



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

May 27, 2021

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STATE CLEARINGHOUSE

Ms. Monet Sheikhal, City Planner
City of Santa Rosa
Planning and Economic Development Department
100 Santa Rosa Avenue, Room 3
Santa Rosa, CA 95404
MSheikhal@srcity.org

Subject: Hearn Veterans Village MIN21-001, Mitigated Negative Declaration,
SCH No. 2021050149, Sonoma County

Dear Ms. Sheikhal:

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 Hearn Veterans Village MIN21-001 Project (project) pursuant 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. **The project has the potential to result in take of California tiger salamander (CTS, *Ambystoma californiense*), a listed as threatened species.** Issuance of a CESA ITP is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a

Ms. Monet Sheikhal, City Planner
City of Santa Rosa
May 27, 2021
Page 2

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 and a Statement of Overriding Consideration (SOC). The CEQA Lead Agency's SOC 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. **The MND indicates that there is a drainage ditch on the northern side of West Hearn Avenue that would be avoided by the project. If the project would impact this drainage or any others, a notification would be required.** 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: Community Housing Sonoma County

Objective: Subdivide a 2.01-acre property into four parcels ranging in size from approximately 20,000 to 25,000 square feet and develop four single family homes and an accessory dwelling unit on each lot. Proposed onsite amenities include outdoor recreation such as basketball and horseshoe pits, gathering areas, parking, and landscaping.

Location: The project is located at 2149 West Hearn Avenue in the City of Santa Rosa, approximately 0.30 miles west of the intersection of Stony Point Road and West Hearn Avenue. It is on Assessor's Parcel Numbers 134-011-012 and 134-011-013 and centered at approximately 38.411335°, -122.746746°.

Timeframe: The project is anticipated to take 12 months to complete.

Ms. Monet Sheikhal, City Planner
City of Santa Rosa
May 27, 2021
Page 3

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.

Mandatory Findings of Significance: Does the project have the potential to substantially reduce the number or restrict the range of a rare or endangered plant or animal?

Mitigation Measures

Comment 1: MND Page 46

The MND Mitigation Measure (MM) BIO-3 implies that the project will obtain a CESA ITP from CDFW for impacts to CTS; however, the requirement for an ITP is unclear. CTS is State listed as threatened; the CTS Sonoma County Distinct Population Segment is also federally listed as endangered. To ensure impacts to CTS are reduced to less-than-significant, CDFW recommends that the MM clearly require that the project shall obtain a CESA ITP from CDFW for impacts to CTS prior to Project construction and comply with all ITP requirements. Please be advised that the ITP's habitat mitigation requirements may differ from the mitigation ratios prescribed in the Santa Rosa Plain Conservation Strategy. The MM should also clearly require that the project shall obtain authorization from the U.S. Fish and Wildlife Service (USFWS) for impacts to CTS and suitable habitat for federally listed plants, and comply with the authorization.

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 USFWS?

Environmental Setting

Comment 2: MND Page 48 and Appendix A-1

Issue: The project is within the wintering distribution of burrowing owl (*Athene cunicularia*) and within and adjacent to grasslands that may be suitable foraging and wintering habitat for the species (Klute et al. 2003). The MND indicates that burrowing owl habitat is not present at the project site based on a habitat assessment conducted in April 2021 that did not detect suitable burrows. However, suitable burrows may be excavated within a single day by, for example, American badger (*Taxidea taxus*) (Ministry of

Ms. Monet Sheikhal, City Planner
City of Santa Rosa
May 27, 2021
Page 4

Environment Ecosystems 2007 as cited in Brehme et al. 2015). Therefore, burrowing owls could occupy the project site or adjacent habitat prior to project construction.

The California Natural Diversity Database (CNDDDB) documents a burrowing owl approximately 6 miles southeast of the project site and 8.1 miles to the northwest, confirming the species has occurred in the vicinity of the project site and could use it and adjacent habitat.

Specific impacts and why they may occur: The project may result in reduced health and vigor, or mortality, of owls resulting from removal of wintering burrows, or wintering burrow abandonment caused by audio and visual disturbances from project construction activities. Burrowing owl is a California Species of Special Concern and protected under Fish and Game Code sections 3503 and 3503.5 and the federal Migratory Bird Treaty Act (Klute et al. 2003). Therefore, project impacts to burrowing owl would be *potentially significant*.

Recommendation: For an adequate environmental setting and impact analysis, and to reduce impacts to less-than-significant, CDFW recommends that the MND: (1) further analyze the potential for burrowing owl to occur on and adjacent to the project site, and (2) include a mitigation measure requiring a qualified biologist to conduct a habitat assessment, and surveys if habitat is present, following the California Department of Fish and Game (now CDFW) *2012 Staff Report on Burrowing Owl Mitigation* (CDFW 2012 Staff Report) habitat assessment and survey methodology (see <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>) prior to project activities occurring during the burrowing owl wintering season from September 1 to January 31. The habitat assessment and surveys shall encompass the project site and a sufficient buffer zone to detect owls nearby that may be impacted. Time lapses between surveys or project activities shall trigger subsequent surveys, as determined by a qualified biologist, 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 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. Habitat compensation acreages shall be approved by CDFW, as the amount depends on site-specific conditions, and completed before project construction. It shall also include placement of a conservation easement and preparation and implementation of a long-term management plan.

Ms. Monet Sheikhal, City Planner
City of Santa Rosa
May 27, 2021
Page 5

Comment 3: MND Page 49 and Appendix A-1

Issue: The MND indicates that American badger habitat is not present at the project site based on a habitat assessment conducted in April 2021 that did not detect suitable dens or burrows. The project is located within and adjacent to grassland habitat that may be suitable for American badger. As stated above, badgers can dig burrows in a single day; therefore, the species may occupy the project site and adjacent habitat prior to project construction. There is a CNDDDB record of a badger approximately 1.4 miles southwest of the project site, and 2.1 miles to the northwest. These records confirm the species has occurred in the vicinity of the project site and could use it and adjacent habitat.

Specific impacts and why they may occur: The project may result in injury or mortality to adult or young badgers, or burrow abandonment. American badger is a California Species of Special Concern. Therefore, project impacts to American badger would be *potentially significant*.

Recommendation: For an adequate environmental setting and impact analysis, and to reduce impacts to less-than-significant, CDFW recommends that the MND: (1) further analyze the potential for American badger to occur on and adjacent to the project site, and (2) include mitigation measures to ensure impacts are reduced to less-than-significant. These measures may include a qualified biologist surveying for the species including adjacent habitat prior to construction, avoiding occupied burrows including a sufficient buffer approved by CDFW, and preparing and implementing a CDFW-approved relocation plan if badgers are found on or adjacent to the project site. Off-site habitat compensation shall be required for any impacts to occupied habitat. Habitat compensation acreages shall be approved by CDFW and completed before project construction. It shall also include placement of a conservation easement and preparation and implementation of a long-term management plan.

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 CNDDDB. The CNDDDB field survey form, online field survey form, and contact information for CNDDDB staff can be found at the following link: <https://wildlife.ca.gov/data/CNDDDB/submitting-data>.

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

Ms. Monet Sheikhal, City Planner
City of Santa Rosa
May 27, 2021
Page 6

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).

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 (Supervisory), at Melanie.Day@wildlife.ca.gov; or Mr. Craig Weightman, Environmental Program Manager, at Craig.Weightman@wildlife.ca.gov.

Sincerely,

DocuSigned by:

BE74D4C93C604EA...
Gregg Erickson
Regional Manager
Bay Delta Region

ec: State Clearinghouse (SCH No. 2021050149)
Vincent Griego, U.S. Fish and Wildlife Service, Vincent.Griego@fws.gov

REFERENCES

- Brehme, C.S., S.A. Hathaway, R. Booth, B.H. Smith and R.N. Fisher. 2015. Research of American Badgers in Western San Diego County, 2014. Data Summary prepared for California Department of Fish and Wildlife and the San Diego Association of Governments. 24pp. (42pp. with Appendix)
- Klute, D. S., L. W. Ayers, M. T. Green, W. H. Howe, S. L. Jones, J. A. Shaffer, S. R. Sheffield, and T. S. Zimmerman. 2003. Status Assessment and Conservation Plan for the Western Burrowing Owl in the United States. U.S. Department of Interior, Fish and Wildlife Service, Biological Technical Publication FWS/BTP-R6001-2003, Washington, D.C.