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Governor's Office of Planning & Research

January 12 2024

STATE CLEARINGHOUSE

January 12, 2024

Darcy Smith, Assistant City Manager
City of San Bruno
567 El Camino Real
San Bruno, CA 94117
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Subject: Tanforan Redevelopment Project, Notice of Preparation of Draft
Environmental Impact Report, SCH No. 2023120409, City of San Bruno, San
Mateo County

Dear Darcy Smith:

The California Department of Fish and Wildlife (CDFW) reviewed the City of Bruno's (City) Notice of Preparation (NOP) of a Draft Environmental Impact Report (EIR) for the Tanforan Redevelopment Project (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines¹.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect fish and wildlife resources of the State. Please be advised, by law, CDFW may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW is providing the Lead Agency name, as the Lead Agency, with specific detail about the scope and content of the environmental information related to CDFW's area of statutory responsibility that must be included in the EIR (Cal. Code Regs., tit. 14, § 15082, subd. (b)).

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). 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.

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.

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CDFW is also submitting these comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority over the Project pursuant to the Fish and Game Code. For example, the Project may be subject to CDFW's Lake and Streambed Alteration (LSA) regulatory authority, if the Project impacts the bed, channel or bank of any river, stream or lake within the State (Fish & G. Code, § 1600 et seq.). Likewise, to the extent the Project may result in "take," as defined by state law, of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), related authorization as provided by the Fish and Game Code will be required.

REGULATORY REQUIREMENTS

California Endangered Species Act

A CESA Incidental Take Permit (ITP) must be obtained from CDFW if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the Project. Under CESA, "take" means "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." (Fish & G. Code, § 86). CDFW's issuance of an ITP is subject to CEQA and to facilitate permit issuance, any project modifications and mitigation measures must be incorporated into the CEQA document analysis, discussion, and mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit.

CEQA requires a mandatory finding of significance if a project is likely to substantially impact threatened or endangered species. Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064 & 15065). In addition, pursuant to CEQA, the Lead Agency cannot approve a project unless all impacts to the environment are avoided or mitigated to less-than-significant levels, or the Lead Agency makes and supports findings of overriding consideration for impacts that remain significant despite the implementation of all feasible mitigation. Findings of consideration under CEQA, however, do not eliminate the Project proponent's obligation to comply with the Fish and Game Code.

Lake and Streambed Alteration Agreement

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting river, lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank (including associated riparian or wetland resources); or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, drainage

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ditches, washes, watercourses with a subsurface flow, and floodplains is generally subject to notification requirements. In addition, infrastructure installed beneath such aquatic features, such as through hydraulic directional drilling, is also generally subject to notification requirements. Therefore, any impact to the mainstems, tributaries, or floodplains or associated riparian habitat caused by the proposed Project will likely require an LSA Notification. CDFW may not execute a final LSA Agreement until it has considered the final EIR and complied with its responsibilities as a responsible agency under CEQA.

Migratory Birds and Raptors

CDFW has authority over actions that may result in the disturbance or destruction of active bird nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include section 3503 (regarding unlawful take, possession, or needless destruction of the nests or eggs of any bird), section 3503.5 (regarding the take, possession, or destruction of any birds-of-prey or their nests or eggs), and section 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

PROJECT DESCRIPTION AND LOCATION

Proponent: Alexandria Real Estate Equities

The Project site is 44-acres and comprised of The Shops at Tanforan Shopping Center and a vacant parcel north of Sneath Lane and is currently developed with retail uses and surface parking. The Project area is generally bounded by Sneath Lane to the north, Huntington Avenue to the east, Highway 380 to the south, and El Camino Real to the west. The Project is located on six parcels (APNs 014-316-080, 014-316-300, 014-316-310, 014-316-360, 014-316-330, and 014-311-060) at the addresses 1122, 1150, 1178, 1188 El Camino Real and 300 Tanforan Shopping Center in San Bruno.

The Project proposes to demolish all the existing uses on the Project site except for the Century at Tanforan Theater, totaling approximately 900,000 square feet of demolition. The Project would construct a transit-oriented, mixed-use development including housing, retail uses, life-science laboratory and office uses, private and publicly accessible, privately-owned open space, and a potential hotel. The Project site includes a programmed area and two "flex zones." Within the programmed area, the Project would construct approximately 250,000 square feet of new and relocated retail space, approximately 1,000 multi-family residential units, approximately 711,000 square feet of life-science laboratory and office uses, an approximately 14,500-square foot amenity building, and a parking garage. The existing 81,500-square foot Century at Tanforan Theater would be remodeled and incorporated into the Project, and the existing Target would be relocated to a new retail building in the western portion of the Project site.

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- The CEQA Guidelines (§§15124 & 15378) require that the draft EIR incorporate a full Project description, including reasonably foreseeable future phases of the Project, and that contains sufficient information to evaluate and review the Project's environmental impact. Please include a complete description of the following Project components in the Project description including, but not limited to, the below information. Land use changes resulting from, for example, rezoning in certain areas.
- Footprints of permanent Project features and temporarily impacted areas, such as staging areas and access routes.
- Area and plans for any proposed buildings/structures, ground-disturbing activities, fencing, paving, stationary machinery, landscaping, and stormwater systems.
- Operational features of the Project, including level of anticipated human presence (describe seasonal or daily peaks in activity, if relevant), artificial lighting/light reflection, noise, traffic generation, and other features.
- Construction schedule, activities, equipment, and crew sizes.

ENVIRONMENTAL SETTING

Sufficient information for meaningful review regarding the environmental setting is necessary to understand any potentially significant impacts on the environment of the proposed Project and any alternatives identified in the EIR (CEQA Guidelines, §§ 15125 & 15360). CDFW recommends the EIR provide baseline habitat assessments for special-status plant, fish, and wildlife species located and potentially located within the Project area and surrounding lands, including all rare, threatened, and endangered species (CEQA Guidelines, §15380). The EIR should describe aquatic habitats, such as wetlands or waters of the U.S. or State, and any sensitive natural communities or riparian habitat occurring on or adjacent to the Project site (for sensitive natural communities see:

<https://wildlife.ca.gov/Data/VegCAMP/NaturalCommunities#sensitive%20natural%20communities>), and any stream or wetland set back distances the City may require.

Fully protected, threatened or endangered, candidate, and other special-status species that are known to occur, or have the potential to occur, in or near the Project site include, but are not limited to:

Common Name	Scientific Name	Federal Status	State Status	CDFW Status
California Ridgway's rail	<i>Rallus obsoletus obsoletus</i>	Endangered	Endangered	FP

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Alameda song sparrow	<i>Melospiza melodia pusillula</i>	None	None	SSC
American peregrine falcon	<i>Falco peregrinus anatum</i>	Delisted	Delisted	
California red-legged frog	<i>Rana draytonii</i>	Threatened	None	SSC
San Francisco gartersnake	<i>Thamnophis sirtalis tetrataenia</i>	Endangered	Endangered	FP
hoary bat	<i>Lasiurus cinereus</i>	None	None	
Townsend's big-eared bat	<i>Corynorhinus townsendii</i>	None	None	SSC
pallid bat	<i>Antrozous pallidus</i>	None	None	SSC
Stage's dufourine bee	<i>Dufourea stagei</i>	None	None	
Mission blue butterfly	<i>Icaricia icarioides missionensis</i>	Endangered	None	
callippe silverspot butterfly	<i>Speyeria callippe callippe</i>	Endangered	None	

Notes:

CDFW Status Key: FP = Fully Protected Species; SSC = Species of Special Concern.

Habitat descriptions and species profiles included in the EIR should include robust information from multiple sources: aerial imagery, historical and recent survey data, field reconnaissance, scientific literature and reports, U.S. Fish and Wildlife Service's (USFWS) Information, Planning, and Consultation System; California Aquatic Resources Inventory; and findings from "positive occurrence" databases such as California Natural Diversity Database (CNDDDB). Only with sufficient data and information from the habitat assessment can the City adequately assess which special-status species are likely to occur in the Project vicinity.

CDFW recommends that prior to Project implementation, surveys be conducted for special-status species with potential to occur, following recommended survey protocols if available. Survey and monitoring protocols and guidelines are available at: <https://wildlife.ca.gov/Conservation/Survey-Protocols>.

Botanical surveys for special-status plant species, including those listed by the California Native Plant Society (<http://www.cnps.org/cnps/rareplants/inventory/>), should also be conducted during the blooming period for all sensitive plant species potentially occurring within the Project area and include the identification of reference populations.

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Please refer to CDFW protocols for surveying and evaluating impacts to special-status plants available at: <https://wildlife.ca.gov/Conservation/Plants>.

IMPACT ANALYSIS AND MITIGATION MEASURES

The CEQA Guidelines necessitate the EIR discuss all direct and indirect impacts (temporary and permanent) that may occur with implementation of the Project. (CEQA Guidelines, § 15126.2). This includes evaluating and describing impacts such as:

- Potential for “take” of special-status species;
- Loss or modification of breeding, nesting, dispersal, and foraging habitat, including vegetation removal, alternation of soils and hydrology, and removal of habitat structural features (e.g. snags, roosts);
- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic, or human presence;
- Water quality impacts resulting from construction and operation of the Project;
- Impacts both from construction and operation of the Project;
- Impacts to bed, channel, bank, and riparian habitat, and the direct and indirect effects to fish, wildlife, and their habitat.

The EIR should also identify existing and reasonably foreseeable future projects in the Project vicinity, disclose any cumulative impacts associated with these projects, determine the significance of each cumulative impact, and assess the significance of the Project’s contribution to each impact (CEQA Guidelines, § 15355). Although a project’s impacts may be insignificant individually, its contributions to a cumulative impact may be considerable; a contribution to a significant cumulative impact (e.g., reduction of available habitat for a listed species) should be considered cumulatively considerable without mitigation to minimize or avoid the impact.

The CEQA Guidelines direct the City, as the Lead Agency, to consider and describe in the EIR all feasible mitigation measures to avoid and/or mitigate potentially significant impacts of the Project on the environment based on comprehensive analysis of the potential direct, indirect, and cumulative impacts of the Project. (CEQA Guidelines, §§ 15021, 15063, 15071, 15126.2, 15126.4 & 15370). This should include discussion of take avoidance and minimization measures for special-status species, which should be developed in consultation with the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and CDFW. These measures can then be incorporated as enforceable Project conditions to reduce potential impacts to biological resources to less-than-significant levels.

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ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to prepare subsequent EIRs or to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subds. (d) & (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to CNDDDB. The CNDDDB online field survey form and other methods for submitting data can be found here: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.

The types of information reported to CNDDDB can be found here:
<https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

CDFW anticipates that the proposed Project will 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 provide comment on the NOP in order to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Jason Teichman, Environmental Scientist at Jason.Teichman@wildlife.ca.gov, or Wesley Stokes, Senior Environmental Scientist (Supervisory), at Wesley.Stokes@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Erin Chappell

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Regional Manager
Bay Delta Region

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