



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 Bay Delta Region
 2825 Cordelia Road, Suite 100
 Fairfield, CA 94534
 (707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

April 20, 2022

Apr 21 2022

STATE CLEARINGHOUSE

Stephen Rose, Senior Planner
 City of Campbell
 70 N. First Street
 Campbell, CA 95008
stephenr@campbellca.gov

Subject: Envision Campbell General Plan and Housing Element Update, Notice of Preparation of a Programmatic Environmental Impact Report, SCH No. 2022030566, City of Campbell, Santa Clara County

Dear Stephen Rose:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) of a Programmatic Environmental Impact Report (PEIR) from the City of Campbell (City) for the Envision Campbell General Plan and Housing Element Update (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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

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.

Stephen Rose, Senior Planner
City of Campbell
April 20, 2022
Page 2

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, § 1600 et seq.).

PROJECT DESCRIPTION SUMMARY

Proponent: City of Campbell

Objective: Update the City General Plan, including land use map, goals, policies, and actions to guide future development.

Location: All areas within the City of Campbell, Santa Clara County, California.

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. Based on potential for the Project to have a significant impact on biological resources, CDFW concludes that an Environmental Impact Report is appropriate for the Project.

Mitigation Measures and Impacts

Would the Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?

COMMENT #1: Figure 2 Proposed Land Use Map, General Commercial page 8, and Transportation Element page 4.

Issue: In review of Google Earth aeriels, Los Gatos Creek reaches located within the Project area support contiguous riparian habitat with thick canopy cover. Figure 2 of the NOP designates the furthest downstream reach of Los Gatos Creek, which appears to be approximately 0.25 miles in length, as being General Commercial. The NOP does not discuss potential future impacts to Los Gatos Creek and associated riparian and grassland habitats from the General Commercial land use designation. Additional stream reaches are present within the Project area including stream crossings at Los Gatos Creek, San Thomas Aquinas creek, and unnamed drainage channels. However, the NOP does not discuss potential future impacts to aquatic and riparian habitat from changes to stream crossings in relation to the Transportation Element.

Specific impact: Potential impacts due to a General Commercial use along the Los Gatos Creek reach, and on other stream reaches from implementation of the

Stephen Rose, Senior Planner
City of Campbell
April 20, 2022
Page 3

Transportation Element, include loss of riparian habitat, permanent relocation of stream channels, permanent loss of natural bank, change in contour and gradient of bed and bank, temporary loss of bank stability during construction, increase of bank erosion during construction, increased sedimentation from adjacent construction, and diversion of natural flow.

Why impact would occur: The General Commercial physical change may include the construction of buildings, parking lots, and other permanent structures. Construction may result in complete removal of riparian habitat, including diversion of Los Gatos Creek water and substantial change in the creek bed and banks. The Transportation Element physical change may include construction of new automobile or pedestrian bridges, widening of bridges, or widening of culverts.

Evidence impact would be significant: Substantial diversion or obstruction of natural flow, change in stream bed or bank, or deposit of debris into streams without necessary permitting would be a violation under Fish and Game Code §1602.

Recommended Potentially Feasible Mitigation Measures to reduce impacts to less-than-significant:

Mitigation Measure #1: Habitat Assessment

A qualified biologist should conduct a habitat assessment to identify freshwater marsh, wetland, and/or riparian communities that could be negatively affected from implementation of the Project. This survey should include, but not be limited to, Los Gatos Creek and San Tomas Aquinas Creek. The PDEIR should include location alternatives for buildings and other permanent structures to avoid impacts to riparian habitat. The PDEIR should also include avoidance, minimization, and/or mitigation measures to reduce the impacts to less-than-significant levels.

Mitigation Measure #2: Wetland Delineation

A formal wetland delineation should be conducted by a qualified biologist prior to Project construction to determine the location and extent of wetlands and riparian habitat present within the Project area. 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, the delineation should identify which activities may require Notification to comply with Fish and Game Code (§ 1602).

Mitigation Measure #3: Notification of Lake or 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,

Stephen Rose, Senior Planner
City of Campbell
April 20, 2022
Page 4

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. Project construction activities may necessitate that the Project proponent submit a Notification of Lake and Streambed Alteration (LSA) to CDFW. CDFW is required to comply with CEQA in the issuance of an LSA Agreement. Additional information can be found at <https://www.wildlife.ca.gov/Conservation/LSA>.

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS?

COMMENT #2: Biological Resources, page 13

Issue: The NOP does not discuss potential impacts to sensitive and special-status species that could be present within the Project area. Special-status species that are potentially present within riparian habitat include, but are not limited to, San Francisco dusky-footed woodrat (woodrat, *Neotoma fuscipes annectens* - State Species of Special Concern), western red bat (*Lasiurus blossevillii* - State Species of Special Concern), western pond turtle (WPT, *Emys marmorata* - State Species of Special Concern), and steelhead (*Oncorhynchus mykiss irideus* pop. 8, Central California Coast Distinct Population Segment - Federally Threatened). Other species of bats may also roost in riparian trees.

Specific impact: Direct mortality, capture, loss of nest or middens, reduced reproductive success due to disturbance, inadvertent entrapment or entrainment, and impingement.

Why impact would occur: The General Commercial physical change may include the construction of buildings, parking lots, and other permanent structures within or adjacent to Los Gatos Creek. Construction may result in complete or partial removal of riparian habitat. The Transportation Element physical change may include construction of new automobile or pedestrian bridges, widening of bridges, or widening of culverts. Construction may result in complete or partial removal of riparian habitat. The Project would include impacts such as noise, groundwork, and movement of workers that would have the potential to significantly impact roosting bats.

Evidence impact would be significant: The woodrat, western red bat, and WPT are special-status species because they are designated by CDFW as a California Species of Special Concern. Steelhead is considered a rare or threatened species under CEQA as it is listed in Title 50, Code of Federal Regulations Sections 17.11 or

Stephen Rose, Senior Planner
City of Campbell
April 20, 2022
Page 5

17.12 pursuant to the Federal Endangered Species Act as rare, threatened, or endangered (CEQA Guidelines, §15380 subds.(c)(2)).

Recommended Potentially Feasible Mitigation Measures to reduce impacts to less-than-significant:

Mitigation Measure #1: Focused Surveys for Special-Status Species

The riparian areas and adjacent habitat should be surveyed for special-status species by a qualified biologist following protocol-level surveys. Protocol-level surveys are intended to maximize detectability. In the absence of protocol-level surveys being performed, focused surveys for special-status species presence, nests, or indicators of presence (e.g., bat guano and acoustic surveys) should be conducted. The PDEIR should include an analysis of location alternatives for buildings and other permanent structures to avoid or minimize impacts to special-status species.

Mitigation Measure #2: Special-status Species Avoidance

If special-status species are found within or adjacent to riparian habitat within the Project area, the qualified biologist should establish a no-disturbance buffer appropriate for the species and conduct on-site monitoring during all Project-related activities. The PDEIR should include additional minimization and mitigation measures for each special-status species that could be potentially impacted by Project activities.

COMMENT #3: Biological Resources page 13, Figure 2 Proposed Land Use Map, Residential and Commercial pages 6 – 10.

Issue: In review of Google Earth aeriels, the Project area includes riparian habitat, parks, and urban areas with trees, shrubs, and grassland. The NOP designates various areas of the Project area as being residential, commercial, and other uses. However, the NOP does not discuss potential impacts to biological resources, such as nesting birds, related to these land use designations and implementation of the Project.

Specific impact: Direct mortality, nest abandonment, reduced reproductive success, and loss or reduced health or vigor of eggs or young.

Why impact would occur: The physical change in relation to the residential, commercial, and other land use designations may include the construction of buildings, parking lots, and other permanent structures. Construction may result in complete removal of nesting habitat. The Project may also include impacts such as

Stephen Rose, Senior Planner
City of Campbell
April 20, 2022
Page 6

noise, groundwork, and movement of workers adjacent to nesting habitat that may potentially significantly impact nesting birds.

Evidence impact would be significant: Take of nesting birds, birds in the orders Falconiformes or Strigiformes, and migratory nongame bird as designated in the Migratory Bird Treaty Act is a violation of Fish and Game Code (§ 3503, 3503.5, 3513).

Recommended Potentially Feasible Mitigation Measures to reduce impacts to less-than-significant:

Mitigation Measure #1: Nesting Bird Surveys

If Project-related work is scheduled during the nesting season (typically February 15 to August 30 for small bird species such as passerines; January 15 to September 15 for owls; and February 15 to September 15 for other raptors), a qualified biologist should conduct a minimum of two surveys for active nests of such birds within 14 days prior to the beginning of Project construction, with a final survey conducted within 48 hours prior to construction. However, species-specific survey protocols may be available and should be followed. Appropriate minimum survey radii surrounding the work area are typically the following: i) 250 feet for passerines; ii) 500 feet for small raptors such as accipiters; and iii) 1,000 feet for larger raptors such as buteos. Surveys should be conducted at the appropriate times of day and during appropriate nesting times.

Mitigation Measure #2: Active Nest Buffers

If the qualified biologist documents active nests within the Project area or in nearby surrounding areas, an appropriate buffer between the nest and active construction should be established. The buffer should be clearly marked and maintained until the young have fledged and are foraging independently. Prior to construction, the qualified biologist should conduct baseline monitoring of the nest to characterize “normal” bird behavior and establish a buffer distance which allows the birds to exhibit normal behavior. The qualified biologist should monitor the nesting birds daily during construction activities and increase the buffer if the birds show signs of unusual or distressed behavior (e.g., defensive flights and vocalizations, standing up from a brooding position, and/or flying away from the nest). If buffer establishment is not possible, the qualified biologist or construction foreman should have the authority to cease all construction work in the area until the young have fledged and the nest is no longer active.

Would the Project interfere substantially with movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede use of native wildlife nursery sites?

Stephen Rose, Senior Planner
City of Campbell
April 20, 2022
Page 7

COMMENT #4: Biological Resources page 13, Figure 2 Proposed Land Use Map, Residential and Commercial Use Designations pages 6 – 10, Table 2: Growth Projections - Proposed Land Use Map.

Issue: Based on Figure 2 Proposed Land Use Map, the majority of the Project area consists of buildings and related hardscape (e.g., parking lots and streets). The NOP, Table 2, discusses a 7,184 increase in residential dwelling units and a 535,707 increase in non-residential square feet beyond what currently exists within the City boundaries. The NOP does not discuss if these proposed activities involve changes to the current building height levels or other design or planning changes, especially adjacent to riparian areas. The tall buildings located near riparian habitat could result in avian collisions with the buildings.

Specific impact: Direct mortality or injury and potential inability to reproduce or reduced reproductive success due to injury.

Why impact would occur: The presence of buildings, including glass windows, close to riparian movement corridors may result in avian collision with the buildings.

Evidence impact would be significant: Project impacts may potentially substantially reduce the abundance and diversity of avian species within the riparian corridors.

Recommended Potentially Feasible Mitigation Measures to reduce impacts to less-than-significant:

Mitigation Measure #1: Assessment of Building Height and Location

CDFW recommends that the PDEIR include building height and location alternatives that reduce environmental impacts such as locating tall buildings at a biologically appropriate distance away from the riparian areas. The PDEIR should include alternatives to building locations within the General Commercial designation of Los Gatos Creek (see Comment #1 above), including no change in the use of the grassland habitat located adjacent to this riparian habitat.

Mitigation Measure #2: Building Design Assessment

The PDEIR should analyze all potential impacts on avian species resulting from building height, types of materials used on the exterior façade of buildings, and other design features, and include avoidance and minimization measures that reduce those impacts to a less-than-significant level.

Stephen Rose, Senior Planner
City of Campbell
April 20, 2022
Page 8

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected 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 to assist the City 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; or Brenda Blinn, Senior Environmental Scientist (Supervisory), at (707) 339-0334 or Brenda.Blinn@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Erin Chappell

B77E9A6211EF486

Erin Chappell
Regional Manager
Bay Delta Region

ec: Office of Planning and Research, State Clearinghouse, Sacramento