



State of California – Natural Resources Agency
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October 11, 2024

Jonathon DiSalvo, Planner
County of Santa Cruz
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Subject: Locatelli Subdivision, Initial Study/Mitigated Negative Declaration,
SCH No. 2024090532, Santa Cruz County

Dear Jonathon DiSalvo:

The California Department of Fish and Wildlife (CDFW) has reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) prepared by the County of Santa Cruz (County) for the Locatelli Subdivision (Project), located in Santa Cruz County, pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW is submitting comments on the IS/MND to inform the County, as the 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 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

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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Alteration (LSA) regulatory authority. (Fish & G. Code, § 1600 et seq.) 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.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

REGULATORY REQUIREMENTS

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(c), 21083, and 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 et. seq.

Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for any Project 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. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are generally subject to notification requirements. CDFW, as a Responsible Agency under CEQA, would 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.

Raptors and Other Nesting Birds

CDFW has authority over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include §§ 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding

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the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

PROJECT DESCRIPTION SUMMARY

Proponent: County of Santa Cruz

Objective: The Project proposes to demolish two existing residential dwellings and related outbuildings and proposes the construction of a new 2,500-square foot (sq ft) residence with 24 semi-detached townhomes and one detached townhome ranging from approximately 1,300 sq ft to 2,100 sq ft in size. The Project includes grading approximately 400 cubic yards of material for the construction of a 2,300-sq ft basement under the proposed homes. Due to limitations with Rodeo Gulch Sewer Moratorium area the Project is proposed to be constructed in two phases. Phase One would construct sixteen units, and the Phase Two would construct the remaining nine units if the sewer moratorium is lifted.

ENVIRONMENTAL SETTING AND LOCATION

The Project site is located at 2450 Mattison Lane, within the community of Live Oak Assessor's Parcel Numbers (APN 029-391-01, 029-391-02, 029-391-03, 029-061-19) in unincorporated Santa Cruz County. The Project site is located in a developed area, consisting primarily of low-density residential development with primarily single-family homes. The property contains two homes, greenhouses, storage structures, trellises, and remnants of a former agricultural property that had two uses: poultry farmstead and nursery. The homes were constructed in 1935 and have been highly altered since original construction. Existing impervious surface area on site is approximately 7,006 sq ft. Vegetation consists of oak woodland, riparian woodland, annual grassland, and residential/landscaped area. The Project will remove one oak tree on the eastern property line. The eleven oak trees that were previously removed in 2021 are considered an impact.

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.

COMMENT 1: Bats

Issue: Construction Condition BIO-9C-7b (page 30 of the IS/MND) requires roosting bat avoidance between August 15 to February 1 for the demolition of outbuildings and tree removal. This timeframe is generally protective of various bat species with respect to

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maternity and hibernation roosting, however, seasonal timing can vary by species. Additional protective considerations are needed to ensure disruption that can cause young abandonment will be avoided.

Evidence: According to H. T. Harvey & Associates 2004: Loss of roosting habitat is considered a primary conservation issue facing bat populations (Many species of bats aggregate in hibernating colonies in the winter and maternity colonies, from spring through early fall. The non-volant period (most critical time when young are present but not able to fly) is generally May through July.

Recommended Mitigation Measure 1 – Bat Habitat Assessment: Investigations, analysis and focused surveys should begin in advance of Project initiation. A qualified biologist should conduct a habitat assessment within the Project limits for suitable bat roosting habitat. The habitat assessment shall include a visual inspection, sound analysis survey and night roost exit survey. The surveys should focus on features within 200 feet of the work area for potential roosting features including trees, crevices and hollow areas (bats need not be present). The IS/MND should also include a section that discusses the results of the suitable habitat assessment and if any bats or signs of bats (feces or staining at entry/exit points) are discovered.

Recommended Mitigation Measure 2 – Bat Habitat Monitoring: If potentially suitable bat roosting habitat is determined to be present a qualified biologist shall conduct focused surveys utilizing night-exit survey methods, sound analyzation equipment methods and visual inspection from March 1 to April 15 or September to October 15 prior to construction activities. If the focused survey reveals the presence of roosting bats, then the appropriate exclusionary or avoidance measures will be implemented prior to construction during the period between March 1 to April 15 or September 11 to October 15. Potential avoidance methods may include temporary, exclusionary blocking, one way-doors or filling potential cavities with foam. Methods may also include visual monitoring and staging of work at different ends of the Project to avoid work during critical periods of the bat life cycle to allow roosting habitat to persist undisturbed throughout the course of construction. Exclusion netting or adhesive roll material shall not be used as exclusion methods. If presence/absence surveys indicate bat occupancy, then construction should be limited from occurring during the species maternity period.

Recommended Mitigation Measure 3 – Permanent and Temporary Bat Structures: Temporary structures should be installed at the site provide habitat for the timeframe when access to the roosting feature is excluded until construction is complete. If structures utilized for roosting are permanently altered as a result of construction the lead agency should design and install permanent roost structures in coordination with CDFW. Please reference the *Caltrans Bat Mitigation: A Guide to Developing Feasible and Effective Solutions Manual* (H.T. Harvey, 2019) for more information.

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COMMENT 2: Nesting Bird Surveys

Issue: Construction Conditions BIO-9C-7d in the MND page 31 states the timeframe for nesting birds to avoid the bird breeding season as March 1 to July 31 for the tree removal. This timeframe is generally protective of nesting birds but does not include entire nesting season.

Evidence: Human activity and removal of habitat has contributed to the loss of a significant proportion of the total number of birds in the United States and Canada since the 1970s (Rosenburg et al. 2019). Habitat loss and fragmentation can disrupt key biological processes by reducing the breeding success of migrant species, limiting dispersal, and decreasing resource acquisition (Bregman et al., 2014, <https://www.sciencedirect.com/science/article/pii/S0048969717335696#bb0030>). Nesting birds may be disturbed by Project noise, visual changes, and human presence, which could lead to nest abandonment or reduced health and vigor of young, a potentially significant impact.

Recommended Mitigation Measure for Construction Considerations – BIO-9C-7d:

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.

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

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COMMENT 3: Western Pond Turtle

Issue: The MND indicates western pond turtle (*Actinemys marmorata*) have the potential to occur in the Project site. Without appropriate avoidance and minimization measures for western pond turtle, potentially significant impacts associated with Project activities could include nest reduction, inadvertent entrapment, reduced reproductive success, reduction in health or vigor of eggs and/or young, and direct mortality.

Evidence impact is potentially significant: Western pond turtle are known to nest in the spring or early summer within 100 meters of a water body, although nest sites as far away as 500 meters have also been reported (Thomson et al. 2016). Noise, vegetation removal, movement of workers, and ground disturbance as a result of Project activities have the potential to significantly impact western pond turtle populations.

Recommended Mitigation Measure for Construction Considerations – BIO-9C-6:

CDFW recommends a qualified biologist conduct focused surveys for western pond turtle 10 days prior to Project implementation using a best available methodology for the intended purpose CDFW maintains a list of recommended survey protocols for western pond turtle and other fish and wildlife species online at:
<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281283-reptiles>.

CDFW recommends that if any western pond turtles are discovered at the site immediately prior to or during Project activities, they should be allowed to move out of the area on their own. If a western pond turtle is unable to move out of the Project area on its own, a qualified biologist shall relocate western pond turtle out of the Project area into habitat similar to where it was found.

COMMENT 4: Fencing

Issue: The Project has the potential to build temporary and/or permanent fences that can impede movement of wildlife.

Evidence the impact would be significant: Fencing can be a hazard to wildlife causing entanglement and mortality (van der Ree 1999, Stuart et al. 2001, Harrington and Conover 2006).

Recommendation to minimize significant impacts: CDFW recommends that if fencing is built, the Project use wildlife friendly fencing.

COMMENT 3: Stream Hydromodification

Issue: The Project could increase impervious surfaces within the Project area. Impervious surfaces, stormwater systems, and storm drain outfalls have the potential to

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significantly affect fish and wildlife resources by altering runoff hydrograph and natural streamflow patterns. The MND on page 23 indicates that the “proposed storm drainage system for the Project will encroach into the riparian corridor of Rodeo Gulch Creek.”

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 as sheet flow through the property rather than funneled to stormwater outfalls. CDFW also recommends incorporating permeable surfaces throughout the Project area to allow stormwater to percolate in the ground and prevent stream hydromodification.

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 IS/MND. If you have any questions regarding this letter or for further coordination with CDFW, please contact Alexis Harrison, Environmental Scientist, at (707) 815-2779 or Alexis.Harrison@wildlife.ca.gov; or Mr. Wesley Stokes, Senior Environmental Scientist (Supervisory), at Wesley.Stokes@wildlife.ca.gov.

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Sincerely,

DocuSigned by:

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Erin Chappell
Regional Manager
Bay Delta Region

cc: Office of Planning and Research, State Clearinghouse (SCH No 2024030453)

REFERENCES

- Beiswenger, R. E. 1977. Diet patterns of aggregative behavior in tadpoles of *Bufo americanus*, in relation to light and temperature. *Ecology* 58:98–108.
- Bregman, T. P., C. H. Sekercioglu, J. A. Tobias. 2014. Global patterns and predictors of bird species responses to forest fragmentation: Implications for ecosystem function and conservation. *Biological Conservation* 169:372-383.
- [CNDDDB] California Natural Diversity Data Base. 2024. Results of electronic records search. California Department of Fish and Wildlife, Biogeographic Data Branch. Accessed March 2024 from <https://wildlife.ca.gov/Data/CNDDDB/Maps-and-Data>.
- Harrington, J. L., and M. R. Conover. 2006. Characteristics of ungulate behavior and mortality associated with fences. *Wildlife Society Bulletin* 34:1295–1305.
- Hollis, G. 1975. The effect of urbanization on floods of different recurrence interval. *Water Resources Research* 11:431-435.
- H.T. Harvey & Associates. 2004. California bat mitigation techniques, solutions and effectiveness. Prepared for California Department of Transportation.
- H.T. Harvey & Associates. 2019. Updated 2021. Caltrans Bat Mitigation. A guide to developing feasible and effective solutions.
- 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
- Miller, M. W. 2006. Apparent effects of light pollution on singing behavior of American robins. *The Condor* 108:130–139.
- Longcore, T., and C. Rich. 2004. Ecological light pollution - Review. *Frontiers in Ecology and the Environment* 2:191–198.

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Rosenburg, Kenneth V.; Dokter, Adriaan M.; Blancher, Peter J.; Sauer, John R.; Smith, Adam C.; Smith, Paul A.; Stanton, Jessica C.; Panjabi, Avrind; Helft, Laura; Parr, Michael; and Marra, Peter P. 2019. Decline of the North American Avifauna. *Science*: 120-124.

Stone, E. L., G. Jones, and S. Harris. 2009. Street lighting disturbs commuting bats. *Current Biology* 19:1123–1127. Elsevier Ltd.

Stuart, J. N., M. L. Watson, T. L. Brown, and C. Eustice. 2001. Plastic netting: An entanglement hazard to snakes and other wildlife. *Herpetological Review* 32:162–164.

Van der Ree, R. 1999. Barbed wire fencing as a hazard for wildlife. *The Victorian Naturalist* 116:210–217.

Xi, X., Y. Xie, K. Qi, Z. Luo, and X. Wang. 2017. Detecting the response of bird communities and biodiversity to habitat loss and fragmentation due to urbanization. *Science of The Total Environment* 624: 1561-1576.