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Via Electronic Mail Only

Governor's Office of Planning & Research

June 10, 2022

Jun 10 2022

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STATE CLEARINGHOUSE

Subject: Subsequent Environmental Impact Report for the City of Agoura Hills General Plan Update, SCH #2021090588, City of Agoura Hills, Los Angeles County

Dear Ms. Cleavenger:

The California Department of Fish and Wildlife (CDFW) has reviewed a Subsequent Environmental Impact Report (Subsequent EIR) from the City of Agoura Hills (City) for the City of Agoura Hills General Plan Update (Project). CDFW appreciates the opportunity to provide comments regarding aspects of the Project that could affect fish and wildlife resources and be subject to CDFW's 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.

Project Description and Summary

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Objective: The Project would adopt the City of Agoura Hills General Plan Update, which includes the 2021-2029 Housing Element, and related updates to the Community Conservation and Development, Community Safety, Infrastructure and Community Services, and Natural Resources Elements. In addition, the Project would adopt land use and zoning regulations (Agoura Hills Zoning Code and Specific Plan amendments) and the corresponding amendments to the Zoning Map to create and implement the Affordable Housing Overlay District.

The major objectives for the proposed Project are to:

- Update the Housing Element to accommodate the City's 6th Cycle Regional Housing Needs Assessment allocation by identifying housing opportunity sites that meet all statutory requirements and follow State guidelines;
- Prepare a Housing Element Update that ensures adequate site capacity that creates a buffer above the City's Regional Housing Needs Assessment allocation;
- Prepare a Housing Element Update that promotes the development of new housing for all income levels in a manner that minimizes impacts to the City's small-town ambience, maintains the character of existing residential neighborhoods, and ensures development is in harmony with surrounding land uses;
- Update other Elements of the General Plan to meet State legal requirements and align with the Housing Element Update;
- Prepare a Housing Element Update and other General Plan Elements that continue to support the City as a safe and vibrant place to work, live, play, and visit. This includes providing services to match the community's needs, promoting community engagement, and promoting economic viability and thriving town centers, consistent with the needs of the community; and
- Prepare a Housing Element Update and update other General Plan Elements that protect the environment and promote environmental sustainability.

Location: The City is located in the foothills of the Santa Monica Mountains in the Conejo Valley on the western edge of Los Angeles County. The City encompasses nearly seven square miles and straddles the Ventura Freeway. Generally, the City is bordered by Westlake Village to the west, Thousand Oaks to the northwest, Ventura County to the north, Calabasas and unincorporated areas of Los Angeles County to the east, and unincorporated areas of Los Angeles County to the south.

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. Editorial comments or other suggestions are also included to improve the environmental document. CDFW recommends the measures or revisions 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 (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

Specific Comments

Comment #1: Impacts on Biological Resources

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Issue: Development facilitated by the Project could impact biological resources.

Specific impacts: The City has identified 20 sites (Sites A through T) that are most viable and suitable for development within the eight-year planning period of the 2021-2029 Housing Element. Direct and indirect impacts on biological resources could result from development on the Housing Element sites that the Project has identified. Impacts on biological resources could result in reproductive suppression, mortality or injury to wildlife, or population decline of a special status, sensitive, or rare species or natural community.

Why impacts would occur: According to the Supplemental EIR, out of the 20 Housing Element sites that the Project has identified, Sites A, B, C, E, I, S, D, F, H, M, and R are vacant sites. “Development on these sites as proposed in the GPU [General Plan Update], would require removal of habitat and construction of residential uses and site lighting. Development on these sites could result in habitat modification and impacts to special status species during development and operation.” Development facilitated by the Project could impact biological resources, both directly or indirectly through habitat modification or loss. Biological resources that could be impacted by the Project includes special status, sensitive, or rare species or natural communities. These include (but are not limited to) the following (Table 1):

Table 1. Plants, wildlife, and sensitive natural communities that occur or could occur within the City and on developable Housing Sites identified by the Project.

Scientific Name	Common Name	California Rare Plant Rank	ESA ¹ Status	CESA Status
Plants				
<i>Calochortus catalinae</i>	Catalina mariposa	4.2		
<i>Dudleya cymosa</i> ssp. <i>agourensis</i>	canyon liveforever	1B.2		
<i>Juglans californica</i>	California walnut	4.2		
<i>Pentachaeta lyonii</i>	Lyon's <i>pentachaeta</i>	1B.1	Endangered	Endangered
<i>Navarretia ojaiensis</i>	Ojai navarretia	1B.1		
<i>Phacelia hubbyi</i>	Hubby's phacelia	4.2		
<i>Romneya coulteri</i>	Coulter's matilija poppy	4.2		
Wildlife				
<i>Vireo bellii pusillus</i>	least Bell's vireo		Endangered	Endangered
<i>Empidonax traillii extimus</i>	southwestern willow flycatcher		Endangered	Endangered
Sensitive Natural Communities				
Alliance Name (Scientific) ²	Alliance Name (Common)	State Rarity		
<i>Juglans californica</i> Woodland Alliance	California walnut groves	S3.2		
<i>Quercus agrifolia</i> Forest and Woodland Alliance	Southern coast live oak riparian forest	S4		
<i>Quercus lobata</i> Woodland Alliance	Valley oak woodland and forest	S3		
<i>Nassella</i> spp. - <i>Melica</i> spp. Herbaceous Alliance	Needle grass-Melic grass grassland	S3/S4		
<i>Platanus racemosa</i> - <i>Quercus agrifolia</i> Woodland Alliance	California sycamore - coast live oak riparian woodlands	S3		

Notes:

¹: Endangered Species Act

²: Names according to the Manual of California Vegetation

The Subsequent EIR concludes that the Project's impact on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW and/or U.S. Fish and Wildlife Service (USFWS) is less than significant through implementation of the General Plan's goals and policies and compliance with relevant local, state, and federal regulations. The General Plan's Natural Resources Elements 1.1 through 1.4, 4.1 through 4.13, 6.1, 6.4, and 6.8 are goals and policies that do not prescribe, require, or impose specific actions that would substantially mitigate for impacts on candidate, sensitive, or special status species at a project level. The Subsequent EIR does not require future development facilitated by the Project to undertake any measures to mitigate for impacts on

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candidate, sensitive, or special status species. As a result, the Project, by identifying developable sites over the next eight years, could result in unmitigated impacts.

Evidence impact would be significant: The Project has identified vacant sites within the City that could be developed through 2029. The Project could result in direct physical changes to the environment and impact special status, sensitive, or rare plant or wildlife species or natural communities. Impacts on CESA- and ESA-listed species requires a mandatory finding of significance under CEQA (CEQA Guidelines, § 15065). Take under ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Plants with a California Rare Plant Rank (CRPR) of 1B meets the definition of endangered, rare, or threatened species under CEQA (CEQA Guidelines, §15380; CNPS 2022a). Plants with a CRPR of 4 may meet the definition of endangered, rare, or threatened species. Impacts on rare plants could require a mandatory finding of significance. CDFW considers Sensitive Natural Communities as threatened habitats having both regional and local significance. Natural communities, alliances, and associations with a State-wide rarity ranking of S1, S2, and S3 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by visiting the [Vegetation Classification and Mapping Program - Natural Communities](#) webpage (CDFW 2022a). Impacts on sensitive natural communities could require a mandatory finding of significance.

Development facilitated by the Project could substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; or substantially reduce the number or restrict the range of an endangered, rare, or threatened species [CEQA Guidelines, § 150565(a)(1)]. Without appropriate mitigation, the Project continues to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on species identified as a candidate, sensitive, or special status species, or a Sensitive Natural Community, in local or regional plans, policies, or regulations, or by CDFW and/or USFWS.

Recommended Potentially Feasible Mitigation Measure(s) Required for Future Projects Facilitated by the General Plan Update:

Mitigation Measure #1: Future development projects on Housing Element sites should conduct the appropriate biological resources technical studies as part of project-level analyses, including baseline surveys, protocol-level surveys, tree inventories to confirm the presence of any special status species within or immediate adjacent to proposed impact areas. Focused species-specific surveys should be required if suitable habitat is present and performed according to established CDFW and/or USFWS protocols. Reports should be prepared that should document baseline conditions at the time of project application, identify constraints, recommend project redesign, analyze potential effects, and propose mitigation measures that reduce potential impacts to less than significant levels. Biological resources technical studies should provide and include the following:

- 1) A complete, recent, assessment of rare, threatened, and endangered species, regionally and locally unique species, and sensitive habitats at the project 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,

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- or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of land around the project site should also be addressed. A nine-quadrangle search of CDFW's [California Natural Diversity Database](#) (CNDDDB) should be conducted to obtain current information on any previously reported sensitive species and habitat (CDFW 2022b);
- 2) 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;
 - 3) Floristic, alliance- and/or association-based mapping and vegetation impact assessments conducted at the project site and within the area of potential effect. The [Manual of California Vegetation](#) (MCV), second edition, should be used to inform this mapping and assessment (Sawyer et al. 2009);
 - 4) A rare plant assessment using online databases for rare, threatened, and endangered plants, including the California Native Plant Society (CNPS) [Online Inventory of Rare and Endangered Plants of California](#) (CNPS 2022b) as well as the Calflora's [Information on Wild California Plants](#) database (Calflora 2022);
 - 5) A discussion regarding project-related indirect impacts on biological 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 (Fish & G. Code, § 2800 et. seq.)]; and,
 - 6) Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in areas adjacent to the project site.

Mitigation Measure #2: If necessary, the project applicants should be required to enter into consultation with, and obtain the appropriate permits from, the USFWS and/or CDFW for unavoidable impacts to special status species and other protected resources. Appropriate permits from the USFWS and/or CDFW should be obtained prior to obtaining a grading permit.

Mitigation Measure #3: If a rare plant species or a Sensitive Natural Community is detected, the project applicant should fully avoid impacts. If the project cannot feasibly avoid impacts to rare plants and habitat, or sensitive natural communities, either during project activities or over the life of the project, the project applicant should provide compensatory mitigation for the loss of individual plants and habitat acres, which should include impacts due to fuel modification. Impacts on rare plants or a Sensitive Natural Community due hazard mitigation/remediation should also be mitigated as these impacts would result in permanent loss and perpetual impacts on habitat function and quality. The project applicant should provide compensatory mitigation so that there is no net loss of rare plants and habitat, or sensitive natural communities. Compensatory mitigation should be appropriate for the extent of permanently disturbed habitat. Compensatory mitigation should be higher for impacts on CRPR 1 species, S1 or S2 Sensitive Natural Community, and Sensitive Natural Community with an additional rank of 0.1 or 0.2. Compensatory mitigation should be implemented by a qualified restoration ecologist. A Restoration Plan, at a minimum, should include success criteria and performance standards for measuring the establishment of rare plants and habitat, responsible parties, maintenance techniques and schedule, five-year monitoring and reporting schedule, adaptive management strategies, and contingencies. A Restoration Plan should be submitted to the City prior to any grading or vegetation removal.

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Recommendation #1: CDFW considers adverse impacts to a species protected by CESA to be significant without mitigation under CEQA. As to CESA, take of any endangered, threatened, candidate species that results from a project is prohibited, except as authorized by State law (Fish & G. Code, §§ 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). Consequently, if a project, project construction, or any project-related activity for the duration of the project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, CDFW recommends the project applicant seek appropriate take authorization under CESA prior to implementing or continuing the project. Appropriate authorization from CDFW may include an Incidental Take Permit (ITP) or a Consistency Determination in certain circumstances, among other options [Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to a project and mitigation measures may be required to obtain a CESA Permit. Revisions to the Fish and Game Code, effective January 1998, may require that CDFW issue a separate CEQA document for the issuance of an ITP unless the project's CEQA document addresses all project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.

Comment #2: Impacts on Streams and Associated Natural Communities

Issue: Development facilitated by the Project could impact streams and associated natural communities.

Specific impacts: Development on the Housing Element sites may result in erosion and earth movement that could impair streams, whether ephemeral, intermittent, or perennial. Development on the Housing Element sites may necessitate streams to be channelized or diverted from their natural course of flow. In addition, vegetation along streams may need to be removed or may be degraded through habitat modification (e.g., loss of water source, encroachment, and edge effects leading to introduction of non-native plants).

Why impacts would occur: According to the Supplemental EIR, Medea Creek is located on Site A and Lindero Canyon Creek located on Site B. "Medea Creek also borders the west side of Sites Q and P, and the west and south sides of Site O as a concrete flood control channel." Development on Sites A and B could affect riparian habitat during project construction and operation. Development on these and potentially additional Housing Element sites would result in ground-disturbing activities and vegetation removal. This includes ground-disturbing activities and vegetation removal potentially required for fuel modification and hazard mitigation/remediation. Ground-disturbing activities and vegetation removal could result in erosion. Siltation or runoff downstream could impair streams and herbaceous vegetation. Herbaceous vegetation adjacent to streams protects the physical and ecological integrity of these water features and maintains natural sedimentation processes. Therefore, housing projects that would impact vegetation adjacent to streams, but not the stream itself, could still impact the stream. In addition, housing projects may require streams to be channelized or diverted from their natural course of flow.

The Subsequent EIR concludes that the Project's impact on any riparian habitat or other sensitive natural community is less than significant through implementation of the General Plan's goals and policies and compliance with relevant local, state, and federal regulations. The

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General Plan's Natural Resources Elements 1.2, 1.3, 4.1, 4.11, 6.1, 6.4, and 6.8 are goals and policies that do not prescribe, require, or impose specific actions that would substantially mitigate for impacts on streams and associated natural communities. The Subsequent EIR does not require future development facilitated by the Project to undertake any measures to mitigate for impacts on streams and associated natural communities. As a result, the Project, by identifying developable sites over the next eight years, could result in unmitigated impacts.

Evidence impacts would be significant:

CDFW exercises its regulatory authority as provided by Fish and Game Code section 1600 et seq. to conserve fish and wildlife resources which includes rivers, streams, or lakes and associated natural communities. Fish and Game Code section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

- Divert or obstruct the natural flow of any river, stream, or lake¹;
- Change the bed, channel, or bank of any river, stream, or lake;
- Use material from any river, stream, or lake; or,
- Deposit or dispose of material into any river, stream, or lake.

CDFW requires a Lake and Streambed Alteration (LSA) Agreement when a project activity may substantially adversely affect fish and wildlife resources. The Project may result in significant impacts on streams and associated natural communities if development on Housing Element sites identified by the Project would be in close proximity to these resources. Without appropriate mitigation, the Project continues to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on fish and wildlife resources, including rivers, streams, or lakes and associated natural communities identified by CDFW.

Recommended Potentially Feasible Mitigation Measure(s) Required for Future Projects Facilitated by the General Plan Update:

Mitigation Measure #4: Project specific analyses should prepare a jurisdictional delineation² and impact assessment provided along with the project's biological resources technical studies.

Mitigation Measure #5: If any river, stream, or lake are present and may be impacted, the project should be required to avoid impacts by implementing appropriate vegetative buffers and/or setbacks adjoining the stream or wetland feature to reduce impacts of the project on these resources.

Mitigation Measure #6: If avoidance is not feasible, the project applicant should be required to notify CDFW pursuant to Fish and Game Code 1602 and obtain an LSA Agreement from CDFW prior to obtaining a grading permit. The project applicant should comply with the mitigation

¹ "Any river, stream, or lake" includes those that are dry for periods of time (ephemeral/episodic) as well as those that flow year-round (perennial). This includes ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a water body.

² Be advised that some wetland and riparian habitats subject to CDFW's authority may extend beyond the jurisdictional limits of the U.S. Army Corps of Engineers' Section 404 permit and Regional Water Quality Control Board Section 401 Certification.

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measures detailed in a LSA Agreement issued by CDFW. The project applicant should also provide compensatory mitigation at no less than 2:1 for the impacted stream and associated natural community, or at a ratio acceptable to CDFW.

Please visit CDFW's [Lake and Streambed Alteration Program](#) webpage for more information (CDFW 2022c).

Recommendation #2: CDFW's issuance of an LSA Agreement 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 from the lead agency/project applicant for the project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, a project's 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 Agreement. To compensate for any on- and off-site impacts to aquatic and riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures; avoidance of resources; protective measures for downstream resources; on- and/or off-site habitat creation; enhancement or restoration; and/or protection and management of mitigation lands in perpetuity.

Comment #3: Impacts on Oak Shrublands and Woodlands

Issue: Development facilitated by the Project could impact oak shrublands and woodlands.

Specific impact: Development on the Housing Element sites may result in loss of individual oak trees (*Quercus* genus) as well as acres of oak shrublands and woodlands.

Why impacts would occur: According to the Subsequent EIR, "Development on Sites A, B, C, E, I, S, D, F, H, M, and R would occur on currently vacant sites. These sites are comprised of mostly open space and are dominated by non-native annual grassland interspersed with some native species, such as coast live oak, valley oak, scrub oak and elderberry." Development on these and potentially additional Housing Element sites could result in the loss of individual trees and acres of oak shrublands and woodlands. Impacts on oak trees, oak shrublands, and oak woodlands could occur as a result of clearing a project site for development, which includes fuel modification areas surrounding the potential development. Even if individual trees are not removed as part of fuel modification, removal and disturbance of the understory vegetation would result in the complete loss, degradation, or disturbance of a structurally diverse oak shrubland or woodland.

The Subsequent EIR concludes that the Project's impact on oak trees is less than significant through implementation and compliance with the City's Oak Tree Preservation Guidelines and Ordinance, as well as the General Plan's Natural Resources Elements 4.2 and 4.10. The City's Oak Tree Preservation Guidelines and Ordinance applies to individual trees, not the habitat or natural community as a whole. The General Plan's Natural Resources Elements 4.2 and 4.10 do not prescribe, require, or impose specific actions that would substantially mitigate for impacts on a natural community that CDFW considers to be a Sensitive Natural Community. The Subsequent EIR does not require any future development facilitated by the Project to undertake measures to mitigate for impacts on oaks as a natural community. As a result, the Project, by identifying developable sites over the next eight years, could result in unmitigated impacts.

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Loss of woodlands supporting foraging, nesting, and dispersing wildlife may not be completely mitigated by planting individual trees. Individual trees may not completely replace the loss of viable habitat, understory vegetation, mycorrhizal fungi, and biological functions. Oak leaf litter contains beneficial mycorrhizae, microorganisms, and nutrients. Lastly, there is a longer establishment period for oak trees and higher risk of failure especially during periods of drought, which results in prolonged temporal loss of habitat. The Project, by identifying developable Housing Sites where there are oak shrublands and woodlands, could result in a short-term and long-term reduction in oak shrublands and woodlands available to support biological and ecological functions. Even if replacement oak trees survive transplanting, oak tree saplings could remain small and shrubby for many years. It may take 20 to 40 years, potentially longer under drought conditions, for replacement oak trees to reach maturity and restore the habitat, structure, foliage, and canopy lost. As such, wildlife such as birds may be unable to nest in planted oak trees and shrubs until they mature. This could result in local extirpation of wildlife.

Evidence impacts would be significant: Oak woodlands have higher levels of biodiversity than any other terrestrial ecosystem in California. Over 330 species of birds, mammals, reptiles, and amphibians depend on oak woodlands in California at some stage in their life cycle (CalPIF 2002). Oak trees provide nesting and perching habitat for approximately 170 species of birds. Large oak trees in oak woodland habitats are important for cover, nesting sites for cup nesting species and cavity nesting species, as well as caching sites for birds storing acorns (CalPIF 2002). Oak woodlands also serve several important ecological functions important within an ecosystem such as protecting soils from erosion and land sliding, regulating water flow in watersheds, and maintaining water quality in streams and rivers.

CDFW considers oak woodlands to be a sensitive plant community. Oak trees and woodlands are protected by the Oak Woodlands Conservation Act (pursuant under Fish and Game Code sections 1360-1372) and Public Resources Code section 21083.4 due to the historic and on-going loss of these resources. Moreover, [CDFW's Areas of Conservation Emphasis - Significant Habitats](#) dataset includes oak woodlands as a Terrestrial Significant Habitat based on its priority for conservation and acquisition planning for some counties, local jurisdictions, and the Wildlife Conservation Board (CDFW 2019).

Impacts to a Sensitive Natural Community should be considered significant under CEQA unless impacts are clearly mitigated below a level of significance. Without appropriate mitigation, the Project may result in significant impacts on a Sensitive Natural Community if development facilitated by the Project would remove, encroach into, or disturb (e.g., fuel modification) such resources. Accordingly, the Project continues to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on a species or natural community identified as a candidate, sensitive, or special status species by CDFW.

Recommended Potentially Feasible Mitigation Measure(s) Required for Future Projects Facilitated by the General Plan Update:

Mitigation Measure #7: Where a development project results in the loss of oak shrublands/woodlands, the Project Applicant should offset the loss by no less than 2:1 of the total acreage of shrublands/woodlands lost. The number of replacement trees and shrublands/woodlands acres should be higher if a project impacts large oak trees; impact an oak shrublands/woodlands supporting rare, sensitive, or special status plants and wildlife;

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impact an oak woodland adjacent to a watercourse; or impact an oak shrublands/woodlands with a State Rarity Ranking of S1, S2, or S3, or additional ranking of 0.1 or 0.2.

Mitigation Measure #8: The project should be required to provide an Oak Woodland Restoration Plan prior to obtaining an oak tree permit. Restoration should recreate functioning shrubland and/or woodland of similar composition, structure, and function to natural communities impacted. Mitigation should include restoration of structurally diverse understory vegetation species (i.e., grass, forb, shrub, subshrub, vine) occurring in the impacted natural communities. Acorns and/or seedlings should originate from plants/trees of the same species (i.e., genus, species, subspecies, and variety) as the species impacted. An Oak Woodland Restoration Plan should prescribe the following:

- 1) Species-specific planting methods;
- 2) Planting schedule;
- 3) Measures to control exotic vegetation and protection from herbivory;
- 4) Measurable goals and success criteria for establishing self-sustaining populations (e.g., percent survival rate, absolute cover). Measurable success criteria should be based on site/habitat conditions prior to impact and/or functional local native oak shrublands/woodlands as reference sites;
- 5) Contingency measures if the success criteria is not met;
- 6) Long-term monitoring for at least 10 years, with a minimum of seven years without supplemental irrigation;
- 7) Adaptive management techniques, including replacement plants if necessary; and
- 8) Annual reporting criteria and requirements.

Mitigation Measure #9: Where a development project results in the loss of oak woodlands, the Project Applicant should remove oak tree in phases to the maximum extent feasible. A phased removal plan should be provided as a condition of obtaining an oak tree permit. Removing trees in phases minimizes impacts resulting from the temporal loss of oak trees and to provide structurally diverse oak woodlands while any on or off-site site mitigation for impacts to oak woodlands occurs.

Comment #4: Impacts on Nesting Birds

Issue: Development facilitated by the Project could impact nesting birds and raptors directly or through habitat loss and modification.

Specific impacts: Development on the Housing Sites during the nesting bird season could cause nesting birds to abandon their nests and a decrease in feeding frequency. This could result in loss of fertile eggs and nestlings. In addition, development on the Housing Sites identified by the Project could result in loss of nesting habitat or degrade habitat quality and function in areas adjacent to a project.

Why impacts would occur: According to the Subsequent EIR, "Sites G, J, K, L, N, O, P, Q and T are developed with commercial uses and ornamental trees. Development on Sites A, B, C, E, I, S, D, F, H, M, and R would occur on currently vacant sites. These sites are comprised of mostly open space and are dominated by non-native annual grassland interspersed with some native species, such as coast live oak, valley oak, scrub oak and elderberry." Trees in all developable sites identified by the Project could provide suitable nesting habitat for birds and

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raptors. Oak woodlands have higher levels of biodiversity than any other terrestrial ecosystem in California. Over 330 species of birds, mammals, reptiles, and amphibians depend on oak woodlands in California at some stage in their life cycle (CalPIF 2002). Large oak trees in oak woodland habitats are important for cover, nesting sites for cup nesting species and cavity nesting species, as well as caching sites for birds storing acorns (CalPIF 2002). Nesting birds and raptors could be impacted where a development project would occur within or adjacent to suitable habitat. Construction would create elevated levels of noise, human activity, dust, ground vibrations, and vegetation disturbance. These activities occurring near potential nests could cause birds to abandon their nests and a decrease in feeding frequency, both resulting in the loss of fertile eggs or nestlings. Accordingly, nesting birds and raptors would be impacted. In addition, a development project would require grading and vegetation removal within the project site and adjacent areas for fuel modification. Accordingly, development may result in permanent loss of nesting habitat. The quality and function of nesting habitat in areas adjacent to a project site could also be permanently impacted by project-facilitated edge effects such as ambient nighttime lighting and spread of invasive, non-native species.

The Subsequent EIR concludes that the Project's impact on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW and/or USFWS is less than significant through implementation of the General Plan's goals and policies and compliance with relevant local, state, and federal regulations. The General Plan's Natural Resources Elements 1.1 through 1.4, 4.1 through 4.13, 6.1, 6.4, and 6.8 are goals and policies that do not prescribe, require, or impose specific actions that would substantially mitigate for impacts on nesting birds and raptors. The Subsequent EIR does not require any future development facilitated by the Project to undertake mitigation measures to mitigate for impacts on nesting birds and raptors. As a result, the Project, by identifying developable sites over the next eight years, could result in unmitigated impacts.

Evidence impact would be significant: Nests of all birds and raptors are protected under State laws and regulations, including Fish and Game Code, sections 3503 and 3503.5. Fish and Game Code section 3503 states, "It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird." Fish and Game code section 3503.5 prohibits the take, possession, or destruction of birds-of-prey and their nests or eggs. Also, take or possession of migratory nongame birds designated in the Federal Migratory Bird Treaty Act of 1918 is prohibited under Fish and Game Code section 3513. Without appropriate mitigation, development facilitated by the Project could substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; or substantially reduce the number or restrict the range of an endangered, rare, or threatened species [CEQA Guidelines, § 150565(a)(1)]. Accordingly, the Project continues to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on species identified as a candidate, sensitive, or special-status species, or a Sensitive Natural Community, in local or regional plans, policies, or regulations, or by CDFW and/or USFWS.

Recommended Potentially Feasible Mitigation Measure(s) Required for Future Projects Facilitated by the General Plan Update:

Mitigation Measure #10: Future development projects requiring vegetation disturbance and/or removal, and/or are adjacent to suitable nesting habitat should be required to avoid impacts on

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nesting birds by conducting all project-related activities between September 1 through January 31, outside of the nesting bird season.

Mitigation Measure #11: If construction must occur during the bird nesting season, project applicants should be required to retain a qualified biologist to survey suitable nesting habitat for nesting birds on the project site and within 500 feet from the project site to the extent allowable and accessible. A qualified biologist should conduct a nesting bird survey no more than seven days prior to the beginning of any project-related physical activity, such as vegetation clearance, use, and transport of equipment, mobilization and construction likely to impact birds and raptors. If such project activity ceases for longer than seven days, additional surveys should be conducted prior to re-commencing the activity.

Mitigation Measure #12: If such species are identified, a no-disturbance buffer of 300 feet around active perching birds and songbirds should be implemented. A no-disturbance buffer of 500 feet around active non-listed as threatened or endangered raptor nests, and 0.5 mile around active listed birds should be implemented. Buffers should be maintained until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.

Mitigation Measure #13: Future development projects removing habitat for nesting birds should be required to restore or replace habitat. In-kind habitat should be provided on site if feasible to prevent temporal or permanent habitat loss. Projects should provide replacement habitat for both individual trees and habitat acres.

Comment #5: Impacts on Biological Resources Resulting From Projects Approved Ministerially Under the Affordable Housing Overlay

Issue: Development facilitated by the Project that would be approved ministerially under the Affordable Housing Overlay could still result in impacts on biological resources even with the required development standards.

Specific impacts: Development on the Housing Sites that would be approved ministerially under the Affordable Housing Overlay may still impact biological resources such as oak trees and riparian resources without adequate replacement or buffer/set back from those resources. Oaks that would be removed but not replaced would result in loss of oak trees and habitat. An insufficient setback from riparian resources may still result in impacts on streams and associate natural communities.

Why impacts would occur: According to the Subsequent EIR, projects proposed under the Affordable Housing Overlay would be approved ministerially. These projects would be required to implement six development standards to prevent impacts on biological resources. Two of those standards are:

- “If the project would remove oak trees, not more than 25 percent of the total estimated tree canopy or root structure of all protected oak trees on the project parcel(s) that have a combined total of 1-10 oak trees will be removed. Not more than 35 percent of the total estimated tree canopy or root structure of all protected oak trees on the project parcel(s) that have a combined total of 11 or more oak trees will be removed. Protected oak trees are defined in the City’s Oak Tree Ordinance and Guidelines.”

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- “The project will provide a 50-foot buffer from the edge of any wetland, riparian, or other sensitive natural community identified in a in a local or regional plan, policy or regulation, or by the California Department of Fish and Wildlife (CDFW) or United States Fish and Wildlife Service (USFWS), that will be maintained as natural open space. Only planting of native species and unpaved walking trails will be allowed within the buffer. As permitted by applicable state and federal regulatory agencies, storm drain outlets into creeks and other riparian drainages are allowed that meet City Best Management Practices (BMPs) for storm water and erosion control.”

As it is currently written, the development standard for oak trees would permit removal of oak trees but does not explicitly require oak trees to be replaced. Oaks that would be removed but not replaced would result in loss of oak trees and habitat. Regarding the development standard for buffers, a 50-foot buffer may be insufficient to substantially mitigate impacts on any wetland, riparian, or other sensitive natural community. It is unclear how a 50-foot buffer provides sufficient setback to minimize substantial impacts. An insufficient setback from riparian resources may still result in impacts on streams and associated natural communities as a result of edge effects such spread of non-native plants and pests (e.g., Argentine ants), fuel modification, and nighttime lighting. Edge effects can result in habitat type conversion (e.g., native to more non-native species) and reduce plant and wildlife species richness (Mitrovich et al. 2009).

Evidence impact would be significant: Projects under the Affordable Housing Overlay that would be approved ministerially may result in significant impacts on streams and associated natural communities if development would be in close proximity to these resources. Without sufficient mitigation, the Project continues to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on fish and wildlife resources, including rivers, streams, or lakes and associated natural communities identified by CDFW. In addition, ministerially approved projects may result in loss of trees and vegetation in a natural community that CDFW considers to be a Sensitive Natural Community. Without sufficient mitigation, the Project continues to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on a species or natural community identified as a candidate, sensitive, or special status species by CDFW.

Recommended Potentially Feasible Mitigation Measure(s) Required of Future Projects Facilitated by the General Plan Update:

Recommendation #3: The Project’s CEQA document should explain how a 50-foot buffer provides sufficient setback to minimize substantial impacts on any wetland, riparian, or other sensitive natural community.

Recommendation #4: CDFW recommends the City include a requirement for oak tree and habitat replacement in development standard #2.

Additional Recommendations

Recommendation #5: Data - CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., CNDDDB] which may be used to make subsequent or supplemental environmental determinations [Pub.

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Resources Code, § 21003, subd. (e)]. Information on special status species should be submitted to the CNDDDB by completing and submitting [CNDDDB Field Survey Forms](#) (CDFW 2022d). Information on special status native plant populations and sensitive natural communities, the [Combined Rapid Assessment and Relevé Form](#) should be completed and submitted to CDFW's Vegetation Classification and Mapping Program (CDFW 2022e).

Recommendation #6: Mitigation and Monitoring Reporting Plan - CDFW recommends the City provide Biological Resources Mitigation Measures for the Project and condition the Project's environmental document to include mitigation measures recommended in this letter. CDFW provides comments to assist the City in developing mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear 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). The City is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided the City with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation Monitoring and Reporting Plan (MMRP) (Attachment A).

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 City of Agoura Hills 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 & G. Code, § 711.4; Pub. Resources Code, § 21089).

Conclusion

We appreciate the opportunity to comment on the Project to assist the City of Agoura Hills in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City of Agoura Hills 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 Ruby Kwan-Davis, Senior Environmental Scientist (Specialist), at Ruby.Kwan-Davis@wildlife.ca.gov or (562) 619-2230.

Sincerely,

DocuSigned by:



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For Erin Wilson-Olgin
Environmental Program Manager I
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CHARLTON H. BONHAM, Director



Attachment A: Draft Mitigation and Monitoring Reporting Plan

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		Timing	Responsible Party
REC-1- California Endangered Species Act take authorization	If a project, project construction, or any project-related activity for the duration of the project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, the project applicant should seek appropriate take authorization under CESA prior to implementing or continuing the project. Early consultation is encouraged, as significant modification to a project and mitigation measures may be required to obtain a CESA Permit. The project's CEQA document should address all project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. Biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.	Prior to implementing/ continuing the project	Applicants of development on Housing Element sites
REC-2-Lake and Streambed Alteration (LSA) Agreement	To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, a project's 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 an LSA Agreement.	Prior to finalizing the Project's CEQA document/ project-level CEQA documents	City of Agoura Hills (City)/ Applicants of development on Housing Element sites
REC-3-Potential Impacts on Streams-50-foot buffer	The Project's CEQA document should explain how a 50-foot buffer provides sufficient setback to minimize substantial impacts on any wetland, riparian, or other sensitive natural community.	Prior to finalizing the Project's	City

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		CEQA document	
REC-4- Ministerial Projects-Oak Tree Replacement	The City should include a requirement for oak tree and habitat replacement in development standard #2.	Prior to finalizing the Project's CEQA document	City
REC-5- Submitting Data for Sensitive and Special Status Species and Natural Communities	Information on special status species should be submitted to the CNDDDB by completing and submitting CNDDDB Field Survey Forms . Information on special status native plant populations and sensitive natural communities, the Combined Rapid Assessment and Relevé Form should be completed and submitted to CDFW's Vegetation Classification and Mapping Program.	Prior to finalizing future project-level CEQA documents	Applicants of development on Housing Element sites
REC-6- Mitigation and Monitoring Reporting Plan	The City should provide Biological Resources Mitigation Measures for the Project and condition the environmental document to include mitigation measures recommended in this letter.	Prior to finalizing the Project's CEQA document	City
MM-BIO-1 Impacts on Biological Resources – Biological Resources Technical Studies	<p>Future development projects on Housing Element sites shall conduct the appropriate biological resources technical studies as part of project-level analyses, including baseline surveys, protocol-level surveys, tree inventories to confirm the presence of any special status species within or immediate adjacent to proposed impact areas. Focused species-specific surveys shall be required if suitable habitat is present and performed according to established CDFW and/or USFWS protocols. Reports shall be prepared that shall document baseline conditions at the time of project application, identify constraints, recommend project redesign, analyze potential effects, and propose mitigation measures that reduce potential impacts to less than significant levels. Biological resources technical studies shall provide and include the following:</p> <p>1) A complete, recent, assessment of rare, threatened, and</p>	Preparation of project-specific CEQA document	Applicants of development on Housing Element sites

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	<p>endangered species, regionally and locally unique species, and sensitive habitats at the project site and within the area of potential effect, including California Species of Special Concern and California Fully Protected Species. Species to be addressed shall include all those which meet the CEQA definition of endangered, rare, or threatened species. Seasonal variations in use of land around the project site shall also be addressed. A nine-quadrangle search of CDFW's California Natural Diversity Database (CNDDDB) shall be conducted to obtain current information on any previously reported sensitive species and habitat;</p> <ol style="list-style-type: none">2) 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. Adjoining habitat areas shall be included where project construction and activities could lead to direct or indirect impacts off site;3) Floristic, alliance- and/or association-based mapping and vegetation impact assessments conducted at the project site and within the area of potential effect. The Manual of California Vegetation (MCV), second edition, shall be used to inform this mapping and assessment;4) A rare plant assessment using online databases for rare, threatened, and endangered plants, including the California Native Plant Society (CNPS) Online Inventory of Rare and Endangered Plants of California as well as the Calflora's Information on Wild California Plants database;5) A discussion regarding project-related indirect impacts on biological 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; and,		
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	<p>6) Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in areas adjacent to the project site.</p>		
<p>MM-BIO-2 Impacts on Biological Resources – Take of Listed Species</p>	<p>If necessary, the project applicants shall be required to enter into consultation with, and obtain the appropriate permits from, the USFWS and/or CDFW for unavoidable impacts to special status species and other protected resources. Appropriate permits from the USFWS and/or CDFW shall be obtained prior to obtaining a grading permit.</p>	<p>Prior to issuance of grading permit</p>	<p>Applicants of development on Housing Element sites</p>
<p>MM-BIO-3 Impacts on Biological Resources – Rare Plants & Sensitive Natural Communities</p>	<p>If a rare plant species or a Sensitive Natural Community is detected, the project applicant shall fully avoided impacts. If the project cannot feasibly avoid impacts to rare plants and habitat, or sensitive natural communities, either during project activities or over the life of the project, the project applicant shall provide compensatory mitigation for the loss of individual plants and habitat acres, which shall include impacts due to fuel modification.</p> <p>The project applicant shall provide compensatory mitigation so that there is no net loss of rare plants and habitat, or sensitive natural communities. Compensatory mitigation shall be appropriate for the extent of permanently disturbed habitat. Compensatory mitigation shall be higher for impacts on CRPR 1 species, S1 or S2 Sensitive Natural Community, and Sensitive Natural Community with an additional rank of 0.1 or 0.2.</p> <p>Compensatory mitigation shall be implemented by a qualified restoration ecologist. A Restoration Plan, at a minimum, shall include success criteria and performance standards for measuring the establishment of rare plants and habitat, responsible parties, maintenance techniques and schedule, five-year monitoring and reporting schedule, adaptive management strategies, and contingencies. A Restoration Plan shall be submitted to the City prior to any grading or vegetation removal.</p>	<p>A Restoration Plan shall be submitted to the City prior to any grading or vegetation removal</p>	<p>Applicants of development on Housing Element sites</p>

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MM-BIO-4 Impacts on Streams and Associated Natural Communities – Jurisdictional Delineation	<p>Project specific analyses shall prepare a jurisdictional delineation and impact assessment provided along with the project’s biological resources technical studies.</p>	<p>Preparation of project-specific CEQA document</p>	<p>Applicants of development on Housing Element sites</p>
MM-BIO-5 Impacts on Streams and Associated Natural Communities – Buffers & Setbacks	<p>If any river, stream, or lake are present and may be impacted, the project shall be required to avoid impacts by implementing appropriate vegetative buffers and/or setbacks adjoining the stream or wetland feature to reduce impacts of the project on these resources.</p>	<p>Project design Preparation of project-specific CEQA document</p>	<p>Applicants of development on Housing Element sites</p>
MM-BIO-6 Impacts on Streams and Associated Natural Communities – Fish & Game Code 1602	<p>If avoidance is not feasible, the project applicant shall be required to notify CDFW pursuant to Fish and Game Code 1602 and obtain an LSA Agreement from CDFW prior to obtaining a grading permit. The project applicant shall comply with the mitigation measures detailed in a LSA Agreement issued by CDFW. The project applicant shall also provide compensatory mitigation at no less than 2:1 for the impacted stream and associated natural community, or at a ratio acceptable to CDFW.</p>	<p>Prior to issuance of grading permit</p>	<p>Applicants of development on Housing Element sites</p>
MM-BIO-7 Impacts on Oak Shrublands and Woodlands – Compensatory Mitigation	<p>Where a development project results in the loss of oak shrublands/woodlands, the Project Applicant shall offset the loss by no less than 2:1 of the total acreage of shrublands/woodlands lost. The number of replacement trees and shrublands/woodlands acres shall be higher if a project impacts large oak trees; impact an oak shrublands/woodlands supporting rare, sensitive, or special status plants and wildlife; impact an oak woodland adjacent to a watercourse; or impact an oak shrublands/woodlands with a State Rarity Ranking of S1, S2, or S3, or additional ranking of 0.1 or 0.2.</p>	<p>Prior to obtaining an oak tree permit</p>	<p>Applicants of development on Housing Element sites</p>

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<p>MM-BIO-8 Impacts on Oak Shrublands and Woodlands – Oak Woodland Restoration Plan</p>	<p>The project shall be required to provide an Oak Woodland Restoration Plan prior to obtaining an oak tree permit. Restoration shall recreate functioning shrubland and/or woodland of similar composition, structure, and function to natural communities that impacted. Mitigation shall include restoration of structurally diverse understory vegetation species (i.e., grass, forb, shrub, subshrub, vine) occurring in the impacted natural communities. Acorns and/or seedlings shall originate from plants/trees of the same species (i.e., genus, species, subspecies, and variety) as the species impacted. An Oak Woodland Restoration Plan shall prescribe the following:</p> <ol style="list-style-type: none"> 1) Species-specific planting methods; 2) Planting schedule; 3) Measures to control exotic vegetation and protection from herbivory; 4) Measurable goals and success criteria for establishing self-sustaining populations (e.g., percent survival rate, absolute cover) based on site/habitat conditions prior to impact and/or functional local native oak shrublands/woodlands as reference sites; 5) Contingency measures if the success criteria is not met; 6) Long-term monitoring for at least 10 years, with a minimum of seven years without supplemental irrigation; 7) Adaptive management techniques, including replacement plants if necessary; and 8) Annual reporting criteria and requirements. 	<p>Prior to obtaining an oak tree permit</p>	<p>Applicants of development on Housing Element sites</p>
<p>MM-BIO-9 Impacts on Oak Shrublands and Woodlands – Phased Removal</p>	<p>Where a development project results in the loss of oak woodlands, the Project Applicant shall remove oak tree in phases to the maximum extent feasible. A phased removal plan shall be provided as a condition of obtaining an oak tree permit.</p>	<p>Prior to obtaining an oak tree permit</p>	<p>Applicants of development on Housing Element sites</p>

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MM-BIO-10 Impacts on Nesting Birds – Avoiding Impacts	Future development projects requiring vegetation disturbance and/or removal, and/or are adjacent to suitable nesting habitat shall be required to avoid impacts on nesting birds by conducting all project-related activities between September 1 through January 31, outside of the nesting bird season.	Prior to any grading and vegetation removal	Applicants of development on Housing Element sites
MM-BIO-11 Impacts on Nesting Birds – Surveys & No-Disturbance Buffers	If construction must occur during the bird nesting season, project applicants shall be required to retain a qualified biologist to survey suitable nesting habitat for nesting birds on the project site and within 100 feet from the project site to the extent allowable and accessible. A qualified biologist shall conduct a nesting bird survey no more than seven days prior to the beginning of any project-related physical activity, such as vegetation clearance, use, and transport of equipment, mobilization and construction likely to impact birds and raptors. If such project activity ceases for longer than seven days, additional surveys shall be conducted prior to re-commencing the activity.	No more than seven days prior to the beginning of any project-related physical activity Repeat surveys if project activity ceases for longer than seven days during the bird nesting season	Applicants of development on Housing Element sites
MM-BIO-12 Impacts on Nesting Birds – No-Disturbance Buffers	If such species are identified, a no-disturbance buffer of 300 feet around active perching birds and songbirds shall be implemented. A no-disturbance buffer of 500 feet around active non-listed as threatened or endangered raptor nests, and 0.5 mile around active listed birds shall be implemented. Buffers shall be maintained until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival.	During project construction and activities	Applicants of development on Housing Element sites
MM-BIO-13 Impacts on Nesting Birds –	Future development projects removing habitat for nesting birds shall be required to restore or replace habitat. In-kind habitat should be provided on site if feasible to prevent temporal or	Prior to any grading and	Applicants of development on

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Replacement Habitat	permanent habitat loss. Projects shall provide replacement habitat for both individual trees and habitat acres.	vegetation removal During project construction	Housing Element sites
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