



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



June 26, 2020

Governor's Office of Planning & Research

Jun 26 2020

STATE CLEARINGHOUSE

Ms. Kristinae Toomians, Senior Planner
City of Santa Rosa
Planning and Economic Development
100 Santa Rosa Avenue, Room 3
Santa Rosa, CA 95404
ktoomains@srcity.org

**Subject: Stonebridge Subdivision Project, Mitigated Negative Declaration,
SCH No. 2020059046, City of Santa Rosa, Sonoma County**

Dear Ms. Toomians:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the City of Santa Rosa (City) for the Stonebridge Subdivision Project (Project) pursuant to the California Environmental Quality Act (CEQA).

CDFW is submitting comments on the MND 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, or 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; the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the Project will impact

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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.

CDFW may also issue a Memorandum of Understanding (MOU) to allow take and possession of CESA-listed species for scientific, educational, or management purposes.

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: D.M. Jacobson and Sons, Inc.

Objective: Construct 105 single-family residential units with related roadways, parking spaces, and stormwater treatment area on a 14.6-acre site (West Parcel). Enhance and preserve Burke's goldfields (*Lasthenia burkei*) habitat on a 14-acre site adjacent to the residential construction site (East Parcel). Burke's goldfields is a state and federally listed as endangered plant species.

Location: The Project is in the City of Santa Rosa, Sonoma County northeast of the Fulton Road and Alton Lane intersection at 2220 Fulton Road. It is centered at approximately 38.475246 degrees latitude and -122.766160 degrees longitude on Assessor Parcel Number 034-030-070.

Timeframe: The Project is anticipated to take three to five years to complete.

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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 MND is appropriate for the Project.

Environmental Setting

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: MND Pages 15 and 68

Issue: According to the MND Appendix B Biological Resources Analysis, the Project would impact 2.65 acres of vernal pool habitat which includes Lobb's buttercup (*Ranunculus lobbii*), a special-status plant as it has a California Rare Plant Rank of 4.2. The MND analyzes the permanent removal of 2.65 acres of wetlands but does not analyze the temporary disturbance to 3.267 acres of wetlands on the East Parcel which also may support Lobb's buttercup.

Specific impacts and why they would occur: The Project's residential construction activities would remove up to 2.52 acres of Lobb's buttercup habitat, and habitat enhancement activities would remove an additional 0.13 acres, for a total of up to 2.65 acres of permanent habitat loss. It would also temporarily impact 3.267 acres of the habitat from habitat enhancement-related recontouring activities.

Evidence impact would be significant: Lobb's buttercup has a California Rare Plant Rank of 4.2, indicating that it has a limited distribution. In some cases, impacts to Rank 4 plants should be evaluated under CEQA, for example if the population is at the periphery of a species' range, in areas where the taxon is especially uncommon, in areas where the taxon has sustained heavy losses, or where populations exhibit unusual morphology or occur on unusual substrates (see <http://www.rareplants.cnps.org/glossary.html#lists>). CDFW staff have observed that many of the vernal pools where Lobb's buttercup were known to occur in the Santa Rosa Plain have sustained heavy losses resulting from development activities over the past 15 years. Therefore, Project impacts to Lobb's buttercup would be potentially significant.

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Recommended Mitigation Measures: To reduce impacts to less-than-significant, CDFW recommends that a qualified botanist collect seed and soil from all vernal pool habitat within the Project area that will be impacted both permanently and temporarily prior to commencement of Project activities. The top two inches of topsoil shall be collected and immediately translocated and dispersed onto enhanced or created suitable vernal pool habitat on the East Parcel, pursuant to MND Mitigation Measure (MM) BIO-1d, or another CDFW-approved location. The qualified botanist must be familiar with the vegetation communities and sensitive plant species on the Santa Rosa Plain, and have demonstrated experience successfully carrying out the activities described above.

Comment 2: MND Page 66

Issue: Land within and adjacent to the Project area includes nonnative grassland habitat that is potentially suitable for foraging, overwintering, and nesting burrowing owls (*Athene cunicularia*), a California Species of Special Concern and also protected under Fish and Game Code section 3503.5 and the federal Migratory Bird Treaty Act (MBTA). The California Natural Diversity Database (CNDDDB) documents a 2017 wintering burrowing owl approximately 3.8 miles northwest of the Project area at the Charles M. Schulz Airport property; a burrowing owl was observed near the same location in November 2019 (Omar Daaboul, Assistant Airport Manager, personal communication, November 2, 2019).

Specific impacts and why they would occur: The Project may result in burrowing owl nest or wintering burrow abandonment, loss of young, and reduced health and vigor of adults or young from audio and visual disturbances caused by construction activities.

Evidence impact would be significant: Burrowing owl is a California Species of Special Concern due to population decline and breeding range retraction. Breeding owls are likely extirpated from Sonoma County (Burrige 1995); however, they could be rediscovered and there have been efforts to promote their recolonization within the County. Based on the foregoing, Project impacts would potentially substantially adversely affect burrowing owl. Therefore, Project impacts to burrowing owl would be potentially significant.

Recommended Mitigation Measures: To reduce impacts to less-than-significant, CDFW recommends that a qualified biologist conduct surveys following the California Department of Fish and Game (now CDFW) 2012 Staff Report on Burrowing Owl Mitigation survey methodology (see <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>). Surveys shall encompass the Project area and a sufficient buffer zone to detect owls nearby that may be impacted. Time lapses between surveys or Project activities shall trigger subsequent surveys including but not limited to a final survey within 24 hours prior to ground disturbance before construction equipment mobilizes to the Project area. The qualified biologist shall have a minimum of two years

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of experience implementing the CDFW 2012 survey methodology resulting in detections. Detected burrowing owls shall be avoided pursuant to the buffer zone prescribed in the CDFW 2012 Staff Report, unless otherwise approved in writing by CDFW, and any eviction plan shall be subject to CDFW review. Please be advised that CDFW does not consider eviction of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure; therefore, off-site habitat compensation shall be included in the eviction plan.

Mitigation Measures

Comment 4: MND Page 75

For Burke’s goldfield’s habitat enhancement activities, MM BIO-1a indicates that the Project will apply to CDFW for authorization pursuant to Fish and Game Code section 2081, subdivision (a) for collection of Burke’s goldfields seeds potentially on CDFW-owned lands. The MND describes the authorization as an “Incidental Take Permit”; however, the MND should use the correct term “Memorandum of Understanding” as ITPs are issued pursuant to Section 2081, subdivision (b). Please be advised that in addition to an MOU, the Project will need to obtain a Letter of Permission from CDFW authorizing Project activities on CDFW-owned lands pursuant to California Code of Regulations, title 14, section 550, subdivision (f) “Research.”

The MND should clarify if Project activities on the East Parcel would result in impacts to Burke’s goldfields. It states that impacts would be avoided; however, MND Appendix B Biological Resources Analysis Figure 6 shows occupied Burke’s goldfields habitat within the majority of East Parcel’s wetlands. Therefore, it is unclear how impacts from the proposed enhancement activities, such as recontouring, would avoid impacts. If such activities would result in impacts to Burke’s goldfields either directly or indirectly, through for example hydrological modification, either on or adjacent to the Project area, an ITP or other CDFW authorization may be more appropriate for the Project. Adjacent habitat includes the CDFW-owned Woodbridge Preserve which supports a sensitive Burke’s goldfields population.

CDFW recommends that the MND:

- 1) Clearly show on aerial based mapping where and what types of wetland enhancement activities would occur in relation to occupied Burke’s goldfields habitat and the CDFW Woodbridge Preserve;
- 2) Provide additional analysis demonstrating that Burke’s goldfields will be avoided;
- 3) Require coordination with CDFW prior to conducting wetland enhancement activities to ensure impacts to Woodbridge Preserve are avoided; and,

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- 4) Require CDFW's acceptance of plant survey results for the entire Project to ensure surveys were properly implemented.

Comment 5: MND Page 76

The MND states that surveys will be completed for California tiger salamander, a state and federally listed as threatened and endangered species, pursuant to the Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding on of the California Tiger Salamander (USFWS and California Department of Fish and Game (now CDFW) 2003). CDFW recommends that MM BIO-1b include a requirement for CDFW to accept the protocol survey results to ensure surveys were properly implemented.

Comment 6: MND Page 77

MM BIO-1c is not adequately protective of nesting birds. CDFW recommends that it be adjusted to include the following:

- 1) Surveys within 500 feet of the Project site for raptors; and,
- 2) Biological monitoring of any active nests to ensure it is not disturbed, and that buffers are adjusted by a qualified biologist as needed to avoid disturbance. For all identified nests, prior to construction activities a qualified biologist shall conduct a survey to establish a behavioral baseline of birds using each nest. Once construction begins, the biologist shall continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, Project activities causing that change shall halt and no-disturbance buffers should be implemented as described below; however, continuous monitoring may allow less conservative buffer distances as the biologist will be on-site to detect behavioral changes. If continuous monitoring of identified nests by a qualified wildlife biologist is not feasible, conservative no-disturbance buffers shall be implemented and set around the nest by a qualified biologist, with the buffer distance based on the tolerance level of the non-listed bird or raptor species.

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).

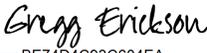
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CONCLUSION

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 MND 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 Melanie.Day@wildlife.ca.gov; or Ms. Karen Weiss, Senior Environmental Scientist (Supervisory), at Karen.Weiss@wildlife.ca.gov.

Sincerely,

DocuSigned by:

BE74D4C93C604EA...
Gregg Erickson
Regional Manager
Bay Delta Region

cc: State Clearinghouse (SCH# 2020059046)

REFERENCES

Burridge, Betty. 1995. Sonoma County Breeding Bird Atlas. Madrone Audubon Society.