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

May 15, 2020

Mr. Art Henriques
City of East Palo Alto
Community and Economic Development Department
1960 Tate Street
East Palo Alto, CA 94303
ahenriques@cityofepa.org

Subject: Woodland Park Euclid Improvements Project, Notice of Preparation, SCH #2020040270, City of East Palo Alto, San Mateo County

Dear Mr. Henriques:

The California Department of Fish and Wildlife (CDFW) has reviewed the Notice of Preparation (NOP) prepared by the City of East Palo Alto for the proposed Woodland Park Euclid Improvements Project (Project) located in the City of East Palo Alto, County of San Mateo. CDFW is submitting comments on the NOP regarding potential impacts to biological resources associated with the proposed Project.

CDFW is a Trustee Agency with responsibility under the California Environmental Quality Act (CEQA; Pub. Resources Code, § 21000 et seq.) pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program, and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources.

PROJECT DESCRIPTION AND LOCATION

The proposed Project is located at the intersection of Manhattan Avenue and West Bayshore Road, adjacent to U.S. 101 and northwest of University Circle, in the City of East Palo Alto, San Mateo County.

The proposed Project will replace 15 buildings containing 161 apartment units, with two buildings containing 605 residential units, a parking garage, and approximately 5,000 square feet of commercial and open space.

The CEQA Guidelines (§§15124 and 15378) require that the draft Environmental Impact Report (EIR) incorporate a full Project description, including reasonably foreseeable future phases of the Project, and require that it contain sufficient information to evaluate and review the Project's environmental impact. Please include complete descriptions of all Project features and phasing.

COMMENTS

COMMENT 1: Artificial lighting

Issue: The Project could increase artificial lighting. Artificial lighting often results in light pollution, which has the potential to significantly and adversely affect fish and wildlife.

Evidence the impact would be significant: Night lighting can disrupt the circadian rhythms of many wildlife species. Many species use photoperiod cues for communication (e.g., bird song; Miller 2006, determining when to begin foraging (Stone et al. 2009), behavior thermoregulation (Beiswenger 1977), and migration (Longcore and Rich 2004).

Recommendations to minimize significant impacts: CDFW recommends eliminating all non-essential artificial lighting from the Project. If artificial outdoor lighting is necessary, CDFW recommends that lighting be shielded, cast downward, and does not spill over onto other properties or upwards into the night sky (see the International Dark-Sky Association standards at http://darksky.org/).

COMMENT 2: Nesting Birds

Issue: Project construction could result in disturbance of nesting birds.

Evidence the impact would be significant: Noise can impact bird behavior by masking signals used for bird communication, mating, and hunting (Bottalico et al. 2015). Birds hearing can also be damaged from noise and impair the ability of birds to find or attract a mate and prevent parents from hearing calling young (Ortega 2012).

Recommendations to minimize significant impacts: If ground-disturbing or vegetation-disturbing activities must occur during the breeding season (February through early-September), the Project applicant is responsible for ensuring that implementation of the Project does not result in violation of the Migratory Bird Treaty Act 1918 or Fish and Game Codes.

To evaluate and avoid for potential impacts to nesting bird species, CDFW recommends incorporating the following mitigation measures into the Project's draft EIR, and that these measures be made conditions of approval for the Project.

Recommended Mitigation Measure 1: Nesting Bird Surveys
CDFW recommends that a qualified avian biologist conduct pre-activity surveys for active nests no more than seven (7) days prior to the start of ground or vegetation disturbance and every 14 days during Project activities to maximize the probability that nests that could potentially be impacted are detected. CDFW also recommends that surveys cover a sufficient area around the Project site to identify nests and determine their status. A sufficient area means any area potentially affected by the Project. Prior to initiation of ground or vegetation disturbance, CDFW recommends that a qualified avian biologist conduct a survey to establish a behavioral baseline of all identified nests. Once Project activities begins, CDFW recommends having the qualified biologist continuously monitor

nests, during project activities, to detect behavioral changes resulting from the Project. If behavioral changes occur, CDFW recommends stopping the work causing that change until a qualified avian biologist can identify that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival.

Recommended Mitigation Measure 2: Nesting Bird Buffers
If continuous monitoring of active nests by a qualified avian biologist, during Project activities, is not feasible, CDFW recommends a minimum no-disturbance buffer of 250 feet around active passerine bird species nests, a 1,000 feet no-disturbance buffer around active small raptors (e.g., accipiters) nests, and 2,000 feet no-disturbance buffer around active larger raptors (e.g., buteos) nests. These buffers are advised to remain in place until the breeding season has ended or until a qualified avian biologist has determined that the birds have fledged and are no longer reliant upon the nest or on-site parental care for survival. Variance from these no-disturbance buffers is possible when there is compelling biological or ecological reason to do so, such as when the Project site would be concealed from a nest site by topography. CDFW recommends that a qualified avian biologist advise and support any variance from these buffers.

REGULATORY REQUIREMENTS

California Endangered Species Act
Please be advised that a CESA Permit must be obtained 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. Issuance of a CESA Permit is subject to CEQA documentation; the CEQA document must specify impacts, mitigation measures, and a 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 (CEQA section 21001(c), 21083, and CEQA Guidelines section 15380, 15064, 15065). Impacts must be avoided or mitigated to less-than-significant levels unless the CEQA Lead Agency makes and supports Findings of Overriding Consideration (FOC). The CEQA Lead Agency's FOC does not eliminate the Project proponent's obligation to comply with Fish and Game Code section 2080.

Lake and Streambed Alteration Program
Notification is required, pursuant to CDFW's LSA Program (Fish and Game Code section 1600 et. seq.) for any Project-related activities that will 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, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. CDFW, as a Responsible Agency under CEQA, will consider the CEQA document for the Project. CDFW may not execute the final LSA Agreement until it has complied with CEQA (Public Resources Code section 21000 et seq.) as the responsible agency.

FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code section 711.4; Pub. Resources Code, section 21089). 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.

Thank you for the opportunity to comment on the Project's NOP. If you have any questions regarding this letter, please contact Ms. Monica Oey, Environmental Scientist at (707) 428-2088 or monica.oey@wildlife.ca.gov; or Ms. Randi Adai, Senior Environmental Scientist (Supervisory), at (707) 576-2786 or randi.adair@wildlife.ca.gov

Sincerely,

DocuSigned by:
Gregg Erickson
BE74D4C93C604EA...

Gregg Erickson
Regional Manager
Bay Delta Region

cc: State Clearinghouse #2020040270

REFRENCES

Beiswenger, R. E. 1977. Diet patterns of aggregative behavior in tadpoles of *Bufo americanus*, in relation to light and temperature. Ecology 58:98–108.

Bottalico, Pasquale & Spoglianti, Dorina & Bertetti, Carlo & Falossi, Marco. 2015. Effect of noise generated by construction sites on birds, paper presented at Internoise 2015, International Congress and Exposition on Noise Control Engineering

Longcore, T., and C. Rich. 2004. Ecological light pollution - Review. Frontiers in Ecology and the Environment 2:191–198.

Miller, M. W. 2006. Apparent effects of light pollution on singing behavior of American robins. The Condor 108:130–139.

Ortega, C. P. 2012. Chapter 2: Effects of noise pollution on birds: A brief review of our knowledge. Ornithological Monographs 47: 6-22

Stone, E. L., G. Jones, and S. Harris. 2009. Street lighting disturbs commuting bats. Current Biology 19:1123–1127. Elsevier Ltd.