

County of Santa Clara

Department of Planning and Development

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, California 95110



	Administration	Development Services	Fire Marshal	Planning
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Notice of Intent to Adopt a Mitigated Negative Declaration

A notice, pursuant to the California Environmental Quality Act of 1970, as amended (Public Resources Code 21,000, et sec.) that the following project will not have a significant effect on the environment.

File Number	TAZ	APN(s)	Date
PLN20-003		756-30-024	2/29/2024
Project Name		Project Type	
Bay Area Vipassana Center (BAVC)		Use Permit, ASA and Grading Approval	
Person or Agency Carrying Out Project		Address	Phone Number
County of Santa Clara Planning Department		70 W. Hedding Street, 7 th Floor, San Jose, CA	408-299-5791
Name of Applicant		Address	Phone Number
Bay Area Vipassana Center, c/o David Faria		16075 Vineyard Blvd., Morgan Hill, CA	408-779-7381
Project Location			
The subject property is located at 9201 El Matador Drive (APN: 756-30-024) in unincorporated Santa Clara County, near the City of Gilroy but outside of Gilroy's Urban Service Area. The site is accessed from both El Matador Drive and the intersection of Redwood Retreat Rd. and El Matador Dr.			
Project Description			
<p>The application is for the approval of a Use Permit (UP), Architecture and Site Approval (ASA), and Grading Approval for the development of a meditation camp and silent retreat center. The applicant, Bay Area Vipassana Center (BAVC or "BAVC retreat center"), is proposing a silent retreat center for teaching and practicing Vipassana meditation. The proposed project will house staff and volunteers and be open to the public for 10-day, 30-day, and 45-day retreats.</p> <p>The project consists of 18 structures totaling 53,260 square feet (sq.ft.), demolition of an accessory structure (barn), and on-site improvements including a new 97,000-gallon water tank, driveway, access road, parking lot with 122 spaces, new landscaping, sewage collection lines, septic tanks, effluent collection lines, wastewater pre-treatment system (circulating textile filter system), pressure delivery effluent pipelines, pump stations, and subsurface drip disposal areas. Total development would consist of approximately 10 acres of the 54.59-acre site. Grading consists of 4,689 cubic yards (cy) of cut and 4,644 cy of fill.</p>			

Purpose of Notice

The purpose of this notice is to inform you that the County Planning Staff has recommended that a Mitigated Negative Declaration be approved for this project. County of Santa Clara Planning Staff has reviewed the Initial Study for the project, and based upon substantial evidence in the record, **finds that although the proposed project could initially have a significant effect on the environment, changes or alterations have been incorporated into the project to avoid or reduce impacts to a point where clearly no significant effects will occur.** The project site is not on a list of hazardous material sites as described by Government Code 65962.5 (Cortese List).

A public hearing for the proposed project is tentatively scheduled for the Planning Commission on April 25, 2024, in the County Government Center, main Board Chambers. Where a date is not given, a separate notice will be sent to you informing you of the hearing date. It should be noted that the approval of a Mitigated Negative Declaration does not constitute approval of the project under consideration. The decision to approve or deny the project will be made separately.

Public Review Period: 30

Begins: 3/1/24

Ends: 4/1/24

Public Comments regarding the correctness, completeness, or adequacy of this negative declaration are invited and must be received on or before the above date. Such comments should be based on specific environmental concerns. Written comments should be addressed to the attention of **Valerie Negrete** at the **County of Santa Clara Planning Office, County Government Center, 70 W. Hedding Street, San Jose, CA 95110, Tel: (408) 299-5791**. A file containing additional information on this project may be reviewed at the Planning Office under the file number appearing at the top of this form. For additional information regarding this project and the Mitigated Negative Declaration, please contact Valerie Negrete at (408) 299-5791 or Valerie.negrete@pln.sccgov.org

The Mitigated Negative Declaration and Initial Study may be viewed at the following locations:

- (1) Santa Clara County Planning Office, 70 West Hedding Street, East Wing, 7th Floor, San Jose, CA 95110
- (2) Planning & Development website www.sccgov.org/sites/dpd (under “Development Projects” > “Current Projects”)

Responsible Agencies sent a copy of this document

State Water Resources Control Board – Division of Drinking Water
Valley Water District
Santa Clara Habitat Agency

Mitigation Measures included in the project to reduce potentially significant impacts to a less than significant level:

See **Attachment A** attached.

A reporting or monitoring program must be adopted for measures to mitigate significant impacts at the time the Negative Declaration is approved, in accord with the requirements of section 21081.6 of the Public Resources Code.

Prepared by:

Valerie Negrete, Senior Planner



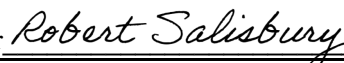
2/29/24

Signature

Date

Approved by:

Robert Salisbury, Principal Planner



2/29/24

Signature

Date

ATTACHMENT A

Notice of Intent (NOI) – Adopt a Mitigated Negative Declaration Bay Area Vipassana Center (BAVC), Mitigation Measures

American Badger

- BIO-MIT 1:** No less than 14 days and no more than 30 days prior to the beginning of ground disturbance and/or construction activities, a qualified biologist shall conduct pre-construction surveys for American badger throughout the project site.
- BIO-MIT 2:** If present, occupied badger dens shall be flagged and ground-disturbing activities avoided within 50 feet of the occupied den avoided. Maternity dens shall be avoided during pup-rearing season (February 15 through July 1) and a minimum 200-foot buffer established. Buffers may be modified with the concurrence of CDFW.
- BIO-MIT 3:** Maternity dens shall be flagged for avoidance, identified on construction maps, and a biological monitor shall be present during construction. If avoidance of a non- maternity den is not feasible, badgers shall be relocated by slowly excavating the burrow (either by hand or mechanized equipment under the direct supervision of the biologist, removing no more than four inches at a time) before or after the rearing season (February 15 through July 1). Any relocation of badgers shall occur only after consultation with the CDFW.

Nesting Birds

- BIO-MIT 4:** If project-related work is scheduled during bird nesting season, January 15-September 15 (February 15 to August 30 for small bird species such as passerines; January 15 to September 15 for owls; and February 15 to September 15 for other raptors), a qualified biologist shall conduct preconstruction nesting bird surveys to ensure that no nests would be disturbed during construction activities.
- BIO-MIT 5:** Two surveys for active nests of such birds shall occur within 14 days prior to start of construction, with the second survey conducted with 48 hours prior to start of construction. An appropriate minimum survey radius surrounding each work area is typically 250 feet for passerines, 500 feet for smaller raptors, and 1,000 feet for larger raptors. Surveys shall be conducted at the appropriate times of day to observe nesting activities.

If the qualified biologist documents active nests within the project site or in nearby surrounding areas, an appropriate buffer between each nest and active construction shall be established. The buffer shall be clearly marked and maintained until the young have fledged and are foraging independently. Prior to construction, the qualified biologist shall conduct baseline monitoring of each nest to characterize “normal” bird behavior and establish a buffer distance, which allows the birds to exhibit normal behavior. The qualified biologist shall monitor the nesting birds daily during construction activities and increase the buffer if birds show signs of unusual or distressed behavior (e.g. defensive flights and vocalizations, standing up from a brooding position, and/or flying away from the nest). If buffer establishment is not possible, the qualified biologist or construction foreman shall have the authority to cease all

construction work in the area until the young have fledged and the nest is no longer active. If pre-construction nesting bird surveys are necessary, then a survey report shall be prepared prior to commencement of construction activities.

BIO-MIT 6: No less than 14 days and no more than 30 days prior to the beginning of ground disturbance and/or construction activities, a qualified biologist shall conduct pre-construction surveys for American badger throughout the project site.

Bats

BIO-MIT 7: Fourteen days prior to tree removal activities, ground disturbing activities or brush removal, a qualified biologist shall conduct a habitat assessment for bats and potential roosting sites in trees to be removed, in trees within 50 feet of the development footprint, and within and surrounding any structures that may be disturbed by the project. The entire project site will be included in these surveys. These surveys will include a visual inspection of potential roosting features (bats need not be present) and a search for presence of guano within the project site, construction access routes, and 50 feet around these areas. Cavities, crevices, exfoliating bark, and bark fissures that could provide suitable potential nest or roost habitat for bats shall be surveyed. Assumptions can be made on what species is present due to observed visual characteristics along with habitat use, or the bats can be identified to the species level with the use of a bat echolocation detector such as an "Anabat" unit. Potential roosting features found during the survey shall be flagged or marked.

BIO-MIT 8: If no roosting sites or bats are found, a letter report confirming absence will be prepared and no further mitigation is required.

BIO-MIT 9: If bats or roosting sites are found, bats will not be disturbed without specific notice to and consultation with CDFW.

BIO-MIT 10: If bats are found roosting outside of the nursery season (May 1 through October 1), CDFW will be consulted prior to any eviction or other action. If avoidance or postponement is not feasible, a Bat Eviction Plan will be submitted to CDFW for written approval prior to project implementation. A request to evict bats from a roost includes details for excluding bats from the roost site and monitoring to ensure that all bats have exited the roost prior to the start of activity and are unable to re-enter the roost until activity is completed. Any bat eviction will be timed to avoid lactation and young-rearing. If bats are found roosting during the nursery season, they will be monitored to determine if the roost site is a maternal roost. This could occur by either visual inspection of the roost bat pups, if possible, or by monitoring the roost after the adults leave for the night to listen for bat pups. Because bat pups cannot leave the roost until they are mature enough, eviction of a maternal roost cannot occur during the nursery season. Therefore, if a maternal roost is present, a 50-foot buffer zone (or different size if determined in consultation with the CDFW) will be established around the roosting site within which no construction activities including tree removal or structure disturbance will occur until after the nursery season.

Tri-colored Black bird

BIO-MIT 11: Projects require surveys if the project is within 250 feet of field-verified riparian, coastal and valley freshwater marsh (perennial wetlands), or pond land cover types. Field verification must be done by a qualified biologist. If a

qualified biologist verifies that the project area is within 250 feet of these land covers (riparian, marsh, ponds), a qualified biologist will conduct a field investigation to identify and map potential nesting substrate. Nesting substrate generally includes flooded, thorny, or spiny vegetation (e.g., cattails, bulrushes, willows, blackberries, thistles, nettles). If potential nesting substrate is found, the project proponent may revise the proposed project to avoid all areas within a 250-foot buffer around the potential nesting habitat, and surveys will be concluded.

- BIO-MIT 12:** Preconstruction Surveys. If the project proponent chooses not to avoid the potential nesting habitat and the 250-foot buffer, additional nesting surveys are required. Prior to any ground disturbance related to covered activities, a qualified biologist will:
- a. Make his/her best effort to determine if there has been nesting at the site in the past 5 years. This includes checking the CNDDDB, contacting local experts, and looking for evidence of historical nesting (i.e., old nests).
 - b. If no nesting in the past 5 years is evident, conduct a preconstruction survey in areas identified in the habitat survey as supporting potential tricolored blackbird nesting habitat. Surveys will be made at the appropriate times of year when nesting use is expected to occur. The surveys will document the presence or absence of nesting colonies of tricolored blackbird. Surveys will conclude no more than 2 calendar days prior to construction.

To avoid last-minute changes in schedule or contracting that may occur if an active nest is found, the project proponent may also conduct a preliminary survey up to 14 days before construction. If a tricolored blackbird nesting colony is present (through Steps 1 or 2 above), a 250-foot buffer will be applied from the outer edge of all hydric vegetation associated with the site and the site plus buffer will be avoided (see below for additional avoidance and minimization details). The project proponent will notify the local jurisdiction or the Habitat Agency, and the Habitat Agency will notify the Wildlife Agencies immediately of nest locations.

- BIO-MIT 13:** Avoidance and Minimization. Covered activities must avoid tricolored blackbird nesting habitat that is currently occupied or has been used in the past 5 years. If tricolored blackbird colonies are identified during the breeding season, covered activities will be prohibited within a 250-foot no-activity buffer zone around the outer edge of all hydric vegetation associated with the colony. This buffer may be reduced in areas with dense forest, buildings, or other habitat features between the construction activities and the active nest colony, or where there is sufficient topographic relief to protect the colony from excessive noise or visual disturbance.

Depending on site characteristics, the sensitivity of the colony, and surrounding land uses, the buffer zone may be increased. Land uses potentially affecting a colony will be observed by a qualified biologist to verify that the activity is not disrupting the colony. If it is, the buffer will be increased. Habitat Agency technical staff will coordinate with the Wildlife Agencies and evaluate exceptions to the minimum no-activity buffer distance on a case-by-case basis.

BIO-MIT 14: Construction Monitoring. If construction takes place during the breeding season when an active colony is present, a qualified biologist will monitor construction to ensure that the 250-foot buffer zone is enforced. If monitoring indicates that construction outside of the buffer is affecting a breeding colony, the buffer will be increased if space allows (e.g., staging areas moved farther away). If space does not allow, construction will cease until the colony abandons the site or until the end of the breeding season, whichever occurs first. The biological monitor will also conduct training of construction personnel on avoidance procedures, buffer zones, and protocols in the event that tricolored blackbirds enter an active construction zone (i.e., outside the buffer zone).

WF-MIT 1: Defensible Space. The area within 5 horizontal feet of the structure, including attached decks of stairs, shall not contain any combustible decorative structures, attached gates or fences made of combustible materials, storage structures, wood piles, woody mulch, combustible boards, combustible landscape materials (including but not limited to lumber, railroad ties, creosote- or pressure-treated wood), potted plants in combustible pots, or synthetic lawns. Mature trees shall only be allowed within 5 feet of the structure if the branches are 10 feet above the roof and 10 feet from any chimney. Irrigated and mowed grass shall be kept below a maximum height of 3 inches. All plants within 5 feet of the structure shall be irrigated, non-woody, and/or herbaceous, and are not to exceed 2 feet in height. All pots for potted plants within 5 feet of the structure shall be made of ceramics, metals, or cement.

In the area from 5 feet to 30 feet horizontally from the structure (within the property boundaries), all dead plants, grass, and weeds will be removed. Dead or dry leaves will be removed on an ongoing basis. Trees shall be trimmed on an ongoing basis to keep 10 feet of distance between branches of different trees. Dead tree limbs which overhang the roof are to be removed on an ongoing basis. Grasses are to be cut to a maximum of 4 inches on an ongoing basis.

In the area from 30 feet to 100 feet horizontally from the structure (within the property boundaries), grasses must be cut down to a maximum height of 4 inches. Horizontal and vertical space must be created and maintained between grass, shrubs and trees. Fallen leaves, needles, twigs, bark, cones, and small branches must be removed or kept to a maximum depth of 3 inches. All exposed wood piles must have a minimum of 10 feet of clearance down to bare mineral soil, in all directions.

WF-MIT 2: Home Hardening. The project is required to comply with all WUI requirements within the California Building Code Chapter 7A. The applicant shall also propose building materials, windows, and vents which exceed these requirements. Communication equipment, including high-speed internet service, shall be fire-hardened.

WF-MIT 3: Parking. Parking of vehicles along the fire access route, including the common driveway, fire department turnout, and fire department turnaround, shall be prohibited at all times.

WF-MIT 4: Utilities. All utilities, including powerlines, shall be undergrounded.