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February 14, 2020

Governor's Office of Planning & Research

FEB 14 2020

STATE CLEARINGHOUSE

Ms. Erica Adams
San Mateo County Planning and Building
455 County Center, 2nd Floor
Redwood City, CA 94063
eadams@smcgov.org

Subject: Zmay 3-Lot Minor Subdivision, Grading Permit and Resource Management Permits,
Initial Study/Mitigated Negative Declaration, SCH #2020019052, San Mateo County

Dear Ms. Adams:

The California Department of Fish and Wildlife (CDFW) has reviewed the re-circulated Initial Study/Mitigated Negative Declaration (IS/MND) prepared by the County of San Mateo for the proposed Zmay 3-Lot Minor Subdivision, Grading Permit and Resource Management (RM) Permits (Project) located in the County of San Mateo. CDFW is submitting comments on the IS/MND regarding potential impacts to biological resources associated with the proposed Project.

CDFW is a Trustee Agency with responsibility under the California Environmental Quality Act (CEQA) §15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as approval under the California Endangered Species Act (CESA) Permit, the Native Plant Protection Act, the Lake and Streambed Alteration Agreement (LSAA) and other provisions of the Fish and Game Code (FGC) that afford protection to the State's fish and wildlife trust resources. Pursuant to our jurisdiction, CDFW offers the following comments and recommendations regarding the Project.

PROJECT DESCRIPTION AND LOCATION

The proposed Project is located in the County of San Mateo at 1551 Crystal Springs Road, San Mateo, CA 94010; Assessor's Parcel Number 038-131-110.

The Project includes a minor subdivision of a 60.3-acre parcel that would divide the parcel into three lots (0.669-acre, 0.707-acre, and 0.734-acre) and a 58.153-acre parcel. The three lots would be developed into residential homes and the 58.153-acre parcel would be protected under a conservation easement. The Project also proposes to repair an existing landslide within the Project area.

ENVIRONMENTAL SETTING

The state special-status species that are known to occur, or have the potential to occur in or near the Project site, include:

Common Name	Scientific Name	Status	Rare Plant Rank
arcuate bush-mallow	<i>Malacothamnus arcuatus</i>	None	1B.2
Bay checkerspot butterfly	<i>Euphydryas editha bayensis</i>	FT	
bent-flowered fiddleneck	<i>Amsinckia lunaris</i>		1B.2
California bottle-brush grass	<i>Elymus californicus</i>		4.3
California red-legged frog	<i>Rana draytonii</i>	FT, SSC	
Central California Coast Steelhead	<i>Oncorhynchus mykiss irideus</i>	FT	
Crystal Springs lessingia	<i>Lessingia arachnoidea</i>		1B.2
Franciscan onion	<i>Allium peninsulare</i> var. <i>franciscanum</i>		1B.2
Hillsborough chocolate lily	<i>Fritillaria biflora</i> var. <i>ineziana</i>		1B.1
Marin western flax	<i>Hesperolinon congestum</i>	FT, ST	1B.1
mission blue butterfly		FE	
Myrtle's silverspot butterfly	<i>Speyeria zerene myrtleae</i>	FE	
Pallid bat	<i>Antrozous pallidus</i>	SSC	
San Francisco collinsia	<i>Collinsia multicolor</i>		1B.2
San Francisco dusky-footed woodrat	<i>Neotoma fuscipes annectens</i>	SSC	
San Francisco garter snake	<i>Thamnophis sirtalis tetrataenia</i>	FE, SE, SFP	
San Francisco owl's-clover	<i>Triphysaria floribunda</i>		1B.2
San Mateo woolly sunflower	<i>Eriophyllum latilobum</i>	FE, SE	1B.1
Townsend's big-eared bat	<i>Corynorhinus townsendii</i>	SSC	
western leatherwood	<i>Dirca occidentalis</i>		1B.2

FE = federally listed as endangered under ESA; FT = federally listed as threaten under ESA; SE = state listed as endangered under CESA; ST = state listed as threatened under CESA; SFP = state fully protected under Fish and Game Code; SSC = state species of special concern

COMMENTS

Comment 1: Special-Status Plant Species Surveys

Issue: Attachment F, identified special-status plant species are within the Project area during a 2007 special-status plant focused survey. Since a significant amount of time has passed since special-status plant focused surveys were conducted, a botanist conducted reconnaissance-level surveys in 2014 and again in 2015. The IS/MND is unclear what the reconnaissance surveys involved and whether special-status plant focused surveys were conducted.

Recommendation: CDFW recommends disclosing the survey methods or protocols that were used during the reconnaissance survey within the IS/MND. CDFW also recommends that reconnaissance surveys be based on species-specific focus surveys and not based on one-time annual surveys.

Recommended Mitigation Measure 1: Special-Status Plant Focused Surveys

CDFW recommends that the Project area be surveyed for special-status plants by a qualified botanist following the “Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities,” which can be found online at <https://wildlife.ca.gov/Conservation/Survey-Protocols>. This protocol, which is intended to maximize detectability, includes identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period. In the absence of protocol-level surveys being performed, additional surveys may be necessary.

Comment 2: Special-Status Plant Species Occurrences

Issue: Attachment F states that botanical surveys were conducted in 2007 and identified that San Mateo woolly sunflower, arcuate bush mallow, Franciscan onion, western leatherwood, California bottle-brush grass, and San Francisco collinsia were found within the Project area and a map of special-status plant locations was included in the attachments. However, CDFW was unable to find a map in the uploaded attachments.

Recommendation: CDFW recommends including a map, in plan view, identifying the occurrences of special-status plant species and location of lots within the IS/MND to fully evaluate the impacts to San Mateo woolly sunflower from lot creation, grading, residential development, and landslide repair.

Recommended Mitigation Measure 2: Special-Status Plant Avoidance

CDFW recommends special-status plant species be avoided whenever possible by delineation and observing a no-disturbance buffer of at least 50 feet from the outer edge of the plant population(s) or specific habitat type(s) required by special-status plant species. If buffers cannot be maintained, then consultation with CDFW is warranted to determine appropriate minimization and mitigation measures for impacts to special-status plant species.

Recommended Mitigation Measure 3: Special-Status Plant Take Authorization

If a state-listed or state Rare¹ plant is identified during botanical surveys, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, acquisition of take authorization through an Incidental Take Permit (ITP) issued by CDFW pursuant to Fish and Game Code Sections 2081(b) and/or Section 1900 et seq is necessary to comply with Fish and Game Code CESA and the Native Plant Protection Act.

Comment 3: Western Leatherwood Occurrences

Issue: The IS/MND identified that western leatherwood (California Native Plant Society (CNPS) List 1B), which is considered rare, threatened, or endangered in California and elsewhere, but is not listed under CESA, was mapped within the proposed residential development lots. Mitigation Measure 10, which includes salvaging, transplanting plants, and the creation of a new population, is proposed to mitigate for Project impacts to western

¹ In this context, “Rare” means listed under the California Native Plant Protection Act.

leatherwood. However, salvaging and transplanting plants often have a low success rate as little is known about sensitive plant species and the environmental conditions they require.

Recommendation: CDFW recommends the following language be added to Mitigation Measure 10 in order to reduce impacts to a less-than-significant level:

The owner/Permittee shall consult with a qualified botanist to identify land containing special-status plant habitat, in-kind to what will be impacted by the Project, to preserve impacted species at a 2:1 mitigation ratio, which may include habitat enhancement activities. The qualified botanist shall prepare a Habitat Enhancement Mitigation and Monitoring Plan (Plan) to be reviewed and approved by CDFW prior to Project implementation. The Plan shall, at a minimum, include preserving or enhancing like habitat (i.e. similar in quality to what will be lost as a result of the Project) at a minimum 2:1 mitigation to impacts acreage ratio either on-site or off-site, or combination thereof. The Plan shall clearly describe the location of land(s) where habitat exists and enhancement activities will occur. The Plan shall describe activities that will be implemented in order to improve habitat conditions and shall provide specific success criteria to ensure habitat enhancement activities are effective. All habitat preservation land(s) shall be preserved in perpetuity under the form of a conservation easement and shall be monitored for a minimum of five years to ensure specific success criteria are met.

Comment 4: Conservation Easement Hiking Trails

Issue: Attachment F states that special-status plant species were found within the conservation easement parcel. Attachment T states that a hiking trail stipulation was added to the conservation easement parcel to allow the current owner to create hiking trails, but the IS/MND does not disclose where the potential hiking trails will be located. The proposed hiking trails may have impacts to habitat and special-status plant species located within the conservation easement.

Recommendation: CDFW recommends that the conservation easement not allow hiking trails. The creation of hiking trails potentially has an impact to special-status species as well as sensitive habitats that has not been fully evaluated within the IS/MND.

Comment 5: Mitigation Measure 7

Issue: The IS/MND states that:

A federal permit is required for any excavation that requires the removal of willows within the limits of federal jurisdiction. Should removal be deemed necessary, at that time, work shall cease until all appropriate permits have been issued by the USACE [U.S. Army Corps of Engineers] and RWQCB [Regional Water Quality Control Board], and CDFW and the Planning and Building Department shall be notified. Prior to resumption of grading activities, copies of all regulatory permits and proof of the successful implementation of all permit conditions and mitigation measures shall be provided to the Planning and Building Department.

CDFW's LSA Program is not a federal jurisdiction and has its own determination, see the Regulatory Requirements section below.

Recommendation: CDFW recommends adding the below language to Mitigation Measure 7.

Project-related activities that have the potential to change the bed, bank, and channel of streams and other waterways, may be subject to CDFW's regulatory authority pursuant Fish and Game Code section 1600 et seq.; therefore, in these instances, Notification is recommended. Fish and Game Code section 1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake (including the removal of riparian vegetation); or (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. "Any river, stream, or lake" includes those that are ephemeral or intermittent as well as those that are perennial.

Comment 6: Tree Replacement and Revegetation Monitoring Plan

Issue: The IS/MND states that seven trees could be removed due to residential development and does not disclose the species of trees nor develops a revegetation monitoring plan.

Recommendation: CDFW recommends that the IS/MND disclose the tree species and developing a five-year revegetation monitoring plan for the removal of trees with the following ratios:

- 10:1 for oak trees greater than 15-inch diameter at breast height (dbh)
- 15:1 for oak trees less than 15-inch dbh
- 3:1 for native tree
- 1:1 for non-native tree

REGULATORY REQUIREMENTS

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 [CEQA section 21001(c), 21083, and CEQA Guidelines section 15380, 15064, 15065]. Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration

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(FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code section 2080.

Lake and Streambed Alteration Program

Notification is required, pursuant to CDFW's LSA Program (Fish and Game Code section 1600 et. seq.) for any Project-related activities that will substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. CDFW may not execute the final LSA Agreement until it has complied with CEQA (Public Resources Code section 21000 et seq.) as the responsible agency.

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 IS/MND. If you have any questions regarding this letter, please contact Ms. Monica Oey, Environmental Scientist, at (707) 428-2088 or monica.oey@wildlife.ca.gov; or Ms. Randi Adair, Senior Environmental Scientist (Supervisory), at (707) 576-2786 or randi.adair@wildlife.ca.gov.

Sincerely,



Gregg Erickson
Regional Manager
Bay Delta Region

Attachment

cc: State Clearinghouse #2020019052

Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)**

**PROJECT: Zmay 3-Lot Minor Subdivision, Grading Permit and Resource
Management (RM) Permits**

SCH No.: 2020019052

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation Measure 1: Special-Status Plant Focused Surveys	
Mitigation Measure 2: Special-Status Plant Avoidance	
Mitigation Measure 3: Special-Status Plant Take Authorization	
<i>During Construction</i>	
Recommended Mitigation Measure 2: Special-Status Plant Avoidance	