



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 South Coast Region
 3883 Ruffin Rd
 San Diego, CA 92107
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



March 20, 2023

Governor's Office of Planning & Research

Amber Gregg
 Contract Planner
 City of Laguna Niguel
 30111 Crown Valley Parkway
 Laguna Niguel, CA 92677
agregg@cityoflagunaniguel.org

March 21 2023

STATE CLEARING HOUSE

Grace Church Remodel and Griffin Senior Living Community Project (Project) Mitigated Negative Declaration (MND) SCH# 2023020444

Dear Ms. Gregg,

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced MND for the Project pursuant to 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, CDFW appreciates 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 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.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Laguna Niguel

Objective: The objective of the Project is to remodel an existing church and build a senior living community. The church remodel will include expansion of the first floor and construction of a partial second story. The construction process for the senior living community will involve demolition and removal of existing buildings, and the construction of a two-story, 108-unit facility with a basement parking garage and outdoor dog park. Existing vegetation and ornamental trees on site may be removed during construction.

Location: The Project site is located at 24600 La Plata Drive, in the City of Laguna Niguel. Directly to the north, south, and east of the site is residential housing. To the northwest is Crown Valley Parkway, followed by a riparian corridor and Orange County regional hiking trails.

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.

Amber Gregg, Contract Planner
City of Laguna Niguel
March 20, 2023
Page 2 of 4

Biological Setting: The Project site currently consists of the existing Grace Church building, a parking lot, and a former school facility and associated unpaved open area previously used for school and sports activities. School operations ended in 2018. The site contains ornamental trees and landscaping vegetation. According to the Biological Resources Assessment (BRA), the Project site does not support any native habitat communities or sensitive plant species. Per the BRA, Cooper's hawk (*Accipiter cooperii*; CDFW Watch List) has moderate potential to occur on site.

As to mitigation for impacts to biological resources, if trees are removed, they will be replaced with specimen-sized trees having a cumulative trunk diameter of up to two times the cumulative trunk diameter of the removed individuals. The MND also states that if Project activities require the removal of landscape vegetation that would put the Project in violation of City of Laguna Niguel ordinance requirements, then replacement landscaping vegetation shall be provided.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City of Laguna Niguel in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

COMMENT #1: Impacts to Bats

Issue 1: The MND may not adequately address impacts to bats on site. The MND does not mention any bat-specific surveys conducted within the Project area. The MND also does not include any bat avoidance measures, or an analysis of impacts due to nighttime lighting. Removal of infrastructure or trees occupied by bats would result in direct impacts. Indirect impacts to bats could result from noise, vibration, and light, especially at night (Stone et al., 2015). Disturbances such as these can lead to abandonment of maternity roosts. Bats 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).

Recommendation 1: To minimize the potential for impacts to bats, CDFW recommends a qualified Bat Biologist conduct surveys no more than two weeks prior to demolition of buildings or removal of vegetation to determine if there are bats roosting within the project site. If bats are discovered at the site, no construction activities shall begin until CDFW-approved bat exclusionary devices are put in place. Any nighttime lighting shall be shielded away from areas potentially occupied by bats. If bat maternity roosts are detected, construction activities shall not occur during the bat maternity season (March 1 through October 31), to prevent roost abandonment.

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 found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

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 Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the 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 MND to assist to assist the City of Laguna Niguel in identifying and mitigating Project impacts on biological resources.

Amber Gregg, Contract Planner
City of Laguna Niguel
March 20, 2023
Page 3 of 4

Questions regarding this letter or further coordination should be directed to Brigid Moran at Brigid.Moran@wildlife.ca.gov.

Sincerely,

DocuSigned by:

David Mayer

D709B4520375406...

David Mayer

Environmental Program Manager
South Coast Region

ec: Jennifer Turner, CDFW, Jennifer.Turner@wildlife.ca.gov
Jennifer Ludovissy, CDFW, Jennifer.Ludovissy@wildlife.ca.gov
Cindy Hailey, CDFW, Cindy.Hailey@wildlife.ca.gov
State Clearinghouse, Sacramento, State.Clearinghouse@opr.ca.gov
Jonathan Snyder – Jonathan_d_Snyder@fws.gov

REFERENCES

- California Environmental Quality Act (CEQA). 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.
- California Office of Planning and Research. 2009 or current version. CEQA: California Environmental Quality Act. Statutes and Guidelines, § 21081.6 and CEQA Guidelines, § 15097, §15126.4(2).
- Goulson, D. 2010. Bumblebees: behavior, ecology, and conservation. Oxford University Press, New York.
- Hatfield, R., Jepsen, S., Foltz Jordan, S., Blackburn, M., Code, Aimee. 2018. A Petition to the State of California Fish and Game Commission to List Four Species of Bumblebees as Endangered Species
- Stone, E., S. Harris, and G. Jones. 2015. Impacts of artificial lighting on bats: A review of challenges and solutions. Mammalian Biology
<https://www.sciencedirect.com/science/article/abs/pii/S1616504715000233>
- Williams, P. H., R. W. Thorp, L. L. Richardson, and S.R. Colla. 2014. Bumble bees of North America: An Identification guide. Princeton University Press, Princeton, New Jersey.

Amber Gregg, Contract Planner
 City of Laguna Niguel
 March 20, 2023
 Page 4 of 4

ATTACHMENT A: Draft Mitigation Monitoring and Reporting Program (MMRP)

CDFW provides the following language to be incorporated into the MMRP for the Project.

Biological Resources (BIO)		
Recommendation (REC) Description	Implementation Schedule	Responsible Party
<p>REC 1: Impacts to Bats: To determine whether there are bats roosting within or near the Project site, a qualified Bat Biologist shall conduct surveys no more than two weeks prior to demolition of buildings or removal of vegetation. If bats are discovered at the site, no construction activities shall begin until CDFW-approved bat exclusionary devices are put in place. Any nighttime lighting shall be shielded away from areas potentially occupied by bats. If bat maternity roosts are detected, construction activities shall not occur during the bat maternity season (March 1 through October 31), to prevent roost abandonment.</p>	<p>Before and during Project activities</p>	<p>City of Laguna Niguel</p>