



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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Governor's Office of Planning & Research

Dec 15 2021

December 15, 2021

STATE CLEARINGHOUSE

Jamie Bax
Madera County Community & Economic Development, Planning Division
200 West 4th Street, Suite 3100
Madera, California 93637
Jamie.bax@maderacounty.com

Subject: Castellina Specific Plan (Project)
Draft Environmental Impact Report
SCH No.: 2017041022

Dear Ms. Bax:

The California Department of Fish and Wildlife (CDFW) received a draft Environmental Impact Report (DEIR) from the Madera County Community & Economic Development, Planning Division for the above-referenced 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, CDFW appreciates 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 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,

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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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 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.), related authorization as provided by the Fish and Game Code may be required.

PROJECT DESCRIPTION SUMMARY

Proponent: Castellina, LLC

Objective: The proposed Project is a master-planned community located on approximately 794 acres, about one mile north of the City of Madera in Madera County. The Project would allow for the development of up to 3,072 residential units; approximately 21 acres of commercial mixed-use; and approximately 131 acres of parks, play fields, trails, plazas, community gardens, and other open space. The Project also includes a 15-acre elementary school, a wastewater treatment plant and various utilities to serve the proposed Project. The Project includes several phases. The Phase 1 Project is located in the northwest portion of the Project site and includes 67 low-density residential units, 50 very low-density residential units, open space/multi-use area, a park, wastewater treatment plant, and water wells/facilities on 96 acres to be constructed by approximately 2025.

Location: The Project site is located approximately one mile north of the City of Madera and three miles east of Highway 99. The Project site is bounded by the Avenue 18 alignment to the north, Road 28 ½ (Raymond Road) to the east, the alignment of Avenue 17 to the south, Road 27 (Lake Street) to the west, and the Burlington Northern Santa Fe Railway to the southwest.

Timeframe: Approximately 15 years until sometime between 2035 and 2040.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist Madera County Community & Economic Development, Planning Division in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the CEQA document prepared for this Project.

CDFW is concerned with potential impacts to special-status species including, but not limited to, the State and federally threatened California tiger salamander (*Ambystoma californiense*), and the State threatened Swainson's hawk (*Buteo swainsoni*). CDFW

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recommends that the final EIR for this Project provide quantifiable and enforceable measures, as needed, that will reduce impacts to less than significant levels.

California Tiger Salamander (CTS)

CTS have been documented in the California Natural Diversity Database (CNDDDB) and by CDFW adjacent to the Project site along the Road 27 (Lake Street) and the Burlington Northern Santa Fe Railway intersection. In addition, aerial imagery shows annual grasslands occur along the northern boundary of the Project site. These grasslands may provide breeding and aestivation habitat features. While the Project site consists entirely of orchards and may not support typical CTS habitat, CTS have the potential to disperse into the Project site while moving to or from potential breeding locations. CTS may also use small mammal burrows on the Project site, including burrows located within the orchards, as refugia and/or aestivation sites.

CTS breed and develop in vernal and seasonal pools and stock ponds within grassland, woodland, and scrub habitat types. They require upland refuges (i.e. small mammal burrows) when not breeding. Due to the close proximity of the Project site to suitable habitat, in addition to documented records of presence, the Project may result in take if CTS disperse into the Project site during construction activities and/or use any small mammal burrows present on-site. Therefore, CDFW recommends consultation with CDFW to discuss how the Project can avoid take. If take cannot be avoided, the Project proponent is advised to pursue take authorization through acquisition of an Incidental Take Permit (ITP) from CDFW, pursuant to Fish and Game Code section 2081(b), prior to any ground-disturbing activities to comply with CESA.

Swainson's Hawk (SWHA)

While the Project site does not appear to have typical nesting or suitable foraging habitat for SWHA, the Project as proposed will involve noise, groundwork, and other sources of disturbance that could affect nests within 0.5 miles. Without appropriate avoidance and minimization measures for SWHA, potential significant impacts that may result from Project activities include nest abandonment and reduced nesting success (loss or reduced health or vigor of eggs or young).

CDFW recommends protocol level surveys be conducted 0.5 mile around the Project site and a 0.5-mile no-disturbance nest buffer be implemented around any active nest to minimize the risk of nest abandonment and unauthorized take. If the no-disturbance nest buffer is not feasible, consultation with CDFW is warranted to discuss how to implement the project and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

CDFW recommends surveys follow the survey methods developed by the Swainson's Hawk Technical Advisory Committee (SWHA TAC 2000) be conducted by a qualified wildlife biologist prior to project implementation. This survey protocol is designed to maximize the probability of nest detection. Typical pre-construction surveys are suitable as supplemental

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surveys to ensure that SWHA have not occupied potential nest trees between the end of protocol surveys and the start of construction or during periods of inactivity.

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 field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

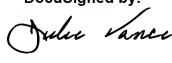
FILING FEES

If it is determined that the Project has the potential to impact biological resources, an assessment of filing fees will be 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 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).

CDFW appreciates the opportunity to comment on the Project to assist Madera County Community & Economic Development, Planning Division in identifying and mitigating the Project's impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). If you have any questions, please contact Jim Vang, Environmental Scientist, at the address provided on this letterhead, by telephone at (559) 580-3203, or by electronic mail at Jim.Vang@wildlife.ca.gov.

Sincerely,

DocuSigned by:

FA83F09FE08945A...
Julie A. Vance
Regional Manager

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LITERATURE CITED

CDFW. 2021. Biogeographic Information and Observation System (BIOS).
<https://www.wildlife.ca.gov/Data/BIOS>. Accessed December 1, 2021.

Swainson's Hawk Technical Advisory Committee (SWHA TAC). 2000. Recommended
Timing and Methodology for Swainson's Hawk Nesting Surveys in California's
Central Valley. Swainson's Hawk Technical Advisory Committee, May 31, 2000.

Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)**

PROJECT: Castellina Specific Plan

SCH No.: 2017041022

| RECOMMENDED MITIGATION MEASURE | STATUS/DATE/INITIALS |
|---|-----------------------------|
| <i>Before Disturbing Soil or Vegetation</i> | |
| Mitigation Measure: CTS | |
| CTS Take Authorization | |
| Mitigation Measure: SWHA | |
| SWHA Surveys | |
| SWHA Take Authorization | |
| <i>During Construction</i> | |
| Mitigation Measure: SWHA | |
| SWHA Avoidance | |