



Rincon Consultants, Inc.

437 Figueroa Street, Suite 203
Monterey, California 93940

831 333 0310
FAX 333 0340

info@rinconconsultants.com
www.rinconconsultants.com

October 21, 2016
Rincon Project No. 16-03127

City of San Luis Obispo
Community Development Department
919 Palm Street
San Luis Obispo, CA 93401-3218
Attention: Rachel Cohen, Associate Planner

Subject: Peer Review of the Biological Resources Analysis of the IS-MND and IS-MND Addendum for the Proposed 71 Palomar Project in San Luis Obispo County, California

Dear Ms. Cohen:

This letter provides a peer view of the *Initial Study (IS) (ARCH-2193-2015)* and *Initial Study-Mitigated Negative Declaration (IS-MND) Addendum* for the Proposed 71 Palomar Avenue Multi-Family Residential Project in the City of San Luis Obispo (City), San Luis Obispo County, California. The purpose of this peer review is to provide an evaluation and recommendations to ensure the California Environmental Quality Act (CEQA) documentation is appropriate and compliant with CEQA, with respect to biological resources issues, and to provide an independent biological evaluation of the proposed project.

Rincon Consultants reviewed the IS and IS-MND Addendum. Both documents were prepared by Oliveira Environmental Consulting, LLC dated March 18, 2016 and June 2016, respectively. We also reviewed relevant databases including the California Department of Fish and Wildlife (CDFW) California Natural Diversity Database (CNDDDB; 2016); the online *Inventory of Rare, Threatened and Endangered Plants of California* (California Native Plant Society, 2016); and the United States Fish and Wildlife Service Critical Habitat Portal (2016a) and Information, Planning, and Conservation System (2016b). In addition, a Rincon biologist conducted a site visit on the subject property on September 20, 2016. The database search and site visit results were compared to the information provided in the CEQA documents.

Summary of CEQA Documents

The original project analyzed in the IS involved construction of a 41-unit multi-family residential project on a property located on a 1.32-acre parcel at 71 Palomar Avenue. The property currently contains the Master List Historic Sandford House, a secondary residential building, a remodeled garage with adjacent carport, expansive lawns, and several mature trees.



The original project proposed to rehabilitate, relocate, and reuse the historic Sandford House, remove non-historic structural elements, remove almost all the trees on the site, and replant 21 trees. The project was then revised to change the positioning of the relocated historic house, reduce the proposed number of multi-family units to 33, reduce the amount of proposed parking spaces, configure proposed units in six buildings instead of four and provide additional replacement trees (over 30, as compared to the previously proposed 21 replacement trees). An IS-MND Addendum was prepared to evaluate the proposed changes to the project, and concluded that no additional environmental impacts would result. The IS-MND Addendum incorporated an Arborist Report that was prepared for the site by A&T Arborists.

Evaluation of CEQA Documents With Respect to Biological Resources

The IS-MND and associated Addendum correctly identifies the habitat type at the project site, notes the lack of potentially jurisdictional waters, and that species listed as threatened, endangered, or rare are not known to be present at the site. The environmental document identifies a single potentially significant impact with respect to nesting bird habitat, and recommends avoidance during the nesting season to avoid conflict with California Fish and Game Code and the Migratory Bird Treaty Act. Subsequently, the environmental document concludes that with incorporation of that measure, the proposed project would have a less than significant impact on biological resources.

Formal raptor surveys were not conducted, however raptors and/or their nests were not observed during the site visit. The site contains several large trees that are suitable habitat for various raptor species even in an urban setting such as the site. The Biological Resource section lacks sufficient discussion of raptors including sensitive species such as the Cooper's hawk (*Accipiter cooperii*), which is included on the Federal Watch List. Cooper's hawk are adaptable to urban conditions where they feed on American robin (*Turdus migratorius*), mourning dove (*Zenaidura macroura*), rock pigeon (*Columba livia*; common feral pigeon, formerly also called rock dove), and various sparrows (Peeters and Peeters, 2005, *Raptors of California*), and this species could nest in the foliage of the eucalyptus trees and other trees at the site. The State Fully Protected white-tailed kite (*Elanus leucurus*) could also nest at the site while foraging in the open grasslands located less than 1,000 feet to the south. White-tailed kite has been documented by the CNDDDB within 3.5 miles of the proposed project site. Furthermore, all nesting raptor species, including the common red-tailed hawk and barn owl, are specifically protected under California Fish and Game Code Section 3503.5. Destruction of raptor nests would constitute a significant impact, and the IS-MND should be updated to address the direct and indirect effects of the proposed project and provide effective avoidance and minimization measures.

Formal bat surveys were not conducted, however bats were not observed during the site visit. The site contains potential roosting habitat for pallid bat (*Antrozous pallidus*), which is a State Species of Special Concern commonly found in association with human development. Pallid bat has been documented by the CNDDDB approximately one mile south of the project site and this species may utilize the structures on the project site as roosting areas.



Structures that occur within the project site that can be utilized by special status bats include the Stanford house, sheds, enclosed carports, and other living areas.

During the field visit, Rincon observed small openings and cracks into the attic of the Stanford house as well as other structures on the proposed project site. These areas are considered access points to potentially suitable roosting habitat inside the structures.

The environmental document states that no heritage trees are located on the proposed project site and that the project will have a less than significant impact relating to conflicts with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. To be compliant with the City's tree ordinance, all tree removals will be required to be reviewed by the City Arborist. The City Arborist will then facilitate the approval process.

Recommendations

The Biological Resource Section of the IS and IS-MND Addendum should be supported with additional information to remedy the issues identified above. We recommend that the IS and IS-MND Addendum include:

Raptors and nesting birds

1. Add discussion of potential direct and indirect effects to nesting birds.
2. Add the following mitigation measures to address potential direct and indirect effects to common and sensitive species covered by the California Fish and Game Code and the Migratory Bird Treaty Act:
 - For construction activities occurring during the nesting season (generally February 1 to September 15), surveys for nesting birds covered by the California Fish and Game Code and the Migratory Bird Treaty Act shall be conducted by a qualified biologist no more than 30 days prior to vegetation removal activities.
 - A qualified biologist shall conduct preconstruction surveys for raptors. The survey area for all other nesting bird and raptor species shall include the disturbance footprint plus a 300-foot buffer.
 - If active nests (nests with eggs or chicks) are located, the qualified biologist shall establish an appropriate avoidance buffer ranging from 50 to 300 feet based on the species biology and the current and anticipated disturbance levels occurring in vicinity of the nest. The objective of the buffer shall be to reduce disturbance of nesting birds. All buffers shall be marked using high-visibility flagging or fencing, and, unless approved by the qualified biologist, no construction activities shall be allowed within the buffers until the young have fledged from the nest or the nest fails.

Bat species

1. Add discussion of potential direct and indirect effects to roosting bats.
2. Add the following effective mitigation measures to address potential direct and direct effects to common and sensitive roosting bats within the project site.
 - Prior to construction, a qualified biologist shall conduct a survey of existing structures within the project site to determine if roosting bats are present. The



survey shall be conducted during the non-breeding season (November through March). The biologist shall have access to all interior attics, as needed. If a colony of bats is found roosting in any structure, further surveys shall be conducted sufficient to determine the species present and the type of roost (day, night, maternity, etc.) If the bats are not part of an active maternity colony, passive exclusion measures may be implemented in close coordination with CDFW. These exclusion measures must include one-way valves that allow bats to exit the structure but are designed so that the bats may not re-enter the structure.

- If a bat colony is excluded from the project site, appropriate alternate bat habitat as determined by a qualified biologist shall be installed on the project site or at an approved location offsite.
- Prior to removal of any trees over 20 inches diameter-at-breast-height (DBH), a survey shall be conducted by a qualified biologist to determine if any of the trees proposed for removal or trimming harbor sensitive bat species or maternal bat colonies. If a non-maternal roost is found, the qualified biologist, in close coordination with CDFW shall install one-way valves or other appropriate passive relocation method. For each occupied roost removed, one bat box shall be installed in similar habitat and should have similar cavity or crevices properties to those which are removed, including access, ventilation, dimensions, height above ground, and thermal conditions. Maternal bat colonies may not be disturbed.

Trees

1. Include discussion pertaining to the City's tree ordinance requirements. All tree removals will be required to be reviewed by the City Arborist

We believe inclusion of the above recommended information will improve the clarity and completeness of the IS and IS-MND Addendum for the purposes of complying with CEQA.

We thank you for the opportunity to provide assistance with this important project. Please don't hesitate to contact us if you have any questions or concerns about this peer review.

Sincerely,
RINCON CONSULTANTS, INC.

Jamie Deutsch, CISEC/QSP
Associate Biologist

Richard Daulton, MURP
Principal/Vice President