

State of California – Natural Resources Agency

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December 14, 2020

Governor's Office of Planning & Research

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Dec 14 2020

STATE CLEARINGHOUSE

Subject: Notice of Preparation of a Draft Environmental Impact Report for the Artisan Hollywood Project, SCH #2020110295, City of Los Angeles, Los Angeles County

Dear Mr. Moreno:

The California Department of Fish and Wildlife (CDFW) has reviewed the Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) from the City of Los Angeles (City; Lead Agency) for the Artisan Hollywood Project (Project). The NOP's supporting documentation includes *Appendix IS-1 Tree Report*. 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 develop a portion of a 1.55-acre site. The 1.55-acre Project site has six commercial buildings covering 33,828 square feet and a surface parking lot that provides approximately 84 spaces. The Project site has minimal ornamental landscaping. Two olive trees (*Olea europaea*) are located within the Project site. Two magnolia trees (*Magnolia grandiflora*) are located within the public right-of-way. The Project would retain the six commercial buildings and replace the surface parking lot with a 25-story (286 feet) mixed-use building. The building would provide 270 residential dwelling units, 6,790 square feet of commercial space, two levels of above-ground parking, and four subterranean parking levels. The Project would include approximately 30,918 square feet of open space. The two olive trees would be removed and while retaining the two magnolia trees. A minimum of 68 trees would be planted within the Project site and eight trees in the public right-of-way.

Location: The Project site is located within the City of Los Angeles at 1520 to 1542 North Cahuenga Boulevard, 1523 to 1549 North Ivar Avenue, and 6350 West Selma Avenue. The Project site is bounded by Selma Avenue to the north, Ivar Avenue to the east, existing commercial development to the south, and Cahuenga Boulevard to the west.

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 looks forward to commenting on the DEIR when it is released. CDFW may have additional comments to the DEIR not addressed in this letter.

Specific Comments

- 1) Nesting Birds. Page 40 of the Initial Study states that the four ornamental trees on site could potentially provide nesting sites for migratory birds. Accordingly, the Project could impact nesting birds and raptors within and adjacent to the Project site. Project construction and activities occurring during the bird and raptor breeding and nesting season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment.
 - 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). It is unlawful to take, possess, or needlessly destroy the nest or eggs of any raptor.
 - b) CDFW recommends that measures be taken to fully avoid Project impacts to nesting birds and raptors. Proposed Project-related ground-disturbing activities (e.g., mobilizing, staging, drilling, and excavating) and vegetation removal 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, raptors, or their eggs.
 - c) If impacts to nesting birds and raptors cannot be avoided, CDFW recommends the DEIR

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include measures to mitigate for impacts. CDFW recommends surveys by a qualified biologist with experience conducting breeding bird and raptor surveys. Surveys are needed to detect protected native birds and raptors occurring in suitable nesting habitat that may be disturbed and any other such habitat within 300 feet of the Project disturbance area, to the extent allowable and accessible. For raptors, this radius should be expanded to 500 feet. Project personnel, including all contractors working on site, should be instructed on the sensitivity of the area. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.

- 2) **Bats.** According to [iNaturalist](#), a western red bat (*Lasiurus blossevillii*) was observed two blocks east of the Project site at 1600 Vine Street. The western red bat is a California Species of Special Concern (SSC). In urbanized areas, bats use trees and man-made structures for daytime and nighttime roosts (Avila-Flores and Fenton 2005; Oprea et al. 2009; Remington and Cooper 2014). Extra noise, vibration, or the reconfiguration of large objects can lead to the disturbance of roosting bats (Johnston et al. 2004). These disturbances may have a negative impact on the animals
 - 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). Additionally, CEQA provides protection not only for CESA-listed species, but for any species including SSC which can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15065). Project construction and activities, including (but not limited to) ground disturbance, vegetation removal, and any activities leading to increased noise levels 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 and activities including (but not limited to) ground-disturbing activities (e.g., mobilizing, staging, drilling, 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.** The Project proposes to plant trees and may include landscaping. CDFW recommends that the DEIR provide a complete list of trees and plants the City is proposing for the Project. For 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); pepper trees (*Schinus* genus); and tree of heaven (*Ailanthus altissima*).

CDFW recommends using native, locally appropriate trees and plants 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 for southern California (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](#)

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[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) **Disclosure.** A DEIR should provide an adequate, complete, and detailed disclosure about the effect which a proposed project is likely to have on the environment (Pub. Resources Code, § 20161; CEQA Guidelines, §15151). Adequate disclosure is necessary so CDFW may provide comments on the adequacy of proposed avoidance, minimization, or mitigation measures, as well as to assess the significance of the specific impact relative to the species (e.g., current range, distribution, population trends, and connectivity).
- 2) **Mitigation Measures.** Public agencies have a duty under CEQA to prevent significant, avoidable damage to the environment by requiring changes in projects through the use of feasible alternatives or mitigation measures [CEQA Guidelines, §§ 15002(a)(3), 15021]. Pursuant to CEQA Guidelines section 15126.4, an environmental impact report shall describe feasible measures which could mitigate for impacts below a significant level under CEQA.
 - a) **Level of Detail.** Mitigation measures must be feasible, effective, implemented, and fully enforceable/imposed by the Lead Agency through permit conditions, agreements, or other legally binding instruments (Pub. Resources Code, § 21081.6(b); CEQA Guidelines, §§ 15126.4, 15041). A public agency shall provide the measures that are fully enforceable through permit conditions, agreements, or other measures (Pub. Resources Code, § 21081.6). CDFW recommends that the City prepare mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear in order for a measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). Adequate disclosure is necessary so CDFW may provide comments on the adequacy and feasibility of proposed mitigation measures.
 - b) **Disclosure of Impacts.** If a proposed mitigation measure would cause one or more significant effects, in addition to impacts caused by the Project as proposed, the environmental document should include a discussion of the effects of proposed mitigation measures [CEQA Guidelines, § 15126.4(a)(1)]. In that regard, the environmental document should provide an adequate, complete, and detailed disclosure about a project's proposed mitigation measure(s). Adequate disclosure is necessary so CDFW may assess the potential impacts of proposed mitigation measures.
- 3) **Biological Baseline Assessment.** In preparation of the DEIR, CDFW recommends providing a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project site and where the Project may result in ground disturbance. The assessment and analysis should place 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

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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 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 2020a);
- 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 et al. 2009). 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 [California Natural Diversity Database](#) (CNDDDB) in Sacramento should be contacted to obtain current information on any previously reported sensitive species and habitat (CDFW 2020b). The DEIR should include a nine-quadrangle search of the CNDDDB to determine a list of species potentially present at the Project site. A lack of records in the CNDDDB does not mean that rare, threatened, or endangered plants and wildlife do not occur in the Project site. Field verification for the presence or absence of sensitive species is necessary to provide a complete biological assessment for adequate CEQA review [CEQA Guidelines, § 15003(i)];
- 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 site should also be

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- addressed such as wintering, roosting, nesting, and foraging habitat. 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. See CDFW's [Survey and Monitoring Protocols and Guidelines](#) for established survey protocol for select species (CDFW 2020c). Acceptable species-specific survey procedures may be developed in consultation with CDFW and the USFWS; and,
- f) A recent wildlife and rare plant survey. 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. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if build out could occur over a protracted time frame or in phases.
- 4) Data. 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 2020d). The City should ensure the data has been properly submitted, with all data fields applicable filled out. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred.
- 5) 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 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 both the short-term and long-term effects to species population distribution and concentration and alterations of the ecosystem supporting the species impacted [CEQA Guidelines, § 15126.2(a)];
- c) A discussion of potential adverse impacts from lighting, noise, temporary and permanent human activity, and exotic species and identification of any mitigation measures;
- d) An analysis of impacts from proposed changes to land use designations and zoning, and existing land use designation 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.

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General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant and wildlife species, habitat, and vegetation communities. If the City determines that the Project would not have a cumulative impact, the environmental document should indicate why the cumulative impact is not significant. The City's conclusion should be supported by facts and analyses [CEQA Guidelines, § 15130(a)(2)].

- 6) 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;
 - b) CEQA Guidelines section 15126.6(a) states that an environmental document shall describe a reasonable range of potentially feasible alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project. CEQA Guidelines section 15126.6(f)(2) states if the Lead Agency concludes that no feasible alternative locations exist, it must disclose the reasons for this conclusion and should include reasons in the environmental document; and,
 - c) A range of feasible alternatives to Project component location and design features to avoid or otherwise minimize direct and indirect impacts to sensitive biological resources and wildlife movement areas. CDFW recommends the City consider configuring Project construction and activities, as well as the development footprint, in such a way as to fully avoid impacts to sensitive and special status plants and wildlife species, habitat, and sensitive vegetation communities. Project alternatives should be thoroughly evaluated, even if an alternative would impede, to some degree, the attainment of the Project objectives or would be more costly (CEQA Guidelines, § 15126.6).

Conclusion

We appreciate the opportunity to comment on the NOP for the Artisan Hollywood Project to assist the City of Los Angeles 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 (Specialist), at Ruby.Kwan-Davis@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Erinn Wilson-Olgin

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