

## **RESOLUTION NO. 2007-675**

Adopted by the Sacramento City Council

September 11, 2007

### **ADOPTING THE MITIGATED NEGATIVE DECLARATION ADDENDUM AND THE MITIGATION MONITORING PLAN FOR THE REGENCY PARK – LOT K PROJECT (P07-003)**

#### **BACKGROUND**

- A. On August 9, 2007, the City Planning Commission conducted a public hearing on, and forwarded to the City Council a recommendation to approve with conditions the Regency Park – Lot K project.
- B. On September 11, 2007, the City Council conducted a public hearing, for which notice was given pursuant Sacramento City Code Sections 16.24.097(B), 17.204.020(C), and 17.208.020(C), and received and considered evidence concerning the Regency Park – Lot K 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. On February 4, 1997, pursuant to the California Environmental Quality Act (Public Resources Code §21000 *et seq.* ("CEQA"), the CEQA Guidelines (14 California Code of Regulations §15000 *et seq.*), and the City of Sacramento environmental guidelines, the City Council adopted a Mitigated Negative Declaration (MND) and a Mitigation Monitoring Plan and approved the Northpointe Park Planned Unit Development (P96-058) Project (Project).
- B. The Northpointe Park Planned Unit Development Modification, Regency Park Lot K (P07-003) (Project Modification) proposes to modify the previously approved Project as follows: The proposed project consists of the necessary entitlements to construct 37 single-family lots on an approximately 5.6 acres previously approved for an elementary school in the Northpointe Park Planned Unit Development.
- C. The Initial Study on the Project Modification determined that the proposed changes to the original Project did not require the preparation of a subsequent Environmental Impact Report (EIR) or Negative Declaration. An addendum to the previously adopted

MND was then prepared to address the modification to the Project.

Section 2. The City Council has reviewed and considered the information contained in the previously adopted MND for the Project, the addendum, and all oral and documentary evidence received during the hearing on the Project Modification. The City Council had determined that the previously adopted MND and the addendum constitute an adequate, accurate, objective, and complete review of the proposed Project Modification and finds that no additional environmental review is required based on the reasons set forth below:

- A. No substantial changes are proposed by the Project Modification that will require major revisions of the previously adopted MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- B. No substantial changes have occurred with respect to the circumstances under which the Project Modification will be undertaken which will require major revisions to the previously adopted MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- C. No new information of substantial importance has been found that shows any of the following:
  - 1. The Project Modification will have one or more significant effects not discussed in the previously adopted MND;
  - 2. Significant effects previously examined will be substantially more severe than shown in the previously adopted MND;
  - 3. Mitigation measures previously found to be infeasible would in fact be feasible and would substantially reduce one or more significant effects of the Project Modification; or
  - 4. Mitigation measures which are considerably different from those analyzed in the previously adopted MND would substantially reduce one or more significant effects on the environment.

Section 3. Based on its review of the previously adopted MND for the Project, the addendum, and all oral and documentary evidence received during the hearing on the Project Modification, the City Council finds that the MND and addendum reflect the City Council's independent judgment and

analysis and adopts the MND and the addendum for the Project Modification and readopts the findings of fact in support of the MND.

Section 4. The Mitigation Monitoring Plan for the Project is adopted for the Project Modification, and the mitigation measures shall be implemented and monitored as set forth in the plan, based on the following findings of fact:

1. The Mitigation Monitoring Plan has been adopted and implemented as part of the Project;
2. The addendum to the MND does not include any new mitigation measures, and has not eliminated or modified any of the mitigation measures included in the Mitigation Monitoring Plan;
3. The Mitigation Monitoring Plan meets the requirements of CEQA section 21081.6 and CEQA Guidelines section 15074.

Section 5. 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 the State EIR Guidelines adopted pursuant thereto.

Section 6. 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 Historic City Hall, 915 I Street, Sacramento, California 95814. The City Clerk is the custodian of records for all matters before the City Council.

Section 7. The City Council adopts the Mitigation Monitoring Plan subject to the following conditions of approval:

As stated in the Mitigation Monitoring Plan for Mitigation Measures # 5 and Br-1a, BR-1b, Br-1c, Br-1d, and Br-1e, to mitigate for impacts to Burrowing Owl habitat and foraging habitat, the following conditions shall be included on all grading and construction plans and implemented prior to the issuance of grading permits and during construction activities, as specified:

**MM #5:** The applicant shall participate in the Natomas Basin Habitat Conservation Plan (HCP), once adopted. At the time of the grading permit, the applicant shall pay the interim HCP fee, based on Ordinance Mo. 95-060 and Resolution No. 95-622 adopted by the City Council on October 31, 1995. If the HCP program is never implemented, or if the

interim fee exceeds the actual fee, then the applicant shall be refunded the difference, with interest. If the interim fee is less than the actual fee, the applicant shall pay the difference.

BR-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 than 30 days after the preconstruction survey, the site shall be re-surveyed. If no burrowing owls are located, then no further mitigation is required.

1b: If located, occupied burrows shall not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by California Department of Fish and Game (CDFG) verifies through noninvasive methods that either the birds have not begun egg-laying and incubation; or that juveniles from the occupied burrows are foraging independently and are capable of independent survival.

1c: If destruction of occupied burrows is unavoidable, the applicant shall coordinate with CDFG to identify existing suitable burrows located on protected land to be enhanced or new burrows will be created by installing artificial burrows at a ratio of 2:1.

1d: If owls must be relocated away from the site the applicant shall coordinate with CDFG to relocate the owls using passive relocation techniques (as described in the CDFG's October 17, 1995, Staff Report on burrowing owl mitigation, or latest version).

1e: If avoidance is the preferred method of mitigating potential project impacts, then no disturbance shall occur within 160 feet of occupied burrows during the non-breeding season (September 1 through January 31) or within 250 feet during the breeding season (February 1 through August 31).

As stated in the Mitigation Monitoring Plan for Mitigation Measures CR-1a, CR-1b and CR-2, to mitigate for impacts to unknown cultural resources, the following conditions shall be included on all grading plans and implemented during construction activities:

CR-1 (a): 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 current professional standards.

CR-1 (b): If a Native American site is discovered, the evaluation process shall include consultation with the appropriate Native American representatives.

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 representatives, who are approved by the local Native American community as scholars of the cultural traditions.

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.

CR-2: 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 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-internment 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.

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Exhibit A: Mitigation Monitoring Plan

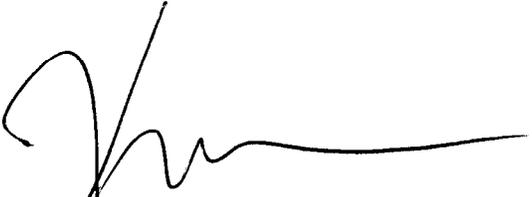
Adopted by the City of Sacramento City Council on September 11, 2007 by the following vote:

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

Noes: None.

Abstain: None.

Absent: Mayor Fargo.



Kevin McCarty, Vice-Mayor

Attest:



Shirley Condolino, City Clerk

## MITIGATION MONITORING PLAN

**FOR:**  
REGENCY PARK LOT K (P07-003)

**PREPARED BY:**  
CITY OF SACRAMENTO  
DEVELOPMENT SERVICES DEPARTMENT  
ENVIRONMENTAL PLANNING SERVICES  
ROCHELLE HALL  
808-5914

**TYPE OF ENVIRONMENTAL DOCUMENT:**  
ADDENDUM TO AN  
INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

**DATE:**  
July 20, 2007

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

**DATE:**

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**ATTEST:**

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**REGENCY PARK LOT K (P07-003)  
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, 2101 Arena Blvd., Ste. 200, Sacramento, CA 95834, pursuant to CEQA Guidelines Section 21081.6.

**SECTION 1: PROJECT IDENTIFICATION**

**Project Name/File Number:** REGENCY PARK LOT K (P07-003)

**Owner/Developer/Applicant:** Don Barnett  
Lennar Communities  
1075 Creekside Ridge Drive, Suite 110  
Roseville, CA 95678  
Phone: (916) 783-3224

**City of Sacramento Contact:** Rochelle Hall, Assistant Planner  
Environmental Planning Services  
Development Services Dept  
2101 Arena Blvd., Suite 200  
Sacramento, CA 95834  
Phone: (916) 808-5914

**Project Location**

The proposed project site consists of one parcel, on Assessor's Parcel Numbers (APN) 201-0540-051, lot K in the Northpointe Park Planned Unit Development. Amazon Avenue is located to the north of the site, Celebration Street is located to the west, Faletto Avenue is to the south, and the County of Sacramento is located to the east.

**Project Components**

The proposed project consists of the necessary entitlements to construct 37 single family lots on approximately 5.6 acres in the Northpointe Pointe Planned Unit Development. The specific entitlements include:

- A. General Plan Amendment** to change the parcel's designation from Public/Quasi-Public to Low Density Residential;
- B. Community Plan Amendment** to change the parcel's designation from General Public Facilities to Low Density Residential;
- C. Tentative Map 5-50** to subdivide the approximately 5.6 acre parcel into 37 single family lots;
- D. Rezone** to Single-Family Alternative PUD (R-1A-PUD); and
- E. Planned Unit Development Schematic Plan Amendment** to change the parcel's designation from Lot 'Y' Elementary School to Village 36 R-1 PUD.

## **SECTION 2: GENERAL INFORMATION**

The Mitigation Monitoring Plan (MMP) includes mitigation for Biological Resources 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 verbatim 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 within the MMP. The City of Sacramento, along with other applicable local, state or federal agencies, will be responsible for ensuring compliance.

**REGENCY PARK LOT K (P07-003)  
MITIGATION MONITORING PLAN**

		VERIFICATION OF COMPLIANCE			
MITIGATION MEASURE	IMPLEMENTING RESPONSIBILITY	MONITORING RESPONSIBILITY	COMPLIANCE STANDARDS	TIMING	VERIFICATION OF COMPLIANCE (INITIALS/DATE)
<p><b>Biological Resources:</b>  <i>The following mitigation measure is from the Northpointe Park PUD IS/MND and is applicable to the proposed project.</i></p> <p>#5                      The applicant shall participate in the Natomas Basin Habitat Conservation Plan (HCP), once adopted. At the time of the grading permit, the applicant shall pay the interim HCP fee, based on Ordinance Mo. 95-060 and Resolution No. 95-622 adopted by the City Council on October 31, 1995. If the HCP program is never implemented, or if the interim fee exceeds the actual fee, then the applicant shall be refunded the difference, with interest. If the interim fee is less than the actual fee, the applicant shall pay the difference.</p> <p><i>The following mitigation measure replaces #6 in the Northpointe Park PUD IS/MND because it is the most current language form CDFG.</i></p>	Applicant	City of Sacramento – Development Services Department and California Department of Fish and Game	Measures shall be included on all grading and construction plans	Measures shall be implemented prior to the issuance of grading permits and during construction activities, as specified.	

**REGENCY PARK LOT K (P07-003)  
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<p><b>BR-1a</b> 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 than 30 days after the preconstruction survey, the site shall be re-surveyed. If no burrowing owls are located, then no further mitigation is required.</p> <p><b>BR-1b</b> If located, occupied burrows shall not be disturbed during the nesting season (February 1 through August 31) unless a qualified biologist approved by California Department of Fish and Game (CDFG) verifies through noninvasive methods that either the birds have not begun egg-laying and incubation; or that juveniles from the occupied burrows are foraging independently and are capable of independent survival.</p> <p><b>BR-1c</b> If destruction of occupied burrows is unavoidable, the applicant shall coordinate with CDFG to identify existing suitable burrows located on protected land to be enhanced or new burrows will be created by installing</p>					
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<p>artificial burrows at a ratio of 2:1.</p> <p><b>BR-1d</b> If owls must be relocated away from the site the applicant shall coordinate with CDFG to relocate the owls using passive relocation techniques (as described in the CDFG's October 17, 1995, Staff Report on burrowing owl mitigation, or latest version).</p> <p><b>BR-1e</b> If avoidance is the preferred method of mitigating potential project impacts, then no disturbance shall occur within 160 feet of occupied burrows during the non-breeding season (September 1 through January 31) or within 250 feet during the breeding season (February 1 through August 31).</p> <p><i>The following mitigation measures are to replace Mitigation Measure # 13 from the Northpointe Park PUD MND (P96-058) because it is the most current standard cultural resources mitigation language.</i></p> <p><b>Cultural Resources:</b> <b>CR-1a</b> In the event that any prehistoric subsurface archeological features or deposits, including locally darkened soil ("middens"), that could conceal cultural deposits, animal bone, obsidian and/or mortars are discovered during construction-</p>	<p align="center">Applicant</p>	<p align="center">City of Sacramento— Development Services Department and Native American Heritage Commission</p>	<p align="center">Measures shall be included on all grading and construction plans</p>	<p align="center">Measures shall be implemented during construction activities, as specified.</p>	
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<p>Professional Archeologists (SOPA) and/or meet the federal standards as stated in the Code of Federal Regulations (36 CFR 61), and Native American representatives, who are approved by the local 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>CR-2 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 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</p>					
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