



May 8, 2011

Scott Pacheco, Associate Planner
 City of Orinda
 22 Orinda Way
 Orinda, CA 94563

Subject: City of Orinda Peer Review of Biological Resources Assessment and Preliminary Jurisdictional Determination Study for Proposed 8 Lot Residential Subdivision on Lavenida Lane, Orinda

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Dear Mr. Pacheco:

As requested, Michael Brandman Associates (MBA) completed a peer review of the Biological Resources Assessment and Preliminary Determination Study for a Proposed 8 Lot Residential Subdivision on Lavenida Lane, in Orinda, Contra Costa County, California, prepared by AECOM in June 2010 (hereinafter referred to as the "BRA"). Specific comments on the revised restoration plan are summarized below.

General Comments

Based on our review, we believe that the BRA generally provides a coherent discussion of special status species that will be affected as part of the proposed action; overall the plan is quite clearly described and detailed.

We note, however, several areas of the BRA that could be better described or clarified. In particular, while the document does a thorough job of describing the regulatory setting, there is little discussion as to how the general regulations described apply to the project itself or what bearing environmental regulations will have on the proposed project. In addition, while the BRA indicates that an amphibian survey was performed as part of the BRA, there is little if any discussion regarding the amphibian survey's findings; further discussion regarding the survey and its findings are warranted. Also, during the discussion regarding the likelihood of special status species occurring on site, while the BRA indicates a level of potential for the special status species to occur onsite, the report provides little documentation regarding those findings. Finally, while the vegetation communities and species associated with these communities are discussed, for the reader's sake it would be useful to have a table or list summarizing the species identified during the site visit. Table 1 below, summarizes our comments in regards to the BRA's content.

Table 1 Suggested Content Modifications For Improved Clarity of BRA			
Comment #	Page(s)	Description	Rationale
1	1	Expand on amphibian survey.	The report alludes to an amphibian survey conducted for the purposes of completing the BRA; no discussion regarding amphibian survey findings are summarized in the report.
2	15	Table 1 – While the table identifies potential for occurrence, no justification is provided.	Expand on the justification as to why potential is "low" for occurrence onsite.

Table 1 Suggested Content Modifications For Improved Clarity of BRA			
Comment #	Page(s)	Description	Rationale
3	34-35	Table 2 – While the table identifies potential for occurrence, no justification is provided.	Expand on the justification as to why potential is “low” or “moderate” for occurrence onsite.
4	40-48	The “Regulatory Context” section provides a good regulatory framework for biological resources within the study area, however there is no discussion of how each of these regulatory issues pertains to the site.	By providing a conclusory statement or paragraph about how each regulatory issue relates to the site, the reader would be able to see how these regulatory issues affect the proposed project timing and design.
5	51	Information regarding timing of focused plant surveys.	While mitigation measure 1 identifies what seasons focused plant surveys are to occur, this mitigation measure does not identify when in the development process (e.g., pre-construction, pre-ground disturbance, etc.) the surveys is to occur.
6	54	Among the preconstruction mitigation measures that are discussed for impacts to wildlife, work in Moraga Creek is discussed, but permitting issues aren’t identified.	Because there is an indication that work will be performed in Moraga Creek, one of the preconstruction mitigation measures that should be satisfied is the assurance that all relevant permits with CDFG, USACE, and the Regional Water Quality Control Board are attained prior to work within the creekbed.
7	56	In Impact 3, Mitigation Measure 1, include consultation with CDFG.	Should also consult with CDFG regarding reasonable and prudent measures to avoid take of Alameda whipsnake.
8	56	In Impact 4, Mitigation Measure 1, include consultation with CDFG.	Should also consult with CDFG regarding reasonable and prudent measures to avoid take of California red-legged frog.
9	60	Impact 10, Mitigation Measure 2 should expand on exactly what permits are required from what regulatory agency, timing, etc.	For the project applicant and the reader it would be prudent to include information regarding the type of permits needed from what regulatory agencies as well as timing to secure the permits.
10	A-1 – A-10	While the table identifies potential for occurrence, no justification is provided beyond “Marginal suitable habitat.”	For the sake of the reader, it would be good to include justification as to why there is marginal suitable habitat present, rather than a blanket statement.
11	B-1 – B-6	While the table identifies potential for occurrence, no justification is provided beyond “Marginal suitable habitat.”	For the sake of the reader, it would be good to include justification as to why there is marginal suitable habitat present, rather than a blanket statement.

During our review, in addition for content, we made note of a few editorial changes. The following suggestions are provided to make the BRA more “reader friendly.” Our specific comments are noted in Table 2 below.

Table 2
Suggested Editorial Modifications to BRA

Comment #	Page(s)	Description	Rationale
1	iii	Last sentence of first paragraph has a grammatical error; need to include "a" before "remnant walnut orchard".	Last sentence of first paragraph should read: "The proposed project involves the subdivision of [a] remnant walnut orchard into an eight (8) lot single-family residential development.
2	iii	Summary appears to be incomplete.	The last sentence of the summary appears to be incomplete. It would be beneficial to briefly discuss the project site, how surveys were conducted, and a brief summary of the project findings.
3	1	Include descriptions of proposed actions (Housing and Stormdrain)	While the BRA provides a brief discussion of what action is proposed onsite (development of 8 single-family residential subdivision), it would be good to provide a description of associated improvements with proposed project. In particular, the document makes several references to a proposed stormdrain culvert; a more thorough description of this improvement, including a map as to where this would be located would be helpful to address additional impacts resulting from this improvement.
4	1	Identify what "indirect impacts" are (see second sentence).	For the purposes of the BRA, it would be helpful to include a brief discussion of what direct and indirect impacts are in respect to biological resources.
5	1	Last sentence of first paragraph has a grammatical error; replace "a" with "the".	Last sentence should read: "The Bruzzone Family plans to develop an eight (8) lot single-family residential subdivision on [the] 12-acre property, which was formerly used as a walnut orchard and pastureland."
6	1	Expand on when the property ceased being used as a walnut orchard and pastureland. (First Paragraph)	The former and current use of the study area as a walnut orchard and pastureland may have bearing on what species are identified onsite given the amount of human disturbance associated with these activities.
7	3	Scale of Map – Perhaps zoom-in closer to the study area. Differentiate between the project area and the study area	It is difficult to discern the project area's boundaries at that scale, perhaps an arrow or other indication could be utilized as well to clearly identify the study area. Perhaps use a similar scale to that of the figure on Page 4.
8	5	Rephrase the description of the grade, i.e., "steeply downhill" (last sentence of the first paragraph);	Correct last sentence of first paragraph to read: "The study area slopes are [graded moderately downhill] from the golf course on the southwest border to Donna Maria Way on the northeast border."
9	5	Grammatical error; second sentence of second paragraph is incomplete.	Sentence discussing trees onsite is incomplete.

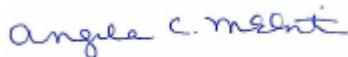
Table 2
Suggested Editorial Modifications to BRA

Comment #	Page(s)	Description	Rationale
10	5	Second allusion to installation of storm drain outfall; expand on description.	Provide more description regarding installation of storm drain outfall; while a photo has been included depicting this site, it would be good to see on a map, etc.
11	8	Grammatical error; choice of wording (Second paragraph of "Coyote Brush Scrub" section, first sentence).	The first sentence of the second paragraph of the "Coyote Brush Scrub" section should read: "This plant community often integrates with northern coastal bluff scrub but may also comprise the ecotone with sage scrubs and oak woodlands."
12	9	Discussion of ruderal species seen on site should be provided, similar to the discussions of species identified in the other plant communities' discussions.	While there is a general discussion of what the "ruderal" vegetation community is like, a description of the types of plants found in the ruderal vegetation community would be helpful from a biological perspective.
13	10	Provide more information regarding remnant orchard (i.e., when maintenance stopped).	The former and current use of the study area as a walnut orchard and pastureland may have bearing on what species are identified onsite given the amount of human disturbance associated with these activities.
14	14	Figure Clarity – Amend color choices; Scale appears to be rather small.	The project study area boundary is the exact same color as Animal Occurrences and could be confusing to the reader. Also, the scale appears to be small (lots of information in a small space. Perhaps dividing this figure into two separate readers would improve the scaling.
15	20	Grammatical error; second paragraph, second sentence.	Second sentence in second paragraph should read: "The California tiger salamander has been recorded in all of the nine Bay Area counties at elevations ranging from approximately 10 to 3,500 feet above mean sea level (Shaffer and Fisher 1991).
16	28	Figure 5 – Color choices hard to make out; Perhaps an arrow and label to call out the study area	Red color scheme is too similar to the Study Area Boundary. The Purple hashing used for "Alameda whipsnake critical habitat" is difficult to see against the aerial. The yellow color used for Foothill yellow-legged frog occurrence could possibly be brighter to make it easily seen against the aerial background.
17	45	Grammatical error; first sentence of "Section 3511 of the California Fish and Game Code" section.	The first sentence of the section entitled "Section 3511 of the California Fish and Game Code" should read: "There are several statutes in the California Fish and Game Code that prohibit the take or possession of fully protected species and do not provide for authorization of incidental take of fully protected species.

Comment #	Page(s)	Description	Rationale
18	58	Grammatical error; Impact 7, Mitigation Measure 2.	Mitigation Measure 2 of Impact 7 should read: "If the qualified biologist detects potential dens (i.e. suitable shape and burrow size, presence of scat, etc.) but determines that they are inactive, the biologist shall excavate these dens by hand with a shovel to prevent badgers from re-using them during construction."
19	58	Grammatical error; Impact 7, Mitigation Measure 3.	Last Sentence of Mitigation Measure 3 of Impact 7 should read: "After the qualified biologist determines that badgers have stopped using active dens within the project boundary, the dens shall be hand-excavated with a shovel to prevent re-use during construction."

Thank you for the opportunity to assist the City of Orinda with this project. If you have any questions or concerns, please feel free to contact Robert Francisco, 916.955.8641, or me at 916.447.1100 if you have any questions about these comments or require further clarification or assistance.

Regards,



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