



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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October 8, 2024

Susie Pineda, Contract Planner
City of Scotts Valley
1 Civic Center Drive
Scotts Valley, CA, 95066
SPineda@m-group.us

Subject: Valley Gardens, Draft Environmental Impact Report, SCH No. 2021090394,
City of Scotts Valley, Santa Cruz County

Dear Ms. Pineda:

The California Department of Fish and Wildlife (CDFW) received a draft Environmental Impact Report (EIR) from the City of Scotts Valley for the Valley Gardens (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the state (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent

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.

Susie Pineda, Contract Planner
City of Scotts Valley
October 8, 2024
Page 2

implementation of the Project as proposed may result in “take” as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Scotts Valley

Objective: The objective of the Project is to construct 196 residential on a 30.11-acre site that was once Valley Gardens Golf Course. This includes 62 two-story single-family dwellings, 80 attached and detached two- to three-story single-family dwellings. Also proposed are 54 multi-family apartments in two buildings (18 units and 36 units) on the northeastern corner of the Project site. The Project also includes up to three retail buildings near Mt. Hermon Road totaling approximately 8,350 square feet of commercial building space and up to 3,000 square feet of associated outdoor dining areas. The Project also includes 4.99 acres of parks, open space, common areas and public trails.

Location: The Project is located on 263 Mount Hermon Road, Scotts Valley, CA 95066 and 475 Lockwood Lane, Scotts Valley, CA 95066. The Assessor’s Parcel Number (APN): 021-011-34, 021-221-02, 021-231-04, 021-231-07, 021-231-08, and APN 021-231-02).

Timeframe: No timeframe specified.

COMMENTS AND RECOMMENDATIONS

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

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 U.S. Fish and Wildlife Service?

Comment 1: Biological Resource Section Measures

Issue: The Biological Resource section of the draft EIR references a Biological Evaluation Report prepared by Live Oak Associates (Biological Report), Inc was used to prepare the section. However, many of the recommended measures in the Biological Report are not included in the Biological Resource section of the draft EIR. CDFW is unclear if the draft EIR will implement only measures identified in the

Susie Pineda, Contract Planner
City of Scotts Valley
October 8, 2024
Page 3

Biological Resource section of the draft EIR or also include measure from the Biological Report.

Recommendation: The Project draft EIR should more clearly identify which avoidance, minimization and/or mitigation measures prescribed in the Biological Report will be implemented. CDFW generally recommends all of the measures from the Biological Report should be implemented as part of the Project.

Comment 2: Nesting Bird Surveys

Issue: Additional details are needed to ensure the measures prescribed in the Biological are protective of nesting birds. For example, the proposed measures do not identify when pre-construction surveys will occur.

Recommended Nesting Bird Survey Measure: CDFW recommends that a qualified avian biologist conduct pre-activity surveys for the 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 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 Active Nest Buffer Measure: 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 around active nests of 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 topography. CDFW recommends that a qualified avian biologist advise and support any variance from these buffers.

Susie Pineda, Contract Planner
City of Scotts Valley
October 8, 2024
Page 4

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 on-site golf course ponds, which provide habitat for wetland dependent species.

Evidence the impact would be significant: Manmade ponds on golf courses can provide food sources for many species of waterbirds (White and Main, 2005). Manmade ponds on golf courses can also provide suitable habitat for wetland dependent wildlife including semi-aquatic turtles (Price et al., 2013), amphibians, and macroinvertebrates (Colding et al., 2009).

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

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base 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 can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

CDFW appreciates the opportunity to comment on the draft EIR to assist City of Scotts Valley in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Alexis Harrison, Environmental Scientist, at (707) 815-2779 or

Susie Pineda, Contract Planner
City of Scotts Valley
October 8, 2024
Page 5

Alexis.Harrison@wildlife.ca.gov; or Wes Stokes, Senior Environmental Scientist (Supervisory), at Wesley.Stokes@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Erin Chappell
B77E9A6211EF486
Erin Chappell
Regional Manager
Bay Delta Region

cc: Office of Planning and Research, State Clearinghouse, Sacramento

REFERENCES

- Colding, J., Lundberg, J., Lundberg, S., & Anderson, E. (2009). Golf Courses and Wetland Fauna. *Ecological Applications*, 19(6), 1481-1491.
- Price, S. J., Guzy, J., Witczack, L., & Dorcas, M. E. 2013. Do Ponds on Golf Courses Provide Suitable Habitat for Wetland-Dependent Animals in Suburban Areas? An Assessment of Turtle Abundances. *Journal of Herpetology*. 47(2): 243-250.
- White, C.L., & Main, M. N. 2005. Waterbird Use of Created Wetlands in Golf-Course Landscapes. *Wildlife Society Bulletin (1973-2006)*. 33(2): 411-421.