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October 22, 2021

Governor's Office of Planning & Research

Oct 25 2021

STATE CLEARINGHOUSE

Taylor Bateman
City of Scotts Valley
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Scotts Valley, CA 95066
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Subject: The Valley Gardens Project, Notice of Preparation of a Draft Environmental Impact Report, SCH No. 2021090394, Santa Cruz County

Dear Mr. Bateman:

The California Department of Fish and Wildlife (CDFW) has reviewed the Notice of Preparation (NOP) of a draft Environmental Impact Report (DEIR) prepared by the City of Scott's Valley (City) for the Valley Gardens Project (Project), located at 263 Mount Hermon Road, in the City of Scotts Valley, in Santa Cruz County. CDFW is submitting comments to the NOP regarding potentially significant impacts to biological resources associated with the Project.

CDFW ROLE

CDFW is a Trustee Agency with responsibility under the California Environmental Quality Act (CEQA; Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines § 15386 for commenting on projects that could impact fish, plant, and wildlife resources (e.g., 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.

California Endangered Species Act

Please be advised that a CESA Permit 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 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 Permit.

CEQA requires a Mandatory Finding of Significance if a project is likely to substantially impact threatened or endangered species (Pub. Resources Code, §§ 21001 subd. (c),

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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 Fish and Game Code, § 2080.

Lake and Streambed Alteration Program

The Project has the potential to impact resources including mainstems, tributaries and floodplains associated with the San Lorenzo River Watershed. Notification is required, pursuant to CDFW's LSA Program (Fish & G. Code, section 1600 et. seq.) for any Project-related activities that will 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. CDFW generally considers work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. CDFW may not execute a final LSA Agreement until it has complied with CEQA (Pub. Resources Code § 21000 et seq.) as the responsible agency.

PROJECT DESCRIPTION

The proposed Project site was formerly operated as a nine-hole golf course, which closed in 2019. The proposed Project would develop 116 residential units and approximately 8,500 square feet of commercial buildings space and up to 1,500 square feet of outdoor dining area. Primary access to the site will be from Mount Herman Road and Lockwood Lane via a new local road. A separated multi-use trail will be constructed, adjacent to the new local road access.

CEQA Guidelines, (§§15124 & 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 and plans for any proposed buildings and structures with ground disturbing activities;
- Area and plans for any new light sources or light reflection;
- Area and plans for any fencing, paving, landscaping, and stormwater systems;
- Construction schedule including project phasing, activities, and equipment.

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ENVIRONMENTAL SETTING AND LOCATION

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 & 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:

Common Name	Scientific Name	Status
California giant salamander	<i>Dicamptodon ensatus</i>	SSC
Foothill yellow-legged frog	<i>Rana boylei</i>	SE, SSC
Santa Cruz black salamander	<i>Aneides niger</i>	SSC
Mount Hermon June beetle	<i>Polyphylla barbata</i>	FE
Ohlone tiger beetle	<i>Cicindela Ohlone</i>	FE
Smith's blue butterfly	<i>Euphilotes enoptes smith</i>	FE
Zayante band-winged grasshopper	<i>Trimerotropis infantilis</i>	FE
American badger	<i>Taxidea taxus</i>	SSC
Santa Cruz kangaroo rat	<i>Dipodomys venustus venustus</i>	
Ben Lomond spineflower	<i>Chorizanthe pungens var. hartwegiana</i>	FE
Nesting Birds		
Notes: FE = Federally Endangered; SE = State Endangered; SSC = State Species of Special Concern		

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

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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 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://www.wildlife.ca.gov/Conservation/Survey-Protocol>.

Botanical surveys for special-status plant species, including those listed by the California Native Plant Society (<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://www.wildlife.ca.gov/Conservation/Plants>.

COMMENTS AND RECOMMENDATIONS

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 and alteration of soils;
- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic or human presence; and
- Obstruction of movement corridors or access to water sources and other core habitat features.

CDFW offers the following 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 biological resources.

COMMENT 1: Artificial Lighting

Issue: With the addition of buildings for commercial and residential use, the Project has the potential to increase artificial lighting. Artificial lighting often results in light pollution, which has the potential to significantly and adversely affect fish and wildlife.

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Evidence the impact would be significant: Night lighting can disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication such as bird song (Miller, 2006), determining when to begin foraging (Stone et al., 2009), behavior thermoregulation (Beiswenger, 1977), and migration (Longcore and Rich, 2004).

Recommendations to minimize significant impacts: CDFW recommends eliminating all non-essential artificial lighting. If artificial lighting is necessary, CDFW recommends avoiding or limiting the use of artificial lights during the hours of dawn and dusk, when many wildlife species are most active. CDFW also recommends that outdoor lighting be shielded, cast downward, and does not spill over onto other properties or upwards into the night sky (see the International Dark-Sky Association standards at <http://darksky.org/>) and limited to an output of 2700 kelvin or less from each luminaire.

COMMENT 2: Impervious surfaces

Issue: The Project could increase impervious surfaces at the Project site. Impervious surfaces, stormwater systems, and storm drain outfalls have the potential to significantly affect fish and wildlife resources by altering the hydrograph of natural streamflow patterns via concentrated run-off.

Evidence the impact would be significant: Urbanization (e.g., impervious surfaces, stormwater systems, storm drain outfalls) can modify natural streamflow patterns by increasing the magnitude and frequency of high flow events and storm flows (Hollis 1975, Konrad and Booth 2005).

Recommendations to minimize significant impacts: CDFW recommends that storm runoff be dispersed rather than concentrated to a stormwater outfall or other receiving waters. CDFW recommends implementation of low impact development (LID) and the use of bioswales and bioretention features to intercept storm runoff. CDFW also recommends incorporating permeable surfaces throughout the Project to allow stormwater to percolate in the ground and prevent stream hydromodification (see [Evaluating the potential benefits of permeable pavement on the quantity and quality of stormwater runoff \(usgs.gov\)](#)).

COMMENT 3: Loss of Pond Habitat

Issue: Development of the Project from a golf course to a residential and commercial development may result in the destruction of onsite golf course ponds, which provide habitat for wetland dependent species.

Evidence the impact would be significant: Manmade ponds on golf courses can provide food resources for many species of waterbirds (White and Main, 2005). Manmade ponds on golf courses can also provide suitable habitat for wetland

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dependent wildlife including semi-aquatic turtles (Price et al., 2013), amphibians, and macroinvertebrates (Colding et al., 2009).

Recommendations to minimize significant impacts: CDFW recommends retaining on-site ponds into the design of the development.

COMMENT 4: Nesting Birds

Issue: The Project could result in the disturbance of nesting birds through the direct removal of trees and indirect noise related impacts during construction.

Evidence the impact would be significant: Noise can impact bird behavior by masking signals used for bird communication, mating, and hunting (Bottalico et al., 2015). Birds hearing can also be damaged from noise and impair the ability of birds to find or attract a mate and prevent parents from hearing calling young (Ortega, 2012).

Recommendations to minimize significant impacts: If ground-disturbing or vegetation disturbing activities must occur during the breeding season (February through early September), the Project proponent is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act 1918 or Fish and Game Code.

To evaluate and avoid for potential impacts to nesting bird species, CDFW recommends incorporating the following mitigation measures into the Project's DEIR, and that these measures be made conditions of approval for the Project.

Recommended Mitigation Measure 1: Nesting Bird Surveys

CDFW recommends that a qualified avian biologist conduct pre-activity surveys for active nests no more than seven (7) days prior to the start of ground or vegetation disturbance and every 14 days during Project activities to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. Prior to initiation of ground or vegetation disturbance, CDFW recommends that a qualified biologist conduct a survey to establish a behavioral baseline of all identified nests. Once Project activities begins, CDFW recommends having the qualified biologist continuously monitor nests to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends stopping the work causing that change and consulting with CDFW for additional avoidance and minimization measures.

Recommended Mitigation Measure 2: Nesting Bird Buffers

If continuous monitoring of identified nests by a qualified avian biologist is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active nests of non-listed bird species and a 500-foot no-disturbance buffer around active nests of

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non-listed raptors. These buffers are advised to remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival.

Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the Project site would be concealed from a nest site by topography. CDFW recommends that a qualified avian biologist advise and support any variance from these buffers.

FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish & G. 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.

Thank you for the opportunity to comment on the Project's NOP. If you have any questions regarding this letter or for further coordination with CDFW, please contact Ms. Serena Stumpf, Environmental Scientist, at (707) 337-1364 or Serena.Stumpf@wildlife.ca.gov; or Mr. Wesley Stokes, Senior Environmental Scientist (Supervisory), at Wesley.Stokes@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Stephanie Fong

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Stephanie Fong

Acting Regional Manager
Bay Delta Region

ec: State Clearinghouse # 2021090394

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