

RESOLUTION NO. 2011-235

Adopted by the Sacramento City Council

April 21, 2011

ADOPTING THE MITIGATED NEGATIVE DECLARATION AND THE MITIGATION MONITORING PROGRAM FOR THE PROVENCE PROJECT (P09-006)

BACKGROUND

- A. On March 24, 2011, the City Planning Commission conducted a public hearing on, and forwarded to the City Council a recommendation to approve with conditions the Provence Project.
- B. On April 21, 2011, 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) and received and considered evidence concerning the Provence 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 was prepared to analyze whether the Project was described in the Master EIR and whether the Project would cause any significant additional environmental effects (project-specific effects) that were not analyzed in the Master EIR for the 2030 General Plan.
- B. The Initial Study concluded that the Project was described in the Master EIR, and identified mitigation in the Master EIR that would apply to the Project. The Initial Study identified mitigation measures that were incorporated to revise the project before the environmental document was released for public review pursuant to CEQA Guidelines Section 15073 in order to avoid or mitigate the identified effects to a level of insignificance. (CEQA Guidelines Section 15178(b)). As part of the Master EIR process, the City incorporated all feasible mitigation measures or feasible alternatives appropriate to the project as set forth in the Master EIR (CEQA Guidelines Section 15177(d)).
- C. The above review concluded that there is 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 May 8, 2009 a Notice of Intent to Adopt the MND (NOI) dated May 8, 2009 was circulated for public comments for 20 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 May 8, 2009, 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.

Section 8. Exhibit A is a part of this Resolution.

Table of Contents:

Exhibit 4A: Mitigation Monitoring Program – 6 pages

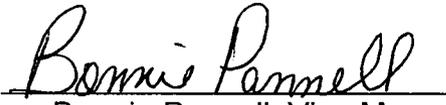
Adopted by the City of Sacramento City Council on April 21, 2011 by the following vote:

Ayes: Councilmembers Ashby, Cohn, D Fong, R Fong, McCarty, Pannell, Schenirer, Sheedy.

Noes: None.

Abstain: None.

Absent: Mayor Johnson.


Bonnie Pannell, Vice-Mayor

Attest:

for 
Shirley Concolino, City Clerk

Exhibit 4A: Mitigation Monitoring Plan

MITIGATION MONITORING PLAN

FOR

PROVENCE (P09-006)

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

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

DATE:

DATE

**ADOPTED BY:
CITY OF SACRAMENTO
PLANNING COMMISSION**

DATE:

ATTEST:

**Provence (P09-006)
MITIGATION MONITORING PLAN**

This Mitigation Monitoring Plan (MMP) has been required by and prepared for the City of Sacramento Community Development 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: Provence (P09-006)
Owner/Developer- Name: Kevin Smith
RC Natomas LLC
Address: 4060 Campus Drive, Suite 100
Newport Beach, CA 92660
916-838-6651

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

The proposed project site is located southwest of the intersection of East Commerce Way and Benefit Way. The proposed project is located within the North Natomas Community Plan area of the City of Sacramento. The project site includes Assessor's Parcel Number 225-2330-002 thru -076, 225-2680-002 thru -083 and 225-2690-002 thru -069.

Project Description:

The proposed project consists of development entitlements to construct 237 condominium units on the project site. The proposed project seeks a modification to the previous approval for 187 units of townhouse development (P06-194) of which five homes have been constructed. The proposed project requires a PUD Schematic Plan Amendment to re-designate the use and allowable density of the site, a Tentative Map, a Special Permit for alternative ownership housing and a Special Permit Modification to amend the previous approval on the site (P06-194).

SECTION 2: GENERAL INFORMATION

The Plan includes mitigation for Aesthetics, Cultural Resources, Hydrology and Noise. 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 within the MMP. The City of Sacramento will be responsible for ensuring compliance.

Provence (P09-006)
MITIGATION MONITORING PLAN

MITIGATION AGREEMENT

PROJECT NAME / FILE NUMBER: Provence (P09-006)
OWNER/DEVELOPER/APPLICANT: Kevin Smith
RC Natomas LLC
Address: 4060 Campus Drive, Suite 100
Newport Beach, CA 92660
916-838-6651

RC
I, ~~NATHAN S. BIRCHALL, NATOMAS~~ (owner/developer/applicant), agree to amend the project application P09-006 to incorporate the attached mitigation measures as identified in the Initial Study for the project. I understand that by agreeing to these mitigation measures, all identified potentially significant environmental impacts should be reduced to below a level of significance, thereby enabling the Environmental Coordinator to prepare an Addendum to the previously approved Mitigated Negative Declaration of environmental impact for the above referenced project.

I also understand that the City of Sacramento will adopt a Mitigation Monitoring Plan (Plan) for this project. This Plan will be prepared by the Community Development Department, pursuant to the California Environmental Quality Act Guidelines Section 21081.6 and pursuant to Article III of the City's Local Administrative Procedures for the Preparation of Environmental Documents.

I acknowledge that this project, P09-006, would be subject to this Plan at the time the Plan is adopted. This Plan will establish responsibilities for the monitoring of my project by various City Departments and by other public agencies under the terms of the agreed upon mitigation measures. I understand that the mitigation measures adopted for my project may require the expenditure of owner/developer funds where necessary to comply with the provisions of said mitigation measures.



Signature (Owner/Developer/Applicant)

CFO

Title

12/8/10

Date

**Provence (P09-006)
MITIGATION MONITORING PLAN**

Environmental Resource	Mitigation Measure	Responsible Entity	Compliance Milestone / Confirm Complete
Aesthetics	Aesthetics 1: Project outdoor lighting shall be oriented away from adjacent properties and shall not produce a glare or reflection on neighboring properties or adjacent streets or property.	Community Development Department	Prior to issuance of any grading or building permit, measures identified on plans shall be verified for compliance. The Community Development 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: 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.	Community Development Department, Native American Heritage Commission	Prior to issuance of any grading or building permit, measures identified on plans shall be verified for compliance. The Community Development Department shall assure that measures are identified on construction plans and specifications and confirm compliance prior to

**Provence (P09-006)
MITIGATION MONITORING PLAN**

	<p>CR-2: If a Native American site is discovered, the evaluation process shall include consultation with the appropriate Native American representatives.</p> <p>a. 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.</p> <p>b. 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-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 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.</p>		<p>issuance of any grading or building permit.</p>
<p>Hydrology and Water Quality</p>	<p>Hydro 1 Construction and operation of the project shall not commence prior to recertification of the Natomas levees by the USACE and FEMA, and the subsequent removal of Natomas Basin from the 100-year floodplain and associated flood zone redesignation; or until FEMA redesignates the Natomas Basin with a flood zone designation that would permit development of the proposed project. The above measures shall terminate upon the first recertification of the levees by the U.S. Army Corps of Engineers.</p>	<p>Community Development Department, United States Army Corp of Engineers</p>	<p>Prior to issuance of any grading or building permit, measures identified on plans shall be verified for compliance. The Community Development Department</p>

**Provence (P09-006)
MITIGATION MONITORING PLAN**

	<p>Hydro 2: The project applicant shall participate in a funding mechanism such as an assessment district established by SAFCA and/or the City for the purpose of implementing measures that would provide no less than 100-year flood protection including the North Natomas Area; or for that portion of the Natomas Basin requiring re-certification for 100-year flood protection including the Project site provided that such funding mechanism is (i) based on a nexus study; (ii) is regional in nature; (iii) is proportionate; (iv) complies with all applicable laws and ordinances; and (3) the requirements of the applicable FEMA zone and corresponding requirements under the City of Sacramento's Floodplain Ordinance shall be satisfied prior to the issuance of building permits for the project. Any future homeowners within the floodzone shall maintain federal flood insurance, as required under the applicable FEMA and City of Sacramento Floodplain Management Ordinance regulations. The above measures shall terminate upon the first recertification of the levees by the U.S. Army Corps of Engineers.</p>		<p>shall assure that measures are identified on construction plans and specifications and confirm compliance prior to issuance of any grading or building permit.</p>
<p>Noise</p>	<p>Noise 1: STC 32 rated window assemblies shall be installed in all second and third floor windows with a direct view of East Commerce Way.</p> <p>Noise 2: Each residential unit shall include a mechanical ventilation system to allow occupants to keep windows and doors closed to achieve isolation from exterior noise sources.</p>	<p>Community Development Department</p>	<p>Prior to issuance of any grading or building permit, measures identified on plans shall be verified for compliance. The Community Development Department shall assure that measures are identified on construction plans and specifications and confirm compliance prior to issuance of any grading or building permit.</p>