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November 24, 2021

Mr. Taylor Bateman
City of Scotts Valley
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Governor's Office of Planning & Research

Nov 24 2021

STATE CLEARINGHOUSE

Subject: Oak Creek Park, Draft Environmental Impact Report, SCH No. 2019110250,
City of Scotts Valley, Santa Cruz County

Dear Mr. Bateman:

The California Department of Fish and Wildlife (CDFW) has reviewed the Draft Environmental Impact Report (DEIR) prepared by the City of Scott's Valley (City) for the Oak Creek Park Project (Project), located in Santa Cruz County. CDFW is submitting comments on the DEIR regarding potentially significant impacts to biological resources associated with the Project.

CDFW ROLE

CDFW is a Trustee Agency with responsibility under the California Environmental Quality Act (CEQA; Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines § 15386 for commenting on projects that could impact fish, plant, and wildlife resources (e.g., biological resources). CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program, and other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

California Endangered Species Act

Please be advised that a CESA Permit must be obtained if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the Project. Issuance of a CESA Permit is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (Pub. Resources Code, §§ 21001(c), 21083, and CEQA Guidelines §§ 15380, 15064, 15065). Impacts must be avoided or mitigated

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to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code, § 2080.

PROJECT DESCRIPTION

The Project consists of a mixed-use commercial and residential development on a 3.56-acre site in the City of Scotts Valley, APN 022-162-76. There will be two lots on the property. Lot 1 would consist of eight town home apartments over approximately one acre. Lot 2 would consist of two types of buildings, commercial and residential. There would be 24,841 square feet of commercial buildings including surface parking and 12-foot-wide sidewalks. There would be 74,100 square feet of residential buildings on Lot 2 including a mix of apartments. The Project would require regrading of Lots 1 and 2, requiring several hundred yards of fill to be imported. Per the Project's Stormwater Control Plan, the Project would include flow-through planters in the residential area to retain and treat stormwater runoff. A stacked underground storage chamber system which would provide treatment of runoff by infiltration would be used in the mixed-use and commercial portions of the Project.

ENVIRONMENTAL SETTING AND LOCATION

The Project is located at the intersection of Glen Canyon and Mt. Hermon Road, in the City of Scotts Valley, Santa Cruz County.

The Project is adjacent to Mt. Hermon Road, a commercial office building on Glen Canyon Road, and single-family residences. There are no watercourses on the property, but creeks in the vicinity of the Project site include tributaries to Bean Creek and Carbonera Creek. The Project site supports annual grassland, a small patch of coastal prairie, coast live oak tree groves, a poison oak thicket, and non-native tree groves.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on biological resources.

Comment 1: Surveys for special status plant species

Issue: The DEIR does not provide the methodology of the special-status plant species surveys in Mitigation Measure Bio-1.1. The DEIR on page 7-13 of the Biological Resources section states that the small patch of coastal prairie habitat may provide habitat for special-status plant species such as Congdon's tarplant (*Centromadia parryi* ssp. *Congdonii*), a California Native Plant Society (CNPS) Rare Plant Rank 1B.1,

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pending the results of a spring season plant survey. Furthermore, Table 2 of the Biotic Report states that there is marginal habitat for other CNPS rare plant species including but not limited to Scotts Valley spineflower (*Chorizanthe robusta* var. *Hartwegii*), short-leaved evax (*Hesperevax sparsiflora* var. *brevifolia*), Point Reyes horkelia (*Horkelia marinensis*) and State endangered species including white-rayed pentachaeta (*Pentachaeta bellidiflora*) and Santa Cruz tarplant (*Holocarpha macradenia*). Mitigation Measure Bio 1.1 states that plant surveys will be conducted; however, the methodology for the surveys is not disclosed. Without following proper survey protocol for spring or early summer blooming plant species, it is possible to miss detection of special-status plant species on the site.

Recommendation

CDFW recommends the City update MM Bio 1.1 to include methodology capable of detecting special-status plant species.

Recommended update to MM Bio 1.1

An experienced botanist (with expertise in coastal prairie plant communities of Santa Cruz) shall conduct a minimum of two focused rare plant surveys over two seasons prior to the initiation of construction and include the information in the Project environmental document. Surveys shall be conducted according to: *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities* (CDFW 2018), available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>.

In the event rare, threatened or endangered plants are discovered, additional measures may be needed, which may include work stoppage, flagging and avoidance of occurrences, collection of propagation material, site restoration and/or obtaining an Incidental Take Permit (Fish and Game Code section 2081, subd., (b).)

COMMENT 2: Tree Removal

Issue: The Project has the potential to remove all trees on the Project site including six Coast live oaks (*Quercus agrifolia*), one Ponderosa pine (*Pinus ponderosa*), six ash trees (*Fraxinus* sp.), four sycamore trees (*Platanus acerifolia*), and a large group of acacia trees (*Acacia baileyana*). According to the Tree Resource Evaluation, at least one coast live oak is above 15 inches diameter at breast height (dbh). Large mature trees (e.g., native oak tree that is greater than 15 inches in diameter) are of particular importance due to increased biological values (i.e., nesting bird habitat, bat roost habitat). Furthermore, the Tree Resource Evaluation states that the sycamore trees growing along the perimeter are healthy and recommends their incorporation into the Project. However, it is unclear if the sycamore trees have been incorporated into the landscape plan.

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Evidence the impact would be significant: While the DEIR includes on-site tree planting as a minimization measure, on-site planting at higher ratios alone is not sufficient to completely off-set temporal impacts from the loss of mature trees due to an uncertain time lag from when the new resources will be available (Marón et al., 2010).

Recommendation: CDFW recommends the Project avoid large diameter tree removal to the greatest extent feasible. CDFW recommends Project mitigation include in-kind preservation of mature native trees. Where in-kind preservation of mature native trees is not feasible, CDFW recommends planting larger sized native trees, (such as 15-gallon sized trees or larger) to help address the temporal loss of mature trees on-site.

COMMENT 3: Figures and Labels

Issue 1: Figure 3-11: Stormwater Control Plan, does not include a legend or figure labels to explain the meaning of the colors in the figure. The DEIR also references a Figure 7-2: Landscape Plan; however, only Figure 7-1: Vegetation Map is included in the DEIR.

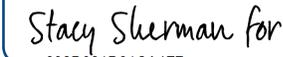
Recommendation: CDFW recommends the final EIR should include labels with Figure 3-11 and include Figure 7-2 either in the EIR or as an attachment.

FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, section 711.4; Pub. Resources Code, section 21089). Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW.

Thank you for the opportunity to comment on the Project's DEIR. If you have any questions regarding this letter or for further coordination with CDFW, please contact Ms. Serena Stumpf, Environmental Scientist, at (707) 337-1364 or Serena.Stumpf@wildlife.ca.gov; or Mr. Wesley Stokes, Senior Environmental Scientist (Supervisory), at Wesley.Stokes@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Stephanie Fong
692D021D81CA4F7
Acting Regional Manager
Bay Delta Region

ec: State Clearinghouse # 2019110250

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REFERENCES

CDFW, 2018. Protocols for surveying and evaluating impacts to special status native plant populations and sensitive natural communities.

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>.

Marón, M., Dunn, P. K., McAlpine, C. A., & Apan, A. (2010). Can offsets really compensate for habitat removal? The case of the endangered red-tailed black-cockatoo. *Journal of Applied Ecology*, 47(2), 348–355.