



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 82123
(858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

MAY 01 2019

STATE CLEARINGHOUSE

May 1, 2019

Mr. Chris Vasquez
City of Walnut
21201 La Puente Road
Walnut, CA 91789
Cvasquez@ci.walnut.ca.us

**Subject: Draft Environmental Impact Report for The Terraces at Walnut Specific Plan,
City of Walnut, Los Angeles County**

Dear Mr. Vasquez:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Draft Environmental Impact Report (DEIR) for The Terraces at Walnut Specific Plan (Project), prepared by the City of Walnut (City). Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW's Role

CDFW is California's Trustee Agency for fish and wildlife resources, and holds those resources in trust by statute for all the people of the State [Fish & Game Code, §§ 711.7, subdivision (a) & 1802; Public Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (a)]. CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect state fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Public Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & Game Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take", as defined by state law, of any species protected under the California Endangered Species Act (CESA) (Fish & Game Code, § 2050 et seq.), or state-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & Game Code, § 1900 et seq.) authorization as provided by the applicable Fish and Game Code will be required.

Project Description and Summary

Objective: The proposed Project involves a mix of housing types, a commercial district, parks and recreation areas, and open space. Project activities would consist of grading, installation of utilities, road construction, and eventual home construction. The entire 49-acre site is expected to be cleared and graded prior to construction.

Location: The Project area encompasses approximately 49 acres in the City of Walnut, County of Los Angeles. The Project area is approximately 1,300 feet east of the intersection of Valley Boulevard and Grand Avenue. The west boundary of the Project area is adjacent to 21701 Valley Boulevard. The Assessor Parcel Numbers (APNs) for the Project site are 8709-023-273, 8709-023-274, and 8719-023-275.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. CDFW recommends the measures below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring and reporting program (Public Resources Code, § 21081.6 and CEQA Guidelines, § 15097).

Project Description and Related Impact Shortcoming

Comment #1: Impacts to Special-Status Plant Species

Issue: The Biological Section of the DEIR indicates that "[n]o special-status plant species were observed during Rincon's reconnaissance field survey of the Plan Area on March 14, 2018 and none were observed during a focused rare plant survey of the Plan Area that was conducted on May 18, 2018." But it acknowledges that one of the five species of trees found on-site is blue elderberry (*Sambucus nigra ssp. caerulea*). Blue elderberry is a native species and has a rarity ranking of S-3 according to the *Manual of California Vegetation* (Sawyer 2008).

Specific impact: Due to Project related activities, such as grading, vegetation clearing, or road maintenance, the Project may result in a substantial adverse effect, either directly or indirectly, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW.

Why impact would occur: Take of special status plant species, including state- and federally-listed species, may occur without adequate detection, avoidance, and mitigation measures.

Evidence impact would be significant: CDFW considers plant communities, alliances, and associations with a statewide ranking of S-1, S-2, S-3 and S-4 as sensitive and declining at the local and regional level (Sawyer et al. 2008). An S-3 ranking indicates there are 21-80 occurrences of this community in existence in California, S-2 has 6-20 occurrences, and S-1 has less than 6 occurrences. Impacts to special status plant species should be considered significant under CEQA unless they are clearly mitigated below a level of significance.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW recommends conducting focused surveys for sensitive/rare plants on-site and disclosing the results in the DEIR. Based on the *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW 2018), a qualified biologist should "conduct surveys in the field at the time of year when species are both evident and identifiable. Usually this is during flowering or fruiting." The final CEQA documentation should provide a thorough discussion on the presence/absence of sensitive plants on-site and identify measures to protect sensitive plant communities from project-related direct and indirect impacts.

Mitigation Measure #2: In 2007, the State Legislature required CDFW to develop and maintain a vegetation mapping standard for the state (Fish & Game Code, § 1940). This standard complies with the National Vegetation Classification System, which utilizes alliance and association-based classification of unique vegetation stands. CDFW utilizes vegetation descriptions found in the Manual of California Vegetation (MCV), found online at <http://vegetation.cnps.org/>. To determine the rarity ranking of vegetation communities on the Project site, the MCV alliance/association community names should be provided as CDFW only tracks rare natural communities using this classification system.

Mitigation Measure #3: We also recommend avoiding any sensitive natural communities found on the Project. If avoidance is not feasible, mitigating at a ratio of no less than 5:1 for impacts to S-3 ranked communities and 7:1 for S-2 communities should be implemented. This ratio accounts for the acreage and the individual plants that comprise each unique community. All revegetation/restoration areas that will serve as mitigation should include preparation of a restoration plan, to be approved by U.S. Fish and Wildlife Service and CDFW prior to any ground disturbance. The restoration plan should include restoration and monitoring methods; annual success criteria; contingency actions should success criteria not be met; long-term management and maintenance goals; and a funding mechanism to assure for in perpetuity management and reporting. Areas proposed as mitigation should have a recorded conservation easement and be dedicated to an entity which has been approved to hold/manage lands pursuant to Assembly Bill 1094 (2012), which amended Government Code sections 65965-65968.

Comment #2: Tree Mitigation and Planting List

Issue 1: Impact BIO-5 of the DEIR states, "[t]he Specific Plan would remove all 142 trees identified in the Plan Area and all 156 trees in the off-site fill area. None of the trees identified are oak or walnut trees and therefore are not protected by the City of Walnut oak/walnut tree preservation ordinance. Therefore, the Specific Plan is consistent with local policies specifying protection of oak and walnut trees." The DEIR indicates that no mitigation is required for the removal of these trees.

Issue 2: The City's tree policy and ordinance indicate *Schinus molle* or Peruvian pepper tree (erroneously called California pepper tree in this policy) is a City-approved landscaping tree. *Schinus molle* is designated as an invasive species by the California Invasive Pest Plant Council (Cal-IPC).

Specific impact: Habitat loss and invasive plants are a leading cause of native biodiversity loss. Invasive plant species spread quickly and can displace native plants, prevent native plant growth, and create monocultures. Invasive plants reduce native plant species diversity.

Why impact would occur: Planting invasive trees or or plant species would further degrade natural open space or riparian habitats. In addition, without replacing native trees with similar native tree species, the function and value of the impacted native trees replacement trees would not be fully mitigated.

Evidence impact would be significant: Invasive species have contributed to the decline of forty-two percent of U.S. threatened and endangered species (USDA Forest Service 2019). Invasive species compete directly with native species for moisture, sunlight, nutrients, and physical space. Cumulative impacts may result due to the City's tree policy and ordinance recommending an invasive tree be planted throughout areas including sensitive, natural habitat.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW recommends that the Project prohibit the planting of any species contained in the Cal-IPC Invasive Plant Checklist listed for any region.

Mitigation Measure #2: CDFW recommends the City revise its tree policy and ordinance to remove any invasive species listed by Cal-IPC from this list.

Mitigation Measure #3: CDFW recommends the use of native tree species or non-invasive drought tolerant tree species be used to replace the 298 non-native trees (142 trees identified in the Plan Area and 156 trees in the off-site fill area) being impact by the Project.

Mitigation Measure #4: CDFW recommends that all open space preservation/mitigation land be protected in perpetuity with minimal human intrusion. This can be accomplished by recording and executing a perpetual conservation easement in favor of an approved agent dedicated to conserving biological resources. In addition, the Department recommends all mitigation lands be owned or managed by an entity with experience in managing habitat. The Department has encountered problems with using portions of privately-owned lots as open-space-habitat mitigation under CEQA because homeowners may grade and remove vegetation on their land with little legal recourse to remedy this loss under CEQA. Mitigation lands should be owned or managed by a conservancy or other land management entity to allow for legal remedies should trespass and clearing/damage occur. A management and monitoring plan, including a funding commitment, should be developed for any conserved land, and implemented in perpetuity to protect existing biological functions and values. Permeable wildlife fencing should be erected around any conserved land to restrict incompatible land uses and signage posted and maintained at conspicuous locations communicating these restrictions to the public.

Comment #3: Impacts to Streams

Issue: Based on satellite imagery, the Project site potentially supports multiple streams that are subject to notification under Fish and Game code section 1600 *et seq.* According to the Project plans, "[i]mplementation of the Specific Plan could result in direct or indirect impacts to potentially jurisdictional waters located in the Plan Area."

Specific impacts: The Project may result in the loss of streams and associated watershed function and biological diversity. Grading and construction activities will likely alter the topography, and thus the hydrology, of the Project site.

Why impacts would occur: Ground-disturbing activities from grading and filling, water diversions and dewatering would physically remove or otherwise alter existing streams or their function and associated riparian habitat on the Project site. Streams and associated biological resources beyond the Project development footprint may also be impacted by Project-related releases of sediment and altered watershed effects.

Evidence impacts would be significant: The Project may substantially adversely affect existing streams on the Project site through alteration or diversion, which absent specific mitigation, could result in substantial erosion or siltation on site or off site of the Project.

Water diversions can impact flow regimes, decreasing the frequency of high flows. Prolonged low flows can cause streams to become graded and cause channels to become disconnected from floodplains (Poff et al. 1997). This process decreases available habitat for aquatic species including fish that utilize floodplains for nursery grounds. Undersized culverts and other stream crossings can also cause downstream channel erosion and tributary head-cutting, reduced magnitude and frequency of high flows, channel narrowing, and reduced formation of secondary channels and oxbows (Poff et al. 1997). Additionally, these structures can degrade water quality and associated wildlife habitats (Santucci, Jr. et al. 2005). Streams with such structures can have reduced abundance of anurans due to decreased availability of breeding habitat (Eskew et al. 2012). Based on the foregoing, Project impacts may substantially adversely affect the existing stream pattern and associated habitat of the Project site.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW has concluded that the Project may result in the alteration of streams. For any such activities, the Project applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSA) with the applicant is required prior to conducting the proposed activities. A notification package for a LSA may be obtained by accessing CDFW's web site at www.wildlife.ca.gov/habcon/1600.

CDFW's issuance of an LSA for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document of the Lead Agency for the Project. However, the MND does not meet CDFW's standard at this time. To minimize additional requirements by CDFW pursuant to section 1600 *et seq.* and/or under CEQA, the CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSA.

Mitigation measure #2: Any LSA Agreement issued for the Project by CDFW may include additional measures protective of streambeds on and downstream of the Project. The LSA may include further erosion and pollution control measures. To compensate for any on-site and off-site impacts to riparian resources, additional mitigation conditioned in any LSA may include the

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following: avoidance of resources, on-site or off-site creation, enhancement or restoration, and/or protection and management of mitigation lands in perpetuity.

Filing Fees

The project, as proposed, could have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final (Cal. Code Regs, tit. 14, § 753.5; Fish & Game Code, § 711.4; Pub. Resources Code, § 21089).

Conclusion

We appreciate the opportunity to comment on the project to assist the City in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City has to our comments and to receive notification of any forthcoming hearing date(s) for the project. If you have any questions or comments regarding this letter, please contact Andrew Valand, Environmental Scientist, at Andrew.Valand@wildlife.ca.gov or (562) 342-2142.

Sincerely,



FOR

Erinn Wilson
Environmental Program Manager I

cc: CDFW

Victoria Tang – Los Alamitos
Andrew Valand – Los Alamitos
Kelly Schmoker – Pasadena

Scott Morgan (State Clearinghouse)

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