



## DEPARTMENT OF FISH AND WILDLIFE

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September 11, 2020

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Governor's Office of Planning & Research

Sep 11 2020

STATE CLEARINGHOUSE

Dear Mr. Kennings:

Subject: Hindawi Viewshed Permit, Draft Mitigated Negative Declaration,  
SCH No. 2020080393, Town of Yountville, Napa County

California Department of Fish and Wildlife (CDFW) personnel reviewed the draft Mitigated Negative Declaration (MND) for the Hindawi Viewshed Permit (Project). CDFW is submitting comments on the draft MND to inform the Napa County, as Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project.

CDFW is a Trustee Agency pursuant to the California Environmental Quality Act (CEQA) Section 15386 and is responsible for the conservation, protection, and management of the State's biological 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), the Native Plant Protection Act, or the 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.

### Environmental Setting

The 58.1-acre Project site is located on a hilly knoll on State Lane, approximately one-mile northwest of its intersection with Yountville Cross Road, in the Town of Yountville, Napa County. The proposed residence is located approximately 750 – 800 feet to the north/northeast of the nearest neighboring residences located at 1185, 1195, and 1205 State Lane. The Project parcel is comprised predominantly of mixed oak woodland habitat. Dominant hardwood species include coast live oak (*Quercus agrifolia*), California black oak (*Quercus kelloggii*), and redwoods (*Sequoia sempervirens*). Elevations at the Project site range from 175 to 347 feet above mean sea level and site topography ranges from slopes of 5 percent to greater than 30 percent. Two ephemeral stream drainages are located on the Project parcel but away from the proposed development site. Rector Creek, a direct tributary to the Napa River, lies less than 0.25 miles north of the Project site. Surrounding land uses include rural residential and agriculture (vineyards).

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## **Project Description**

The proposed Project will construct a 13,685-square-foot residence, a 1,000-square-foot guest cottage, three car garage and two carports, pool, covered pavilions and patios, and landscaping improvements. The Project also includes a 1,000-foot-long new access driveway, including retaining walls, turnouts, and emergency access turnarounds; installation of a wastewater system; and construction of four 10,500-gallon concrete water storage tanks.

Approximately 1.55 acres of a total 31.27 acres of California black oak/coast live oak woodland on the Project parcel will be temporarily or permanently impacted by the proposed developed, including the removal of 52 trees.

## **Comments and Concerns**

### ***Oak Tree Removal***

The MND indicates that the Project will impact 1.55 acres of oak woodland habitat, including the removal of 52 trees, comprised mostly of coast live oak (*Quercus agrifolia*). These trees may provide nesting, roosting, and sheltering habitats for birds, bats, and small mammals. Because of the rapid and extensive land conversions in oak woodlands, savannas, and riparian areas within Napa County, coupled with an apparent lack of regeneration of several species, CDFW is concerned about the long-term survival of native oaks. Fragmentation of oak habitats reduces their ability to provide the full range of ecological benefits, including maintenance of species diversity, as well as soil and watershed protection. Coast live oak and old-growth oak trees (i.e., native oak trees that are greater than 15 inches in diameter at breast height) are of importance due to increased biological values and increased temporal loss. Because the MND does not provide adequate compensation for the loss of oak woodland habitat, the Project could substantially adversely nesting bird habitat, and/or roosting habitat for the pallid bat, a California Species of Special Concern; therefore, impacts would be potentially significant. To reduce impacts to less-than-significant, CDFW recommends that the MND require that oak trees be: 1) replaced at the ratios outlined below; and 2) monitored and maintained in the same manner described above and achieve an 80 percent survival rate.

- Non-oak native trees - 3:1
- Non-native trees – 1:1
- Oak trees provide a diversity of ecological benefits and because oak trees have slow growth rates, it would take several decades for planted oaks to grow to a size that could provide the same ecological benefits that old-growth oaks provide. Therefore, the below higher ratios are required.

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- Oaks 5 to 10 inches DBH – 4:1
- Oaks 10 to 15 inches DBH – 5:1
- Oaks greater than 15 inches DBH – 10:1

### **Roosting bats**

According to the *Biological Resources Reconnaissance Survey Report – Hilltop Residence, State Lane, Yountville, Napa County (APN #031-160-026)*, prepared by WRA, Inc., dated April 2020, the Project site potentially supports two special-status bat species: pallid bat (*Antrozous pallidus*) and fringed myotis (*Myotis thysanodes*). The Project has the potential to impact roosting bats during tree removal activities, specifically trees containing potentially suitable bat roosting habitat. Felling bat habitat trees without implementing proper avoidance and minimization measures could result in potentially significant impacts. Mitigation Measure BIO-1 of the MND requires that tree removal be performed outside of the maternity season for bats; however, if tree removal must occur during the maternity season, then a qualified biologist will perform a bat habitat assessment and survey effort if potential bat roost trees are proposed for removal. CDFW generally agrees with this measure but is concerned about some of the language contained in the measure. As stated, the measure does not provide protection for winter torpor roosts (only maternity roosts). Additionally, the measure does not specify the way tree removal should occur to protect roosting bats in bat habitat trees. Finally, Fish and Game Code section 4150 prohibits take of all bats, regardless if they are special-status species, therefore, CDFW recommends the following revisions to MM BIO-1 (amended language shown in ***bold italics***, deleted language shown as ~~strikethrough~~):

***Tree removal shall be performed during seasonal periods of bat activity: Prior to maternity season – from approximately March 1 (or when night temperatures are above 45°F and when rains have ceased) through April 15 (when females begin to give birth to young); and prior to winter torpor – from September 1 (when young bats are self-sufficiently volant) until October 15 (before night temperatures fall below 45 degrees Fahrenheit and rains begin) through March 31, outside of the general bat maternity season. Prior to tree removal, a qualified biologist shall perform a bat habitat assessment of all trees proposed for removal. For any trees containing suitable bat roosting habitat (e.g. cavities, crevices, deep bark fissures), presence of roosting bats shall be assumed and the following two-day phased tree removal method shall be used when removing potential bat habitat trees: On day one, under the supervision of a qualified biologist, all tree limbs not containing suitable bat roosting habitat shall be removed with chainsaws only. The next day, the rest of the tree shall be removed. If tree removal must occur outside of the abovementioned seasonal periods of bat activity, a qualified biologist shall survey all bat habitat trees to determine if maternity colonies or winter torpor bats are present. If the tree***

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***cannot adequately be surveyed by the qualified biologist, presence of maternity colonies or winter torpor bats shall be assumed, and tree removal shall be delayed until the abovementioned seasonal periods. If the qualified biologist is able to adequately survey tree cavities and crevices, and does discover maternity colonies or winter torpor bats, tree removal shall be delayed until the abovementioned seasonal periods. If maternity colonies or winter torpor bats are not discovered, but roosting bats (or evidence thereof) are discovered, then the abovementioned two-day phased tree removal method shall be followed.*** ~~during this period is not feasible, a bat habitat assessment and survey effort (the latter if needed) shall be performed by a qualified biologist prior to tree removal to determine if bats are present in the trees. If no suitable roosting habitat for bats is found, then no further study is warranted. If special-status bat species or bat maternity roosts are detected, then roost trees shall be avoided until the end of the maternity roosting season. If this avoidance is not feasible, appropriate species and roost-specific mitigation measures shall be developed in consultation with CDFW. Irrespective of time of year, all felled trees shall remain on the ground for at least 24 hours prior to chipping, off-site removal, or other processing to allow any bats present within the felled trees to escape. These buffers shall remain in place until offspring have fledged or after August 31.~~

*Monitoring: If tree removal is proposed during the **typical** bat maternity season **or winter torpor season** (September 1 through March 31), a bat habitat assessment and survey effort (the latter if needed) shall be submitted to Planning Division staff prior to issuance of the grading permit or tree removal.*

### **Erosion Control Devices**

Erosion control devices can have a direct impact on wildlife, particularly reptiles and amphibians. CDFW has documented several cases where reptiles and amphibians have gotten tangled in erosion control devices containing plastic monofilament (e.g. typical straw wattles wrapped in black plastic mesh). CDFW recommends that all temporary and permanent erosion control measures be free of plastic monofilament netting.

### **Filing Fees**

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, § 711.4; Pub. Resources Code, § 21089). 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.

CDFW appreciates the opportunity to provide comments on the MND for the proposed Project and is available to meet with you to further discuss our concerns. If you have

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any questions, please contact Mr. Garrett Allen, Environmental Scientist, at [Garrett.Allen@wildlife.ca.gov](mailto:Garrett.Allen@wildlife.ca.gov); or Ms. Karen Weiss, Senior Environmental Scientist (Supervisory), at [Karen.Weiss@wildlife.ca.gov](mailto:Karen.Weiss@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
BE74D4C93C604EA...  
Gregg Erickson  
Regional Manager  
Bay Delta Region

cc: State Clearinghouse