



State of California – Natural Resources Agency
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GAVIN NEWSOM, Governor
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January 15, 2020

Governor's Office of Planning & Research

JAN 15 2020

STATE CLEARINGHOUSE

Mr. Jeffrey Beiswenger, Planning Manager
City of Rohnert Park Development Services
130 Avram Avenue, 2nd Floor
Rohnert Park, CA 94928
Email: jbeiswenger@rpcity.org

Subject: SOMO Village Project, Draft Supplemental Environmental Impact Report,
SCH #2019060006, City of Rohnert Park, Sonoma County

Dear Mr. Beiswenger:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a draft Supplemental Environmental Impact Report (SEIR) from the City of Rohnert Park (City) for the SOMO Village Project (Project) pursuant the California Environmental Quality Act (CEQA). CDFW previously submitted comments to the City in response to the associated Notice of Preparation and appreciates the City's incorporation of several of our comments into the SEIR.

CDFW is submitting comments on the SEIR to inform the City, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project.

CDFW ROLE

CDFW is a Trustee Agency with responsibility under CEQA (Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines section 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 permits issued under the California Endangered Species Act (CESA), 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.

REGULATORY REQUIREMENTS

California Endangered Species Act

Please be advised that a CESA Incidental Take Permit (ITP) 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; therefore, 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 ITP.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially restrict the range or reduce the population of a threatened or endangered species. (Pub. Resources

Code, §§ 21001, subd. (c), 21083; CEQA Guidelines, §§ 15380, 15064, and 15065). Impacts must be avoided or mitigated 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 CESA.

Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et. seq., for Project activities affecting 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, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW will consider the CEQA document for the Project and may issue an LSA Agreement. CDFW may not execute the final LSA Agreement (or ITP) until it has complied with CEQA as a Responsible Agency.

PROJECT DESCRIPTION SUMMARY

Proponent: SOMO Village, LLC

Objective: Update the adopted Sonoma Mountain Village Final Development Plan to include a change in the amount of development and inclusion of an off-site (relocated) water tank.

Location: The approximately 176-acre main Project (SOMO Site) occupies an area in the southeastern portion of the City of Rohnert Park and is bounded by Bodway Parkway on the east, Camino Colegio on the north, the Sonoma-Marin Area Rail Transit (SMART) right-of-way on the west, and Railroad Avenue on the south. The SOMO Site is located at approximately 38.319978 latitude and -122.679261 longitude on Assessor Parcel Numbers (APNs) 046-051-045, 046-051-040, and 046-051-042. Additionally, a water tank will be relocated (Relocated Water Tank Site) to 6626 Petaluma Hill Road on APN 047-132-038 at approximately 38.342351 latitude and -122.658298 longitude.

Timeframe: The Project is anticipated to build out over approximately 10 years.

COMMENTS AND RECOMMENDATIONS

CDFW offers the below 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 fish and wildlife (biological) resources. Based on the Project's avoidance of significant impacts on biological resources, in part through implementation of CDFW's below recommendations, CDFW concludes that an SEIR is appropriate for the Project.

Environmental Setting

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: SEIR Page ES-15

The SEIR indicates that the Project would not impact riparian habitat or other sensitive natural communities; however, based on aerial imagery, it appears that drainage features may be present in the SOMO Site Project area, such as adjacent to the SMART right-of-way; a potentially associated culvert is present at the intersection of the right-of-way and East Railroad Avenue.

CDFW recommends that all natural and artificial drainages be further evaluated for stream characteristics and connectivity to other streams such as Lichau Creek. If stream characteristics and connectivity are present, the City should require restoration of another portion of the stream on-site and/or a nearby stream off-site within the same watershed. The farther the restoration or enhancement is from the Project area the greater the mitigation ratio may be. CDFW also recommends that the SEIR require an LSA Notification to CDFW to address and reduce impacts to the stream and any associated riparian habitat so that CDFW may issue an LSA Agreement (see <https://www.wildlife.ca.gov/Conservation/LSA>). The LSA Agreement would rely on the SEIR for CEQA compliance, and if the stream were to be culverted or impacted, the LSA Agreement would require a restoration and enhancement plan approved by CDFW. The plan would likely require restoration on-site at a 1:1 ratio or off-site at a 3:1 ratio for the linear distance of stream removed.

Mitigation Measures

MANDATORY FINDINGS OF SIGNIFICANCE Does the Project have the potential to substantially reduce the number or restrict the range of a rare or endangered plant or animal?

Comment 2: Mitigation Measure 3.3-2

The SOMO Site includes nonnative grassland habitat suitable to support dispersing and potentially aestivating California tiger salamanders (CTS, *Ambystoma californiense*), a state threatened and federally endangered species. The California Natural Diversity Database (CNDDB) documents CTS occurrences on the same parcel as the SOMO Site and within approximately 1,100 feet of it.

The SEIR indicates that take authorization from CDFW and USFWS for CTS would only be required if CTS are discovered in the southern portion of the SOMO Site south of Valley House Drive. In order to show absence of CTS on-site, CDFW requires two-year protocol surveys for CTS conducted in the entire SOMO Site where suitable habitat occurs, including north and south of Valley House Drive, pursuant to the *Interim Guidance on Site Assessments and Field Surveys for Determining Presence or a Negative Finding of Tiger Salamander* (USFWS and CDFW 2003, see: <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281282-amphibians>). It is unlikely that CTS would be discovered as adults spend the majority of their life cycle underground in small-mammal burrows or other suitable refugia (Loredo et al. 1996).

CDFW recommends that Mitigation Measure 3.3-2 require take authorization from CDFW and USFWS if suitable habitat features such as small mammal burrows, cracks, or other suitable refugia are present within or adjacent to the SOMO Site including north and south of Valley House Drive, as burrow tunnel systems may extend laterally. Alternatively, the above survey protocol shall be implemented including pre-survey consultation with CDFW and USFWS to determine if CTS are present, and if found take authorization shall be required.

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: Mitigation Measures 3.3-3 and 4.2-4

The SOMO Site includes nonnative grassland habitat that is potentially suitable to support foraging, overwintering, and nesting burrowing owls (*Athene cunicularia*), a California Species of Special Concern. CNDDDB documents a 2002 burrowing owl occurrence approximately 1.8 miles northeast of the site. There is also a 2017 occurrence record of the species in the City of Santa Rosa indicating that the species uses habitat within the Santa Rosa Plain, which encompasses the SOMO Site. Owls typically use California ground squirrel burrows (*Spermophilus beecheyi*) for breeding and sheltering; however, they have been documented to use artificial structures or other ground squirrel burrow surrogates. Therefore, a lack of ground squirrel burrows on the SOMO Site would not preclude owls from wintering there or using it as foraging habitat. Breeding owls are likely extirpated from the county (Burrige 1995); however, breeding owls could be rediscovered and there have been efforts to promote their recolonization within the county.

The SEIR does not require habitat compensation for the permanent loss of burrowing owl breeding, foraging, or overwintering habitat. The Department of Fish and Game (CDFG) *Staff Report on Burrowing Owl Mitigation* (2012) states, “*current scientific literature supports the conclusion that mitigation for permanent habitat loss necessitates replacement with an equivalent or greater habitat area for breeding, foraging, wintering, dispersal...*” (see <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>).

CDFW recommends implementation of the below mitigation measures to reduce potential impacts to burrowing owl to less-than-significant for the SOMO Site.

Burrowing owl breeding habitat: Loss of a nest site (i.e., burrow or other structure used by burrowing owls for breeding) within the last three years shall be mitigated by permanent preservation of two known nest sites with sufficient foraging habitat to support the nests. Permanent nest preservation shall include purchasing burrowing owl breeding credits from a CDFW-approved conservation bank, or permanently protecting nest sites and foraging habitat through placement of a conservation easement and implementing and funding in perpetuity a long-term management plan. Preserved nests must be located within Sonoma County. Nests preserved outside of this area shall be mitigated at a 3:1 ratio and located as near as feasible to the Project impact site. Preserved nests and sufficient foraging habitat must be reviewed and accepted by CDFW in writing. Prior to preserving habitat, the Project shall coordinate with the county

in which the habitat is located to ensure the preservation is consistent with the county's habitat preservation programs, if any. Nest preservation shall be completed before Project construction begins.

Burrowing owl foraging or overwintering habitat: Loss of foraging or overwintering habitat shall be mitigated by permanent preservation of foraging or overwintering habitat, as applicable, at a 1:1 ratio. Permanent habitat preservation shall include purchasing foraging habitat credits from a CDFW-approved conservation bank, or permanently protecting foraging habitat through placement of a conservation easement and implementing and funding in perpetuity a long-term management plan. Preserved overwintering habitat must contain suitable burrows for overwintering and must be reviewed and accepted by CDFW in writing. Preserved habitat must be within an area that would likely be utilized by burrowing owls based on documented occurrences of the species. Preserved habitat must be located within Sonoma County. Habitat preserved outside of this area shall be mitigated at a 2:1 ratio and located as near as feasible to the Project impact site. Prior to preserving habitat, the Project shall coordinate with the county in which the habitat is located to ensure the preservation is consistent with the county's habitat preservation programs, if any. Overwintering habitat preservation shall be completed before Project construction begins. Foraging habitat preservation shall occur before Project construction begins or within 18 months of the start of Project construction if a security, for example an irrevocable letter of credit, is provided to the lead agency covering habitat preservation costs.

Please be advised that CDFW does not consider exclusion of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a "take" avoidance, minimization, or mitigation measure. The long-term demographic consequences of exclusion techniques have not been thoroughly evaluated, and the survival rate of excluded owls is unknown. Burrowing owls are dependent on burrows at all times of the year for survival or reproduction, therefore eviction from nesting, roosting, overwintering, and satellite burrows or other sheltering features may lead to indirect impacts or "take" which is prohibited under Fish and Game Code section 3503.5. All possible avoidance and minimization measures should be considered before temporary or permanent exclusion and closure of burrows is implemented to avoid "take." For exclusion of non-breeding owls, a Burrowing Owl Exclusion Plan following CDFW's 2012 *Staff Report on Burrowing Owl Mitigation Appendix E* (see <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>) shall be submitted to CDFW for review, and CDFW's recommendations shall be implemented as feasible, as determined by the lead agency.

FILING FEES

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

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CONCLUSION

To ensure significant impacts are adequately mitigated to a level less-than-significant, CDFW recommends the feasible mitigation measures described above be incorporated as enforceable conditions into the final CEQA document for the Project. CDFW appreciates the opportunity to comment on the SEIR to assist the City in identifying and mitigating project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Ms. Melanie Day, Senior Environmental Scientist (Specialist), at (707) 428-2092 or Melanie.Day@wildlife.ca.gov; or Ms. Karen Weiss, Senior Environmental Scientist (Supervisory), at Karen.Weiss@wildlife.ca.gov.

Sincerely,



Gregg Erickson
Regional Manager
Bay Delta Region

cc: State Clearinghouse (SCH# 2019060006)

California Department of Fish and Wildlife
Craig Weightman, Bay Delta Region, Napa
Karen Weiss, Bay Delta Region, Fairfield
Melanie Day, Bay Delta Region, Fairfield

REFERENCES

- Burridge, B. 1995. Sonoma County Breeding Bird Atlas. Madrone Audubon Society.
- Loredo, I., D. Van Vuren, and M.L. Morrison. 1996. Habitat use and migration behavior of the California Tiger Salamander. *Journal of Herpetology* 30:282–282.