

**RESOLUTION NO. 2023-20**

**RESOLUTION OF THE CITY OF PETALUMA PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT A MITIGATED NEGATIVE DECLARATION (MND) AND MITIGATION MONITORING AND REPORTING PROGRAM (MMRP) FOR THE DOWNTOWN HOUSING & ECONOMIC OPPORTUNITY OVERLAY AND EKN APPELLATION HOTEL PROJECT LOCATED WITHIN DOWNTOWN PETALUMA AND PARTIALLY WITHIN THE DOWNTOWN COMMERCIAL HISTORIC DISTRICT (OVERLAY); AND 2 PETALUMA BOULEVARD SOUTH (HOTEL) ASSESSOR PARCEL NUMBERS: 008-063-008; 008-063-009; 008-063-011; FILE NO. OVERLAY: PLGP-2023-0001 AND PLZA-2023-0002; HOTEL: PLSR-2022-0017**

**WHEREAS**, Mike Jolly of EKN Development Group, submitted an application for Historic Site Plan and Architectural Review (HSPAR), and Conditional Use Permit (CUP) for the EKN Appellation Hotel (formerly Hotel Weaver) project; and

**WHEREAS**, the EKN Appellation Hotel project proposes construction of a 6-story, 93-room hotel that would include a below-grade parking garage with valet parking for 58 vehicles, food service uses on the ground floor and a rooftop event space and bar; and

**WHEREAS**, based on the proposed height, lot coverage, and floor area ratio (FAR), the proposed Hotel also requires a General Plan Amendment (GPA), Zoning Map Amendment (ZMA), and Zoning Text Amendment (ZTA); and

**WHEREAS**, the City of Petaluma conducted publicly noticed study sessions on June 13, 2023, August 8, 2023, and October 3, 2023, to develop the scope and content of a Downtown Housing & Economic Opportunity Overlay, which would apply amendments to the General Plan and Implementing Zoning Ordinance, initiated as a result of the EKN Appellation Hotel project, to three areas within downtown Petaluma, referred to as Subareas A, B, and C; and

**WHEREAS**, the proposed Downtown Housing & Economic Opportunity Overlay and EKN Appellation Hotel are subject to the Petaluma General Plan 2025, adopted by the City Council on May 19, 2008; and

**WHEREAS**, the General Plan EIR reviewed potentially significant environmental effects resulting from plan implementation and developed measures and policies to mitigate impacts; and

**WHEREAS**, despite incorporation of measures and policies to mitigate impacts of build out under the General Plan, the General Plan EIR identified significant and unavoidable impacts related to traffic, noise, air quality, and greenhouse gas emissions; and

**WHEREAS**, the General Plan EIR was certified by the City Council on April 7, 2008, and the City adopted a statement of overriding considerations, which balanced the merits of approving the plan despite the significant environmental effects; and

**WHEREAS**, three parcels within Subareas A and one parcel within Subarea B of the proposed Downtown Housing & Economic Opportunity Overlay are also within the boundaries of the Petaluma Historic Commercial District and Subarea C is adjacent to the Petaluma Historic Commercial District; and

**WHEREAS**, the intent of the Downtown Housing & Economic Opportunity Overlay is to facilitate the development of residential uses, orderly economic development, preservation of historic buildings and resources and the Commercial Historic District activate the ground levels, and incorporate sites with the greatest opportunity for redevelopment activity by increasing the allowable floor area ratio from 2.5 to 6.0, building height from 45 feet to up to 75 feet subject to approval of a conditional use permit, and lot coverage from 80% to 100% subject to approval of a conditional use permit, and subject to development and design controls for properties within the proposed Overlay; and

**WHEREAS**, the discretionary Planning approvals for the Downtown Housing & Economic Opportunity Overlay (General Plan and Zoning Amendments) and EKN Appellation Hotel (Historic Site Plan and Architectural Review and Conditional Use Permit) are defined as a “project” pursuant to California Environmental Quality Act (CEQA) Guidelines Section 21065 and are therefore subject to the requirements for analysis under CEQA; and

**WHEREAS**, pursuant to CEQA Guidelines Section 15378(a) a “project” means the whole of an action, which has the potential to result in either a direct physical change to the environment, or a reasonably foreseeable indirect physical change in the environment; and

**WHEREAS**, pursuant to CEQA Guidelines Section 15378(c), the term “project” refers to the activity which is being approved and which may be subject to several discretionary approvals, and does not mean each separate discretionary approval; and

**WHEREAS**, for purposes of CEQA, the Downtown Housing & Economic Opportunity Overlay and the EKN Appellation Hotel are considered the “project” and therefore are considered concurrently in the same environmental document; and

**WHEREAS**, for purposes of discretionary approvals subject to review by the City’s Historic and Cultural Preservation Committee, Planning Commission, and City Council, the Downtown Housing & Economic Opportunity Overlay and EKN Appellation Hotel may be considered separately; and

**WHEREAS**, pursuant to CEQA Guidelines Section 15063, following preliminary review, an Initial Study (IS) was prepared to determine whether the project would result in a significant impact on the environment; and

**WHEREAS**, pursuant to CEQA Guidelines Section 15063(a)(1), the Initial Study analyzed all phases of project planning, implementation, and operation; and

**WHEREAS**, pursuant to CEQA Guidelines Section 15063(a)(3), the Initial Study relied upon expert opinion supported by facts, technical studies, applicable regulatory documents, City of Petaluma ordinances and regulations, and other substantial evidence to document findings; and

**WHEREAS**, pursuant to CEQA Guidelines Section 15063(a)(4), in evaluating the potential environmental effects of the project within the Initial Study, the City tiered from the program Environmental Impact Report (EIR) for the City of Petaluma General Plan 2025, certified on April 7, 2008 (General Plan EIR) through adoption of Resolution No. 2008-058 N.C.S.; and

**WHEREAS**, the General Plan EIR identified potentially significant environmental impacts and related mitigation measures, and the City also adopted a Statement of Overriding Considerations for significant impacts that could not be avoided; and

**WHEREAS**, pursuant to CEQA Guidelines Section 15063(b)(1), the results of the Initial Study determined that some aspects of the project may cause a significant environmental impact while other potential impacts were adequately examined in the previously certified General Plan EIR; and

**WHEREAS**, pursuant to CEQA Guidelines Section 15063(b)(2), the City as the Lead Agency prepared a Mitigated Negative Declaration (MND) to analyze the potential for new or additional significant environmental impacts of the project beyond those identified in the previously certified General Plan EIR; and

**WHEREAS**, the MND concluded that all potentially significant environmental impacts related to the environmental resources areas of Aesthetics, Air Quality, Biological Resources, Cultural and Tribal Cultural Resources, Geology and Soils, Greenhouse Gas Emissions, Hazards, Hydrology, Noise, and Transportation, will be reduced to less than significant levels through compliance with applicable General Plan policies, Municipal Code regulations, Implementing Zoning Ordinance regulations, discretionary review of future developments, and project-specific mitigation measures; and

**WHEREAS**, the City as the Lead Agency, found no substantial evidence in the IS that the project may significantly affect the environment, which is defined as a “substantial or potentially substantial adverse change in the environment”, the City determined that an Environmental Impact Report (EIR) was not required and that an MND sufficiently analyzed the projects potential impacts; and

**WHEREAS**, as detailed throughout the IS/MND, no physical development will occur as a result of adoption of the proposed Downtown Housing & Economic Opportunity Overlay, and the only foreseeable potential development within the Overlay is the EKN Appellation Hotel; and

**WHEREAS**, future site-specific development proposals within the Downtown Housing & Economic Opportunity Overlay, including the EKN Appellation Hotel, will be subject to a separate discretionary review processes, including Site Plan and Architectural Review (SPAR), Historic Site Plan and Architectural Review (HSPAR), and Conditional Use Permit (CUP); and

**WHEREAS**, consistent with CEQA, future development proposals within the proposed Overlay requesting approval of SPAR, HSPAR, and/or CUP, are discretionary in nature and therefore defined as “projects” under CEQA, will also be subject to an independent CEQA analysis to determine potential impacts of site-specific proposals; and

**WHEREAS**, all future development proposals within the proposed Overlay will be subject to mitigation measures identified in the Draft IS/MND, or as revised through the Final IS/MND process, which include measures with clearly defined criteria for which the City of Petaluma will apply in determining the impacts of future development; and

**WHEREAS**, consistent with CEQA, the City of Petaluma, as the Lead Agency may rely on the future studies for site-specific developments to devise the specific design of mitigation measures as the results of later studies will be used to tailor mitigation measures to fit on-the-ground environmental conditions; and

**WHEREAS**, because the proposed Overlay will not result in direct physical development, identifying site-specific mitigation measures for potential impacts to the resource areas identified in the Draft IS/MND is not appropriate at this time as this would represent speculative analysis under CEQA; and

**WHEREAS**, on October 13, 2023, the City published the Notice of Availability of an Initial Study/MND on the City Project webpages, in the Petaluma Argus-Courier, filed the NOA with the Sonoma County Clerk, posted the NOA with the State Clearinghouse on CEQAnet, and mailed the NOA to all residents and property owners within 1,000 feet of the perimeter of the Downtown Housing & Economic Opportunity Overlay study area providing for a 30-day public comment period commencing October 13, 2023, and ending November 13, 2023; and

**WHEREAS**, on October 13, 2023, the City's Notice of Public Hearing to be held on October 24, 2023, before the City of Petaluma Planning Commission and Historic and Cultural Preservation Committee, was published in the Argus Courier and mailed to all residents and property owners within 1,000 feet of the perimeter of the Downtown Housing & Economic Opportunity Overlay study area as well as persons having requested special notice of said proceedings; and

**WHEREAS**, on October 24, 2023, the joint hearing of the Petaluma Planning Commission and Historic and Cultural Preservation Committee was continued to a date certain of November 14, 2023; and

**WHEREAS**, on November 2, 2023, the two signs were installed on-site to inform the public of the November 14, 2023, public hearing with the Planning Commission and Historic and Cultural Preservation Committee, in compliance with IZO Section 24.100.B; and

**WHEREAS**, on November 3, 2023, the City's Notice of Public Hearing to be held on November 14, 2023, before the City of Petaluma Planning Commission and Historic and Cultural Preservation Committee, was published in the Argus Courier and mailed to all residents and property owners within 1,000 feet of the perimeter of the Downtown Housing & Economic Opportunity Overlay study area as well as persons having requested special notice of said proceedings; and

**WHEREAS**, the Planning Commission and Historic and Cultural Preservation Committee held a duly noticed public hearing on November 14, 2023, at which time all interested parties had the opportunity to be heard; and

**WHEREAS**, pursuant to CEQA Guidelines Section 15074(a), the Planning Commission, as an advisory body to the City Council, independently considered the adequacy of the MND and provided a recommendation to the City Council, as the decision-making body; and

**WHEREAS**, the Planning Commission and Historic and Cultural Preservation Committee considered the Downtown Housing & Economic Opportunity Overlay project, the MND, supporting Initial Study, draft response to comments received on the MND, staff report dated November 14, 2023, and received and considered all written and oral public comments on environmental effects of the Project which were submitted up to and at the time of the public hearings; and

**WHEREAS**, the MND reflects the City's independent judgment and analysis of the potential for environmental impacts from the Project; and



**WHEREAS**, the MND, Initial Study, and related project and environmental documents, including the General Plan 2025 EIR, and all documents incorporated herein by reference, are available for review on the City's website and in the City Community Development Department at Petaluma City Hall, during normal business hours; and

**WHEREAS**, the custodian of the documents and other materials which constitute the record of proceedings for the Project is the City of Petaluma Community Development Department, 11 English Street, Petaluma, CA 94952; and

**WHEREAS**, while the Initial Study/MND for the Project identified potentially significant impacts, all significant impacts are mitigated to a less than significant level, and therefore the project would not result in any significant impacts to the environment.

**NOW THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF PETALUMA AS FOLLOWS:**

1. The foregoing recitals are declared to be true and correct and incorporated herein by reference.
2. Based on its review of the entire record herein, the Planning Commission recommends that the City Council make the following findings:
  - a. An Initial Study/MND was prepared, and proper notice provided in accordance with CEQA and local Guidelines.
  - b. Based on its review of the entire record herein, including the MND, the Initial Study, all supporting, referenced, and incorporated documents, and all comments received to date, the Planning Commission finds that there is no substantial evidence that the Project, as mitigated, will have a significant effect on the environment, and hereby recommends that the City Council adopt the MND for the Project, including the Mitigation Monitoring and Reporting Program as shown in Exhibit 1 attached hereto and incorporated into this Resolution.
  - c. The Project does have the potential to affect wildlife resources as defined in the Fish and Game code, either individually or cumulatively; However, with mitigation, these potential environmental impacts would be reduced to a less than significant level and is not exempt from Fish and Wildlife filing fees.
  - d. The Planning Commission reviewed the Initial Study/MND and considered the comments before making a recommendation on the Project. Pursuant to the analysis in the Initial Study/MND, the Project does not make a cumulatively considerable contribution to the significant and unavoidable cumulative traffic or noise impacts identified in the General Plan 2025 EIR.
  - e. The Hotel component of the project is located on a site listed on a Hazardous Waste Site List compiled by the State pursuant to Section 65962.5 of the Government Code; with mitigation, any potential environmental impact would be reduced to a less than significant level.
  - f. Pursuant to the analysis in the Initial Study/MND, the Project does not make a cumulatively considerable contribution to the significant and unavoidable cumulative impacts identified in the General Plan 2025 EIR.

**ADOPTED this 14<sup>th</sup> day of November 2023, by following vote:**

Commission Member	Aye	No	Absent	Abstain
Bauer	X			
Chair Hooper	X			
McErlane	X			
Vice Chair Racusen		X		
Whisman	X			
Vice Mayor Cader Thompson	X			
Mozes	X			

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Blake Hooper

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11/18/2024

Blake Hooper, Chair

ATTEST:

Signed by:

Andrew Trippel

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10/1/2024

Andrew Trippel, Planning Manager

APPROVED AS TO FORM:

Signed by:

Dylan Brady

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10/1/2024

Dylan Brady, Assistant City Attorney

**EXHIBIT 1**

<b>DOWNTOWN HOUSING &amp; ECONOMIC OPPORTUNITY OVERLAY AND EKN APPELLATION HOTEL MITIGATION MONITORING AND REPORTING PROGRAM</b>				
<b>MITIGATION MEASURE</b>	<b>IMPLEMENTATION</b>	<b>RESPONSIBLE PARTY</b>	<b>COMPLETION OF IMPLEMENTATION</b>	
			<b>ACTIVITY</b>	<b>DATE COMPLETED</b>
<b>AESTHETICS</b>				
<p><b>OVL AES-1:</b> Upon application of Site Plan and Architectural (SPAR), all development projects located within the Downtown Housing &amp; Economic Opportunity Overlay shall submit the following:</p> <ul style="list-style-type: none"> <li>• Documentation that the proposed development complies with the Petaluma Historic Commercial District Design Guidelines.</li> <li>• Documentation that the proposed development meets the Secretary of Interior's Standards.</li> <li>• Viewshed analysis depicting views of historic resources relative to the proposed project. Locations of viewshed(s) shall be confirmed on a case-by-case basis through the development review process. At a minimum, individual development proposals shall include a viewshed analysis from locations where historic resources are highly visible (e.g. Petaluma Blvd., Western Ave, 4<sup>th</sup> St/Kentucky St, B St, Washington St) and may be subject to a shade/shadow study.</li> </ul>	<ul style="list-style-type: none"> <li>• Submit documentation with SPAR and HSPAR application(s).</li> </ul>	<ul style="list-style-type: none"> <li>• City of Petaluma, Community Development Department</li> <li>• Individual property owners and/or developers</li> <li>• Architectural historian(s)</li> </ul>		

**EXHIBIT 1**

## DOWNTOWN HOUSING & ECONOMIC OPPORTUNITY OVERLAY AND EKN APPELLATION HOTEL MITIGATION MONITORING AND REPORTING PROGRAM

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<b>AIR QUALITY</b>				
<p><b>EKN AQ-1:</b> The latest BAAQMD recommended Best Management Practices (BMPs) to control for fugitive dust and exhaust during shall be incorporated into construction plans to require implementation of the following throughout all construction activities:</p> <ol style="list-style-type: none"> <li>1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.</li> <li>2. All haul trucks transporting soil, sand, or other loose material shall be covered.</li> <li>3. 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.</li> <li>4. All vehicle speeds on unpaved roads shall be limited to 15 mph.</li> <li>5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.</li> <li>6. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.</li> <li>7. All trucks and equipment, including their tires, shall be washed off prior to leaving the site.</li> <li>8. Unpaved roads providing access to sites located 100 feet or further from a paved road shall be treated with a 6- to 12-inch layer of compacted layer of wood chips, mulch, or gravel.</li> <li>9. Publicly visible signs shall be posted with the telephone number and name of the person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's General Air Pollution Complaints number shall also be visible to ensure compliance with applicable regulations.</li> </ol>	<ul style="list-style-type: none"> <li>• Measures shall be included in project design and construction documents.</li> <li>• Periodic inspections during construction to ensure that measures are in place.</li> </ul>	<ul style="list-style-type: none"> <li>• Applicant and/or contractor</li> <li>• City of Petaluma, Community Development Department</li> </ul>		

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<b>BIOLOGICAL RESOURCES</b>				
<b>EKN BIO-1:</b> Should construction activities commence during the bird nesting season (February 15 to September 15), a preconstruction nesting bird survey shall be conducted by a qualified biologist no more than 14 days prior to the start of ground disturbing activities. Areas within 300 feet of construction shall be surveyed for active nests. Should active nests be identified, a disturbance-free buffer shall be established based on the needs of the species identified and shall be maintained until a qualified biologist verifies that the nestlings have fledged, or the nest has failed. Should construction activities cease for 14 consecutive days or more within the nesting season, an additional nesting bird survey shall be required prior to resuming ground disturbing activities. Results of the nesting bird survey shall be submitted in writing to the City of Petaluma, Community Development Department.	<ul style="list-style-type: none"> <li>• Conduct surveys in accordance with this measure.</li> <li>• Conduct construction in conformance with measures herein.</li> <li>• Notify Community Development Department and CDFW in the event of discovery.</li> </ul>	<ul style="list-style-type: none"> <li>• Qualified biologist</li> <li>• Applicant and/or contractor</li> <li>• City of Petaluma, Community Development Department</li> <li>• CDFW</li> </ul>		
<b>EKN BIO-2:</b> The project shall incorporate design features including but not limited to window screens and coverings, window glazing, and overhangs to minimize risks of collisions with migrating avian species.	<ul style="list-style-type: none"> <li>• Measures shall be included in project design and construction documents.</li> <li>• Confirm inclusion in final design.</li> </ul>	<ul style="list-style-type: none"> <li>• Applicant and/or contractor</li> <li>• City of Petaluma, Community Development Department</li> </ul>		
<b>CULTURAL AND TRIBAL CULTURAL RESOURCES</b>				
<b>OVL C/TCUL-1:</b> Historic Resource Evaluation(s). Upon submittal of site-specific development proposals for sites located within the Downtown Housing & Economic Opportunity Overlay that contain structures 50 years or older, a Historic Resource Evaluation, or equivalent analysis, shall be submitted. The analysis shall provide information related to the structure(s) eligibility for listing as a historic resource pursuant to federal, state, and local criterion. If the analysis concludes that the structure(s) is/are eligible for listing, an integrity analysis shall also be conducted.	<ul style="list-style-type: none"> <li>• Submit documentation with SPAR and HSPAR applications</li> </ul>	<ul style="list-style-type: none"> <li>• Applicant and/or contractor</li> <li>• City of Petaluma, Community Development Department</li> </ul>		
<b>EKN C/TCUL-1:</b> Prior to ground-disturbing activities, exploratory hand-auger excavation shall be conducted in the area marked in green on the aerial photograph in Figure 18 of the Results of the Ground-Penetrating Radar (GPR)	<ul style="list-style-type: none"> <li>• Conduct in conformance with measures herein.</li> </ul>	<ul style="list-style-type: none"> <li>• Applicant and/or contractor</li> </ul>		



**EXHIBIT 1**

## DOWNTOWN HOUSING & ECONOMIC OPPORTUNITY OVERLAY AND EKN APPELLATION HOTEL MITIGATION MONITORING AND REPORTING PROGRAM

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and Historical Human Remains Detection Canine (HHRDC) Survey, prepared by Evans & DeShazo on September 25, 2023, to determine the presence/absence of a Native American deposit. The exploratory hand-auger excavation shall extend to at least one meter, which is the maximum depth in which the layered, sloping strata was detected by the GPR. The spoils produced from the excavations shall be screened through ¼-inch mesh to inspect the soil for artifacts or other indications of an archaeological resource. Each excavation shall be backfilled upon completion. A FIGR Tribal monitor shall be present for the excavation, and any artifacts identified within the excavations shall be subject to in-field analysis (i.e., photographs, descriptions, measurements, etc.), then given to the FIGR Tribal monitor for appropriate treatment.	<ul style="list-style-type: none"> <li>Notify City of Petaluma, Community Development Department in the event of potentially significant archaeological resource discovery.</li> <li>Include measure on project construction and improvement plans.</li> </ul>	<ul style="list-style-type: none"> <li>Qualified archaeologist</li> <li>FIGR representative</li> <li>City of Petaluma, Community Development Department</li> </ul>		
<b>EKN C/TCUL-2:</b> Prior to submittal of plans for building permit, the applicant shall obtain the services of a Secretary of Interior qualified archaeologist to prepare an Archaeological Monitoring Plan (AMP) and provide archaeological monitoring of project-related ground-disturbing activities. The AMP shall contain a provision for a preconstruction meeting and worker environmental Cultural Resource Awareness Training. The AMP shall take into account the findings of the HHRDC and GPR surveys and incorporate protocols for the identification, documentation and evaluation of buried archaeological features and human remains. The AMP should also provide procedures and guidelines for proper notification to Tribes, agencies, and stakeholders, as well as a curation and/or reburial plan for recovered materials. The archaeological monitor shall be empowered to halt construction activities at the location of a discovery to review possible archaeological material and to protect the resource while it is being assessed. Archaeological monitoring shall occur on a full-time basis until, in the archaeologist's judgment, archaeological resources are no longer likely to be encountered. A report shall also be prepared to document the findings after construction is completed.	<ul style="list-style-type: none"> <li>Prepare Plan in accordance with this measure.</li> <li>Incorporate into project design and print on construction documents.</li> <li>Implement all measures of Plan during construction.</li> <li>Submit report following completion of construction.</li> </ul>	<ul style="list-style-type: none"> <li>Applicant and/or contractor</li> <li>City of Petaluma, Community Development Department</li> <li>Qualified Archeologist</li> <li>FIGR</li> </ul>		
<b>EKN C/TCUL-3:</b> If an archaeological deposit is encountered during project-related, ground disturbing activities, all work within 50 feet of the discovery shall be redirected until a Secretary of Interior-qualified Archaeologist inspects	<ul style="list-style-type: none"> <li>Conduct construction in conformance with measures herein.</li> </ul>	<ul style="list-style-type: none"> <li>Applicant and/or contractor</li> </ul>		

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the material, assess its historical significance, and provides recommendations for the treatment of the discovery. Potentially significant historic-era resources may include all by-products of human land use greater than 50 years of age, including subsurface deposits of domestic type material (e.g., glass, ceramic, metal, wood, faunal remains, brick, etc.), buried alignments of stone, brick, or foundation elements, or infrastructure related to previous buildings, and possible features associated with open workspaces or yard spaces (e.g., stone/brick foundations; chimney remains; ceramics; buttons; insignia; bullets; tools; and fragments of ceramics, glass, metal, wood, faunal, brick, concrete, coal, botanical remains, etc.). Potentially significant prehistoric resources include midden soils, artifacts such as faunal bone, groundstone, fire-affected rock, baked clay, modified bone and/or shell, flake stone debitage, flake stone tools, etc., and features such as house floors, cooking pits, and interred burials.	<ul style="list-style-type: none"> <li>• Notify FIGR and City of Petaluma, Community Development Department in the event of potentially significant archaeological resource discovery.</li> <li>• Include measure on project construction and improvement plans.</li> <li>• On-site observation.</li> </ul>	<ul style="list-style-type: none"> <li>• City of Petaluma, Community Development Department</li> <li>• Qualified Archeologist</li> <li>• FIGR</li> </ul>		
<b>EKN C/TCUL-4:</b> If human remains are encountered within the project area during Project-related ground-disturbing activities, all work must stop within 100-feet of the discovery area, the area and associated spoils shall be secured to prevent further disturbance. The Sonoma County Coroner must be notified immediately. It is important that the suspected human remains, and the area around them, are undisturbed and the proper authorities are called to the scene as soon as possible. The coroner will determine if the remains are prehistoric Native American remains or of modern origin and if any further investigation by the coroner is warranted. If the remains are suspected to be prehistoric Native American remains, the coroner shall contact the NAHC by telephone within 24-hours. The NAHC will immediately notify the person it believes to be the most likely descendant (MLD) of the remains. The MLD has 48 hours to make recommendations to the landowner for treatment or disposition of the human remains. If the MLD does not make recommendations within 48 hours, the landowner shall reinter the remains in the project area, in a location that will be secure from future disturbances. If the landowner does not accept the descendant's recommendations, the owner or the descendant may request mediation by NAHC. According to the California Health and Safety Code, six (6) or more human burials at one (1) location constitute a cemetery (Section	<ul style="list-style-type: none"> <li>• Incorporate into project design and print on construction documents.</li> <li>• On-site observation.</li> </ul>	<ul style="list-style-type: none"> <li>• Applicant</li> <li>• Qualified archaeologist and/or FIGR representative</li> <li>• City of Petaluma, Community Development Department</li> <li>• NAHC</li> <li>• MLD</li> <li>• County Coroner</li> </ul>		

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8100), and willful disturbance of human remains is a felony (Section 7052). A Secretary of Interior-qualified Archaeologist shall also evaluate the historical significance of the discovery and the potential for additional remains and provide further recommendations for the treatment of the resource in coordination with the MLD.				
<b>GEOLOGY AND SOILS</b>				
<b>EKN GEO-1:</b> All applicable recommendations set forth in the Design Level Geotechnical Investigation prepared by Miller Pacific Engineering Group on January 28, 2022, for the subject property, including, but not limited to recommendations related to seismic design, site preparation and grading, foundation designs, retaining wall designs, settlement monitoring (see also measure GEO-3), site and foundation drainage, interior concrete slabs-on-grade, exterior concrete slabs, underground utilities, and recommendations for wintertime construction shall be implemented. Final grading plan, construction plans, and building plans shall demonstrate that recommendations set forth in the geotechnical reports have been incorporated into the final design of the project and to the satisfaction of the City of Petaluma, Public Works & Utilities Department.	<ul style="list-style-type: none"> <li>• Incorporate geotechnical recommendations into project construction and improvement plans.</li> <li>• The project geotechnical engineer shall inspect the construction work and shall certify to the City, prior to issuance of a certificate of occupancy that the improvements have been constructed in accordance with the geotechnical specifications.</li> </ul>	<ul style="list-style-type: none"> <li>• Applicant and/or contractor</li> <li>• Geotechnical Engineer</li> <li>• City of Petaluma, Community Development Department</li> <li>• City of Petaluma, Public Works and Utilities</li> </ul>		
<b>EKN GEO-2:</b> Prior to issuance of a grading permit, an erosion control plan along with grading and drainage plans shall be submitted to the City Engineer for review. All earthwork, grading, trenching, backfilling, and compaction operations shall be conducted in accordance with the City of Petaluma's Grading and Erosion Control Ordinance #1576, Title 17, Chapter 17.31 of the Petaluma Municipal Code. These plans shall detail erosion control measures such as site watering, sediment capture, equipment staging and laydown pad, and other	<ul style="list-style-type: none"> <li>• Compliance with approved erosion control plan.</li> </ul>	<ul style="list-style-type: none"> <li>• Applicant and/or contractor</li> <li>• Geotechnical Engineer</li> <li>• City of Petaluma,</li> </ul>		

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<b>DOWNTOWN HOUSING &amp; ECONOMIC OPPORTUNITY OVERLAY AND EKN APPELLATION HOTEL MITIGATION MONITORING AND REPORTING PROGRAM</b>				
<b>MITIGATION MEASURE</b>	<b>IMPLEMENTATION</b>	<b>RESPONSIBLE PARTY</b>	<b>COMPLETION OF IMPLEMENTATION</b>	
			<b>ACTIVITY</b>	<b>DATE COMPLETED</b>
erosion control measures to be implemented during construction activity on the project site.		Community Development Department <ul style="list-style-type: none"> <li>City of Petaluma, Public Works and Utilities</li> </ul>		
<b>EKN GEO-3:</b> Upon submittal of plans for project construction, a damage assessment of all existing adjacent structures and improvements shall be submitted to the City of Petaluma, Community Development Department. The damage assessment shall document existing conditions of adjacent improvements, including foundation cracking, un-level floors, out of plumb walls, out of square door/window openings, etc. Upon excavation of the proposed basement, vertical and lateral control points shall be established. Throughout project construction, the control points shall be periodically measured and monitored by a licensed surveyor to determine if any vertical or lateral movement is occurring adjacent to the excavation. If any movement is observed/measured, steps shall be taken to strengthen the excavation shoring to control settlements and lateral movements. All measurements shall be provided to the City of Petaluma, Community Development Department.	<ul style="list-style-type: none"> <li>Submit documentation in compliance with this measure</li> <li>Incorporate into project construction and improvement plans.</li> </ul>	<ul style="list-style-type: none"> <li>Applicant and/or contractor</li> <li>Geotechnical Engineer</li> <li>City of Petaluma, Community Development Department</li> <li>City of Petaluma, Public Works and Utilities</li> </ul>		
<b>EKN GEO-4:</b> In the event that paleontological resources, including individual fossils or assemblages of fossils, are encountered during construction activities all ground disturbing activities shall halt and a qualified paleontologist shall be procured to evaluate the discovery and make treatment recommendations.	<ul style="list-style-type: none"> <li>Incorporate into project design and print on construction documents.</li> <li>On-site observation.</li> </ul>	<ul style="list-style-type: none"> <li>Applicant and/or contractor</li> <li>City of Petaluma, Community Development Department</li> <li>Qualified paleontologist</li> </ul>		
<b>GREENHOUSE GAS EMISSIONS</b>				

**EXHIBIT 1**

## DOWNTOWN HOUSING & ECONOMIC OPPORTUNITY OVERLAY AND EKN APPELLATION HOTEL MITIGATION MONITORING AND REPORTING PROGRAM

MITIGATION MEASURE	IMPLEMENTATION	RESPONSIBLE PARTY	COMPLETION OF IMPLEMENTATION	
			ACTIVITY	DATE COMPLETED
<p><b>EKN GHG-1:</b> The latest BAAQMD recommended Best Management Practices (BMPs) to control for construction-related GHG emissions shall be incorporated into construction plans to require implementation of the following throughout all construction activities:</p> <ol style="list-style-type: none"> <li>1. Use zero-emission and hybrid-powered equipment to the greatest extent possible, particularly if emissions are occurring near sensitive receptors or located within a BAAQMD-designated Community Air Risk Evaluation (CARE) area or Assembly Bill 617 community.</li> <li>2. Require all diesel-fueled off-road construction equipment be equipped with EPA Tier 4 Final compliant engines or better as a condition of contract.</li> <li>3. Require all on-road heavy-duty trucks to be zero emissions or meet the most stringent emissions standard, such as model year (MY) 2024 to 2026, as a condition of contract.</li> <li>4. Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to no more than 2 minutes (A 5-minute limit is required by the state airborne toxics control measure [Title 13, Sections 2449(d)(3) and 2485 of the California Code of Regulations]). Provide clear signage that posts this requirement for workers at the entrances to the site and develop an enforceable mechanism to monitor idling time to ensure compliance with this measure.</li> <li>5. Prohibit off-road diesel-powered equipment from being in the “on” position for more than 10 hours per day.</li> <li>6. Use California Air Resources Board–approved renewable diesel fuel in off-road construction equipment and on road trucks.</li> <li>7. Use U.S. Environmental Protection Agency SmartWay certified trucks for deliveries and equipment transport.</li> <li>8. Require all construction equipment is maintained and properly tuned in accordance with manufacturer’s specifications. Equipment should be checked by a certified mechanic and determined to be running in proper condition prior to operation.</li> <li>9. Where grid power is available, prohibit portable diesel engines and provide electrical hook ups for electric construction tools, such as saws, drills and compressors, and using electric tools whenever feasible.</li> </ol>	<ul style="list-style-type: none"> <li>• Measures shall be included in project design and construction documents.</li> <li>• Periodic inspections during construction to ensure that measures are in place.</li> </ul>	<ul style="list-style-type: none"> <li>• Applicant and/or contractor</li> <li>• City of Petaluma, Community Development Department</li> </ul>		



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MITIGATION MEASURE	IMPLEMENTATION	RESPONSIBLE PARTY	COMPLETION OF IMPLEMENTATION	
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10. Where grid power is not available, use alternative fuels, such as propane or solar electrical power, for generators at construction sites. 11. Encourage and provide carpools, shuttle vans, transit passes, and/or secure bicycle parking to construction workers and offer meal options onsite or shuttles to nearby meal destinations for construction employees. 12. Reduce electricity use in the construction office by using LED bulbs, powering off computers every day, and replacing heating and cooling units with more efficient ones. 13. Minimize energy used during site preparation by deconstructing existing structures to the greatest extent feasible. 14. Recycle or salvage nonhazardous construction and demolition debris, with a goal of recycling at least 15% more by weight than the diversion requirement in Title 24. 15. Use locally sourced or recycled materials for construction materials (goal of at least 20% based on costs for building materials and based on volume for roadway, parking lot, sidewalk and curb materials). Wood products used should be certified through a sustainable forestry program. 16. Use low-carbon concrete, minimize the amount of concrete used and produce concrete on-site if it is more efficient and lower emitting than transporting ready-mix. 17. Develop a plan to efficiently use water for adequate dust control since substantial amounts of energy can be consumed during the pumping of water. 18. Include all requirements in applicable bid documents, purchase orders, and contracts, with successful contractors demonstrating the ability to supply the compliant on- or off-road construction equipment for use prior to any ground-disturbing and construction activities.				
<b>EKN GHG-2:</b> Prior to the issuance of a building permit, the proposed off street parking located within the subterranean garage on the site of the proposed EKN Appellation Hotel shall be designed and verified for compliance with CalGreen Tier 2 standards.	<ul style="list-style-type: none"> <li>• Incorporate into project design and print on construction documents.</li> </ul>	<ul style="list-style-type: none"> <li>• Applicant and/or contractor</li> <li>• City of Petaluma, Community</li> </ul>		

**EXHIBIT 1**

<b>DOWNTOWN HOUSING &amp; ECONOMIC OPPORTUNITY OVERLAY AND EKN APPELLATION HOTEL MITIGATION MONITORING AND REPORTING PROGRAM</b>				
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			<b>ACTIVITY</b>	<b>DATE COMPLETED</b>
		Development Department		
<b>HAZARDS AND HAZARDOUS MATERIALS</b>				
<b>EKN HAZ-1:</b> Prior to approval of ground-disturbing activities, submit a site- and project-specific health and safety plan (HASP) and a soil management plan (SMP) to the Sonoma County Department of Health Services and the City of Petaluma, Community Development Department. The HASP shall be developed in accordance with 29 Code of Federal Regulations. In addition to compliance with federal regulations, the HASP shall address potential exposure due to dermal contact and inhalation of residual total petroleum hydrocarbons (TPH) and benzene, shall specify an air monitoring program for volatile organic compounds (VOCs) when performing subsurface earthwork, and shall specify appropriate personal protective equipment (PPE) to be used. The SMP shall include, at a minimum, dust control and monitoring measures, management of stockpiles, and procedures to follow for disposal of soil offsite, including required testing from total petroleum hydrocarbons (TPH) and benzene.	<ul style="list-style-type: none"> <li>• Provide copy HASP and SMP to the City with construction documents for review and approval.</li> <li>• Retain copy of the approved plans on-site during construction.</li> </ul>	<ul style="list-style-type: none"> <li>• Applicant and/or contractor</li> <li>• Environmental Professional/Health and Safety Officer</li> <li>• RWQCB</li> <li>• City of Petaluma, Community Development Department</li> <li>• City of Petaluma, Fire Department</li> </ul>		
<b>EKN HAZ-2:</b> Upon submittal of building permit plans, the project applicant shall demonstrate compliance (e.g. include directly in project plans, provide written documentation, etc.) with all requirements of the Risk Management Plan included as ‘Exhibit B’ to the Covenant and Environmental Restriction recorded against the property, as summarized below. In addition, the applicant shall comply with project-specific recommendations provided by the RWQCB in July 2022. This measure shall not be construed to preclude requirements of the Risk Management Plan that are not explicitly listed here. <ol style="list-style-type: none"> <li>1. Concurrent with submittal of building permit plans, provide a copy of written approval to the City of Petaluma, Community Development Department from the Sonoma County Department of Health Services for the project as it involves disturbance of more than five (5) cubic yards of soil (RMP, Section 2.0).</li> </ol>	<ul style="list-style-type: none"> <li>• Provide documentation in accordance with this measure</li> <li>• Incorporate into project design and print on construction documents.</li> </ul>	<ul style="list-style-type: none"> <li>• Applicant and/or contractor</li> <li>• City of Petaluma, Community Development Department</li> <li>• Sonoma County Department of Health Services</li> <li>• RWQCB</li> </ul>		

**EXHIBIT 1**

## **DOWNTOWN HOUSING & ECONOMIC OPPORTUNITY OVERLAY AND EKN APPELLATION HOTEL MITIGATION MONITORING AND REPORTING PROGRAM**

MITIGATION MEASURE	IMPLEMENTATION	RESPONSIBLE PARTY	COMPLETION OF IMPLEMENTATION	
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<p>2. Prior to groundwater extraction or discharge, including construction dewatering, soil or groundwater sampling, or soil reuse or disposal, written approval from the Sonoma County Department of Health Services shall be obtained and a copy shall be provided to the City of Petaluma, Community Development Department (RMP, Section 2.0(d, e, f).</p> <p>3. At least three working days prior to commencement of ground-disturbing activities, groundwater extraction or construction dewatering, soil or groundwater sampling, or soil reuse or disposal, provide written notification to the Sonoma County Department of Health Services and the Regional Water Quality Control Board. Proof of notification shall be provided to the City of Petaluma, Community Development Department (RMP, Section 3.0(B)).</p> <p>4. Following excavation of the proposed 7,140 cubic yards of soil, collect soil confirmation samples and grab-groundwater samples from the resulting excavation pit.</p> <p>5. Upon submittal of plans for building permit, demonstrate incorporation of a Liquid Boot® membrane/liner or equivalent and a LiquidBoot® Geo Vent system or equivalent beneath the slabs of all proposed building (RMP mitigation measures 3, 4).</p> <p>6. Throughout project construction, any equipment used in subsurface activities shall be decontaminated using visual inspection to verify that all residual soils or groundwater have been removed prior to leaving the property (RMP, Section 6.0(D)).</p> <p>7. Following completion of project development and prior to issuance of a certificate of occupancy, collect paired subslab and indoor air samples to ensure effectiveness of the required vapor barriers and venting systems.</p> <p>8. Throughout project operation, if disturbance to hardscape, building slabs, or the vapor barrier system occurs, a written plan must be prepared for any such work, and must include the method and timing for reinstatement. (RMP, Section 5.0(A)).</p> <p>9. Throughout project operation, the owner and/or operator shall be responsible for submitting an annual summary report to the Sonoma County Department of Health Services and the Regional Water Quality Control Board that describes in detail the type, cause, location and date of all of the</p>				

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previous year's disturbance, if any, to any hardscape or mitigation measure, any remedial measures taken or remedial equipment installed, and any groundwater monitoring system installed on the Property pursuant to the requirements of the Sonoma County, which could affect the ability of such mitigation measures, remedial measures and/or equipment, or monitoring system to perform their respective functions and the type and date of repair of such disturbance (RMP, Section 7.0).				
<b>NOISE</b>				
<b>OVL NOI-1:</b> As part of the completeness review associated with future site-specific development proposals within the Downtown Housing & Economic Opportunity Overlay, a noise study, including field measurements shall be submitted to the City of Petaluma, Community Development Department for review and acceptance. The noise study shall include an analysis of impacts associated with construction and operation, a discussion of groundborne vibration impacts during construction using the thresholds published by Caltrans, and recommendations to reduce noise impacts shall be included in the noise study and incorporated into final plans for site-specific developments.	<ul style="list-style-type: none"> <li>• Submit documentation with SPAR and HSPAR applications.</li> <li>• Incorporate site-specific recommendations into project design.</li> </ul>	<ul style="list-style-type: none"> <li>• Applicant and/or contractor</li> <li>• City of Petaluma, Community Development Department</li> <li>• Qualified Acoustical Professional</li> </ul>		
<b>EKN NOI-1:</b> The following Best Construction Management Practices shall be implemented to reduce construction noise levels emanating from the site, limit construction hours, and minimize disruption and annoyance: <ol style="list-style-type: none"> <li>1. Pursuant to the Implementing Zoning Ordinance, restrict noise-generating activities at the construction site or in areas adjacent to the construction site to the hours between 7:00 a.m. and 10:00 p.m., Monday through Friday and 9:00 a.m. to 10:00 p.m. on Saturday, Sunday and State, Federal or Local Holidays;</li> <li>2. Utilize 'quiet' models of air compressors and other stationary noise sources where technology exists;</li> <li>3. Equip all internal combustion engine-driven equipment with mufflers, which are in good condition and appropriate for the equipment;</li> </ol>	<ul style="list-style-type: none"> <li>• Conduct construction in conformance with measures herein.</li> <li>• Incorporate into project design and construction documents.</li> <li>• Maintain delivery, hauling and construction in accordance with measure.</li> <li>• Provide notice to surrounding</li> </ul>	<ul style="list-style-type: none"> <li>• Applicant and/or contractor</li> <li>• City of Petaluma, Community Development Department</li> </ul>		

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<p>4. Locate all stationary noise-generating equipment, such as air compressors and portable power generators, as far away as possible from adjacent receptors;</p> <p>5. Acoustically shield stationary equipment located near adjacent receptors with temporary noise barriers;</p> <p>6. Locate staging areas and construction material areas as far away as possible from adjacent receptors;</p> <p>7. Prohibit all unnecessary idling of internal combustion engines;</p> <p>8. Route all construction traffic to and from the project site via designated truck routes and prohibit construction related heavy truck traffic in residential areas where feasible;</p> <p>9. Notify all adjacent receptors of the construction schedule in writing;</p> <p>10. Designate a "disturbance coordinator" who would be responsible for responding to any local complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and will require that reasonable measures warranted to correct the problem be implemented; and</p> <p>11. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction.</p>	<p>properties in accordance with measure.</p> <ul style="list-style-type: none"> <li>Applicant shall provide for periodic inspection during construction to ensure that measures are in place.</li> </ul>			
<p><b>EKN NOI-2:</b> The following measures shall be implemented when construction activities occur within 20 feet of adjacent buildings:</p> <p>1. Prohibit the use of heavy vibration-generating construction equipment within 20 feet of adjacent buildings.</p> <p>2. Use a smaller vibratory roller, such as the Caterpillar model CP433E vibratory compactor, when compacting materials within 20 feet of adjacent buildings. Only use the static compaction mode when within 10 feet of the adjacent buildings.</p> <p>3. Avoid dropping heavy equipment and use alternative methods for breaking up existing pavement, such as a pavement grinder, instead of dropping heavy objects, within 20 feet of adjacent buildings.</p> <p>4. Designate a person responsible for registering and investigating claims of excessive vibration. The contact information of such person shall be clearly posted on the construction site.</p>	<ul style="list-style-type: none"> <li>Conduct construction in conformance with measures herein.</li> <li>Incorporate into project design and construction documents.</li> <li>Applicant shall provide for periodic inspection during construction to ensure that measures are in place.</li> </ul>	<ul style="list-style-type: none"> <li>Applicant and/or contractor</li> <li>City of Petaluma, Community Development Department</li> </ul>		



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			<b>ACTIVITY</b>	<b>DATE COMPLETED</b>
<b>TRANSPORTATION</b>				
<b>EKN TRA-1:</b> Upon submittal of plans for building permit, the applicant shall submit a Valet Service Plan prepared by a licensed traffic engineer. The Plan shall, at a minimum, address steps to be taken to ensure the three-vehicle capacity is not exceeded. The Plan shall be subject to review and approval by the City of Petaluma.	<ul style="list-style-type: none"> <li>Provide documentation in accordance with this measure.</li> </ul>	<ul style="list-style-type: none"> <li>Applicant and/or contractor</li> <li>City of Petaluma, Community Development Department</li> <li>City of Petaluma, Public Works &amp; Utilities</li> </ul>		