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August 4, 2022

Governor's Office of Planning & Research

John Davidson, Principal Planner
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AUG 08 2022

STATE CLEARINGHOUSE

Subject: Tasman East Specific Plan Amendment +1500 Units, Notice of Preparation of a Draft Subsequent Environmental Impact Report, SCH No. 2016122027, City and County of Santa Clara

Dear John Davidson:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) of a Draft Subsequent Environmental Impact Report (DSEIR) from City of Santa Clara (City) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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.

John Davidson, Principal Planner
City of Santa Clara
August 4, 2022
Page 2

proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.).

PROJECT DESCRIPTION SUMMARY

Proponent: City of Santa Clara

Objective: The Tasman East Specific Plan (Specific Plan) Final Environmental Impact Report (EIR) includes up to 4,500 dwelling units, approximately 106,000 square feet of retail space (including a 25,000-square-foot grocery store), a 600-student school, and 10 acres of non-contiguous open space parkland within the 46-acre Specific Plan area. The objective of the Project is to modify the Specific Plan to include an additional 1,500 dwelling units, approximately 20,000 square feet of retail, 20,000 square feet of co-working space, and a 10,000-square-foot day care.

Location: City of Santa Clara, Santa Clara County. The Project is bounded by Tasman Drive to the south, Lafayette Street to the west, the former Santa Clara golf course to the north, and Guadalupe River to the east. The coordinates for the approximate center of the Project are 37.408911° N latitude and 121.964931 W longitude (NAD 83 or WGS 84). There are 36 parcels within the Specific Plan, with the approximate center being Assessor's Parcel Number 097-46-022.

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.

Project Description, Environmental Category, and Related Impact

Would the Project interfere substantially with movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede use of native wildlife nursery sites?

Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?

COMMENT #1: Project Description, page 2, and Potential Environmental Impacts of the Project, page 5

Issue: The *Introduction* section states the City has received development applications for approximately 4,000 dwelling units. Approximately 12 acres remain within the Specific Plan area that could be redeveloped, and, thus, the City proposes to amend the

John Davidson, Principal Planner
City of Santa Clara
August 4, 2022
Page 3

Specific Plan to include the additions. However, the *Project Description* does not specify how these additional units/square feet will be accommodated. The *Project Description* states that the proposed maximum building height (maximum of 220 feet) is unchanged in comparison to the Specific Plan Final EIR. In comparison to the Specific Plan Final EIR, the NOP does not discuss if the unit/square feet additions will be accommodated through a change of building use, if the open space parkland will be changed to retail and residential buildings, or if other design or planning changes will occur.

Specific impact and why impact would occur: If the proposed Project includes complete or partial loss of the open space adjacent to and along Guadalupe River, as designated in the Specific Plan Draft EIR, this could result in additional impacts to biological resources, including a potential significant increase in the severity of bird collisions with buildings (Comment #2 below).

Evidence impact would be significant: Encroachment into the riparian buffer, such as urban development, would represent a significant impact because of the high ecological value of the Guadalupe River, and resultant degradation of that value due to encroachment. The Guadalupe River and associated riparian and wetland habitats support a variety of resident and migratory birds which can result in high avian mortality through collisions with buildings. Appendix C1 of the Specific Plan further states that large numbers of birds, compared to other areas of Santa Clara and most of the Santa Clara Valley floor, are expected to fly past the Project site over the long term, and enough individuals could potentially strike buildings in this area over the long-term to result in a significant impact.

Recommended Potentially Feasible Mitigation Measures: The *Potential Environmental Impacts of the Project* section of the NOP includes a list of environmental categories that will be analyzed in the DSEIR (e.g., Air Quality, Noise and Vibration, Public Services, etc.). This environmental category list does not include Biological Resources. If there are changes in acres or location of open space adjacent to Guadalupe River or an increase in the severity of bird collisions with buildings, the DSEIR should include a biological resources section that includes a thorough analysis of impacts and measures to avoid, minimize, and mitigate those impacts to a less than significant level.

Alternatives and Impacts

Would the Project interfere substantially with movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede use of native wildlife nursery sites?

John Davidson, Principal Planner
City of Santa Clara
August 4, 2022
Page 4

COMMENT #2: Project Description, page 2, and Potential Environmental Impacts of the Project, 10. Alternatives, page 7

Issue, specific impact, and evidence impact would be significant: The *Project Description* does not describe how additional units/square feet will be configured within the Project area. To accommodate these changes, the City may need to reevaluate the particular land use (e.g., residential, retail, co-working space, day care), and general building design within the Project area.

The Specific Plan Final EIR concluded that there were significant and unavoidable impacts to biological resources, particularly concerning bird collisions with buildings.

In the Tasman East Focus Area Plan Biological Resources Report (dated July 26, 2018, Appendix C-1 to the Specific Plan Final EIR), a consulting firm hired by the City recommended a measure, in summary, that buildings higher than 55 feet should not be constructed within 300 feet of the top of bank of the Guadalupe River. The consulting firm concluded in Appendix C-1 that this measure, along with others, would reduce bird collision impacts to a less-than-significant level. The Specific Plan DEIR Biological Resources analysis states (on page 78) another consulting firm conducted a second analysis of building height and disagreed with the prior recommendation. The City then decided not to consider the building height recommendation and concluded that a bird safe building design was sufficient. The analysis concluded that the impact of bird collisions with buildings was significant and unavoidable.

Recommended Potentially Feasible Mitigation Measures: The alternatives analyzed within the Specific Draft EIR only include differences in configuration of the urbanized portion of the Project and do not consider reducing impacts to biological resources. If the City proposes to re-configure land uses (e.g., residential, retail, co-working space, day care) and building designs to accommodate the proposed land use changes, CDFW highly recommends that alternatives be developed and implemented to reduce the severity of bird collisions with buildings to a less-than-significant level.

Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or U.S. Fish and Wildlife Service?

COMMENT #3: Project Description, page 2, and Potential Environmental Impacts of the Project, 10. Alternatives, page 7

Issue and specific impact: Part of the Specific Plan Draft EIR includes the possible culverting of the Eastside Drainage Swale so that flow would pass through a box culvert (2.3.5 Public Open Space on page 17 and 3.9.2.5 Drainage Impact on page 153). This would result in permanent impacts to 0.39 acres (810 linear feet) of perennial freshwater

John Davidson, Principal Planner
City of Santa Clara
August 4, 2022
Page 5

wetland and 0.05 acres of riparian woodland. This loss was determined to be less-than-significant with mitigation incorporated (to be mitigated at a minimum 2:1 ratio).

Evidence impact would be significant: Loss of sensitive freshwater wetland and riparian woodland habitat could be a significant impact without sufficient avoidance, minimization and mitigation measures.

Recommended Potentially Feasible Mitigation Measures: CDFW highly recommends that alternatives be developed to avoid freshwater wetland and riparian woodland habitat. If the City determines that full avoidance is infeasible, CDFW recommends that other planning and design alternatives be developed to reduce permanent and temporary impacts to these sensitive habitat types, and any permanent loss be offset through preservation, creation, restoration and/or enhancement of wetland and riparian habitat types at a minimum 3:1 mitigation ratio at a suitable location that will not be further impacted by development or land use changes.

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 (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/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 NOP to assist the City in identifying and mitigating Project impacts on biological resources.

John Davidson, Principal Planner
City of Santa Clara
August 4, 2022
Page 6

Questions regarding this letter or further coordination should be directed to Kristin Garrison, Environmental Scientist, at Kristin.Garrison@wildlife.ca.gov; or Brenda Blinn, Senior Environmental Scientist (Supervisory), at Brenda.Blinn@wildlife.ca.gov.

Sincerely,

DocuSigned by:


Erin Chappell
Regional Manager
Bay Delta Region

ec: Office of Planning and Research, State Clearinghouse, Sacramento

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