

Jesse Davis - Comments: major use permit application # U_2020-0002 by Brutocao Vineyards & Getaway House

From: "B. Gamble" <brook.gamble@gmail.com>
To: <davisj@mendocinocounty.org>
Date: 5/11/2020 5:53 PM
Subject: Comments: major use permit application # U_2020-0002 by Brutocao Vineyards & Getaway House

Dear Jesse Davis and the Mendocino County Department of Planning & Building Services,

I am writing to express my dismay at major use permit application # U_2020-0002 by Brutocao Vineyards & Getaway House, which has continued to declare a "Mitigated Negative Declaration" despite considerable evidence presented by multiple organizations, agencies, and stakeholders to the contrary.

I am confused how a project of this scope *could even be considered* for land zoned rangeland? The footprint, road system, and considerable resources (namely water, which is a scarce resource in this area) required to support 45 cabins, 51 parking spaces, and a lodge on 92 acres in this area would severely degrade the surrounding ecosystem and create undue fire risk. This is urban planning at its worst. A development of this scope would be more appropriate closer to town, where the human footprint has already impacted the land. This is simply a development by a huge outside interest that will degrade the watershed, surrounding ecosystem, fragment the rangeland and put the community at more risk of fire than already exists.

I have questions about the legitimacy botanical survey: it seems limited in scope, and the duration in this location should be at least a full a year, to my understanding. Only one site visit was conducted and it was out of season. I don't believe this even begins to meet the needs of the scope of the project. A multi-site visit is appropriate, including during the blooming period of ~March-June, even if this delays the application. The LACO report reiterates this recommendation due to known sensitive plant species in the area. They also recommend a formal wetland delineation be completed at the site during a seasonally-appropriate time of year to fully characterize the Site. Furthermore, I have questions about how many oak trees will be taken- this site has many and that number is not quantified, but should be considered. *Quercus douglasii*, *Q. lobata*, and *Q. wislizeni* are specified as trees that will be taken. The canopy cover in this area is significant. Why is this detail left out? According to the LACO report, sensitive bird species nest in the area and this is a critical detail.

Furthermore, our understanding of best practices around fire wise building and defensible space have evolved, given the unprecedented fire seasons we have been experiencing. An estimate of trees, canopy and other vegetation removal needs to be detailed and accurate. Visitors and their vehicles may not be as careful about fire safe practices and this density of dwellings pose a considerable risk of overwhelming our small fire district. This proposal needs to be thoroughly vetted with those risks and Hopland's response capacity in mind.

The water use estimates in this proposal are sketchy at best. The project estimates pumping groundwater at 5000 gallons a day from a private well. Estimates vary, but, on average, each person uses about 80-100 gallons of water per day, for indoor home uses according to the US Geological Survey. 45 double occupancy units would pump an average of 9,990 gallons of water per day, according to the USGS calculation. That doesn't include the lodge or any landscaping needs. Even at single occupancy rates, the water use would nearly exceed the permit. The County has just begun to understand local groundwater research and grasp what long-term impacts drought can have on recharge and fish species including salmonids. This project in the Sanel Valley Groundwater District warrants more scrutiny. There are multiple state and federally sensitive fish species in this watershed that could be affected by a non agricultural (and non essential) development at this site. As we head into yet another year of record low rainfall, the lack of detailed water estimates and potential impacts to the watershed, taking drought and a changing climate in mind, are irresponsible.

Last, I remind you of the Sec. 20.060.005, rangeland intent in the Mendocino County code: "This district is intended to create and preserve areas for, (A) the grazing of livestock, (B) the production and harvest of natural resources, and (C) the protection of such natural resources as watershed lands from fire, pollution, erosion, and other detrimental effects. Processing of products produced on the premises would be permitted as would certain commercial activities associated with crop and animal raising. Typically the R-L District would be applied to lands for incorporation into Type II Agricultural Preserves, other lands generally in range use, and intermixed smaller parcels and other contiguous lands the inclusion of which is necessary for the protection and efficient management of rangelands." This development clearly doesn't fit the bill for rangeland *preservation*. A development of this density and size would prohibit land from being used as rangeland in the future. A re-zone would be a likely outcome in a county where rangeland is a precious and essential resource.

Given the lack of detail provided in the initial proposal and the scale of this project and the many impacts it could have, I recommend denial of this project, as there are no mitigations that I feel would keep this project in line with the current zoning and environmental stewardship.

Thank you for your consideration for the preservation of rangeland for this special place. Please keep me apprised of future opportunities for input regarding this matter.

Jennifer Brook Gamble
PO Box 930
Hopland, CA, 95449



May 7, 2020

Jesse Davis, Senior Planner
County of Mendocino
Department of Planning and Building Services
860 North Bush Street
Ukiah, CA 95482

Transmitted via email: davisj@mendocinocounty.org

RE: Case # U_2020-0002, Notice of an Initial Study for the Proposed Major Use Permit:
Getaway House, Hopland, CA

Dear Jesse Davis:

The California Oaks program of California Wildlife Foundation (CWF/CO) works to conserve oak ecosystems because of their critical role in sequestering carbon, maintaining healthy watersheds, providing wildlife habitat, and sustaining cultural values. CWF/CO reviewed the Preliminary Biological Survey (Appendix B), Mitigation and Monitoring Program (Appendix A), Revised Project Description, Draft Initial Study, Preliminary Site Diagram, and Environmental Checklist for the proposed Getaway House project in Hopland. The proposed project is in not in compliance with California law regarding analysis of and mitigation for oak woodland impacts, and it runs counter to a number of provisions of the County of Mendocino General Plan. The project's potential tribal cultural impacts are also troubling. The project should not be granted a Mitigated Negative Declaration.

PROJECT IMPACTS ON OAK WOODLANDS

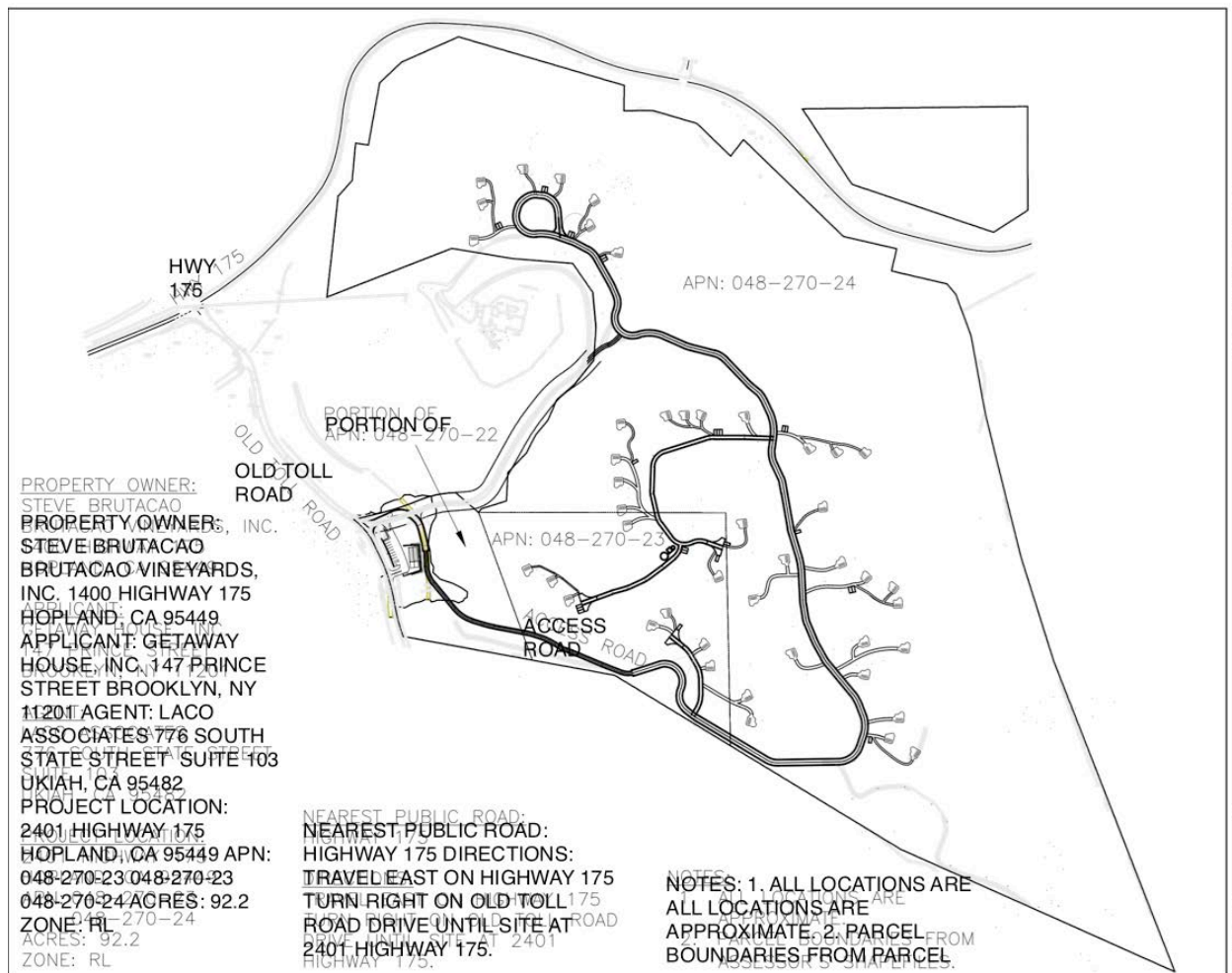
California Public Resources Code §21083.4 (2004, Senate Bill 1334) requires that when a county is determining the applicability of the California Environmental Quality Act (CEQA) to a project, it must determine whether that project "may result in a conversion of oak woodlands that will have a significant effect on the environment." If such effects (either individual impacts or cumulative) are identified, the law requires that they be mitigated for the removal of oaks that are not commercial species, which are five inches or more in diameter as measured at a point 4.5 feet (breast height) above natural grade level. Acceptable mitigation measures include, but are not limited to, conservation of other oak woodlands through the use of conservation easements and planting replacement trees, which must be maintained for seven years. The planting of replacement trees can only fulfill one-half of the mitigation requirements for the project.

California Fish and Game Code §1361, enacted with the passage of the Oak Woodland Conservation Act (2001, Assembly Bill 242), defines oak woodlands: "*Oak woodlands* means an oak stand with a greater than 10 percent canopy cover or that may have historically supported greater than 10 percent canopy cover."

Discussion: The Draft Initial Study does not adequately assess project impacts to the site's oak woodlands. Instead it simply lists oak species on the site and provides a figure of 5.49, which appears to be erroneous, as an estimate of the total area that will be disturbed:

...development is proposed, and limited to, areas covering approximately 6.05-percent of the 90.87-acre Site, or 5.49 acres. Within the 5.49 acres proposed for development, tree and vegetation removal will be primarily limited to the areas proposed for new road construction and road widening. The final locations of the micro-cabin RV pads and walking trails will have the flexibility to shift slightly, as needed during construction, to retain trees and vegetation that may be located within the footprint currently proposed for development.

Figure 2, Preliminary Site Design, reproduced below, shows the areas of proposed development (please note the irregularities in the figure below, which make it very difficult to read, are directly from the environmental documentation).



Comparing that map (as well as the map in Appendix B) and the Subject Parcel(s) map, it appears that the figure of 5.49 acres of impact is incorrect, as is the estimate of 6.05 percent. While it may be correct that road construction and widening activities will remove approximately 6.05 percent of the site's natural area, the preliminary site design map shows a much larger area that is fragmented.

The proposed project also runs counter to County of Mendocino General Plan **Resource Management Goal 5 (Ecosystems): Prevent fragmentation and loss of the county's oak**

woodlands, forests, and wildlands and preserve their economic and ecological values and benefits. This inconsistency is not addressed in the Draft Initial Study.

Oak woodlands provide food and vital habitat for California's native species, including 2,000 plants, 5,000 insects and arachnids, 80 amphibians and reptiles, 160 birds, and 80 mammals—many of which are listed as threatened, endangered, or are species of special concern, at the state or federal level.¹ Davis et al. describe oaks as a “foundation species,” using Ellison et al.’s definition of such a species as “...one that ‘controls population and community dynamics and modulates ecosystem processes,’ whose loss ‘acutely and chronically impacts fluxes of energy and nutrients, hydrology, food webs, and biodiversity.’”²

Many of the endangered, threatened, and species of concern analyzed in the Draft Initial Study depend on oak woodland habitat. We agree with the comments submitted by California Native Plant Society Sanhedrin Chapter, California Department of Fish and Wildlife, and Adina Merenlender, PhD that the environmental analysis should be conducted in accordance with *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities*.

As currently construed, the project should not be granted a Mitigated Negative Declaration.

MITIGATION PLAN

As discussed above, California Public Resources Code §21083.4 requires that oak impacts be assessed and mitigated. The County of Mendocino General Plan (page 4-38) provides additional clarity on the need to mitigate impacts to oaks:

Action Item **Resource Management-28.1** The county shall develop CEQA standards that require disclosure of impacts to all sensitive biotic communities during review of discretionary projects. These standards shall require the following mitigation:

...**Oak Woodland** – Maintain and improve oak woodland habitat to provide for slope stabilization, soil protection, species diversity and wildlife habitat through the following measures:

- Comply with the Oak woodland Preservation Act regarding oak woodland preservation to conserve the integrity and diversity of oak woodlands, and retain, to the maximum extent feasible, existing oak woodland and chaparral communities and other significant vegetation as part of residential, commercial, and industrial approvals.
- Provide appropriate replacement of lost oak woodlands or preservation at a 2:1 ratio for habitat loss.

Policy Resource Management- 85

- Conserve and replant oak woodlands and stands of native oaks in community areas and developments. Protect oak woodlands in other areas through limitations on density and clustering.

¹ Meadows, R. 2007. Oaks: Research and outreach to prevent oak woodland loss. *California Agriculture* 61(1): 7-10.

² Davis, F.W., D.D. Baldocchi, and C.M. Taylor. 2016. “Oak Woodlands,” chap. 25 in *Ecosystems of California*. Editors: H. Mooney and E. Zavaleta. University of California Press.

GREENHOUSE GAS IMPACTS OF TREE REMOVALS

Section VIII, *Greenhouse Gas Emissions*, of the Draft Initial Study does not analyze the greenhouse gas (GHG) impacts of tree removal, which is in violation of California law. CEQA's sole GHG focus is "the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions." Net present value of GHG emissions forms the foundation of the state's greenhouse reduction objectives, as well as the California Forest Protocol preservation standards. Every ton of carbon dioxide (CO₂) released into the atmosphere by oak woodland or forest conversion represents a measurable potential adverse environmental effect, which is covered by CEQA. Thus California requires the analysis and mitigation of greenhouse gas emissions associated with proposed oak woodland or forest conversions.

Project mitigation that is based on the preservation ("avoided conversion") of existing natural lands does not adequately mitigate GHG emissions of natural lands conversion. Existing trees, understory, and soil conserved by the mitigation, do not, suddenly, upon the protections afforded by their conservation sequester more carbon to mitigate impacted biomass GHG emission effects of the conversion. Newly planted trees take many years to sequester carbon in the soil, understory, and woody mass of the trees.

TRIBAL CULTURAL RESOURCES

Page 27 of the Draft Initial Study states (underline is used for emphasis):

ALTA contacted the Native American Heritage Commission (NAHC) on August 8, 2019, to request a Sacred Lands File (SLF) search and list of Native American contacts in the area. The NAHC response letter, dated August 29, 2019, indicated that a search of the SLF returned a positive result, and included a list of 13 Native American tribes or individuals with cultural affiliations to the area. ALTA sent consultation letters to all 13 contacts on September 6, 2019. Two (2) responses were received. On September 12, the Tribal Historical Preservation Officer (THPO) for the Hopland Band of Pomo Indians requested to be consulted for the project. On September 18, the THPO for the Kaisha Band of Pomo Indians responded and informed ALTA that the project is outside of the Tribe's aboriginal territory. As of the date of this Initial Study, no additional correspondence has been received (ALTA, 2019).

Although the project, as currently designed, is not anticipated to have an adverse effect on cultural resources, ALTA included three (3) recommendations in the Archaeological Report in order to ensure cultural resources are not adversely impacted by the project, including the recommendation for further consultation with the Hopland Band of Pomo Indians, as requested by the Tribe, and protocol should cultural resources or human remains be inadvertently discovered, similar to the County's "Discovery Clause". A standard condition advising the Applicant of the County's "Discovery Clause" is recommended, which establishes procedures to follow in the event that archaeological or cultural resources or human remains are unearthed during project construction, including but not limited to Site preparation and excavation, in accordance with Mendocino County Code Sections 22.12.090 and 22.12.100.

Discussion: It is understood that it is important to maintain the confidentiality of the details of the tribal cultural resources analysis for the project. That said, it is concerning that the Mitigation and Monitoring Program has no provisions for potential project impacts to Tribal Cultural Resources of a site that is listed with the Native Heritage Commission as Sacred Land. It is also troubling, given the Sacred Land designation, that follow-up was not required after only two responses were received to the 13 consultation letters sent.

CONCLUDING THOUGHTS

The perfunctory manner in which the proposed project's oak impacts were analyzed is inadequate for the protection of California's primary old growth resource and the cultural, habitat, and GHG functions oaks provide. Thank you for your consideration of our comments. We welcome your inquiry should additional input be helpful.

Sincerely,



Janet Cobb
Executive Officer
California Wildlife Foundation



Angela Moskow
Manager, California Oaks Coalition

cc: Kate Marianchild, Author, Activist, and Naturalist
Jennifer Riddell, Co-President, Sanhedrin Chapter CNPS Board



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May 7, 2020

Governor's Office of Planning & Research

MAY 08 2020

STATE CLEARINGHOUSE

Jesse Davis, Senior Planner
 County of Mendocino
 Planning and Building Services
 860 North Bush Street
 Ukiah, CA 95482

**Subject: Brutacao Vineyards' Gateway House, State Clearinghouse
 Number 2020040111**

Dear Jesse Davis:

On April 8, 2020, the California Department of Fish and Wildlife (CDFW) received a Notice of Completion for a draft Initial Study (IS) from the County of Mendocino (Lead Agency) for the Brutacao Vineyards' Gateway House (Project), Mendocino County, California. CDFW understands that the Lead Agency will accept comments on the Project through May 11, 2020. CDFW staff conducted a site visit on November 11, 2019 and provided comments to the Lead Agency on the Project on March 4, 2020. As a Trustee for the State's fish and wildlife resources, CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and the habitat necessary to sustain their populations. As a Responsible Agency, CDFW administers the California Endangered Species Act (CESA) and other provisions of the Fish and Game Code that conserve the State's fish and wildlife public trust resources. CDFW offers the following comments and recommendations in our role as a Trustee and Responsible Agency under the California Environmental Quality Act (CEQA), California Public Resource Code section 21000 et seq. These comments are intended to assist the Lead Agency in making informed decisions prior to the development of the Project's Mitigated Negative Declaration (MND).

CDFW's primary concern is that the draft IS does not include sufficient detail for the MND to analyze the Project's potential impacts to:

- rare plant populations and Sensitive Natural Communities (SNC)
- oak woodlands,
- wildlife Species of Special Concern and their habitat,
- an established wildlife movement corridor, and
- wetlands and riparian areas

Project Description

The Project site is located approximately 3.1 miles east of Hopland south of Highway 175 and east of Old Toll Road in Mendocino County. The Project site is undeveloped rangeland dominated by grasslands and oak woodlands and is bordered by agricultural land including vineyards. The Project proposes development of a recreational facility with a two-story lodge

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and up to 45 semi-permanent micro-cabins placed on the ridges across 90.87-acre site (APNs 048-270-24, 048-270-23, and a portion of 048-270-22). The cabins will sit on pads that include an outdoor picnic area and fire pit; most will have adjacent parking areas, but some will be designated as 'walk-in' with parking located away from the cabin. Each cabin will have water, wastewater disposal, and electric provided by underground utilities. Development will include installation of a well, septic system, and underground utilities, in addition to construction of walking trails, access roads to the cabins, a lodge parking area with secondary site ingress/egress, and widening of an existing road to access the site from Old Toll Road. The yearly average occupancy rate is expected to be 85 percent with the maximum capacity of 110 guests.

Survey Data

A habitat assessment and surveys for rare plants, natural communities, and wildlife species have not yet been conducted and a wetland delineation have not yet been completed. The Project's preliminary biological report states, "*seasonally-appropriate biological surveys and wetland delineation will be completed prior to implementation of the project.*" Because the baseline of environmental setting is uncertain, CDFW, other agencies, and the public do not have a basis from which to assess the potential impacts to biological resources or the significance of these potential impacts. Conducting surveys just before ground disturbance and after the CEQA process is completed does not comport with a substantial mandate of CEQA to disclose a Project's potentially significant impacts and to provide feasible and effective mitigations, as needed. Surveys should be comprehensive over the entire Project site, including areas that will be directly or indirectly impacted by the project.

The MND should be informed by survey results and a habitat assessment to adequately analyze the Project's potential impacts to biological resources. The MND should include effective mitigation to reduce potential impacts to less than significant (**Recommendation 1**).

Rare Plants and Sensitive Natural Communities

The IS does not include sufficient information to determine potential impacts or their significance to rare plant populations or SNCs.

A survey of the Project site was conducted in November 2019 and no rare plant populations were identified. The preliminary biological report indicates at least five rare plant species have the potential to be present on-site. The draft Mitigation and Monitoring Plan (MMP) includes mitigation measure BIO-1, which states "*if special status plant populations are observed and cannot be avoided, consultation with CDFW will be initiated to relocate the plants*" but does not propose compensatory mitigation or performance standards if impacts to the plant populations occur.

Without the results of rare plant surveys, CDFW, the public, and the Lead Agency cannot determine what sensitive plants occur on the project site or to what degree impacts to them will be significant. The proposed mitigation of relocating rare plants if they cannot be avoided, has been demonstrated to have a low likelihood of success. An extensive analysis of the success of rare plant relocation projects, showed that of 53 rare plant transplantation, relocation, or reintroduction attempts reviewed, only 15 percent (eight projects) were considered fully successful (Fiedler 1991). For this reason and given the absence of performance standards and relocation details, CDFW finds the Project's proposed mitigation of relocating rare plants would have an extremely low likelihood of reducing impacts to a less than significant level.

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Additionally, the IS does not identify SNCs on-site but describes several plant species that are diagnostic for at least two SNCs including Valley Oak (*Quercus lobata*) Forest and Woodland and Madrone (*Arbutus menziesii*) Forest with a State ranks of S3 (imperiled). Natural communities with State Ranks of S1-S3 are SNCs and should be addressed in the environmental review processes of CEQA. Valley oak woodland is a SNC with a State rank of S3. Coast live oak woodlands have a number of associations with State ranks of S3, but the IS does not describe natural communities in sufficient detail to determine, which, if any of the oak natural community associations are present on-site or if they may be sensitive.

Lastly, the preliminary biological report described the site as having “*non-native grasslands*” but this report does not describe the dominant plant species comprising the grassland, thus, CDFW cannot determine to what degree the grassland is comprised of native plant species, and thus would be considered a semi-natural plant community. Several native grassland alliances may have a substantial non-native plant component, yet meet the criteria for being SNCs (see <https://wildlife.ca.gov/data/vegcamp/natural-communities#grasslands>).

CDFW recommends surveys for rare plants and SNCs be conducted according to *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities*. These survey results should be used to analyze potential impacts in the MND; the MND should propose mitigation including performance criteria to reduce any impacts to less than significant (**Recommendation 2**).

Oaks and Oak Woodlands

The IS does not include sufficient information to determine potential impacts to oak woodlands. Pursuant to CEQA section 21083.4(b), “...a county shall determine whether a project with its jurisdiction may result in the conversion of oak woodlands that will have a significant effect on the environment.” The IS describes the Project site as forested with blue oak woodlands and identifies blue oak (*Quercus douglasii*), interior live oak (*Q. wislizeni*), valley oak (*Q. lobata*) and California black oak (*Q. kelloggii*) but does not describe the location, extent of these species on-site, or discuss potential impacts to oak woodlands. The IS states tree and vegetation removal will be restricted to “*the footprints of the micro-cabin RV pads, access roads/trails, lodge facility and parking area, and as required by CalFire for fire suppression.*” Even with restricted trimming and removal, a substantial removal of oak woodlands could result in a significant impact.

Regardless of their natural community status, oak woodlands are extremely valuable wildlife habitat. In California, oak woodlands have the greatest wildlife species richness of any other habitat in the state with over 330 species of amphibians, birds, and mammals relying upon these habitats at some point during their lives (CalPIF 2002). Oak woodlands have experienced ongoing declines due to conversion for agricultural uses, and oak woodlands are also impacted by low recruitment, novel pathogens, competition from invasive species, and fire suppression (Whipple et al. 2011). California has lost approximately 1/3 of its of historic oak woodland habitat statewide (CalPIF 2002). Because oaks are slow-growing trees, the substantial habitat and ecosystem value that mature trees provide is difficult to replace.

The MND should disclose the number, species, and size of oak trees and that cannot be avoided and quantify the loss, degradation, and fragmentation of oak woodlands and propose effective mitigations, if this impact is determined to be significant. This analysis should presume that vegetation will be substantially cleared, and trees removed within 100 feet of all structures, pursuant to current fire-safe buffer standards. In addition, the MND should include a requirement for an Oak MMP to be developed and mitigation should include performance

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standards and protection in perpetuity. To the extent feasible, mitigation should be on-site to recreate and eventually re-establish the oak woodland habitat lost by the Project's implementation.

To reduce the significance of impact to oak woodlands, CDFW recommends the following mitigation ratios:

- <1" dbh replaced at a minimum 1:1 mitigation ratio
- 1-11" dbh replaced at a minimum 6:1 mitigation ratio
- 12-18" dbh replaced at a minimum 8:1 mitigation ratio
- 18" dbh replaced at a minimum 10:1 mitigation ratio

These ratios are consistent with prior CDFW recommendations for projects with oak woodland impacts and may be modified upon further consultation with CDFW (**Recommendation 3**).

Wildlife Species of Special Concern

The IS does not describe the location or extent of suitable habitat for Species of Special Concern and does not include sufficient information to determine potential the direct or indirect impacts to these species or their habitats.

The preliminary biological report identified the potential for seven Species of Concern to be on-site but concludes the site has "*limited*" or "*few suitable*" habitat locations. The report does not include supporting information such as a habitat assessment or surveys beyond the statement "*only ruderal grassland, Class III drainage, and blue oak woodland habitats were found to be present on-site, eliminating many of the sensitive species specific to other types of habitats.*" As discussed above, oak woodlands are extremely valuable habitat to wildlife species.

The IS states, "*tree and vegetation removal will be minimized to the greatest extent feasible in order to protect the forested nature of the Site, which provide suitable habitat for candidate, sensitive, or special status species,*" but does not indicate which species these may be. The draft MMP's provides protocols to mitigate impacts associated with tree trimming and removal by avoiding active bird nests during breeding season but the loss of oak woodland habitat for other wildlife species is not considered.

Surveys should be conducted to develop a biological assessment that describes the location and extent of on-site habitat and the presence of Species of Special Concern including bird species that are year-round residents and that were observed on-site during the November 2019 survey. These species are oak titmouse (*Baeolophus inornatus*), wrentit (*Chamaea fasciata*), and Nuttall's woodpecker (*Picoides nuttallii*) and all have the potential to nest onsite. This information should be used to analyze potential impacts in the MND. If avoidance and minimization is not feasible, effective mitigation should be proposed to reduce impacts to less than significant.

Wildlife Corridors

The IS does not provide adequate information to determine the Project will not interfere substantially with the movement of any native resident or migratory wildlife corridor. The Project site is within a North-South habitat connectivity linkage identified in the California Essential Habitat Connectivity Project (Spencer et al. 2010). The "*uncultivated*" lands of McDowell Valley (the area traced by Old Toll Road and Younce Road south of Highway 175) is an important low

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elevation corridor connecting both sides of the Russian River valley (J. Brashares, personal communication, May 3, 2020). The Project site is also identified as core habitat for many large mammal species in the Northern Mayacamas – Coast Range linkage (Penrod et al. 2013). The Project site is part of an important wildlife corridor connecting large tracks of wildlands and because its undeveloped parcels provide quality wildlife habitat in comparison to the more intensively managed agricultural lands that border the Project site to the north and south.

While the Project proposes to permanently impact less than seven acres across the 90.87-acre site, the permanent installation of micro-cabins, access roads, and sustained human presence has a high potential to impact wildlife movement through this established corridor.

The MND should include mitigation measures to maintain wildlife movement through this established wildlife corridor including the installation of down-cast lighting to reduce light pollution, incorporating wildlife-friendly fencing designs, and solid waste storage practices to reduce human-wildlife interactions. The Project should develop avoidance and minimization measures including reducing the Project's footprint by clustering the locations of the micro-cabins, reducing the amount of new access roads, and reducing the distance between the micro-cabins (**Recommendation 4**).

Wetlands and Riparian Areas

The IS does not include sufficient information including the location or extent of on-site wetland and riparian habitat to determine potential impacts to on-site wetland and riparian areas. Several ephemeral drainages pass through the Project site and during the November 14, 2019 site visit, CDFW staff noted the presence of riparian vegetation including live oak and California buckeye at these dry sites.

The MND should be informed by a wetland delineation and disclose the potential direct and indirect impacts to riparian vegetation that may occur. If potential impacts are identified, the MND should propose effective mitigation and include performance standards. Mitigation ratios of greater than 1:1 should be included to achieve a no-net-loss of wetlands or riparian habitat and should establish a minimum disturbance buffer of 100 feet from these resources (**Recommendation 5**).

Summary of Recommendations

CDFW has several recommendations for the Lead Agency to identify potentially significant impacts and ensure these impacts are reduced to less than significant by proposing effective mitigation in the MND.

1. The Project's MND should be informed by survey results and a habitat assessment to adequately analyze the Project's potential impacts to biological resources including rare plants SNCs, and wildlife Species of Special Concern. The MND should include effective mitigation to reduce potential impacts to less than significant.
2. Surveys for rare plants and SNCs should be conducted according to *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities*.
3. The MND should quantify the loss, degradation, and fragmentation of oak woodlands and if significant, propose effective mitigation including the development of an Oak MMP.

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4. The MND should include mitigation measures to maintain wildlife movement through this established wildlife corridor and reduce human-wildlife interaction.
5. CDFW recommends the MND analyze the potential impacts to aquatic and riparian habitats, and if these impacts are determined to be significant, propose effective mitigations that include performance standards.

These changes are necessary for CDFW to determine that the Project will have a less than significant impact on biological resources.

Thank you for the opportunity to comment on this draft IS. CDFW staff are available to meet with you to consult with or address the contents of this letter in greater depth. If you have questions on this matter or would like to discuss these recommendations, please contact Senior Environmental Scientist Specialist Jennifer Garrison at (707) 477-7792 or by e-mail at Jennifer.Garrison@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Curt Babcock
974D273FEE784E2...

Curt Babcock
Habitat Conservation Program Manager

References: Page 7

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May 7, 2020

Jesse Davis, Senior Planner
County of Mendocino
Planning and Building Services
860 North Bush Street
Ukiah, CA 95482

**Subject: Brutacao Vineyards' Gateway House, State Clearinghouse
Number 2020040111**

Dear Jesse Davis:

On April 8, 2020, the California Department of Fish and Wildlife (CDFW) received a Notice of Completion for a draft Initial Study (IS) from the County of Mendocino (Lead Agency) for the Brutacao Vineyards' Gateway House (Project), Mendocino County, California. CDFW understands that the Lead Agency will accept comments on the Project through May 11, 2020. CDFW staff conducted a site visit on November 11, 2019 and provided comments to the Lead Agency on the Project on March 4, 2020. As a Trustee for the State's fish and wildlife resources, CDFW has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants and the habitat necessary to sustain their populations. As a Responsible Agency, CDFW administers the California Endangered Species Act (CESA) and other provisions of the Fish and Game Code that conserve the State's fish and wildlife public trust resources. CDFW offers the following comments and recommendations in our role as a Trustee and Responsible Agency under the California Environmental Quality Act (CEQA), California Public Resource Code section 21000 et seq. These comments are intended to assist the Lead Agency in making informed decisions prior to the development of the Project's Mitigated Negative Declaration (MND).

CDFW's primary concern is that the draft IS does not include sufficient detail for the MND to analyze the Project's potential impacts to:

- rare plant populations and Sensitive Natural Communities (SNC)
- oak woodlands,
- wildlife Species of Special Concern and their habitat,
- an established wildlife movement corridor, and
- wetlands and riparian areas

Project Description

The Project site is located approximately 3.1 miles east of Hopland south of Highway 175 and east of Old Toll Road in Mendocino County. The Project site is undeveloped rangeland dominated by grasslands and oak woodlands and is bordered by agricultural land including vineyards. The Project proposes development of a recreational facility with a two-story lodge

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and up to 45 semi-permanent micro-cabins placed on the ridges across 90.87-acre site (APNs 048-270-24, 048-270-23, and a portion of 048-270-22). The cabins will sit on pads that include an outdoor picnic area and fire pit; most will have adjacent parking areas, but some will be designated as 'walk-in' with parking located away from the cabin. Each cabin will have water, wastewater disposal, and electric provided by underground utilities. Development will include installation of a well, septic system, and underground utilities, in addition to construction of walking trails, access roads to the cabins, a lodge parking area with secondary site ingress/egress, and widening of an existing road to access the site from Old Toll Road. The yearly average occupancy rate is expected to be 85 percent with the maximum capacity of 110 guests.

Survey Data

A habitat assessment and surveys for rare plants, natural communities, and wildlife species have not yet been conducted and a wetland delineation have not yet been completed. The Project's preliminary biological report states, "*seasonally-appropriate biological surveys and wetland delineation will be completed prior to implementation of the project.*" Because the baseline of environmental setting is uncertain, CDFW, other agencies, and the public do not have a basis from which to assess the potential impacts to biological resources or the significance of these potential impacts. Conducting surveys just before ground disturbance and after the CEQA process is completed does not comport with a substantial mandate of CEQA to disclose a Project's potentially significant impacts and to provide feasible and effective mitigations, as needed. Surveys should be comprehensive over the entire Project site, including areas that will be directly or indirectly impacted by the project.

The MND should be informed by survey results and a habitat assessment to adequately analyze the Project's potential impacts to biological resources. The MND should include effective mitigation to reduce potential impacts to less than significant (**Recommendation 1**).

Rare Plants and Sensitive Natural Communities

The IS does not include sufficient information to determine potential impacts or their significance to rare plant populations or SNCs.

A survey of the Project site was conducted in November 2019 and no rare plant populations were identified. The preliminary biological report indicates at least five rare plant species have the potential to be present on-site. The draft Mitigation and Monitoring Plan (MMP) includes mitigation measure BIO-1, which states "*if special status plant populations are observed and cannot be avoided, consultation with CDFW will be initiated to relocate the plants*" but does not propose compensatory mitigation or performance standards if impacts to the plant populations occur.

Without the results of rare plant surveys, CDFW, the public, and the Lead Agency cannot determine what sensitive plants occur on the project site or to what degree impacts to them will be significant. The proposed mitigation of relocating rare plants if they cannot be avoided, has been demonstrated to have a low likelihood of success. An extensive analysis of the success of rare plant relocation projects, showed that of 53 rare plant transplantation, relocation, or reintroduction attempts reviewed, only 15 percent (eight projects) were considered fully successful (Fiedler 1991). For this reason and given the absence of performance standards and relocation details, CDFW finds the Project's proposed mitigation of relocating rare plants would have an extremely low likelihood of reducing impacts to a less than significant level.

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Additionally, the IS does not identify SNCs on-site but describes several plant species that are diagnostic for at least two SNCs including Valley Oak (*Quercus lobata*) Forest and Woodland and Madrone (*Arbutus menziesii*) Forest with a State ranks of S3 (imperiled). Natural communities with State Ranks of S1-S3 are SNCs and should be addressed in the environmental review processes of CEQA. Valley oak woodland is a SNC with a State rank of S3. Coast live oak woodlands have a number of associations with State ranks of S3, but the IS does not describe natural communities in sufficient detail to determine, which, if any of the oak natural community associations are present on-site or if they may be sensitive.

Lastly, the preliminary biological report described the site as having “*non-native grasslands*” but this report does not describe the dominant plant species comprising the grassland, thus, CDFW cannot determine to what degree the grassland is comprised of native plant species, and thus would be considered a semi-natural plant community. Several native grassland alliances may have a substantial non-native plant component, yet meet the criteria for being SNCs (see <https://wildlife.ca.gov/data/vegcamp/natural-communities#grasslands>).

CDFW recommends surveys for rare plants and SNCs be conducted according to *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities*. These survey results should be used to analyze potential impacts in the MND; the MND should propose mitigation including performance criteria to reduce any impacts to less than significant (**Recommendation 2**).

Oaks and Oak Woodlands

The IS does not include sufficient information to determine potential impacts to oak woodlands. Pursuant to CEQA section 21083.4(b), “...a county shall determine whether a project with its jurisdiction may result in the conversion of oak woodlands that will have a significant effect on the environment.” The IS describes the Project site as forested with blue oak woodlands and identifies blue oak (*Quercus douglasii*), interior live oak (*Q. wislizeni*), valley oak (*Q. lobata*) and California black oak (*Q. kelloggii*) but does not describe the location, extent of these species on-site, or discuss potential impacts to oak woodlands. The IS states tree and vegetation removal will be restricted to “*the footprints of the micro-cabin RV pads, access roads/trails, lodge facility and parking area, and as required by CalFire for fire suppression.*” Even with restricted trimming and removal, a substantial removal of oak woodlands could result in a significant impact.

Regardless of their natural community status, oak woodlands are extremely valuable wildlife habitat. In California, oak woodlands have the greatest wildlife species richness of any other habitat in the state with over 330 species of amphibians, birds, and mammals relying upon these habitats at some point during their lives (CalPIF 2002). Oak woodlands have experienced ongoing declines due to conversion for agricultural uses, and oak woodlands are also impacted by low recruitment, novel pathogens, competition from invasive species, and fire suppression (Whipple et al. 2011). California has lost approximately 1/3 of its of historic oak woodland habitat statewide (CalPIF 2002). Because oaks are slow-growing trees, the substantial habitat and ecosystem value that mature trees provide is difficult to replace.

The MND should disclose the number, species, and size of oak trees and that cannot be avoided and quantify the loss, degradation, and fragmentation of oak woodlands and propose effective mitigations, if this impact is determined to be significant. This analysis should presume that vegetation will be substantially cleared, and trees removed within 100 feet of all structures, pursuant to current fire-safe buffer standards. In addition, the MND should include a requirement for an Oak MMP to be developed and mitigation should include performance

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standards and protection in perpetuity. To the extent feasible, mitigation should be on-site to recreate and eventually re-establish the oak woodland habitat lost by the Project's implementation.

To reduce the significance of impact to oak woodlands, CDFW recommends the following mitigation ratios:

- <1" dbh replaced at a minimum 1:1 mitigation ratio
- 1-11" dbh replaced at a minimum 6:1 mitigation ratio
- 12-18" dbh replaced at a minimum 8:1 mitigation ratio
- 18" dbh replaced at a minimum 10:1 mitigation ratio

These ratios are consistent with prior CDFW recommendations for projects with oak woodland impacts and may be modified upon further consultation with CDFW (**Recommendation 3**).

Wildlife Species of Special Concern

The IS does not describe the location or extent of suitable habitat for Species of Special Concern and does not include sufficient information to determine potential the direct or indirect impacts to these species or their habitats.

The preliminary biological report identified the potential for seven Species of Concern to be on-site but concludes the site has "*limited*" or "*few suitable*" habitat locations. The report does not include supporting information such as a habitat assessment or surveys beyond the statement "*only ruderal grassland, Class III drainage, and blue oak woodland habitats were found to be present on-site, eliminating many of the sensitive species specific to other types of habitats.*" As discussed above, oak woodlands are extremely valuable habitat to wildlife species.

The IS states, "*tree and vegetation removal will be minimized to the greatest extent feasible in order to protect the forested nature of the Site, which provide suitable habitat for candidate, sensitive, or special status species,*" but does not indicate which species these may be. The draft MMP's provides protocols to mitigate impacts associated with tree trimming and removal by avoiding active bird nests during breeding season but the loss of oak woodland habitat for other wildlife species is not considered.

Surveys should be conducted to develop a biological assessment that describes the location and extent of on-site habitat and the presence of Species of Special Concern including bird species that are year-round residents and that were observed on-site during the November 2019 survey. These species are oak titmouse (*Baeolophus inornatus*), wrentit (*Chamaea fasciata*), and Nuttall's woodpecker (*Picoides nuttallii*) and all have the potential to nest onsite. This information should be used to analyze potential impacts in the MND. If avoidance and minimization is not feasible, effective mitigation should be proposed to reduce impacts to less than significant.

Wildlife Corridors

The IS does not provide adequate information to determine the Project will not interfere substantially with the movement of any native resident or migratory wildlife corridor. The Project site is within a North-South habitat connectivity linkage identified in the California Essential Habitat Connectivity Project (Spencer et al. 2010). The "*uncultivated*" lands of McDowell Valley (the area traced by Old Toll Road and Younce Road south of Highway 175) is an important low

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elevation corridor connecting both sides of the Russian River valley (J. Brashares, personal communication, May 3, 2020). The Project site is also identified as core habitat for many large mammal species in the Northern Mayacamas – Coast Range linkage (Penrod et al. 2013). The Project site is part of an important wildlife corridor connecting large tracks of wildlands and because its undeveloped parcels provide quality wildlife habitat in comparison to the more intensively managed agricultural lands that border the Project site to the north and south.

While the Project proposes to permanently impact less than seven acres across the 90.87-acre site, the permanent installation of micro-cabins, access roads, and sustained human presence has a high potential to impact wildlife movement through this established corridor.

The MND should include mitigation measures to maintain wildlife movement through this established wildlife corridor including the installation of down-cast lighting to reduce light pollution, incorporating wildlife-friendly fencing designs, and solid waste storage practices to reduce human-wildlife interactions. The Project should develop avoidance and minimization measures including reducing the Project's footprint by clustering the locations of the micro-cabins, reducing the amount of new access roads, and reducing the distance between the micro-cabins (**Recommendation 4**).

Wetlands and Riparian Areas

The IS does not include sufficient information including the location or extent of on-site wetland and riparian habitat to determine potential impacts to on-site wetland and riparian areas. Several ephemeral drainages pass through the Project site and during the November 14, 2019 site visit, CDFW staff noted the presence of riparian vegetation including live oak and California buckeye at these dry sites.

The MND should be informed by a wetland delineation and disclose the potential direct and indirect impacts to riparian vegetation that may occur. If potential impacts are identified, the MND should propose effective mitigation and include performance standards. Mitigation ratios of greater than 1:1 should be included to achieve a no-net-loss of wetlands or riparian habitat and should establish a minimum disturbance buffer of 100 feet from these resources (**Recommendation 5**).

Summary of Recommendations

CDFW has several recommendations for the Lead Agency to identify potentially significant impacts and ensure these impacts are reduced to less than significant by proposing effective mitigation in the MND.

1. The Project's MND should be informed by survey results and a habitat assessment to adequately analyze the Project's potential impacts to biological resources including rare plants SNCs, and wildlife Species of Special Concern. The MND should include effective mitigation to reduce potential impacts to less than significant.
2. Surveys for rare plants and SNCs should be conducted according to *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities*.
3. The MND should quantify the loss, degradation, and fragmentation of oak woodlands and if significant, propose effective mitigation including the development of an Oak MMP.


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4. The MND should include mitigation measures to maintain wildlife movement through this established wildlife corridor and reduce human-wildlife interaction.
5. CDFW recommends the MND analyze the potential impacts to aquatic and riparian habitats, and if these impacts are determined to be significant, propose effective mitigations that include performance standards.

These changes are necessary for CDFW to determine that the Project will have a less than significant impact on biological resources.

Thank you for the opportunity to comment on this draft IS. CDFW staff are available to meet with you to consult with or address the contents of this letter in greater depth. If you have questions on this matter or would like to discuss these recommendations, please contact Senior Environmental Scientist Specialist Jennifer Garrison at (707) 477-7792 or by e-mail at Jennifer.Garrison@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Curt Babcock
Habitat Conservation Program Manager

References: Page 7

cc: Jesse Davis
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March 2, 2020

Susan Summerford
Staff Planner_ Project Coordinator
Department of Planning and Building Services
County of Mendocino
860 North Bush St., Ukiah, CA 95482

RE: Case # U_2020_0002

Dear Susan,

We are writing to provide comments on Case # U_2020-0002, a development project by Gateway House Inc. on property owned by Brutocao Vineyards. The California Native Plant Society is a statewide organization dedicated to the preservation of native plants and their natural habitats, and to increasing understanding, appreciation, and horticultural use of native plants since 1965. The Sanhedrin Chapter of the California Native Plant Society comprises the inland part of Mendocino County and all of Lake County, and has been active in the area since 1981.

There are several issues we see as needing to be addressed with this project. First and foremost, the mitigated negative declaration for CEQA reporting is not applicable in this case, for several reasons.

1) Adequacy of botanical surveys.

- a. Clearly, as LACO Associates (project agent) admits, the botanical survey is preliminary, however no information is provided regarding follow up site visits during the spring-summer period. As submitted, the botanical report does not meet the requirements as outlined by the State of California and therefore is insufficient to justify a negative declaration for the facility. In particular, only one survey was conducted during a time of year (fall) when potentially occurring rare species are past their life cycle. By not following the "Protocols" (see reference below) the information provided by the applicant is inadequate and cannot be used to make an informed decision regarding the proposed project's impact to rare, threatened, or endangered plant species.

The investigations of potential occurring rare species should be broadened to include an area comprising 9 USGS 7.5' quads, not just the Hopland quad. Rare species, by their nature, often show patchy and sometimes disjunct patterns of rarity across relatively large ranges. Rare or even restricted species are commonly found outside their known ranges and habitat preferences. Therefore, declaring species presence or absence based entirely on habitat designations or known ranges is not valid. In sum, a floristic survey encompassing multiple site visits (minimum of 3) must be conducted across the local blooming and fruiting period

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following the California Department of Fish and Wildlife (CDFW) protocols referenced below.

Additional site visits may be needed in future years due to the recent drought conditions. CDFW protocols state,

“The timing and number of visits necessary to determine if special status plants are present is determined by geographic location, the natural communities present, and the weather patterns of the year(s) in which botanical field surveys are conducted.”

“Adverse conditions from yearly weather patterns may prevent botanical field surveyor from determining the presence of, or accurately identifying, some special status plants in the project area. Disease, drought, predation, fire, herbivory or other disturbance may also preclude the presence or identification of special status plants in any given year.”

- b. Only California Rare Plant Ranks (CRPR) 1 and 2 were considered in the report. These special status plants meet the definition of rare and endangered under CEQA and either are or eligible for state listing. It is mandatory that they be addressed in environmental documents related to development, resource extraction, and restoration projects. Even though few plants from CRPR 3 and CRPR 4 are eligible for state listing, some are significant locally, therefore the CDFW recommends these species be evaluated for consideration in preparation of CEQA documents. Compared to plants with no rare plant ranking, CRPR 3 and 4 species are more likely to become rarer over time from habitat loss and the associated impacts of climate, so it is important to consider these plants during preliminary investigations and field surveys. Changes over time in habitat conditions along with natural seasonal variation influence species composition. Rare species rankings are continually updated based on current knowledge of their distribution and abundance and as a result their status upgraded or downgraded. The inclusion of all CRPR plants is standard protocol in CEQA documents.

CRPR 1A (presumed extinct in California)

CRPR 1B (rare or endangered in California and elsewhere)

CRPR 2A (presumed extirpated or extinct in California, but not elsewhere)

CRPR 2B (rare, threatened, or endangered in California but not elsewhere)

CRPR 3 (plants about which more information is needed, a review list)

CRPR 4 (plants of limited distribution, a watch list)

- 2) Habitat fragmentation: This project appears to spread the proposed development as widely across the property as possible, creating the maximum amount of impact possible for these 45 habitats, including road development, sewer, and electrical development. This ensures that the project will impact the whole proposed development area, rather than concentrating impacts in one area.

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The project description states that vegetation, including oak trees, will only be removed within the building footprint. It does not indicate how much tree canopy is currently present and what the reduction in canopy cover will be. Given the project proposal of 45 new buildings, this could include a large percent of the natural habitat on this site. There is no assessment of the percent of natural habitat on this property that will be removed as part of the construction process.

- 3) Zoning: Sec. 20.060.005 of the Mendocino County code regarding rangeland states: "This district is intended to create and preserve areas for, (A) the grazing of livestock, (B) the production and harvest of natural resources, and (C) the protection of such natural resources as watershed lands from fire, pollution, erosion, and other detrimental effects. Processing of products produced on the premises would be permitted as would certain commercial activities associated with crop and animal raising. Typically the R-L District would be applied to lands for incorporation into Type II Agricultural Preserves, other lands generally in range use, and intermixed smaller parcels and other contiguous lands the inclusion of which is necessary for the protection and efficient management of rangelands."

This development clearly doesn't fit the bill for rangeland preservation, and would require that the property be re-zoned in order to proceed with the project.

We urge the planning department to reject the proposed project as proposed based on its violation of Mendocino County zoning, and on the basis of inadequate biological surveys.

We appreciate the opportunity to provide comments, and look forward to your follow up with us to ensure the protection of native plants and their habitats. Please keep us apprised of future opportunities for input regarding this matter.

Sincerely,

Andrea Davis, tworns@pacific.net
Kerry Heise, kheise007@gmail.com
Jennifer Riddell, jenariddell@gmail.com
Sanhedrin Chapter CNPS Board: sanhedrincnps@gmail.com

Reference

Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities, STATE OF CALIFORNIA, CALIFORNIA NATURAL RESOURCES AGENCY DEPARTMENT OF FISH AND WILDLIFE. March 20, 2018

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May 11, 2020

Via Email (davisj@mendocinocounty.org and pbs@mendocinocounty.org)

Mendocino County Planning Commission
860 N. Bush St.
Ukiah, CA 95482

Re: Initial Study and Mitigated Negative Declaration for Getaway House, Inc. Major Use Permit at Assessor's Parcel Numbers 048-270-22, 23 & 24

Dear Commissioners,

We are submitting this letter on behalf of Middleridge Vineyard and M/R Vineyard, which are located adjacent to the proposed Getaway House, Inc. project that is the subject of the above-referenced application (the "Project"). We have reviewed the Initial Study and Negative Declaration (IS/MND) for the Project, which the County prepared in order to comply with the California Environmental Quality Act (CEQA), Pub. Resources Code §2100 et seq., and the regulations implementing CEQA, California Code of Regulations, Title 14 §15000 et seq ("Guidelines"). In short, the Project is inconsistent with applicable zoning, is not suitable for the proposed location, and presents significant risks to the local environment, particularly with regard to biological resources and wildfire risk. The IS/MND does not adequately address or mitigate for those impacts, and therefore does not comply with the requirements of CEQA.

I. Project Overview

The Project involves a Major Use Permit for a recreational vehicle (RV) facility featuring 45 recreational vehicles, called "micro-cabins." Although these micro-cabins are considered vehicles, they are to be moved only for repairs or upgrades. The micro-cabins contain bathrooms, kitchenettes, and water, septic, and electric utility connections. Each micro-cabin includes an outdoor fire pit. The micro-cabins are designed to accommodate 2-4 people for short term stays. The Project also includes a 1,344 square-foot, two-story lodge facility to accommodate the residence for an on-site manager, an office, a storage area, a meeting room, and laundry facilities. A small parking lot will service the project in addition to new paved roads to connect the micro-cabins.

II. The IS/MND is Inadequate.

The IS/MND is inadequate under CEQA in a variety of respects. An Environmental Impact Report (EIR) is required for any project that “may have a significant effect on the environment.” (Public Resources Code §21080(c)(1).) It is abundantly clear that this Project will have potentially significant impacts on the environment; accordingly, an EIR must be prepared.

We received a response to our March 17, 2020 Public Records Act request on the day this comment letter was required to be submitted. As a result, we request additional time to comment on the Project so that our comment can be fully informed, and we reserve the right to submit additional comments based on the documents in that production.

A. The Project is Inconsistent with Applicable Zoning Plans and Policies.

The Project is inconsistent with the applicable zoning. The property is zoned range land. (IS, p. 47.) Under Mendocino County Code section 20.060.035 there is a maximum dwelling density of one (1) unit per one hundred sixty (160) acres. (Ord. No. 3639 (part), adopted 1987). The range land district is “intended to create and preserve areas for, (A) the grazing of livestock, (B) the production and harvest of natural resources, and (C) the protection of such natural resources as watershed lands from fire, pollution, erosion, and other detrimental effects.” (Mendocino County Code Sec. 20.060.005.)

This Project is inconsistent with both the letter and the spirit of the range land zoning designation. The Project proposes 45 dwelling units on 90.87-acres, well in excess of density limitations, but attempts to circumvent this requirement by calling the micro-cabins “vehicles.” But in fact, they function as dwelling units, including kitchens, bathrooms, and full amenities, and they will only be moved for maintenance. These are permanent dwelling units, and placement of roughly one unit per two acres is not permitted in this zone, which should be reserved for grazing, timber harvesting, and preservation. The Project also proposes a greater number of service connections than the number permitted by the County of Mendocino. (IS, p. 44.)

B. The IS/MND is Inadequate With Regard to Biological Resources.

The evaluation of biological resources is also inadequate. The IS/MND states that the Project will have potentially significant impacts on biological resources, but that these impacts will be rendered less-than-significant with mitigation incorporation of three mitigation measures. But the evidence and technical data is inadequate to support this conclusion.

The IS/MND improperly defers both studies needed to identify significant impacts (relying on studies to be conducted in the future) and formulation of mitigation measures. Where studies to assess impacts or mitigation measures are deferred, they must take specific measures so that the public and decisionmakers can understand what steps will be taken to mitigate impacts, and to

ensure the mitigation is effective. (See *Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 280 [mitigation measure providing for active habitat management did not describe anticipated management actions and did not include management guidelines or performance criteria]; *Communities for a Better Env't v. City of Richmond* (2010) 184 Cal.App.4th 70, 95 [rejecting mitigation measure that required project applicant to develop plan for reducing greenhouse gas emissions because it identified undefined and untested measures of unknown efficacy and did not contain any objective criteria for measuring success]; *San Joaquin Raptor Rescue Ctr. v. County of Merced* (2007) 149 Cal.App.4th 645, 669 [rejecting mitigation measure calling for future surveys for special status species and development of undefined habitat management plan in response to surveys]; *Endangered Habitats League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 794.)

A preliminary biological survey was prepared on January 30, 2020 to document species observed on site during an October 2019 site visit. According to the IS/MND, it was “prepared outside the recommended seasonally appropriate time period for suitable sensitive plant identification and sensitive nesting bird occurrence.” (IS, p. 4.) While the IS/MND requires that a seasonally appropriate biological survey and wetland delineation be completed prior to implementation of the Project, it is impossible to determine based on the information in the IS/MND what the actual biological impacts of the Project will be. (IS, p. 21.) In fact, this data-gathering should occur before the Project is presented to the Planning Commission for approval, and mitigation measure BIO-1 is inadequate. Mitigation measure BIO-3 is similarly inadequate.

The IS/MND also improperly conflates features incorporated in the project design to avoid or minimize environmental impacts with proposed mitigation measures. (See *Lotus v Department of Transp.* (2014) 223 Cal.App.4th 645, 656–658 and n8.). Any action that is designed to minimize, reduce, or avoid a significant environmental impact or to rectify or compensate for the impact qualifies as a mitigation measure. (Guidelines, §§15126(a)(1), 15370.) The IS/MND includes mitigation measures that are improperly labeled as “project features,” then relies upon these “project features” in order to reach the conclusion that the project will not have significant impacts. For instance, the Initial Study states that no development is proposed within 300 feet of McDowell Creek, however, this is not a binding mitigation measure. (IS, p. 21.) “Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments.” (Guidelines, §15126.4(a)(1)(A).)

C. The IS/MND is Inadequate With Regard to Hazards/ Wildfire.

Wildfire risk is of utmost concern to the residents of Mendocino County. The Project may create a significant wildfire risk because it invites urban guests who may not appreciate the fire danger in this area to recreate and build campfires. Guests could potentially ignite fires by improper use of fire pits, improper disposal of cigarettes or other smoking devices, and use of off-road vehicles. The IS/MND acknowledges that the Project may have potentially significant impacts related to wildfire by exposing Project occupants to wildfire risk. (IS, p. 72.) But potentially significant impacts are not properly mitigated, and the mitigation measure adopted is inadequate.

Mitigation Measure HAZ-1 only requires signage informing campers that campfires are only permitted within the installed fire pits, but there is no evidence that signage alone will be effective to mitigate wildfire risk, the proposed sign makes no mention of the hazards of smoking, and there is no provision of an enforcement mechanism. (IS, p. 40.) Similarly, while the IS/MND states that fire pits can be locked during burn bans, this is not enforceable as mitigation. (IS, p. 39.) CalFire has conditioned approval of the Project on providing a minimum of 100' defensible space from each side and front and rear of every structure, but the IS/MND should include maintenance of the defensible space as a mitigation measure, and should specify how that requirement will be enforced.

Furthermore, the IS/MND does not demonstrate that adequate water is available for firefighting. While Brutocao Vineyards has granted the Applicant rights to pump up to 5,000 gallons a day, the IS/MND does not evaluate whether 5,000 gallons of groundwater are actually available at all times, nor whether that amount will be sufficient in the case of a fire. In fact, CalFire Conditions of Approval require 5,000-gallons minimum dedicated to emergency water storage.

D. The IS/MND is Inadequate as to Water and Water Quality.

The IS/MND estimates that the project will require roughly 4,000 gallons of water per day to serve the 45 units and lodge; this amount would seem to be patently inadequate for the proposed development. (IS, p. 42.) The IS/MND must be revised to demonstrate an adequate water supply and to analyze both the environmental impacts of obtaining that water and any adverse impacts on existing area properties. *See Vineyard Area Citizens for Responsible Growth v. City of Rancho Cordova* (2007) 40 Cal.4th 412. Furthermore, the IS/MND does not adequately address how this development—through erosion, siltation, and introduction of pollutants—may affect the quality of the area water supply, which is critical to ongoing agricultural operations.

E. The IS/MND is Inadequate as to Cultural and Tribal Cultural Resources.

The IS/MND concludes that the Project “as currently designed” is not anticipated to have an adverse effect on cultural resources. (IS, p. 27.) However, the conclusion of no significant impact relies on the Discovery Clause contained in the County Code. Under section 22.12.090 of the Mendocino County Code, if an archeological site is discovered, the following procedures must be taken:

- (1) Cease and desist from all further excavation and disturbances within one hundred (100) feet of the discovery;
- (2) Make notification of the discovery to the Director of Planning and Building Services;
- (3) If deemed necessary by the Director of Planning and Building Services, arrange for staking completely around the area of discovery by visible stakes no more than ten (10) feet apart, forming a circle having a radius of no less than one hundred (100) feet from the point of discovery; provided, however, that such staking need not take place on

adjoining property whose owner or person in possession does not authorize such staking thereon, in which case the boundary line within such circle shall be staked;

(4) Grant any duly authorized representative of the Director of Planning and Building Services permission to enter onto the lands of the discovery which are under the jurisdiction of the person making the discovery and to take all actions consistent with this Chapter and otherwise permitted by law.

Compliance with this code provision is not adequate to mitigate potentially significant impacts with regard to cultural and tribal cultural resources. (IS, p. 27, 65.) Furthermore, it is unclear what the scope of those potential impacts may be.

Moreover, it is unclear whether the County has complied with AB 52 with regard to tribal cultural resources. Where a Tribe requests AB 52 consultation, the Guidelines require the lead agency to begin the consultation process within 30 days of receiving the request and prior to the release of a negative declaration, mitigated negative declaration, or environmental impact report. (Pub. Resources Code § 21080.3.1, subds. (b) & (e)). The Hopland Band of Pomo Indians requested to be consulted for the Project (IS, p. 1-2, 27), but the IS/MND has no further mention of consultation with the Hopland Band of Pomo Indians.

F. The IS/MND is Inadequate as to Noise Impacts.

The conclusion that the Project has no noise impacts relies on standard permit conditions limiting construction hours within 500 feet of residential uses to the hours of 7:00 a.m. and 7:00 p.m. weekdays, using quiet models of air compressors and other stationary noise sources where technology exists, use of mufflers on all internal combustion engine-driven equipment, and locating staging areas as far away as possible from noise-sensitive land use areas.” (IS, p. 52.) These should be adopted as enforceable mitigation measures and conditions of approval.

In addition, the Initial Study evaluates only construction noise, ignoring operational noise impacts. For example, it does not evaluate whether guests will be allowed to bring speakers and play amplified music, which creates the potential for significant noise impacts.

G. The IS/MND Does Not Even Attempt to Disclose Impacts to Traffic.

Finally, the IS/MND does not use any threshold of significance for evaluating traffic, and therefore fails to disclose traffic impacts, as CEQA requires. The County should prepare an EIR evaluating the Project’s traffic impacts under a Vehicle Miles Traveled standard, as required by SB 743 and the Guidelines. The IS/MND largely ignores the significant impacts to local roads—which have extremely limited capacity—by the addition of substantial new traffic. For example, the bridge on Old Toll Road is narrow and is not designed to handle anything other than intermittent traffic; the IS/MND does not adequately demonstrate how these rural roads will be improved to accommodate the Project, which will generate far more traffic than surrounding, less-dense uses.

III. Conclusion

Based on the foregoing, we recommend that the Planning Commission deny the Major Use Permit and direct the planning staff to prepare an EIR for the Project. Thank you for the opportunity to provide comments, and we look forward to the County's response.

Very truly yours,

Downey Brand LLP



Kathryn L. Oehlschlager

From: Neal Mettler
To: Jesse Davis
CC: Brian Hoy
Date: 4/13/2020 12:50 PM
Subject: RE:U_2020-0002 Getaway House, Hopland Area

Thank you for forwarding the info on this proposed project. In Consumer protection, we have little to say about their proposal, unless they decide to also have food to sell (say a "mini-mart" for their guests), or maybe a pool or hot tub as an extra amenity. In which case, we would need to do a plan check for any proposed food or pool facility.

Interestingly, I noticed that their submittal needs a minor correction - They reference the State Health Department for their water system permit, but the state agency for water system regulation has been moved to the California Water Resources Control Board, Drinking Water Branch. Also, due to the size and commercial nature of their development, I believe that their septic or sewage system needs to be permitted through the State - again the California Water Resources Control Board.

Their Well Permit would be issued through County Environmental Health.

Neal Mettler,REHS
Mendocino County Env. Health
(707)234-6628

From: Justin Le <Justin.Le@OPR.CA.GOV>
To: "davisj@mendocinocounty.org" <davisj@mendocinocounty.org>
Date: 5/12/2020 3:00 PM
Subject: SCH# 2020040111

The State Clearinghouse would like to inform you that our office will be transitioning from providing a hard copy of acknowledging the close of review period on your project to electronic mail system.

Please visit: <https://ceqanet.opr.ca.gov/2020040111/2> for full details about your project and if any state agencies submitted comments by close of review period (note: any state agencies in **bold**, submitted comments and are available).

This email acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please email the State Clearinghouse at state.clearinghouse@opr.ca.gov for any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Justin Le | Student Assistant
Governor's Office of Planning and Research
State Clearinghouse Unit
1400 10th Street, Room 113
Sacramento, CA 95814
(916) 445-0613

Mendocino County Planning Department
Mendocino County Planning Commission
Mr. Jesse Davis, Senior Planner
860 N. Bush Street Ukiah, CA 95482

May 8, 2020

Mr. Davis,

I am writing on behalf of my family, Tony & Nancy, and our sons Walker and Duncan. We live at 13800 Old Toll Road, Hopland CA in the house we built in 1998. Our property is contiguous to the proposed Getaway resort project and we strongly believe our way of life will be directly and negatively impacted if this project is allowed to proceed.

Getaway Homes is functionally a hotel resort operator developing projects in a way to avoid the zoning and building codes typically required, for good reason, for hotels & resorts. The cabins are on wheels only for delivery and to avoid the normal permitting process. Five of the forty-five proposed cabin sites on the ninety-acre parcel are within 200 yards of my home. That does not seem appropriate for zoned Rangeland with 160-acre minimums.

The Old Toll Road is a very rural road with a one lane bridge adjacent to Highway 175 just outside of Hopland. The road surface has some paving but is mostly evolved from chip seal resurfacing with the base rock exposed in many areas. The county does a respectable job filling potholes and repairing the bridge, but maintenance resources scarce and spread across a very large county.

The Getaway project proposes 45 transient residences plus caretakers and maintenance staff. This will add potentially 100 or more trips per day to this old road and bridge. The residents that currently live on this narrow road drive slowly and practice etiquette when passing, especially when approaching and crossing the bridge. The additional traffic will quickly degrade the road surface and stress the bridge beyond loads it was designed for, requiring increased maintenance and earlier replacement.

This area of the county is an extreme wildfire risk area and this parcel along with everything east of the Old Toll Road was evacuated in 2018 for a week due to fires on the adjacent ridge. Getaway specifically caters to urban clientele unused to the constant vigilance required to prevent wildfires here. Smoking, firepits, cars arriving with hot exhaust from long trips are all threats to our lives and property. Many cities allow fireworks in July and the likelihood is there that one of the hundreds of guests that week will decide bring fireworks on their 'camping' trip.

PG&E implemented PSPS twice in this area last year and left us without power for weeks requiring generators for lights, refrigeration and to pumping water and sewage. The inexperienced visitor caught

in a power outage may resort to candles and cook fires, greatly increasing the chance of starting a fire. The power shut offs are likely to continue for the next five to ten years.

It doesn't take any imagination to envision a wind driven fire started by a careless smoker racing up the steep hillsides to engulf these forty-five cabins in minutes. It happened several times in the last two years in northern California, killing many and causing terrible damage to lives and property. This project concentrates urban travelers in a steep fire-prone hillside site with restricted egress and is not appropriate for California oak grassland in an era of changing climate, increasing heat and reduced rainfall.

The projected water demand estimate of 4,000 gallons per day for the whole site is a fairytale at best and unscrupulous at worst. 100 people washing, bathing, cleaning and going to the bathroom will use far more than 40 gallons each. The caretakers house will use at least 1,000 gallons per day and the laundry plant will use the same.

The project proposes to drill a new water well adjacent to three existing wells over half a mile from the project. This should not be allowed for a project of this scale. Water resources are finite in this valley and the vineyards planted here for the last fifty years depend on this small aquifer to grow high quality grapes for the local economy. Pumping from any of the existing well currently affects the others. Concentrating another well at this location will lower the water table for all and require existing pumps to be reset lower at great cost.

If the project site cannot support the proposed use within the parcel boundaries, then it should not be allowed to proceed.

Thank you for the opportunity to comment on this project. I urge you and your colleagues to find the proposed Getaway House project inappropriate for this location and these changing times, and deny the application.

Tony Stephen & Nancy Walker

13800 Old Toll Road

Hopland, CA 95449

tonytrustwine@gmail.com

(707) 688-3628



Mendocino County Farm Bureau

303-C Talmage Road • Ukiah, CA. 95482 • (707) 462-6664 • Fax (707) 462-6681 • Email: admin@mendocfb.org
Affiliated with the California Farm Bureau Federation and the American Farm Bureau Federation

April 29, 2020

Mendocino County Department of Planning and Building Services
C/O Jesse Davis
860 North Bush Street
Ukiah, CA 95482

Submitted Via Email: davisj@mendocinocounty.org

RE: Draft CEQA Initial Study and Environmental Checklist for the Proposed Major Use Permit for the Getaway House Project in Hopland

Dear Mr. Davis,

Mendocino County Farm Bureau (MCFB) is a non-governmental, nonprofit, voluntary membership advocacy group whose purpose is to protect and promote agricultural interests throughout Mendocino County and to find solutions to the problems facing agricultural businesses in our rural community. Since the proposed Getaway House Project (Project) converts existing rangeland, provides for leapfrog development impacts that place development pressure on adjoining agricultural properties and has limited access to water resources MCFB is opposed to the Project and would like to submit the following comments for consideration.

General Comments

- MCFB does not agree with the determination for the Project that mitigations have been agreed to, or will be made, to negate any potential environmental impact and therefore a mitigated negative declaration should be prepared.
- MCFB requests the following comments be considered when reviewing the proposed mitigations for environmental impacts related to the Project and the permit application.

Agriculture and Forestry Resources

- The initial study and environmental checklist states that there will be no impact for 4 out of the 5 checklist elements for the agriculture and forestry resource section. (P.15-Draft Study)
- The Project development would be considered a 'Resort and Recreation Facility' or 'Transient Habitation- Recreational Vehicle Park' as defined under county zoning code and as defined could be an allowable use on rangeland which is the base property zoning. (P.15-Draft Study)
- The development is considered commercial and residential (P.51-Draft Study)
- Base property is not under a Williamson Act Contract (P.15-Draft Study)
- 5.59 acres of the 90.87-acre site is being developed as currently proposed (P.5- Draft Study)
- Surrounding land uses include a residence to the west, vineyards and the Old Toll Road to the west, vineyards to the east, vacant land, and highway 175 to the north, vacant lands to the south, and the Hopland Rancheria to the northeast. (P.9-Draft Study)

- Adjoining property zoning designations are rangeland (RL) or agricultural (AG) (P.4-Map Packet)
- Property is currently vacant and not used for forestry purposes. (P.16- Draft Study)
- Site is located in a rural area with minimal surrounding development, consisting primarily of open agricultural lands. (P. 19- Draft Study)

Comments

- MCFB does NOT agree with the no impact (II.B) determination that was made in relation to the potential conflict that the Project could create with existing zoning for agricultural use as:
 1. This density and resort style development would inhibit any current rangeland use of the property and would inhibit the future use of the property for rangeland purposes.
 2. There is a high likelihood of additional impacts and conversion pressure to the Project parcels and/or adjoining agricultural properties.
- MCFB does NOT agree with the less than significant impact (II. D) determination that was made in relation to the potential conflict that the Project could create with existing zoning for forest land as:
 1. It is not specified in the draft study as to what the exact level of forest/tree removal will be needed to complete the development. The Project assertion of area of impact (6% of parcel area) is preliminary, does not account for actual grading impacts to forest or the required clearing around structures that would be required.
 2. There is no indication that a registered professional forester has been consulted to determine if a Cal Fire conversion exemption or other harvest plan may be needed in relation to the proposed tree removal for the Project development. This is specifically related to species such as Douglas Fir, Pacific Madrone, etc. listed as present on the Project property under P. 14-15 of Appendix B and also listed on P.4 of CalFire's Project comment submittal.
- MCFB does NOT agree with the no impact (II. E) determination that was made in relation to the potential for the Project to convert farmland to non-agricultural uses or convert forestland to non-forest uses as:
 1. The Project property is surrounded by actively farmed agricultural parcels that could be impacted by the transition of the Project property to a commercial use.
 2. While the county code does allow for transient major use permits on rangeland zoning, the scale of this project is essentially a re-zone or will lead to a future re-zone causing not only the Project parcels to be converted from agricultural use, but also has the potential to spread future conversion of adjacent AG or RL parcels.

MCFB feels that this Project does not support a local planning process which accommodates orderly, logical, contiguous patterns of urban development that protect agricultural resources. This Project will have potentially significant impacts to agriculture and forest resources through direct and indirect conversion. There are no mitigations related to the Project's change of land use and how that will impact the agricultural viability on the Project parcels or on adjoining agricultural properties.

Land Use and Planning

- Since the proposed Project would be consistent and compatible with surrounding uses and designations, a less than significant impact would occur. (P.48-Draft Study)

Comments

- MCFB does NOT agree that the Project is compatible with surrounding land uses for the reasons described in the comments for the agriculture and forestry section.
-

Utilities and Service Systems

Water

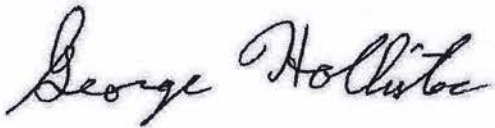
- Domestic water would be provided via a proposed well and private water system. The well would be installed west of the Project parcel in the Sanel Valley floor in the vicinity of existing producing agricultural wells. The Project applicant has been given permission to drill a well on adjacent property with the amount of daily water pumped to not exceed 5,000 gallons. (P. 68- Draft Study)
- Estimated daily water needs for proposed Project facilities is 4073.5 gallons (P. 6 – Proposed Study)
- The project water system will include a raw water supply pipe with booster pumps to supply a raw water storage tank at the upper elevation of the project area. The anticipated volume of the raw water tank, to be constructed using materials that meet appropriate CalFire standards, is currently estimated at 20,000 gallons, which will include standby water volume for fire flow to on-site hydrants, the fire sprinkler system in the lodge facility, and the supply for daily flow of the treated water for use by the micro-cabin RVs and lodge facility. (P. 68-Draft Study)
- As required in the conditions received from CalFire on January 15, 2020, a minimum 5,000 gallon dedicated water storage will be provided on-site for emergency water use and is included in the 20,000 gallon tank mentioned previously. (P.68-Draft Study)
- There will be an independent untreated water main system transporting water from the 20,000 gallon tank to the hydrants and the fire sprinkler system in the lodge facility. Although the micro-cabin RVs are exempt from fire sprinklers, a fire supply riser will be placed within 150 feet of each proposed micro-cabin RV pad. (P68-Draft Study)
- A building will be constructed adjacent to the raw water tank to house the booster pumps or transfer pumps to supply the raw water to the water treatment system and hydrants. (P.68-Draft Study)

Comments

- Historically there is limited water supply in the vicinity of the Project parcels.
- The Project proposes drilling a new well that could impact agricultural water availability for existing and adjoining agricultural uses.
- MCFB opposes new developments that require water at the expense of agricultural water supplies.

MCFB appreciates the opportunity to submit comments related to the Project. The significant concerns expressed above about rangeland conversion, leapfrog development that places further development pressure on adjoining agricultural properties, and limited water resources need to be considered in the planning process related to the permit application. If there are any questions regarding these comments, please feel free to contact the MCFB office.

Sincerely,

A handwritten signature in cursive script that reads "George Hollister". The signature is written in dark ink and is positioned above the printed name and title.

George Hollister
President