



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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October 19, 2020

Governor's Office of Planning & Research

Oct 20 2020

Ms. Michelle Levenson
County of Marin
3501 Civic Center Drive, Room 308
San Rafael, CA 94903
envplanning@marincounty.org

STATE CLEARINGHOUSE

Subject: North Coast Land Holdings, LLC, Community Plan Amendment, Master Plan, Design Review, Vesting Tentative Map, Master Use Permit, and Tree Removal, Notice of Preparation of a Draft Environmental Impact Report, SCH No. 2020090488, Marin County

Dear Ms. Levenson:

The California Department of Fish and Wildlife (CDFW) reviewed the County of Marin's (County) Notice of Preparation (NOP) of a draft Environmental Impact Report (EIR) provided for the North Coast Land Holdings, LLC, Community Plan Amendment, Master Plan, Design Review, Vesting Tentative Map, Master Use Permit, and Tree Removal (Project) located at 201 Seminary Drive, Mill Valley, CA 94941, Marin County.

CDFW is a Trustee Agency with responsibility under the California Environmental Quality Act (CEQA) §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 the California Endangered Species Act (CESA) Permit, the Native Plant Protection Act, the Lake and Streambed Alteration Agreement (LSAA) and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our jurisdiction, CDFW has the following concerns, comments, and recommendations regarding the Project.

PROJECT DESCRIPTION AND LOCATION

Proponent: North Coast Land Holdings, LLC

Objective: The Project will develop a residential care facility for senior citizens, residential housing, pre-school, and fitness center on the 127-acre Golden Gate Baptist Seminary property. Pre-existing buildings, including seminary dorm rooms, residences, and a maintenance building will be demolished or renovated.

Location: The Project is located at 201 Seminary Drive, Mill Valley, CA 94941. While identified as within Mill Valley, the Project occurs in unincorporated Marin County in census-designated Strawberry. The Project is approximately bounded by Richardson

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Bay to the west, Seminary Drive to the south, Storer Drive to the east, and Ricardo Road to the north. It is east of U.S. Route 101.

The CEQA Guidelines (§§15124 and 15378) require that the draft EIR incorporate a full Project description, including reasonably foreseeable future phases of the Project, and that contains sufficient information to evaluate and review the Project's environmental impact. Please include a complete description of the following Project components in the Project description:

- Footprints of permanent Project features and temporarily impacted areas, such as staging areas and access routes.
- Encroachments into riparian habitats, wetlands, or other sensitive areas.
- Tree removal, including the number of trees by species, diameter at breast height, and health status.
- Area and plans for proposed buildings/structures, demolition of existing structures, renovation of existing structures, ground disturbing activities, fencing, paving, stationary machinery, landscaping, and stormwater systems.
- Operational features of the Project, including level of anticipated human presence (describe seasonal or daily peaks in activity, if relevant), artificial lighting/light reflection, noise and greenhouse gas generation, traffic generation, and other features.
- Construction schedule, activities, equipment, and crew sizes.

ENVIRONMENTAL SETTING

Sufficient information regarding the environmental setting is necessary to understand the Project's, and its alternative's (if applicable), significant impacts on the environment (CEQA Guidelines, §§15125 and 15360). CDFW recommends that the CEQA document prepared for the Project provide baseline habitat assessments for special-status plant, fish, and wildlife species located and potentially located within the Project area and surrounding lands, including all rare, threatened, or endangered species (CEQA Guidelines, §15380). Fully protected, threatened or endangered, candidate, and other special-status species that are known to occur, or have the potential to occur in or near the Project site, include, but are not limited to:

- Tiburon jewelflower (*Streptanthus glandulosus* ssp. *niger*), state and federally listed as endangered, California Rare Plant Rank (CRPR) 1B.1
- Salt marsh harvest mouse (*Reithrodontomys raviventris*), state and federally listed as endangered, California fully protected species
- California Ridgway's rail (*Rallus obsoletus obsoletus*), federally and state listed

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as endangered, California fully protected species

- California black rail (*Laterallus jamaicensis coturniculus*), state listed as threatened, California fully protected species
- Longfin smelt (*Spirinchus thaleichthys*), state listed as threatened and federal candidate for listing
- Pallid bat (*Antrozous pallidus*), California Species of Special Concern (SSC)
- Townsend's big-eared bat (*Corynorhinus townsendii*), SSC
- Western red bat (*Lasiurus blossevillii*), SSC
- Hairless popcorn flower (*Plagiobothrys glaber*), CRPR 1A
- Franciscan thistle (*Cirsium andrewsii*), CRPR 1B.2
- White-tailed kite (*Elanus leucurus*), California fully protected species
- Oak woodland (*Quercus* spp.), Areas of Conservation Emphasis-Terrestrial Significant Habitat¹ and sensitive natural community²

Habitat descriptions and species profiles should include information from multiple sources: aerial imagery, historical and recent survey data, field reconnaissance, scientific literature and reports, and findings from "positive occurrence" databases such as California Natural Diversity Database (CNDDDB). Based on the data and information from the habitat assessment, the CEQA document can then adequately assess which special-status species are likely to occur in the Project vicinity.

CDFW recommends that during Project planning and prior to Project implementation, surveys be conducted for special-status species with potential to occur, following recommended survey protocols if available. Survey and monitoring protocols and guidelines are available at: <https://wildlife.ca.gov/Conservation/Survey-Protocols>.

Botanical surveys for special-status plant species, including those with a California Rare Plant Rank (<http://www.cnps.org/cnps/rareplants/inventory/>), must be conducted during the blooming period for all sensitive plant species potentially occurring within the Project area and require the identification of reference populations. Please refer to CDFW protocols for surveying and evaluating impacts to rare plants available at: <https://wildlife.ca.gov/Conservation/Plants>.

¹ CDFW Areas of Conservation Emphasis (ACE) Fact Sheet for Terrestrial Significant Habitats: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=150834>

² CDFW maintains a list of vegetation alliances considered sensitive natural communities based on state and global rarity ranks: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=153609&inline>

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IMPACT ANALYSIS AND MITIGATION MEASURES

The CEQA Guidelines (§15126.2) necessitate that the draft EIR discuss all direct and indirect impacts (temporary and permanent) that may occur with implementation of the Project. This includes evaluating and describing impacts such as:

- Potential for “take” of special-status species.
- Loss or modification of breeding, nesting, dispersal and foraging habitat, including vegetation removal, alteration of soils and hydrology, and removal of habitat structural features (e.g. snags, roosts, overhanging banks, and anthropogenic habitat such as buildings).
- Loss or modification of sensitive natural communities or vegetation associations.
- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic, or human presence.
- Obstruction of movement corridors, fish passage, or access to water sources and other core habitat features.

The CEQA document also should identify reasonably foreseeable future projects in the Project vicinity, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the project’s contribution to the impact (CEQA Guidelines, §15355). Although a project’s impacts may be insignificant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative impact – e.g., reduction of available habitat for a listed species – should be considered cumulatively considerable without mitigation to minimize or avoid the impact.

Based on the comprehensive analysis of the direct, indirect, and cumulative impacts of the Project, the CEQA Guidelines (§§ 15021, 15063, 15071, 15126.2, 15126.4 and 15370) direct the lead agency to consider and describe all feasible mitigation measures to avoid potentially significant impacts in the draft EIR, and/or mitigate significant impacts of the Project on the environment. This includes a discussion of take avoidance and minimization measures for special-status species, which are recommended to be developed in early consultation with the U.S. Fish and Wildlife Service (USFWS), the National Marine Fisheries Service and CDFW. These measures can then be incorporated as enforceable Project conditions to reduce potential impacts to biological resources to less-than-significant levels. Fully protected species such as California black rail and white-tailed kite may not be taken or possessed at any time (Fish and Game Code § 3511). Therefore, the draft EIR is advised to include measures to ensure complete take avoidance of these fully protected species. CDFW recommends the following mitigation measures be incorporated into the draft EIR to reduce potentially significant impacts to special-status species:

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Mitigation Measure 1: Special-Status Plant Surveys and Avoidance

A Qualified Biologist shall conduct a survey during the appropriate blooming period for all special-status plants that have the potential to occur on the Project site the season prior to the start of construction. Surveys should be conducted following *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities*, prepared by CDFW, dated March 20, 2018³. If special-status plants are found during surveys, the Project will be re-designed to avoid impacts to special-status plants to the greatest extent feasible. If impacts to special-status plants cannot be avoided completely during construction, the draft EIR should outline adequate compensatory mitigation, and, for species listed as threatened or endangered pursuant to CESA, the Project will apply for an Incidental Take Permit from CDFW.

Mitigation Measure 2: California Ridgway's Rail and California Black Rail Habitat Assessment, Surveys, and Avoidance

The CEQA document should outline the location of salt marsh habitat relative to the Project activities. Any Project activities within or adjacent to tidal marsh or suitable California Ridgway's rail (CRR) or California black rail (CBR) habitat shall be avoided during rail breeding season, (January 15 to August 31 for CRR, February 1 to August 31 for CBR), each year unless appropriately timed, yearly protocol level surveys are conducted and survey methodology and results are submitted to and accepted by CDFW, or, the Project implements noise and vegetation avoidance measures below. Surveys shall focus on suitable habitat that may be disturbed by Project activities during the breeding season to ensure that CRR or CBR are not nesting in these locations.

If breeding rails are determined to be present, no activities, visual disturbance (direct line of sight) and/or an increase in the ambient noise level shall occur within 700 feet of areas where CRR or CBR have been detected during the breeding season. If surveys have not been conducted, all work shall be conducted 700 feet from rail habitat during nesting season.

If work must be done during the breeding season within 700 feet of CRR or CBR habitat, noise levels cannot exceed 10 dBA over existing ambient noise levels and a noise attenuating fence or visual barrier must be installed to reduce visual and/or acoustic impacts.

Mitigation Measure 3: Salt Marsh Harvest Mouse Habitat Assessment and Avoidance

The CEQA document should outline the location of salt marsh habitat relative to the Project activities. Prior to impacting salt marsh habitat, a Qualified Biologist or Biological

³ <https://www.wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>

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Monitor, familiar with salt marsh harvest mouse (SMHM), shall walk through and inspect suitable habitat prior to vegetation removal and search for signs of harvest mice or other sensitive wildlife and plants. Following inspection, personnel, under the supervision of the qualified biologist, will disturb (e.g., flush) vegetation to force movement of SMHM into adjacent marsh areas. Flushing of vegetation will first occur in the center of the site then progress toward the two sides away from the open water areas or in this case, away from impacted habitat. Immediately following vegetation flushing, personnel, under the supervision of the qualified biologist or biological monitor, will remove vegetation with hand tools (e.g. weed-eater, hoe, rake, trowel, shovel, grazing) so that vegetation is no taller than two inches.

After vegetation removal, a mouse-proof barrier shall be placed along the edge of the area removed of vegetation to further reduce the likelihood of SMHM returning to the area prior to construction. The fence shall be made of a heavy plastic sheeting material that does not allow salt marsh harvest mice to pass through or climb, and the bottom shall be buried to a depth of 4 inches so that salt marsh harvest mouse cannot crawl under the fence. Fence height shall be at least 12 inches higher than the highest adjacent vegetation with a maximum height of 4 feet. All supports for the exclusion fencing shall be placed on the inside of the work area. An approximately 2-foot wide de-vegetated buffer shall be created along the habitat side of the exclusion fence. The SMHM exclusion fencing shall remain in operating condition throughout the duration of the Project. The Qualified Biologist or Biological Monitor shall daily inspect the integrity of the exclusion fencing to ensure there are no gaps, tears or damage. Maintenance of the fencing shall be conducted as needed. Any necessary repairs to the fencing shall be completed within 24 hours of the initial observance of the damage. Any mice found along or outside the fence shall be closely monitored until they move away from the Project area.

Mitigation Measure 4: Nesting Bird Surveys and Protections

If construction, grading, vegetation removal, or other Project-related activities are scheduled during the nesting season of protected raptors and migratory birds, February 1 to August 31, a focused survey for active nests of such birds shall be conducted by a Qualified Biologist within 7 days prior to the beginning of Project-related activities. If an active nest is found, Permittee shall consult with USFWS and CDFW regarding appropriate action to comply with the Migratory Bird Treaty Act of 1918 and Fish and Game Code. If a lapse in Project-related work of 7 days or longer occurs, another focused survey shall be required before Project work can be reinitiated.

Mitigation Measure 5: Roosting Bat Surveys and Protections-Buildings

Buildings shall be surveyed for bats by a Qualified Bat Biologist within 15 days prior to any building demolition or renovation. Demolition or renovation plans shall cease if bats are found roosting within the buildings until proper eviction and exclusion plans have

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been implemented. Eviction and exclusion of bats shall consist of daytime installation of blockage material or one-way exits between March 1 and April 15 or September 1 and October 15 (outside of maternity season and hibernation season). Exclusion materials shall be re-evaluated for effectiveness by the Qualified Biologist up to two weeks prior to building demolition.

Mitigation Measure 6: Roosting Bat Surveys and Protections-Trees

Removal of trees containing suitable potential bat roosting habitat in the form of crevices, cavities, or exfoliating bark, as with exclusion/eviction from buildings, must be conducted only during seasonal periods of bat activity, and under supervision of a Qualified Bat Biologist. Trees within the Project area shall be assessed by a Qualified Bat Biologist within 15 days prior to any tree removal. If trees are identified as potential bat roost trees, tree removal shall occur outside of the maternity season and hibernation season and via a two-step method conducted over two consecutive days. On day one, create noise and vibration by cutting non-habitat branches and limbs from habitat trees using chainsaws only (no excavators or other heavy machinery). The noise and vibration disturbance, together with the visible alteration of the tree, is effective in causing bats that emerge nightly not to return to the roost that night. On day two, the remainder of the tree will be removed.

Mitigation Measure 7: Tree Removal Mitigation

Live trees removed from the Project area shall be replaced on-site at the following ratios:

Oak trees:

- 4:1 replacement for trees 5 to 10 inches diameter at breast height (DBH)
- 5:1 replacement for trees greater than 10 inches to 15 inches DBH
- 15:1 replacement for trees greater than 15-inch DBH, which are considered old-growth oaks

Replacement oaks will come from nursery stock grown from locally sourced acorns, or from acorns gathered locally, preferably from the same watershed in which they are planted.

Other tree species greater than or equal to 6-inch DBH will be mitigated at the following ratios:

- 1:1 replacement for non-native trees
- 3:1 replacement for native trees

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Sea Level Rise

The Project should assess potential sea-level rise in the area and evaluate development location and habitat impacts with future conditions in mind. The State of California Sea-Level Rise Guidance/2018 Update⁴ provides a science-based methodology for state and local governments to analyze and assess the risks associated with sea-level rise and incorporate sea-level rise into their planning, permitting, and investment decisions. The Marin Shoreline Sea Level Rise Vulnerability Assessment/Bay Waterfront Adaptation & Vulnerability Evaluation (BayWAVE)⁵ provides context and estimates of the physical and fiscal impacts across the County's bayside shoreline over the coming decades. It includes sea level rise scenarios ranging from 10 inches in the near-term (15 years) to 20 inches in the medium-term (mid-century) and to 60 inches in the long-term (end of century). Since the purpose of the Project is to provide long-term residential and associated structures and it is located on a small peninsula in Richardson Bay, CDFW recommends incorporating the long-term (end of century) scenarios for sea level rise to fully evaluate Project impacts.

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 take⁶ 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 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).

⁴ California Natural Resources Agency. 2018. State of California Sea-level Rise Guidance. https://opc.ca.gov/webmaster/ftp/pdf/agenda_items/20180314/Item3_Exhibit-A_OPC_SLR_Guidance-rd3.pdf

⁵ Marin County. 2017. Marin Shoreline Sea Level Rise Vulnerability Assessment/Bay Waterfront Adaptation & Vulnerability Evaluation. Prepared by BVB Consulting LLC for Marin County Department of Public Works, June 2017. https://www.marincounty.org/-/media/files/departments/cd/planning/slr/baywave/vulnerability-assessment-final/final_allpages_bvbconsulting_reduced.pdf?la=en

⁶ Take is defined in Fish and Game Code section 86 as hunt, pursue, catch, capture, or kill, or attempt any of those activities.

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The CEQA Lead Agency's FOC does not eliminate the project proponent's obligation to comply with CESA.

Lake and Streambed Alteration Agreement

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 until it has complied with CEQA as a Responsible Agency.

Migratory Birds and Raptors

CDFW also has authority over actions that may disturb or destroy active nest sites or take birds without authorization. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503, 3503.5, and 3513. Fully protected species may not be taken or possessed at any time (Fish and Game Code, § 3511). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

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 online field survey form and other methods for submitting data can be found at <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

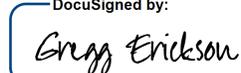
FILING FEES

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.

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If you have any questions, please contact Ms. Amanda Culpepper, Environmental Scientist, at amanda.culpepper@wildlife.ca.gov, or Ms. Karen Weiss, Senior Environmental Scientist (Supervisory), at karen.weiss@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Gregg Erickson
Regional Manager
Bay Delta Region

cc: State Clearinghouse