



March 27, 2020

Coby Friedman,
CF Contracting, Inc.,
96 Forrest Ave,
Fairfax, CA 94930

Re: Biological Resources Assessment for vacant lots 59 and 60 (APN #012-141-59 and APN# 012-141-60), and Ross Street Terrace, San Rafael, Marin County, CA

Dear Mr. Friedman,

The purpose of this letter report is to provide you with the results of the Biological Resources Assessment (BRA) conducted at the site of a proposed residential construction project for two new single-family homes on two vacant parcels (Lot 59 and Lot 60; APNs #012-141-59 and 102-141-60) located in the City of San Rafael, Marin County, California (Project Area). The BRA site visit was conducted on February 27, 2020. The Project Area consists of approximately 0.7 acres of vacant land including two parcels and a “paper street” known as Ross Street Terrace located between 1 Clayton Street, and 127 Ross Street, approximately 0.25 air miles north of Gerstle Park. The Project Area is surrounded on all sides by residential development. This report was prepared in direct response to the City of San Rafael's requirement for a Biological Resources report to be included with the Application for a Design Review Permit and Lot Line Adjustment associated with the Project.

The purpose of this assessment is to gather information necessary to complete a review of potential biological resources under the California Environmental Quality Act (CEQA) jurisdiction. This report describes the results of the site visit for which the Project Area was assessed concerning: (1) the potential to support special-status plant and wildlife species; (2) the potential presence of sensitive biological communities such as wetlands or riparian habitats subject to regulatory agency jurisdiction; and (3) the potential presence of other sensitive biological resources protected by local, state, and federal laws and regulations.

A BRA provides general information on the potential presence of sensitive species and habitats. This assessment is based on information available at the time of the study and on-site conditions that were observed on the date of the site visit.

PROJECT DESCRIPTION

The Project proposes to construct two single-family residences on two vacant hillside parcels (Lot 59 and Lot 60), implement a Lot Line Adjustment, and develop a new access road, Ross Street Terrace, with associated retaining walls. The proposed publicly accessible road, Ross Street Terrace, would be accessible from Ross Street, to the south, and would consist of approximately 0.1 mile of retention wall on both sides of the new road. The Project will remove approximately 58 trees over 6 inches in diameter, including 20 native and 38 non-native trees.

REGULATORY BACKGROUND

The following natural resources are protected under one or more of several Federal, State and/or local regulations, and were considered when analyzing the Project.

Waters of the U.S.: protected under the Clean Water Act (CWA), administered by the Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers (Corps):

- Includes wetlands, streams, rivers, and other aquatic habitats meeting the guidance issued by the Corps

Waters of the State: protected under the Porter-Cologne Act, administered by the Regional Water Quality Control Board (RWQCB):

- Includes surface water or groundwater, including saline waters, within the boundaries of the state, and are generally delineated following the guidance issued by the Corps.

Streams, Lakes, and Riparian Habitat: protected under the California Fish and Game Code (CFGF), administered by the California Department of Fish and Wildlife (CDFW):

- Includes creeks and rivers (bodies where water flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life), and vegetation adjacent to associated with such (riparian habitat).

Sensitive Vegetation Communities: protected under the CFGF, administered by the CDFW:

- Includes terrestrial vegetation or plant communities that are ranked by NatureServe and considered “threatened” or “endangered” by the CDFW, lists of such are included in *List of Vegetation Alliances and Associations* (CDFG 2010).

Special-status Plant and Wildlife Species including Critical Habitat: protected under one or more of the Federal Endangered Species Act (ESA), California Endangered Species Act (CESA), and California Environmental Quality Act (CEQA), administered by the U.S. Fish and Wildlife Service (USFWS), and/or CDFW:

- Includes plant listed under the ESA and/or CESA, or those plants ranked by the California Native Plant Society (CNPS) as Rank 1, 2, and (occasionally) 3, and 4.
- Includes wildlife listed under the ESA and/or CESA, and wildlife listed by CDFW as Species of Special Concern or Fully Protected Species, as well as bats listed as Medium or High Priority by the Western Bat Working Group (WBWG).
- In addition to regulations for special-status species, most birds in the United States, including non-status species, have baseline legal protections under both the federal Migratory Bird Treaty Act of 1918 (MBTA) and the CFGF. Under these laws/codes, the unauthorized and deliberate “take” (essentially, injury/harm or collection) of covered species is illegal; this protection includes active nests (those with eggs or young).

City of San Rafael Municipal Code: Chapter 11.12, “Trees” of the San Rafael Municipal Code regulates the planting, cutting, pruning, or removal of trees on City-owned properties and/or in the City right-of-way per; administered by the Department of Public Works. Chapter 14.12, “Hillside

Overlay District”, and Chapter 14.25, Environmental and Design Review and Permits require tree replacement for the removal of “significant trees” associated with development projects on hillside properties:

- Pursuant to Chapter 11.12 of the Municipal Code, the City of San Rafael regulates the planting, cutting, pruning, breaking, injuring, removing, or spraying of trees along any public street, sidewalk or walkway in the city.
- A permit from the Department of Public Works is required for any of the aforementioned impacts to trees in the city right-of-way.
- Pursuant to Chapter 14.12, and 14.24 of the Municipal Code outline development standards within the Hillside Overlay District. Tree replacement is typically required for removal of “significant trees” defined as “oaks (*Quercus* spp.) that measure six-inches in diameter or greater, and other trees that measure 12 inches in diameter or greater at four and one-half feet above the root crown (diameter at breast height [DBH]).
- Three replacement trees are typically required per each significant tree to be removed. This requirement is administered by the City of San Rafael, Planning Division, Community Development Department.

BIOLOGICAL RESOURCES ASSESSMENT METHODS

Prior to the site visit, background literature was reviewed to determine potential presence of sensitive vegetation communities, aquatic communities, and special-status plant and wildlife species. Resources reviewed for sensitive vegetation communities and aquatic features include aerial photography (Google Earth 2020), the San Rafael USGS 7.5-minute quadrangle (USGS 1956), Online Soil Survey (California Soil Resources Lab [CSRL] 2020), the USFWS Information for Planning and Conservation (IPaC) database (USFWS 2020a), CDFW’s (CDFW) California Natural Diversity Database (CNDDDB) (CDFW 2020), the CNPS’s (CNPS) Electronic Inventory (2020), *A Manual of California Vegetation, Online Edition* (CNPS 2020), Consortium of California Herbaria (CCH 2020), *Marin Flora* (Howell et al. 2007), and USFWS National Wetland Inventory (NWI) (USFWS 2020b) map.

Following the background literature review, WRA biologists conducted a site visit on February 27, 2020. The Project Area was examined for indicators of wetlands, streams, and areas with an Ordinary High Water Mark (OHWM) potentially under the jurisdiction of the Corps, RWQCB, and CDFW. The Project Area was also assessed for the potential to support special-status plants and wildlife species, and for other potentially sensitive vegetation communities and other regulated biological resources.

All plant and wildlife species observed within the Project Area were documented (Attachment A). All plant species were identified to a taxonomic level sufficient to determine rare status (CNPS 2020) and/or invasive status (Cal-IPC 2020). Database search reports for all special-status plant and wildlife species documented in the vicinity of the Project Area, defined here as the San Rafael 7.5-minute USGS quadrangle map, are provided in Attachment B. Representative photographs are provided in Attachment C.

ASSESSMENT, SURVEY, AND DELINEATION RESULTS

Topography and Soils

The Project Area is composed of a relatively steep, terraced, east facing slope. Elevations range from approximately 120 feet above mean sea level (amsl) along the northwestern border to approximately 70 feet amsl at the southern border, along Ross Street. The Project Area contains one native soil mapping unit: Tocaluma-McMullin-Urban land complex, 15 to 30 percent slopes. Tocaloma and McMullin series soils consist of moderately deep to shallow, well drained soils that formed in material weathered from shale, sandstone, and basic igneous and metamorphic rocks. These soils are found on upland hillslopes. Native vegetation types typically occurring on Tocaloma and McMullin series soils include Idaho fescue (*Festuca idahoensis*), and needlegrass grasslands (*Stipa* spp.), as well as broadleaf upland forest, manzanita (*Arctostaphylos* spp.) and ceanothus (*Ceanothus* spp.) (CSRL 2019). The Tocaluma-McMullin-Urban land complex, 15 to 30 percent slopes is not considered a hydric soil (NRCS 2020).

Biological Communities

Non-sensitive Biological Communities

Mixed Ornamental Woodland

The Project Area is a vacant, unimproved parcel composed of a mixture of non-native ornamental and native trees which could be characterized as mixed ornamental woodland which is not considered a sensitive biological community. Dominant trees present within the Project Area include silver wattle (*Acacia dealbata*), red gum (*Eucalyptus camaldulensis*), coast live oak (*Quercus agrifolia*), cherry plum (*Prunus cerasifera*), and California bay (*Umbellularia californica*). The Project Area's relatively steep slopes contain sparse to dense understory shrub layer dominated by non-native invasive French broom (*Genista monspessulana*). The herbaceous layer is also dominated by non-native, invasive forbs and grasses, including Bermuda buttercup (*Oxalis pes-caprae*), white flowered onion (*Allium triquetrum*), upright veldt grass (*Ehrharta erecta*) and Dogtail grass (*Cynosaurus echinatus*).

Sensitive Biological Communities

The Project Area was investigated for indicators of potential wetlands and waters of the U.S., and no wetlands, streams, or other sensitive vegetation communities are present within the Project Area.

Significant and City Trees

An arborist survey and has been prepared for the Project (WRA 2020) which identified 58 trees within the Project Area, including 15 significant trees, 38 potential City trees located in the Ross Street Terrace right-of-way, and five (5) non-protected trees located in the private parcels but not large enough to be considered significant trees per the Municipal Code.

The Project has been designed to retain five native coast live oak and California bay trees, and the Project will potentially remove 14 significant trees, 34 potential City trees, and five non-protected invasive silver wattle trees. Permits from the City of San Rafael will be required for the

removal of significant and street trees. Conditions of approval may require tree replacement for significant trees.

Special-status Plant Species

Based upon a search of the databases listed above, 33 special-status plant species have documented occurrences within the vicinity of the Project Area, defined to include the entirety of the San Rafael 7.5' USGS quadrangle. Terrestrial habitat in the City of San Rafael is generally considered low-quality habitat for most special-status species due to human disturbance, urban development, and habitat fragmentation. Therefore, there is little potential for sensitive, terrestrial plants to occur in the Project Area. Of the 33 special-status species documented, all of these species are either unlikely or have no potential to occur within the Project Area for one or more of the following reasons:

- The Project Area does not contain hydrologic conditions (e.g., freshwater, brackish, or salt marsh) necessary to support the special-status plant(s);
- The Project Area does not contain edaphic (soil) conditions (e.g., serpentine-derived soils) necessary to support the special-status plant(s);
- The Project Area does not contain vegetation communities (e.g., chaparral, coastal scrub, valley and foothill grasslands) associated with the special-status plant(s);
- Competition from non-native invasive weeds such as French broom, Bermuda buttercup, white flowered onion, and upright veldt grass; these species, in particular, are likely what precludes the ability for special- status plants to persist within the Project Area;
- The Project Area is surrounded on all sides by urbanization, therefore, the site is not connected to a nearby expanse of suitable habitat for terrestrial special-status plant species.

Special-status Wildlife Species

A list of special-status wildlife species known to occur in the vicinity of the Study Area was compiled based on available information from CNDDDB (CDFW 2020), eBird (2020), Shuford (1993), and other sources. A total of 22 special-status wildlife species have been documented within the greater vicinity of the Study Area, all of which are unlikely or have no potential to occur within the Study Area due to one or more of the following reasons:

- The setting of the Study Area is thoroughly urban, and the Study Area itself is surrounded by development including roads, houses, and landscaping, making it unsuitable for many special-status species;
- Aquatic habitats (e.g., lakes, estuaries, streams) necessary to support the special-status wildlife species are not present in the Study Area;
- Vegetation types (e.g., open grassland, marsh, old growth forest) that provide nesting and/or foraging resources necessary support the special-status wildlife species are not present in the Study Area;
- Physical structures and vegetation (e.g., mines, cliffs, tree cavities, riparian vegetation) necessary to provide nesting, cover, roosting, and/or foraging habitat to support the special-status wildlife species are not present in the Study Area;
- The Study Area is outside of the special-status wildlife species' documented local range (including the nesting/breeding range for birds);

While no special-status species were determined to have a high or moderate potential to occur, non-status nesting birds with legal protections may be present in the Study Area as discussed below.

Nesting birds (non-status), High Potential (Present). The Study Area contains vegetation (trees, shrubbery, etc.) that may be used as nesting habitat by bird species with legal baseline protections under the CFGC and MBTA. These laws/codes apply to a wide variety of native birds, including species that are non-migratory and/or commonly found in Marin County.

SUMMARY & HABITAT/SPECIES-SPECIFIC SUMMARY

Vegetation Communities, Wetlands and Waters of the U.S., and Riparian Habitat

The Project Area does not contain sensitive vegetation communities. No potentially jurisdictional wetlands, waters, or riparian areas are present within the Project Area, and impacts to these communities will not occur.

Significant and City Trees

The Project has been designed to retain five native coast live oak and California bay trees, and the Project will potentially remove 14 significant trees, 34 potential City trees, and five non-protected invasive silver wattle trees. Permits from the City of San Rafael will be required for the removal of significant and street trees. Conditions of approval may require tree replacement for significant trees. Adherence to the San Rafael Municipal Code permit process and conditions of approval for tree removal, and tree protection measures recommended per the arborist report will ensure that impacts to significant and City trees are less-than-significant.

Special-status Plant Species

No special-status plant species were determined to have a moderate or high potential to occur within the Study Area. No special-status plants were observed in the Study Area during the site visits. Therefore, no impacts to special-status plants will result by constructing the Project.

Special-status and Non-status Wildlife Species

Nesting birds

Native bird species whose nesting activities are protected by federal (MBTA) and state regulations (CFGC) have the potential to nest within the Study Area. Regulatory agencies (e.g., CDFW) typically treat February 1 through August 31 as the general nesting bird season. In order to avoid impacts to nesting birds, initial tree and other vegetation removal within the Study Area will be conducted from September 1 to January 31, outside of the nesting bird season, to the extent feasible. Work initiated between February 1 and August 31 will avoid impacts to nesting birds by implementing the following measures: (1) a qualified biologist will conduct a nesting bird survey no sooner than 14 days prior to the start of work, and if no active nests are found, work may begin and no impacts to birds will result, (2) if active nests are found during the survey, the biologist will establish a protective buffer zone around the nest within which no work will be allowed, and once

the young have fledged the nest or the nest becomes inactive (e.g., due to predation), then work may continue within the buffer zone area without restriction and no impacts to birds will result, (3) if work ceases for longer than 14 days, then measures 1 and 2 will be repeated.

Summary

Based on the site visit and review of information pertinent to the Project Area, the construction of the Project will not result in significant impacts to special-status plant and wildlife species or to any sensitive vegetation communities or aquatic resources. With the aforementioned avoidance measures for nesting birds, the project would have no impact to special-status and non-status nesting birds protected by the Migratory Bird Treaty Act and California Fish and Game Code. Removal of significant and City trees will require approval from the City of San Rafael Community Development Department, and Public Works Department, and replacement plantings may be required as conditions of approval.

Based on the evidence collected and analyzed, the Project would not substantially reduce the number or restrict the range of any special-status plant or animal. The project would not cause a fish or wildlife population to drop below self-sustaining levels. The project would not adversely affect riparian habitat, wetlands, marshes, or other significant wildlife habitats. **The project is not anticipated to result in any potentially significant adverse biological impacts to the environment.**

Please feel free to contact me if you have any questions or concerns.

Sincerely,



Scott Yarger, Associate Biologist
WRA, Inc.

ATTACHMENTS

- Attachment A – Observed Plant and Wildlife Species within the Project Area
- Attachment B – Special-Status Plant and Wildlife Species Database Search Results for the Project Area
- Attachment C – Site Photographs

References

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Attachment A –

Observed Plant and Wildlife Species within the Project Area

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Attachment B-

Special-Status Plant and Wildlife Species Database Search Results for the Project Area

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Attachment C-
Site Photographs

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