

## **RESOLUTION NO. 2017-0005**

Adopted by the Sacramento City Council

January 5, 2017

### **ADOPTING THE MITIGATED NEGATIVE DECLARATION AND THE MITIGATION MONITORING PROGRAM FOR THE NATOMAS FOUNTAINS PROJECT (P16-012)**

#### **BACKGROUND**

- A. On October 20, 2016, the City Planning and Design Commission conducted a public hearing on, and forwarded to the City Council, a recommendation to approve with conditions the Natomas Fountains project (P16-012).
- B. On January 5, 2017, the City Council conducted a public hearing, for which notice was given pursuant Sacramento City Code Section 17.812.010(A)(2)(a) and (b) (publication, posting, and mail)] and received and considered evidence concerning the Natomas Fountains.

#### **BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

Section 1. The City Council finds as follows:

- A. The Project initial study determined, based on substantial evidence, that the Project is an anticipated subsequent project identified and described in the 2035 General Plan Master EIR; that the Project is consistent with the 2035 General Plan land use designation and the permissible densities and intensities of use for the project site; that the discussions of cumulative impacts, growth inducing impacts, and irreversible significant effects in the Master EIR are adequate for the Project; and that the Project would not have additional potentially significant environmental effects not previously examined in the Master EIR. Mitigation measures from the Master EIR were applied to the Project as appropriate, and revisions to the Project made by or agreed to by the Project applicant before the proposed mitigated negative declaration and initial study were released for public review were determined by City's Environmental Planning Services to avoid or reduce the potentially significant effects to a less than significant level, and, therefore, there was no substantial evidence that the Project as revised and conditioned may have a significant effect on the environment. A Mitigated Negative Declaration (MND) for the Project was then completed, noticed and circulated in accordance with the requirements of

the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the Sacramento Local Environmental Procedures as follows:

1. On August 17, 2016 a Notice of Intent to Adopt the MND (NOI) dated August 17, 2016 was circulated for public comments for 30 days. The NOI was sent to those public agencies that have jurisdiction by law with respect to the proposed project and to other interested parties and agencies. The comments of such persons and agencies were sought.
2. On August 17, 2016 the NOI was published in the *Sacramento Bulletin*, a newspaper of general circulation, and the NOI was posted in the office of the Sacramento County Clerk.

Section 2. The City Council has reviewed and considered the information contained in the MND, including the initial study, the revisions and conditions incorporated into the Project, and the comments received during the public review process and the hearing on the Project. The City Council has determined that the MND constitutes an adequate, accurate, objective and complete review of the environmental effects of the proposed project.

Section 3. Based on its review of the MND and on the basis of the whole record, the City Council finds that the MND reflects the City Council's independent judgment and analysis and that there is no substantial evidence that the Project will have a significant effect on the environment.

Section 4. The City Council adopts the MND for the Project.

Section 5. Pursuant to CEQA section 21081.6 and CEQA Guidelines section 15074, and in support of its approval of the Project, the City Council adopts a Mitigation Monitoring Program to require all reasonably feasible mitigation measures, including mitigation measures from the Master EIR as appropriate, be implemented by means of Project conditions, agreements, or other measures, as set forth in the Mitigation Monitoring Program.

Section 6. Upon approval of the Project, the City Manager shall file or cause to be filed a Notice of Determination with the Sacramento County Clerk and, if the project requires a discretionary approval from any state agency, with the State Office of Planning and Research, pursuant to section 21152(a) of the Public Resources Code and section 15075 of the State EIR Guidelines adopted pursuant thereto.

Section 7. Pursuant to Guidelines section 15091(e), the documents and other materials that constitute the record of proceedings upon which the City Council has based its decision are located in and may be obtained from, the Office of the City Clerk at 915 I Street, Sacramento, California. The City Clerk is the custodian of records for all matters before the City Council.

**Table of Contents:**

Exhibit A - Mitigation Monitoring Program

Adopted by the City of Sacramento City Council on January 5, 2017, by the following vote:

Ayes: Members Ashby, Carr, Guerra, Hansen, Harris, Jennings, Schenirer, and Mayor Steinberg

Noes: None

Abstain: None

Absent: Member Warren

Attest:

**Shirley Concolino**

Digitally signed by Shirley Concolino  
DN: cn=Shirley Concolino, o=City of Sacramento, ou=City  
Clerk, email=sconcolino@cityofsacramento.org, c=US  
Date: 2017.01.30 16:51:31 -08'00'

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Shirley Concolino, City Clerk

**Natomas Fountains (P16-012)  
Mitigation Monitoring Plan**

In January 1989, Assembly Bill 3180 went into effect requiring the City to monitor all mitigation measures applicable to this project and included in the Mitigated Negative Declaration. For this project, mitigation reporting will be performed by the City of Sacramento in accordance with the monitoring and reporting program developed by the City to implement AB 3180.

This Mitigation Monitoring Plan is being prepared for the Community Development Department, Environmental Planning Services, 300 Richards Boulevard, 3<sup>rd</sup> Floor, Sacramento, CA 95811, pursuant to the California Environmental Quality Act, Public Resources Code Section 21081.

**Project Name (number):**      Natomas Fountains (P16-012)

**Project Location:**              The proposed Natomas Fountains project would be developed on a 12.54-acre parcel of undeveloped land located in Sacramento's North Natomas neighborhood. The project site is generally bounded by the Raley's Natomas Distribution Center to the north, Gateway Park Boulevard to the east, the East Drainage Canal and Truxel Road to the west, and an existing retail center, situated at the northern corner of the Truxel Road and Gateway Park Boulevard intersection. The assessor's parcel number (APN) for the project site is 225-0160-094.

**Project Description:**              The proposed Natomas Fountains project would develop up to 115,960 square feet of retail and restaurant space and up to 525 on-site parking spaces on previously undeveloped land.

**MITIGATION MONITORING PLAN CHECKLIST FOR  
NATOMAS FOUNTAINS (P16-012)**

Mitigation Measure	Reporting Milestone	Reporting / Responsible Party	VERIFICATION OF COMPLIANCE	
			Initials	Date
Aesthetics				
<b>Mitigation Measure 1-1: Avoidance and Minimization Measures for Reflective Surfaces.</b>  The project applicant shall ensure that buildings do not use reflective glass that exceeds 50 percent of any building surface and on the ground three floors, use mirrored glass, or use black glass that exceeds 25 percent of any surface of a building.	Prior to issuance of building permit.	Sacramento Community Development Department  and  Project applicant		
Biological Resources				
<b>Mitigation Measure 3-1(a): Avoidance and Minimization Measures for Giant Garter Snake.</b>  Giant garter snake shall be protected during construction by implementing the following measures: <ul style="list-style-type: none"><li>No more than 24-hours prior to the commencement of construction activities, a preconstruction survey shall be conducted to survey for giant garter snakes by a USFWS-approved biologist. The biologist shall provide the USFWS with a written report that adequately documents the monitoring efforts within 24-hours of commencement of construction activities. The project site shall be re-inspected by the monitoring biologist whenever a lapse in construction activity of two weeks or greater has occurred.</li><li>Construction activity within 200 feet from giant garter snake habitat (e.g., East Drainage Canal) shall be conducted between May 1 and September 30. This is the active period for the snake and direct mortality is lessened as snakes are expected to actively move and avoid danger. If it appears that construction activity may go beyond September 30, the City shall contact the USFWS as soon as possible, but not later than September 15 of the year in question, to determine if additional measures are necessary to minimize take. Construction activities within 200 feet from the banks of aquatic snake habitat will</li></ul>	Prior to and during construction activities.	City of Sacramento Community Development Department  and  CDFW  and  Project applicant		



Mitigation Measure	Reporting Milestone	Reporting / Responsible Party	VERIFICATION OF COMPLIANCE	
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<p>be avoided during the snake's inactive season. If this is not feasible, the City shall consult with USFWS to determine measures to avoid impacts to giant garter snake. If project activities are approved to continue into the inactive season, a USFWS-approved biologist shall inspect construction-related activities daily during this period for unauthorized take of federally listed species or destruction of their habitat. The biologist shall be available for monitoring throughout all phases of construction that may result in adverse effects to the giant garter snake.</p> <ul style="list-style-type: none"> <li>A Worker Environmental Awareness Training Program for construction personnel shall be conducted by the USFWS-approved biologist for all construction workers, including contractors, prior to the commencement of construction activities. The program shall provide workers with information on their responsibilities with regard to the snake, an overview of the life-history of this species, information on take prohibitions, protections afforded this animal under FESA, and an explanation of the relevant terms and conditions of project permits. As needed, training shall be conducted in Spanish for Spanish language speakers.</li> </ul>				
<p><b>Mitigation Measure 3-1(b): Avoidance and Minimization Measures for Nesting Birds.</b></p> <p>For any construction activities that will occur between February 1 and August 31, the applicant shall conduct pre-construction surveys in suitable nesting habitat within 500 feet of the construction area for nesting raptors and migratory birds. Surveys shall be conducted by a qualified biologist.</p> <p>If active nest are found during the survey, the applicant shall implement appropriate mitigation measures to ensure that the species will not be adversely affected, which will include establishing a no-work buffer zone, as approved by CDFW, around the active nest. Measures may include, but would not be limited to:</p> <ul style="list-style-type: none"> <li>Maintaining a 500 foot buffer around each active raptor nest. No construction activities shall be permitted within this buffer. For migratory birds, a no-work buffer zone shall be established, approved by CDFW, around the active nest. The no-work buffer may vary</li> </ul>	Prior to and during construction	City of Sacramento Community Development Department  and  CDFW  and  Project applicant		

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<p>depending on species and site specific conditions, as approved by CDFW.</p> <ul style="list-style-type: none"> <li>Depending on conditions specific to each nest, and the relative location and rate of construction activities, if may be feasible for construction to occur as planned within the buffer without impacting the breeding effort. In this case (to be determined on an individual basis), the nest(s) shall be monitored by a qualified biologist during construction within the buffer. If, in the professional opinion of the monitor, the project would impact the nest, the biologist shall immediately inform the construction manager. The construction manager shall stop construction activities within the buffer until the nest is no longer active.</li> </ul>				
<p><b>Mitigation Measure 3-1(c): Avoidance and Minimization Measures for Burrowing Owl.</b></p> <p>Pre-construction surveys for burrowing owls shall be conducted by a qualified biologist (as approved by CDFW) within 30 days prior to the state of work activities at the project site. If construction activities are delayed for more than 30 days after the initial preconstruction survey, then a new preconstruction survey shall be conducted. All surveys shall be conducted in accordance with the Staff Report on Burrowing Owl Mitigation.</p> <p>If burrowing owls are discovered in the project site vicinity during construction, the CDFW-approved project biologist shall be notified immediately. Occupied burrows shall not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by the CDFW verifies through non-invasive methods that either: (1) the birds have not begun egg-laying and incubation; or (2) that juveniles from the occupied burrows are foraging independently and are capable of independent survival.</p> <p>Occupied burrows during the nesting season shall be avoided by establishment of a no-work buffer of 250-foot around the occupied/active burrow. Where maintenance of a 250-foot no-work buffer zone is not practical, the City shall consult with the CDFW to determine appropriate avoidance measures. Burrows occupied during the breeding season (February 1 to August 31) will be closely monitored by the biologist until the young fledge/leave the nest. The onsite biologist shall have the authority to stop work if it is determined that construction related activities are disturbing the owls.</p>	Prior to and during construction	<p>City of Sacramento Community Development Department</p> <p>and</p> <p>CDFW</p> <p>and</p> <p>Project applicant</p>		



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<p>If approved by CDFW, the biologist may undertake passive relocation techniques by installing one-way doors in active and suitable burrows (that currently do not support eggs or juveniles). This would allow burrowing owls to escape but not reenter. Owls should be excluded from the immediate impact zone and within a 160 foot buffer zone by having one-way doors placed over the entrance to prevent owls from inhabiting those burrows.</p> <p><b>CULTURAL RESOURCES</b></p>				
<p><b>Mitigation Measure 4-1: Unanticipated Discovery Protocol for Archaeological Resources and Human Remains.</b></p> <p>If prehistoric or historic-period archaeological resources, including those considered tribal cultural resources, are encountered during project implementation, all construction activities within 100 feet shall halt and the City shall be notified. Prehistoric archaeological materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil ("midden") containing heat-affected rocks, artifacts, or shellfish remains; and stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and battered stone tools, such as hammerstones and pitted stones. Historic-period materials might include stone, concrete, or adobe footings and walls; filled wells or privies; and deposits of metal, glass, and/or ceramic refuse. An archaeologist meeting the U.S. Secretary of the Interior's Standards (SOIS) for Archeology shall inspect the findings within 24 hours of discovery. If the City determines that the resource qualifies as a historical resource or a unique archaeological resource (as defined pursuant to the CEQA Guidelines) and that the project has potential to damage or destroy the resource, mitigation shall be implemented in accordance with PRC Section 21083.2 and CEQA Guidelines Section 15126.4. Consistent with CEQA Guidelines Section 15126.4(b) (3), mitigation shall be accomplished through either preservation in place or, if preservation in place is not feasible, data recovery through excavation. If preservation in place is feasible, this may be accomplished through one of the following means: (1) modifying the construction plan to avoid the resource; (2) incorporating the resource within open space; (3) capping and covering the resource before building appropriate facilities on the resource site; or (4) deeding resource site into a permanent conservation easement. If avoidance or preservation in place is not feasible, an archaeologist meeting the SOIS for Archeology shall prepare and implement a detailed treatment plan to recover the scientifically</p>	<p>Prior to and during construction activities.</p> <p>Include historic and archaeological resources discovery, identification, and notification guidelines on Grading and Construction Plans.</p> <p>Report discovery of human remains during construction.</p>	<p>City of Sacramento Community Development Department</p> <p>and</p> <p>Project applicant</p>		



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<p>consequential information from and about the resource, which shall be reviewed and approved by the City prior to any excavation at the resource site. Treatment of unique archaeological resources shall follow the applicable requirements of PRC Section 21083.2. Treatment for most resources would consist of (but would not be limited to) sample excavation, artifact collection, site documentation, and historical research, with the aim to target the recovery of important scientific data contained in the portion(s) of the significant resource to be impacted by the project. The treatment plan shall include provisions for analysis of data in a regional context, reporting of results within a timely manner, curation of artifacts and data at an approved facility, and dissemination of reports to local and state repositories, libraries, and interested professionals.</p> <p>In the event of discovery or recognition of any human remains during project implementation, project construction activities within 100 feet of the find shall cease until the Sacramento County Coroner has been contacted to determine that no investigation of the cause of death is required. The Coroner shall contact the NAHC within 24 hours if the Coroner determines the remains to be Native American in origin. The NAHC will then identify the person or persons it believes to be the most likely descendant (MLD) from the deceased Native American (PRC Section 5097.98), who in turn would make recommendations to the City for the appropriate means of treating the human remains and any associated funerary objects (CEQA Guidelines Section 15064.5[d]).</p>				
<p><b>Mitigation Measure 4-2: Pre-construction Worker Paleontological Resources Sensitivity Training.</b></p> <p>Prior to start of earth moving activities, a qualified paleontologist, defined as a paleontologist meeting the Society of Vertebrate Paleontology (SVP) Standards (SVP, 2010) shall be retained to conduct pre-construction worker paleontological resources sensitivity training. This training shall include information on what to do in case an unanticipated discovery is made by a worker, which fossil types may be discovered during project-related excavations, and laws protecting paleontological resources. All construction personnel shall be informed of the possibility of encountering fossils, and instructed to immediately inform the construction foreman if any bones or other potential fossils are unexpectedly unearthed in an area where paleontological monitoring is not required. The applicant shall ensure that construction personnel are made available for and attend the training and retain documentation demonstrating attendance.</p>	Prior to and during construction activities.	City of Sacramento Community Development Department  and  Project applicant		

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<p><b>Mitigation Measure 4-3: Paleontological Monitoring (Compliance with the SOI Standards)</b></p> <p>A paleontological monitor working under the direct supervision of the qualified paleontological Principal Investigator, shall monitor all ground-disturbing activity below 4 feet. The location, duration, and timing of monitoring shall be determined by the qualified paleontologist in consultation with the City, and shall be based on a review of geologic maps and grading plans. During the course of monitoring, if the paleontologist can demonstrate, based on observations of subsurface conditions, that the level of monitoring should be reduced or discontinued, the paleontologist, in accordance with the SVP guidelines, may adjust the level of monitoring to circumstances, as warranted. Should additional data become available, such as geotechnical boring information, which includes more information on the depth of fill and the depth of young alluvium, monitoring depths may be adjusted, as recommended by a qualified paleontologist, in coordination with the City.</p> <p>The paleontological monitor shall have authority to temporarily divert excavation operations away from exposed fossils to collect associated data and recover the fossil specimens if deemed necessary.</p> <p>Following the completion of monitoring, the paleontologist shall prepare a report documenting the absence or discovery of fossil resources onsite. If fossils are found, the report shall summarize the results of the inspection program, identify those fossils encountered, recovery and curation efforts, and the methods used in these efforts, as well as describe the fossils collected and their significance. A copy of the report shall be provided to the City and to an appropriate repository.</p>	<p>Prior to and during construction activities.</p> <p>At the conclusion of ground disturbing activity the qualified paleontological monitor will prepare and submit monitoring report.</p>	<p>City of Sacramento Community Development Department</p> <p>and</p> <p>Project applicant</p>		

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<b>Mitigation Measure 4-4 (Documentation / Recordation and Dissemination)</b>  In the event of unanticipated discovery of paleontological resources in locations or at depths not subject to paleontological monitoring, the contractor shall cease ground-disturbing activities within 50 feet of the find until it can be assessed by the qualified paleontologist. The qualified paleontologist shall assess the find, implement recovery measures if necessary, and determine if paleontological monitoring is warranted once work resumes.	During construction	City of Sacramento Community Development Department  and Project applicant		
<b>NOISE</b>				
<b>Mitigation Measure 8-1: Noise Impact Avoidance and Minimization Measures</b>  In order to avoid noise-sensitive hours of the day and night, construction contractors shall comply with the following: <ul style="list-style-type: none"> <li>• Construction activities shall be limited to City of Sacramento construction exempt hours between 7:00 a.m. and 6:00 p.m. Monday through Saturday, and between 9:00 a.m. and 6:00 p.m. on Sundays.</li> <li>• All internal combustion engines shall be equipped with suitable exhaust and intake silencers that are in good working order.</li> <li>• Quieter "sonic" pile-drivers shall be used, unless engineering studies are submitted to the City that show this is not feasible, based on geotechnical considerations.</li> </ul>	During construction	City of Sacramento Community Development Department  and Project applicant		
<b>Transportation and Circulation</b>				
<b>Mitigation Measure 13-1: Fair Share Cost of Roadway Improvements</b>  The project applicant shall pay their fair share cost of the following improvements: <ul style="list-style-type: none"> <li>• Restripe eastbound approach at Gateway Park Boulevard/North Freeway Boulevard</li> </ul>	Prior to issuance of building permit	City of Sacramento Community Development Department		



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<p>intersection to consist of one left-turn lane, one through lane, and one right-turn lane.</p> <ul style="list-style-type: none"> <li>Coordinate traffic signal at Gateway Park Boulevard/North Freeway Boulevard intersection such that the westbound left-turn is coordinated with the westbound left-turn at Truxel Road/Gateway Park Boulevard. Signal coordination should be maintained along Truxel Road between intersections 5, 6, and 7.</li> <li>Realign/restripe the southbound departing lanes from the Gateway Park Boulevard/North Freeway Boulevard intersection such that both westbound left turn lanes from North Freeway Boulevard become left-turn lanes approaching Truxel Road (refer to Figure 11 for illustration of improvements). This figure indicates that a modest amount of median reconfiguration may be necessary to accommodate this improvement, but no additional right-of-way is needed.</li> <li>Modify the southbound Truxel Road approach at Gateway Park Boulevard to construct a dedicated U-turn lane (refer to Figure 13-1 for illustration of improvements). The proposed sketch in Figure 13-1 shows that a 200-foot U-turn lane could be provided without requiring any additional right-of-way. However, it would require a decrease in the northbound left-turn lane storage (355 to 210 feet) for the Natomas Marketplace North Entrance. Signal poles are currently positioned in the median nose and would need to be maintained along with a pedestrian refuge area. The design concept on Figure 13-1 accomplishes this.</li> </ul>		and  Project applicant		