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

June 17, 2022

Ms. Shanna Farley
City of Moorpark
799 Moorpark Avenue
Moorpark, CA 93021
SFarley@moorparkca.gov

Subject: Everett Street Terraces Project, Mitigated Negative Declaration, SCH No. 2022050391; City of Moorpark, Ventura County

Dear Ms. Farley:

The California Department of Fish and Wildlife (CDFW) has reviewed the City of Moorpark's (City) Mitigated Negative Declaration (MND) for the Everett Street Terraces Project (Project). The City, as Lead Agency, prepared a MND pursuant to the California Environmental Quality Act (CEQA; Pub. Resources Code, § 21000 et. seq.) with the purpose of informing decision-makers and the public regarding potential environmental effects related to the Project. Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife or be subject to Fish and Game Code.

CDFW's Role

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust for the people of the state [Fish & Game 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). CDFW is also directed to provide 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 (Public 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 & Game Code, § 1600 *et seq*.). To the extent implementation of the Project as proposed may result in "take" of any species protected under the California Endangered Species Act (CESA; Fish & Game Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & Game Code, §1900 *et seq.*), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

Project Description and Summary

Objective: The proposed Project will provide residential housing units at the Everette Street Terraces Development (Project). The Project includes the following activities:

Structures and Amenities
The Project includes the construction of a 60-unit condominium property along 2.44 acres. Units will differ in square footage based on unit type. Amenity structures include an outdoor playground area, lobby, office, private garages, swimming pool, and shared outdoor recreation area.

Exterior Lighting
The MND states that all lighting would be constructed in compliance with the lighting regulations set forth in the City's Zoning Code. This includes using shielded lamps directed away from adjacent properties and streets; not exceeding 7 foot-candles on 95 percent or more of the grid points, light poles not exceeding 25 feet in height, and curbed planters around all light poles.

Grading and Construction
Construction activities for the Proposed Project are anticipated to start in spring 2023 and be completed by fall 2024. The construction activities would include site preparation and grading of the project site, building construction, paving, and application of architectural coatings. The Project will also require the removal of 53 trees.

Landscape Improvements
Landscaping pallets were not specified in the MND, CDFW recommends the Project use native drought tolerant plant species. Likewise, CDFW recommends the Project avoids the use of herbicides and insecticides in their landscaping plans.

Location: The Project site is located at the northeast corner of Everett Street and Walnut Canyon Road in the City of Moorpark within Ventura County. Existing residences are located north, south, east, and west of the Project site, with one commercial building north of Charles Street and a public facility west of Walnut Canyon Road. A portion of the site was previously occupied by six single-family homes which were previously removed, and none of the structures remain. In addition, the site contains several mature trees including, but no limited to; Peruvian pepper trees (*Schinus molle*), Texas privet trees (*Ligustrum japonicum*), and tipu trees (*Tipuana tipu*).

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City in adequately identifying, avoiding, and/or mitigating significant, or potentially significant, direct and indirect impacts on fish and wildlife biological resources based on the planned activities of this proposed Project. CDFW recommends the measures below be included in a science-based monitoring program with adaptive management strategies as part of the Project's CEQA mitigation, monitoring and reporting program (Public Resources Code, § 21081.6 and CEQA Guidelines, § 15097). Additional comments or other suggestions may also be included to improve the document.

Specific Comments

Comment #1: Survey Protocols for Special-Status Wildlife

Issue: Surveys are needed to confirm/deny presence of special-status wildlife.

Specific Impacts: No protocol surveys have been conducted for special-status wildlife. Ground clearing, and construction activities could lead to the direct mortality of a listed species or Species of Special Concern (SSC). The loss of occupied habitat could yield a loss of foraging potential, nesting sites, roosting sites, or refugia and would constitute a significant impact if absent of appropriate mitigation.

Why impacts would occur: The proposed Project may impact special status species. Within the MND Appendix B, page 1 it states, "formal biological reconnaissance-level survey was not conducted; however, a biologist has visited the site to verify present conditions…." As such, we recommend including special-status protocol survey language such as avoidance, minimization and/or mitigation measure(s). A lack of protocol surveys will likely lead to impacts to a variety of sensitive species. Protocol surveys are necessary to identify listed species and supporting habitat necessary for their survival. Protocol surveys facilitate CDFW's ability to provide appropriate avoidance, minimization, and mitigation measures.

Evidence impact would be significant: Ground clearing and construction activities could lead to the direct mortality of a listed species or species of special concern. The loss of occupied habitat could yield a loss of foraging potential, nesting sites, roosting sites, or refugia and would constitute a significant impact absent appropriate mitigation. CDFW considers impacts to CESA-listed and SSC a significant direct and cumulative adverse effect without implementing appropriate avoidance and/or mitigation measures.

The following mitigation measures are suggested by CDFW for impacts to special status nesting birds

Mitigation Measure #1: CDFW acknowledges the efforts of the Project in including mitigation measures to protect special status passerine species. To further protect nesting passerine birds that may occur on-site, CDFW recommends that no construction should occur from February 1 through September 15. These dates slightly differ from the nesting ranges provided within BO-1 of the MND. If construction is unavoidable during February 1 through September 15, surveys should be conducted for nesting bird activity within 7 days prior to Project activities. Surveys should be conducted by a qualified biologist to determine presence of active bird nests of special status bird species. Surveys will occur in the construction zone and within 500 feet of the site. This survey buffer also differs from the 250-foot buffer provided for passerine birds within the MND. The nesting bird surveys should be conducted at appropriate nesting times and concentrate on potential roosting or perch sites.

Mitigation Measure #2: If any nests of passerine birds are observed, these nests should be designated an ecologically sensitive area and protected (while occupied) by a minimum 300-foot radius during project construction. If active nests are found, all construction must be postponed or halted until the biologist determined the nest is vacated, juveniles have fledged, and no evidence of a second nesting attempt is observed. The biologist should serve as a construction

monitor during periods of construction occur near the active nest areas to ensure that no inadvertent impacts occur.

The following mitigation measures are suggested by CDFW for impacts to raptors

Mitigation Measure #1: In addition to the mitigation measures included within the MND in BIO-1, CDFW recommends the following language be included within the environmental document. To protect nesting birds of prey that may occur on-site, CDFW recommends that the final environmental document include a measure that no construction should occur from January 1 through September 15. If construction is unavoidable during January 1 through September 15, a qualified biologist should complete surveys for nesting bird activity the orders *Falconiformes* and *Strigiformes* (raptors and owls) within a 500-foot radius of the construction site. The nesting bird surveys should be conducted at appropriate nesting times and concentrate on potential roosting or perch sites. If any nests of birds of prey are observed, these nests should be designated an ecologically sensitive area and protected (while occupied) by a minimum 500-foot radius during project construction. Pursuant to FGC Sections 3503 and 3503.5, it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird or bird-of-prey.

Mitigation Measure #2: CDFW cannot authorize the take of any fully protected species as defined by state law. State fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for its take except for collecting those species for necessary scientific research and relocation of the bird species for protection of livestock (Fish & G. Code, §§ 3511, 4700, 5050, 5515). CDFW has advised the Permittee that take of any species designated as fully protected under the Fish and Game Code is prohibited. CDFW recognizes that certain fully-protected species are documented to occur on, or in, the vicinity of the Project area, or that such species have some potential to occur on, or in, the vicinity of Project, due to the presence of suitable habitat.

The following mitigation measures are suggested by CDFW for impacts to special status reptiles:

Mitigation Measure #1: The MND states that the following special status reptiles have potential to occur in and around the Project site: California legless lizard (*Anniella spp*.), California glossy snake (*Arizona elegans occidentalis*), and the coastal whiptail (*Aspidoscelis tigirs stejnegeri*). All of which are SSC. To disclose and mitigate impacts to special-status reptiles within the MND, CDFW recommends focused surveys for species with potential to occur within a Project(s) area. Additional surveys will more reliably determine what species are present so CDFW can make informed recommendations as to avoidance, minimization, and mitigation measures. Surveys should typically be scheduled during the summer months (June and July) when these animals are most likely to be encountered. To achieve 100 percent visual coverage, CDFW recommends surveys be conducted with parallel transects at approximately 20 feet apart and walked on-site in appropriate habitat suitable for each species. Suitable habitat consists of areas of sandy, loose, and moist soils, typically under the sparse vegetation of scrub, chaparral, and within the duff of oak woodlands.

Mitigation Measure #2: Prior to any Project activities, a relocation plan (Plan) should be developed by a qualified biologist familiar with the respective reptile in consultation with CDFW. The Plan should include, but not be limited to, the timing and location of the surveys that will be

conducted for the species, identify the locations where more intensive survey efforts will be conducted (based on high habitat suitability); identify the habitat and conditions in any proposed relocation site(s); the methods that will be utilized for trapping and relocating the individuals; and the City coordinate with CDFW and/or the U.S. Fish and Wildlife Service (USFWS) prior to any ground disturbing activities within potentially occupied habitat.

Recommendation #1: CDFW recommends a qualified biologist is on site during all ground disturbing activities to salvage any reptiles or fossorial species.

Comment #2: Impacts to Sensitive Plant Communities and Special-Status Plant Species

Issue: It is unclear if the project will impact sensitive plants and sensitive plant communities.

Specific impact: Due to the lack of protocol surveys it is unclear if special-status plants and/or communities will be impacted. Without protocol surveys the Project may result in a significant impact to special-status plants/communities. Mitigation measures and ratios for ranked sensitive vegetation communities including S4 and S5 should be provided for the proposed Project impacts if present. Development of the area and thinning of vegetation for fuel modification will result in the loss of resources. Rare plants within 1,000 meters from these activities are considered impacted.

Why impact would occur: A general survey was done in 2018, but mainly functioned to address the current overall conditions of the site. No botanical surveys were conducted in the area and absence was determined based only on literature and a 5-mile CNDDB review. Presence/absence determinations of rare plants in the Project area, specifically areas that would be impacted due to Project implementation, should be determined based on recent surveys. Likewise, CDFW is unable to determine if the Project may impact sensitive vegetation communities without MCV names identified for the vegetation communities potentially affected by the Project. Thus, CDFW is unable to recommend appropriate avoidance, minimization and/or mitigation measures without proper classification.

Evidence impact would be significant: Inadequate avoidance, minimization, and mitigation measures for impacts to these CEQA locally sensitive vegetation communities will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative 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.

Impacts to special-status plant species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. Inadequate avoidance, minimization, and mitigation measures for impacts to these sensitive plant species will result in a Project(s) continuing to have a substantial adverse direct, indirect, and cumulative 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 U.S. Fish & Wildlife Service (USFWS). CDFW considers plant communities, alliances, and associations with a statewide ranking of S1, S2, S3, and S4 as sensitive and declining at the local and regional level (Sawyer et al. 2008). An S3 ranking indicates there are 21-80 occurrences of this community in existence in California, S2 has 6-20 occurrences, and S1 has less than 6

occurrences. The Project may have direct or indirect effects to these sensitive species. Mitigation measures and replacement ratios should be provided for ranked vegetation communities if present.

Take of CESA-listed rare plants may only be permitted through an incidental take permit (ITP) or other authorization issued by pursuant to California Code of Regulations, Title 14, section, 786.9 subdivision (b). CDFW is concerned the loss of CESA-listed rare plants may occur if appropriate avoidance, minimization, and/or mitigation for these species is not adopted.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #1: CDFW recommends surveying the project footprint and fuel modification area to produce a plant communities map. Vegetation surveys should be conducted following systematic field techniques outlined by CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (CDFW 2018). To determine the rarity ranking of vegetation communities on a specific Project site(s), CDFW utilizes vegetation descriptions found in the *Manual of California Vegetation* (MCV). The MCV alliance/association community names should be provided as CDFW only tracks rare natural communities using this classification system (found online at http://vegetation.cnps.org/). CDFW recommends the environmental document provide measures to fully mitigate the loss of individual Endangered Species Act (ESA)- and CESA-listed plants and habitat.

1. The MND should provide a detailed map (1:24,000 or larger) showing which plants or populations will be impacted and provide a table that clearly documents the number of plants and acres of supporting habitat impacted, and plant composition (e.g., density, cover, abundance) within impacted habitat (e.g., species list separated by vegetation class; density, cover, abundance of each species).

2. The MND should provide species-specific measures for on-site mitigation. Each species-specific mitigation plan should adopt an ecosystem-based approach and be of sufficient detail and resolution to describe the following at a minimum: 1) identify the impact and level of impact (e.g., acres or individual plants/habitat impacted); 2) location of on-site mitigation and adequacy of the location(s) to serve as mitigation; 3) assessment of appropriate reference sites; 4) scientific [genus and species (subspecies/variety if applicable)] of plants being used for restoration; 5) location(s) of propagule source; 6) species-specific planting methods (i.e., container or seed); 7) measurable goals and success criteria for establishing self-sustaining populations (e.g., percent survival rate, absolute cover); 8) long-term monitoring, and; 9) adaptive management techniques.

Additionally, considerations should be made regarding timing of these field surveys to ensure accuracy in determining what plants exist on site. Adequate information about special status plants and natural communities present in a project area will enable reviewing agencies and the public to effectively assess potential impacts to special status plants or natural communities and will guide the development of minimization and mitigation measures (CDFWa 2018).

Mitigation Measure #2: If rare or sensitive plants are found on or near the footprint of the Project, the MND should provide species-specific measures to fully avoid impacts to all ESA- and CESA-listed plants. This may include flagging all plants and/or perimeter of populations; no work buffers around plants and/or populations (e.g., flagged perimeter plus 50 feet); restrictions on ground disturbing activities within protected areas; relocation of staging and other material piling areas away from protected areas; restrictions on herbicide use and/or type of herbicide and/or application method within 100 feet of sensitive plants; and worker education and training.

Mitigation Measure #3: If rare or sensitive plants/communities are impacted on or near the footprint of the Project, CDFW recommends the MND provide measures to fully mitigate the loss of individual ESA- and CESA-listed plants and habitat. The Project proponent should mitigate at a ratio sufficient to achieve a no-net loss for impacts to special status plant species and their associated habitat. This should be for the number of plants replaced to number impacted, including acres of habitat created to acres of habitat impacted.

Mitigation Measure #4: All revegetation/restoration areas that will serve as mitigation should include preparation of a restoration plan (Plan), to be approved by CDFW prior to any ground disturbance. The restoration plan should include restoration and monitoring methods; annual success criteria; contingency actions should success criteria not be met; long-term management and maintenance goals; and a funding mechanism for long-term management. Areas proposed as mitigation should have a recorded conservation easement and be dedicated to an entity which has been approved to hold/manage lands (AB 1094; Government Code, §§ 65965-65968). The Plan should provide species-specific measures for on-site mitigation. Each species-specific mitigation plan should adopt an ecosystem-based approach and be of sufficient detail and resolution to describe the following at a minimum: 1) identify the impact and level of impact (e.g., acres or individual plants/habitat impacted); 2) location of on-site mitigation and adequacy of the location(s) to serve as mitigation; 3) assessment of appropriate reference sites; 4) scientific [Genus and species (subspecies/variety if applicable)] of plants being used for restoration; 5) location(s) of propagule source; 6) species-specific planting methods (i.e., container or seed); 7) measurable goals and success criteria for establishing self-sustaining populations (e.g. percent survival rate, absolute cover); 8) long-term monitoring, and; 9) adaptive management techniques.

Mitigation Measure #5: Success criteria should be based on the specific composition of the vegetation communities being impacted. Success should not be determined until the site has been irrigation-free for at least 5 years and the metrics for success have remained stable (no negative trend for richness/diversity/abundance/cover and no positive trend for invasive/non-native cover for each vegetation layer) for at least 5 years. In the revegetation plan, the success criteria should be compared against an appropriate reference site, with the same vegetation alliance, with as good or better-quality habitat. The success criteria should include percent cover (both basal and vegetative), species diversity, density, abundance, and any other measures of success deemed appropriate by CDFW. Success criteria should be separated into vegetative layers (tree, shrub, grass, and forb) for each alliance being mitigated, and each layer should be compared to the success criteria of the reference site, as well as the alliance criteria in MCV ensuring one species or layer does not disproportionally dominate a site but conditions mimic the reference site and meets the alliance membership requirements.

CDFW does not recommend topsoil salvage or transplantation as viable mitigation options. Several studies have documented topsoil salvage had no effect on the recolonization of the target plant species (Hinshaw 1998). Based on the scientific literature available, relying on topsoil salvage alone to mitigate impacts to CEQA-rare plant species does not appear to provide any value to mitigate impacts to the plant.

Comment #3: Spreading Invasive Pests and Diseases

Issue: CDFW is concerned that the MND does not describe procedures for disposal of removed trees which may be infested with invasive pests and disease.

Specific impacts: The Project proposes to remove an unspecified amount of vegetation. Improper disposal of vegetation may result in the spread of tree insect pests and disease into areas not currently exposed to these stressors. This could result in expediting the loss of oaks and other trees in California which support a high biological diversity including special status species. The environmental document should address the presence or absence of goldspotted oak borer (*Agrilus auroguttatus*), Polyphagus shot-hole borer (*Euwallacea* sp.), and thousand canker fungus (*Geosmithia morbida*) in on-site trees and, if present, describe how any effected trees would be disposed of as part of the Project.

Why impacts would occur: The Project may remove tree species that could host insect pests and diseases. Trees will be removed and presumably hauled to off-site locations for disposal thereby potentially exposing off-site oak and other tree species to infestation and disease.

Evidence impact would be significant: The Project may have a substantial adverse effect on any sensitive natural communities identified in local or regional plans, policies, and regulations or by the CDFW or USFWS. The Project may result in a substantial adverse effect, either directly or through habitat modifications, on species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW or USFWS that are dependent on habitats susceptible to insect and disease pathogens.

Mitigation Measure #1: CDFW recommends the City/Applicant work with the certified arborist to identify all trees and species for removal from the Project site and inspect those trees for contagious tree diseases including but not limited to: thousand canker fungus (https://thousandcankers.com/), Polyphagous shot hole borer (https://ucanr.edu/sites/eskalenlab/?file=index.html), and goldspotted oak borer (http://ipm.ucanr.edu/PMG/PESTNOTES/pn74163.html). A summary report documenting inspection methods, number and species of trees inspected, results, and conclusions, including negative findings, should be submitted to CDFW for review and included as an appendix in final environmental documents. The summary report should also include photographic documentation of entry/exit holes and evidence of pests/disease.

Mitigation Measure #2: If invasive pests and/or diseases are detected, the City/Applicant should provide an infectious tree disease management plan and describe how it will be implemented to avoid significant impacts under CEQA. To avoid the spread of infectious tree diseases, diseased trees should not be transported from the Project site without first being treated using best available management practices relevant for each tree disease observed. A

management plan should be submitted to CDFW for review and included as an appendix in the final environmental document.

Comment #4: Impacts to Non-Game Mammals and Wildlife

Issue: Wildlife may still move through the Project site during the daytime or nighttime. CDFW is concerned that any wildlife potentially moving through or seeking temporary refuge on the Project site may be directly impacted during Project activities and construction. Any final fence, or other design features, design should allow for wildlife movement.

Specific impacts: Project activities and construction equipment may directly impact wildlife and birds moving through or seeking temporary refuge on site. This could result in wildlife and bird mortality. Furthermore, depending on the final fencing design, the Project may cumulatively restrict wildlife movement opportunity.

Why impacts would occur: Direct impacts to wildlife may occur from: ground disturbing activities (e.g., staging, access, excavation, grading); wildlife being trapped or entangled in construction materials and erection of restrictive fencing; and wildlife could be trampled by heavy equipment operating in the Project site.

Evidence impact would be significant: Mammals occurring naturally in California are considered non-game mammals and are afforded protection by State law from take and/or harassment (Fish & Game Code, § 4150; Cal. Code of Regs, § 251.1).

Recommended Potentially Feasible Mitigation Measure(s): CDFW recommends the following four mitigation measures to avoid and minimize direct impacts to wildlife during Project construction and activities.

Mitigation Measure #1: If fencing is proposed for use during construction or during the life of the Project, fences should be constructed with materials that are not harmful to wildlife. Prohibited materials include, but are not limited to, spikes, glass, razor, or barbed wire. Fencing should also be minimized so as not to restrict free wildlife movement through habitat areas. CDFW recommends the City consider permeable fencing as part of its mitigation for Project-related impacts. Wildlife impermeable fencing is fencing that prevents or creates a barrier for the passage of wildlife from one side to the other. Los Angeles County's Significant Ecological Areas Ordinance Implementation Guide (https://planning.lacounty.gov/site/sea/wp-content/uploads/2020/02/SEA-IG-2-6-20.pdf) offers additional information on permeable fencing as well as design standards. CDFW recommends reviewing those design standards.

Mitigation Measure #2: To avoid direct mortality, a qualified biological monitor should be on site prior to and during ground and habitat disturbing activities to move out of harm's way special status species or other wildlife of low mobility that would be injured or killed by grubbing or Project-related construction activities. Salvaged wildlife of low mobility should be removed and placed onto adjacent and suitable (i.e., species appropriate) habitat out of harm's way.

It should be noted that the temporary relocation of on-site wildlife does not constitute effective mitigation for the purposes of offsetting Program impacts associated with habitat loss.

Mitigation Measure #3: Grubbing and grading should be done to avoid islands of habitat where wildlife may take refuge and later be killed by heavy equipment. Grubbing and grading should be done from the center of the Project site, working outward towards adjacent habitat off site where wildlife may safely escape.

Additional Recommendations

Fuel Modification. If the Project includes fuel modification, CDFW recommends that the final environmental include avoidance and mitigation measures for any fuel modification activities conducted within and adjacent to the Project area. A weed management plan should be developed for all areas adjacent to open space that will be subject to fuel modification disturbance. CDFW also recommends that any irrigation proposed in fuel modification zones allow for the introduction of invasive Argentine ants.

Mitigation and Monitoring Reporting Plan. 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 and Monitoring Reporting Plan. A final MMRP should reflect results following additional plant and wildlife surveys and the Project's final on and/or off-site mitigation plans.

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 County 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 in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City 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 Angela Castanon, Environmental Scientist, at Angela.Castanon@wildlife.ca.gov.

Sincerely,

DocuSigned by:
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Erinn Wilson-Olgin
Environmental Program Manager I
South Coast Region

ec: CDFW
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References

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Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project. A final MMRP should reflect results following additional plant and wildlife surveys and the Project's final on and/or off-site mitigation plans.

Biological Resources (BIO)			
Mitigation Measure (MM) or Recommendation (REC)		**Timing**	**Responsible Party**
MM-BIO-1- Impacts to Nesting Birds	CDFW acknowledges the efforts of the Project in including mitigation measures to protect special-status passerine species. To further protect nesting passerine birds that may occur on-site, CDFW recommends that no construction should occur from February 1 through September 15. These dates slightly differ from the nesting ranges provided within BO-1 of the MND. If construction is unavoidable during February 1 through September 15, surveys should be conducted for nesting bird activity within 7 days prior to Project activities. Surveys should be conducted by a qualified biologist to determine presence of active bird nests of special status bird species. Surveys will occur in the construction zone and within 500 feet of the site. This survey buffer also differs from the 250-foot buffer provided for passerine birds within the MND. The nesting bird surveys should be conducted at appropriate nesting times and concentrate on potential roosting or perch sites.	Prior to Project construction and activities	City of Moorpark/ Applicant
MM-BIO-2- Impacts to Nesting Birds	If any nests of passerine birds are observed, these nests should be designated an ecologically sensitive area and protected (while occupied) by a minimum 300-foot radius during project construction. If active nests are found, all construction must be postponed or halted until the biologist determined the nest is	Prior to/ During Project construction and activities	City of Moorpark/ Applicant

	vacated, juveniles have fledged, and no evidence of a second nesting attempt is observed. The biologist should serve as a construction monitor during periods of construction occur near the active nest areas to ensure that no inadvertent impacts occur.		
MM-BIO-3- Impacts to Nesting Birds	In addition to the mitigation measures included within the MND in BIO-1, CDFW recommends the following language be included in the environmental document. To protect nesting birds of prey that may occur on-site, CDFW recommends that the final environmental document include a measure that no construction should occur from January 1 through September 15. If construction is unavoidable during January 1 through September 15, a qualified biologist should complete surveys for nesting bird activity the orders *Falconiformes* and *Strigiformes* (raptors and owls) within a 500-foot radius of the construction site. The nesting bird surveys should be conducted at appropriate nesting times and concentrate on potential roosting or perch sites. If any nests of birds of prey are observed, these nests should be designated an ecologically sensitive area and protected (while occupied) by a minimum 500-foot radius during project construction. Pursuant to FGC Sections 3503 and 3503.5, it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird or bird-of-prey.	Prior to/ During Project construction and activities	City of Moorpark/ Applicant
MM-BIO-4- Impacts to Nesting Birds	CDFW cannot authorize the take of any fully protected species as defined by state law. State fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for its take except for collecting those species for necessary scientific research and relocation of the bird species for protection of livestock (Fish & G. Code, §§ 3511, 4700, 5050, 5515). CDFW has advised the Permittee that take of any species designated as fully protected under the Fish and Game Code is prohibited. CDFW recognizes that certain fully-protected species are documented to occur on, or in, the vicinity of the Project area, or that such species have some potential to occur on, or in, the vicinity of Project, due to the presence of suitable habitat.	Prior to Project construction and activities	City of Moorpark/ Applicant

MM-BIO-5-Impacts to Reptiles	The MND states that the following special status reptiles have potential to occur in and around the Project site: California legless lizard (*Anniella spp*.), California glossy snake (*Arizona elegans occidentalis*), and the coastal whiptail (*Aspidoscelis tigirs stejnegeri*). All of which are SSC. To disclose impacts to special-status reptiles within the MND, CDFW recommends focused surveys for species with potential to occur within a Project(s) area. Additional surveys will more reliably determine what species are present so CDFW can make informed recommendations as to avoidance, minimization, and mitigation measures. Surveys should typically be scheduled during the summer months (June and July) when these animals are most likely to be encountered. To achieve 100 percent visual coverage, CDFW recommends surveys be conducted with parallel transects at approximately 20 feet apart and walked on-site in appropriate habitat suitable for each species. Suitable habitat consists of areas of sandy, loose, and moist soils, typically under the sparse vegetation of scrub, chaparral, and within the duff of oak woodlands.	Prior to Project construction and activities	City of Moorpark/ Applicant
MM-BIO-6-Impacts to Reptiles	Prior to any Project activities, a relocation plan (Plan) should be developed by a qualified biologist familiar with the respective reptile in consultation with CDFW. The Plan should include, but not be limited to, the timing and location of the surveys that will be conducted for the species, identify the locations where more intensive survey efforts will be conducted (based on high habitat suitability); identify the habitat and conditions in any proposed relocation site(s); the methods that will be utilized for trapping and relocating the individuals; and the City coordinate with CDFW and/or the USFWS prior to any ground disturbing activities within potentially occupied habitat.	Prior to Project construction and activities	City of Moorpark/ Applicant
MM-BIO-7-Impacts to Special Status	CDFW recommends surveying the project footprint and fuel modification area to produce a plant communities map. Vegetation surveys should be conducted following systematic field techniques outlined by CDFW's *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive*	Prior to Project construction and activities	City of Moorpark/ Applicant

Plants and Communities	*Natural Communities* (CDFWa 2018). To determine the rarity ranking of vegetation communities on a specific Project site(s), CDFW utilizes vegetation descriptions found in the MCV. The MCV alliance/association community names should be provided as CDFW only tracks rare natural communities using this classification system (found online at http://vegetation.cnps.org/). CDFW recommends the environmental document provide measures to fully mitigate the loss of individual ESA- and CESA-listed plants and habitat. 1. The MND should provide a detailed map (1:24,000 or larger) showing which plants or populations will be impacted and provide a table that clearly documents the number of plants and acres of supporting habitat impacted, and plant composition (e.g., density, cover, abundance) within impacted habitat (e.g., species list separated by vegetation class; density, cover, abundance of each species). 2. The MND should provide species-specific measures for on-site mitigation. Each species-specific mitigation plan should adopt an ecosystem-based approach and be of sufficient detail and resolution to describe the following at a minimum: 1) identify the impact and level of impact (e.g., acres or individual plants/habitat impacted); 2) location of on-site mitigation and adequacy of the location(s) to serve as mitigation; 3) assessment of appropriate reference sites; 4) scientific [genus and species (subspecies/variety if applicable)] of plants being used for restoration; 5) location(s) of propagule source; 6) species-specific planting methods (i.e., container or seed); 7) measurable goals and success criteria for establishing self-sustaining populations		

	(e.g., percent survival rate, absolute cover); 8) long-term monitoring, and; 9) adaptive management techniques. Additionally, considerations should be made regarding timing of these field surveys to ensure accuracy in determining what plants exist on site. Adequate information about special status plants and natural communities present in a project area will enable reviewing agencies and the public to effectively assess potential impacts to special status plants or natural communities and will guide the development of minimization and mitigation measures (CDFWa 2018).		
MM-BIO-8-Impacts to Special Status Plants and Communities	If rare or sensitive plants are found on or near the footprint of the Project, the MND should provide species-specific measures to fully avoid impacts to all ESA- and CESA-listed plants. This may include flagging all plants and/or perimeter of populations; no work buffers around plants and/or populations (e.g., flagged perimeter plus 50 feet); restrictions on ground disturbing activities within protected areas; relocation of staging and other material piling areas away from protected areas; restrictions on herbicide use and/or type of herbicide and/or application method within 100 feet of sensitive plants; and worker education and training.	Prior to Project construction and activities	City of Moorpark/ Applicant
MM-BIO-9-Impacts to Special Status Plants and Communities	If rare or sensitive plants/communities are impacted on or near the footprint of the Project, CDFW recommends the MND provide measures to fully mitigate the loss of individual ESA- and CESA-listed plants and habitat. The Project proponent should mitigate at a ratio sufficient to achieve a no-net loss for impacts to special status plant species and their associated habitat. This should be for the number of plants replaced to number impacted, including acres of habitat created to acres of habitat impacted.	Prior to Project construction and activities	City of Moorpark/ Applicant
MM-BIO-10-Impacts to Special Status Plants and Communities	All revegetation/restoration areas that will serve as mitigation should include preparation of a restoration plan (Plan), to be approved by CDFW prior to any ground disturbance. The restoration plan should include restoration and monitoring methods; annual success criteria; contingency actions should	Prior/During/ After Project construction and activities	City of Moorpark/ Applicant

	success criteria not be met; long-term management and maintenance goals; and a funding mechanism for long-term management. Areas proposed as mitigation should have a recorded conservation easement and be dedicated to an entity which has been approved to hold/manage lands (AB 1094; Government Code, §§ 65965-65968). The Plan should provide species-specific measures for on-site mitigation. Each species-specific mitigation plan should adopt an ecosystem-based approach and be of sufficient detail and resolution to describe the following at a minimum: 1) identify the impact and level of impact (e.g., acres or individual plants/habitat impacted); 2) location of on-site mitigation and adequacy of the location(s) to serve as mitigation; 3) assessment of appropriate reference sites; 4) scientific [Genus and species (subspecies/variety if applicable)] of plants being used for restoration; 5) location(s) of propagule source; 6) species-specific planting methods (i.e., container or seed); 7) measurable goals and success criteria for establishing self-sustaining populations (e.g. percent survival rate, absolute cover); 8) long-term monitoring, and; 9) adaptive management techniques.		
MM-BIO-11-Impacts to Special Status Plants and Communities	Success criteria should be based on the specific composition of the vegetation communities being impacted. Success should not be determined until the site has been irrigation-free for at least 5 years and the metrics for success have remained stable (no negative trend for richness/diversity/abundance/cover and no positive trend for invasive/non-native cover for each vegetation layer) for at least 5 years. In the revegetation plan, the success criteria should be compared against an appropriate reference site, with the same vegetation alliance, with as good or better-quality habitat. The success criteria should include percent cover (both basal and vegetative), species diversity, density, abundance, and any other measures of success deemed appropriate by CDFW. Success criteria should be separated into vegetative layers (tree, shrub, grass, and forb) for each alliance being mitigated, and each	Prior/During/ After Project construction and activities	City of Moorpark/ Applicant

	layer should be compared to the success criteria of the reference site, as well as the alliance criteria in MCV ensuring one species or layer does not disproportionally dominate a site but conditions mimic the reference site and meets the alliance membership requirements. CDFW does not recommend topsoil salvage or transplantation as viable mitigation options. Several studies have documented topsoil salvage had no effect on the recolonization of the target plant species (Hinshaw 1998). Based on the scientific literature available, relying on topsoil salvage alone to mitigate impacts to CEQA-rare plant species does not appear to provide any value to mitigate impacts to the plant.		
MM-BIO-12-Pests and Diseases	CDFW recommends the City/Applicant work with the certified arborist to identify all trees and species for removal from the Project site and inspect those trees for contagious tree diseases including but not limited to: thousand canker fungus (https://thousandcankers.com/), Polyphagous shot hole borer (https://ucanr.edu/sites/eskalenlab/?file=index.html), and goldspotted oak borer (http://ipm.ucanr.edu/PMG/PESTNOTES/pn74163.html). A summary report documenting inspection methods, number and species of trees inspected, results, and conclusions, including negative findings, should be submitted to CDFW for review and included as an appendix in final environmental documents. The summary report should also include photographic documentation of entry/exit holes and evidence of pests/disease.	Prior to Project construction and activities	City of Moorpark/ Applicant
MM-BIO-13-Pests and Diseases	If invasive pests and/or diseases are detected, the City/Applicant should provide an infectious tree disease management plan and describe how it will be implemented to avoid significant impacts under CEQA. To avoid the spread of infectious tree diseases, diseased trees should not be transported from the Project site without first being treated using best available management practices relevant for each tree disease observed. A management	Prior to Project construction and activities	City of Moorpark/ Applicant

	plan should be submitted to CDFW for review and included as an appendix in the final environmental document.		
MM-BIO-14- Impacts to Non-Game Mammals and Wildlife	If fencing is proposed for use during construction or during the life of the Project, fences should be constructed with materials that are not harmful to wildlife. Prohibited materials include, but are not limited to, spikes, glass, razor, or barbed wire. Fencing should also be minimized so as not to restrict free wildlife movement through habitat areas. Los Angeles County's Significant Ecological Areas Ordinance Implementation Guide (https://planning.lacounty.gov/site/sea/wp-content/uploads/2020/02/SEA-IG-2-6-20.pdf) offers additional information on permeable fencing as well as design standards. CDFW recommends reviewing those design standards.	Prior to Project construction and activities	City of Moorpark/ Applicant
MM-BIO-15- Impacts to Non-Game Mammals and Wildlife	To avoid direct mortality, a qualified biological monitor should be on site prior to and during ground and habitat disturbing activities to move out of harm's way special status species or other wildlife of low mobility that would be injured or killed by grubbing or Project-related construction activities. Salvaged wildlife of low mobility should be removed and placed onto adjacent and suitable (i.e., species appropriate) habitat out of harm's way. It should be noted that the temporary relocation of on-site wildlife does not constitute effective mitigation for the purposes of offsetting Program impacts associated with habitat loss.	Prior to Project construction and activities	City of Moorpark/ Applicant
MM-BIO-16- Impacts to Non-Game Mammals and Wildlife	Grubbing and grading should be done to avoid islands of habitat where wildlife may take refuge and later be killed by heavy equipment. Grubbing and grading should be done from the center of the Project site, working outward towards adjacent habitat off site where wildlife may safely escape.	Prior to Project construction and activities	City of Moorpark/ Applicant

REC-1- Out of Harm's Way	CDFW recommends a qualified biologist is on site during all ground disturbing activities to salvage any reptiles or fossorial species.	Prior to/ During construction and activities	City of Moorpark/ Applicant
REC-2- Fuel Modification	If the Project includes fuel modification, CDFW recommends that the final environmental include avoidance and mitigation measures for any fuel modification activities conducted within and adjacent to the Project area. A weed management plan should be developed for all areas adjacent to open space that will be subject to fuel modification disturbance. CDFW also recommends that any irrigation proposed in fuel modification zones drain back into the development and not onto natural habitat land as perennial sources of water allow for the introduction of invasive Argentine ants.	Prior to/ During construction and activities	City of Moorpark/ Applicant
REC-3- Mitigation and Monitoring Reporting Plan	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 and Monitoring Reporting Plan. A final MMRP should reflect results following additional plant and wildlife surveys and the Project's final on and/or off-site mitigation plans.	Prior to Project construction and activities	City of Moorpark/ Applicant