



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
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August 30, 2019

Ms. Kathy Pease, Contract Planner
City of Napa
Post Office Box 660
Napa, CA 94559

Subject: Heritage House/Valle Verde Project, Draft Environmental Impact Report,
SCH #2018082019, City and County of Napa

Dear Ms. Pease:

The California Department of Fish and Wildlife (CDFW) received a draft Environmental Impact Report (EIR) for the Heritage House/Valle Verde Project (Project). CDFW is submitting comments on the draft EIR to inform City of Napa, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project.

CDFW is a Trustee Agency pursuant to the California Environmental Quality Act (CEQA) Section 15386 and is responsible for the conservation, protection, and management of the State's biological resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as the California Endangered Species Act (CESA) Permit, the Native Plant Protection Act, the Lake and Streambed Alteration Agreement (LSAA) and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources.

Regulatory Requirements

CESA prohibits unauthorized take of candidate, threatened, and endangered species. Therefore, if "take" or adverse impacts to species listed under CESA cannot be avoided either during Project activities or over the life of the Project, a CESA Incidental Take Permit (ITP) must be obtained (pursuant to Fish and Game Code Section 2080 *et seq.*). Issuance of a CESA ITP is subject to CEQA documentation; therefore, the CEQA document should specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the proposed Project will impact any CESA-listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required to obtain a CESA ITP. More information on the CESA permitting process can be found on the CDFW website at <https://www.wildlife.ca.gov/Conservation/CESA>.

Lake and Streambed Alteration Agreement

CDFW requires an entity to notify CDFW before commencing any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream or use material from a streambed. Ephemeral and/or intermittent streams and drainages (that are dry for periods of time or only flow during periods of

rainfall) are also subject to Fish and Game Code section 1602; and CDFW may require an LSAA with the applicant, pursuant to Section 1600 et seq. of the Fish and Game Code.

Issuance of an LSAA is subject to CEQA. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. The CEQA document should identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for completion of the agreement. To obtain information about the LSAA notification process, please access our website at <https://www.wildlife.ca.gov/conservation/lsa>.

CDFW also has jurisdiction 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 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). Fully protected species may not be taken or possessed at any time (Fish and Game Code Section 3511). Migratory raptors are also protected under the federal Migratory Bird Treaty Act.

Project Description and Environmental Setting

The Project site is located at 3700, 3710, and 3720 Valle Verde Drive, just north of the intersection of Firefly Drive and Valle Verde Drive (Site), in the City and County of Napa. The Site is bordered by Silverado Creek Apartments to the west, Salvador Creek to the east, a two-story residential condominium development to the south, and a City of Napa-owned property that functions as a detention area and open space trail to the north. A portion of the Site, approximately 1.6 acres, is developed with the vacant approximately 39,711 square-foot Sunrise Napa Assisted Living Facility (Facility). The remainder of the Site, approximately 1.3 acres, is undeveloped.

The Project will result in the rehabilitation of the vacant Facility with 66 single-room occupancy units, including eight American with Disability Act accessible one-bedroom units (Heritage House). Additionally, the Project includes construction of a three-story multi-family apartment building (Valle Verde Project) on the vacant lot directly adjacent to the Facility. The Project will potentially remove a concrete bridge ("Zerba Bridge") that spans Salvador Creek at the northeast corner of the Site, if it is required by the City of Napa in order to approve the Project. Lastly, the Project proposes to construct an approximately 85 linear-foot long concrete stitch pile retaining wall near the top of bank of Salvador Creek to address bank erosion behind the Facility.

Comments and Concerns

Stream Impacts

According to the *Hydraulics Analysis for 3700/3710 Valle Verde Drive Project* (Analysis), prepared by Schaaf & Wheeler, dated June 21, 2019, the proposed Project (without the removal of the "Zerba Bridge") would result in an approximately 10-inch increase of the 100-year flood water surface elevation (WSE) at the Project site, as well as upstream of the bridge adversely affecting residences on the east side of Salvador Creek. The Analysis also states that the Valle

Verde Project would impede and redirect flood flows (to the opposite bank of Salvador Creek). If the Analysis is accurate, the proposed Project would have a significant impact on the stream.

CDFW recommends that the bridge and existing pilings be removed to improve conditions in Salvador Creek. The existing bridge does not provide adequate freeboard above the 100-year flood WSE, and therefore, the bridge and pilings could cause debris jams and be an impediment to large woody debris during heavy winter flows. Such debris jams could cause greater flooding of the Site and result in substantial bank erosion. Additionally, while the Analysis shows that removal of the bridge and pilings would result in a slight decrease in the WSE at the Valle Verde Project site, as well as upstream of the bridge, there would be a slight increase (approximately 0.1-0.5 feet) in WSE at the Facility and residences across from the Facility on the east side of Salvador Creek. This could be a significant impact. CDFW recommends that the Project look into alternative designs that result in no net increase in WSE, so that the proposed Heritage House and surrounding residences are not adversely affected by the Project.

Cross-section A-A on the Project's Grading Plan, prepared by RSA+, dated April 2018, shows a portion of the west streambank between the Valle Verde Project and the Facility being laid back to a 2:1 slope. CDFW recommends that draft EIR specify how many linear feet of streambank will be laid back to a 2:1 slope, and whether stream diversion and fish relocation will be necessary. Additionally, the grading plan should provide details on how the graded slope will be stabilized (e.g. native riparian plantings).

Figure 3.4-2 of the draft EIR shows the approximate locations of all protected trees, trees to remain, and trees to be removed by the Project. According to the figure, the Project may need to remove some trees from the riparian corridor. All trees removed from the riparian corridor should be compensated by replanting native local riparian trees at a 3:1 ratio for the removal of native trees and 1:1 for the removal of non-native trees. If oak trees need to be removed from the riparian corridor the compensation should be greater. CDFW recommends the following replanting ratios for oak trees:

- *4:1 replacement for impacted oaks 5-10 inches in diameter*
- *5:1 replacement for impacted oaks 10-15 inches in diameter*
- *Trees greater than 15 inches in diameter are considered old-growth oaks and should be mitigated at a ratio of 15:1*

The draft EIR should specify that a Project specific tree planting and monitoring plan will be developed, and that it will include a minimum of five years of monitoring to ensure plantings achieve specified success criteria.

The west bank of Salvador Creek behind the Facility has been actively eroding for several years. There are multiple factors contributing to this issue including, but not limited to: the significant increase in impervious surfaces adjacent to Salvador Creek, resulting in more water flowing into the stream as stormwater runoff; and a thin riparian corridor, predominantly composed of non-native trees/vegetation, particularly behind the Facility. To address the bank erosion, the Project proposes to construct an approximately 85-linear-foot-long concrete stitch pile retaining wall behind the natural streambank between the existing parking lot and the top of bank. However, Figure 2.7-7 of the draft EIR, prepared by Miller Pacific Engineering Group,

dated January 18, 2019, shows two retaining walls: the proposed approximately 85-linear-foot-long retaining wall, as discussed in the draft EIR, and an additional 100-linear-foot-long retaining wall, which is not discussed in the draft EIR. As proposed, the stitch pile retaining wall will not prevent further bank erosion as it does not address the root cause of the erosion. CDFW recommends that the Project proponent work in conjunction with the Napa County Flood Control and Water Conservation District to design a bank stabilization project, using a predominantly bioengineered approach, that addresses the active bank erosion occurring on the west bank behind the Facility and that does not impact WSE and flood levels. Implementation of a successful bank stabilization project at the Site should eliminate the need to construct the proposed stitch pile retaining walls; it should also address the thin non-native riparian corridor and stormwater. CDFW is concerned that the Project as proposed would reduce or eliminate the riparian bank. The draft EIR should address impacts to the riparian bank and proposed mitigation for any associated impacts.

Table 3.4-4 of the draft EIR quantifies the Project's temporary and permanent impacts to areas within CDFW's jurisdiction. Please note that all work occurring within the bed, bank, and channel, including the riparian corridor as determined by the first riparian drip-line, and within the 100-year floodplain of Salvador Creek, is subject to Fish and Game Code section 1602; and thus, the Project will need to get an LSAA from CDFW prior to starting construction in areas within CDFW's jurisdiction. Table 3.4-4 underestimates the extent of impacts within CDFW's jurisdiction. CDFW recommends that the table be revised to accurately reflect all temporary and permanent impacts within CDFW's jurisdictional areas. CDFW is available to work with the lead agency to determine the areas of the Site that are within CDFW's jurisdiction.

Roosting bats

The draft EIR discusses the potential for two bat species to occur on the Site: pallid bat (*Antrozous pallidus*) and western red bat (*Lasiurus blossevillei*), both of which are State Species of Special Concern. The Facility, bridge, and trees on the Site could provide suitable bat roosting habitat. Mitigation Measure BIO-1.2 (MM BIO-1.2) of the draft EIR requires a pre-construction survey for bats and requires consultation with CDFW if maternity roosts are found. Additionally, MM BIO-1.2 states:

"If any large trees are identified during a pre-construction survey, which contain potential roosting features, the tree shall be felled outside of the maternity season (September 1 through April 30) and shall be allowed to lay on the ground for one night to allow any undetected bats to leave the tree before it is processed."

As stated, implementation of MM BIO-1.2 would significantly impact bats roosting on the Site. CDFW recommends that a qualified bat expert perform pre-construction surveys of the bridge and Facility at least 30 days prior to the start of construction to determine if bats (or evidence thereof) are roosting in such structures. If so, the qualified bat expert should prepare an Avoidance and Minimization Plan for CDFW review and approval prior to construction that includes specific measures regarding humane eviction of bats from such structures during appropriate periods. Furthermore, CDFW recommends that MM BIO-1.2 be revised to state the following regarding tree removal:

"A qualified bat expert shall conduct a Bat Habitat Assessment of the all trees proposed for removal at least 30 days prior to the start of construction to determine if any trees proposed for removal contain suitable bat roosting habitat (e.g. cavities, crevices, exfoliating bark). If the qualified bat expert identifies any trees proposed for removal containing suitable bat roosting habitat, the Project proponent shall assume presence of roosting bats and all trees proposed for removal containing suitable bat roosting habitat, as determined by the qualified bat expert, shall be removed using the following two-day phased removal method during the below specified seasonal periods of bat activity, to avoid impacting roosting bats:

*On day 1, under the supervision of a qualified bat biologist who has documented experience overseeing tree removal using the two-day phased removal method, branches and small limbs **not** containing potential bat roost habitat (e.g. cavities, crevices, exfoliating bark) shall be removed using chainsaws only. On day two, the next day, the rest of the tree shall be removed.*

All trees shall be removed during seasonal periods of bat activity: Prior to maternity season – from approximately March 1 (or when night temperatures are above 45°F and when rains have ceased) through April 15 (when females begin to give birth to young); and prior to winter torpor – from September 1 (when young bats are self-sufficiently volant) until about October 15 (before night temperatures fall below 45°F and rains begin)."

Nesting Migratory Birds and Raptors

Mitigation Measure BIO-1.1 of the draft EIR states that a qualified biologist will conduct a pre-construction nesting bird survey no more than 14 days prior to the start of Project activities, if ground disturbing activities are to begin during the nesting season of February 1 to August 31. CDFW agrees with this measure but recommends one minor revision. Nesting bird surveys should be conducted by a qualified biologist *within 5 days* of the start of construction to avoid having nesting birds or raptors begin nesting on Site between the time of the survey and the start of construction. Many birds construct their nests in a matter of days, so there is a risk associated with conducting a survey too early. Additionally, CDFW recommends that if active nests are discovered during surveys or during construction, the qualified biologist who conducted the surveys should determine a suitable buffer distance from all active nests; and they should observe the nest during the first two days of construction to ensure construction activities do not disturb the nest. If nest disturbance is observed, construction should cease and the qualified biologist should establish a larger buffer distance if possible. If a larger buffer distance is not possible, all activities within proximity to the nest should be delayed until September 1, or until the nest is no longer active, whichever comes first.

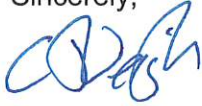
Erosion Control Devices

Erosion control devices can have a direct impact on wildlife (e.g. reptiles and amphibians). CDFW has documented several cases of wildlife getting entrapped in erosion control devices containing plastic monofilament (e.g. typical straw wattles), and therefore, all erosion control devices should be free of plastic monofilament and should only be composed of a biodegradable material. (e.g. coir logs, coconut fiber blanket, jute netting).

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CDFW appreciates the opportunity to provide comments on the draft EIR for the proposed Project and is available to meet with you to further discuss our concerns. If you have any questions, please contact Mr. Garrett Allen, Environmental Scientist, at (707) 428-2076 or garrett.allen@wildlife.ca.gov; or Ms. Karen Weiss, Senior Environmental Scientist (Supervisory), at (707) 428-2090 or karen.weiss@wildlife.ca.gov.

Sincerely,



 Gregg Erickson
Regional Manager
Bay Delta Region

cc: State Clearinghouse