



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



Governor's Office of Planning & Research

April 16, 2021

April 16, 2021

STATE CLEARINGHOUSE

Mr. Robert Reber
City of Hercules
Community Development Department
111 Civic Drive
Hercules, California 94547
rreber@ci.hercules.ca.us

Subject: Franklin Canyon RV Resort, Initial Study/Mitigated Negative Declaration,
SCH No. 2021030302, City of Hercules, Contra Costa County

Dear Mr. Reber:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration from the City of Hercules (City) for the Franklin Canyon RV Resort (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW is submitting comments on the Initial Study/Mitigated Negative Declaration (IS/MND) to inform the City, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the Project.

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines § 15386 for commenting on projects that could impact fish, wildlife, and plant 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) or Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish, wildlife, and plant trust resources.

PROJECT DESCRIPTION SUMMARY

Proponent: Madison MRH-1 Franklin, LLC

Objective: The applicant seeks approval to convert and develop an existing golf course to an open-space RV and camping resort including a clubhouse with amenities. The Project consists of the following elements:

¹ CEQA is codified in the California Public Resources Code in § 21000 et seq. The CEQA Guidelines are found in Title 14 of the California Code of Regulations, commencing with § 15000.

Mr. Robert Reber
City of Hercules
April 16, 2021
Page 2

- Widening an existing driveway bridge by 36 feet over Rodeo Creek.
- Constructing a new emergency access dedicated entry path connecting to Christie Road.
- Converting an existing 18-hole golf course to urban development.
- Grading approximately 40,000 cubic yards worth of cut and fill operations.
- Developing 160 RV parking spaces and 22 walk-in campsites with permanent tent bungalow.
- Paving a new road network to connect the constructed features of the Project.
- Constructing a new paved bridge over Rodeo Creek for vehicle and pedestrian traffic.
- Demolishing an existing 2-story, 7,200-square-foot building, and constructing a new 2-story, 10,500-square-foot building eclipsing the previous footprint.
- Constructing a new 2,500-square-foot maintenance building, a new 120-square-foot security and information building, a new parking lot, and 50 covered RV storage spaces separate from the camp sites.
- Deeding 70 acres of existing golf course to the John Muir Land Trust (JMLT) to become open space for the purposes of hiking, biking, and equestrian access.
- Leasing 5 acres to the JMLT for the creation of a community garden which will include a pedestrian bridge over Rodeo Creek.

Location: The Project is located at 3100 Franklin Canyon Road, adjacent to State Highway 4, in the eastern extent of Hercules, California 94547, within Contra Costa County. The Project will occur on Assessor's Parcel Number 362-020-021-6. The approximate Project center coordinate is Latitude 38.005614, Longitude -122.216188.

Timeframe: The Project is designed to be completed over the course of two years, beginning in October 2021, and concluding in February 2022.

ENVIRONMENTAL SETTING

The Project site is located at an existing golf course bordered by Rodeo Creek. The golf course is comprised of managed turf and holds constructed pond features which are fed by tributaries of, and are hydrologically connected to, Rodeo Creek. Additionally, existing swales and drainages hold seasonal standing water that support obligate and facultative wetland vegetation. The site is immediately surrounded by annual grassland, yet also includes sensitive natural communities including coast live oak riparian forest, and coast live oak woodland and scrub. Portions of the Project are within the Federal Emergency Management Agency (FEMA) designated 100-year flood zone.

Mr. Robert Reber
City of Hercules
April 16, 2021
Page 3

The immediate neighboring properties contain native and ornamental trees, and other vegetation or infrastructure, that provide potential nesting habitat for birds and potential roosting habitat for bats. Adjacent properties contain public and privately owned open space areas comprised of annual grasslands, coast live oak riparian forests, coast live oak woodland and scrub, and coyote brush scrub. Suburban development occurs within, and is limited to, one-mile southwest of the Project area. Within a two-mile radius are designated open space areas including portions of the Crockett Hills Regional Park, East Bay Municipal Utilities District owned lands, JMLT managed natural areas, and privately held ranchlands; all of which are found to encompass of the Project site. These neighboring, adjacent, and two-mile radii private and public open space areas hold potential habitat and positive occurrence records of special-status species, including but not limited to, Alameda whipsnake (*Masticophis lateralis euryxanthus*), California red-legged frog (*Rana draytonii*) and Contra Costa goldfields (*Lasthenia conjugens*) (CDFW, 2021).

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish, wildlife, and plant (biological) resources.

Environmental Setting and Related Impact Shortcoming

CDFW recommends the IS/MND incorporate the following measures to ensure that significant impacts from the Project are mitigated to a level of less-than-significant:

BIO-8: Domestic Pets. To avoid general impacts to special-status species during the use of the planned RV resort, Project implementation shall include permanent wildlife safe fencing to prevent domestic animals (e.g., domestic dogs), from entering riparian and wooded areas. The planned RV resort shall implement and enforce leash requirements for the domestic pets of visitors and staff except in designated fenced-in areas.

BIO-9: Restriction of Nighttime Construction and Artificial Lighting. All Project activities shall be terminated 30 minutes before sunset and shall not resume until 30 minutes after sunrise. Permittee shall use sunrise and sunset times established by the Federal Aviation Administration found at https://avcams.faa.gov/sunrise_sunset.php. No permanent or unattended temporary lighting shall be used during the course of construction or part of the Project as designed.

BIO-11: General Biological Resource Protections During Project Construction. (CDFW recommends including the following bullet points to this section):

Mr. Robert Reber
City of Hercules
April 16, 2021
Page 4

- Wildlife Exclusion Fencing. Prior to the implementation of Project activities, a qualified biologist shall install wildlife exclusion fencing effective at preventing special-status wildlife species from entering the Project area. This exclusion fencing shall be maintained daily for the duration of Project construction period by biological staff.

Compensatory Mitigation

The IS/MND indicates there are Project features that may cause temporary and permanent impacts to the tributaries, adjacent ponds, and riparian corridor of Rodeo Creek and include the following: widening of an existing driveway bridge and the creation of a new vehicle and pedestrian bridge over Rodeo Creek, the construction of a new parking lot within the riparian zone, and creation of the northeastern community garden pedestrian bridge. These features may have a substantially adverse effect on Rodeo Creek. However, the potential short-term and long-term impacts are not adequately described or discussed in the Biological Resources assessment of the IS/MND (CEQA Guidelines § 15126.2). CDFW recommends the IS/MND be revised to analyze, quantify, and disclose short-term and long-term impacts to Rodeo Creek caused by the proposed Project features listed above. If significant impacts areas are identified, then the IS/MND should also be revised to include measures to mitigate these impacts to a level of less-than-significant.

GENERAL RECOMMENDATIONS

The IS/MND indicates on page 74 that the Project will be subject to Policy 6c of the City of Hercules General Plan: Open Space Conservation Plan. Therein, landscaping is required by the City to be performed using native drought tolerant plant species. The Project landscaping design on pages 14 through 16 includes the use of non-native ornamental trees and shrubs, including but not limited to: *Celtis sp.*, *Lagerstroemia sp.*, and *Pistacia sp.* CDFW recommends the Lead Agency to require the project to adhere to the City's policy for the benefit of aquatic resources, native nesting birds, and other wildlife which may reside within or pass through the Project area and/or Rodeo Creek or impacted by scarcity of water resources.

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, online field survey form, and

Mr. Robert Reber
City of Hercules
April 16, 2021
Page 5

contact information for CNDDDB staff can be found at the following link:
<https://wildlife.ca.gov/data/CNDDDB/submitting-data>.

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, such as Alameda whipsnake, either during construction or over the life of the Project. Issuance of an ITP 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 an 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 a 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 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.

FILING FEES

The Project, as proposed, would have an impact on fish, wildlife, plants, and the habitats on which they depend. Therefore, an 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 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).

Mr. Robert Reber
City of Hercules
April 16, 2021
Page 6

CONCLUSION

In conclusion, CDFW recommends the IS/MND be revised and recirculated to address impacts to Rodeo Creek and its tributaries identified in this letter. We appreciate the opportunity to comment on the IS/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 Mr. Andrew Chambers, Environmental Scientist, at Andrew.Chambers@wildlife.ca.gov; or Ms. Melissa Farinha, Acting Environmental Program Manager, at Melissa.Farinha@wildlife.ca.gov.

Sincerely,

DocuSigned by:

BE74D4C93C604EA...
Gregg Erickson
Regional Manager
Bay Delta Region

cc: Office of Planning and Research, State Clearinghouse (SCH No. 2021030302)

LITERATURE CITED

California Department of Fish and Wildlife (CDFW). 2021. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed April 7, 2021.