



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 South Coast Region
 3883 Ruffin Road
 San Diego, CA 92123
 (858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

September 25, 2020

Sep 25 2020

STATE CLEARINGHOUSE

Masa Alkire
 City of Beverly Hills
 455 N Rexford Dr
 Beverly Hills, CA 90210
malkire@beverlyhills.org

Subject: Notice of Preparation of a Draft Environmental Impact Report for the One Beverly Hills Overlay Specific Plan Project, SCH #2020090048, City of Beverly Hills, Los Angeles County

Dear Masa Alkire:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) for the One Beverly Hills Overlay Specific Plan Project (Project). The NOP's supporting documentation includes the Initial Study. 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 & G. Code, §§ 711.7, subdivision (a) & 1802; Pub. 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 (Pub. 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 & G. 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 & G. Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

Conserving California's Wildlife Since 1870

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Project Description and Summary

Objective: The Project proposes to establish a new Overlay Specific Plan that would allow for the redevelopment of a 17.4-acre site in the City of Beverly Hills. Approximately 54 percent of the site is developed with existing structures and impervious surfaces. Approximately 46 percent of the site is graded and undeveloped. The site currently contains existing hotels with related facilities (Beverly Hilton and Waldorf Astoria Beverly Hills) at 9850-9876 Wilshire Boulevard; a gas station and convenience store at 9988 Wilshire Boulevard; and a vacant, partially excavated property at 9900 Wilshire Boulevard. Merv Griffin Way, a four-lane, north-south, private access road that is, and historically has been, open to public use, traverses through the center of the site.

The Overlay Specific Plan would be a standalone document and would not affect or replace the two existing, previously approved Specific Plans that regulate portions of the site. The Beverly Hilton Specific Plan was approved in 2008 and covers 9850-9876 Wilshire Boulevard. The 9900 Wilshire Specific Plan was approved in 2008 and amended in 2016 and covers 9900 Wilshire Boulevard. The proposed Overlay Specific Plan would regulate the future development of the 17.4-acre site in a unified development plan. The Overlay Specific Plan would allow for increased building heights to reduce impervious surfaces on the site. This would allow for the creation of approximately 10 acres of open space, including a publicly accessible botanical garden and a sculpture garden along Wilshire Boulevard.

Implementation of the proposed Overlay Specific Plan would result in the development of two residential buildings; a hotel/residential building; some alterations to existing Beverly Hilton structures; a parking structure; and structures for supporting amenities and features. Approximately 10 acres of the Project site would be open space. An elevated platform over Merv Griffin Way from the Beverly Hilton to the southwesterly property line would consist of an 8-acre botanical garden that would include native and cultured California plant species; sculptures; water features; shaded seating areas; two miles of walking/running pathways; a restaurant; and other amenities. One mile of pathways within approximately 4.5 acres of the botanical gardens would be accessible to the public. Another mile of pathways within approximately 3.5 acres of the botanical gardens would be reserved for residents, the Amenities Access Program, and hotel guests.

Location: The Project is located west of the intersection of Wilshire Boulevard and Santa Monica Boulevard on the western edge of the City of Beverly Hills. Specifically, the Project is located at 9850, 9876, 9900, and 9988 Wilshire Boulevard and Assessor's Parcel Numbers (APNs) 4327-028-002 through -016.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City of Beverly Hills 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 looks forward to commenting on the DEIR when it is released. CDFW may have additional comments to the DEIR not addressed in this letter.

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Specific Comments

- 1) Nesting Birds. The Project may involve removal or disturbance of trees along North Santa Monica Boulevard and trees located adjacent to the site in the Los Angeles Country Club. Accordingly, Project construction and activities may impact nesting birds. Project activities occurring during the breeding season of nesting birds could result in the incidental loss of fertile eggs, or nestlings, or otherwise lead to nest abandonment in trees directly adjacent to the Project boundary.
 - a) Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Code of Federal Regulations, Title 50, § 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA).
 - b) CDFW recommends that measures be taken, primarily, to avoid Project impacts to nesting birds. Proposed Project activities including (but not limited to) staging and disturbances to native and nonnative vegetation, structures, and substrates should occur outside of the avian breeding season which generally runs from February 15 through August 31 (as early as January 1 for some raptors) to avoid take of birds or their eggs.
 - c) If impacts to nesting birds cannot be avoided, CDFW recommends the DEIR include measures to mitigate for impacts.
- 2) Bats. A search of CDFW's California Natural Diversity Database (CNDDDB) found occurrences of several bat species within the Project vicinity (CDFW 2020a). These species include hoary bat (*Lasiurus cinereus*) and silver-haired bat (*Lasionycteris noctivagans*). Numerous bat species are known to roost in trees and structures throughout Los Angeles County. Cracks and crevices in large concrete structures and buildings provide suitable analogs for daytime and nighttime roosts. Trees between the Project site and Los Angeles Country Club and could provide potential roosting sites.
 - a) Bats are considered non-game mammals and are afforded protection by state law from take and/or harassment (Fish & G. Code, § 4150; Cal. Code of Regs., § 251.1). Project construction and activities, including (but not limited to) vegetation removal, increased noise, and ground disturbing activities, may have direct and/or indirect impacts on bats and roosts.
 - b) CDFW recommends the DEIR provide a thorough discussion and adequate disclosure of potential impacts to bats and roosts from Project construction including (but not limited to) disturbances to vegetation, trees, and structures; demolition; grading; and excavating. If necessary, to reduce impacts to less than significant, the DEIR should provide bat-specific avoidance and/or mitigation measures [CEQA Guidelines, § 15126.4(a)(1)].
- 3) Landscaping. Implementation of the proposed Overlay Specific Plan would consist of an 8-acre botanical garden that would include native and cultured California plant species. The Initial Study defines "cultured" California plant species as "drought-tolerant, non-invasive plants." CDFW recommends that the DEIR include a complete list of native and cultured

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California plant species the Project/City of Beverly Hills is proposing for the botanical garden. For all other Project-related landscaping, CDFW strongly recommends avoiding non-native, invasive plants, particularly any species with a Moderate or High ranking by the [California Invasive Plant Council](#) (Cal-IPC 2020a). Specifically, CDFW strongly recommends avoiding fountain grasses (*Pennisetum* genus); pampas grasses (*Cortaderia* genus); and pepper trees (*Schinus* genus).

CDFW recommends using native, locally appropriate plant species and drought tolerant, lawn grass alternatives to reduce water consumption. Information on alternatives for invasive, non-native, or landscaping plants may be found on the [California Invasive Plant Council's, Don't Plant a Pest](#) webpage (Cal-IPC 2020b). The [Audubon Society's Native Plants Database](#) is a resource to identify native plants and trees that will attract and benefit birds. Birds may help to control and reduce insects, reducing the need for pesticides (National Audubon Society 2020). The [California Native Plant Society's Gardening](#) and [Xerces Society's Pollinator-Friendly Native Plant Lists](#) webpage has information on native plant species that invite insects and pollinators (CNPS 2020; Xerces Society 2020). Pollinators are critical components of our environment and essential to our food security. Insects – and primarily bees – provide the indispensable service of pollination to more than 85 percent of flowering plants (Ollerton et al. 2011).

General Comments

- 1) Biological Baseline Assessment. Page 55 of the Initial Study states, “Previous environmental documentation concluded the Existing Specific Plans would not have any significant impacts on biological resources (City of Beverly Hills 2008a and 2016).” CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years. Biological surveys conducted for the 2008 Final Environmental Impact Report for the Beverly Hilton Revitalization Plan and 2016 Final Supplemental Environmental Impact Report for the 9900 Wilshire Boulevard Project may not accurately reflect biological resources that could now be in the Project site. Moreover, the property at 9900 Wilshire Boulevard has been vacant for at least five years.

In preparation of the DEIR, CDFW recommends providing a recent and complete assessment and impact analysis of the flora and fauna within and adjacent to the Project area, with emphasis upon identifying endangered, threatened, sensitive, regionally and locally unique species, and sensitive habitats. Impact analysis will aid in determining any direct, indirect, and cumulative biological impacts, as well as specific mitigation or avoidance measures necessary to offset those impacts. CDFW recommends avoiding any sensitive natural communities found on or adjacent to the Project. CDFW also considers impacts to Species of Special Concern a significant direct and cumulative adverse effect without implementing appropriate avoid and/or mitigation measures. The DEIR should include the following information:

- a) Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region [CEQA Guidelines, § 15125(c)]. The DEIR should include measures to fully avoid and otherwise protect Sensitive Natural Communities from Project-related impacts. Project implementation may result in impacts to rare or endangered plants or plant communities

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that have been recorded adjacent to the Project vicinity. CDFW considers these communities as threatened habitats having both regional and local significance. Plant communities, alliances, and associations with a state-wide ranking of S1, S2, S3 and S4 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by visiting [Vegetation Classification and Mapping Program - Natural Communities](#) webpage (CDFW 2020b);

- b) A thorough, recent, floristic-based assessment of special status plants and natural communities following CDFW's [Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities](#) (CDFW 2018). Adjoining habitat areas should be included where Project construction and activities could lead to direct or indirect impacts off site;
 - c) Floristic, alliance- and/or association-based mapping and vegetation impact assessments conducted at the Project site and within the neighboring vicinity. The [Manual of California Vegetation](#) (MCV), second edition, should also be used to inform this mapping and assessment (Sawyer 2008). Adjoining habitat areas should be included in this assessment where site activities could lead to direct or indirect impacts offsite. Habitat mapping at the alliance level will help establish baseline vegetation conditions;
 - d) A complete, recent, assessment of the biological resources associated with each habitat type on site and within adjacent areas that could also be affected by the Project. CDFW's CNDDDB in Sacramento should be contacted to obtain current information on any previously reported sensitive species and habitat. CEQA requires that information developed in environmental impact reports be incorporated into a database which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status species and natural communities detected by completing and submitting [CNDDDB Field Survey Forms](#) (CDFW 2020c); and,
 - e) A complete, recent, assessment of rare, threatened, and endangered, and other sensitive species on site and within the area of potential effect, including California Species of Special Concern, and California Fully Protected Species (Fish & G. Code, §§ 3511, 4700, 5050, and 5515). Species to be addressed should include all those which meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of the Project area should also be addressed. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, may be required if suitable habitat is present. Acceptable species-specific survey procedures should be developed in consultation with CDFW and the USFWS.
- 2) Biological Direct, Indirect, and Cumulative Impacts. CDFW recommends providing a thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources, with specific measures to offset such impacts. The DEIR should address the following:
- a) A discussion regarding indirect Project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian

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- ecosystems, and any designated and/or proposed or existing reserve lands [e.g., preserve lands associated with a Natural Community Conservation Plan (NCCP, Fish & G. Code, § 2800 et. seq.)]. Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated in the DEIR;
- b) A discussion of potential adverse impacts from lighting, noise, temporary and permanent human activity, and exotic species and identification of any mitigation measures.
 - c) A discussion on Project-related changes on drainage patterns and downstream of the Project site; the volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and, post-Project fate of runoff from the Project site. The discussion should also address the proximity of the extraction activities to the water table, whether dewatering would be necessary and the potential resulting impacts on the habitat (if any) supported by the groundwater. Mitigation measures proposed to alleviate such Project impacts should be included;
 - d) An analysis of impacts from land use designations and zoning located nearby or adjacent to natural areas that may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the DEIR; and,
 - e) A cumulative effects analysis, as described under CEQA Guidelines section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.
- 3) Project Description and Alternatives. To enable CDFW to adequately review and comment on the proposed Project from the standpoint of the protection of plants, fish, and wildlife, we recommend the following information be included in the DEIR:
- a) A complete discussion of the purpose and need for, and description of, the proposed Project, including all staging areas and access routes to the construction and staging areas; and,
 - b) A range of feasible alternatives to Project component location and design features to ensure that alternatives to the proposed Project are fully considered and evaluated. The alternatives should avoid or otherwise minimize direct and indirect impacts to sensitive biological resources and wildlife movement areas.

Conclusion

We appreciate the opportunity to comment on the NOP for the One Beverly Hills Overlay Specific Plan Project to assist the City of Beverly Hills in identifying and mitigating Project impacts on biological resources. If you have any questions or comments regarding this letter, please contact Ruby Kwan-Davis, Senior Environmental Scientist, at Ruby.Kwan-Davis@wildlife.ca.gov.

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Sincerely,

DocuSigned by:

Erinn Wilson-Olgin

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Erinn Wilson
Environmental Program Manager I

cc: CDFW

Victoria Tang – Los Alamitos - Victoria.Tang@wildlife.ca.gov
Andrew Valand – Los Alamitos – Andrew.Valand@wildlife.ca.gov
Felicia Silva – Los Alamitos – Felicia.Silva@wildlife.ca.gov
Susan Howell – San Diego - Susan.Howell@wildlife.ca.gov
CEQA Program Coordinator – Sacramento – CEQACommentLetters@wildlife.ca.gov

State Clearinghouse - state.clearinghouse@opr.ca.gov

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