



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

March 9, 2020

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Chris Schaefer
City of La Habra
110 East La Habra Blvd
La Habra, CA 90631

STATE CLEARINGHOUSE

Subject: Comments on the Draft Environmental Impact Report for the Volara Townhomes Project (SCH #2019060214)

Dear Mr. Schaefer:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a DEIR from the City of La Habra for the 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.

PROJECT DESCRIPTION SUMMARY

Proponent: City of La Habra

Objective: The Project will construct 58 townhome units and 181 parking spaces on a 2.92-acre site. Primary Project activities include demolition, vegetation removal, site preparation, grading, construction, paving, and landscaping.

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.

Location: The Project is located on a 2.92-acre site along the east side of Euclid Street in the City of La Habra, within a predominantly residential area. The Project site is bounded to the north by a Union Pacific railroad right-of way, to the east by industrial uses, to the west by Euclid Avenue, and to the south by Coyote Creek, a concrete-lined flood control channel. There are over 20 mature trees and shrubs on the Project site which have the potential to provide habitat for nesting and/or migratory birds. These trees and shrubs are non-native and ornamental species used for landscaping.

Timeframe: The Project will take approximately 12 months to complete.

COMMENTS AND RECOMMENDATIONS

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

I. Mitigation Measure or Alternative and Related Impact Shortcoming

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 #1: Mitigation Measure No. 4 Pre-Construction Surveys for Nesting Birds

Section 7.4

Issue: Mitigation Measure No. 4 is insufficient to reduce potential impacts to migrating or nesting birds below significant due to the proposed timing of preconstruction surveys.

Specific impact: Mitigation Measure No. 4 describes pre-construction surveys for nesting birds, should clearing and/or construction activities occur during the raptor or migratory bird nesting season (February 15 through August 15). Mitigation Measure No. 4 indicates that surveys will be conducted within 14 days prior to construction activities; however, that timeframe is inadequate to identify nesting bird presence in the Project area. A two-week timeframe allows the possibility for birds to locate onsite and potentially establish nests. Pre-construction surveys should be conducted as close to the time of potential disruption as possible, no more than 3 days from the start of construction.

Why impact would occur: There are over 20 mature trees and shrubs on site that will be removed during the construction phase of the Project, which have potential to harbor migratory and nesting birds.

Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)

MITIGATION MEASURE #1:

To reduce impacts to less than significant: If Project activities cannot occur outside of the bird nesting season, CDFW recommends that nesting bird surveys be conducted no more than 3 days prior to construction-related activities including clearing of vegetation, grubbing, or grading. If active nests or breeding behavior are observed within the Project area during the survey, a buffer zone of 300-500 feet should be established around the nest and a qualified biologist should be onsite to monitor activity daily during vegetation clearing and grading.

As written, Mitigation Measure No. 4 prescribes nesting bird surveys to be conducted within 14 days prior to construction activities during breeding season. To avoid or minimize impacts to nesting birds, CDFW recommends that Mitigation Measure No. 4 be amended as follows:

Mitigation Measure No. 4: If clearing and/or construction activities would occur during the raptor or migratory bird nesting season (February 15 to August 15), the Applicant and/or its contractor shall retain a qualified biologist to conduct preconstruction surveys for nesting birds no more than 3 days before the construction activities commence. A copy of the report must be provided to the Director of Community Development for review and approval prior to the start of any work on the project site. The qualified biologist shall survey the construction zone to determine whether the activities taking place have the potential to disturb or otherwise harm nesting birds. Surveys shall be repeated if project activities are suspended or delayed for more than 15 days during nesting season. If active nest(s) are identified during the preconstruction survey, the biologist shall establish a 300-foot no-activity setback for migratory bird nests and a 500-foot setback for raptor nests and/or sensitive species. No ground disturbance should occur within the no-activity setback until the nest is deemed inactive by a qualified biologist. The biologist must be approved by the Community Development Director prior to the issuance of any type of permit for the project.

Per CEQA Guidelines Section 21081.6(a)(1), the Department has provided the City of La Habra with a suggested mitigation measure and recommendations (Comment #1).

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity

Database (CNDDDB). The CNNDDB 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 DEIR to assist the City of La Habra in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Jessie Lane, Environmental Scientist at (858) 636-3159 or Jessie.Lane@wildlife.ca.gov.

Sincerely,



David A. Mayer
Acting Environmental Program Manager
South Coast Region

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

REFERENCES

City of La Habra. 2020. Volara Townhomes: Draft Environmental Impact Report. SCH# 2019060214.