



In-N-Out Restaurant Project

CITY PROJECT FILE# PRJ18-086

RESPONSE TO COMMENTS ON THE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

LEAD AGENCY:

CITY OF SANTA ROSA
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
100 SANTA ROSA AVENUE, ROOM 3
SANTA ROSA, CA 95404
CONTACT: SUSIE MURRAY, SENIOR PLANNER

PREPARED BY:



METROPOLITAN PLANNING GROUP
499 HUMBOLDT STREET
SANTA ROSA, CA 95404

DECEMBER 23, 2020

IN-N-OUT RESTAURANT PROJECT**RESPONSE TO COMMENTS ON IS/MND****TABLE OF CONTENTS**

1. INTRODUCTION	1
1.1. CEQA REQUIREMENTS	1
2. PUBLIC COMMENTS RECEIVED	1
2.1. CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE COMMENT LETTER AND RESPONSES	2
2.2. DEPARTMENT OF TOXIC SUBSTANCES CONTROL COMMENT LETTER AND RESPONSES	4
2.3. PROJECT APPLICANT COMMENT LETTER AND RESPONSES	5
3. REVISIONS TO THE DRAFT IS/MND.....	6
4. REVISIONS TO DRAFT MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)	6
5. SUMMARY	7

ATTACHMENTS

- A. CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE COMMENT LETTER, NOVEMBER 24, 2020
- B. DEPARTMENT OF TOXIC SUBSTANCES CONTROL COMMENT LETTER, NOVEMBER 30, 2020
- C. IN-N-OUT BURGER RESPONSE LETTER, DECEMBER 3, 2020
- D. PROJECT APPLICANT INLINE COMMENTS, NOVEMBER 25, 2020
- E. FINAL INITIAL STUDY/MITIGATED NEGATIVE DECLARATION (IS/MND) + MITIGATION MONITORING AND REPORTING PROGRAM (MMRP), DECEMBER 2020

1. INTRODUCTION

This document provides a response to comments received on the Public Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the In-N-Out Restaurant Project (SCH #2020110065). Responses provided herein clarify and bolster the analysis and evidence provided in the IS/MND.

In accordance with the California Environmental Quality Act (CEQA) of 1970 (as amended) (California Public Resources Code 21000 et. seq.), the IS/MND was circulated for a 30-day public review and comment period from November 4, 2020 to December 3, 2020.

1.1. CEQA REQUIREMENTS

CEQA Guidelines Section 15074 identifies the following responsibilities of the Lead Agency when considering the adoption of a Negative Declaration or Mitigated Negative Declaration:

- a) Any advisory body of a public agency making a recommendation to the decision-making body shall consider the proposed negative declaration or mitigated negative declaration before making its recommendation.
- b) Prior to approving a project, the decision-making body of the lead agency shall consider the proposed negative declaration or mitigated negative declaration together with any comments received during the public review process. The decision-making body shall adopt the proposed negative declaration or mitigated negative declaration only if it finds on the basis of the whole record before it (including the initial study and any comments received), that there is no substantial evidence that the project will have a significant effect on the environment and that the negative declaration or mitigated negative declaration reflects the lead agency's independent judgment and analysis.

Consistent with CEQA requirements, the City of Santa Rosa has reviewed and considered all comments received on the IS/MND. Although CEQA does not require the lead agency to prepare a response to public comments received on a Negative Declaration or a Mitigated Negative Declaration, the City's Local CEQA Guidelines direct that responses shall be provided to comments that raise significant environmental issues and that responses shall be submitted to the decision making body for consideration along with the environmental document. As such, the City of Santa Rosa has prepared this document to fully disclose public and agency comments received on the environmental analysis and to provide responses to those comments.

2. PUBLIC COMMENTS RECEIVED

Agencies, organizations and individuals that have submitted written comments to the City regarding the environmental review document prepared for the In-N-Out Restaurant Project are as follows:

1. California Department of Fish and Wildlife (CDFW)
2. Department of Toxic Substances Control (DTSC)
3. Project Applicant (In-N-Out Burger)

2.1. CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE COMMENT LETTER AND RESPONSES

The California Department of Fish and Wildlife is a Trustee Agency with responsibility under CEQA for commenting on projects that have the potential to impact fish, plant, and wildlife resources. Additionally, CDFW serves as a Responsible Agency in the event that discretionary approvals are required for a project, such as permits under the California Endangered Species Act (CESA), Lake and Streambed Alteration Program, or other provisions of the Fish and Game Code. CDFW comments on the In-N-Out Restaurant Project are summarized below. The full comment letter provided by CDFW is included as Attachment A.

Comment #1: Clarification on Project Extent

The commenter notes that the project extent shown in Figure 2 on page 11 of the IS/MND differs from that shown in Exhibit A of Appendix D (Biological Constraints Report) and requests clarification on whether the project site contains a potential linear wetland subject to the Fish and Game Code Section 1602.

Response to Comment #1: Clarification on Project Extent

As noted in Section 1.3 (Background) of the IS/MND, the In-N-Out Restaurant Project and the Yolanda Apartments Project, adjacent to the project site at 325 Yolanda Avenue, were initially conceptualized as a single mixed-use project and later divided into two individual projects. As noted, technical studies prepared, including the Biological Constraints Report, analyzed both 325 Yolanda Avenue (Yolanda Apartments) and the In-N-Out Restaurant Project at 2532 Santa Rosa Avenue.

The Biological Constraints Report includes a memo dated January 14, 2019, acknowledging the In-N-Out Restaurant Project as independent from the Yolanda Apartments Project and analyzes impacts, summarizes findings, and identifies appropriate mitigation measures specific to the In-N-Out Restaurant Project. The Draft IS/MND, Section 6.4(1) adequately characterizes linear features onsite and states the following regarding classification under the Fish and Game Code:

“Monk & Associates’ (M&A) Biologists with experience delineating wetlands and evaluating stream channels conducted an evaluation of the linear ditch features onsite. M&A reviewed historic aerial photographs (1942 through 2012) and USGS topographic maps of the project site; no drainages (creeks, streams, or other water bodies) were historically present onsite. The linear ditch features that skirt the project site perimeter were constructed by the land owner to convey surface runoff falling on paved and hard-packed graveled surfaces into the City storm drain system. These linear features originate onsite, do not connect to any offsite waterways, are culverted on their downstream end, and connect directly with the City’s storm drain system. These man-made, linear features with ephemeral flows do not provide wildlife or fisheries habitat. Thus, these man-made, ephemeral features do not meet the criteria to be classified as a stream under Fish and Game Code Section 1602.”

The Draft IS/MND, Section 6.4(1) further explains that the project will impact 0.01 acres of linear features onsite that are under the jurisdiction of the Regional Water Quality Control Board regulations and potentially the US Army Corps of Engineers, as depicted in the Preliminary Jurisdictional Determination letter issued by the ACOE (November 15, 2018). Mitigation measure BIO-3 requires a 2:1 replacement through the purchase of mitigation credits at an agency approved mitigation bank.

As such, the IS/MND and supporting technical studies include information adequately characterizing the jurisdictional features onsite, the project's potential impacts, and the mitigation required to reduce impacts to less than significant level. There are no features onsite that are under the jurisdiction of the CDFW and the project does not require a Lake and Streambed Alteration Agreement or other approval from the CDFW.

Comment #2: Biological Resources Mitigation Measures

The commenter recommends the following modifications to mitigation measures identified on pages 43 and 44 of the IS/MND:

- Mitigation Measure BIO-1:
 - Amend measure to require bird nesting surveys to be conducted no more than 7 days prior to construction rather than 15 days.
 - Amend survey area to 500 feet of all suitable nesting habitat rather than 300 feet.
 - Amend language to replace "should" with "shall" to read: "The buffer shall be staked with 4-foot orange construction fencing."
- Mitigation Measure BIO-2:
 - Move the following language from Mitigation Measure BIO-1 to Mitigation Measure BIO-2
"The applicant shall provide resume(s) of qualified biologist(s) conducting bat surveys to the City for review and approval in advance of pre-construction surveys. Resumes shall reflect: 1) at least 2 years of experience conducting bat surveys that resulted in detections for the relevant species such as pallid bat, and 2) the types of equipment used to conduct surveys. Resumes shall also indicate that the biologist possesses a state-issued Scientific Collecting Permit for relevant species."
 - Add the following requirements to Mitigation Measure BIO-2 to avoid project construction delays:

"A qualified bat biologist shall conduct an initial bat habitat assessment and survey several months before project construction, to facilitate sufficient time to implement the exclusion plan described below."

"If bats are detected, an exclusion plan shall be submitted to the City for approval. The City shall seek CDFW's input on the exclusion plan. The plan shall: (1) recognize that both the maternity and winter roosting seasons are vulnerable times for bats and require exclusion outside of these times, generally between March 1 and April 15 or September 1 and October 15 when temperatures are sufficiently warm, and (2) identify suitable areas for excluded bats to disperse or require installation of appropriate dispersal habitat, such as artificial bat houses, prior to project construction, and include an associated management and monitoring plan with implementation funding."

Response to Comment #2: Biological Resources Mitigation Measures

The recommended modifications to Measures BIO-1 and BIO-2 have been accepted and are reflected in the Final Draft IS/MND and the Final MMRP, Attachment E.

2.2. DEPARTMENT OF TOXIC SUBSTANCES CONTROL COMMENT LETTER AND RESPONSES

Isabella Roman, Environmental Scientists with the Department of Toxic Substances Control (DTSC) submitted a comment letter via email on November 30, 2020. A summary of comments submitted by the DTSC are included below and a full copy of the comment letter is included as Attachment B. Jim Lockington of the applicant team prepared a letter in response to the comments received from the DTSC (Attachment C hereto, and submitted a Phase I Environmental Site Assessment (ESA) and a Soils Management Plan, Appendices G2 and G3, respectively to the Final IS/MND. The following responses to comments rely on these materials, as well as information presented in the Draft IS/MND and Appendices including a Phase 1 ESA, a Phase II, and a Soil and Groundwater Management Plan.

Comment #1: Additional Sampling

The commenter states that the Phase II collected samples near underground storage tanks (USTs), but that the remainder of the site is uncharacterized, including the footprint of the proposed In-N-Out Restaurant. The commenter asserts that due to operation of previous agricultural and truck repair uses and the associated materials used in such operations, additional sampling may be warranted to fully characterize the site in order to protect workers during construction and employees and customers during operation.

Response to Comment #1: Additional Sampling

As noted in the Hazards/Hazardous Materials Setting section of the Public Draft IS/MND and as further detailed in the Phase I Environmental Site Assessment(s) and Limited Phase II Subsurface Investigation, several soil samples were collected to assess historic agricultural use of the site, including areas of the footprint of the proposed restaurant building and the former truck repair uses. Results of soil sampling indicated chemicals of concerns including petroleum hydrocarbons, fuel related volatile organic compounds, and organochlorine pesticides, such as an elevated occurrence of the pesticide chlordane that exceed the Tier 1 environmental screening levels (ESL). Samples collected as part of the prior ESAs and Subsurface Investigations, adequately characterize the site with regard to previous agricultural uses and recommendations set forth in the Soil Management Plan intended to address contamination onsite have been incorporated as mitigation measures to ensure the protection of workers during construction and future uses onsite at project operation. Therefore, no further sampling is necessary to characterize the project site and recommendations of the Soil Management Plan shall be implemented in accordance with mitigation measure HAZ-1 and measure HAZ-2 to ensure that impacted soils and or groundwater are properly remediated.

Comment #2: Soil Sampling

The commenter states that though the Phase II focused on sampling related to the USTs, the samples do not appear to have been analyzed for total petroleum hydrocarbons (TPHs).

Response to Comment #2: Soil Sampling

As detailed in the Phase I ESA reports, the site is listed as a closed Leaking Underground Storage Tank (LUST) cleanup site under the oversight of the Regional Water Quality Control Board (RWQCB). As noted in the reports and summarized in Mr. Lockington's response letter, site investigation and remediation took place between 1988 and 2016, culminating in a No Further Action recommendation from the RWQCB in January 2017. Given the size of the property and limited sampling area, the RWQCB required the preparation of a Soil and Groundwater Management Plan (SGMP) prior to case closure. The SGMP dated May 12, 2017, Appendix I of the Public Draft IS/MND, was approved by the RWQCB and a No Further Action letter was issued for the site on June 26, 2017. Given the limited

amount of work to be performed on the area of the site where residual contamination exists as a result of the former transportation use and the required implementation of the SGMP, which includes measures to reduce risks associated with residual contamination, the conclusions and recommendations contained in the Phase I and Phase II reports as well as the Public Draft IS/MND adequately characterize and analyze the site and no further analysis is needed.

Comment #3: Hazardous Materials at Project Operation

The commenter states that Section 6.9 (Hazards/Hazardous Materials) does not include a discussion of the use of hazardous materials such as cleaners, paints, fuels, and/or pesticides at project operation.

Response to Comment #3: Hazardous Materials at Project Operation

The following text has been added to Section 6.9 of the IS/MND in underline.

"As a restaurant use, the project does not contain elements that would create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. Activities onsite are limited to uses associated with a drive-thru restaurant which do not typically require the use of hazardous materials nor generate hazardous waste. As a commercial development, common cleaners, solvents, and other products may be routinely used, which do not present a significant hazard to people or the environment. The project proposes to install landscaping which requires maintenance and may involve application and storage of regulated chemicals, fuels, and related products. Potentially hazardous materials such as cleaning products and landscaping supplies may be transported to the project site in small quantities intended for consumer use. Additionally, materials are required to be handled, transported and stored in manner that complies with all existing federal, state, and local regulations. Therefore, impacts from the routine transport of hazardous materials and hazardous waste at project operation will be less than significant."

The additional language above has been added to clarify potential impacts related to the use of hazardous materials at operation. No new impacts and no new mitigation related to the use of hazardous materials at operation have been identified.

2.3. PROJECT APPLICANT COMMENT LETTER AND RESPONSES

The project applicant, Jim Lockington provided comments on the Draft IS/MND. Mr. Lockington suggested modifications to the Draft IS/MND in a letter dated December 3, 2020. Comments provided by the applicant are summarized below and included as Attachments C and D to this document.

Comment #1: General Comments

Handwritten comments on a scanned copy of portions of the IS/MND were provided by the project applicant and include clarification in the architectural description contained in Section 2.3 (Project Description), minor typos, and questions/clarification regarding mitigation measures.

Response to Comment #1: General Comments

Comments received have been addressed in the Final IS/MND. Revisions to clarify the architectural description as well as typos throughout the Public Draft IS/MND have been made in the Final IS/MND and are represented in ~~striketrough~~ for deletions and underline for additions. Clarification provided by the applicant does not represent new or additional information that would warrant further analysis under CEQA as there are no new or more severe impacts that have been identified.

Comment #2: Modifications to Section 6.9 (Hazards/Hazardous Materials)

The commenter requests that the IS/MND be modified to reference the Phase I ESA prepared by Partner Engineering and Science, Inc. dated August 3, 2018.

Response to Comment #2: Modifications to Section 6.9 (Hazards/Hazardous Materials)

Section 6.9 of the Draft IS/MND has been modified to include a discussion of the Phase I report prepared by Partner Engineering and Science, Inc. Modifications are shown in underline in the Final IS/MND.

Comment #3: Modifications to Mitigation Measure HAZ-2

The commenter requests that modifications be made to Mitigation Measure HAZ-2 to reflect that a Soil Management Plan (SMP) has been prepared and satisfies the mitigation requirement. The commenter asserts that they do not believe RWQCB or Fire Department approval is required because the site has not previously required RWQCB or Fire Department oversight for remediation. The commenter requests that if the City maintains that approval of the SMP be required, that the language be changed to “or” instead of “and” as it appears unnecessary to obtain approval from two agencies for the same Plan.

Response to Comment #3: Modification to Mitigation Measure HAZ-2

Mitigation measure HAZ-2 has been revised to acknowledge that a Soil Management Plan has been prepared for the site. Pursuant to the revised mitigation, the Plan will be subject to review and approval by both the North Coast Regional Water Quality Control Board and the City of Santa Rosa Fire Department as it involves components that are regulated independently by both agencies.

3. REVISIONS TO THE DRAFT IS/MND

As described above, modifications to the Public Draft IS/MND have been made as a result of the comments received and the responses provided. This Response to Comments document along with the Attachments provide additional information and analysis that support the conclusions made in the IS/MND. This Response to Comments document along with the Final IS/MND and Final MMRP constitute the Final IS/MND.

4. REVISIONS TO DRAFT MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

The MMRP is a tool used by the City to verify compliance with prescribed measures to avoid, reduce, or offset potentially significant environmental impacts identified in the IS/MND. In accordance with CEQA Guidelines Section 15097 the MMRP identifies each mitigation measure, implementing procedures, the party responsible for monitoring, and verification of compliance.

As described above, comments received from the California Department of Fish and Wildlife and the project applicant recommend amendments to mitigation measures identified in the Public Draft IS/MND. Amendments to mitigation measures are included in the Final IS/MND and Mitigation Monitoring and Reporting Program. Changes to the Draft MMRP are represented in ~~striketrough~~ for deletions and underline for additions. The Final MMRP, Attachment D hereto, replaces the draft mitigation measures set forth in the Public Draft IS/MND and the Draft MMRP and shall be implemented by the responsible party as noted therein as part of the In-N-Out Restaurant Project to adequately protect environmental resources and ensure that impacts are reduced to less than significant levels.

5. SUMMARY

The less than significant conclusion of the Public Draft IS/MND remains valid and is further substantiated by the additional documentation and responses provided herein. The City of Santa Rosa has considered comments provided on the IS/MND, reviewed information developed through the responses-to-comments process, made revision to the MMRP to address comments where appropriate, and determined that the project does not meet any of the conditions under CEQA Guidelines Section 15073.5 listed below which would require recirculation of the IS/MND prior to adoption. Therefore, the recirculation of a revised IS/MND or the preparation of an Environmental Impact Report (EIR) is not required for the project. Consistent with the CEQA Guidelines, information contained herein clarifies and bolsters the analyses in the Public Draft IS/MND.

- a) A lead agency is required to recirculate a negative declaration when the document must be substantially revised after public notice of its availability has previously been given pursuant to Section 15072, but prior to its adoption. Notice of recirculation shall comply with Sections 15072 and 15073.
- b) A “substantial revision” of the negative declaration shall mean:
 - 1) A new, avoidable significant effect is identified, and mitigation measures or project revisions must be added in order to reduce the effect to insignificance, or
 - 2) The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required.
- a) Recirculation is not required under the following circumstances:
 - 3) Mitigation measures are replaced with equal or more effective measures pursuant to Section 15074.1.
 - 4) New project revisions are added in response to written or verbal comments on the project’s effects identified in the proposed negative declaration which are not new avoidable significant effects.
 - 5) Measures or conditions of project approval are added after circulation of the negative declaration which are not required by CEQA, which do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect.
 - 6) New information is added to the negative declaration which merely clarifies, amplifies, or makes insignificant modifications to the negative declaration.
- b) If during the negative declaration process there is substantial evidence in light of the whole record, before the lead agency that the project, as revised, may have a significant effect on the environment which cannot be mitigated or avoided, the lead agency shall prepare a draft EIR and certify a final EIR prior to approving the project. It shall circulate the draft EIR for consultation and review pursuant to Sections 15086 and 15087, and advise reviewers in writing that a proposed negative declaration had previously been circulated for the project.

The City of Santa Rosa will consider the Public Draft IS/MND, together with this Response to Comments document, the Final IS/MND and the Final MMRP prior to acting on the In-N-Out Restaurant Project.

ATTACHMENTS

- A. CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE COMMENT LETTER, NOVEMBER 24, 2020
 - B. DEPARTMENT OF TOXIC SUBSTANCES CONTROL COMMENT LETTER, NOVEMBER 30, 2020
 - C. PROJECT APPLICANT RESPONSE TO DTSC COMMENT LETTER, DECEMBER 3, 2020
 - D. PROJECT APPLICANT INLINE COMMENTS, NOVEMBER 25, 2020
-



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



November 24, 2020

Governor's Office of Planning & Research

November 24, 2020

STATE CLEARINGHOUSE

Ms. Susie Murray, Senior Planner
City of Santa Rosa
Planning and Economic Development Department
100 Santa Rosa Avenue, Room 3
Santa Rosa, CA 95404
smurray@srcity.org

Subject: In-N-Out Restaurant Project City Project File# PRJ18-086, Mitigated
Negative Declaration, SCH No. 2020110065, Sonoma County

Dear Ms. Murray:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the City of Santa Rosa (City) for the In-N-Out Restaurant Project City Project File# PRJ18-086 Project (project) pursuant the California Environmental Quality Act (CEQA).

CDFW is submitting comments on the MND to inform the City, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed project.

CDFW ROLE

CDFW is a Trustee Agency with responsibility under CEQA (Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) must be obtained if the project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the project. Issuance of a CESA Permit is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the project will impact

Ms. Susie Murray
City of Santa Rosa
November 24, 2020
Page 2

CESA listed species, early consultation is encouraged, as significant modification to the project and mitigation measures may be required in order to obtain a CESA ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources Code, §§ 21001, subd. (c) and 21083; CEQA Guidelines, §§ 15380, 15064, and 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings and a Statement of Overriding Consideration (SOC). The CEQA Lead Agency's FOC does not eliminate the project proponent's obligation to comply with CESA.

Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW will consider the CEQA document for the project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement (or ITP) until it has complied with CEQA as a Responsible Agency.

PROJECT DESCRIPTION SUMMARY

Proponent: Jim Lockington

Objective: Construct an In-N-Out Burger restaurant, single lane drive-through, parking stalls, and other associated site improvements on approximately 1.87 acres. The proposed restaurant building is approximately 3,900 square feet and includes 76 indoor seats. An additional 19 tables with 76 seats are proposed outdoors. Existing on-site structures will be demolished.

Location: The project is located at 2532 Santa Rosa Avenue, immediately northeast of the Santa Rosa Avenue and Yolanda Boulevard intersection, in the City of Santa Rosa. It is centered at approximately Latitude, Longitude: 38.414340, -122.712087 on Assessor Parcel Numbers 044-041-010 and 044-071-002.

COMMENTS AND RECOMMENDATIONS

CDFW offers the below comments and recommendations to assist the City in adequately identifying and/or mitigating the project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Based on the

Ms. Susie Murray
City of Santa Rosa
November 24, 2020
Page 3

project's avoidance of significant impacts on biological resources, in part through implementation of CDFW's below recommendations, CDFW concludes that an MND is appropriate for the project.

Project Description

Comment 1: MND Figure 2 and Appendix D Biological Constraints Analysis

Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or U.S. Fish and Wildlife Service (USFWS), or on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

The MND Appendix D Biological Constraints Analysis, Exhibit A identifies a "Potential Linear Wetland" on the east perimeter of the "Project Site." This feature appears potentially subject to Fish and Game Code section 1602 notification requirements based on Google Earth aerial imagery and street view. The MND Figure 2 "Project Site" is smaller than the project site depicted in Exhibit A and does not include the "Potential Linear Wetland." Please clarify the extent of the project site and whether it includes the "Potential Linear Wetland."

If the project site includes the above "Potential Linear Wetland", please provide additional information characterizing it including: (1) the presence of a bed, bank, and channel, and (2) vegetation communities present including wetland or riparian vegetation. It appears that mature trees occur along the feature which may constitute riparian vegetation. According to the MND Page 42, the feature is culverted at its downstream end and connects directly with the City's storm drain system. Please be advised that artificial drainages may be subject to Fish and Game Code section 1602. If the feature may constitute a stream per Fish and Game Code, the MND should require submitting an LSA Notification to CDFW and complying with the LSA Agreement upon issuance.

Mitigation Measures

Comment 2: MND Page 43

Would the Project Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

MND Mitigation Measure (MM) BIO-1 for nesting bird protection indicates that nesting bird surveys may be conducted up to 15 days prior to construction. However, the MND should clearly require surveys to be conducted no more than 7 days prior to

Ms. Susie Murray
City of Santa Rosa
November 24, 2020
Page 4

construction to reduce the likelihood of the birds nesting between survey completion and construction start. A survey immediately prior to construction is also recommended.

MM BIO-1 requires surveys within 300 feet of the project for nesting reports, however it requires a construction buffer zone of 500 feet. The survey area should be consistently increased to 500 feet.

MM BIO-1 states: *"The buffer should be staked with 4-foot orange construction fencing."* CDFW recommends replacing "should" with "shall" to ensure this important protective measure is binding.

The following language regarding bat protection in MM BIO-1 should be moved to MM BIO-2 for bats: *"The applicant shall provide resume(s) of qualified biologist(s) conducting bat surveys to the City for review and approval in advance of pre-construction surveys. Resumes shall reflect: 1) at least 2 years of experience conducting bat surveys that resulted in detections for the relevant species such as pallid bat, and 2) the types of equipment used to conduct surveys."*

Comment 3: MND Page 43

Would the Project 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 CDFW or USFWS?

MM BIO-2 for special-status bats should be revised to add the below requirements. Note that it is important for surveys to occur several months before project construction to avoid delays as implementing the bat exclusion plan described below should occur during the specified months.

- A qualified bat biologist shall conduct an initial bat habitat assessment and survey several months before project construction, to facilitate sufficient time to implement the exclusion plan described below.
- If bats are detected, an exclusion plan shall be submitted to the City for approval. The City shall seek CDFW's input on the exclusion plan. The plan shall: (1) recognize that both the maternity and winter roosting seasons are vulnerable times for bats and require exclusion outside of these times, generally between March 1 and April 15 or September 1 and October 15 when temperatures are sufficiently warm, and (2) identify suitable areas for excluded bats to disperse or require installation of appropriate dispersal habitat, such as artificial bat houses, prior to project construction, and include an associated management and monitoring plan with implementation funding.

Ms. Susie Murray
City of Santa Rosa
November 24, 2020
Page 5

FILING FEES

The project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs., tit. 14, § 753.5; Fish and Game Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

To ensure significant impacts are adequately mitigated to a level less-than-significant, CDFW recommends the feasible mitigation measures described above be incorporated as enforceable conditions into the final CEQA document for the project. CDFW appreciates the opportunity to comment on the MND to assist the City in identifying and mitigating project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Ms. Melanie Day, Senior Environmental Scientist (Specialist), at Melanie.Day@wildlife.ca.gov; or Mr. Craig Weightman, Environmental Program Manager, at Craig.Weightman@wildlife.ca.gov.

Sincerely,

DocuSigned by:



BE74D4C93C604EA...
Gregg Erickson
Regional Manager
Bay Delta Region

cc: State Clearinghouse (SCH No. 2020110065)

Krystle Rizzi

From: Murray, Susie <SMurray@srcity.org>
Sent: Monday, November 30, 2020 4:31 PM
To: Olivia Ervin
Subject: FW: [EXTERNAL] In-N-Out Restaurant Project IS/MND Comment

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you know the content is safe. Be aware that the sending address can be faked or manipulated.

FYI

Susie Murray | Senior Planner

Planning & Economic Development | 100 Santa Rosa Avenue | Santa Rosa, CA 95404
Tel. (707) 543-4348 | Fax (707) 543-3269 | smurray@srcity.org



 Please consider the environment before printing.

From: Roman, Isabella@DTSC <Isabella.Roman@dtsc.ca.gov>
Sent: Monday, November 30, 2020 4:30 PM
To: Murray, Susie <SMurray@srcity.org>
Subject: [EXTERNAL] In-N-Out Restaurant Project IS/MND Comment

Hello,

I represent the Department of Toxic Substances Control reviewing the Initial Study/Mitigated Negative Declaration (IS/MND) for the In-N-Out Restaurant Project.

The IS/MND text summarizes findings of the *Phase I Environmental Site Assessment* (Phase I) and the *Limited Phase II Subsurface Investigation* (Phase II). The Phase I found several things including historical use of the Site for agricultural purposes, multiple underground storage tanks (USTs) at the adjacent property and use of the Site for truck service/repair. The Phase II collected soil and soil gas samples near the USTs. The rest of the property remains uncharacterized, including the footprint of the proposed restaurant. Additionally, the collected samples ran limited laboratory analyses. Soil samples were only analyzed for organochlorine pesticides (OCPs) and select metals (arsenic and lead), and soil gas samples were only analyzed for volatile organic compounds (VOCs). Past land uses could indicate the need for conducting additional sampling activities. Samples were collected as part of the Phase II, but did not investigate the remaining property and did not investigate other potential issues unrelated to the UST. Agriculture use could be associated with elevated pesticides and VOCs. Truck repair use could be associated with elevated metals and VOCs. Although the USTs were the focus of the Phase II, these samples don't appear to have been analyzed for total petroleum hydrocarbons (TPHs). Additional sampling may be warranted to fully characterize the Site in order to protect

construction workers during construction work as well as to protect future workers and customers during project operation.

Additionally, the text states that no hazardous materials would be used during project operation. Most projects of this sort, typically use hazardous materials such as cleaners, paints, fuels and/or pesticides. These would be in minimal quantities and should be used in accordance with applicable regulations. This should be discussed in the text.

Please feel free to reach out if you have any questions or concerns.

Sincerely,

Isabella Roman
Environmental Scientist
Site Mitigation and Restoration Program
Department of Toxic Substances Control
700 Heinz Avenue, Suite 200
Berkeley, CA 94710
(510)-540-3879

13502 Hamburger Lane
Baldwin Park, Ca 91706-5885
626-813-8200



The Best Enterprise
Is A Free Enterprise™

December 3, 2020

VIA ELECTRONIC MAIL

Susie Murray
Senior Planner
City of Santa Rosa
Planning and Economic Development Department
100 Santa Rosa Avenue, Room 3
Santa Rosa, CA 95404

Olivia Ervin
Metropolitan Planning Group
499 Humboldt Street
Santa Rosa, CA 95404

*Re: In-N-Out Restaurant Project, City Project File# PRJ18-086; Initial Study/Mitigated
Negative Declaration*

Dear Ms. Murray and Ms. Ervin:

Thank you for taking the time to work with the community and our team in reviewing the Project and providing the draft Mitigated Negative Declaration (MND). We sincerely appreciate the engagement and attention you have demonstrated as we seek to develop our proposed restaurant.

The purpose of this letter is twofold: (1) to respond to a comment from Ms. Isabella Roman at the Department of Toxic Substances Control (DTSC) regarding the environmental conditions at the Project site, and (2) to suggest minor modifications to the draft MND to reflect the most current environmental information. In-N-Out fully supports the CEQA process, and we hope this letter assists you in finalizing the analysis.

As a preliminary matter, AEI Consultants, the company that conducted the Phase I and Phase II Environmental Site Assessments in 2018, was not previously, and is not now, retained by In-N-Out. Rather, AEI was retained by a completely separate prospective developer for a potential project that never materialized. As such, we have no contact with AEI, and AEI no longer has any relation to or stakeholder interest in this Project. We have no reasonable way to obtain a response from AEI; instead, we can respond directly based on information developed specifically for this Project that takes AEI's data into account.

When In-N-Out decided to pursue this Project, we retained our own nationally-recognized consultant, Partner Engineering and Science, Inc., to conduct an independent assessment of the

Project site. Partner prepared a Phase I Environmental Site Assessment, which included a review of all available documents, including but not limited to AEI's work. After a detailed analysis that included interviews and site visit(s), Partner made the following recommendations in its Phase I, as relevant to the present issue:

-- In-N-Out should prepare and implement a Soil Management Plan during redevelopment to prevent potential exposure to chlordane (a pesticide) in soils in Parcel A (2532 Santa Rosa Avenue).

-- In-N-Out should implement the existing Soil and Groundwater Monitoring Plan during redevelopment of Parcel B (325 Yolanda Avenue).

In-N-Out has and will follow both recommendations, and believes that the environmental issues have been adequately addressed in the context of the overall Project.

Response to Comment by Ms. Roman at DTSC

We appreciate DTSC's important role in protecting California's environment, and we have a mutual interest in that regard. In-N-Out strives to ensure health, safety and environmental stewardship at all its restaurant locations. We offer the following in response to Ms. Roman:

Parcel A Assessment

-- The restaurant building itself will be located on Parcel A. There were no underground storage tanks on Parcel A, no documented releases of petroleum or other constituents on Parcel A, and no open environmental cases on Parcel A.

-- Ms. Roman correctly points out that Parcel A was used historically for agricultural purposes. This was investigated. AEI drilled approximately 20 soil borings and four soil vapor probes, and multiple samples were taken specifically to assess prior agricultural use. All the samples for pesticides such as 4,4-DDT and 4,4-DDD were below regulatory levels of concern. Of the many samples, only one sample for chlordane at 0.5 feet bgs from one boring (boring SB-5A) was above a direct contact residential screening level (8.70 mg/kg; screening level 0.48 mg/kg). Neither chlordane nor any other pesticide (or metal) was detected above screening levels at any other location or depth. Partner noted "the area of impact appears limited." As such, contrary to Ms. Roman's comment, we believe that potential impacts from past agricultural use has been adequately characterized.

-- Partner recommended preparing and implementing a Soil Management Plan to address the limited potential impact at Parcel A, and In-N-Out agreed. Partner's Soil Management Plan details the steps required to mitigate potential exposures to VOCs (which are not known to exist on Parcel A, but the Plan still provides mitigation measures in an abundance of caution) and agricultural chemical impacts such as chlordane during site redevelopment, even though the potential exposure is minimal.

Parcel B Assessment

-- It is important to note that (i) the Project encompasses redevelopment of only a small portion of Parcel B (and that portion is not adjacent to the former underground storage tanks), and (ii) no structures will be erected on Parcel B, which will be graded and developed as

an access driveway to Yolanda Avenue. Thus, there is very limited potential exposure or risk related to Parcel B redevelopment.

-- Parcel B was the subject of an open case under Regional Water Quality Control Board oversight because of a leaking underground storage tank(s). Investigation and remediation took place over a number of years, the details of which can be found in Partner's Phase I. On June 26, 2017, the Regional Board issued a No Further Action Letter (NFA) closing the environmental case, noting: "the site investigation and corrective action carried out at your underground storage tank site is in compliance with the requirements of subdivisions (a) and (b) of Section 25296.10 of the Health and Safety Code and with corrective action regulations adopted pursuant to Section 25299.3 of the Health and Safety Code and that no further action related to the petroleum release at the site is required." Thus, contrary to DTSC's assertion, Parcel B was in fact investigated and remediated over a period of 28 years between 1988 – 2016, with a plethora of borings, monitoring wells, soil vapor samples and an active air sparge remediation system, before the Regional Board issued the NFA.

-- In conjunction with the NFA, the Regional Board approved a Soil and Groundwater Monitoring Plan (SGMP) to be used by any future parties seeking to redevelop the site. The SGMP includes measures to reduce risks associated with remaining residual VOCs. Partner recommended that In-N-Out follow the SGMP for the limited amount of work that will take place on Parcel B, and In-N-Out intends to do just that.

In conclusion, while we appreciate Ms. Roman's comment, the available data and information demonstrates that both Parcel A and Parcel B have been adequately characterized and addressed from an environmental perspective.

Suggested Modifications to the MND

In the spirit of cooperating with the City in the CEQA process, and in addition to the suggested modifications I have provided to you earlier, we have two suggested modifications to the MND. First, we respectfully request that the MND (specifically section 6.9) make reference to the Partner Phase I ESA, as it was prepared at In-N-Out's request and relates to this specific Project. Second, we recommend that Mitigation Measure HAZ-2 reflect that a Soil Management Plan for Parcel A has already been prepared and satisfies the City's mitigation requirement.¹

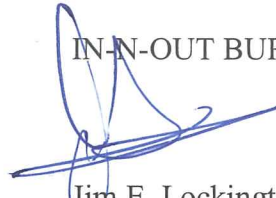
* * * *

In conclusion, thank you again for considering our response. We look forward to continuing to work with the City as this Project moves forward.

¹ HAZ-2 requires that the Soil Management Plan be approved by the Regional Board and the Fire Department. We do not believe that Regional Board or Fire Department approval is required because Parcel A never had nor needed Regional Board or Fire Department oversight for remediation. However, if the City maintains that the Plan be approved, we request that the language be changed to "or" instead of "and" since it appears unnecessary to obtain approval from two agencies for the same Plan.

Sincerely,

IN-N-OUT BURGERS

A handwritten signature in blue ink, appearing to read 'Jim E. Lockington', is written over the company name.

Jim E. Lockington
Manager, New Store Development

Attachments: In-N-Out Site Plan

Phase I Site Assessment prepared by Partner Engineering and Science, Inc.

Soil Management Plan prepared by Partner Engineering and Science, Inc.

2.3. PROJECT DESCRIPTION

The In-N-Out Burger restaurant, single lane drive-through, parking stalls, and other associated site improvements are proposed to be located on approximately 1.87 acres, with access via Santa Rosa Avenue and Yolanda Avenue (Error! Reference source not found.). The proposed restaurant building is approximately 3,900 square feet and includes 76 indoor seats. An additional 19 tables with 76 seats are proposed outdoors. Hours of operation are 10:00 a.m. to 1:00 a.m. Sunday through Thursday and 10:00 a.m. to 1:30 a.m. Friday and Saturday. The In-N-Out Restaurant will be staffed by approximately 10 to 12 employees per shift, with 3 shifts per day. Deliveries will occur outside of operating hours between 2:00 a.m. and 9:00 a.m.

Access and Parking

The proposed In-N-Out Burger restaurant will provide vehicle access via two-way drive aisles from Santa Rosa Avenue and Yolanda Avenue. All internal driveways and drive aisles provide for two-way vehicular access. The drive-through, which provides access to the pay and pick-up windows, is a one-way aisle. Cars enter the drive-through and queue east of the proposed building, wrap around the northern portion of the building for window pickup, and exit via Santa Rosa Avenue or Yolanda Avenue. Additionally, areas for drive-through queuing are provided along the east, and south property boundaries. The total drive through queue length proposes to accommodate 30 vehicles, assuming a vehicle length of 20 feet. A total of 73 parking stalls are provided onsite inclusive of 3 ADA stalls and 4 electric vehicle charging stations. Four short-term bicycle racks are also provided on-site.

Pedestrian access will be provided through existing and planned sidewalks. The existing sidewalk along Santa Rosa Avenue will be retained and will connect to a planned internal walkway leading to the customer entrance fronting Santa Rosa Avenue. There are no existing sidewalks at the project site frontage to Yolanda Avenue and will be installed as part of the Project's frontage improvements.

Architecture

The proposed restaurant is one-story in height and exhibits typical In-N-Out Burger branding which reflects a Spanish-Mediterranean architectural design. The exterior materials for the proposed restaurant include stucco siding and terra-cotta tiled hip-roofed towers. The majority of the structure is lightly colored, with an accent red band wrapping around the entirety of the building and located approximately 3 feet above ground level. Red awnings are provided at the entrance along the west elevation and at the dining room at the south elevation. The proposed height of the restaurant varies with different architectural features including a 13' 7" outdoor patio structure, 19' 10" flat roof, 23' flat tower, and 28' peaked tower.

The outdoor patio is proposed along the south, east, and west elevations and provides tables, chairs and umbrellas for shading. Umbrellas exhibit the In-N-Out branded colors in a red and white pattern and provide shading for outdoor tables. Tables are also red and provide seating to accommodate four guests at each table.

Landscaping, Lighting, Signage and, Fences

The Conceptual Landscape Plan includes approximately 9,000 square feet of landscaping throughout the project site. Drought tolerant landscape planters are proposed along the perimeter of the project site and throughout the parking lot. An approximately 2,070 square foot bioretention basin is proposed along the Santa Rosa Avenue frontage and a linear 600 square foot bioretention basin will be installed along the Yolanda Avenue driveway. Both bioretention basins include landscaping consisting of groundcover and grasses.

Proposed lighting includes 13' 6" tall LED light fixtures along the perimeter of the property and throughout the parking lot. An In-N-Out Burger monument sign is proposed at the south entrance on Yolanda Avenue. Directional signage onsite includes two three-foot tall, three square foot, illuminated "DRIVE-THRU" signs at

City Code limits fixtures to
16' - ours will be 16'

the Yolanda Avenue and Santa Rosa Avenue entrances and one three-foot tall, three square foot, illuminated "THANK YOU, DO NOT ENTER" sign located at the drive-through exit. Additionally, restaurant branding includes two crossed palm trees located adjacent to Santa Rosa Avenue.

The project also includes installation of fences and walls along the site periphery at adjoining properties. The northern property line will be improved with a 6-9-foot-tall CMU wall. The eastern property line will be improved by others with a 6-9-foot-tall CMU wall. The southern property line, adjacent to retail uses, will be improved with a 6 to 8-foot-tall CMU wall. The access driveway from Yolanda Avenue will also be improved with 6 to 8-foot-tall VMT walls.

Frontage Improvements

The project includes frontage improvements to Santa Rosa Avenue and Yolanda Avenue. At the Santa Rosa Avenue frontage, the project will dedicate a 7' x 15' on-site easement to the City to accommodate a future sidewalk and sign post for a future bus stop sign, bench, and possible shelter to be installed and maintained by the City. Along this frontage the project will remove an existing 34' driveway and will install a new 36' two-way driveway. At the Santa Rosa Avenue frontage, the City holds an 11-foot-wide easement for roadway, sidewalk, public utilities, storm drains, landscaping, and incidental purposes.

Along the Yolanda Street frontage, the project will provide an approximately 728 square foot dedication for right of way improvements. The project will also install a 32' foot wide curb cut on Yolanda Avenue to accommodate two-way vehicle access. Sidewalks connecting to existing and planned sidewalks along Santa Rosa Avenue and Yolanda Avenue will also be installed or retained.

Water Supply

Approximately 95 percent of the City's potable water supply comes from the Sonoma Water (formerly Sonoma County Water Agency) Aqueduct System. The City of Santa Rosa is the potable water supplier and currently provides municipal water to existing uses onsite. Potable water would be accommodated via the installation of water lines throughout the project site, connecting to the 12-inch diameter water mains in Santa Rosa Avenue and Yolanda Avenue.

Wastewater

The City of Santa Rosa currently provides wastewater treatment services to existing uses onsite. Wastewater would be accommodated via the installation of sanitary sewer lines throughout the project site that would connect to the 15-inch diameter sanitary sewer line in Santa Rosa Avenue and the 10-inch diameter sanitary sewer line in Yolanda Avenue. Wastewater would be conveyed to the Laguna Wastewater Treatment Plant for processing.

Solid Waste

The City of Santa Rosa contracts with Recology Sonoma Marin to provide waste collection services. Solid waste will be contained within a single trash enclosure located adjacent to the drive-through. The enclosure will be comprised primarily of stucco and will also contain galvanized metal coping at the roof and aluminum reveals at the mid-point of the structure.

Storm Drainage Infrastructure

The project will include new storm drainage infrastructure to accommodate runoff generated by the change in impervious surfaces that will result from development. Onsite improvements will capture storm water

runoff via new 4-inch diameter storm drain pipes installed onsite within bioretention areas and convey flows to existing 24-inch diameter storm drains within Santa Rosa Avenue and Yolanda Avenue.

No
~~Biofiltration pavers~~, roadside bioretention areas, ~~permeable pavers~~, and interceptor trees will be incorporated into the site to capture the post development storm water runoff during precipitation events and encourage infiltration in accordance with the Priority 1 objectives of the Low Impact Design (LID) Technical Design Manual. *ok*

we propose no biofiltration pavers or permeable pavers in our LID

Site Preparation and Construction

Project construction will occur over a single phase and will take approximately 6 months and would include approximately 4-6 weeks of site preparation, demolition, and limited grading, approximately 4 months of building construction, approximately 3 weeks of trenching, paving, and striping, and approximately 2 weeks of landscaping.

Site grading will result in the distribution of soil across the site to achieve level topography. Based on the Grading and Drainage Plan (Sheet C32 dated 4.16.19), an estimated 11,200 cubic yards of cut will be excavated, and 4,200 cubic yards will be reused onsite for fill. As such, an estimated 7,000 cubic yards of excess soil will be exported from the project site.

Following completion of site preparation and grading activities, the building pad foundation, building, and outdoor patio would be constructed. Utilities, storm drains, bioretention features, and other infrastructure would be installed, including the drive-through, new sidewalks, curbs and gutters, landscaping, lighting and signage.

Construction equipment expected to be utilized during site preparation and grading includes tractors, backhoes, haul trucks, graders, pavers and water trucks. All material and equipment would be staged on-site or through issuance of an encroachment permit, on abutting rights-of-way.

Required Discretionary Actions

The project requires the following discretionary entitlements from the City of Santa Rosa:

- Design Review for new commercial facility (Restaurant with Drive-Thru)
- Lot Line Adjustment
- Conditional Use Permit (Drive-Thru Retail Sales) ?

Other Public Agency Review

The project requires the following approvals from state regulatory agency:

- United States Army Corp of Engineers for fill to waters of the United States ?
- Regional Water Quality Control Board for fill to linear waters of the state

Sustainability Measures

Sustainability measures include implementation of California Green Building Code Standards and utilization of energy efficient building materials, appliances, lighting and mechanical systems, and water efficient plumbing systems. The project is required to demonstrate compliance with the following mandatory requirements identified in the New Development Checklist of the Santa Rosa Climate Action Plan (CAP):

- 1.1.1 Comply with Cal Green Tier 1 Standards
- 1.1.3 Utilize zero net electricity

- 1.3.1 Install real-time energy monitors to track energy use (if provided by utility company)
- 1.4.2 Comply with the City's Tree Preservation Ordinance
- 1.4.3 Provide public and private trees
- 1.5 Install new sidewalks with high solar reflectivity materials (parking lot will use asphalt paving)
- 4.1.2 Install bicycle parking consistent with regulation
- 6.1.3 Increase diversion of construction waste
- 7.1.1 Reduce potable water use for outdoor landscaping
- 7.1.3 Install City-issued water meters that track real time water use with data logging equipment if necessary
- 9.1.3 Install low water use landscapes *equipment*
- 9.2.1 Minimize construction idling time to 5 minutes or less
- 9.2.2 Maintain construction equipment per manufacturer's specs
- 9.2.3 Limit GHG construction equipment emissions by using electrified equipment *or* of alternative fuels (as available and commercially feasible)

California Native American Tribal Consultation

In accordance with AB 52 (PRC Section 21084.2), lead agencies are required to consider Tribal Cultural Resources (TCR) including a site feature, place, cultural landscape, sacred place, or object of cultural value to the tribe and is listed on the California Register of Historic Resources (CRHR) or a local register, or the Lead agency, at its discretion, chooses to treat resources as such. AB 52 mandates that a lead agency initiate consultation with a tribe with traditional and/or cultural affiliations in the geographic area where a subject project is located if a project may cause a substantial adverse change in the significance of a tribal cultural resource. Should the tribe respond requesting formal consultation, the lead agency must work with the tribe or representative thereof to determine the level of environmental review warranted, identify impacts, and recommend avoidance or mitigation measures to reduce any potential impacts.

In accordance with PRC Section 21080.3.1(d), notification of the originally proposed mixed use project was mailed to the following local tribes on July 17, 2018:

- Federated Indians of Graton Rancheria (FIGR)
- Lytton Rancheria of California

The Lytton Rancheria responded to notification and requested that a Cultural Resources Evaluation be provided. As further described under the Tribal Cultural Resources discussion, Lytton was provided with the Cultural Resource Evaluation on August 9, 2018 and on August 13, 2018 responded concurring with the standard cultural conditions set forth therein. FIGR did not respond to notification.

structures are indistinct and unremarkable with regard to visual appearance. As such, the removal of the building and storage structures would not cause a degradation of the visual quality of the project site or its surroundings.

The proposed restaurant is one-story in height and exhibits typical In-N-Out branding which reflects a Spanish-Mediterranean architectural design. The exterior materials for the proposed restaurant include stucco siding and terra-cotta tiled hip-roofed towers. The majority of the structure is lightly colored, with a red accent band wrapping around the entirety of the building and located approximately 3 feet above ground level (**Appendix A: Elevations**). Red awnings are provided at the entrance along the west elevation and at the dining room at the south elevation. The proposed height of the restaurant varies with different architectural features including a 13' 7" outdoor patio structure, 19' 10" flat roof, 23' flat tower, and 28' peaked tower. Additionally, the project includes the installation of a 3-foot-tall concrete masonry wall and landscaping adjacent to Santa Rosa Avenue. The massing, setbacks, and siting are reflective of that found along Santa Rosa Avenue and in the project vicinity.

While the project would redevelop the subject property, there would not be a substantial degradation of the visual character of the site or its surroundings. Portions of the subject property are currently developed with a vacant office building, small storage structures and graveled surface and surrounding uses include a variety of retail services including a McDonald's, Gas Station, AutoZone, and Mattress Firm.

The Project would result in the development of a modern In-N-Out Restaurant in an area along Santa Rosa Avenue that contains a variety of similarly scaled retail commercial and industrial type uses. The proposed In-N-Out building will be set back from Santa Rosa Avenue, consistent with the City's zoning code standards. Site improvements include landscaping, lighting, and pavement, and will enhance the visual appearance of the project site relative to the existing condition. Therefore, the project will have a less than significant impact to the existing visual character or quality of the site and its surroundings.

6.1(d) (Light and Glare) Less Than Significant Impact: The project site is bounded by existing development including residential, commercial, and industrial land uses, as well as Santa Rosa Avenue and Yolanda Avenue, all of which are current sources of light. Exterior lights installed in conjunction with the proposed project will result in an increase of artificial light onsite relative to existing conditions. However, the proposed project is required to conform to Santa Rosa's Zoning Ordinance Section 20-30.080 Outdoor Lighting, which specifies lighting standards for all new exterior lighting.

Existing sources of light on the project site include street lamps/pole mounted lights, exterior lighting for existing structures, and automobile lights. With the proposed project, new sources of light and glare will be introduced, including outdoor lights on buildings, in the parking area, and landscape areas. Installation of lighting at the project site would result in a minor increase in nighttime lighting relative to existing conditions.

Additional automobile headlights will be introduced to the project site and could intrude onto adjacent parcels if not properly screened. Based on the design of the project, however, vehicle headlights are not expected to affect nearby residents or roadways. The six to nine-foot wall and landscaping along the northern property line will effectively block vehicle headlights from the adjacent residents at the mobile home park. The approved residential development to the east at the Yolanda Apartments Project will similarly be screened by a six to nine-foot-tall masonry wall that will be installed as part of that development. Additionally, the project proposes to install a 3-foot-tall concrete masonry wall parallel to Santa Rosa Avenue, which will screen headlights of vehicles in the drive-through from introducing glare onto Santa Rosa Avenue.

Additionally, a standard condition of approval will require that a lighting plan be prepared by the applicant and approved by the City prior to issuance of grading or building permits. Lighting specifications will be reviewed to achieve compliance with City standards. In accordance with City requirements, the Lighting Plan

TABLE 2: BAAQMD SCREENING CRITERIA FOR APARTMENTS

Land Use Type	Operational	Construction
Fast Food Restaurant With Drive Thru	6,000 square feet (NOX)	277,000 square feet (ROG)

Source: Table 3-1, pg. 3-2 Bay Area Air Quality Management District 2010 CEQA Guidelines, May 2017.

Note: NOX = oxides of nitrogen; ROG = reactive organic gases

The project proposes the development of an approximately 3,900-square-foot fast food restaurant with a drive-thru, which is well below the operational and construction screening levels for criteria pollutants. Nonetheless, a quantitative air quality emissions analysis was prepared by Illingworth & Rodkin and is included in full in **Appendix C** hereto. A summary of findings is presented below.

Construction Activities

Construction includes demolition, grubbing and the removal of vegetation and grasses, as well as grading and construction of the restaurant, outdoor seating, parking lot, drive-through, frontage improvements and associated infrastructure. During construction activities, the project would generate temporary air pollutant emissions associated with site preparation, ground disturbance, the operation of heavy-duty construction equipment, workers traveling to and from the site, and the delivery of materials. These activities would create temporary emissions of fugitive dust from site grading, and the release of toxic air contaminants, particulate matter, and ozone precursors (ROG and NOx) from combustion of fuel and the operation of heavy-duty construction equipment.

The California Emissions Estimator Model (CalEEMod) Version 2016.3.2 was used to estimate emissions from construction related activities. CalEEMod defaults based on land use size and type were used to estimate construction related emissions. Construction activities include demolition, site preparation, grading, building construction, paving, and architectural coating. Annual emission estimates for construction include both on- and off-site related activities where on-site typically includes construction equipment (tractors, loaders, graders), and off-site typically includes worker, hauling, and vendor vehicle trips. Average daily construction emissions (total construction emissions/construction workdays) of ROG, NOx, PM₁₀, and PM_{2.5} are shown in **Table 3** below. Construction emissions would not exceed BAAQMD significance thresholds.⁴

TABLE 3: CONSTRUCTION PERIOD EMISSIONS

	ROG	NOx	PM ₁₀ Exhaust	PM _{2.5} Exhaust
Total Construction Emissions (tons)	2.1	4.0	0.2	0.2
Average Daily Emissions (lbs/day)	10.5	20.0	1.0	1.0
<i>BAAQMD Thresholds (lbs/day)</i>	<i>54</i>	<i>54</i>	<i>82</i>	<i>54</i>
Exceeds Threshold?	NO	NO	NO	NO

Source: BAAQMD's May 2017 CEQA Air Quality Guidelines; 325 Yolanda Ave. Air Quality & Greenhouse Gas Assessment, and Air Quality Impact from Residences at 325 Yolanda Ave. Memo, prepared by Illingworth & Rodkin, January 8, 2019.

Construction activities, particularly during site preparation and grading, would temporarily generate fugitive dust in the form of PM₁₀ and PM_{2.5}. The BAAQMD CEQA Air Quality Guidelines consider contributions of fugitive dust to be less-than-significant if best management practices (BMPs) are implemented. As such,

⁴ Construction emissions account for the development of both the proposed In-N-Out and the approved Yolanda Residential Project. Construction emissions of the In-N-Out only would be less than the two projects combined and would similarly result in less than significant emission of criteria pollutants.

Odor impacts from the In-N-Out Restaurant Project could occur if residents in the surrounding areas experienced objectionable odors and made complaints. Due to the subjective nature of odor impacts, the number of variables that can influence the potential for an odor impact, and the variety of odor sources, there are no quantitative methodologies to determine the presence of a significant odor impact. The significance of odor impacts is based on the potential to cause odor complaints.

The closest existing resident to the proposed In-N-Out Restaurant building is located approximately 140 feet northeast. The Yolanda Apartments residential project, approved on July 9, 2019, allows for the construction of 252 units east of and adjacent to the proposed In-N-Out. These new residences would be located approximately 225 feet east of the proposed In-N-Out Restaurant.

As detailed in the Air Quality memo, BAAQMD was contacted to identify any odor complaint history associated with In-N-Out Restaurants. No specific complaints were identified by the Air District. However, there also were no In-N-Out Restaurants located in as close proximity to residences, as would be realized by the proposed Project. Winds in the area generally blow from the south (based on wind data from Santa Rosa Airport) and residents at the mobile home park to the north would be upwind. The Project has the potential to expose nearby residents to odors emanating from the In-N-Out Restaurant. Although new residents may be exposed to odors it cannot be conclusively determined that odors would result in a significant impact. Thus, mitigation is not required and impacts from odors are expected to be less than significant based on the odor complaint history, existing odor generating uses in the vicinity (McDonald's), and the ambiguity regarding objectionable odors. However, the City may elect to impose a condition of approval requiring In-N-Out to incorporate exhaust control equipment in the event that multiple odor complaints are received.

Mitigation Measures:

AQ-1: Latest BAAQMD recommended Best Management Practices (BMPs) to control for fugitive dust and exhaust during all construction activities shall be incorporated into all demolition, building and grading construction plans, and shown under the heading of General Notes on all plan sets submitted for grading/building permits, and require implementation of the following:

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2. All haul trucks transporting soil, sand, or other loose material shall be covered.
3. 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.
4. All vehicle speeds on unpaved roads shall be limited to 15 mph.
5. 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.
6. 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.
7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper working condition prior to operation.

Discuss! It is not feasible to rep these later after store is constructed & there is no impact to mitigate!

The project site does not provide habitat for the California tiger salamander or any of the three federally and State listed plant species since the project site has been under industrial uses with prior ground disturbance for the past 50+ years. Therefore, the project does not conflict with any local policies or adopted conservation plans. No impacts resulting from a conflict with an adopted conservation plan will occur from project implementation.

Mitigation Measures:

BIO-1: In order to avoid impacts to birds protected under the Migratory Bird Treaty Act, a pre-construction nesting survey shall be conducted no more than ~~7~~ ¹⁰ or up to 15 days prior, with CDFW approval, to building removal, earth moving or the commencement of construction work if this work would occur between February 1st and September 1st. In the event that construction activities lapse for a period of 7 days or more during the bird nesting season, then nesting bird surveys shall be conducted prior to construction work resuming. The applicant shall provide resume(s) of qualified biologist(s) conducting bat surveys to the City for review and approval in advance of pre-construction surveys. Resumes shall reflect: 1) at least 2 years of experience conducting bat surveys that resulted in detections for the relevant species such as pallid bat, and 2) the types of equipment used to conduct surveys. Resumes shall also indicate that the biologist possesses a state-issued Scientific Collecting Permit for relevant species.

The nesting survey shall be conducted on the project site and within a zone of influence around the project site. The zone of influence includes those areas off the project site where migratory birds could be disturbed by earth-moving vibrations or noise. The nesting survey should include examination of all suitable nesting habitats within 300 feet of the entire project site. A nest survey report shall be prepared upon completion of the survey and provided to the City of Santa Rosa with any recommendations required for establishment of protective buffers as necessary to protect nesting birds.

If any birds are found nesting on the project site or within the zone of influence of the construction project, a minimum 50-foot nest protection buffer for passerine species and a 500 foot buffer for raptor species shall be established around the nest(s) or on the project site where this buffer intersects the project site, unless otherwise approved by the CDFW. The buffer should be staked with 4-foot orange construction fencing. A qualified biologist shall determine the appropriate buffer distance and monitor the nest during construction to ensure it is not disturbed.

No construction or earth-moving activity shall occur within any established nest protection buffer until it is determined by a qualified biologist that the nesting cycle is complete, and any young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid being impacted by the proposed project. For song birds this typically occurs by July 31st. This date may be earlier or later and would have to be determined by a qualified ornithologist. At the end of the nesting cycle, and abandonment of the nest by its occupants, as determined by a qualified biologist, temporary nest buffers may be removed, and construction may commence in established nesting buffers without further regard for the nest site.

BIO-2: In order to avoid impacts to special-status bats, a preconstruction survey of the existing buildings on site shall be performed not more than 15 days prior to commencement of any demolition, removal, grading, or project construction. Bat surveys shall be conducted by a qualified biologist with documented bat survey and detection experience. The survey shall be conducted regardless of the time of year as there is no defined bat roosting season. If no special-status bats are identified during the surveys, then the biologist shall provide a memo to the City of Santa Rosa summarizing the results,

relatively autonomous tribes with the nearest Pomo village being the Hukabetawi, located in southwest Santa Rosa. The Santa Rosa Planning Area contains 190 identified Native American resources concentrated in and around the Santa Rosa Creek and its tributaries, the alluvial plains, the hills around Annadel State Park, Laguna de Santa Rosa and the Windsor Area. Approximately 50% of the Santa Rosa Planning Area has been surveyed for pre-historic and archaeological resources; therefore, potential remains for the discovery of archaeological resources within the boundaries of the Planning Area.

Historic resources within the Santa Rosa Planning Area include 21 local historic landmarks and 8 historic districts with 14 buildings and 1 district listed on the National Register of Historic Places. In addition, 40 individual resources are potentially eligible for local landmark status and 7 neighborhoods have been identified as potential additional historic districts. Historic resources within Santa Rosa date from the 1830s to approximately 1964 and serve to chronicle the evolution from Euro-American settlement to present-day.

Cultural Resources Study

In 2008, prior to the proposal of the existing project, a previous development project for Lowe's Home Improvement was proposed within the Project Area and required the preparation of an Environmental Impact Report (EIR). As part of the environmental review, the Project Area was surveyed for cultural resources, which included a survey and evaluation of the 1947 commercial building (warehouse) located adjacent to the subject project site. The review found that the building was ineligible for listing on the California Register of Historical Resources (CRHR) and there were no Historical Resources identified within the Project Area. In 2018 Evans & De Shazo, Inc. (EDS) conducted an updated Cultural Resources Study (CRS) (**Appendix E2**) which included a records search and review, Native American Sacred Lands inventory, and an archaeological field survey. In January 2019, EDS prepared a Memo clarifying that the recommendations set forth in the CRS apply to the proposed In-N-Out Restaurant Project (**Appendix E1**).

Records Search and Review

A records search at the Northwest Information Center (NWIC) was conducted on July 3, 2018 (NWIC File #18-0016). A review of available information supplemented by information on file at the EDS office found that the project site had been previously evaluated in 2007 as part of the EIR for the aforementioned Lowe's Home Improvement project (Michael Brandman Associates 2008, 2012), however, the associated cultural resources report is not on file at the NWIC.

In addition, eight cultural resource studies have previously been conducted within a 0.25 mile radius of the project site (Reuter 1979 NWIC #1665; Chavez 1987 NWIC #9088; Psota 1990 NWIC #11980; Dowdall 1989 NWIC #15698; Evans 2002 NWIC #25993; Chattan 2003 NWIC #27428; Barrow and Origer 2010 NWIC #37601; Beck and Hollins 2016 NWIC #48950). According to prior studies, there are five cultural resources recorded on Department of Parks and Recreation 523 forms within 0.25 mile of the project site. All five resources include historic-era buildings, and three of the five resources are no longer present. No prehistoric archaeological resources have been recorded within 0.25 mile of the Project Area.

The State Office of Historic Preservation's (OHP) directory of properties in the historic property data file does not list any resources within or adjacent to the Project Area, including those listed in the NRHP, CRHR, listed as a California Historical Landmark, or California State Point of Historical Interest.

A review of historic maps and aerials dating between 1861 and 1994 found that a building was present within the study area in 1916. The house appears to have been demolished by 1972. The presence of at least one building in 1916 indicates a high potential to encounter historic-period resources.

Native American Sacred Lands Inventory

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation	Less Than Significant Impact	No Impact
where sewers are not available for the disposal of waste water?		<input checked="" type="checkbox"/>		
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Sources: Santa Rosa General Plan 2035; General Plan EIR; General Plan Figure 12-3; California Building Code Section 1803.5.3; and Geotechnical Engineering Report, prepared by Terracon Consultants, Inc., May 29, 2018.

Geology and Soils Setting:

The City of Santa Rosa is located within the San Andreas Fault system, which is 44 miles wide and extends throughout much of the North Bay region. The project site is located in the southern portion of Santa Rosa. The nearest active fault to the project site is the Rodgers Creek Fault, located approximately 2 miles to the east (**Figure B-3 in Appendix B**). The project site is not located within the Alquist-Priolo Zone, as denoted in Figure 12-3 of the Santa Rosa General Plan 2035 (**Figure B-4 in Appendix B**). However, the project site is located within the following geologic and seismic hazard areas: violent ground shaking during an earthquake on the Rodgers Creek Fault (**Figure B-5 in Appendix B**).

The branches of the Rodgers Creek fault zone have not been historically active, but there is evidence of activity within the last 11,000 years, a relatively short time period in terms of geologic activity. The Rodgers Creek fault traverses the eastern portion of the City's UGB. Potential exists for geologic hazards in and around the UGB associated with ground shaking, including liquefaction, ground failure, and seismically-induced landslides.

A major seismic event on one of the active faults near the City of Santa Rosa could result in violent to moderate ground shaking. Strong ground shaking would be expected from earthquakes generated by nearby faults including the Rodgers Creek fault (traverses City's UGB), Maacama fault (15 miles north), San Andreas fault (14 miles southwest), and the West Napa fault (30 miles southeast). Other principal faults capable of producing ground shaking in Santa Rosa include the Hayward fault, San Gregorio-Hosgri Fault Zone, the Calaveras fault, and the Concord-Green Valley fault.

A Geotechnical Engineering Report was prepared by Terracon Consultants, Inc. on May 29, 2018 for the adjacent property to the east. Based on proximity the Terracon report has been used to inform this discussion. The following information was identified based on the investigation:

- Surface materials encountered at the site generally consisted of 6 to 12 inches of aggregate pavement base course. Aggregate base course was underlain by fill material consisting of silty sand with variable gravel throughout the site to depths of approximately 1.5 to 3.0 feet below ground surface (bgs).
- Native subsurface materials encountered at the site generally consisted of medium stiff to very stiff lean clay with variable sand and medium dense clayey sand to a depth of approximately 3.5 to 16 feet, where it transitioned into medium dense to dense clayey sand with gravel and poorly graded to clayey gravel with interbedded very stiff to hard lean clay the total depth of exploration of 51.5 feet.
- Groundwater was encountered at depths of approximately 4.5 to 15.0 feet bgs.

any
wasn't
our
report
used?

Not on
IN N Out
site it wasn't!

- The subgrade soils at the site possess a marginal risk of liquefaction with a corresponding differential settlement on the order of less than 1 inch.
- Existing fill materials consisting of silty sand with variable gravel were encountered to depths of approximately 1.5 to 3.0 feet bgs. No documentation has been presented showing that these materials have been placed in a controlled manner. Therefore, these materials are considered undocumented and are not suitable to support the proposed structures at this site.
- Near surface native clays and clayey sands are expansive and sensitive to changes in moisture variation. These materials are not suitable for use as non-expansive engineered fill for this project.
- The structures may be supported on either a traditional spread footing foundation system or a post-tensioned slab.
- The post tensioned slab foundation will provide additional protection against expansive soil related distress and also settlement due to potential liquefaction. *In N-Out is not proposing PT slab*

Paleontological Resources

The Santa Rosa General Plan does not identify the presence of any paleontological or unique geological resources within the boundaries of the City's planning area. A paleontological resources search performed using the University of California Museum of Paleontology's (UCMP) Miocene Mammal Mapping Project (MioMap) indicated no previous finds of paleontological resources on or in the immediate vicinity of the project site. According to the MioMap database, the closest paleontological finds are located over 12 miles from the project site.¹⁴

Geology and Soils Impact Discussion:

6.7(a.i) (Faults) No Impact: Fault rupture occurs when the ground surface fractures as a result of fault movement during an earthquake and almost always follows preexisting fault traces, which are zones of weakness. Given that the project site is not part of the Alquist-Priolo Earthquake fault zone and no identified active faults traverse the site, there is no expectation that the site would be vulnerable to fault rupture. The nearest faults with surface rupture include the Rodgers Creek Fault. The Alquist-Priolo Zone of the Rodgers Creek Fault is located approximately 2 miles east of the project site (**Figure B-4 in Appendix B**). As such, there is no risk of fault-related ground rupture during earthquakes within the limits of the site due to a known Alquist-Priolo Earthquake Fault Zone. Therefore, there are no impacts expected due to fault rupture at the project site.

6.7(a. ii) (Ground-Shaking) Less Than Significant Impact: The proximity of the City to the active Rodgers Creek Fault places it within Zone 9 of the Modified Mercalli Intensity Shaking Severity Level (**Figure B-5 in Appendix B**). As such, the project site holds potential to expose people or structures to substantial adverse effects resulting from strong seismic ground shaking. The resulting vibrations would likely cause primary damage to the proposed building and improvements with secondary effects being ground failures in loose alluvium or poorly compacted fill. Both the primary and secondary effects pose a potential risk of loss of life or property.

The intensity of earthquake motion will depend on the characteristics of the generating fault, distance to the fault and rupture zone, earthquake magnitude, earthquake duration, and site-specific geologic conditions.

¹⁴ University of California Museum of Paleontology, Miocene Mammal Mapping Project (MioMap), <http://www.ucmp.berkeley.edu/miomap/>, accessed August 21, 2018.

The BAAQMD has not yet updated their recommended GHG emissions thresholds to address target reductions past year 2020. However, consistent with current State directives (AB 32 and AB 398), the updated target is expected to require an additional 40% reduction in GHG emissions by year 2030. Applied to the BAAQMD 2020 service population threshold, this would equate to 2.8 MT CO₂e per year per service population, by year 2030. The Santa Rosa CAP calculated GHG emissions reductions with implementation of the CAP not just for comparison to the 2020 targets but also out to year 2035, to be consistent with the planning horizon of the General Plan. As summarized on page ES-7 of the CAP, implementation of the measures of the Santa Rosa CAP are expected to decrease GHG emissions to 2.3 MTCO₂e per person per year by year 2035. While this timeframe is five years after an assumed 2030 target threshold, the CAP notes that a reduction to 2.9 MTCO₂e per person per year in 2020, and with assumed steady reductions over time, it can be concluded that emissions would be below 2.8 MTCO₂e per person per year (or a 40% reduction below 2020 thresholds) by year 2030.

The Santa Rosa CAP demonstrates that it would meet the anticipated State 2030 GHG emissions reductions targets. If a project can demonstrate consistency with the Santa Rosa CAP, its impacts related to GHG emission by year 2030 would be considered less than significant and fully consistent with State GHG emissions reduction requirements, with no need to quantify project-specific emission. This is consistent with BAAQMD guidelines related to the analysis of projects under the 2020 GHG emissions reduction targets, as applied to the updated 2030 targets.

The proposed project is analyzed for consistency with the Santa Rosa CAP 2035 in order to assess level of significance due to GHG emissions. **Appendix F** to this document contains the preliminary CAP New Development Checklist for the proposed project.

Greenhouse Gas Emissions Impact Discussion:

6.8(a-b) (Significant GHG Emissions, Conflict with GHG Plan) Less Than Significant Impact with Mitigation: The proposed project will result in the generation and emission of GHGs during construction and operation. The project is subject to the City of Santa Rosa's CAP to meet AB 32 requirements and must incorporate the mandatory items therein or identify suitable substitute measures.¹⁶ The following summarizes the project's commitments to implementing the mandatory CAP item, identifies optional items that will be implemented, and presents measures that are not applicable to the subject project:

Mandatory Items

1.1.1 Comply with Cal Green Tier 1 Standards¹⁷: The project complies with Cal Green Tier 1 standards and will be conditioned accordingly through site development, building design and landscaping.

16 Appendix E of the Climate Action Plan states that, "To be in compliance with the CAP, all measures denoted with an asterisk [mandatory items] are required in all new development projects unless otherwise specified. If a project cannot meet one or more of the mandatory requirements, substitutions may be made from other measures listed at the discretion of the Community Development Director."

17 Tier 1 CalGreen does not include "net zero" GHG assumptions for development. In addition, current CA Green Building Code Standards apply to all projects and has been determined by the Director to be an acceptable substitution for CAP Goal 1 – 1.1.3. Therefore, strict compliance with CAP Goal 1 – 1.1.3 is not achievable and not required.

1.1.3 After 2020, all new development will utilize zero net electricity¹⁸: The project will comply with the CalGreen and California Building and Energy Code requirements in effect at the time of building permit application submittal.

1.3.1 Install real-time energy monitors to track energy use: The proposed project will comply with CalGreen and California Energy codes in effect at the time of building permit application submittal.

1.4.2 Comply with the City's Tree Preservation Ordinance: The project does not include any tree removal.

1.4.3 Provide public & private trees in compliance with the zoning code: The proposed project would provide new public and private trees. According to the Planting Plan, approximately 28 trees would be planted onsite; approximately three street trees would be planted along Santa Rosa Avenue. As such, the preliminary landscaping plan demonstrates consistency with the requirements set forth for the provision of public and private trees for new development.

1.5 Install new sidewalks and paving with high solar reflectivity materials: The new sidewalk and other paved surfaces would contain materials exhibiting high solar reflectivity. The existing unpaved portions of the project site are to be surfaced in accordance with the City's Construction Specification Standards for sidewalks, crosswalks and parking lots.

4.1.2 Install bicycle parking consistent with regulation: Section 20-36.040 of the Santa Rosa municipal code sets forth the number of bicycle parking stalls required. For the proposed project, the municipal code requires one bicycle space per 4,000 square feet. As proposed, the project will provide 4 short-term bicycle parking spaces. As such, the project is consistent with §26-36.040.

4.3.5 Encourage new employers of 50+ to provide subsidized transit passes: The project will not introduce 50 or more new employees. Thus, this item is not applicable.

5.2.1 Provide alternative fuels at new refueling stations: The project does not consist of new public refueling stations. Thus, this item is not applicable.

6.1.3 Increase diversion of construction waste: The developer will prepare and implement a Construction Waste Management Plan outlining proposed efforts to minimize construction waste and maximize recycling prior to the commencement of project construction. Additionally, this is a requirement of the CalGreen Building Code.

7.1.1 Reduce potable water use for outdoor landscaping: The planting of primarily low water use plants and trees will limit the water demand generated by the proposed outdoor landscaping. A drip irrigation system, equipped with smart controllers, will be used onsite. The preliminary landscaping plan is consistent with the City of Santa Rosa Water Efficiency Landscape Ordinance (WELO).

7.1.3 Use water meters which track real time water use: The City Water of Santa Rosa currently does not provide meters that are capable of tracking real time water use; however, the City has data logging equipment that can provide such information.

18 Goal 1.1.3 was adopted to coincide with CA Energy Codes. Since the CAP adoption, the CEC has determined that it is not possible to achieve net zero on a wholesale basis and "net zero" has been removed from the CA Energy Codes.

7.3.2 Meet on-site meter separation requirements in locations with current or future recycled water capabilities: The project will install separate water supply meters for potable and irrigation use, so that recycled water can be used for irrigation when it becomes available.

9.1.3 Install low water use landscapes: As depicted on the preliminary landscaping plan, all plantings will comply with the City's water efficient landscape ordinance. All irrigation will occur with an automatic water conserving irrigation system designed to meet the requirements of Santa Rosa's Water Efficient Landscape Ordinance (W.E.L.O.). As proposed, the preliminary landscape plan meets the requirements of the City of Santa Rosa Water Efficient Landscape Ordinance.

9.2.1 Minimize construction equipment idling time to 5 minutes or less: Provisions in contractor agreements will require that construction equipment idling time be limited to 5 minutes or less during all stages of construction.

9.2.2 Maintain construction equipment per manufacturer's specs: Provisions in contractor agreements will require that all construction equipment be maintained per specifications established by the manufacturer.

9.2.3 Limit GHG construction equipment emissions by using electrified equipment or alternative fuels: The use of electric equipment and/or equipment using alternative fuels will be included in contractor agreements and provisions therein and will be used as available during construction.

Voluntary Items

Pursuant to the Appendix E checklist of the Santa Rosa CAP, the project is voluntarily implementing the following measures which may serve as suitable substitutes to mandatory items not being implemented as described above:

2.1.3 Pre-wire and pre-plumb for solar thermal or PV system: The proposed project will include pre-wiring and pre-plumbing for the future installation of solar thermal or PV systems. *pls correct this*

3.1.2 Support Implementation of station plans and corridor plan: The project includes dedication of frontage along Yolanda Avenue to implement the Yolanda Avenue widening project and along Santa Rosa Avenue to accommodate widening.

3.2.2 Improve non-vehicular network to promote walking and biking: At the Santa Rosa Avenue frontage the project will dedicate an easement to the City to accommodate a sidewalk, sign post, bench, and shelter for a bus stop.

4.1.1 Implement the 2018 Bicycle and Pedestrian Master Plan: The project promotes implementation of the Bicycle and Pedestrian Master Plan by dedicating an easement along the Santa Rosa Avenue frontage for a sidewalk and by providing bicycle parking onsite.

4.2.2 Provide safe spaces to wait for bus arrival: At the Santa Rosa Avenue frontage the project will dedicate an on-site easement to the City to accommodate a future sidewalk, sign post, bench, and shelter for a bus stop.

4.3.4: Provide awards for employee use of alternative commute options: The In-N-Out Restaurant Project will comply with all City ordinances and requirements.

5.1.2 Install Electric Vehicle Charging Equipment: The project proposes to install four electric vehicle charging stations onsite. *parking stalls, with charging stations as needed to meet code.*

treatment and volume capture. Sizing for bioretention planters were calculated using the City of Santa Rosa Stormwater LID Calculator and are included in Attachment 4 of Appendix J.

Hydrology and Water Quality Impact Discussion:

6.10(a,e) (Violations of Water Quality Standards) Less Than Significant Impact with Mitigation:

Construction activities have the potential to result in runoff that contains sediment and other pollutants that could degrade water quality if not properly controlled. Sources of potential pollution associated with construction include fuel, grease, oil and other fluids, concrete material, sediment, and litter. These pollutants have the potential to result in impacts due to chemical contamination from the release of construction equipment and materials that could pose a hazard to the environment or degrade water quality if not properly managed.

In order to ensure that proper controls and treatment are in place to prevent the runoff of storm water, the project shall adhere to NPDES requirements including the preparation and implementation of a SWPPP and compliance with the RWQCB Order No. R1-2015-0030, Waste Discharge Requirements. Erosion control requirements are stipulated in the NPDES Permit issued by the RWQCB. These requirements include the preparation and implementation of a SWPPP that contains BMPs. The purpose of the SWPPP is to identify potential sediment sources and other pollutants and prescribe BMPs to ensure that potential adverse erosion, siltation, and contamination impacts would not occur during construction activities.

Mitigation Measure HYDRO-1 requires that the project implement a SWPPP with BMPs that include but are not limited to fiber roll protection at all drains, the use of gravel at access driveways during construction, designated washout areas, and the development and implementation of a hazardous materials spill prevention plan. These and other BMPs are designed to protect water quality from potential contaminants in stormwater runoff emanating from construction sites. With implementation of HYDRO-1, the project's potential to result in a violation of water quality standards during construction would be reduced to levels below significance.

Terracon Consultants, Inc prepared a geotechnical report for the Yolanda Apartments project, located adjacent to the project site at 325 Yolanda Avenue. Subsurface exploration encountered groundwater at depths of approximately 4.5 to 15.0 feet below the ground surface.²³ Though borings were not conducted on the In-N-Out project site, it is assumed that site conditions are similar due to proximity. As such, it is assumed that ground disturbance has the potential to encounter groundwater and may require dewatering during construction activities.

they are not

The discharge of construction dewatering could result in increased sediment loads to the storm drain system, which could impact water quality if not properly controlled. **Mitigation Measure HYDRO-2** requires that the project comply with waste discharge requirement specified by the RWQCB including the reuse of dewaterers onsite, allowing settlement of sediment to occur prior to release, and other BMPs. With implementation of HYDRO-2, the project's potential to result in a violation of water quality standards due to dewatering associated with construction would be reduced to levels below significance.

At operation, stormwater runoff could degrade water quality via non-point contaminants such as oils, grease, and exhaust that settles onsite. Permanent stormwater BMPs have been designed in accordance with the City of Santa Rosa's Low Impact Development Technical Design Manual.

23 Geotechnical Engineering Report, prepared by Terracon Consultants, Inc., May 29, 2018.

mobile home park. Vibration levels resulting from use of construction equipment, while potentially perceptible by occupants of the mobile home park, would not exceed the threshold of 0.3 in/sec PPV. The nearest commercial structure is located approximately 10 feet south of the project site. During construction the use of some types of construction equipment, such as vibratory rollers, have the potential to result in vibration levels which could exceed the threshold of 0.5 in/sec PPV. Implementation of **Mitigation Measure NOI-2** will ensure that people or structures are not exposed to excessive groundborne vibration and impacts from groundborne vibration and noise would be reduced to less than significant.

6.13(c) (Airport Noise) No Impact: The project site is located approximately 8 miles southeast of the Charles M. Schulz – Sonoma County Airport and is not located within the vicinity of a private airstrip. The project site is located outside of the noise contours established for the Charles M. Schulz – Sonoma County Airport. As such, the project would not expose people working in the project area to excessive noise levels as a result of being located within an airport land use plan area or within the vicinity of a private airstrip. Therefore, there would be no impacts due to excessive airport noise exposure.

Mitigation Measures:

NOI-1 The following Best Construction Management Practices shall be implemented to reduce construction noise levels emanating from the site, limit construction hours, and minimize disruption and annoyance:

- a) Limit construction hours to be between 8:00 a.m. and 6:00 p.m., Monday through Friday and between 9:00 a.m. and 5:00 p.m. on Saturday. No construction activities are permitted on Sunday and holidays.
- b) Limit use of the concrete saw to a distance of 50 feet or greater from residences, where feasible.
- c) Construct temporary noise barriers, where feasible, to screen stationary noise-generating equipment when located near adjoining sensitive land uses. Temporary noise barriers would provide a 5-dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- d) Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- e) Unnecessary idling of internal combustion engines shall be strictly prohibited.
- f) Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. If they must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used to reduce noise levels at the adjacent sensitive receptors. Any enclosure openings or venting shall face away from sensitive receptors.
- g) Utilize "quiet" air compressors and other stationary noise sources where technology exists.
- h) Construction staging areas shall be established at locations that will create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.
- i) Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from existing residences.
- j) Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.

~~k) The contractor shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential~~

land uses so that construction activities can be scheduled to minimize noise disturbance. Avoid overlapping construction phases, where feasible.

~~l)~~ Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.

~~m)~~ Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.

n) Measures a through m above shall be shown under the heading of General Notes on all plan sets submitted for grading or building permits.

NOI-2: The following measure shall be implemented during construction to avoid impacts of groundborne vibration on nearby commercial structures. A 15-foot setback from the commercial building located to the south of the project site shall be identified on construction plans to ensure all contractors are aware of the following restrictions.

a) Prohibit the use of vibrator rollers and tampers within 15 feet of commercial structures.

b) Avoid dropping heavy objects or materials within 15 feet of commercial structures.

6.14. POPULATION AND HOUSING

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation	Less Than Significant Impact	No Impact
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Sources: Santa Rosa General Plan 2035 and General Plan EIR.

Population and Housing Setting:

As described in the General Plan 2035, Santa Rosa voters approved a five-year Urban Growth Boundary (UGB) in 1990, and a 20-year UGB measure in 1996, assuring that the current UGB will not be significantly changed at least until 2016. Santa Rosa's UGB is effective through 2035. The UGB contains 29,140 acres, a little more than 45 square miles, and encompasses all incorporated land as well as unincorporated land that may

The existing level of service (LOS) for each study intersection is shown in **Table 9**. Under existing conditions, the study intersections operate at acceptable LOS D or greater during the am and pm peak hour traffic.

TABLE 9: INTERSECTION LOS ANALYSIS – EXISTING CONDITIONS

Intersection	AM Peak		PM Peak	
	Delay	LOS	LOS	Delay
1. Kawana Springs Road/Santa Rosa Ave.	17.0	B	15.1	B
2. Kawana Springs Road/Petaluma Hill Road	23.6	C	24.7	C
3. Hearn Ave./Corby Ave.	32.4	C	38.1	D
4. Hearn Ave./Santa Rosa Ave.	19.3	B	33.2	C
5. US 101 S Ramps/Corby Ave.	15.4	B	16.8	B
6. Yolanda Ave. - US 101N Ramps/Santa Rosa Ave.	25.7	C	30.6	C
7. Yolanda Ave./Petaluma Hill Road	13.4	B	36.0	D

Source: Traffic Impact Study, prepared by W-Trans, February 7, 2019.

Notes: Delay is measured in average seconds per vehicle; LOS = Level of Service

Collision Rates at Study Area Intersection

The TIS includes a summary of collision rates for all seven study area intersections. The number of collisions between 2013 and 2017 and the calculated collision rate was compared to the statewide average collision rate are presented below.

TABLE 10: COLLISION RATES

Intersection	Number of Collisions (2013-2017)	Calculated Collision Rate (c/mve)	Statewide Average Collision Rate (c/mve)
1. Kawana Springs Road/Santa Rosa Ave.	14	0.27	0.27
2. Kawana Springs Road/Petaluma Hill Road	15	0.32	0.27
3. Hearn Ave./Corby Ave.	30	0.53	0.27
4. Hearn Ave./Santa Rosa Ave.	19	0.26	0.27
5. US 101 S Ramps/Corby Ave.	4	0.11	0.21
6. Yolanda Ave. - US 101N Ramps/Santa Rosa Ave.	25	0.35	0.27
7. Yolanda Ave./Petaluma Hill Road	9	0.23	0.27

Source: Traffic Impact Study, prepared by W-Trans, February 7, 2019.

Note: c/mve = collisions per million vehicles entering; **Bold** text = collision rate higher than the statewide average.

Due to the location of the driveway being located within the extent of the maximum queue, the proposed driveway on Yolanda Avenue may further impact vehicle queues at the Santa Rosa Avenue/ Yolanda Avenue intersection.

The project provides additional ingress/egress on Santa Rosa Avenue. Additionally, the combined width of the eastbound Yolanda Avenue through lane and shoulder is approximately 20 feet, which would allow for following vehicles to pass on the right. Lastly, roadway improvements are planned on Yolanda Avenue which includes adding a center two-way left turn lane approaching its intersection with Santa Rosa Avenue. This would allow vehicles turning left into the project site to fully enter the turning lane without backing up eastbound through traffic. Therefore, impacts related to queuing would be less than significant.

Drive-Through

The project proposed to include drive through service. The drive-through aisle queues along the eastern property line and wraps around the northern property line, north of the proposed IN-N-Out building for window pick up. The City of Santa Rosa regulated Drive-through retail and service facilities pursuant to Chapter 20-42.064, which provides standards for drive-through aisles, signage, queuing, and screening. As proposed the In-N-Out drive-through aisle conforms with these standards by providing; a) 12 foot wide drive aisle with a 20 foot radius at the curve; b) entrance signage with directional arrow striping; c) separation from driveway egress and ingress points, as well as parking; d) onsite queuing for at least 30 cars without conflicting with internal drive aisles and access points; and e) screening with landscaping and 3-foot tall CMU walls to prevent headlight glare onsite from impacting Santa Rosa Avenue. Therefore, the project is designed in a manner that achieves consistency with the City's standards for drive-through retail and impacts would be less than significant.

Parking

The project proposed to introduce a total of 73 parking spaces onsite inclusive of 3 ADA stalls and 4 electric vehicle charging stations. The City's required parking standard for the proposed In-N-Out Restaurant, which will provide a total of 152 seat, is 51 parking spaces.³⁴ Surveys conducted at three other In-N-Out restaurants with similar characteristics to the proposed use found that the average parking rate during the weekend p.m. peak period is 16.80 spaces per 1,000 square feet or floor area. Using this In-N-Out specific rate, the proposed project would generate a parking demand of 66 spaces. The ITE parking standard for fast food restaurant with drive-through yields a parking rate of 15.13 spaces per 1,000 square feet of floor area, which generates a demand of 59 parking spaces. The proposed project exceeds the City's required parking standard and the proposed parking will be sufficient based on In-N-Out site-specific rates and ITE rates. Therefore, impacts due to a conflict with the parking requirements would result in a less than significant environmental impacts.

Alternate Modes of Travel (Transit, Bicycle and Pedestrian Facilities)

Public transit, bicycle, and pedestrian facilities in the project vicinity will not be substantially impacted by the proposed development. Existing bus stops located on Yolanda Avenue and Santa Rosa Avenue are within an acceptable walking distance to the project site. Additionally, the project will dedicate a 7' x 15' on-site easement to the City to accommodate a future sidewalk, sign post, bench, and shelter for a bus stop along Santa Rosa Avenue. The Santa Rosa City Bus and Sonoma County Transit system currently have sufficient

³⁴ City of Santa Rosa Municipal Code Section 20-36.040 Table 3-4, Restaurant calls for 1 parking space for each 3 dining seats. The project proposes 75 indoor seats and 76 outdoor seats, for a total of 152 dining seats.

in significant impacts; however, those impacts would be reduced to less-than-significant levels with implementation of mitigation measures. The implementation of mitigation measures identified throughout this Initial Study/Mitigated Negative Declaration would ensure that development of the proposed project would not be cumulatively considerable.

Concurrent construction of several projects within the vicinity of the proposed project could result in cumulative short-term impacts associated with construction activities. These include short-term impacts associated with aesthetics, air quality, biological resources, hazardous materials, water quality, land use, noise, traffic, public services, utilities, and service systems. While the mitigation measures identified throughout this document will reduce the proposed project's impacts to less-than-significant levels, should several projects be constructed at the same time as the proposed In-N-Out Restaurant Project, cumulative short-term impacts related to air quality, noise, and traffic would be potentially significant. In order to reduce cumulative impacts to less-than-significant levels, the project will require implementation of **Mitigation Measure CUM-1**. CUM-1 requires that the applicant coordinate the project's construction activities and construction schedule with the City to minimize the concurrent construction of projects in the vicinity of the subject property. Implementation of CUM-1 would ensure that short-term impacts of the proposed project would not be cumulatively considerable.

Need to discuss this - appears arbitrary & unclear

6.21(c) (Substantial Adverse Effect on Humans) Less Than Significant Impact: The project has the potential to result in adverse impacts to humans due to air quality, biological resources, cultural resources, geology and soils, hazards/hazardous materials, noise, and tribal cultural resources. With implementation of those mitigation measures set forth above, the project will have less than significant environmental effect that would directly or indirectly impact human beings onsite or in the project vicinity.

The project site is located in close proximity to existing and proposed sensitive receptors, including existing surrounding residential uses to the north and approved residential uses to the east of the project site. However, with implementation of mitigation measures set forth in the Air Quality and Noise sections, construction activities associated with development of the In-N-Out Restaurant Project would result in short-term air quality emissions and noise levels that fall below levels of significance and would cease once construction is finished. In addition to those mitigation measures set forth herein, the project will be conditioned to achieve city standards with respect to noise, safety, and drainage. Building and improvement plans will be reviewed to ensure compliance with applicable building codes and standards. With implementation of mitigation measures, conditions of approval, and uniformly applied development standards, the project does not present potentially significant impacts that may have an adverse effect upon human beings, either directly or indirectly. Therefore, the project will have less than significant impacts due to substantial adverse environmental effects affecting humans directly or indirectly.

Mitigation Measure:

CUM-1. The applicant shall coordinate the project's construction activities and construction schedule with the City to minimize the concurrent construction of projects in the vicinity of the subject property and ensure that overlapping road closures, periods of increased noise and dust generation are minimized.

?

How is AQ-2 different from AQ-1 & why is it required?

Mitigation Monitoring and Reporting Program
In-N-Out Restaurant Project

Mitigation Measure	Implementing Procedure	Monitoring Responsibility	Monitoring / Reporting Action and Schedule	Non-Compliance Sanction / Activity	MMRP Record Name / Date
<p>AQ-2: To reduce potential health risk impacts during construction, the project shall develop and implement a plan demonstrating that off-road equipment used to construct the project would achieve a fleet-wide average reduction of 77 percent or more, in particulate matter exhaust emissions. Examples of how to achieve this reduction include the following:</p> <ol style="list-style-type: none"> 1. Diesel-powered off-road equipment larger than 25 horsepower operating on-site for more than two days continuously shall meet U.S. EPA particulate matter emissions standards for Tier 2 engines that include CARB-certified Level 3 Diesel Particulate Filters¹ or equivalent. Equipment that achieves U.S. EPA Tier 4 engine standards for particulate matter or Tier 3 engines with CARB-certified Level 3 Diesel Particulate Filter would meet this requirement. 2. Require the use of construction equipment that is alternatively-fueled (non-diesel). 	<p>Incorporate into project design and print on construction documents (demolition, grading and building plans). On-site observation.</p>	<p>Building Division Project Applicant/ Contractor</p>	<p>Verification of incorporation into project design and construction documents prior to issuance of grading permit. Monitor during regularly scheduled inspections to verify that measures are in place.</p>	<p>Deny issuance of grading permit. Stop work.</p>	

¹ See <http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm>

**Mitigation Monitoring and Reporting Program
In-N-Out Restaurant Project**

Mitigation Measure	Implementing Procedure	Monitoring Responsibility	Monitoring / Reporting Action and Schedule	Non-Compliance Sanction / Activity	MMRP Record Name / Date
<p>3. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.</p> <p>4. Minimize the idling time of diesel-powered construction equipment to two minutes.</p> <p>5. Equip construction equipment (diesel trucks and generators) with Best Available Control Technology for emission reductions of NOx and PM.</p> <p>6. Require all contractors use equipment that meets CARB's most recent certification standard for off-road heavy-duty diesel engines.</p>					
BIOLOGICAL RESOURCES					
<p>BIO-1: In order to avoid impacts to birds protected under the Migratory Bird Treaty Act, a pre-construction nesting survey shall be conducted no more than 10 15 days prior, with CDFW approval, to building removal, earth moving, or the commencement of construction work if this work would occur between February 1st and</p>	Incorporate timing into project construction plans and print on construction plans.	Building and Planning Division Project Applicant/ Contractor Qualified biologist	Prior to issuance of grading permit and during construction. Applicant shall provide the pre-construction	Stop work.	

222

**Mitigation Monitoring and Reporting Program
In-N-Out Restaurant Project**

Mitigation Measure	Implementing Procedure	Monitoring Responsibility	Monitoring / Reporting Action and Schedule	Non-Compliance Sanction / Activity	MMRP Record Name / Date
<p align="center"><i>Handwritten: 1-10-2020</i></p> <p>September 1st. In the event that construction activities lapse for a period of 7 days or more during the bird nesting season, then nesting bird surveys shall be conducted prior to construction work resuming. The applicant shall provide resume(s) of qualified biologist(s) conducting bat surveys to the City for review and approval in advance of pre-construction surveys. Resumes shall reflect: 1) at least 2 years of experience conducting bat surveys that resulted in detections for the relevant species such as pallid bat, and 2) the types of equipment used to conduct surveys. Resumes shall also indicate that the biologist possesses a state-issued Scientific Collecting Permit for relevant species.</p> <p>The nesting survey shall be conducted on the project site and within a zone of influence around the project site. The zone of influence includes those areas off the project site where migratory birds could be disturbed by earth-moving vibrations or noise. The nesting survey should include examination of all suitable nesting habitats within 300 feet of the entire project site. A nest survey report shall be prepared upon</p>	<p>Applicant shall provide the Planning Division with the resume of the qualified biologist demonstrating nesting bird survey and detection experience.</p> <p>Conduct pre-construction survey.</p> <p>On-site observation.</p> <p>If necessary, establish a protection buffer zone.</p>		<p>survey to the Planning Division.</p> <p>Monitor during regularly scheduled inspections to verify that measures are in place.</p>		

Why updated Checklist required?
Need to discuss!

Mitigation Monitoring and Reporting Program
In-N-Out Restaurant Project

Mitigation Measure	Implementing Procedure	Monitoring Responsibility	Monitoring / Reporting Action and Schedule	Non-Compliance Sanction / Activity	MMRP Record Name / Date
<p>GHG-1: An updated CAP Checklist (Appendix E) for the In-N-Out Project shall be prepared and submitted to the City with plan sets submitted for grading permits. The updated CAP checklist shall demonstrate compliance with all mandatory requirements of Santa Rosa's CAP New Development Checklist except where the item is not applicable or where a suitable substitution is provided.</p>	<p>Verify and accepts updated CAP Checklist. Incorporate into project design and print on construction documents (building and landscape plans).</p>	<p>Building and Planning Division Project Applicant/ Contractor</p>	<p>Prior to issuance of grading permits. Monitor during regularly scheduled inspections to verify that measures are in place.</p>	<p>Deny issuance of construction permits.</p>	
HAZARDS AND HAZARDOUS MATERIALS					
<p>HAZ-1: In order to avoid a potential impact related to hazardous materials the project shall implement the Soil and Groundwater Management Plan and Health and Safety Plan prepared by Environmental Geology Services on May 12, 2017. The Plan requires that a qualified and trained Environmental Professional (EP) and Health and Safety Officer (HSO) be retained (these may be a single individual). The HSO will work directly with the EP and will be present on site, as needed, to ensure proper identification, management characterization, and disposal or onsite reuse of potentially contaminated soil and groundwater. Prior</p>	<p>Provide copy of Soil and Groundwater Management Plan and Health and Safety Plan to the City with construction documents. Retain copy of the plans on-site during construction.</p>	<p>Building and Planning Division Project Applicant/ Contractor Environmental Professional/Health and Safety Officer Santa Rosa Fire Department North Coast Regional Water Quality Control Board</p>	<p>Ongoing through project construction.</p>	<p>Stop work.</p>	

Mitigation Monitoring and Reporting Program In-N-Out Restaurant Project

Mitigation Measure	Implementing Procedure	Monitoring Responsibility	Monitoring / Reporting Action and Schedule	Non-Compliance Sanction / Activity	MMRP Record Name / Date
<p>parking areas, as far as feasible from existing residences.</p> <p>j) Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.</p> <p>k) The contractor shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance. Avoid overlapping construction phases, where feasible.</p> <p>h) Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.</p> <p>m) Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable</p>					

Need to discuss this seems unnecessary arbitrary we disagree fine detail

Mitigation Monitoring and Reporting Program In-N-Out Restaurant Project

Mitigation Measure	Implementing Procedure	Monitoring Responsibility	Monitoring / Reporting Action and Schedule	Non-Compliance Sanction / Activity	MMRP Record Name / Date
<p>measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.</p> <p>n) Measures a through m above shall be shown under the heading of General Notes on all plan sets submitted for grading or building permits.</p> <p>NOI-2: The following measure shall be implemented during construction to avoid impacts of groundborne vibration on nearby commercial structures. A 15-foot setback from the commercial building located to the south of the project site shall be identified on construction plans to ensure all contractors are aware of the following restrictions.</p> <p>a) Prohibit the use of vibratory rollers and tampers within 15 feet of commercial structures.</p> <p>b) Avoid dropping heavy objects or materials within 15 feet of commercial structures.</p>	<p>Incorporate into project design and print on construction documents (building plans).</p>	<p>Building and Planning Division Project Applicant/ Contractor</p>	<p>Verification of incorporation into design prior to building permit issuance.</p>	<p>Deny issuance of building permit.</p>	

Need
to
discuss

Mitigation Monitoring and Reporting Program In-N-Out Restaurant Project

Mitigation Measure	Implementing Procedure	Monitoring Responsibility	Monitoring / Reporting Action and Schedule	Non-Compliance Sanction / Activity	MMRP Record Name / Date
TRIBAL CULTURAL RESOURCES					
TCUL-1: To protect buried Tribal Cultural Resources that may be encountered during construction activities, the Project shall implement Mitigation Measures CUL-1 through CUL-3 above.	See CUL-1, CUL-2, CUL-3	See CUL-1, CUL-2, CUL-3	See CUL-1, CUL-2, CUL-3	See CUL-1, CUL-2, CUL-3	
CUMULATIVE IMPACTS					
CUM-1. The applicant shall coordinate the project's construction activities and construction schedule with the City to minimize the concurrent construction of projects in the vicinity of the subject property and ensure that overlapping road closures, periods of increased noise and dust generation are minimized.	Incorporate into construction timing and coordinate with City for any delays or changes.	Building and Planning Division Project Applicant/ Contractor	Prior to submittal of construction documents.	Deny issuance of permits.	

Need to discuss

What projects?

How near is too near?

Who determines & enforces this?

This requirement seems unnecessary, arbitrary, likely ineffective or at worst, punitive if implemented arbitrarily by City Staff.

Mitigation Monitoring and Reporting Program In-N-Out Restaurant Project

Mitigation Measure	Implementing Procedure	Monitoring Responsibility	Monitoring / Reporting Action and Schedule	Non-Compliance Sanction / Activity	MMRP Record Name / Date
TRIBAL CULTURAL RESOURCES					
TCUL-1: To protect buried Tribal Cultural Resources that may be encountered during construction activities, the Project shall implement Mitigation Measures CUL-1 through CUL-3 above.	See CUL-1, CUL-2, CUL-3	See CUL-1, CUL-2, CUL-3	See CUL-1, CUL-2, CUL-3	See CUL-1, CUL-2, CUL-3	
CUMULATIVE IMPACTS					
CUM-1. The applicant shall coordinate the project's construction activities and construction schedule with the City to minimize the concurrent construction of projects in the vicinity of the subject property and ensure that overlapping road closures, periods of increased noise and dust generation are minimized.	Incorporate into construction timing and coordinate with City for any delays or changes.	Building and Planning Division Project Applicant/ Contractor	Prior to submittal of construction documents.	Deny issuance of permits.	

two projects?
 how near?
 we ensure/determines this?
 this is completely infeasible if implemented arbitrarily by the city

of best interest with respect to potential impacts