

memo san jose

to **Noel Chamberlain**

from **Tay Peterson**

re **Highland Estates Lots 9, 10, 11 Biological Mitigation Compliance**

date **6/18/2019**

This memorandum report summarizes the results of pre-construction surveys completed for the Highland Estates project in the San Mateo Highlands, specifically for lots 9 and 10 at the end of Cobblehill Place and lot 11 at the end of Cowpens. The surveys were completed on June 18, 2019 to comply with biology mitigation measures included in the Conditions of Approval for the project. The weather was foggy turning to clear, calm, and cool. The survey was conducted by Sr. Biologist Taylor Peterson between 6:40 and 9:00 am.

The following measures are included in the Conditions of Approval for the project:

Mitigation Measure BIO-2a: No earlier than 30 days prior to the commencement of construction activities, a survey shall be conducted to determine if active woodrat nests (stickhouses) with young are present within the disturbance zone or within 100 feet of the disturbance zone. If active woodrat nests (stickhouses) with young are identified, a fence shall be erected around the nest site adequate to provide the woodrat sufficient foraging habitat at the discretion of a qualified biologist and based on consultation with the CDFG. At the discretion of the monitoring biologist, clearing and construction within the fenced area would be postponed or halted until young have left the nest. The biologist shall serve as a construction monitor during those periods when disturbance activities will occur near active nest areas to ensure that no inadvertent impacts on these nests will occur.

If woodrats are observed within the disturbance footprint outside of the breeding period, individuals shall be relocated to a suitable location within the open space by a qualified biologist in possession of a scientific collecting permit. This will be accomplished by dismantling woodrat nests (outside of the breeding period), to allow individuals to relocate to suitable habitat within the adjacent open space.

Mitigation Measure BIO-2b: No earlier than two weeks prior to commencement of construction activities that would occur during the nesting/breeding season of native bird

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species potentially nesting/roosting on the site (typically February through August in the project region), a survey for nesting birds shall be conducted by a qualified biologist experienced with the nesting behavior of bird species of the region. The intent of the survey would be to determine if active nests of special-status bird species or other species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code are present in the construction zone or within 500 feet of the construction zone. The surveys shall be timed such that the last survey is concluded no more than two weeks prior to initiation of construction or tree removal work. If ground disturbance activities are delayed, then an additional pre-construction survey shall be conducted such that no more than two weeks will have elapsed between the last survey and the commencement of ground disturbance activities. A report is required.

Mitigation Measure BIO-2c: *Prior to the commencement of construction activities during the breeding season of native bat species in California (generally occurs from April 1 through August 31), a focused survey shall be conducted by a qualified bat biologist to determine if active maternity roosts of special-status bats are present within any of the trees proposed for removal. Should an active maternity roost of a special-status bat species be identified, the roost shall not be disturbed until the roost is vacated and juveniles have fledged, as determined by the biologist. Once all young have fledged, then the tree may be removed. Species-appropriate replacement roosting habitat (e.g., bat boxes) shall be provided should the project require the removal of a tree actively used as a maternity roost. The replacement roosting habitat shall be subject to the approval of the CDFG.*

Mitigation Measure BIO-2d: *Immediately preceding initial ground disturbance activities on Lot 11, a pre-construction clearance survey shall be conducted by a qualified biologist for California red-legged frogs. The survey shall be conducted to determine whether individual California red-legged frogs are present within the disturbance boundary. Should a California red-legged frog be observed during the clearance survey, all construction activities on Lot 11 shall be immediately halted and the USFWS shall be immediately contacted. Under no circumstances shall a California red-legged frog be collected or relocated, unless USFWS personnel or their agents implement the measure. Construction-related activities may resume once the frog has naturally left the lot or has been relocated by a permitted biologist (authorized by the USFWS).*

Each lot was surveyed for active bird nests, active bat roosts, and active woodrat stick houses.

Measure 2a San Francisco Dusky-footed Woodrat Survey Results. Woodrat houses were relocated from lots 9, 10, and 11 in 2015 in compliance with Mitigation Measure BIO-2a and under a woodrat relocation plan submitted to the California Department of Fish and Wildlife (CDFW). A report of the results was also submitted. The parcels were re-checked for woodrat houses on November 26, 2018 and on June 18, 2019. There are three woodrat houses within the grading area on Lot 9 that are assumed to

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be active and that are assumed to contain young at this time of the year. In addition, there are woodrat houses in specific locations around the perimeter of lots 9, 10, and 11 that will require protection during construction. To comply with Mitigation Measure 2a, we recommend that fencing be installed to protect the houses from construction activities, in consultation with CDFW regarding the type and placement of fencing. In addition, to comply with mitigation measure 2a a biologist should be present when construction activities occur near active houses to assure that the houses are not inadvertently impacted by construction activities.

The three woodrat houses that are in the grading footprint on Lot 9 can be dismantled by a qualified biologist in possession of a scientific collecting permit outside of the breeding season, which is typically late July-September.

Per Mitigation Measure 2a, if construction is delayed for more than 30 days an additional survey for woodrat houses is required.

Measure 2b Nesting Bird Survey Results. Several bird species were observed/heard, including fledglings out of the nest foraging with adult birds, but no active nests were found in the construction zone. Access and visibility within 500 feet of the lots is limited, but time was spent observing the perimeters and no active nests were located. Birds observed included bushtit, American crow, Bewick's wren, scrub jay, Anna's hummingbird, brown towhee, black phoebe, dark-eyed junco, spotted towhee, and goldfinch.

If project work is delayed for two weeks or longer at any time between now and August 31, an additional nesting bird survey is required to comply with the mitigation measure.

Measure 2c Roosting Bat Survey Results. All trees on lots 9, 10, and 11 were checked for evidence of roosting bats, including cavities, urine staining, insect debris, and guano. No evidence of roosting bats was found on lots 9, 10, or 11.

Measure 2d Red-legged Frog Survey Results. Surveys for California red-legged frog on Lot 11 occurred on November 26, 2018 and on June 18, 2019. The biologist carefully paced along wandering transects within the upland areas of Lot 11, outside of the riparian area that is demarcated by orange fencing. No frog species were found during either survey.

The mitigation measure requires an additional survey immediately prior to site disturbance; therefore, it is recommended that a biological monitor be present at the

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start of construction activities on Lot 11 to conduct a pre-construction survey and provide environmental awareness training to the work crew. The fencing demarcating the riparian area needs to be repaired, and new signs demarcating it as an environmentally sensitive habitat need to be installed.

Summary. In summary, at this time the project has complied with Mitigation Measures BIO-2a, BIO-2b, BIO-2c, and BIO 2d, but these follow up items are required:

- woodrat protection measures as indicated in measure BIO-2a are required on all three lots (fencing and a biological monitor);
- a pre-construction survey for CRLF on Lot 11 will be required immediately prior to the start of construction, and a worker training can be provided at that time;
- the fencing and signage that protects the riparian zone needs to be replaced.