



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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Governor's Office of Planning & Research

December 20, 2019

DEC 30 2019

STATE CLEARINGHOUSE

Mr. Gary Kupp, Senior Planner
Community Development Division
Contra Costa County Department of Conservation and Development
30 Muir Road
Martinez, CA 94553

Subject: Xavier Estates Tentative Vesting Map Project, Mitigated Negative Declaration,
SCH #2019129001, City of Alamo, Contra Costa County

Dear Mr. Kupp:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from Contra Costa County Department of Conservation and Development (Department) 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 a Trustee Agency with responsibility under CEQA §15386 for commenting on projects that could impact fish, plant or wildlife resources. CDFW is also considered a Responsible Agency if a project requires discretionary approval, such permits issued under the California Endangered Species Act (CESA) and the Native Plant Protection Act, 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.

PROJECT DESCRIPTION SUMMARY

Proponent: Contra Costa County, Department of Conservation and Development

Objective: The Project requests approval of: (1) a Vesting Tentative Map for a 6-lot major subdivision of 3.62-acre parcel with no home development proposed at this time, (2) a tree permit to remove 153 code-protected trees, and for earthwork and construction activities in the dripline of one code-protected Valley Oak tree that is to be preserved; (3) a grading permit to grade approximately 15,000 cubic yards of earth material for the construction of the

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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subdivision's private roadway, building areas, soil remediation, and drainage facilities; and (4) exceptions to Subdivision Ordinance Title 9 of the County Code to forego underground utility requirements and road improvements along Danville Boulevard.

Location: The Project is located at 977 Danville Boulevard in the City of Alamo; Assessor's Parcel Number 201-010-007.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations below to assist the Department in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the document.

Nesting Bird Surveys

Mitigation measure *BIO-1* indicates nesting bird surveys will be conducted at least two weeks prior to the initiation of construction activities for project activities conducted between March 1 and August 30. For many birds, 14 days is more than enough time to establish a nest and begin rearing young. Additionally, raptors initiate nesting activity as early as mid-February and many continue to rear young through mid-September. Therefore, surveys conducted two weeks prior to construction activities between March 1 and August 30 would be insufficient to ensure project activities will not result in significant impacts to active nests. CDFW recommends that nesting bird surveys are conducted no more than 5 days prior to the initiation of construction for project activities occurring between February 15 and September 15. If construction activities lapse for a period of 7 days or more during the nesting bird season, another nesting bird survey should be conducted no more than 5 days prior to the re-initiation of construction activities.

Mitigation measure *BIO-1* also indicates that a no disturbance buffer should be established around any active nests, and that the extent of the nest buffer(s) will be determined by a wildlife biologist based on species, level of noise and disturbance, line of sight, ambient noise, and other topographical or artificial barriers. If nests are found on or near the Project area, CDFW can provide guidance on establishing appropriate buffers to minimize the potential for take and to reduce potential impacts to less than significant. As such, CDFW recommends *BIO-1* be revised to require nest buffer approval from the State's trustee for fish and wildlife (CDFW) prior to Project construction.

Tree Removal

The Project description states that the project will remove 153 trees and conduct earthwork and construction within the dripline of one 45-inch Valley Oak. Removal of vegetation may pose a significant impact to native and special-status wildlife species as a loss of cover, nesting habitat, and/or foraging habitat. CDFW recommends addressing these impacts in a mitigation measure that clearly indicates methods of vegetation removal, measures to minimize impacts, and mitigation success criteria for the 72 new trees to be replanted in fulfillment of the Tree Ordinance requirements.

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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 (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be submitted online or emailed to CNDDDB at the following email address: cnddb@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the Department of Conservation and Development in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Ms. Jennifer Rippert, Environmental Scientist at (707) 428-2069 or Jennifer.Rippert@wildlife.ca.gov or Ms. Melissa Farinha, Senior Environmental Scientist (Supervisory) at (707) 944-5579 or Melissa.Farinha@wildlife.ca.gov.

Sincerely,



Gregg Erickson
Regional Manager
Bay Delta Region

cc: State Clearinghouse (SCH# 2019129001)