

RESOLUTION NO. 2009-141

Adopted by the Sacramento City Council

March 10, 2009

ADOPTING THE MITIGATED NEGATIVE DECLARATION AND THE MITIGATION MONITORING PROGRAM FOR THE FRANKLIN POINT PROJECT (P05-153)

BACKGROUND

- A. On May 8, 2008, the City Planning Commission conducted a public hearing on the Franklin Point project and continued the item.
- B. On September 25, 2008, the City Planning Commission conducted a public hearing, and forwarded to the City Council a recommendation to approve with conditions the Franklin Point project.
- C. On March 10, 2009, the City Council conducted a public hearing, for which notice was given pursuant Sacramento City Code Section 17.200.010(C)(2)(a), (b), and (c) (publication, posting, and mail 500'), and received and considered evidence concerning the Franklin Point project.

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 identified potentially significant effects of the Project. 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 would 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 February 19, 2008, a Notice of Intent to Adopt the MND (NOI) dated February 19, 2008, 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, including property owners within 500 feet of the boundaries of the proposed project. The comments of such persons and agencies were sought.

2. On February 19, 2008, the project site was posted with the NOI, the NOI was published in the Daily Recorder, 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 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's Environmental Planning Services 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 1: Mitigation Monitoring Program

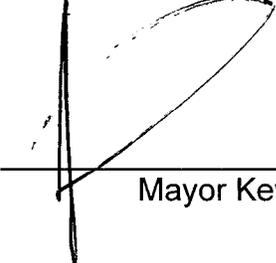
Adopted by the City of Sacramento City Council on March 10, 2009 by the following vote:

Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters, and Mayor Johnson.

Noes: None.

Abstain: None.

Absent: None.



Mayor Kevin Johnson

Attest:



Shirley Concolino
Shirley Concolino, City Clerk

Exhibit 1 - Mitigation Monitoring Plan

MITIGATION MONITORING PLAN

FOR

Franklin Point (P05-153)

**TYPE OF ENVIRONMENTAL DOCUMENT:
INITIAL STUDY/ NEGATIVE DECLARATION**

**PREPARED FOR:
CITY OF SACRAMENTO, DEVELOPMENT SERVICES DEPARTMENT**

DATE:

January 30, 2008

**ADOPTED BY:
CITY OF SACRAMENTO
CITY COUNCIL**

DATE:

ATTEST:

Franklin Point (P05-153)
MITIGATION MONITORING PLAN

This Mitigation Monitoring Plan (MMP) has been required by and prepared for the City of Sacramento Development Services Department, Environmental Planning Services, 300 Richards Boulevard, Sacramento, CA 95811, pursuant to CEQA Guidelines Section 21081.6.

SECTION 1: PROJECT IDENTIFICATION

Project Name / File Number: Franklin Point (P05-153)

Owner/Developer- Name: Bay Miry
Address: D & S Development,
1329 H Street,
Sacramento, CA 95814

Project Location / Legal Description of Property (if recorded):

The proposed project site located on two parcels (APN 119-0070-072 and 063) and is generally rectangular in shape. The proposed project is bounded on the west by single-family homes, Mack Road to the north, Franklin Boulevard to the east and single-family homes to the south.

Project Description:

The proposed project consists of entitlements to subdivide and develop an approximately 5.5-acre parcel with a commercial mixed used development containing 15,000 square feet of office, 16,300 square feet of gas/retail and an 8,000 square foot sit-down restaurant within the International Plaza PUD.

SECTION 2: GENERAL INFORMATION

The Plan includes mitigation for Biological Resources, Air Quality, Noise, and Cultural Resources. The intent of the Plan is to prescribe and enforce a means for properly and successfully implementing the mitigation measures as identified within the Initial Study for this project. Unless otherwise noted, the cost of implementing the mitigation measures as prescribed by this Plan shall be funded by the owner/developer identified above. This Mitigation Monitoring Plan (MMP) is designed to aid the City of Sacramento in its implementation and monitoring of mitigation measures adopted for the proposed project.

The mitigation measures have been taken from the Initial Study and are assigned the same number they have in the document. The MMP describes the actions that must take place to implement each mitigation measure, the timing of those actions, and the entities responsible for implementing and monitoring the actions. The developer will be responsible for fully understanding and effectively implementing the mitigation measures contained with the MMP. The City of Sacramento will be responsible for ensuring compliance.

Environmental Resource	Mitigation Measure	Responsible Entity	Compliance Milestone / Confirm Complete
Biological Resources	B-1a Prior to issuance of grading permits, the applicant shall retain a qualified biologist to conduct preconstruction surveys of suitable burrowing owl habitat within the project site within 30 days prior to construction to ensure that no burrowing owls have become established at the site. If ground disturbing activities are delayed or suspended for more that 30 days after the preconstruction survey, the site shall be re-surveyed. If no burrowing owls are located, then no further mitigation is required.	City of Sacramento, Development Services Department California Department of Fish and Game	Prior to issuance of any grading or building permit, measures identified on plans shall be verified for compliance. The Development Services Department shall assure that measures are identified on construction plans and specifications and confirm compliance prior to issuance of any grading or building permit.
Biological Resources	B-2 The proposed project shall be subject to consultation under Section 7 of the federal ESA between the Army Corps of Engineers (ACOE), the federal lead agency under Section 404 of the Clean Water Act, and the U.S. Fish and Wildlife Service.	City of Sacramento, Development Services Department, Army Corps of Engineers, U.S. Fish and Wildlife Service	Prior to issuance of any grading or building permit, measures identified on plans shall be verified for compliance. The Development Services Department shall assure that measures are identified on construction plans and specifications and confirm compliance prior to issuance

Environmental Resource	Mitigation Measure	Responsible Entity	Compliance Milestone / Confirm Complete
			of any grading or building permit
Biological Resources	B-3 Mitigation credits shall be purchased from a United State Fish and Wildlife Service (USFWS) approved mitigation bank or in-lieu fees must be paid to a USFWS-approved fund to offset the loss of special-status invertebrates and suitable habitat.	City of Sacramento, Development Services Department, U.S. Fish and Wildlife Service	Prior to issuance of any grading or building permit, measures identified on plans shall be verified for compliance. The Development Services Department shall assure that measures are identified on construction plans and specifications and confirm compliance prior to issuance of any grading or building permit.
Biological Resources	B-4 Prior to issuance of a grading permit, the applicant shall demonstrate that it has obtained permits for "fill" activities from the U.S. Regional Water Quality Control Board (RWQCB) and Army Corps of Engineers (ACOE).	City of Sacramento, Development Services Department, Central Valley Regional Water Quality Control Board Army Corps of Engineers	Prior to issuance of any grading or building permit, measures identified on plans shall be verified for compliance. The Development Services Department shall assure that measures are identified on construction plans and specifications

Environmental Resource	Mitigation Measure	Responsible Entity	Compliance Milestone / Confirm Complete
			and confirm compliance prior to issuance of any grading or building permit.
Biological Resources	B-5 Wetland mitigation credits for loss of 0.052-acre of jurisdictional seasonal wetland must be purchased from an ACOE-approved mitigation bank or in-lieu fees must be paid to a ACOE-approved fund at a 1:1 replacement ratio to offset the loss of Waters of the U.S.	City of Sacramento, Development Services Department, Army Corps of Engineers	Prior to issuance of any grading or building permit, measures identified on plans shall be verified for compliance. The Development Services Department shall assure that measures are identified on construction plans and specifications and confirm compliance prior to issuance of any grading or building permit.
Air Quality	The applicant shall work with the Sacramento Metropolitan Air Quality Management District (SMAQMD) to create an Air Quality Mitigation Plan to reduce operational emissions below the significance level for NO _x . The Air Quality Mitigation Plan shall implement specific measures selected by the applicant with assistance from the SMAQMD. The Air Quality Mitigation Plan shall be a stand-alone document separate from any other project document. The document shall provide narrative, descriptions, and exhibits that illustrate and justify the measure being chosen and the proposed point value. Once the Air Quality Mitigation Plan meets the satisfaction of the applicant, SMAQMD and the City of Sacramento, a letter from the SMAQMD shall be sent to the City of Sacramento. The Air Quality Mitigation Plan shall be	City of Sacramento, Development Services Department, Sacramento Metropolitan Air Quality Management District	Prior to the issuance of release of the Mitigated Negative Declaration for Franklin Point (P05-153) measures identified on plans shall be verified for compliance.

Environmental Resource	Mitigation Measure	Responsible Entity	Compliance Milestone / Confirm Complete
	referenced as a condition of approval and implemented prior to issuance of the release of the Mitigated Negative Declaration.		
Noise	N-1 A six-foot (6') noise barrier shall be constructed of concrete masonry units or solid concrete panels on the south wall of the proposed project in-between Building 1 and Building 2. The proposed pedestrian connection shall require a glass or steel frame gate or another solid sheet material. The door material shall be solid with four pounds per square foot in density with no large gaps around the edges and bottom of the gate.	City of Sacramento, Development Services Department	Prior to issuance of any grading or building permit, measures identified on plans shall be verified for compliance. The Development Services Department shall assure that measures are identified on construction plans and specifications and confirm compliance prior to issuance of any grading or building permit
Cultural Resources	CR-1 The applicant shall hire a qualified archaeologist to conduct a records search for the project site, including a search of the North Central Information System at CSU, Sacramento. The qualified archaeologist shall provide recommendations for mitigation should any resource be identified on the project site by the records search. Prior to issuance of grading permits, the applicant shall provide proof that the records search has been performed and that any cultural resources identified on the project site have been mitigated according to the recommendations of the qualified archaeologist.	City of Sacramento, Development Services Department, Native American Heritage Commission	Measure shall be implemented prior to issuance of grading permits and during construction activities. Measures shall be implemented during construction activities, as specified.

Environmental Resource	Mitigation Measure	Responsible Entity	Compliance Milestone / Confirm Complete
Cultural Resources	<p>CR-2a In the event that any prehistoric subsurface archeological features or deposits, including locally darkened soil (“midden”), that could conceal cultural deposits, animal bone, obsidian and/or mortars are discovered during construction-related earth-moving activities, all work within 50 meters of the resources shall be halted, and the City shall consult with a qualified archeologist to assess the significance of the find. Archeological test excavations shall be conducted by a qualified archeologist to aid in determining the nature and integrity of the find. If the find is determined to be significant by the qualified archeologist representatives of the City and the qualified archeologist shall coordinate to determine the appropriate course of action. All significant cultural materials recovered shall be subject to scientific analysis and professional museum curation. In addition, a report shall be prepared by the qualified archeologist according to the current professional standards.</p>	<p>City of Sacramento, Development Services Department, Native American Heritage Commission</p>	<p>Measure shall be implemented prior to issuance of grading permits and during construction activities. Measures shall be implemented during construction activities, as specified.</p>
Cultural Resources	<p>CR-2b If a Native American site is discovered, the evaluation process shall include consultation with the appropriate Native American representatives.</p> <p>If Native American archeological, ethnographic, or spiritual resources are involved, all identification and treatment shall be conducted by qualified archeologists, who are certified by the Society of Professional Archeologists (SOPA) and/or meet the federal standards as stated in the Code of Federal Regulations (36 CFR 61), and Native American community as scholars of the cultural traditions.</p> <p>In the event that no such Native American is available, persons who represent tribal governments and/or organizations in the locale in which resources could be affected shall be consulted. If historic archeological sites are involved, all identified treatment is to be carried out by qualified historical archeologists, who shall meet either Register of Professional Archeologists (RPA), or 36 CFR 61 requirements.</p>	<p>City of Sacramento, Development Services Department, Native American Heritage Commission</p>	<p>Measure shall be implemented prior to issuance of grading permits and during construction activities. Measures shall be implemented during construction activities, as specified.</p>
Cultural Resources	<p>CR-3 If a human bone or bone of unknown origin is found during construction, all work shall stop in the vicinity of the find, and the County Coroner shall be contacted immediately. If the remains are determined</p>	<p>City of Sacramento, Development Services</p>	<p>Measure shall be implemented prior to issuance of grading</p>

Environmental Resource	Mitigation Measure	Responsible Entity	Compliance Milestone / Confirm Complete
	to be Native American, the coroner shall notify the Native American Heritage Commission, who shall notify the person most likely believed to be a descendant. The most likely descendant shall work with the contractor to develop a program for re-interment of the human remains and any associated artifacts. No additional work is to take place within the immediate vicinity of the find until the identified appropriate actions have taken place.	Department, Native American Heritage Commission	permits and during construction activities. Measures shall be implemented during construction activities, as specified.