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Technical Memorandum:
Assessment of Biological Issues of the Bella Vista Subdivision Project in Relation to the Certified Environmental Impact Report for the Garden Gate Project

July 2021

This memo is being provided to provide an assessment of the biological conditions of currently proposed Bella Vista project compared to the mitigation measures pertaining to biological resources of the previously certified Environmental Impact Report (EIR) for the Garden Gate project from 2006. This memo is not intended to make a determination on the validity of the current project in light of the existing EIR, but rather to provide guidance to the applicant and County in support of their decision making processes.

The subsequent Biological Resource Assessment produced by Gallaway Enterprises (July 26, 2021) and its recommendations and conclusions supports the conclusions that existing certified EIR's mitigation measures, existing regulations and applicant's incorporation of their Good Neighbor Policies are consistent. Changes in project design and implementation of the current project compares to the previous project are minor, and in some instances superior to the previously approved project, and do not result in any new significant environmental effects or a substantial increase in the severity of previously identified resources.

The Bella Vista Subdivision project area contains multiple biological communities including annual grassland, montane hardwood conifer, riverine, vineyard, urban and barren. Cleland Mountain Creek is a water of the U.S. tributary to the Russian River that contains suitable habitat for Northern California steelhead trout and Chinook salmon. The Project, with the incorporation of the mitigation measures from the previous certified EIR will not affect FESA-listed Central California Coast steelhead trout or Chinook salmon. The Project may adversely affect state candidate (SC) species western bumble bee and species of special concern (SSC) western pond turtle and pallid bat.

Mitigation measures included in Conclusions and Recommendations section of the Biological Resource Assessment produced by Gallaway Enterprises are proposed to reduce potential impacts to the federally threatened (FT), federally protected (FP), state candidate (SC), and state species of concern (SSC) to a level that is considered less than significant.

The project site was previously surveyed by North Coast Resource Management in the mid-2000s as part of the Garden Gate Tentative Subdivision Map, a 199-lot subdivision. As part of that project an Environmental Impact Report (EIR) was certified by Mendocino County. That EIR contain biological mitigation measures to reduce impacts associated with the proposed project. A subsequent Biological Resource Assessment was conducted by Gallaway Enterprises in 2021 to evaluate and document the current biological conditions at the site.

Outlined below, are the mitigation measures that pertain to the biological resources from that EIR and an evaluation of their applicability based on current circumstances.

> *Mitigation Measure 3.2-D.1: The project shall not cause substantial pollution of Cleland Mountain Creek or the Russian River. The applicant shall prepare an NOI and SWPPP for the project, and incorporate the following additional site-appropriate BMPS or their equivalents for short- and long-term implementation by the Homeowners Associations (HOA) and/or individual lot owners, in order to comply with the requirements of the NPDES General Permit and provisions of the Mendocino County Storm Water Management Program. The BMPS will result in stormwater leaving the site at least meeting the NCRWQCB water quality objectives for the Russian River. The SWPP shall be approved by the Mendocino County Water Agency and the State prior to project construction.*
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> *Mitigation Measure 3.2-D-2: Per the recommendation of the CDFG, Lots 20, 21 and 197 shall be removed from the project in order to provide the minimum Creekside buffer required to filter contaminations including sediments, from stormwater runoff.*

The above Mitigation Measures are still applicable to the project, in that a project of this size is required to submit a Notice of Intent (NOI) and develop a Stormwater Pollution Prevention Plan (SWPPP). In addition to the County, SWPPPs are plans, submitted to and approved by the State Water Resource Control Board, that identify opportunities to reduce or eliminate stormwater runoff and contain standardized Best Management Practices (BMPs) such as; utilization of silt fences, erosion control blankets and waddles, watering exposed soil, sweeping sidewalks and streets, maintaining equipment and training site staff on erosion and sediment control practices, to name a few.

Further, the removal of three lots (Mitigation Measure 3.2-D-2) from the design is still applicable to the project and ensures that at least a 100-foot setback is secured as recommended by the California Department of Fish and Game (now Fish and Wildlife). These lots have been redesigned under the new proposal into 4 lots and are identified as Lot 122, 123, 124 and 125 the Bella Vista Map. In order to ensure appropriate retention of the approximately 13 mature true oak trees, comprising the riparian shade trees on the south side of the creek, retention tree root zones shall be protected as described in the Bella Vista project description Tree Protection Zones BMPs.

> *Mitigation Measure: 3.3-A.1: The applicant shall preserve water quality in Cleland Mountain Creek. A Riparian Enhancement Area that includes Lots 20, 21 and 197 shall be established to include all areas within a setback of 20 feet from the top of bank of this creek and deed restricted to prohibit grading, tree cuttings, trash depositions, landscaping other than natural habitat restoration, storage of materials, fillings, structures, dumping of chemicals, or disruptive activists. The applicant shall replant the Riparian Enhancement Area. The replanting shall include riparian species along the creek and oaks, bay and buckeye further from the creek. The plan shall include the planting of at least three replacement trees of the same species as the tree removed) for each oak, bay and buckeye and Oregon ash that is removed. With the 20-foot riparian habitat setback, appropriate native ground covers and shrubs will also be established to filter runoff form development portions of nearby lots. All plantings established under this plan shall be irrigated and replaced as needed as well as monitored by the plan prepare for a period of no less than 3 years to ensure successful establishment. The Riparian Enhancement Area shall be maintained by the HOA pursuant to this plan.*

A Riparian Enhancement Area Plan is still appropriate for Lots 20 and 21 (now Lots 122, 123, 124 and 125 on the Bella Vista Tentative Subdivision Map), which lay on the south side of Cleland Mountain Creek.

With the incorporation of Mitigation Measure 3.2-D.2, the Riparian Enhancement Area will have setback between 110 to 130-linear feet from the top of bank of Cleland Creek.

> *Mitigation Measure 3.3-B.1: An assessment shall be conducted that determines the area and number of oaks and other native hardwoods that would be removed or adversely impacted as a result of project development on Lots 20, 21, and 197. Building envelopes on Lots 20, 21 and 197, as well as driveway and utility connections locations shall be adjusted if needed to avoid loss or both short-term and long-term adverse effects on native trees. The area outside of these building envelopes shall be deed restricted to require maintenance of exiting native trees, and prohibit of lawns and landscaping incompatible with long*-term survival of these trees while allowing pruning and removal of any dead or dying trees, dead limbs and brush, and any clearance required as needed to reduce wildland fires hazard. All removed hardwoods shall be replaced with the same species at minimum replacement ration of 3:1 within the 20-foot riparian setback zone along the top of the bank of Cleland Mountain Creek. A minimum 3-year monitoring plan shall track planted trees and replace all that are dead or dying.

The above mitigation measure is still applicable to the project. The setback is incorrect, as noted above, but the deed protection of the native trees, is appropriate. The developer's removal of the four lots near the creek were implemented to meet the greatest setback identified in the Mitigation Measure. The applicant also notes in their project description that a tree survey, identifying native trees within the entire area of the development will be conducted prior to any tree removal. The survey results will also note a 3 to 1 replacement for any oak tree removed from the project, monitoring, and replacement plantings.

The Biological Section of the EIR also references other Mitigation Measure that are located in another section of the report (Hydrology and Water Quality. The report notes that if the mitigation measured are implemented, it would reduce impacts upon the Biological environment. These Mitigations Measures are listed as 3.2-C.1, 3.2-C.2, 3.2-D.1 and 3.3-A.1 respectively.

> *Mitigation Measure 3.2-C.1: The project shall not cause significant erosion. The applicant shall submit a detailed Erosion Control Plan as part of the Stormwater Pollution Prevention Plan (SWPPP to the Mendocino County Water Agency (MCWA) and to the State Water Resource Control Board (SWRCB), in conjunction with the filing of the Notice of Intent (NOI) with the SWRCB. The County shall not issue a Grading Permit unit the County Water Agency agrees that the plan contains adequate Best Management Practices for controlling erosion. At a minimum, the Erosion Control Plan shall include the following restrictions, guidelines, and measures: (1) grading and earthwork shall be prohibited during the wet season (typically October 15 through April 15) and such work shall be stopped before pending storm events during the spring-fall construction season; (2) erosion control/soil stabilization techniques such as straw and wood mulching, erosion control matting, and hydroseeding, or their functional equivalents shall be utilized in accordance with applicable manufacturers specifications and erosion control Best Management Practices (BMPs) published in the California Stormwater BMP Handbook – Construction (California Stormwater Quality Association 2005) and/or similar proscriptions outlined in the Erosion and Sediment Control Field Manual (SF Bay RWQCB 2002); (3) bales of hay or accepted equivalent methods shall be installed in the flow path of graded areas receiving concentrated flows, as well as around storm drain inlets; (4) installation of silt fencing and other measures to segregate the active flow zone of Cleland*

Mountain Creek from the near overbank disturbance associated with bridge abutment construction; and (5) post-construction stormwater treatment measures.

These and other erosion control BMPs shall be monitored for effectiveness and shall be subject to inspection by the County. The applicant shall be responsible for implementing any remedial actions recommended by the County. After construction is completed, all drainage facilities shall be inspected for accumulated sediment, and these drainage structures shall be cleared of debris and sediment. Silt fencing shall be left in place until the hydroseed has become established.

The above mitigation measure is still applicable to the Project. The applicant also notes in the project description that they will follow all existing rules and regulations when it comes to a project this size, which includes obtaining necessary permits from local and state agencies, such as NOIs and SWPPPs. NOIs and SWPPPs, which are approved at local and State levels, identify opportunities to reduce or eliminate stormwater runoff and contain standardize Best Management Practices (BMPs) such as; utilization of silt fences, erosion control blankets and waddles, watering exposed soil, sweeping sidewalks and streets, maintaining equipment and training site staff on erosion and sediment control practices, to name a few. The project description also notes installation of BMPs that would reduce unnecessary runoff and drainage into Cleland Mountain Creek, reducing sedimentation into the storm water collection system.

Mitigation Measure 3.2.-C.2: riprap sections of the drainage ditch bank at both the detention pond and underground storage vault outlets to dissipate the erosive energy of the discharges. Stabilize the southern drainage ditch by grading its bank to slopes of 3:1 and establish riparian vegetative cover using biotechnical techniques and native erosion control mix and native tree and shrub plantings.

The project has been redesigned to avoid all potential impacts to the ditch. The above mitigation measureis no longer applicable to the Project.

Mitigation Measure 3.2-D.1: The project shall not cause substantial pollution of Cleland Mountain Creek or the Russian River. The applicant shall prepare and NOI and SWPPP for the project, and incorporate the following additional site-appropriate BMPs or their equivalents for short- and long-term implementation by the Homeowners Association (HOA) and/or individual lot owners, in order to comply with the requirements of the NPDES General Permit and provisions of the Mendocino County Storm Water Management Program. The BMPs will result in stormwater leaving the site at least meeting the NCRWQCB water quality objectives for the Russian River. The SWPPP shall be approved by the Mendocino County Water Agency and State prior to project construction.

- *Impervious surfaces shall be minimized by using such techniques as driveway strips with bordering pervious pavement materials (rather than a full paved driveway): using pervious materials for parking areas; directing runoff from rooftops and streets to landscape buffers and/or recharge trenches.*

- *Install oil-grease separators at locations where street runoff enters the southern swale; or replace all or a portion of the detention pond outlet storm drain with a grass swale (i.e. bioswale) to enhance stormwater filtration on contaminants and increase local infiltration. The alignment of drain-swale configuration could be*

adjusted to parallel the Plant Road entrance and then South State Street. The swale designed should follow guidelines set forth by the North Coast RWQCB, or equivalent agencies (e.g. CA. Storm Water Best Management Practices Handbooks, Construction Activity, Camp Dresser & McKee et al. 1993). In particular, swale slopes and the swale base course materials should be selected to allow adequate subsurface storage for the site soil characteristics.

- *These and other BMPs shall be monitored for effectiveness and shall be subject to inspection by the County. The Homeowners Association shall be responsible for implementing any remedial actions recommended by the County. The applicant shall establish a monitoring protocol that is acceptable to the County that monitors implementation of these measures, including a bond or other funding agreement that reimburses the County if the County needs to conduct required maintenance due to the HOA not implementing required maintenance. The County can require that monitoring be done by a third party acceptable to the County; cost of all monitoring and any maintenance will be borne by the Homeowners Association. Since the objective of erosion control and water quality treatment measures would be to reduce contaminant loading to the maximum extent practicable with implementation of the best available technologies, the recommended BMPs are not fixed. Other measures and be applied as long as the applicant can demonstrate to the satisfaction of MCWA that those measures can provide equivalent levels of reduction in contaminant loading. The applicant shall prepare a plan that describes the roles and responsibilities of the HOA, lot owners, and/or the County for implementing the BMPs and monitoring the results. If the County will be responsible for monitoring or implementing any actions, then a funding mechanism will be established. The County will review and approve this plan prior to the onset of construction.*

The above mitigation measure is still applicable to the project.

Conclusion

Based on Gallaway Enterprises understanding of the previously certified EIR for the Garden Gate project and the proposed Bella Vista project, the biological conditions and potential impacts to biological resources of the two proposals are consistent. No new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or new information of substantial importance in regards to biological resources have been identified.

Prepared by,

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