

# NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION

California Environmental Quality Act



**CITY OF CONCORD**  
**Community Development Dept.**  
1950 Parkside Drive, MS/52  
Concord, CA 94519

PHONE: (925) 671-3425  
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Pursuant to the State of California Public Resources Code and the "Guidelines for Implementation of the California Environmental Quality Act of 1970" as amended to date, this is to advise you that the City of Concord has prepared an initial study on the following project.

## **PROJECT**

Ellis Lake Park Project

## **LOCATION/ADDRESS**

Ellis Lake Park  
1736 Clayton Road  
Concord, CA 94520

## **APPLICATION NUMBERS**

City Project No. 2558

## **APN(s)**

126-240-007, 126-240-008, 126-240-024, 126-240-044

## **GENERAL PLAN DESIGNATION AND ZONING**

General Plan: Parks and Recreation (P)  
Zoning: Parks and Recreation (PR)

## **LEAD AGENCY**

City of Concord Engineering Division  
1950 Parkside Drive  
Concord, CA 94519

## **DESCRIPTION OF PROJECT**

The project would include renovations and additions to the existing 9.6-acre Ellis Lake Park (Park) such as renewal of existing amenities, addition of new amenities, added security measures, and beautification of the Park's natural elements. The project objective is to increase access, security, and both passive and active enjoyment of the Park.

Park renovations would include renewing and replacing the existing path throughout the Park by widening the existing path around Ellis Lake to a 15,000 square foot path. The project would also include the addition of 8,000 square feet of trail for biking and running that would connect Laguna Street to Clayton Road. The project would renew existing pathways to provide 25,000 square feet of pathway for Americans with Disabilities Act (ADA) enhancements. Existing concrete paths would be replaced to accommodate ADA accessibility. The project would also include updates to the Park's playground amenities, including replacement of wood chips with softer foam surface material. The existing parking area would be expanded by approximately 6,400 square feet off Clayton Road. The expansion would include 17 new parking spaces.

Renovations would also include trimming unhealthy vegetation and "dredging" the lake to improve water quality. The dredging activity would include removing particles from Ellis Lake and improving water quality. Dredging would not disturb sediment at the bottom of the lake. Three safety barriers would be added to Ellis Lake during dredging to maintain the lake's shoreline. The safety barriers would occur outside of the dripline of the trees, where feasible. Tree maintenance and trimming would occur at existing trees surrounding the northeastern portion of Ellis Lake. Existing earthen mounds throughout the Park would be leveled as part of the project. Remaining grassed areas would be graded to allow for full visibility throughout the Park for visitors and for security by Concord staff monitoring the Park. A total of 23,000 cubic yards of earthen material would be leveled and contoured throughout the Park (15,000 cubic yards for leveling the mounds and 8,000 cubic yards for contouring grassed areas).

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*Ellis Lake Park Project*

*October 2021*

The project would add new amenities to the Park including a basketball court, two community gardens, seating, and barbecue equipment. The proposed basketball court would be a 4,284 square foot concrete slab with lighting and fencing located east of the existing parking lot. The two community gardens would each include 15 to 20 filled 40 square foot garden beds with irrigation and fencing to offer community access to planting and gardening. One garden would be located in the southeast portion of the Park and the second garden would be located south of Clayton Road and west of the Keller House. The project would include six shaded seating tables throughout the Park. The new barbecue area with three barbecues would be located east of Ellis Street at the northern portion of Ellis Lake. Two new playgrounds and one playground renovation are proposed within the Park. In addition, an adult exercise area would be added east of the existing parking lot near a proposed playground. To address current security concerns security lighting a total of 20 solar security lights would be added throughout the Park. To allow for larger hosted events, a stage area with a shaded cover would be constructed extending on piers into the lake’s edge. The round stage would include up to six piles for a total of approximately 42.4 square feet of fill. Public art is proposed on and near the stage, as well as along the proposed fence screening the rear of the Ashbury Lane properties.

**DECLARATION**

Based on the Initial Study – Mitigated Negative Declaration dated November 2021, the City staff has determined:

- This project does not have the potential to degrade the quality of the environment, nor to substantially reduce, threaten or eliminate plant, fish or animal communities, or important examples of the major periods of California history or prehistory.
- This project will not have a detrimental effect upon either short-term or long-term environmental goals.
- This project will not have impacts that are individually limited, nor cumulatively considerable.
- This project will not have environmental impacts that will cause substantial adverse effect upon human beings, either directly or indirectly.
- This project will not adversely impact wildlife resources, and is therefore exempt from the fee requirements of Section 711.2 of the Fish and Game Code.
- The project site does not appear on any of the lists enumerated under Section 65962.5 of the Government Code including, but not limited to lists of hazardous waste facilities, land designated as hazardous waste property, and hazardous waste disposal sites, and the information in the Hazardous Waste and Substances Statement required under subsection (f) of that section.

The aforementioned findings are contingent upon the following mitigation measures (if indicated) which have been incorporated into this project:

- See attached mitigation measures.
- None required.

**PUBLIC COMMENT PERIOD**

**Starting on November 1, 2021 through December 3, 2021, the public and all affected agencies are hereby invited to review the Mitigated Negative Declaration and Initial Environmental Impact Analysis with mitigation measures and submit written comments. Such comments may be submitted prior to or during the Commission’s hearing(s).**

**PUBLIC HEARING DATES**

**PLANNING COMMISSION MEETING**

6:30 p.m. – To be determined

Online at

<https://www.cityofconcord.org/401/Planning-Commission>

**CITY COUNCIL MEETING**

6:30 p.m. – To be determined

Online at

<https://www.cityofconcord.org/771/Public-Meetings>

**DOCUMENT AVAILABILITY**

**The Mitigated Negative Declaration and Initial Environmental Impact Analysis with mitigation measures and other supporting environmental documents are available for public review at the City of Concord Permit Center located at 1950**

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**Parkside Drive, Building D, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. The document may also be accessed on the City's website at <https://www.cityofconcord.org/458/Environmental-Documents>.**

**MITIGATED NEGATIVE DECLARATION PREPARED BY**

City of Concord  
Community Development Dept. Engineering Division  
1950 Parkside Drive, MS/40  
Concord, CA 94519

Contact: Tianjun Cao  
Title: Associate Civil Engineer  
Telephone: (925) 671-3243

Signature  \_\_\_\_\_

Date November 1, 2021

**COMMENTS DUE BY DECEMBER 3, 2021.**

The attached Mitigated Negative Declaration dated October 2021 is being referred to your agency/City department for review and comment. Your written comments should be received prior to **December 3, 2021**, or be submitted verbally during the Public Hearing. If you have any questions, please contact the Contact Person above.

**ATTACHMENTS**

Exhibit A – Mitigation Measures

# Mitigation Measures

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Ellis Lake Park Project

# List of Mitigation Measures

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The following sections are a complete list of mitigation measures associated with the Ellis Lake Park Project.

## Air Quality

### Mitigation Measure

#### *AQ-1 Fugitive Dust Control Best Management Practices (BMPs)*

The construction contractor(s) shall implement fugitive dust control BMPs during site preparation and grading activities, as recommended by the BAAQMD:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times daily.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- A publicly visible sign with the telephone number and person to contact at the City of Concord regarding dust complaints shall be posted. This person shall respond and take corrective action within 48 hours. The BAAQMD's phone number shall also be visible to ensure compliance with applicable regulations.
- The City shall confirm that BMPs are implemented during site preparation and grading activities through spot checks during construction.

## Biological Resources

### Mitigation Measures

#### *BIO-1 Nesting Birds*

- Project construction shall be conducted outside of the nesting season to the extent feasible (September 1 to January 31). If vegetation removal, grading, or initial ground-disturbing activities are conducted during the nesting season, a qualified biologist shall conduct a pre-construction nesting bird survey no more than 14 days prior to vegetation removal or initial

ground disturbance. Nesting habitat may include grasslands, shrubs, trees, snags and open ground. The survey shall include all potential nesting habitat in the project site and within 300 feet of the proposed project grading boundaries to identify the location and status of any nests that could potentially be affected by project activities. The biologist shall submit a report of the preconstruction nesting bird survey to the City to document compliance within 30 days of its completion.

- If active nests of protected species are found within project impact areas or close enough to these areas to affect breeding success, the biologist shall establish a work exclusion zone around each nest that shall be followed by the contractor. Established exclusion zones shall remain in place until all young in the nest have fledged or the nest otherwise becomes inactive (e.g., due to predation). Appropriate exclusion zone sizes vary dependent upon bird species, nest location, existing visual buffers, ambient sound levels, and other factors; an exclusion zone radius may be as small as 25 feet (for common, disturbance-adapted species) or as large as 250 feet or more for raptors. Exclusion zone size may also be reduced from established levels if supported with nest monitoring by a qualified biologist indicating that work activities outside the reduced radius are not adversely impacting the nest. The biologist shall submit a report of the success of the exclusion zone to the City to document compliance within 30 days of completion of project construction.

#### *BIO-2 Jurisdictional Delineation*

Prior to project construction, the City shall direct a qualified biologist to delineate those areas on the project site that are under the jurisdiction of CDFW and RWQCB. The qualified biologist shall submit the jurisdictional delineation to the City, RWQCB, and/or CDFW, as appropriate, for review and approval. If the project cannot be designed to avoid impacts to jurisdictional resources, the City shall obtain appropriate regulatory permits and implement all required mitigation measures as directed by the regulating agency.

#### *BIO-3 Habitat Restoration/Enhancement Plan (HREP)*

If impacts to CDFW and RWQCB jurisdictional habitats cannot be avoided, then prior to issuance of a grading permit, the City shall prepare a site-specific Habitat Restoration/Enhancement Plan (HREP). Direct impacts to riparian habitat (i.e., Fremont cottonwood forest and woodland, riparian woodland, lake, and associated wetlands) shall be offset through purchase of credits at a RWQCB, and CDFW-approved mitigation bank for creation or enhancement of sensitive natural communities at a 2:1 ratio for permanent impacts and 0.5:1 for temporary impacts. If the project falls outside of RWQCB-, and CDFW-approved mitigation bank service areas, impacts to sensitive natural communities shall be offset through habitat restoration and/or enhancement at an off-site location at a minimum ratio of 1:1 (habitat restored and/or enhanced to habitat impacted). The location of restoration and/or enhancement shall be determined by a qualified biologist. The restoration and/or enhancement shall include locally native species approved by the City. The restoration and/or enhancement shall be incorporated into an Off-Site Habitat Restoration/Enhancement Plan to be developed by a qualified biologist pursuant to the requirements listed below. As identified in component (i) below, upon completion of restoration/enhancement, the City will notify relevant agencies and agencies will confirm that compensatory mitigation has been completed.

The HREP shall include, at a minimum, the following components:

- a. Description of the project/impact site (i.e., location, responsible parties, areas to be impacted by habitat type);

- b. Goal(s) of the compensatory mitigation project (i.e., the type/types and area/areas of habitat to be established, restored, enhanced, and/or preserved; specific functions and values of habitat type/types to be established, restored, enhanced, and/or preserved);
- c. Description of the proposed compensatory mitigation-site (i.e., location and size, ownership status, existing functions and values of the compensatory mitigation-site);
- d. Implementation plan for the compensatory mitigation site (the plan will include rationale for expecting implementation success, responsible parties, schedule, site preparation, planting plan, including plant species to be used, container sizes, and seeding rates);
- e. Maintenance activities during the monitoring period, including weed removal and irrigation as appropriate (the plan will include activities, responsible parties, and schedule);
- f. Monitoring plan for the compensatory mitigation-site, including no less than quarterly monitoring for the first year; the plan will include performance standards, target functions and values, target acreages to be established, restored, enhanced, and/or preserved, annual monitoring reports;
- g. Success criteria based on the goals and measurable objectives; said criteria to be, at a minimum, at least 80 percent survival of container plants and 30 percent relative cover by vegetation type;
- h. An adaptive management program and remedial measures to address negative impacts to restoration efforts;
- i. Notification of completion of compensatory mitigation and agency confirmation; and
- j. Contingency measures (e.g., initiating procedures, alternative locations for contingency compensatory mitigation, funding mechanism).

## Cultural Resources

### **Mitigation Measures**

#### *CUL-1 Worker's Environmental Awareness Program*

The City shall retain a qualified archaeologist to conduct a Worker's Environmental Awareness Program (WEAP) training on archaeological sensitivity for all construction personnel prior to the commencement of any ground-disturbing activities. The training shall be conducted by an archaeologist who meets or exceeds the Secretary of Interior's Professional Qualification Standards for archeology (National Park Service [NPS] 1983). Archaeological sensitivity training shall include a description of the types of cultural material that may be encountered, cultural sensitivity issues, the regulatory environment, and the proper protocol for treatment of the materials in the event of a find. The archeologist shall submit a sign-in sheet for the WEAP training to the City to document compliance within 30 days of its completion.

#### *CUL-2 Archaeological and Native American Monitoring*

The City shall retain a qualified archaeologist and Native American consultant to monitor all project-related ground disturbing activities. The monitoring program shall include spot-checking of the earthen mounds to confirm they are comprised of artificial and/or culturally-sterile fill.

Archaeological monitoring shall be performed under the direction of an archaeologist meeting the Secretary of the Interior's Professional Qualification Standards for archeology (National Park Service 1983). Native American monitoring shall be provided by a locally affiliated tribal member(s).

Monitors will have the authority to halt and redirect work should any archaeological resources be identified during monitoring. If archaeological resources are encountered during ground-disturbing activities, work in the immediate area must halt and the find will be evaluated for listing in the CRHR and NRHP. Archaeological or Native American monitoring or both may be reduced or halted at the discretion of the monitors, in consultation with the lead agency, as warranted by conditions such as encountering bedrock, sediments being excavated are fill, or negative findings during the first 50 percent of ground-disturbance. If monitoring is reduced to spot-checking, spot-checking shall occur when ground-disturbance moves to a new location within the project site and when ground disturbance will extend to depths not previously reached (unless those depths are within bedrock). If the earthen mounds are confirmed to be artificial fill and/or culturally sterile, spot checking of the mound removal may be halted. The monitors shall submit a report to the City to document compliance within 30 days of completion of ground disturbing activities.

### *CUL-3 Unanticipated Discovery of Cultural Resources*

In the unlikely event that archaeological resources are unexpectedly encountered during ground-disturbing activities, work within 50 feet of the find shall halt and an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards for archeology (National Park Service 1983) shall be contacted immediately to evaluate the find. If the find is prehistoric, then a Native American representative shall also be contacted to participate in the evaluation of the find. If necessary, the evaluation may require preparation of a treatment plan and archaeological testing for CRHR eligibility. If the discovery proves to be eligible for the CRHR and cannot be avoided by the modified project, additional work, such as data recovery excavation, may be warranted to mitigate any significant impacts to cultural resources. The City shall review and approve the treatment plan and archeological testing as appropriate.

## Geology and Soils

### **Mitigation Measure**

#### *GEO-1 Unanticipated Discovery of Paleontological Resources*

In the event that an unanticipated fossil discovery is made during the course of project construction, then in accordance with Society of Vertebrate Paleontology (SVP) guidelines (2010), it is the responsibility of any worker who observes fossils within the project site to stop work within 50 feet of the find and notify a qualified professional paleontologist who shall be retained to evaluate the discovery, determine its significance and if additional mitigation or treatment is warranted. Work in the area of the discovery will resume once the find is properly documented and authorization is given to resume construction work. Any significant paleontological resources found during construction monitoring will be prepared, identified, analyzed, and permanently curated in an approved regional museum repository. The paleontologist shall submit a report to the City to document compliance within 30 days of its completion.



## Noise

### Mitigation Measure

#### *NOI-1 Construction Noise Reduction*

The City shall reduce construction noise levels at the nearby single- and multi-family uses to the south of the project site to a noise level not to exceed the City's construction noise thresholds of 70 dBA for land zoned single-family residential and high-density residential. This shall be accomplished through the following required measures:

- Installation of temporary sound barriers/blankets along the southern project boundary line adjacent to the single-family and multi-family receivers. The temporary barriers/blankets shall be installed along the southern project boundary line when construction occurs within 85 feet of multi-family residential land uses and 155 feet of single-family residential land uses. The temporary barriers/blankets shall have a minimum sound transmission loss of 21 and noise reduction coefficient of 0.75. The temporary barriers/blankets will be of sufficient height to extend from the top of the temporary construction fence and drape on the ground or be sealed at the ground. The temporary barriers/blankets will have grommets along the top edge with exterior grade hooks, and loop fasteners along the vertical edges with overlapping seams, with a minimum overlap of 2 inches.
- Provide a sign at the yard entrance, or other conspicuous location, that includes a 24-hour telephone number for project information, and a procedure where a field engineer/construction manager will respond to and investigate noise complaints and take corrective action if necessary in a timely manner. The sign will have a minimum dimension of 48 inches wide by 24 inches high. The sign will be placed 5 feet above ground level.
- If a noise complaint(s) is registered, the contractor will retain a City-approved noise consultant to conduct noise measurements at the use(s) that registered the complaint. The noise measurements will be conducted for a minimum of 1 hour and will include 1-minute intervals. The consultant will prepare a letter report for code enforcement summarizing the measurements, calculation data used in determining impacts, and potential measures to reduce noise levels to the maximum extent feasible.

## Tribal Cultural Resources

### Mitigation Measure

#### *TCR-1 Suspension of Work Around Tribal Cultural Resources*

In the event that cultural resources of Native American origin are identified during implementation of the proposed project, all earth-disturbing work within 50 feet of the find shall be temporarily suspended or redirected until an archaeologist has evaluated the nature and significance of the find as a cultural resource and an appropriate local Native American representative is consulted. If the City, in consultation with local Native Americans, determines that the resource is a tribal cultural resource and thus significant under CEQA, a mitigation plan shall be prepared and implemented in accordance with state guidelines and in consultation with local Native American group(s). The plan shall include avoidance of the resource or, if avoidance of the resource is infeasible, the plan shall outline the appropriate treatment of the resource in coordination with the appropriate local Native

American tribal representative and, if applicable, a qualified archaeologist. Examples of appropriate mitigation for tribal cultural resources include, but are not limited to, protecting the cultural character and integrity of the resource, protecting traditional use of the resource, protecting the confidentiality of the resource, or heritage recovery.