

# Community Development Department

Kristi A. Abrams  
DIRECTOR

7351 Rosanna Street, Gilroy, California 95020-6197  
Telephone: (408) 846-0451 Fax: (408) 846-0429  
<http://www.cityofgilroy.org>

## MITIGATED NEGATIVE DECLARATION

### I. DESCRIPTION OF PROJECT:

**Date:** July 27, 2018      **Application #s:** TM 16-02

**APN:** 808-20-008

**Project Title:** Greenfield Drive 14-Lot Residential Subdivision

**Project Location:** Northern terminus of Greenfield Drive, west of US 101, and south of Uvas Creek.

**Project Applicants:** James Suner, The James Group for New Hope Community Church (aka, First Assembly of God of Gilroy, Inc. a California Corporation) (property owner)

**Project Description:** The project proposes to subdivide an 8.56 parcel into 14 residential lots with an average 10,758 square foot lot size, and three lettered parcels. The site is within an existing residential area and designated for residential development in the City of Gilroy General Plan and the R1 single family residential zone district. Lettered parcels include 3.7 acres of land (Parcel A) to be dedicated to the City which includes extension of a public path improvement, Parcel B includes a connection to existing pedestrian paths, and Parcel C is proposed for on-site bio-retention ponds. The project would provide a 150 foot setback from the top of creekbank and 35 foot riparian setback to the residential lots.

Development would include extensive regrading of the site, which slopes from Greenfield Drive downward in a northerly direction toward Uvas Creek. A total of 20,721 cubic yards of fill is proposed in order to level the lots and provide positive drainage away from the creek and into the bio-retention areas. Two five-foot tall and stepped retaining walls would be required to support the new higher building pad elevations along lots 9-14. A 38-foot wide private road, with sidewalks, would serve the development. Bioretention areas have been designed for accommodating 57,769 square feet of new impervious surface anticipated by the development. A total of 28 significant mature trees would be removed for site grading work. Tree replanting would also be required as part of the project, to mitigate removal of the significant trees.

## II. DETERMINATION

In accordance with the City of Gilroy procedures for compliance with the California Environmental Quality Act (CEQA), the City has completed an Initial Study to determine whether the proposed project may have a significant adverse effect on the environment. On the basis of that study, the City makes the following determination:

- Although the project, as proposed, could have had a significant effect on the environment, there will not be a significant effect in this case because mitigation measures are included in the project, and, therefore, this **MITIGATED NEGATIVE DECLARATION** (MND) has been prepared.

## III. CONDITIONS (Mitigation Measures):

### A. Air Quality

**Impact AIR-1:** Project construction activities would result in a significant community risk impact.

**MM AIR-1.1:** The project shall develop a plan demonstrating that the off-road equipment used on-site to construct the project would achieve a fleet-wide average of at least 30 percent reduction in DPM exhaust emissions or greater. One feasible plan to achieve this reduction would include the following:

- All mobile diesel-powered off-road equipment larger than 25 horsepower and operating on the site for more than two days shall meet, at a minimum, U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent.
- Generator used to provide power shall meet, at a minimum, U.S. EPA particulate matter emissions standards for Tier 4 engines or equivalent. Or their usage shall be limited to 100 hours total.

### B. Biological Resources

**Impact BIO-1:** Project construction activities could result in impacts to nesting birds and raptors in the project area.

**MM BIO-1.1:** Pre-construction nesting bird surveys shall be completed prior to the start of construction activities, if construction activities are proposed to commence during the nesting season (February 1 to August 31) in order to avoid impacts to nesting birds. These surveys shall be completed by a qualified biologist no more than 14 days before construction begins during the early part of the breeding season (February 1 through April 30) and no more than 30 days before construction begins during the latter part of the breeding season (May 1 through August 31). During this survey, the biologist or ornithologist shall observe if any nesting birds are within the project area

- MM BIO-1.2:** If an active nest is found in an area that will be disturbed by construction, the ornithologist shall designate an adequate buffer zone to be established around the nest, in consultation with the California Department of Fish and Wildlife. The buffer would ensure that nests shall not be disturbed during project construction.
- MM BIO-1.3:** The applicant shall submit a report indicating the results of the pre-construction survey and any designated buffer zones to the satisfaction of the Director of Planning, prior to the issuance of a demolition permit.
- Impact BIO-2:** Project construction activities could result in impacts to large bat maternity colonies or roosts.
- MM BIO-2.1:** Bat Pre-activity Survey. Prior to any removal of trees 12 inches or greater in diameter at 4.5 feet above grade, a pre-activity survey for roosting bats will be conducted within the impact area. The survey will be conducted by a qualified bat biologist. No activities that would result in disturbance of active bat roosts will proceed prior to the completed survey. If no active roosts or maternity colonies are found, then no further action is warranted. If a large maternity colony or bat roost is presented, MM BIO-3.2 or 3.3 shall be implemented.
- MM BIO-2.2:** Avoidance. In order to avoid impacts, if an occupied bat roost is found in a tree that would be disturbed or removed by proposed activities, the Project may be redesigned to avoid the disturbance of the tree. If the roost is unoccupied at the time of the survey, the City may choose to install bat exclusion devices to prevent bats from taking up occupancy of the structure prior to the onset of the proposed activity. If avoidance is not feasible, MM BIO-3.3 shall be implemented.
- MM BIO-2.3:** Exclude Bats Prior to Disturbance. If disturbance of an active non-breeding pallid bat roost cannot be avoided, the individuals will be safely evicted between August 1 and October 15th or between February 15 and March 15. Bats may be evicted through exclusion after notifying the California Department of Fish and Wildlife. Trees with roosts that need to be removed will first be disturbed at dusk, just prior to removal that evening, to allow bats to escape the darker hours.
- Impact BIO-3:** Project construction may result in destruction or abandonment of woodrat nests within the project footprint.
- MM BIO-3.1:** Woodrat Pre-Construction Surveys. Pre-construction surveys for woodrat nests shall be conducted within the impact footprint by a qualified mammologist prior to the start of work. The surveys shall be conducted between March 1st and October 31st, when woodrats are more active, and shall be conducted no more than 30 days prior to the start of work. Woodrat

nests detected during the survey shall be mapped and one or more of the following measures shall be implemented:

**MM BIO-3.2:** Disturbance-free Woodrat Buffers. Dusky-footed woodrats are year-round residents. Therefore, avoidance mitigation is limited to redesigning the project to avoid direct impacts on woodrat nests to the extent feasible. Ideally, a minimum 10-foot buffer should be maintained between project construction activities and each nest to avoid disturbance. In some situations, a smaller buffer may be allowed if in the opinion of a qualified biologist, removing the nest would be a greater impact than the anticipated as a result of Project activities.

**MM BIO-3.3:** Relocation of Woodrat Nest Materials. If active woodrat nests are found within the Project boundary and avoidance is not feasible, then the woodrats shall be evicted from their nests prior to the removal of the nests and onset of ground-disturbing activities to avoid injury or mortality of the woodrats. A qualified biologist shall disturb the woodrat nest such that all woodrats would seek refuge outside of the Project activity area. Subsequently, the nest sticks shall be removed from the site, if feasible, these materials would be piled at the base of a nearby tree or shrub. The spacing between relocated nests shall not be less than 100 feet, unless a qualified biologist has determined that the habitat can support higher densities of nests.

**Impact BIO-4:** Removal of trees on-site identified as “significant”, per City of Gilroy standards would be considered a significant impact.

**MM BIO-4.1:** Prior to issuance of a grading permit, the applicant shall submit a final tree replacement plan to mitigate for proposed tree removals consistent with Gilroy City Code Article XXXVIII (Landscaping) and Consolidated Landscape Policy. The final plan shall identify the species, size, numbers, and locations for the replacement trees. The tree replacement program will be subject to review and approval by the Planning Manager and shall be implemented with construction of the subdivision improvements.

**MM BIO-4.2:** The project would also be required to implement tree preservation measures before and during project construction for significant trees to be retained. These measures shall be included on all plans. Tree protection measures include:

Design Recommendations

1. The trees identified for preservation shall be established and plotted on all plans (including but not limited to demolition, improvement, utility, drainage, grading, landscape and irrigation plans), subject to review and comment by the Consulting Arborist.
2. Changes to plans shall be subject to review and comment by the Consulting Arborist with regard to tree impacts.

3. A Tree Protection Zone (TPZ) shall be established around each tree to be preserved. Specific TPZ zones are specifically required for the following trees located within the area of development:

Tree No.	TPZ
#8	5' North. Dripline in all other directions.
#19	5' North and West. Dripline in all other directions.
#31	5' South. Dripline in all other directions.
#36, 37, 38	10' West. Dripline in all other directions.

4. TPZ's for trees not listed above shall be established at the dripline or a 10-foot radius, whichever is greater.
5. Underground services and utilities, including subdrains, water and sewer, shall be routed around the TPZ. Where encroachment cannot be avoided, special construction techniques such as hand digging or tunneling under roots shall be employed where necessary to minimize root injury.
6. All temporary access roads and staging for materials, equipment, etc., shall remain outside of TPZ's.
7. Herbicides must be safe for use around trees and labeled for that use.
8. Irrigation systems must be designed so that no trenching will occur within the TPZ.

Pre-construction Treatments

9. Per the City's Consolidated Landscape Policy, policies 6.2 and 6.3, the developer shall hire a certified consulting arborist for the entire span of the project. All arborist recommendations shall be drafted on the final construction, grading, or landscape plans.
10. The consulting arborist shall sign the final landscape plans authorizing this plan is consistent with the recommendations made in the arborist report.
11. The construction superintendent shall meet with the Consulting Arborist before beginning work to discuss work procedures and tree protection.
12. Fence all trees to be retained to completely enclose the Tree Protection Zone prior to demolition, grubbing or grading. Fences shall be 6' high chain link, mounted to steel posts firmly driven into the ground or on stanchions fastened securely with rebar staples 12" deep, as required by the City. Fences are to remain until all grading and construction is completed.
13. Trees recommended for preservation may require clearance pruning

for construction. All pruning shall be completed by a Certified Arborist or Tree Worker and adhere to the latest edition of the ANSI Z133 and A300 standards as well as the Best Management Practices -- Tree Pruning published by the International Society of Arboriculture.

14. Structures and underground features to be removed within the Tree Protection Zone shall use the smallest equipment, and operate from outside the Tree Protection Zone. The consultant shall be on-site during all operations within the Tree Protection Zone to monitor demolition activity.
15. Apply and maintain 4-6" wood chip mulch within the Tree Protection Zone.
16. All tree work shall comply with the Migratory Bird Treaty Act as well as California Fish and Wildlife code 3503-3513 to not disturb nesting birds. To the extent feasible tree pruning and removal should be scheduled outside of the breeding season. Breeding bird surveys should be conducted prior to tree work. Qualified biologists should be involved in establishing work buffers for active nests.

#### During Construction

1. Prior to beginning work, all contractors working in the vicinity of trees to be preserved are required to meet with the Consulting Arborist at the site to review all work procedures, access routes, storage areas and tree protection measures.
2. No grading, construction, demolition or other work shall occur within the Tree Protection Zone. Any modifications must be approved and monitored by the Consulting Arborist.
3. Any excavation within the dripline or other work that is expected to encounter tree roots should be approved and monitored by the Consulting Arborist. Roots shall be cut by manually digging a trench and cutting exposed roots with a sharp saw. The Consulting Arborist will identify where root pruning is required.
4. If injury should occur to any tree during construction, it should be evaluated as soon as possible by the Consulting Arborist so that appropriate treatments can be applied.
5. Any roots damaged during grading or construction shall be exposed to sound tissue and cut cleanly with a saw.
6. Fences have been erected to protect trees to be preserved. Fences define a specific Tree Protection Zone (TPZ) for each tree or group of trees. Fences are to remain until all site work has been completed. Fences may not be relocated or removed without permission of the Consultant.
7. Construction trailers, traffic and storage areas must remain outside fenced areas at all times.
8. Prior to grading, pad preparation and excavation work trenching may require root pruning outside of the TPZ. The Consulting Arborist shall identify where root pruning is required prior to the start of work. Roots

shall be cleanly cut to the depth of the excavation. Roots shall be cut by manually digging a trench and cutting exposed roots with a saw, with a vibrating knife, rock saw, narrow trencher with sharp blades, or other approved root pruning equipment.

9. No materials, chemicals, debris or equipment shall be dumped or stored within the TPZ.
10. Any tree pruning required for clearance during construction must be performed by a Certified Arborist.

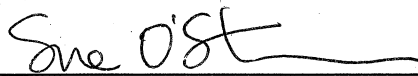
Post Construction

1. Trees preserved and replacement trees shall be monitored following construction of site improvements to assure the health of trees post construction. Occasional pruning, fertilization, mulch, pest management, replanting and irrigation may be required.

**IV. FINDING**

The City of Gilroy hereby finds that the proposed project could have a significant effect on the environment; however, there would not be a significant effect in this case because mitigation measures summarized above and described in the Initial Study are included in the project.

**V. LEAD AGENCY REPRESENTATIVE**

  
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Susan O'Strander, AICP  
Planning Manager

7/19/2018  
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Date

\_\_\_\_\_  
Susan O'Strander, AICP  
Planning Manager

\_\_\_\_\_  
Date

**CONTACT INFORMATION**

For additional information, please contact Kraig Tambornini, Senior Planner at the City of Gilroy Planning Division at (408) 846-0214. Written comments may be sent to Kraig Tambornini via email at [Kraig.Tambornini@CityofGilroy.org](mailto:Kraig.Tambornini@CityofGilroy.org) or at City of Gilroy Planning Division, 7351 Rosanna Street, Gilroy, CA 95020