring: Town of Los Gatos Building Department*

**Monitoring Notes:**

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TRANS-1 Project improvements plans shall include the following, subject to review and approval by the Town Engineer, prior to issuance of an occupancy permit:

- a. Stripe a loading space along the project frontage on E. Main Street;
- b. Apply 10 feet of No Parking (Red Zone) on both sides of the project driveway on Church Street; and
- c. Provide adequate landing space at the top and bottom of the garage ramps.

*Party Responsible for Implementation: Developer*

*Party Responsible for Monitoring: Town of Los Gatos Engineer*

**Monitoring Notes:**

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