TECHNICAL MEMORANDUM

GLENN LUKOS ASSOCIATES
Regulatory Services

PROJECT NUMBER: 1634-1KITE

TO: Jose Lujano

FROM: Tony Bomkamp

DATE: December 19, 2023

SUBJECT: Government Code 65913.4 Site Assessment and Focused Survey for White-Tailed Kite and White-Tailed Kite Nests and Wetland Determination for Green Valley Road 5.27-Acre Parcel, Town of Skinners, El Dorado County, California

I. INTRODUCTION

On behalf of Affirmed Housing, Glenn Lukos Associates has evaluated that certain project site and development proposal located at APR: 115-410-011 in Rescue, California (the "Property") for compliance with Government Code Sections 65913.4(a)(6)(C) and (J). Our evaluation is based upon the development plans provided by Affirmed Housing, Vollmar Natural Lands Consulting's Biological Resources Evaluation Report dated June 2023, Vollmar Natural Lands Consulting's Aquatic Resources Delineation Report dated September 2023, and GLA's focused survey and habitat assessment conducted on September 22, 2023. Based upon such research, we conclude that:

> *The proposed development is not located on a site that is habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).*
>
> *The proposed development is not located on a site that is wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).*
>
> *There is no evidence that the White-tailed kite is, or has recently been, present at the Property.*

Accordingly, the proposed development complies with the requirements of Government Code Sections 65913.4(a)(6)(C) and (J).

II. BACKGROUND

Affirmed Housing proposes to subdivide the Property into two parcels and improve it as depicted on **Exhibit 1** attached hereto. Parcel A will consist of approximately five acres adjacent to Green Valley Road and Bass Lake Road and is proposed to be developed with a 100% affordable housing apartment complex (the "Project"). Parcel B will consist of an approximately 0.25-acre parcel located south of Green Valley Road, at the northwest corner of property, that will be deed-restricted "not for development."

A. PARCEL B – THE WETLAND CONSERVATION SITE

Parcel B is depicted on **Exhibit 1**. Parcel B is not proposed for development and contains wetlands as defined in the *United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993)* as determined by Vollmar Natural Lands Consulting. GLA concurs with Vollmar's assessment. The proposed Project will be located on Parcel A. Accordingly, the proposed Project is not located on a site that is wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993**).** The separation of the parcels also ensures that the wetland will be fully avoided.

B. PARCEL A – THE PROJECT SITE

The Project is proposed to be developed on Parcel A as depicted on **Exhibit 1** (the "Project Site"). Vollmar Natural Lands Consulting June 2023 report did not find that Parcel A is habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).[1]

However, Vollmer observed that "White-tailed kite are [sic] known to forage and nest near Bass Lake, a small lake approximately 1.4 miles to the southwest of the Study Area." Vollmer further commented that "[t] he trees present within the Study Area provides suitable nesting habitat for white-tailed kite. Therefore, it is possible that white-tailed kite may be present in the Study Area during construction activities and could be harmed in the absence of avoidance and minimization measures."

[1] Vollmar Natural Lands Consulting. June 2023. Biological Resources Evaluation Report for Green Valley Road 5.27-Acre Parcel, Town of Skinners, El Dorado County, California.

White-tailed kite (*Elanus leucurus*) is not listed as threatened or endangered under the State or federal Endangered Species Acts but is a "Fully Protected" species in California. Accordingly, in California it is not lawful to "take" ("possess or kill") a state-listed or fully protected species. Conversion of area where a protected species may forage or occasionally be observed is not considered a "take" if the species is not not killed or captured.

Vollmer did not identify any White-tailed kites as being present during its May 2023 site visit, which coincided with the white-tailed kite breeding season. Nor did its assessment include a more detailed evaluation of site conditions to determine whether White-tailed kites have recently occupied the Project Site.

Accordingly, to evaluate whether the White-tailed kite is, or has recently been, present at the Project Site, GLA performed a focused survey of the Project Site.

III. METHODS

Vollmar reported foraging by white-tailed kites at Bass Lake Park, which is located 1.4 miles southwest of the Project site. For the sake of being thorough, GLA conducted a review of recorded observations in the area on eBird. GLA's review of eBird observations found additional White-tailed kite observations as summarized in the table below, but none at or adjacent to the Project Site:

Location	Date	Number of Kites Recorded
Emerald Meadows	March 17, 2021	1
Emerald Meadows	March 29, 2021	1
Emerald Meadows	June 24, 2021	1
Emerald Meadows	February 17, 2023	1
Emerald Meadows	June 7, 2018	2
Silver Springs Parkway near Pleasant Grove Middle School	November 27, 2021	1
Bass Lake Road at Gateway Park	January 2,2022	1
Pleasant Grove Middle School	December 14, 2019	1
Silver Springs Parkway near Bass Lake	January 13, 2019	3
Cameron Park Lake	December 21, 2021	1

Based on the eBird observations between 2018 and early 2023, it appears that White-tailed kites are periodically observed in the greater vicinity of the Project Site, but there are no recorded observations at the Project Site, which is fully accessible to the public. Other species reported by Vollmar are shown on eBird including the oak titmouse, Bullock's oriole, and Nuttall's

woodpecker on adjacent Chesham Street and Foxmore Lane which comprises the southern site boundary. No while-tailed kites were reported at these locations.

GLA conducted its Project Site visit on September 22, 2023. During its Project site visit, GLA walked the entire site in meandering transects in such a manner that the entire canopy of oaks and a handful of pine trees were scanned systematically. This included valley oak (*Quercus lobata*), blue oak (*Quercus douglasi*) and interior live oak (*Quercus wizlizeni*) with a few scattered gray pines (*Pinus sabiniana*). All trees on the Project Site were carefully surveyed and thoroughly scanned using binoculars, no nests were detected consistent with the presence of white-tailed kite which build nests that are generally 22 – 24 inches in diameter and about 6 – 7 inches deep.

Exhibit 2, Photographs 1 – 8 depict representative photographs taken from below the various stands or patches of oak showing the lack of any raptor nests within the tree canopy. The openness of the canopy as depicted in many of the site photos is important as Kite's typically build nest in trees where they are not easily viewed from the ground making them difficult to detect. During the site visit, the ground was also examined for sign such as feathers or whitewash of roosting white-tailed kites, which can roost in large numbers communally during the non-breeding season where there are large numbers of white-tailed kites within a geographic location.

A. Results

No evidence of white-tailed kites was detected on the site. No white-tailed kites were observed on the site or over immediately adjacent properties. No evidence of nests or nesting was found. The lack of nests on the Project Site is consistent with the observations of Vollmar during their May 2023 site visit, which coincided with the breeding season. No whitewash of roosting was observed on any of the trees of the Project Site. Thus, there was no evidence of breeding during the 2023 nesting season and there were no older nests consistent with breeding during prior seasons.

B. Discussion

The fact that White-tailed kites have been observed in the vicinity of the site based on eBird reports as summarized in the table above is not determinative of whether White-tailed kites are present at the Project Site. Whether the site is well-buffered from human habitation and activity, and whether there is presence of nests or evidence of nesting are the determinatives factor in whether a site is habitat.

White-tailed kites typically establish nest sites that are well-buffered from human habitation and activity. For example, a recent study prepared for the Western Riverside County Multiple

Species Habitat Conservation Plan measured distance of white-tailed nest sites from paved roads, and it was determined that for the nine nest trees in the study, mean distance to a road was 1,749 meters with a standard deviation of 338.7 meters.[2]

The Project Site is in an area of high human activity and therefore does not provide suitable nesting habitat for White-tailed kite. The Project site is surrounded by development including a primary school to the south, which generates significant noise during recess periods and significant traffic during times of pick-up and drop-off. There is residential development immediately to the west and east with a memorial park across Green Valley Road to the north.

Given the proximity of the development described above, including a school playground as close as 100 feet from the playground and no more than 300 feet at any point from the playground or adjacent Green Valley Road, the site does not exhibit buffers typically required by White-tailed kites. The Project is adjacent to paved roads on three sides, wherein there is no location on the site that is greater than 55 meters from a road. In addition, as previously discussed, the open tree canopy at the site is not characteristic of the denser nesting tree canopy known to be preferred by White-tailed kites.

The proximity of the Project Site to areas of high human activity, its direct adjacency to roads, lack of observations by Vollmar during the breeding season, lack of observation and nest detection by GLA in September 2023, all indicate that the site is not being used by White-tailed kites. In addition, there is no evidence of use of the Project Site by White-tailed kite in recent years.

[2] Biological Monitoring Program. 2021. Western Riverside County MSHCP Biological Monitoring Program 2020 White-tailed Kite Survey Report. Prepared for the Western Riverside County Multiple Species Habitat Conservation Plan. Riverside, CA. Available online: https://www.wrc-rca.org/species-surveys/.

CONCEPTUAL SITE PLAN

GREEN VALLEY APARTMENTS
EL DORADO COUNTY, CA

AFFIRMED HOUSING

DAHLIN

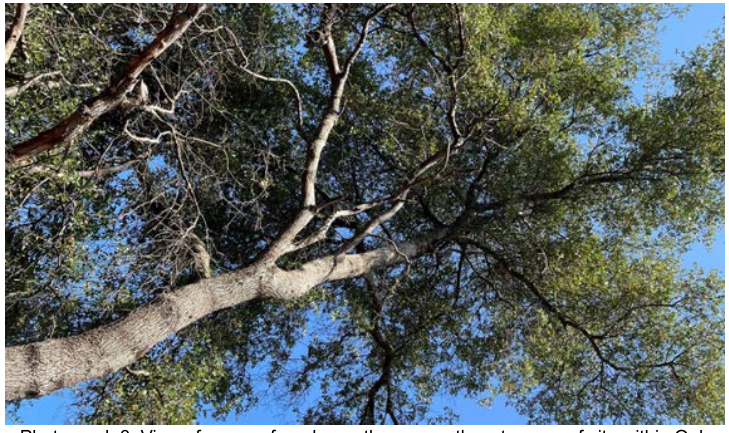
SCALE 1" = 40'-0"
0 40 80 NORTH 160

DATE 04-06-2023
JOB NO. 2023_111

5865 Owens Drive
Pleasanton, CA 94588
925-251-7200

Photograph 1: View of canopy from beneath near southeast corner of site within Oak woodland. Note lack of nests within canopy.

Photograph 2: View of canopy from beneath near south central area of site within Oak woodland. Note lack of nests within canopy.



Photograph 3: View of canopy from beneath near southeast corner of site within Oak woodland. Note lack of nests within canopy.

Photograph 4: View of canopy from beneath near Bass Lake Road along eastern edge of site within Oak woodland. Note lack of nests within canopy.

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Exhibit 2 – Page 1

GREEN VALLEY & BASS LAKE

Site Photographs

Photograph 5: View of canopy from beneath near corner of site within Oak woodland. Note lack of nests within canopy.

Photograph 6: View of canopy from beneath near northeast corner of site within Oak woodland. Note lack of nests within canopy.

Photograph 7: View of canopy from beneath near southeast corner of site within Oak woodland. Note lack of nests within canopy.

Photograph 8: View of canopy from beneath near northeast corner of site within Oak woodland. Note lack of nests within canopy.

GREEN VALLEY & BASS LAKE
Site Photographs