



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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Governor's Office of Planning & Research

July 12, 2021

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STATE CLEARINGHOUSE

Mr. Eric Gage, Land Use Planner
 County of Sonoma
 2550 Ventura Avenue
 Santa Rosa, CA 95403
eric.gage@sonoma-county.org

Subject: Verano Hotel and Housing Project, Mitigated Negative Declaration,
 SCH No. 2021060288, City and County of Sonoma

Dear Mr. Gage:

California Department of Fish and Wildlife (CDFW) personnel have reviewed the Mitigated Negative Declaration (MND) for the Verano Hotel and Housing Project (project), pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹ CDFW is submitting comments on the MND to inform the County of Sonoma, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed project.

CDFW is submitting comments as a Trustee Agency pursuant to the CEQA Guidelines 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, 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.

PROJECT LOCATION AND ENVIRONMENTAL SETTING

The project site is located between 135 Verano Avenue and 175 Verano Avenue, along Agua Caliente Creek, in the City of Sonoma, County of Sonoma. The project will occur on an approximately 5.9-acre site with Agua Caliente Creek running along the northern boundary of the site. The majority of the project site (5.2 acres) is disturbed and developed including graded areas with demolished structures, an unpaved parking lot, and a baseball field. The remaining portion (0.7 acres) is mostly wooded and is dominated by coast live oak (*Quercus agrifolia*). The site is bordered to the west by a multifamily apartment building, to the east by a mobile home park, to the north by single family residences, and to the south by Verano Avenue. The project site is approximately 650 feet west of the intersection of Verano Avenue and Highway 12, and about 1.3 miles from Central Sonoma, at approximate Latitude 38.303109, Longitude -122.479204.

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

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PROJECT DESCRIPTION

The proposed project includes the development of a three-story, 120-room hotel, and an apartment complex with 71 units, including affordable housing. Existing remnant infrastructure, including from demolished structures, will be removed from the project area. The project includes grading of a majority of the site for parking and structures, but the area adjacent to the creek will be avoided.

COMMENTS AND RECOMMENDATIONS

CDFW recommends making the deletions in ~~strike through~~ additions in **bold** to reduce impacts to less-than-significant:

Mitigation Measure BIO-1:

If proposed work is within ~~40 meters (130 feet), outside the stream channel of Aqua Caliente Creek~~ **areas with persistent moisture**, there is the potential for FYLF to ~~potentially~~ be impacted if present. In addition, it is possible the California giant salamander could be present therefore the same mitigation measures that address FYLF shall apply for the salamander and include the following (Riggs, 2017):

- All vegetation clearing ~~should~~ **shall** be done by hand under the supervision of a qualified biologist.
- Prior to any work, protocol-level surveys shall be conducted to determine if adult FYLF are present ~~in the adjacent stream channel~~ **within the project area**. Survey methodology must be provided to CDFW for review and approval at least 30 days prior to implementing the survey. No project activities shall begin until foothill yellow legged frog surveys have been completed using a method approved by CDFW, **and results have been submitted to CDFW for review and approval**. The survey shall encompass the project area, upland habitat within and adjacent to the project area no less than 150 feet from the streambed, and 500 feet upstream and downstream of the project area. Survey methodology shall target all life stages and shall include wet and dry stream surveys. Egg mass surveys shall be conducted weekly between March and June.
- If any life stage of FYLF is found either during surveys or during the course of activities, **CDFW and the County** shall be notified, and all activities shall cease until ~~a qualified biologist~~ **CDFW** approves any avoidance measures necessary to avoid adverse impacts to the species. Additional avoidance measures shall include installation of wildlife exclusion fencing between the outfall and the stream channel to prevent FYLF from entering the work area and/or biological monitoring during all work occurring within the riparian habitat.

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Mitigation Measure BIO-2:

Tree removal and roadway construction shall be initiated during the non-nesting season from September 1 to January 31 if feasible. If work cannot be initiated during this period, or if there is a break in activity lasting more than 44 7 days after February 1 then nesting bird surveys shall be performed by a qualified biologist within 500 feet of proposed activities no more than 44 7 days before initial ground disturbance. If nests are found, a no-disturbance buffer shall be placed around the nest until young have fledged or the nest is determined to be no longer active by the biologist. The size of the buffer may be determined by the biologist based on species and proximity to activities; larger buffers up to 500 feet may be required for special status raptor species.

Mitigation Measure BIO-3:

~~If initial ground disturbance occurs during the bat maternity roosting season (April through November 1), a bat roost assessment of all trees shall be conducted within 100 feet of the project site to determine the likelihood of occurrence for roosting bats on site. If suitable roost habitat is found, then nighttime emergence surveys shall be performed to determine if a maternity roost is present. Acoustic analysis shall also be performed to determine if special status species are present. If a maternity day roost is confirmed, a qualified biologist shall establish an appropriate exclusion zone sufficient to protect the maternity roost area until after Sept. 1. To the extent feasible, tree removal shall be performed between Sept. 1 and April 15. If trees cannot be removed during this time, then they should be removed in a two-phased approach. To avoid impacts to solitary roosters, trees should be removed in pieces, rather than felling the entire tree. Felled tree pieces should be shaken gently to rouse any bats and then left overnight prior to removal from the site or on-site chipping to allow any bats to exit the roost.~~

Prior to any tree removal, a Qualified Biologist shall conduct a habitat assessment for bats. The habitat assessment shall be conducted a minimum of 30 days prior to tree removal and shall include a visual inspection of potential roosting features (e.g., cavities, crevices in wood and bark, or exfoliating bark for colonial species, and suitable canopy for foliage-roosting species). If suitable habitat trees are found, they shall be flagged or otherwise clearly marked, CDFW shall be notified immediately, and tree trimming or removal shall not proceed without approval in writing from CDFW. Trees may be removed only if: a) presence of bats is presumed, or documented during the surveys described below, in trees with suitable bat habitat, and removal using the two-step removal process detailed below occurs only during seasonal periods of bat activity from approximately March 1 through April 15 and September 1 through October 15, or b) after a qualified bat biologist, under prior written approval of the proposed survey methods by CDFW, conducts night emergence surveys or complete visual examination of roost features that establish absence of roosting bats. Two-step tree removal shall be conducted over two consecutive days, as follows: 1) the

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first day (in the afternoon), under direct supervision and instruction by a qualified bat biologist with experience conducting two-step tree removal limbs and branches shall be removed by a tree cutter using chainsaws only. Limbs with cavities, crevices or deep bark fissures shall be avoided, and 2) the second day the entire tree shall be removed.

Adverse Impacts to Oak Woodlands and Sensitive Natural Communities

CDFW recommends that the MND identify any sensitive natural communities on-site that would be impacted (see: <https://wildlife.ca.gov/Data/VegCAMP/NaturalCommunities#sensitive%20natural%20communities>), and that the MND include the following mitigation measure:

MM BIO-5 Tree Removal Mitigation

Trees removed or impacted as a result of the project shall be replaced pursuant to the below mitigation to impact ratios.

Oak trees:

- **3:1 replacement for trees 5 to 8 inches diameter at breast height (DBH)**
- **5:1 replacement for trees greater than 8 inches to 16 inches DBH**
- **15:1 replacement for trees greater than 16-inch DBH, which are considered old-growth oaks**

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

Other trees:

- **1:1 replacement for non-native trees**
- **3:1 replacement for trees up to 6-inch DBH**
- **6:1 replacement for trees greater than 6-inch DBH**

Trees planted as mitigation shall be monitored for a minimum of five years to ensure survival. The trees must survive the last two years of the minimum five-year monitoring period without irrigation. Replanted trees shall have the same five-year monitoring requirements.

California Freshwater Shrimp

CDFW recommends that the MND require that all impacts to California freshwater shrimp (*Syncaris pacifica*), Federal and State Endangered, and their habitat be avoided and that the MND include the following mitigation measure:

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Mitigation Measure BIO-6

Project activities shall be conducted in such a way that no disturbance to the banks of Agua Caliente Creek occur. No vegetation shall be disturbed or removed from the stream bank. Sediment shall be prevented from entering creek. Streambank shape and form shall not be disturbed or altered.

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 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, & 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. In this case, 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.

Raptors and Other Nesting Birds

CDFW also has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code

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sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). 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 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/CMNDDDB/submitting-data>.

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.

CONCLUSION

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 any questions, please contact Mr. James Hansen, Environmental Scientist, at James.Hansen@Wildlife.ca.gov; or Ms. Melanie Day, Senior Environmental Scientist (Supervisory), at Melanie.Day@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Stacy Sherman

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Stacy Sherman

Acting Regional Manager
Bay Delta Region

cc: State Clearinghouse #2021060288