



State of California – Natural Resources Agency  
 DEPARTMENT OF FISH AND WILDLIFE  
 South Coast Region  
 3883 Ruffin Rd.  
 San Diego, CA 92123  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



December 20, 2021

[Governor's Office of Planning & Research](#)

Robert Garcia  
 City of Orange  
 300 East Chapman Avenue  
 Orange, CA 92866-1591  
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**Dec 20 2021**

## **STATE CLEARING HOUSE**

Dear Mr. Garcia:

**Subject: CHAPMAN YORBA VIII (PROJECT)  
 NOTICE OF PREPARATION (NOP) OF AN ENVIRONMENTAL IMPACT REPORT (EIR)  
 SCH# 2021110256**

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation of an Environmental Impact Report (EIR) from the City of Orange for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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 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, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (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 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. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory

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<sup>1</sup> 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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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.*), related authorization as provided by the Fish and Game Code will be required.

## PROJECT DESCRIPTION SUMMARY

**Proponent:** City of Orange (City)

**Objective:** The objective of the Project is to develop a 158-unit apartment senior housing project and 152,653 square-foot self-storage building specifically designed to meet the needs of senior citizens. Proposed buildings include four three-story residential apartment buildings and one three-story self-storage building with an additional basement level. Primary Project activities include removal of existing concrete, discarded rubble, and non-native vegetation as well as undergrounding utilities, landscaping, and construction of the new facilities.

**Location:** The Project site consists of 8.2 acres and is located in the southeastern portion of the City. It is situated with development on three sides: the four-story Saint Joseph Medical Group Building and Grijalva Park to the north, the five-story Chapman Medical Center and Memory Care Facility to the south, single-family homes to the east, and Chapman Avenue and a dog park to the south. Santiago Creek lies immediately west of the Project site. The northern portion of the site is zoned as Open Space and was designated as such to act as a holding designation pending a future development proposal. Additionally, a small portion in the southernmost section of the Project footprint is zoned as Commercial Limited Business (C-1).

**Biological Setting:** The Project site is adjacent to Santiago Creek, which beyond providing overall biological value to the watershed, also functions as a wildlife movement corridor. The vegetation on site is largely composed of non-native weeds, including thistles, mustard, and caster bean. Additionally, a few non-native Peruvian pepper trees are scattered on the site.

**Timeframe:** The timeframe for this Project is not specified.

## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City 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 document. Based on the potential for the Project to have a significant impact on biological resources, CDFW concludes that an Environmental Impact Report is appropriate for the Project.

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### **Comment #1: Wetland Permitting Obligations**

CDFW has regulatory authority over activities in streams that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of any river, stream, or lake or use material from a river, stream, or lake. For any such activities, the project applicant (or “entity”) must provide written notification to CDFW pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSAA) with the applicant is required prior to conducting the proposed activities. CDFW’s issuance of a LSAA for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency.

Figure 3 of the NOP labels “undisturbed slopes” along Santiago Creek directly adjacent to the proposed development. Details on how the slopes will remain undisturbed were not available for review. The EIR should include an analysis of the Project’s direct, indirect, and cumulative impacts on hydrologic features, including a discussion of impacts as they pertain to Fish and Game Code section 1600 *et seq.* If impacts to the bed, bank, or channel of a stream may occur, we encourage the City to consult further with CDFW regarding the possible submittal of a LSAA Notification package. A Notification package for a LSAA may be obtained by accessing CDFW’s web site at <http://www.wildlife.ca.gov/Conservation/LSA>.

### **Comment #2: Edge Effects**

Based upon the information provided in the NOP, development will occur up to the top of bank of Santiago Creek. CDFW recommends that the EIR analyze how changes in land use would be implemented. The analysis should include specific maintenance standards for the open space to avoid, minimize, or mitigate the new potential changes in extent, severity, and duration of adjacent land-use as well as habitat maintenance of the property (e.g., edge effects). Edge effects are defined as anthropogenic disturbances beyond urban boundaries into habitat and have negative impacts on sensitive biological resources in southern California. To avoid or minimize project-related edge effects to Santiago Creek, CDFW recommends the Project include a biological buffer, protective barriers (e.g., fencing), public notification (signage), and a project design that prevents open space fragmentation. CDFW also recommends that all structures are placed as far away from the riparian corridor as possible, preferably by 100 feet.

### **Comment #3: Trails and Recreation**

The Project proposes to improve and maintain a multipurpose trail from Yorba Street, along the bank of Santiago Creek, and connecting to Grijalva Park. The Project is also located just north of Orange Dog Park. CDFW recommends the EIR analyze impacts of increased foot traffic along the streambank and possible canine fecal contamination within Santiago Creek.

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#### **Comment #4: Light and Noise**

Currently, the Project site is undeveloped. Increased long-term lighting and construction lighting have the potential to affect foraging patterns/migration behaviors by disorienting species occurring in adjacent habitat areas. Potential adverse impacts from lighting, noise, human activity, construction, and post-construction should be analyzed and discussed. Specifically:

- a. the EIR should require that all permanent lighting is of the lowest illumination necessary for human safety, selectively placed, and shielded/directed away from Santiago Creek and adjacent areas; and,
- b. to avoid and minimize noise-related impacts to wildlife, the EIR should fully describe methods (i.e., barriers/walls, sound muffling devices on mechanized equipment, etc.) that will be implemented to attenuate project-related construction and operational noise levels in excess of ambient levels as measured at the edge of sensitive habitats.

#### **Comment #5: Landscape and Vegetation**

CDFW recommends the use of native plants and riparian vegetation in landscaping to discourage the spread of invasive species, increase streambank stability, and maintain the riparian zone. It will also provide additional benefits such as the attraction of native pollinators and reduced water consumption. Some planting recommendations for riparian and transitional habitat species are Fremont cottonwood (*Populus fremontii*), arroyo willow (*Salix lasiolepis*), California sycamore (*Platanus racemosa*), and coast live oak (*Quercus agrifolia*). The applicant should not plant, seed, or otherwise introduce invasive exotic plant species to landscaped areas. Therefore, it is recommended that appropriate native plants should be used to the greatest extent feasible in landscaped areas. In addition, we recommend that landscaping not contain plants that require extensive irrigation, fertilizers, or pesticides. We request that a planting palette be included in the EIR for public review.

#### **Comment #6: Stormwater Runoff**

Based on topography, surface runoff generated on the property appears to flow from the higher elevations within the northeastern portion, towards the lower elevations bordering Santiago Creek. CDFW is concerned about increased flow to Santiago Creek from urban runoff and stormwater impacts, as increased flow can cause sedimentation, scouring, soil erosion, and polluted runoff. In order to minimize this impact, CDFW recommends that the EIR analyze the efficacy of Low Impact Development (LID) options to minimize storm water impacts, including:

- a. site layout with regard to sensitive resources, including off-site native habitat;
- b. the use of pervious surfaces (crushed aggregate, turf block, unit pavers, pervious concrete and asphalt) as alternatives to impervious surfaces; and,

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c. structure roof spouts emptying over pervious surfaces.

If it is anticipated that runoff cannot be dispersed through LIDs, the EIR should consider directing runoff to facilities designed to detain and treat runoff, such as detention or bioretention basins. Storm water impacts should be explored throughout the Project footprint as well as to off-site native habitat.

## **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, § 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 filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## **ENVIRONMENTAL DOCUMENT FILING FEES**

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 environmental document filing fee is required in order 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**

CDFW appreciates the opportunity to comment on the NOP of an EIR to assist the City of Orange in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Alex Troeller, environmental scientist at (858)354-4299 or [Alex.Troeller@wildlife.ca.gov](mailto:Alex.Troeller@wildlife.ca.gov).

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Sincerely,

DocuSigned by:

David Mayer

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David Mayer

Environmental Program Manager

South Coast Region

cc: State Clearinghouse, Sacramento, [State.Clearinghouse@opr.ca.gov](mailto:State.Clearinghouse@opr.ca.gov)

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## REFERENCES

California Natural Diversity Database (CNDDDB). 2021. RareFind 5 [Internet]. California Department of Fish and Wildlife, Government Version.