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State of California – Natural Resources Agency
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GAVIN NEWSOM, Governor
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November 18, 2025

Taylor Bateman, Community Development Director
City of Scotts Valley
1 Civic Center Drive
Scotts Valley, CA, 95066
Planningdepartment@scottsvalley.gov

Subject: 2025 Scotts Valley Town Center Specific Plan, Draft Environmental Impact Report, SCH No. 2025050499, City of Scotts Valley, Santa Cruz County

Dear Taylor Bateman:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Draft Environmental Impact Report (EIR) from the City of Scotts Valley (City) for the 2025 Scotts Valley Town Center Specific Plan (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1] CDFW previously submitted comments in response to the Notice of Preparation of the draft EIR.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As

[1] CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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proposed, for example, the Project may be subject to CDFW's Lake and Streambed Alteration (LSA) regulatory authority. (Fish & G. Code, § 1600 et seq.) Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

REGULATORY REQUIREMENTS

California Endangered Species Act

A CESA Incidental Take Permit (ITP) must be obtained from CDFW 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. Under CESA, "take" means "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." (Fish & G. Code, § 86). CDFW's issuance of an ITP is subject to CEQA and to facilitate permit issuance, any project modifications and mitigation measures must be incorporated into the CEQA document analysis, discussion, and 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, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064 & 15065.) In addition, pursuant to CEQA, the Lead Agency cannot approve a project unless all impacts to the environment are avoided or mitigated to less-than-significant levels, or the Lead Agency makes and supports Findings of Overriding Consideration (FOC) for impacts that remain significant despite the implementation of all feasible mitigation. FOC under CEQA, however, do not eliminate the Project proponent's obligation to comply with the Fish and Game Code.

Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting rivers, lakes or streams and associated riparian habitat. Notification is required for any activity that may 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, drainage ditches, washes, watercourses with a subsurface flow, and floodplains is generally subject to notification requirements. In addition, infrastructure installed beneath such aquatic features, such as through hydraulic directional drilling, is also generally subject to notification requirements. Therefore, any impact to the mainstems, tributaries, or

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floodplains or associated riparian habitat caused by the proposed Project will likely require an LSA Notification. CDFW may not execute a final LSA Agreement until it has considered the final EIR and complied with its responsibilities as a responsible agency under CEQA.

Migratory Birds and Raptors

CDFW has authority over actions that may result in the disturbance or destruction of active bird nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include section 3503 (regarding unlawful take, possession, or needless destruction of the nests or eggs of any bird), section 3503.5 (regarding the take, possession, or destruction of any birds-of-prey or their nests or eggs), and section 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Scotts Valley

Objective: The objective of the Project is to create a vision, policies, and objective standards to guide new development within the Scotts Valley Town Center Specific Plan area (Plan area) in a way that supports existing and new businesses, residents, and the overall community. The Project will allow for up to 657 residential units, up to 82,000 square feet of commercial uses, and up to 35,000 square feet of public/civic uses. The Project will include adoption of amendments to the City's General Plan and Zoning Ordinance, changing certain existing land use designations in the Plan Area, creating new zoning districts, and updating existing or establishing new development standards to replace some of the current zoning provisions applicable to the Plan Area. Primary Project activities include demolition of existing commercial buildings and construction of residential and commercial buildings within the Plan area.

Location: The Project is located in the City of Scotts Valley in southeast portion of Skypark, which is now a public park and open space. The Plan area is roughly bound by Blue Bonnet Lane and Kings Village Road to the north, an existing residential neighborhood (Hidden Oaks Condominiums) to the east, Mt. Hermon Road to the south, Skypark Drive to the west, and Skypark to the northwest.

Timeframe: 2045

COMMENTS AND RECOMMENDATIONS

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

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Editorial comments or other suggestions may also be included to improve the document.

I. Environmental Setting and Related Impact Shortcoming

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?

COMMENT 1: Special-Status Plant Species

Section 3.4.2.1, Page 94

Issue: The draft EIR proposes to implement General Plan Policy OSC-1.16, which requires new development within areas of native plants to prepare a site-specific survey which identifies the location and type of species present. However, the draft EIR does not specify how surveys will be performed or the level of survey effort to ensure special-status plant species will be detected. Additionally, if any rare plants are found, General Policy OSC-1.16 relies on a biologist to recommend mitigation at a later time and relies on agency requirements, if any. Therefore, the Project has potential to result in significant impacts to rare plants because: 1) Rare plant occurrences may be un-detected and 2) If rare plants are detected, biologist recommended mitigation may not be implemented or sufficient if there are no agency requirements.

Specific impact, why the impact would occur, and evidence the impact would be significant: CEQA Guidelines §15125(a) requires an EIR to be based on current, accurate, and site-specific data. Without current surveys, it is foreseeable that project buildout could remove, alter, or fragment remaining microhabitat patches that may still support special-status plant species in the Zayante/Santa Cruz Sandhills and/or Ponderosa Pine habitat.

A reconnaissance-level biological field survey was last conducted in July 2014 outside of the bloom season. Additional botanical surveys are necessary because there is insufficient data to determine whether rare or special-status plants are present within the Project area, surveys did not occur at the appropriate times of year, and surveys were not conducted for a sufficient number of years to detect plants that may not be evident and identifiable every year. Surveys over consecutive seasons may be necessary for annual or short-lived special-status plants to increase the likelihood of detection. Variances in weather and other disturbances from year to year may affect presence or accurate identification of special-status plants on-site.

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Recommendation: CDFW recommends revising the draft EIR to require focused botanical surveys consistent with *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities* (CDFW 2018) including at least two consecutive years of appropriately timed blooming-season surveys prior to any site disturbance or grading.

Recommended Special-Status Plant Survey BIO-Measure: An experienced botanist, familiar with the native plant communities of Santa Cruz County, including Zayante/Santa Cruz Sandhills and Ponderosa Pine habitat shall conduct a minimum of two focused rare plant surveys over two consecutive seasons. The surveys shall occur throughout the entire Project area and at each construction site, prior to the initiation of construction. 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, If rare or special-status plant(s) cannot be avoided, the Project proponent shall submit to CDFW a rare or special-status plant mitigation plan for CDFW review, comment, and written approval prior to construction. Depending on the site-specific details, 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 ITP (Fish and Game Code section 2081, subd., (b).).

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any speciel identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS?

COMMENT 2: Nesting Birds

Section 3.4.2.1, Page 95

Issue: The draft EIR proposes to implement mitigation measure MM-BIO 2.1: Avoid Nesting Birds to mitigate for impacts to nesting birds. The measure does not completely consider all life history timing needs of some bird species potentially impacted by the Project.

Specific impact, why the impact would occur, and evidence the impact would be significant: The nesting seasons for passerines (*Passeriformes*), owls (*Strigiformes*), and raptors range from February 15 - August 30, January 15 - September 15, and February 15 - September 15, respectively.

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Recommendation 2: To evaluate and avoid potential impacts to nesting bird species, CDFW recommends incorporating the following mitigation measure into the Project's draft EIR existing measure.

Recommended Nesting Bird Mitigation Measure: If Project grading or construction is scheduled to take place between January 15 – September 15, a preconstruction survey of the Project vicinity for nesting birds shall be conducted by a qualified biologist experienced with the nesting behavior of bird species of the region. The survey shall determine if active nests are present within the planned area of disturbance or within 250 feet for passerines, 500 feet for accipiters and 1,000 feet for buteos. The survey shall be performed no more than 7 days prior to the commencement of construction activities, and a second focused survey shall be conducted within 48 hours prior to construction activities that would occur during the nesting/breeding season. If ground disturbance activities are delayed following a survey, then an additional preconstruction survey shall be conducted such that no more than two weeks will have elapsed between the last survey and the commencement of ground disturbance activities. If a lapse of Project-related activities of seven days or longer occurs, another focused survey will be conducted before Project activities can be reinitiated.

If an active bird nest is found within the survey radii, species-specific measures shall be prepared by a qualified biologist and implemented to prevent abandonment of the active nest. A protective buffer distance shall be established by a qualified biologist based on the site conditions such as whether the nest is in a line of sight of the construction and the sensitivity of the birds nesting. Typical protective buffers are as follows: 1) 250 feet for passerines, 2) 500 feet for accipiters, and 3) 1,000 feet for buteos. No Project personnel or equipment shall be allowed to enter the protective buffer until the qualified biologist determines that the young have fully fledged and will no longer be adversely affected by the Project.

The qualified biologist shall observe any identified active nests prior to the start of any construction-related activities to establish a behavioral baseline of the adults and any nestlings, and the nest site(s) shall be monitored by the biologist periodically to see if the birds are stressed by the construction activities and if the protective buffer needs to be increased. The perimeter of the nest setback zone shall be fenced or adequately demarcated with stakes and flagging at 20-foot intervals, and construction personnel and activities restricted from the area. A survey report by the qualified biologist verifying that no active nests are present, or that the young have fledged, shall be submitted prior to initiation of grading in the nest-setback zone. The qualified biologist shall serve as a biological monitor during those periods when construction activities occur near active nest areas to

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ensure that no inadvertent impacts on these nests occur. All buffers shall be shown on all sets of construction drawings.

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS?

COMMENT 3: San Francisco Dusky-Footed Woodrat

Section 3.4.2.1, Page 93

Issue: The draft EIR identifies San Francisco dusky-footed woodrat (*Neotoma fuscipes annectens*) to have "reasonable potential to occur within the Project area" but does not identify species specific surveys, time to dismantle San Francisco dusky-footed woodrat midden or include midden relocations as a minimization measure. The Project has potential to result in significant impacts to San Francisco dusky-footed woodrat without revised mitigation measure(s).

Specific impact, why the impact would occur, and evidence the impact would be significant: The San Francisco dusky-footed woodrat is listed as a species of special concern found throughout the San Franciso Bay area in grasslands, scrub, and woodland areas (Hall 1981). The Project site includes oak woodland, riparian, and shrub habitats which provide suitable habitat for this species. The draft EIR does not include species-specific mitigation measures for San Francisco dusky-footed woodrat requiring focused preconstruction surveys, avoidance buffers, or relocation (specific timing, methods, or performance standards).

Recommendation: CDFW recommends that if San Francisco dusky-footed woodrat middens cannot be avoided, the middens shall be relocated out of the Project area to minimize impacts to San Francisco dusky-footed woodrat. CDFW also recommends that middens are relocated and/or dismantled during the month of July and August to avoid impacts to young and to allow San Francisco dusky-footed woodrat to store food prior to winter, when food sources are limited.

Recommended San Francisco Dusky-Footed Woodrat Mitigation Measure: A pre-construction survey for San Francisco dusky-footed woodrat shall be conducted by a qualified biologist within seven days prior to Project activities. If an active San Francisco dusky-footed woodrat midden is found during surveys, the active midden site shall be designated as "Ecologically Sensitive Areas" (ESA) and protected during Project construction with establishment of flagging or a fence barrier surrounding the nest site. CDFW recommends that the minimum distance of 25 feet is used for the protective buffer protecting the nest. If a San Francisco dusky-footed woodrat midden(s) cannot be avoided, the Project proponent shall submit to CDFW

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a San Francisco dusky-footed woodrat Midden Relocation Plan for CDFW review, comment, and written approval prior to construction.

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS?

COMMENT 4: Mount Hermon June Beetle and Zayante Band-Winged Grasshopper

Section 3.4.2.1, Page 76

Issue: The Project site includes areas mapped as Zayante/Santa Cruz Sandhills habitat and mixed woodland that may support Mount Hermon June beetle (*Polyphylla barbata*) and Zayante band-winged grasshopper (*Trimerotropis infantilis*), both of which are federally listed as endangered under the Endangered Species Act. These two insect species are known only from the Zayante/Santa Cruz Sandhills, including adjacent transitional soils in Santa Cruz County. The Project has potential to cause significant impacts to Mount Hermon June beetle and Zayante band-winged grasshopper because it would disturb the sandy soils, mixed woodland, and undeveloped areas that support habitat functions for both species. Although some areas are developed and degraded, the soil remains intact and are important for both of these species as they are restricted to sandy soils (USFWS 1998).

Specific impact, why the impact would occur, and evidence the impact would be significant: The draft EIR does not include focused surveys for Mount Hermon June beetle and Zayante band-winged grasshopper. It is unclear if the reconnaissance-level biological field survey conducted in July 2014 followed the USFWS protocol survey methods. The EIR acknowledges that portions of the Project area are mapped as Zayante/Santa Cruz Sandhills habitat and currently developed with soil underlaying the developed area that could meet the requirements for Zayante/Santa Cruz Sandhills habitat. Mount Hermon June beetles are fossorial, and individuals may be present year-round (USFWS 2009). Both species are vulnerable to habitat disturbance, including grading, vegetation removal, and soil compaction.

Recommendation: A focused protocol-level survey should be conducted during the appropriate activity periods to determine presence or absence. If suitable habitat is confirmed, avoidance and mitigation measures should be developed in coordination with the USFWS.

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ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNDDB field survey form can be filled out and submitted online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. 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. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the draft EIR to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Alexis Harrison, Environmental Scientist, at (707) 815-2779 or Alexis.Harrison@wildlife.ca.gov; or Wesley (Wes) Stokes, Senior Environmental Scientist (Supervisory), at (707) 339-6066 or Wesley.Stokes@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Erin Chappell
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Erin Chappell
Regional Manager
Bay Delta Region

ec: Office of Land Use and Climate Innovation (SCH No. 2025050499)
Craig Weightman, CDFW Bay Delta Region – Craig.Weightman@wildlife.ca.gov

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REFERENCES

California Department of Fish and Wildlife (CDFW). 2024. *Special Animals List.* California Natural Diversity Database (CNDDB).

Carraway, L. N., and B. J. Verts. 1991. Neotoma fuscipes. Mammalian Species 386:1-10.

Hall, E.R. 1981. Mammals of North America. John Wiley and Sons, 1181 pp.

[USFWS] U.S. Fish and Wildlife Service. 1997. Determination of Endangered Status for Two Insects from the Santa Cruz Mountains of California. Federal Register 62:3616–3628.

[USFWS] U.S. Fish and Wildlife Service. 1998. Recovery Plan for Insect and Plant Taxa from the Santa Cruz Mountains of California. Portland, Oregon. 83 pp.

[USFWS] U.S. Fish and Wildlife Service. 2009. Zayante band-winged grasshopper (*Trimerotropis infantilis*) and Mount Hermon June beetle (*Polyphylla barbata*) 5-Year Review: Summary and Evaluation. 33 pp.

U.S. Fish and Wildlife Service. 2020. Endangered and Threatened Wildlife and Plants; Initiation of 5-Year Status Reviews of 66 Species in California and Nevada. Federal Register 85:4692–4694.

[USFWS] U.S. Fish and Wildlife Service. 2021. Zayante band-winged grasshopper (*Trimerotropis infantilis*) and Mount Hermon June beetle (*Polyphylla barbata*) 5-Year Review: Summary and Evaluation.