



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



November 22, 2021

Governor's Office of Planning & Research

Nov 23 2021

STATE CLEARINGHOUSE

Mr. Randall Adams
Santa Cruz County Planning Department
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060
Randall.Adams@santacruzcounty.us

Subject: Seacliff Village Hotel, Negative Declaration, SCH No. 2021100484, Santa Cruz County

Dear Mr. Adams:

The California Department of Fish and Wildlife (CDFW) has reviewed the Negative Declaration (ND) prepared by Santa Cruz County (County) for the Seacliff Village Hotel (Project), located in Santa Cruz County. CDFW is submitting comments on the ND 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, section 21000 et seq.) pursuant to CEQA Guidelines section 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 (CEQA section 21001(c), 21083, and CEQA Guidelines section 15380, 15064, 15065). Impacts must be avoided or mitigated to less-

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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, section 2080.

Lake and Streambed Alteration Program

The Project has the potential to impact resources including an existing unnamed open channel within the property. Notification is required, pursuant to CDFW's LSA Program (Fish and Game 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 considers work within intermittent and ephemeral streams, washes, watercourses with a subsurface flow, and floodplains generally 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 (Public Resources Code section 21000 et seq.) as the responsible agency.

PROJECT DESCRIPTION AND LOCATION

The proposed Project includes the construction of three story, 19-room hotel on a 14,000-square-foot vacant parcel in the Community of Seacliff Village. The Project also includes access improvements including improving the pavement surface and constructing a sidewalk on Broadway and North Avenue. A parking lot with 20 spaces is also proposed. The Project will require grading to prepare the site and the addition of a storm water drainage line.

The Project is located at 270 North Avenue, within the Community of Seacliff Village in unincorporated Santa Cruz County, APN 042-022-12.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on biological resources. Based on the Project's need to incorporate mitigation measures to avoid significant impacts on biological resources, such as through implementation of CDFW's below recommendations, CDFW concludes that a Mitigated Negative Declaration (MND) would be appropriate for the Project (CEQA Guidelines section 15096(d)).

Comment 1: D. Biological Resources

Issue: The Project has the potential to impact sensitive and/or special-status species in the Project area. The ND references a query conducted of the California Natural

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Diversity Database (CNDDDB) and states there are no records of special-status plant or animal species within the Project site. However, the ND does not reference any other sources of baseline data to support this determination and in fact CNDDDB does list a historical record of special-status species within the Project area.

The Project is located in a mapped historical CNDDDB occurrence of Dudley's lousewort (*Pedicularis dudleyi*). Dudley's lousewort is an endemic perennial herb found in scattered locations along the coast (Calflora, 2021) and is listed as rare under the California Native Plant Protection Act (Fish & G. Code, section 1900 et seq.). The Project is also located within a mile from other CNDDDB occurrences including Perennial goldfields (*Lasthenia californica* ssp. *Macrantha*), western bumble bee (*Bombus occidentalis*), and Monarch - California overwintering population (*Danaus plexippus* pop. 1).

Recommendations: CDFW recommends 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, section 15380). CDFW recommends the baseline habitat assessment include information from multiple sources including but not limited to: aerial imagery, historical and recent survey data, field reconnaissance, scientific literature and reports, and findings from "positive occurrence" databases such as 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.

Recommended Mitigation Measure 1: Pre-Construction Surveys

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>.

Comment 2: Lake and Streambed Alteration Notification

Issue: The ND identifies an open channel located on in the northwest property corner of the Project (Stormwater Management Report, Page 2); however, the ND does not specify whether the channel would be impacted by the Project.

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Recommendation: CDFW recommends the County include maps, figures, and descriptions that illustrate all known drainage systems, culvert systems, intermittent stream systems, and/or freshwater emergent wetland systems on or intersecting with the property. CDFW recommends avoiding impacts to the bed, channel, or bank of any stream on the property including associated riparian vegetation. If the channel or riparian vegetation will be impacted, CDFW recommends notification to CDFW's LSA Program (Fish and Game Code, section 1600 et. seq.).

Comment 3: Nesting Birds

Issue: The Project could result in the disturbance of nesting birds through the direct removal of trees and/or indirect noise related impacts during construction. Aerial imagery of the parcel shows trees or dense vegetation located on the northern end of the parcel. From the ND, it is unclear if trees or vegetation would be removed for construction. Furthermore, if no trees are removed, noise impacts from nearby construction can cause impacts to nesting birds.

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 Negative Declaration, 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

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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 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.

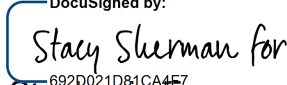
Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the Project site would be concealed from a nest site by topography. CDFW recommends that a qualified avian biologist advise and support any variance from these buffers.

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, section 711.4; Pub. Resources Code, section 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 ND. 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:

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Stephanie Fong
Acting Regional Manager
Bay Delta Region

ec: State Clearinghouse # 2021100484

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REFERENCES

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- Konrad, C.P. and D.B. Booth. 2005. Hydrologic changes in urban streams and their ecological significance, paper presented at American Fisheries Society Symposium, American Fisheries Society.
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