



MITIGATED NEGATIVE DECLARATION & MITIGATION MONITORING PROGRAM CITY OF CHICO PLANNING SERVICES DEPARTMENT

Based upon the analysis and findings contained within the attached initial study, a mitigated negative declaration is proposed by the City of Chico Planning Services Department for the following project:

PROJECT NAME AND NUMBER: Chico Volkswagen (GPA 08-04, RZ 07-01, UP 07-22, AR 08-19, COA 08-01)

APPLICANT'S NAME: Mark Abouzeid, 902 Main Street, Chico, CA 95926.

PROJECT LOCATION: 900 and 948 Broadway, 231 West 9th Street (Assessor's Parcel Number 042-600-003)

PROJECT DESCRIPTION:

The project consists of:

1. *General Plan Amendment:* The General Plan designation for the two parcels on the north side of the creek (APNs 004-289-003 and 004-289-002) is Downtown. A change to Community Commercial designation is proposed. No change is proposed for the property on the south side has a designation of Community Commercial.
2. *Rezone:* The two parcels on the north side of the creek are proposed to be rezoned from C-1 Restricted Commercial and RD Downtown Residential to CC Community Commercial. The parcel on the south side of the creek will retain its current CC Community Commercial zoning designation.
3. *Use Permit:* The parcels located on the north side of the creek are proposing a use permit to allow outdoor display of vehicles, while the property located on the south side of the creek is proposing a use permit for off-site employee parking and overflow for service vehicles.
4. *Architectural Review:* Required for the two proposed canopy structures, proposed parking lot and landscaping plans.
5. *Certificate of Appropriateness:* Required to allow the removal of the existing structure located at 900 Broadway (Foster Freeze), which is within the LM Landmark Overlay Zone and to allow the construction of two shade canopy features on the north side of the creek.

Pursuant to the City creekside setback requirements, the project will include a 25-foot setback from the top of bank on both the north and south portions of the project site. The existing pavement on the north side, located within this 25 foot setback, is proposed to be removed and replaced with vegetation. The remaining pavement on the north side will be resurfaced and two shade canopy structures will be installed with architectural treatments that will compliment the existing canopy found at 902 Main Street (Chico Volkswagen). Other site improvements are proposed, including lighting, landscaping and a three foot fence along Broadway and W. 9th Street. The two orange trees within the existing paved area are proposed to be removed. A new

6 foot chain-link fence is proposed to be erected near the creek. The two existing billboards on the south side of the creek are proposed to be removed as apart of the project. The property on the south side will be improved to serve as an employee parking lot with shade trees.

The attached initial study indicates that there is no substantial evidence, in light of the whole record before the agency, that the project will have a significant effect on the environment if the following mitigation measures are adopted and implemented for each identified impact:

1. IMPACT C.1 and C.2 (Biological Resources): Activities associated with site preparation and construction could impact sensitive biological resources located within and along the banks of Little Chico Creek.

MITIGATION MEASURE C.1 and C.2. (Biological Resources):

Giant Garter Snake

- A. Confine clearing to the minimal area necessary to facilitate construction activities. Flag and designate avoided giant garter snake habitat within or adjacent to the project area as Environmentally Sensitive Areas. This area should be avoided by all construction personnel.
- B. Before any ground disturbing activities occur, the applicant shall install restrictive fencing between the construction work area and suitable habitat that will be avoided to prevent giant garter snakes from moving into the construction work area and prevent construction equipment and personnel from entering suitable giant garter snake habitat.
- C. All construction activity within giant garter snake aquatic and upland habitat in and around the project site shall be conducted between May 1 and October 1, the active period for giant garter snakes. This would reduce direct impacts on the species because the snakes would be active and respond to construction activities by moving out of the way.
- D. Before any ground-disturbing activity, a qualified biologist to be hired by the permittee shall ensure that restrictive fencing (orange construction fencing or other material as approved by USFWS) is installed between the construction work area and any suitable habitat that will be avoided to prevent giant garter snakes from moving into the construction work area. The qualified wildlife biologist shall determine the exact location of the fencing.
- E. Any dewatered habitat must remain dry for at least 15 consecutive days after April 15 and prior to excavating or filling of dewatered habitat.
- F. A qualified biologist to be hired by the permittee shall conduct a preconstruction survey in suitable upland or aquatic giant garter snake habitat no more than 24 hours before construction and shall be on site during all construction activity within 200 feet of suitable aquatic habitat. The project area shall be re-surveyed whenever there is a lapse in construction activity of 2 weeks or more.

- G. A qualified biologist to be hired by the permittee shall inform all supervising construction personnel, including all construction personnel involved in earth-moving activities, about the life history of giant garter snake and the terms and conditions of the biological opinion. Proof of this instruction shall be submitted to the USFWS Sacramento Field Office.
- H. A qualified wildlife biologist shall be retained by the permittee to be present during the initial ground disturbance activities (vegetation removal and grading) associated with the project to ensure that no giant garter snakes are present in the construction work area.
- I. If giant garter snakes are encountered on site, they shall be allowed to move out of the work area unassisted. Capture and relocation of trapped or injured individuals can only be attempted by USFWS-permitted personnel. The permittee or its contractors shall notify USFWS within 48 hours and submit a report, including dates, locations, habitat description, and any corrective measures taken to protect the snake(s) encountered. For each giant garter snake encountered, the biologist shall submit a completed CNDDDB field survey form (or equivalent) to the Department of Fish and Game with a copy to the City of Chico Planning Services Department no more than 90 days after completing the last field visit to the project site.
- J. A post-construction compliance report prepared by a qualified biologist shall be forwarded to the chief of the Endangered Species Division of the USFWS Sacramento Field Office within 60 days after completion of the proposed project. This report shall include dates that construction occurred, pertinent information about the applicant's success in implementing project mitigation measures, an explanation of any failures to implement mitigation measures, any known project impacts on federally listed species, any occurrences of incidental take of federally listed species, and any other pertinent information.
- K. All construction related vehicles shall be limited to a maximum speed of 10 mph to reduce potential direct impacts to the giant garter snake.
- L. A note shall be placed on the construction plans outlining the above mentioned mitigation measures.

Valley Elderberry Longhorn Beetle

- M. The project will take place between November and February 15th, the dormancy period for Elderberry Shrubs.
- N. Work crews will be instructed about the status of the beetle and the need to protect its Elderberry host plant.
- O. All elderberry shrubs will be protected from construction activities by establishing ESA fencing encircling the plants at a distance of 20 feet from their driplines.

Elderberry #2 will be fenced at the drip line. The ESA fencing will be placed as a first order of work to prevent accidental encroachment.

- P. The elderberry branches of elderberry #2 which are over-hanging the asphalt, shall be tied and pulled up with a rope to allow workers to loosen and remove the existing asphalt by hand.
- Q. Removal of existing vegetation shall not exceed the minimum necessary to complete operations.
- R. No insecticides, herbicides, fertilizers or other chemicals that might harm the beetle or elderberry shrubs will be used within 20 feet of any elderberry shrub.
- S. Best Management Practice's for dust, will be implemented and monitored by the applicant.
- T. The contractor(s) will be briefed on the need to avoid damaging the elderberry plants and the possible penalties for not complying with these requirements.
- U. After removal of the existing paving, a two inch high berm shall be constructed at the drip line of each shrub to divert summer wash water away from the plants.
- V. A note shall be placed on the construction plans outlining the above mentioned mitigation measures.

MITIGATION MONITORING C.1 and C.2 (Biological Resources):

Prior to the issuance of a grading permit, Planning Services and Development Engineering staff will verify that proper construction-related mitigation measures of the USFWS related to the giant garter snake and valley longhorn elderberry beetle have been satisfied.

- 2. IMPACT C.4. (Biological Resources): Construction activities have the potential to impact nesting birds, including raptors, which are protected under the Migratory Bird Treaty Act.

MITIGATION MEASURE C.4. (Biological Resources):

- W. The project developer shall hire a qualified biologist or ornithologist to conduct a preconstruction field survey in and adjacent to the project area for nesting raptors and migratory birds prior to the removal of any tree on the site or prior to the issuance of any grading permit on the project site associated with the proposed project. Surveys shall be conducted during the season immediately preceding grading operations when birds are building and defending nests or when young birds are still in nests and dependent on the parents (February-August). If no raptor or migratory bird nests are found during the surveys, grading may proceed. If active nests are found, construction activities within 300 feet shall be postponed until after the breeding season or until clearance is provided from State Fish and Game Department staff. The City may prevent impacts on nesting birds by delaying issuance of a grading permit for an area where nests have been found until the birds have left the nest. The time of the bird's departure must be determined by a qualified

biologist.

If tree removal or construction activities occur outside the breeding period (September through January), a nest survey is not necessary.

MITIGATION MONITORING C.4 (Biological Resources):

Prior to issuance of a grading or demolition permit, the applicant shall provide the City Planning Services with a copy of the preconstruction field survey.

3. IMPACT C.3 (Biological Resources):

Due to the proximity of the removal of pavement along the northern top of bank there is the possibility that small amounts of soils may unintentionally fall into the creek, although not enough to cause an adverse effect.

MITIGATION MEASURE C.3 (Biological Resources):

X. Before any ground disturbing activities occur, the applicant will ensure that restrictive fencing is installed between the existing pavement and the exposed top of bank.

Y. A note shall be placed on the construction plans outlining the above mentioned mitigation measures.

MITIGATION MONITORING C.3 (Biological Resources):

Prior to issuance of a grading or demolition permit, the City Planning Services Department will coordinate with the City Building and Development Services Department staff and consulting biologist to ensure the timely initiation of the above mitigation measure.

4. IMPACT D.1. (Cultural Resources): There is the potential to encounter cultural resources during construction activities.

MITIGATION MEASURE D.1. (Cultural Resources):

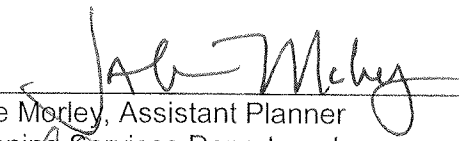

Z. A note shall be placed on all grading and construction plans which informs the construction contractor that if any cultural materials (e.g. bones, pottery fragments or other potential cultural resources) are encountered or unearthed during construction, all work within 100 feet of the discovered site shall cease and the developer shall notify the Butte County Coroner pursuant to Section 7050.5 of California's Health and Safety Code and contact the Planning Services Department at 879-6800 as soon as possible. The developer shall then retain an archeologist from the City's list of qualified archeologists to evaluate the significance of the site. If the archeologist determines that the materials represent a potentially-significant resource, the project proponent, archeologist, City Planning Director, and local tribal coordinator shall begin a consultation process to determine a plan of action either for 1) total data recovery, as a mitigation, 2) tribal cultural resource monitoring, 3) displacement protocol, or 4) total avoidance of the resource.

PROJECT APPLICANT'S INCORPORATION OF MITIGATION INTO THE PROPOSED PROJECT:

I have reviewed the Initial Study for the Chico Volkswagen (GPA 08-04, RZ 07-01, UP 07-22, AR 08-19, COA 08-01), and the mitigation measures identified herein. I hereby modify the project on file with the City of Chico to include and incorporate all mitigation set forth in this document.



Mark Abouzied
Project Applicant

Prepared by:		
	Jake Morley, Assistant Planner Planning Services Department	Date
Adopted by:		
	Planning Commission Steve Peterson, Secretary	Date