



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

July 21 2021

STATE CLEARINGHOUSE

July 20, 2021

Mr. Jeff Beiswenger, Planning Manager
City of Rohnert Park
130 Avram Avenue
Rohnert Park, CA 94928
jbeiswenger@rpcity.org

Subject: Holiday Inn Express and Suites, Mitigated Negative Declaration,
SCH No. 2021060654, Sonoma County

Dear Mr. Beiswenger:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the City of Rohnert Park (City) for the Holiday Inn Express and Suites (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 (*Ambystoma californiense*), a CESA listed as threatened species, and Sebastopol meadowfoam (*Limnanthes vinculans*), Burke's goldfields (*Lasthenia burkei*) and Sonoma sunshine (*Blennosperma bakeri*), CESA listed as endangered species, as described in**

Mr. Jeff Beiswenger
City of Rohnert Park
July 20, 2021
Page 2

further detail below. Issuance of a CESA 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 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 project would impact a drainage and riparian habitat, and CDFW appreciates that the MND includes a mitigation measure requiring the project to obtain an LSA Agreement from CDFW.** 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: MB Homes Sonoma, LLC

Objective: Construct a hotel and a mixed-use commercial building, and infrastructure improvements on a 2.4-acre project site. The 55,600-square-foot (sf) hotel building would include 93 rooms and be four stories (approximately 58 feet) tall. A two-story, mixed-use commercial building totaling 2,500 sf would be built at the southwest corner of the site. A total of 100 vehicle parking spaces would be provided. Off-site improvements that are part of the project include an approximately 1,500-foot-long Emergency Vehicle Access (EVA) road between the northern boundary of the hotel site and Golf Course Drive West to the north, and utility extensions adjacent to the west side of the project site.

Mr. Jeff Beiswenger
City of Rohnert Park
July 20, 2021
Page 3

Location: The project is located immediately northwest of the intersection of Business Park Drive and Willis Avenue, adjacent to the American Mini Storage building, in the City of Rohnert Park, Sonoma County. It is on Assessor Parcel Numbers 045-075-015 and centered at approximate coordinates 38.358439°, -122.716878°.

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 Pages 42 and 47

Issue: The project is located within grassland habitat that may support California tiger salamander (CTS), a CESA listed as threatened species; the Sonoma County Distinct Population Segment is also federally listed as endangered. The MND page 42 states the consultation with the U.S. Fish and Wildlife Service (USFWS) and CDFW would likely be required for impacts to CTS. However, the MND Mitigation Measure (MM) BIO-2 only requires the project applicant to obtain take authorization from USFWS.

Recommendation: To ensure impacts are reduced to less-than-significant, CDFW recommends that MM BIO-2 also require the project applicant to obtain a CESA ITP from CDFW for impacts to CTS prior to project construction and comply with all requirements of the ITP. Please be advised that CDFW habitat compensation requirements may differ from those included in the Santa Rosa Plain Conservation Strategy or required by USFWS. The MND should also clearly include the status of CTS as a State listed as threatened species.

Comment 2: MND Pages 41, 42, and 46

Issue: According to the MND, the project is located within and adjacent to mesic grassland habitat that may support Sebastopol meadowfoam, a CESA and federally listed as endangered species. Sebastopol meadowfoam is sometimes associated with Burke's goldfields and Sonoma sunshine, which are also CESA and federally listed as

Mr. Jeff Beiswenger
City of Rohnert Park
July 20, 2021
Page 4

endangered species, as habitat requirements are similar. Therefore, impacts to Burke's goldfields and Sonoma sunshine may also occur as a result of the project.

The MND MM BIO-1 requires the project applicant to submit to CDFW two years of botanical survey results for review and approval. The botanical survey results shall follow CDFW's 2018 Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities. If the survey results demonstrate that special-status plant species are absent from the project site, but that special-status plant habitat occurs on the project site, the project applicant shall obtain permit authorization from CDFW if impacts to habitat for federally listed plant species are identified. The loss of special-status plant species habitat shall be replaced at a 1:1 ratio at an approved mitigation bank.

Recommendation: To adequately reduce impacts to less-than-significant, CDFW recommends revising MM BIO-1 to require that if the botanical surveys result in the detection of CESA listed plants that may be impacted by the project, including Sebastopol meadowfoam, Burke's goldfields, and Sonoma sunshine, or if CDFW is unable to accept the survey results, the project applicant shall obtain a CESA ITP from CDFW prior to construction and comply with all requirements of the ITP. Impacts may include direct and indirect impacts, for example hydrological modifications. Please be advised that for CDFW to accept the results of the two years of surveys, they must be completed in conformance with the CDFW's 2018 Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities, including but not limited to conducting surveys during appropriate conditions, utilizing appropriate reference sites, and evaluating all direct and indirect impacts. Surveys conducted during drought conditions may not be acceptable. CDFW appreciates that the MM includes the requirement for CDFW to approve the survey results thereby ensuring surveys are appropriately conducted.

Impacts to suitable habitat for federally listed species should be mitigated according to the 2020 USFWS programmatic Biological Opinion for projects on the Santa Rosa Plain, which requires a 1:5:1 ratio for mitigation within the same core area as the impact, and a 3:1 ratio if within a different core area. Impacts to occupied habitat requiring an ITP may require a different mitigation ratio.

Additionally, for an adequate environmental setting and impact analysis, the MND should analyze the potential for Burke's goldfields and Sonoma sunshine to occur within or adjacent to the project site and be impacted by the project.

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?

Mr. Jeff Beiswenger
City of Rohnert Park
July 20, 2021
Page 5

Mitigation Measures

Comment 3: MND Page 48

Issue: The project would result in removal of trees that may support roosting special-status and common bat species, such as pallid bat (*Antrozous pallidus*), a California Species of Special Concern. The MND BIO-5 requires a pre-construction survey and other protection measures for bats, however these may not be adequate.

Recommendation: To reduce impacts to less-than-significant, CDFW recommends that MM BIO-5 be replaced with the measure below.

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 to 90 days prior to tree removal and shall include a visual inspection of potential roosting features. (e.g., cavities, crevices in wood and bark, exfoliating bark for colonial species, 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 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 biologist, under prior written approval of the proposed survey methods by CDFW, conducts night emergency 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 first day (in the afternoon), under the direct supervision and instruction by a qualified 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. If a bat roosting or maternity colony cannot be avoided, the project shall prepare and implemented a bat mitigation and monitoring plan approved by CDFW.

Environmental Setting

Comment 4: MND Attachment D

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 the project contains burrowing owl foraging but suitable burrows were not observed during surveys conducted in 2020. However, suitable burrows may be excavated within a single day by, for example, American badger (*Taxidea taxus*) (Ministry of Environment Ecosystems

Mr. Jeff Beiswenger
City of Rohnert Park
July 20, 2021
Page 6

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 observed in 2002 approximately 2.8 miles east of the project site, and in 2017 at the Sonoma County Airport, confirming the species has occurred in the vicinity of the project site and could occupy suitable refugia in and adjacent to it.

Specific impacts and why they may occur and be potentially significant: 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 (up to 500 meters or 1,640 feet) 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.

Mr. Jeff Beiswenger
City of Rohnert Park
July 20, 2021
Page 7

Comment 5: MND Attachment D

Issue: The project is within and adjacent to grassland habitat that may be suitable to support American badger. The MND indicates that American badger marginal habitat is present; however, burrows were not observed during surveys conducted in 2020. 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.

CNDDDB documents an American badger observed in 2009 approximately 4 miles northwest of the project site, and in 2007 approximately 4.1 miles to the south. 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 and be potential significant: 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.

Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by CDFW or USFWS?

Mitigation Measures

Comment 6: MND Pages 44 and 49

Issue: The MND identifies that a drainage and riparian woodland habitat paralleling Business Park Drive would be impacted from project construction of utilities to the south of the EVA. The MND MM BIO-7 requires the project applicant to obtain an LSA Agreement from CDFW prior to impacts. Please be advised that the LSA Agreement will likely include the recommendation in this letter, as applicable.

Recommendation: To reduce impacts to less-than-significant, CDFW recommends that the MND analyze if the riparian woodland constitutes a sensitive natural community

Mr. Jeff Beiswenger
City of Rohnert Park
July 20, 2021
Page 8

(see: <https://wildlife.ca.gov/Data/VegCAMP/NaturalCommunities#sensitive%20natural%20communities>), and that MM BIO-7 include the below requirements.

Impacts to riparian habitat shall be mitigated at the below mitigation to impact ratios.

- 1:1 replacement based on area and linear feet for temporary impacts
- 3:1 replacement based on area and linear feet for permanent impacts

Habitat replacement shall occur on-site or as close to the site as possible within the same stream or watershed, and may consist of restoration or enhancement of riparian habitat. If mitigation is not possible within the same stream or watershed, mitigation ratios may increase at the discretion of CDFW.

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

Oak trees (*Quercus* sp.):

- 3:1 replacement for trees 5 to 8 inches diameter at breast height (DBH)
- 5:1 replacement for trees 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

Planted trees 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.

Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

Mr. Jeff Beiswenger
City of Rohnert Park
July 20, 2021
Page 9

Mitigation Measures

Comment 7: MND Page 47

Issue: MM BIO-3 requires a pre-construction nesting bird survey within 500 feet of the project site and no more than 14 days prior to construction, and another survey if a lapse of 7 days or more in construction occurs. If active nests are found within 250 feet of the project an avoidance buffer shall be established. However, a 250-foot buffer may be inadequate to avoid impacts to nesting birds.

Recommendation: To reduce impacts to less-than-significant, CDFW recommends that MM BIO-3 be revised to require the pre-construction survey within 7 days of construction and increasing the active nest potential buffer distance to up to 500 feet, particularly for raptors.

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 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.

Mr. Jeff Beiswenger
City of Rohnert Park
July 20, 2021
Page 10

Questions regarding this letter or further coordination should be directed to
Melanie Day, Senior Environmental Scientist (Supervisory), at
Melanie.Day@wildlife.ca.gov; or Craig Weightman, Environmental Program Manager, at
Craig.Weightman@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Stephanie Fong for

CF047D7F8D234E1
Stacy Sherman
Acting Regional Manager
Bay Delta Region

ec: State Clearinghouse (SCH No. 2021060654)
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.