



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY

Gavin Newsom, Governor

DEPARTMENT OF FISH AND WILDLIFE

Charlton H. Bonham, Director

Central Region

1234 East Shaw Avenue | Fresno, California 93710

August 2, 2023

Darren Nash, City Planner
City of Paso
1000 Spring Street
Paso Robles, California 93446
dnash@prcity.com

**Subject: The Landing Paso Robles (Project)
Draft Environmental Impact Report (DEIR)
SCH No.: 2021050487**



Dear Darren Nash:

The California Department of Fish and Wildlife (CDFW) received a draft Environmental Impact Report (DEIR) from the City of Paso Robles for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.

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 appreciates the City of Paso Robles granting a short extension to the timeline to reply to the DEIR for this Project and hopes that this letter will help the County to finalize the EIR.

CDFW 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, section 711.7, subd. (a) & 1802; Pub. Resources Code, section 21070; CEQA Guidelines section 15386, subd. (a)). CDFW, in its trustee capacity, has

wildlife.ca.gov

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, section 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 fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, section 21069; CEQA Guidelines, section 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, section 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, section 2050 et seq.), related authorization as provided by the Fish and Game Code may be required.

PROJECT DESCRIPTION SUMMARY

Proponent: Majestic Realty Co.

Objective: The project proposes the development of a 136.3-acre project site to allow for the construction of The Landing Paso Robles, a distribution warehouse and business park center, including redevelopment of the former Paso Robles Boys School site. The project applicant is seeking entitlements for a Grading Permit Application, a Zone Change, a Vesting Tentative Tract Map, a Conceptual Master Development Plan, a specific Development Plan for Phase 1, and an Oak Tree Removal permit. Future entitlements would include individual Conditional Use Permits (CUPs) or Planned Development applications, as appropriate, for the individual projects within the Conceptual Master Development Plan.

Location: 4545 Airport Rd, Paso Robles, Ca 93446

APN 025-434-001

Timeframe: Unspecified

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COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City of Paso Robles in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the CEQA document prepared for this Project.

There are special-status species that have been observed in the Project area and may be present at the Project site. These resources may need to be evaluated and addressed prior to any approvals that would allow ground-disturbing activities or land use changes.

CDFW is concerned regarding potential impacts to the State candidate for listing Crotch bumble bee (*Bombus crotchii*) and the mitigation ratios for some of the oaks proposed for removal by implementation of the Project.

To adequately assess any potential impact to biological resources, focused biological surveys should be conducted by a qualified biologist during the appropriate survey period(s) in order to determine whether any special-status species may be present within the Project area. Properly conducted biological surveys, and the information assembled from them, are essential to identify any mitigation, minimization, and avoidance measures and/or the need for additional or protocol-level surveys, and to identify any Project-related impacts under CESA and other species of concern.

COMMENT 1: Crotch Bumble Bee (CBB)

The DEIR states in Volume 2, page 69, "The proposed Project will impact habitat that has the potential to support special status invertebrates such as Crotch's bumble bee. Impacts to Crotch's bumblebee, if present, are anticipated to be negligible due to the availability of suitable habitat and nectar sources at the Study Area and in surrounding areas". To more fully substantiate and justify this statement and conclusion CDFW strongly recommends that protocol surveys for CBB be performed following the "Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species" (CDFW 2023). This survey protocol recommends conducting three onsite surveys prior to construction. "Each survey should ideally be spaced 2-4 weeks apart during the Colony Active Period to ensure that they cover a range of dates and account for variability in resource use by the candidate species and floral resource phenology within the site" (CDFW 2023). According to the DEIR there was only one CBB survey done in August 2022. CDFW recommends an additional survey effort for CBB following the new survey protocol, in order to more accurately inventory for this species on the Project site and analyze the potential for direct

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and indirect impacts to CBB as a result of the Project. If CBB is found at any point during surveys or the construction of the Project, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization is warranted prior to initiating ground-disturbing activities to comply with CESA. Take authorization would occur through issuance of an Incidental Take Permit (ITP) by CDFW, pursuant to Fish and Game section 2081 subdivision (b).

The DEIR states multiple times that the Project area is not near a positive sighting of CBB according to the CNDDDB. CDFW notes that the CNDDDB is populated by and records voluntary submissions of species detections. As a result, species, such as the CBB, may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record in the CNDDDB does not mean a species is not present.

Comment 2: Oak Trees (*Quercus lobata*, *Quercus agrifolia*, *Quercus chrysolepis*, and *Quercus douglasii*)

The Project proposes the removal of up to 54 native oak trees. CDFW recommends mitigating for the removal of heritage oaks, which are classified in San Luis Obispo County as, "Individual oak species of 48 inches dbh or greater, separated from all Stands and Oak Woodlands by at least 500 feet" (County of San Luis Obispo Department of Planning and building 2017) using a mitigation ratio of 10:1; for every one heritage oak tree removed, 10 will be planted. Native tree species such as valley oak, coast live oak, canyon live oak, and blue oak provide foraging habitat, food sources, and nesting habitat for bird and mammal species. Mitigating the loss of mature native tree species is important to offset cumulative impacts from small incremental losses of native vegetation. The removal of the oaks will result in not only direct and indirect impacts to wildlife resources but also cumulative impacts as many other biological species depend on mature oaks for food and shelter. Large, acorn-bearing oak trees are a critical source of food for wintering deer and other wildlife, including migratory and resident birds.

The Project proposes that replacement trees, for trees removed from Project site, will be seasonally maintained (browse protection, weed reduction, and irrigation, as needed) and monitored annually for at least seven years after initial planting by an arborist. CDFW recommends creating a supplemental watering plan for the replacement trees alongside the monitoring plan, and that the young trees are watered for a minimum of two, but no more than three years to increase the likelihood of survival. CDFW recommends that success criteria for oak mitigation include a requirement that trees survive for a minimum of three

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years without supplemental water to ensure recruitment and success of the mitigation plantings.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, section 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link:

<https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

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 in order for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, section 753.5; Fish & G. Code, section 711.4; Pub. Resources Code, section 21089.)

CONCLUSION

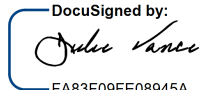
CDFW appreciates the opportunity to comment on the DEIR to assist the City of Paso Robles in identifying and mitigating Project impacts on biological resources.

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Please see the enclosed Mitigation Monitoring and Reporting Program (MMRP) table which corresponds with recommended mitigation measures in this comment letter.

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Questions regarding this letter or further coordination should be directed to Evelyn Barajas-Perez, Environmental Scientist at (805) 503-5738 or evelyn.barajas-perez@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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REFERENCES

- California Department of Fish and Wildlife (CDFW). 2023. Survey Considerations for California Endangered Species Act (CESA Candidate Bumble Bee Species, (available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>).
- County of San Luis Obispo Department of Planning and building. 2017. Oak Woodland Ordinance Fact Sheet.
(available at [Oak-Woodland-Ordinance-Fact-Sheet.pdf \(ca.gov\)](#))

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Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)**

PROJECT: The Landing Paso Robles

SCH No.: 2021050487

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation measure: Crotch Bumble	
Crotch Bumble Bee Surveys	