



State of California – Natural Resources Agency
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GAVIN NEWSOM, Governor
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June 15, 2023

Mr. Justin Meek
 City of Watsonville
 250 Main Street
 Watsonville, CA 95076
Justin.Meek@cityofwatsonville.org

Subject: Downtown Watsonville Specific Plan, Draft Environmental Impact Report, SCH No. 2022100602, City of Watsonville, Santa Cruz County

Dear Mr. Meek:

The California Department of Fish and Wildlife (CDFW) has received and reviewed the draft Environmental Impact Report (EIR) prepared by the City of Watsonville (City) for the Downtown Watsonville Specific Plan (Project), located in Santa Cruz County, pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW submits these comments on the draft EIR to inform the City, as the CEQA Lead Agency, of potentially significant impacts to biological resources associated with the Project.

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 these comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority over the Project pursuant to the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's Lake and Streambed Alteration (LSA) regulatory authority. (Fish & G. Code, § 1600 et seq.). Likewise, to the extent the Project may result in "take," as defined by State law, of any

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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species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) or Native Plant Protection Act (NPPA) (Fish & G. Code, § 1900 et seq.), related authorization as provided by the Fish and Game Code will be required.

REGULATORY REQUIREMENTS

California Endangered Species Act and Native Plant Protection Act

Please be advised that a CESA or NPPA Incidental Take Permit (ITP) must be obtained if the Project has the potential to result in “take” of plants or animals listed under CESA or NPPA, either during construction or over the life of the Project. “Take” means “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” (Fish & G. Code, § 86). If the Project will impact CESA or NPPA listed species, early consultation with CDFW is encouraged, as significant modification to the Project and mitigation measures may be required to obtain an ITP. CDFW’s issuance of an ITP is subject to CEQA and to facilitate Permit issuance, any such project modifications and mitigation measures must be incorporated into the draft EIR’s analysis, discussion, and mitigation monitoring and reporting program.

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) & 21083; CEQA Guidelines, §§ 15380, 15064 & 15065). In addition, pursuant to CEQA, the Lead Agency cannot approve a project unless all impacts to the environment are avoided or mitigated to less-than-significant levels, or the Lead Agency makes and supports Findings of Overriding Consideration (FOC) for impacts that remain significant despite the implementation of all feasible mitigation. FOC under CEQA; however, do not eliminate the Project proponent’s obligation to comply with the Fish and Game Code.

Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting lakes, streams, rivers, or 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, drainage ditches, washes, watercourses with a subsurface flow, and floodplains is generally subject to notification requirements. In addition, infrastructure installed beneath such aquatic features, such as through hydraulic directional drilling, is also generally subject to notification requirements. Therefore, any impact to the mainstems, tributaries, or floodplains or associated riparian habitat caused by the proposed Project will likely require an LSA Notification. CDFW may not execute a final LSA Agreement until it has considered the final EIR and complied with its responsibilities as a responsible agency under CEQA.

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Raptors and Other Nesting Birds

CDFW has authority over actions that may result in the disturbance or destruction of active bird nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include section 3503 (regarding unlawful take, possession, or needless destruction of the nests or eggs of any bird), section 3503.5 (regarding the take, possession, or destruction of any birds-of-prey or their nests or eggs), and section 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

Fully Protected Species

Fully Protected species may not be taken or possessed at any time (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

PROJECT DESCRIPTION SUMMARY

Proponent: City of Watsonville

Objective: The Project consists of the Downtown Watsonville Specific Plan. The Project would establish new zones, overlays, and development standards and guidelines to guide development. The Project would help the City of Watsonville achieve its objective of incorporating higher density commercial and housing opportunities by accommodating residential uses in a compact and active mixed-use environment through both new construction and adaptive reuse of historic or existing buildings. The Project would incorporate the following: 1) addition of up to 3,886 new residential units; 2) 231,151 square feet of commercial development; 3) 376,827 square feet of industrial development; 4) 114,572 square feet of civic space within the downtown area over the next 25 years; and 5) provision of multi-modal transportation options in the downtown area, such as vehicle, transit, bicycle, and pedestrian mode options. It includes design concepts for downtown streets, as well as bicycle and pedestrian network improvements.

Timeframe: The plan will be implemented over the next 25 years.

ENVIRONMENTAL SETTING AND LOCATION

The Project is located in Downtown Watsonville in the southern area of Santa Cruz County. The Downtown Watsonville Specific Plan Area covers roughly 195.5 acres within Downtown Watsonville, with about 55.5 acres dedicated to streets and right-of-way. Downtown is centered on Main Street and extends west to the edge of existing neighborhoods and the industrial district, south to the Pajaro River, and several blocks east to the existing neighborhoods. State Route (SR) 152 runs through the center of the plan area and operates along portions of Main Street and as a one-way couplet along East Lake Avenue and East Beach Street. Riverside Drive on the south end of the plan

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area is a part of SR 129. One of the major intersections within the plan area is the intersection of Main Street and SR 129.

COMMENTS AND RECOMMENDATIONS

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: Santa Cruz Tarplant ITP

Issue: The draft EIR states that Santa Cruz tarplant (*Holocarpha macradenia*) may be impacted by the Project, but the proposed mitigation measures do not reference obtaining an ITP if there is the potential for take of Santa Cruz tarplant.

Evidence the impact would be significant: Santa Cruz tarplant is an endangered species under CESA (Fish & G. Code, § 2050 et seq.). Species listed under CESA may not be taken² at any time except under the provisions of a Natural Communities Conservation Plan (NCCP), (Fish & G Code § 2081.7), a Memorandum of Understanding for scientific education or management purposes (Fish & G. Code §2081, subd. (a)), or an ITP (Fish & G. Code § 2081 (b)).

Santa Cruz tarplant is an annual species and the number of individuals recorded in a year is highly dependent on rainfall and other factors. Santa Cruz tarplant produces two types of seeds, ray achenes and disk achenes (U.S. Fish and Wildlife Service [USFWS] 2014). Generally, the seeds fall within the vicinity of the plant and do not have a structural means for dispersal, although it is possible that some ray achenes may be dispersed long distances by animals (USWFS 2014). Ray achenes also form lasting seed banks with seeds that remain viable for an unknown amount of time, with seeds up to 15 years old successfully germinating (USFWS 2014). Surveys over consecutive seasons may be necessary to increase the likelihood of detection and account for variances in weather and other disturbances from year to year to determine the potential for take.

Recommended Mitigation Measure 1 – Focused Survey: Prior to commencement of construction activities on property with undeveloped areas or unmaintained landscaping, an experienced botanist, familiar with the native plant communities of Santa Cruz County shall conduct a focused Santa Cruz tarplant survey during the blooming period of the species, from June to October. The surveys shall occur throughout the entire Project where potential Santa Cruz tarplant habitat has been identified, prior to the initiation of construction and the results shall be included in the Project environmental document. Surveys shall be conducted according to: Protocols for Surveying and Evaluating

² Take is defined in Fish & G. Code, § 86 as hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.

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Impacts to Special-Status Native Plant Populations and Natural Communities (CDFW 2018), available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline>.

Recommended Mitigation Measure 2 – Santa Cruz Tarplant Avoidance and

Mitigation: If Santa Cruz tarplant is detected or likely to occur within the Project area, additional measures may be needed to avoid, minimize, and/or mitigate potential Project impacts. Measures may include work stoppage, flagging and avoidance of occurrences, collection of propagation material, and/or site restoration. In the event that State-listed plants cannot be avoided during construction, the Project proponent shall obtain an ITP pursuant to Fish and Game Code section 2081, subdivision (b) (See cal. Code Regs., tit. 14, §§ 783.4 & 786.9). Information on the ITP process is available at <https://wildlife.ca.gov/Conservation/CESA/Permitting/Incidental-Take-Permits>. In addition, CDFW recommends continued coordination to develop additional measures.

COMMENT 2: Nesting Bird Surveys

Issue: The draft EIR proposes to implement mitigation measure Bio-2: Nesting Bird Avoidance to mitigate for impacts to nesting birds; however, the measure does not state that baseline data will be collected if active nests are discovered or provide the qualified biologist with stop work authorization.

Recommended Mitigation Measure 3 – Nesting Bird Surveys. If Project-related work is scheduled during the nesting season (typically February 15 to August 30 for small bird species such as passerines; January 15 to September 15 for owls; and February 15 to September 15 for other raptors), a qualified biologist shall conduct two surveys for active nests of such birds within 14 days prior to the beginning of Project construction, with a final survey conducted within 48 hours prior to construction. Appropriate minimum survey radii surrounding the work area are typically the following: i) 250 feet for passerines; ii) 500 feet for small raptors such as accipiters; and iii) 1,000 feet for larger raptors such as buteos. Surveys shall be conducted at the appropriate times of day and during appropriate nesting times.

Recommended Mitigation Measure 4 – Active Nest Protections. If the qualified biologist documents active nests within the Project area or in nearby surrounding areas, a species appropriate buffer between the nest and active construction shall be established. The buffer shall be clearly marked and maintained until the young have fledged and are foraging independently. Prior to construction, the qualified biologist shall conduct baseline monitoring of the nest to characterize “normal” bird behavior and establish a buffer distance which allows the birds to exhibit normal behavior. The qualified biologist shall monitor the nesting birds daily during construction activities and increase the buffer if the birds show signs of unusual or distressed behavior (e.g., defensive flights and vocalizations, standing up from a brooding position, and/or flying away from the nest). If buffer establishment is not possible, the qualified biologist shall

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have the authority to cease all construction work in the area until the young have fledged, and the nest is no longer active.

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 online field survey form and other methods for submitting data can be found 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://wildlife.ca.gov/Data/CNDDDB/Plantsand-Animals>.

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

Thank you for the opportunity to comment on the Project's draft EIR. 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:

Erin Chappell
Regional Manager
Bay Delta Region

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2022100602)

REFERENCES

[USFWS] U.S. Fish and Wildlife Service. 2014. *Holocarpha macradenia* (Santa Cruz tarplant) 5-Year Review: Summary and Evaluation. U.S. Fish and Wildlife Service, Ventura, California.