



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Northern Region
601 Locust Street
Redding, CA 96001
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



February 15, 2023

Kathryn Joyce
Deputy City Clerk
City of Mount Shasta
305 N. Mount Shasta Boulevard
Mount Shasta, CA 96067

SUBJECT: Review of the Initial Study and Mitigated Negative Declaration for Mountain Townhomes Project, State Clearing House Number 2023010434, Siskiyou County

Dear Kathryn Joyce:

The California Department of Fish and Wildlife (CDFW) has reviewed the Initial Study and Mitigated Negative Declaration (ISMND) dated January 2023, for the above-referenced project (Project). CDFW appreciates this opportunity to comment on the Project, pursuant to the California Environmental Quality Act (CEQA) Guidelines¹.

CDFW's 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.

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.

Kathryn Joyce
City of Mount Shasta
February 15, 2023
Page 2

Likewise, to the extent 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.), or state-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish and G. Code § 1900 et seq.) authorization as provided by the applicable Fish and Game Code will be required.

Project Description

The Project, as described in the ISMND, is as follows:

“The proposed project would include the construction of 24 affordable dwelling units in three (3) buildings, a community building, a manager’s unit, ancillary structures, and parking areas on a vacant infill property along the northwestern edge of downtown Mt. Shasta.” and “The 1.15-acre project site is undeveloped open space. The area in which the project is located is characterized by residential and commercial development.”

Comments and Recommendations

CDFW recognizes that the City of Mount Shasta and the Project proponent have taken the appropriate steps to identify and assess biological resources and special status species that have potential to occur within or, in-proximity to, the Project area. CDFW has the following comments and recommendations:

Promoting Pollinators

California’s insect pollinators have experienced drastic declines and several California bumble bee species are now candidates for state listing. The ISMND states *“Foraging habitat for western bumble bee (*Bombus occidentalis*) and Suckley’s bumble bee (*Bombus suckleyi*) are present in the project site; however, suitable overwintering habitat for queens and suitable hive habitat is absent since soils are shallow and rocky throughout the project site”*. The ISMND does not discuss bumble bees beyond the above statement. Considering the Project area has been confirmed to contain suitable foraging habitat, of which has the potential to be substantially reduced and/or adversely modified with the implementation of the Project, CDFW believes this Project is suitable for the incorporation of native vegetation landscaping that promotes California’s native pollinators. CDFW encourages revegetation efforts to use locally occurring native trees, shrubs, and flowering plants to benefit native wildlife, and specifically, California’s insect pollinators. CDFW strongly encourages the incorporation of native flowering species over non-native species.

Benefits of utilizing native vegetation in landscaping are numerous and include providing vital resources for native wildlife, conserving water, reduction of pesticide

Kathryn Joyce
City of Mount Shasta
February 15, 2023
Page 3

use, and reduction in landscaping maintenance. The California Native Plant Society (CNPS) website (<https://www.cnps.org>) includes a variety of useful information and tools to help determine which native species occur in a particular area, information on care and maintenance of native species, and contacts for purchasing native plants or seeds. The CNPS tool Calscape (<https://calscape.org/>) generates a list of native plants that grow in an area based on a specific address, and can be used to develop a planting palette for landscaping plans. For more information regarding the importance of using native species in landscaping, please see the CNPS Guidelines for Landscaping to Protect Native Vegetation from Genetic Degradation at: <https://www.cnps.org/wpcontent/uploads/2018/04/landscaping.pdf>.

Bats

According to the ISMND, habitat suitable for tree-roosting bats occurs within and adjacent to the Project area. Bats are considered non-game mammals and are afforded protection by state law from take and/or harassment (FGC, § 4150; Cal. Code of Regs, § 251.1). Several bat species are considered California Species of Special Concern (SSC) and may meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15065). Impacts to nesting or roosting habitats should be analyzed, and avoidance or mitigation included.

Due to the presence of suitable habitat in the Project area, CDFW strongly encourages construction activities that have potential to adversely impact bats, as described in the ISMND, to be performed outside of the bat maternity season (March 1 – August 31) and outside of bat hibernacula (November 1 – March 1). If in the event construction activities that have the potential to adversely impact bats cannot be performed outside of these dates, the Project proponent should only then defer to preconstruction surveys performed by a qualified bat biologist to determine most effective avoidance and minimization measures. Please note that roost assessment typically requires input from biologists knowledgeable in the ecology of each specific species and, different species may require different mitigation strategies.

CDFW recommends amending Mitigation Measure BIO-02 to include the above maternity season/hibernacula limiting operating period. The measure should clearly state that if the limiting operating period cannot be met, a preconstruction survey be performed by a qualified bat biologist to determine bat use, most appropriate avoidance, and minimization measures.

Additionally, because roosting bat habitat onsite occurs in the form of trees and vegetation, CDFW encourages BIO-02 to be amended to replace exclusionary measures with humane evictions. Humane evictions must be conducted by or under the supervision of a bat biologist with specific experience conducting

Kathryn Joyce
City of Mount Shasta
February 15, 2023
Page 4

exclusions. Humane evictions could consist of a two-day tree removal process whereby negative-habitat vegetation are removed along with positive-habitat tree

limbs on the first day, and the remainder of the positive-habitat tree on the second day. This two-step process changes the microhabitat of the area, which may cause bats to vacate the area under their own volition, therefore minimizing overall impacts to bats.

Nesting Birds

According to the ISMND, habitat suitable for nesting birds occurs within and adjacent to the proposed Project area. CDFW concurs with the implementation of avoidance and minimization measures to protect nesting birds however, there is concern that BIO-03 does not adequately avoid or minimize impacts to nesting birds. CDFW recommends BIO-03 be amended to read as follows (changes are in bold):

“To ensure compliance with the Migratory Bird Treaty Act and the California Fish and Game Code, construction activities including ground-disturbance, vegetation removal and/or grubbing shall occur between September 1 and January 31. If project (construction) ground-disturbance, vegetation removal and/or grubbing activities commence during the avian breeding season (February 1 through August 31), a qualified biologist shall conduct a preconstruction nesting bird survey no more than 7 days prior to initiation of project activities and again immediately prior to construction. The survey area shall include suitable raptor nesting habitat within 500-feet of the project boundary (inaccessible areas outside of the project site can be surveyed from the site or from public roads using binoculars or spotting scopes). Pre-construction surveys are not required in areas where project activities have been continuous since prior to February 1, as determined by a qualified biologist. Areas that have been inactive for more than 7 days during the avian breeding season must be re-surveyed prior to resumption of project activities. If no active nests are identified, no further mitigation is required. If active nests are identified, the following measure is required:

- ***A suitable buffer (e.g., typically 300-500-feet in all directions for raptors; and 50-100-feet in all directions for passerines and non-passerines) shall be established by a qualified biologist, around active nests and no construction activities within the buffer shall be allowed until a qualified biologist has determined that the nest is no longer active (i.e., the nestlings have fledged and are no longer reliant on the nest, or the nest has failed). Encroachment into the buffer may occur at the discretion of a qualified biologist, in coordination with California Department of Fish and Wildlife. Any encroachment into the buffer shall be monitored by a qualified biologist to determine whether nesting birds are being impacted.”***

Kathryn Joyce
City of Mount Shasta
February 15, 2023
Page 5

Riparian Habitat

The ISMND indicates permanent removal of riparian habitat along the bank of intermittent stream channel(s). The ISMND offers Mitigation Measure BIO-04 which states *“If it is determined prior to construction that impacts to jurisdictional waters*

and/or riparian habitat cannot be avoided, then the project proponent shall apply for any necessary permits from the USACE, CDFW, and the RWQCB. Impacts to jurisdictional waters and/or riparian habitat shall be mitigated in accordance with agency requirements to ensure no net loss of acreage or functions and values of waters of the U.S. and State. The project applicant will coordinate with CDFW and, if needed, apply for a Lake and Streambed Alteration Agreement if riparian habitat along the unnamed drainages on-site would be impacted by project construction activities.”

CDFW discourages this statement from being deemed a mitigation measure, since the statement does not offer prevention or plan for reduction of proposed adverse impacts to riparian habitat. It appears that impacts to riparian habitat have been determined and therefore, regulatory permitting will apply however, does not in itself offer adequate mitigation for impacts. CDFW concurs with the assurance of the no net loss of waters, wetlands, and their associated habitats however, the ISMND should provide and clearly state measures to fully mitigate for loss of habitat. CDFW strongly encourages the formulation of a habitat restoration plan or similar, to defined how the Project proponent plans to mitigate permanent impacts to riparian habitat.

Lake and Streambed Alteration Agreement

FGC section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

1. substantially divert or obstruct the natural flow of the bed, channel, or bank of any river, stream, or lake; or
2. substantially change or use any material from the bed, channel, or bank of any river, stream, or lake; or
3. deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake.

Notification pursuant to Section 1602 of the FGC appears warranted. Information about the 1600 Notification process can be found at:

<https://www.wildlife.ca.gov/Conservation/LSA>.


Trenching, Excavation and Pipe Staging

Any open trench and excavated areas should be covered securely prior to stopping work each day and/or a wildlife exit ramp should be provided in the trench to prevent wildlife entrapment. If pipes are left out onsite, they should be inspected for wildlife prior to burying, capping, moving, or filling.

Kathryn Joyce
City of Mount Shasta
February 15, 2023
Page 6

CDFW appreciates the opportunity to comment on the Project and to assist the City of Mount Shasta in adequately analyzing and minimizing/mitigating impacts to biological resources. If you have any questions, please contact Erika Iacona, Environmental Scientist, by email at R1CEQARedding@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Tina Bartlett, Regional Manager
Northern Region

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