



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



March 7, 2022

Ellen Yau  
City of Mountain View  
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Mountain View, CA 94039-7540  
[ellen.yau@mountainview.gov](mailto:ellen.yau@mountainview.gov)

Subject: City of Mountain View Housing Element Update, Notice of Preparation of a Draft Environmental Impact Report, SCH No. 2022020129, City of Mountain View, Santa Clara County

Dear Ellen Yau:

The California Department of Fish and Wildlife (CDFW) received the Notice of Preparation (NOP) of a Programmatic Draft Environmental Impact Report (PDEIR) from the City of Mountain View (City) for the City of Mountain View Housing Element Update (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 resources. 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 a Trustee Agency with responsibility under CEQA §15386 for commenting on projects that could impact fish, plant and wildlife resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as the California Endangered Species Act (CESA) Permit, the Native Plant Protection Act Permit, the Lake and Streambed Alteration (LSA) Agreement and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our jurisdiction, CDFW has the following concerns, comments, and recommendations regarding the Project.

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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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## PROJECT DESCRIPTION SUMMARY

**Proponent:** City of Mountain View (City)

**Objective:** The Project includes an update to the Housing Element of the City of Mountain View General Plan that would include rezoning and result in construction of additional housing.

**Location:** The City includes approximately 12.24 square miles and is located in northern Santa Clara County. The City borders include San Francisco Bay to the North, the City of Palo Alto to the West, the City of Los Altos to the South and Southwest, and Moffett Federal Airfield and the City of Sunnyvale to the East.

## 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.

### Impacts to Special-Status Species and Nesting Birds

CDFW is concerned regarding potential impacts to special-status species that may be present within the Project area, including, but not limited to, those listed below (CDFW 2022):

- Salt-marsh harvest mouse (*Reithrodontomys raviventris*; SMHM) - State Endangered and Fully Protected, Federal Endangered
- California Ridgway's rail (*Rallus obsoletus obsoletus*) - State Endangered and Fully Protected, Federal Endangered
- California black rail (*Laterallus jamaicensis coturniculus*) - State Threatened and Fully Protected
- Longfin smelt (*Spirinchus thaleichthys*) - State Threatened, Federal Candidate for Endangered or Threatened
- Salt-marsh wandering shrew (shrew) (*Sorex vagrans halicoetes*) - State Species of Special Concern
- Saltmarsh common yellowthroat (*Geothlypis trichas sinuosa*) - State Species of Special Concern

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- Alameda song sparrow (*Melospiza melodia pusillula*) - State Species of Special Concern
- Western burrowing owl (*Athene cunicularia*) - State Species of Special Concern
- Northern harrier (*Circus cyaneus*) - State Species of Special Concern
- Western pond turtle (*Emmys marmorata*) - State Species of Special Concern

Due to the limited information provided in the NOP, CDFW is providing the general comments below with regards to potential impacts of the Project to special-status species and their habitats, and mitigation measures to offset any unavoidable impacts. However, CDFW recommends that the PDEIR include appropriate and effective minimization and mitigation measures for each special-status species that could be potentially impacted by Project activities.

*Issue:* Special-status species, including, but not limited to those listed above, may occur within the Project area. Without appropriate mitigation measures, the Project could potentially have a significant impact on these species.

*Specific Impacts:* Without appropriate avoidance measures, potentially significant impacts associated with Project activities may include inadvertent entrapment or entrainment, impingement, inability to reproduce or reduced reproductive success, reduced health and vigor, bird strike on buildings adjacent to habitat, nest abandonment, loss of nesting habitat, loss or fragmentation of foraging habitat that would reduce nesting or breeding success (loss or reduced health or vigor of eggs or young), and direct mortality. Unauthorized take of species listed as threatened or endangered pursuant to CESA is a violation of Fish and Game Code.

*Evidence impact would be significant:* The Project will, or may, include impacts such as noise, groundwork, and movement of workers that may occur in, or directly adjacent to, habitat and thus have the potential to significantly impact special-status species and nesting birds.

*Recommended Potentially Feasible Mitigation Measures:*

1. **Habitat Assessment:** A qualified biologist should conduct a habitat assessment in advance of Project implementation to determine if the Project site or its vicinity contains suitable habitat for special-status small mammals and nesting bird species.
2. **Surveys:** A focused survey using appropriate protocols should be conducted by qualified biologists at Project sites prior to Project implementation. Protocol-level surveys are intended to maximize detectability. In the absence of protocol-level

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surveys being performed, additional surveys may be necessary. If Project activities are to take place during the avian nesting season, an additional pre-Project activity survey for active nests should be conducted by a qualified biologist no more than seven days prior to the start of Project activity.

3. **Avoidance:** If special-status species are found, work activities should stop, and the individual should be allowed to leave the site through its own volition. If an active nest is found within or adjacent to the Project site, a no-disturbance buffer should be established and monitoring of the active nest should be conducted by a qualified biologist during all Project-related construction activities. The qualified biologist should increase the buffer if the birds are showing signs of unusual or distressed behavior such as defensive flights/vocalizations, standing up from a brooding position, or flying away from the nest. Buffers should be maintained until the eggs have hatched and young have fledged.
4. **State-listed Species Take Authorization:** If State-listed wildlife species are identified during surveys and full avoidance of take is not feasible, the Project proponents should apply to CDFW for take authorization through issuance of a CESA Incidental Take Permit (ITP).

*Issue:* The Project area has the potential to contain water features subject to CDFW's LSA authority, pursuant to Fish and Game Code § 1600 et seq. Project implementation could potentially result in temporary and permanent impacts to these features.

*Specific impact:* Project activities within wetland and riparian features has the potential to result in substantial diversion or obstruction of natural flows; substantial change or use of material from the bed, bank, or channel (including removal of riparian vegetation); and deposition of debris, waste, sediment, or other materials into water feature causing water pollution that is deleterious to fish and wildlife.

*Evidence impact is potentially significant:* Construction activities within these features has the potential to impact downstream waters and to significantly impact wetland and riparian communities.

*Recommended Potentially Feasible Mitigation Measures:*

1. **Habitat Assessment:** A qualified biologist should conduct a habitat assessment in advance of Project implementation, to determine if the Project area or its immediate vicinity supports wetland and/or riparian communities. This survey should include, but not be limited to, Permanente Creek, Stevens Creek, other creeks or streams, and drainage channels.
2. **Wetland Delineation:** CDFW recommends a formal wetland delineation be conducted by a qualified biologist prior to Project construction to determine the

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location and extent of wetlands and riparian habitat present. Please note that, while there is overlap, State and Federal definitions of wetlands, as well as which activities require Notification pursuant to Fish and Game Code § 1602, differ. Therefore, CDFW further recommends that the delineation identify both State and Federal wetlands as well as which activities may require Notification to comply with Fish and Game Code.

3. Notification of Lake and Streambed Alteration: Fish and Game Code §1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. CDFW is required to comply with CEQA in the issuance of an LSA Agreement. For additional information, please see <https://www.wildlife.ca.gov/Conservation/LSA>.

CDFW recommends consulting with the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) on potential impacts to federally listed species. Consultation with the USFWS and NMFS in order to comply with FESA is advised well in advance of Project implementation.

## **ENVIRONMENTAL DATA**

CEQA requires that information developed in draft environmental impact reports 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 found at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data#44524420-pdf-field-survey-form>.

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

## **FILING FEES**

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, § 711.4; Pub. Resources Code, § 21089). 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.


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## CONCLUSION

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

Questions regarding this letter or further coordination should be directed to Kristin Garrison, Environmental Scientist, at (707) 944-5534 or [Kristin.Garrison@wildlife.ca.gov](mailto:Kristin.Garrison@wildlife.ca.gov); or Brenda Blinn, Senior Environmental Scientist (Supervisory), at [Brenda.Blinn@wildlife.ca.gov](mailto:Brenda.Blinn@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
Erin Chappell  
B77F9A6211EF486  
Erin Chappell  
Regional Manager  
Bay Delta Region

cc: State Clearinghouse

## LITERATURE CITED

California Department of Fish and Wildlife (CDFW). 2022. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed March 1, 2022.