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DEPARTMENT OF FISH AND WILDLIFE
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



October 11, 2019

Governor's Office of Planning & Research

Ms. Connie Chauv
Los Angeles City Planning Department
200 N. Spring Street, Room 750
Los Angeles, CA 90012
connie.chauv@lacity.org

OCT 11 2019

STATE CLEARINGHOUSE

Subject: Mitigated Negative Declaration for the Del Rey Pointe Residential Project, City of Los Angeles, Los Angeles County

Dear Ms. Chauv:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Mitigated Negative Declaration (MND) for the Del Rey Pointe Residential Project (Project). 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.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

Project Description and Summary

Objective: The Project proposes to develop a multi-family residential project consisting of 236 residential apartment units with a total of 406 parking spaces, provided in one level of subterranean parking, one level of semi-subterranean parking, and on-grade parking. In addition, a pedestrian/bicycle bridge is proposed to connect the existing Ballona Creek Bikeway on the north to the subject site and proposed vehicular bridge to the south. The Project includes two natural habitat preserves on the westerly and easterly portions of the lot and a linear park with pedestrian and bicycle paths along the perimeter of the site. The Project involves export of approximately 31,430 cubic yards of soil and the removal of one non-protected on-site tree. The Project also involves the extension of utilities and other infrastructure including roads, sewer, and storm drains to serve the subject site.

Location: The Project site is located at 5000 Beethoven Street in the Palms - Mar Vista - Del Rey Community Plan Area of the City of Los Angeles. The approximately 121,493 square foot triangular-shaped site is located on a peninsula bounded by the confluence of Ballona Creek to the north, Centinela Creek to the south and vacant land to the east. The State Route 90 Marina Freeway (SR 90 Freeway) is adjacent to the site to the northeast. The Ballona Wetlands Ecological Reserve is located in adjacent parcels immediately southwest of the Project site, partially encompassing a portion of Ballona Creek that abuts the Project site boundary.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City of Los Angeles (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. Additional comments or other suggestions may also be included to improve the document.

Project Description and Related Impact Shortcoming

Comment #1: Impacts to State owned property

Issue: The proposed Project site is proposed to be located adjacently to Ballona Wetlands Ecological Reserve (BWER), which is CDFW managed State property. However, the Los Angeles County Parcel Map indicates that the boundary of BWER may overlap with a portion of the Project site (see Attachment #1).

Specific impact: The adjacent approximate 577-acre Ballona Wetlands Ecological Reserve (BWER) property is under State management as an ecological reserve intended to protect numerous CESA-listed species. BWER is a tidally supported ecosystem that relies on the influx of both fresh and saltwater. Project related activities may directly or indirectly impact the quality of the habitat found in BWER, Centinela Creek, and Ballona Creek through the loss of habitat or release of deleterious materials into adjacent habitat.

In addition, the uncertainty of Project boundaries in relation to State property could lead to the Project proponent trespassing onto State land and violating State regulations related to ecological reserves.

Why impact would occur: Project related activities may trespass onto State land and result in the loss of State land and protected wildlife habitat. Project implementation includes grading, excavation, construction, vegetation clearing, road maintenance, and other activities that may result in direct mortality, population declines, or local extirpation of sensitive plant species. “[I]t is unlawful to enter upon any ecological reserves established under the provisions of this article, or to take therein any bird or the nest or eggs thereof, or any mammal, fish, mollusks, crustaceans, amphibia, reptiles or any other form of plant or animal life” (Fish & Game Code, § 1583).

Evidence impact would be significant: CDFW has a responsibility “to protect threatened or endangered native plants, wildlife, or aquatic organisms or specialized habitat types, both terrestrial and nonmarine aquatic, or large heterogeneous natural gene pools for the future use of mankind through the establishment of ecological reserves (Fish & Game Code, § 1580). As mentioned above, the potential trespass onto State land would adversely affect CDFW’s ability to implement its statutory mandate to protect species and habitats that ecological reserves are intended to conserve. Accordingly, CDFW opposes any Project activities if they would take place within the boundaries of BWER.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1: CDFW recommends that the Project proponent conduct parcel surveys to confirm the title and legal boundaries of the property and to share that information with CDFW. If surveys reveal the Project would occur on State land, the Project must be revised to avoid that area and include sufficient buffers as determined during discussion with CDFW. No Project activities, including buffers, roads, staging areas, or vegetation clearing, will be authorized within CDFW lands.

Comment #2: Impacts to Streams

Issue: CDFW is concerned that the Project location supports streams subject to notification under Fish and Game Code section 1600 *et seq.* According to site plans provided in support of the proposed Project, there is a bridge proposed to be built on pre-existing piers across Ballona Creek as part of this Project. Also, bike and pedestrian paths are expected to be constructed along the periphery of the Project site. The Project site abuts both Ballona Creek and Centinela Creek, meaning that trail construction will take place along the banks of these channels.

Issue: Based on the location of the Project site, at the confluence of Centinela Creek and Ballona Creek, and the fact that the channels are soft-bottomed at that location, it is believed that the subsurface flow between the two creeks may be hydrologically connected. With significant Project activities involving underground work and the proximity to these channels, CDFW has concerns about Project runoff affecting water quality in the immediate 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. Downstream streams and associated biological resources beyond the Project development footprint may also be impacted

by Project related releases of sediment and altered watershed effects resulting from Project activities.

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

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 permit 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 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, would 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 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 of Los Angeles 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 [CEQA Guidelines; § 15073(e)]. 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.

Ms. Connie Chauv
Los Angeles Department of City Planning
October 11, 2019
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Sincerely,

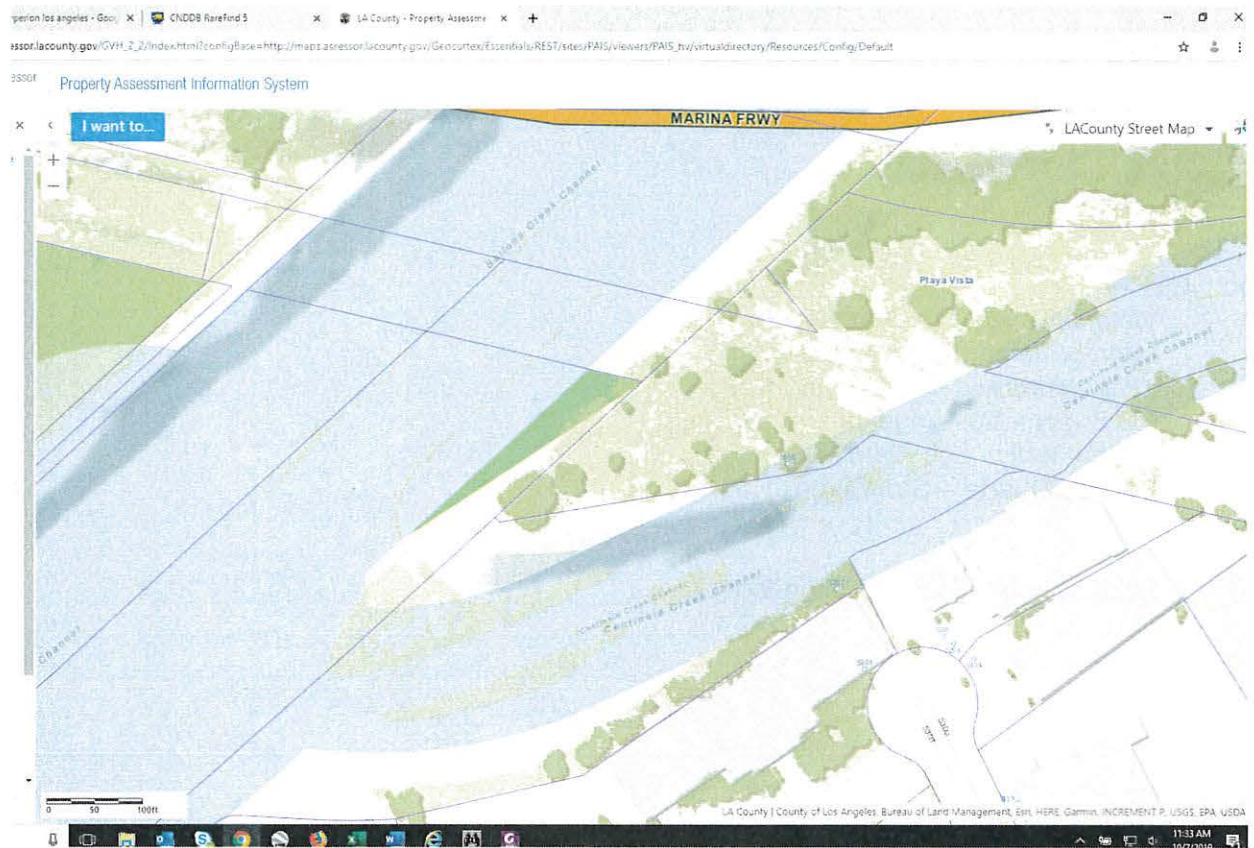


Erinn Wilson
Environmental Program Manager I

ec: CDFW

Victoria Tang – Los Alamitos
Andrew Valand – Los Alamitos
Kelly Schmoker - Pasadena
RC Brody – Los Angeles
Audrey Kelly - Los Alamitos
Dolores Duarte – San Diego

Scott Morgan (State Clearinghouse)



Attachment 1: An image of parcel boundaries taken from the Los Angeles County Office of the Assessor website: www.maps.assessor.lacounty.gov