



# Public Comments



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

Bay Delta Region

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[www.wildlife.ca.gov](http://www.wildlife.ca.gov)**GAVIN NEWSOM, Governor****CHARLTON H. BONHAM, Director**

July 3, 2020

Mr. Jason R. Hade, Principal Planner

Napa County

1195 Third Street, Suite 210

Napa, CA 94559

Subject: Nova Business Park South Tentative Parcel Map, Draft Mitigated Negative Declaration, SCH No. 2020050574, Napa County

Dear Mr. Hade:

California Department of Fish and Wildlife (CDFW) personnel have reviewed the draft Mitigated Negative Declaration (MND) for the Nova Business Park South Tentative Parcel Map (Project). CDFW is submitting comments on the draft MND to inform Napa County, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project.

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

### **Environmental Setting**

The 20.23-acre Project site is located approximately 0.5 miles northeast of the Napa County Airport in the Napa Valley Business Park area of south Napa County; Latitude 38.23367, Longitude -122.26166. Suscol Creek lies approximately 0.55 miles to the north of the Project site and Sheehy Creek lies approximately 0.45 miles to the south. An unnamed tributary to the Napa River bisects the Project site flowing in a westerly direction from Devlin Road, which is located directly to the east of the subject parcel. The entire site is composed of annual grassland habitat interspersed with coyote brush (*Baccharis pilularis*) and approximately 1.37 acres of seasonal wetlands. South of the Project is developed industrial and includes the Napa Airport Self Storage Facility site and future Gateway East Winery site.

### **Project Description**

The Project is a request to subdivide the existing 20.23-acre parcel into eleven parcels ranging in size from 0.91 to 2.81 acres in anticipation of future development with

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industrial buildings. The Project also includes street and infrastructure improvements including two new cul de sac roadways accessed from Devlin Road. Two storm drain outfalls and one sewer line will be constructed within and underneath the unnamed stream, respectively.

## Comments and Concerns

### ***Swainson's hawk***

As mentioned in the *Nova Business Park South Special Status Habitat and Species Analysis*, prepared by Zentner Planning and Ecology, dated October 2019, the Project site provides suitable foraging habitat for Swainson's hawk (SWHA; *Buteo swainsoni*), a threatened species under CESA. This is consistent with CDFW personnel observations and qualified biologists' observations for projects in the surrounding area (e.g. Soscol Ferry Solar Project, Napa Vault Project). The Project occurs in the Napa Valley Business Park area, which is discussed in the Napa Valley Business Park Environmental Impact Report (EIR), prepared by Napa County, adopted on July 29, 1986 and amended through October 22, 2013. The EIR states that the Napa Valley Business Park area encompasses approximately 2,945 acres of land, of which approximately 2,800 acres are planned to be developed (i.e. approximately 95% of all of the land in the Napa Valley Business Park area will be developed). Furthermore, the EIR states that in 1984, approximately 1,780 acres of agriculture and open space existed within the area, and planned development in the area will remove 1,744 acres, leaving only 36 acres of agriculture and open space land (i.e. development will result in a reduction in approximately 98% of all agriculture and open space land). The statements in the EIR present a major concern to the future viability of SWHA populations in Napa County. According to the *Airport Area Master Environmental Assessment*, prepared for the abovementioned EIR:

*"The grassland and pasture areas found within the study area serve as an important raptor feeding area. Conversion of these areas from their present agricultural uses to urban development would significantly reduce their value to the various predatory bird species found in the area. Complete development of these areas would eliminate their value to all species while incremental development would slowly reduce their habitat values."*

Furthermore, it states:

*"Small animals and birds that use the grassland habitat type would be displaced when development occurred. These species would experience a decline in their local populations proportional to the loss of habitat."*

All development occurring in and planned for in this area presents a significant impact to local SWHA populations; and therefore, CDFW recommends that the Project mitigate

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for impacts to SWHA foraging habitat. CDFW requests a qualified biologist prepare a Mitigation Plan for CDFW review and approval that includes preserving suitable foraging habitat in perpetuity under the form of a conservation easement, or similar means of permanent protection. Any permanent loss of SWHA foraging habitat should be appropriately mitigated due to ongoing and cumulative loss of this habitat type in the South Napa Valley area. To mitigate for the loss of Swainson's hawk foraging habitat in a method consistent with the *Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California*, CDFW 1994, (Staff Report), CDFW recommends that the MND include a Mitigation Measure that incorporates the following language:

- For projects within one-mile of an active nest tree (the Staff Report defines an active nest as used during one or more of the last five years), provide one-acre of land for each acre of development authorized (1:1 ratio).
- For projects within five miles of an active nest tree, but greater than one-mile from the nest tree, provide 0.75 acres of land for each acre of development authorized (0.75:1 ratio).
- For projects within 10 miles of an active nest tree, but greater than 5 miles from an active nest tree, provide 0.5 acres of land for each acre of development authorized (0.5:1 ratio).

CDFW believes there are multiple active SWHA nests within 0.5 miles of the Project site and therefore recommends that the Mitigation Plan include preservation of SWHA foraging habitat at a 1:1 impacts to mitigation ratio.

### ***Lake and Streambed Alteration Agreement***

CDFW requires an entity to notify CDFW before commencing any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream or use material from a streambed. Ephemeral and/or intermittent streams and drainages (that are dry for periods of time or only flow during periods of rainfall) are also subject to Fish and Game Code section 1602. The Project proposes to construct two storm drain outfalls into the unnamed stream on the Project site and install a sewer line (presumably under the streambed). The draft MND accurately states that prior to doing this work, the Project applicant must notify CDFW to see if an LSA Agreement is necessary. When designing the outfall, CDFW recommends designing the outfall with the minimum amount of rock rip rap necessary for scour protection, which may be achieved through designing the outfall as close to the bed of the channel as possible. The storm drain outfall should be adequately sized to be able to convey stormwater runoff during a 100-year storm and not cause erosion in the stream from accelerated stormwater discharge. Additionally, for

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the sewer line under the channel, CDFW recommends that it be installed a minimum of 10 feet below the streambed using horizontal directional drilling (if feasible) to reduce the potential for a frac out. Boring pits should be located as far away from the top of bank as possible.

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

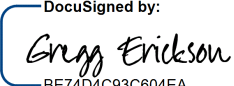
Please be advised that CDFW is transitioning to the Environmental Permit Information Management System (EPIMS), an online system, for all LSA notifications. EPIMS will be available for standard Notifications starting August 1, 2020. On September 1, 2020, paper copies and PDFs, including Joint Aquatic Resource Permit Applications (JARPAs), will no longer be accepted outside of EPIMS. For more information about EPIMS, please visit <https://epims.wildlife.ca.gov/index.do>.

### **CEQA Filing Fee**

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, § 711.4; Pub. Resources Code, § 21089). Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW.

CDFW appreciates the opportunity to provide comments on the draft MND for the proposed Project and is available to meet with you to further discuss our concerns. Additionally, CDFW is available to work with the project applicant in order to complete their LSA Notification. If you have any questions, please contact Mr. Garrett Allen, Environmental Scientist, at [garrett.allen@wildlife.ca.gov](mailto:garrett.allen@wildlife.ca.gov); or Ms. Karen Weiss, Senior Environmental Scientist (Supervisory), at [karen.weiss@wildlife.ca.gov](mailto:karen.weiss@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
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Gregg Erickson  
Regional Manager  
Bay Delta Region

cc: State Clearinghouse