



State of California – Natural Resources Agency
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February 11, 2026

Christopher Riordan, Senior Planner
City of Saratoga
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Subject: Masson Estates Project, Draft Environmental Impact Report,
SCH No. 2024050461; Santa Clara County

Dear Mr. Riordan:

The California Department of Fish and Wildlife (CDFW) received a draft Environmental Impact Report (EIR) from the City of Saratoga (City) for the Masson Estates Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.

CDFW is submitting comments on the draft EIR to inform the City, as the Lead Agency, of our concerns regarding potentially significant impacts to sensitive resources associated with the proposed Project. CDFW is providing these comments and recommendations regarding those activities involved in the Project that are within CDFW's area of expertise and relevant to its statutory responsibilities (Fish and G. Code, § 1802), and/or which are required to be approved by CDFW (CEQA Guidelines, §§ 15086, 15096 and 15204).

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.

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 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

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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.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

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.

California Environmental Quality Act

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

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 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

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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 SUMMARY

Proponent: City of Saratoga

Objective: The City proposes to subdivide a 72.45-acre parcel and develop 25 homes and related infrastructure in the northern 18.38-acre portion of the parcel; the southern 54.06-acre portion is not proposed for development, with the exception of an emergency access road. The proposed project would construct 20 market rate, and 5 affordable, single-family homes. The proposed homes would range from 2,375 to 7,091 square feet on lots ranging from 2,086 to 86,351 square feet. Lots 1-8 would be 2,375 square feet single-family homes with 4 bedrooms, 2 baths, and 2 car garages; of these, Lots 1-8 would be affordable units, and Lots 5-7 would be market-rate. Lots 9-25 would be market rate 4-bedroom 4-bath single-family houses of up to 7,091 square feet with 3 to 4 car garages. The proposed project would also include pavement improvements to the existing emergency access road. A total of 367 trees are proposed for removal and would be replaced primarily by Coast live oak (*Quercus agrifolia*).

Location: GPS Latitude: 37° 15'29"N, Longitude: 122° 3'26"W; Cross streets of Pierce Road and Saratoga Heights Drive in the City of Saratoga, in the County of Santa Clara, California; Associated Parcel Number (APN) 503-46-005.

Timeframe: Approximately June 2026 - 2029

ENVIRONMENTAL SETTING

Sufficient information 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 draft EIR (CEQA Guidelines, §§15125 & 15360). **CDFW**

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recommends the draft 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 draft 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, riparian, or wetland set back distances the City may require. Fully protected, threatened or endangered, candidate, and other special-status species or sensitive natural communities that are known to occur, or have the potential to occur in or near the Project area include, but are not limited to: the species listed in the State and Federally Listed Endangered and Threatened Animals of California – February 2026 list at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109405&inline> or State and Federally Listed Endangered, Threatened, and Rare Plants of California – January 2026 at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109390&inline>.

Habitat descriptions and species profiles included in the draft 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 can the City adequately assess which special-status species are likely to occur in the Project vicinity.

CDFW recommends 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://www.wildlife.ca.gov/Conservation/Survey-Protocol>.

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

IMPACT ANALYSIS AND MITIGATION MEASURES

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

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- Land use changes that would reduce open-space or agricultural land uses and increase residential or other land use involving increased development;
- Potential for impacts to fully protected and special-status species;
- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic or human presence;
- Obstruction of movement corridors, fish passage, or access to water sources and other core habitat features;
- Water quality impacts resulting from construction and operation of the Project;
- Impacts to the bed, channel, and bank, in the reservoirs and creeks downstream of the Project;
- Permanent and temporary habitat disturbances associated with ground disturbance, noise, lighting, reflection, air pollution, traffic or human presence; and
- Impacts both from construction and future operation of the Project.

The CEQA document also should 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 draft 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 a discussion of take avoidance and minimization measures for special-status species, which are recommended to be developed in early consultation with the USFWS, 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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Fully protected species may not be taken or possessed at any time except in limited circumstances (Fish & G. Code, §§ 3511, 4700, 5050, & 5515). Therefore, the draft EIR should include measures to completely avoid “take” of fully protected species.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City in adequately identifying and/or mitigating the Project’s significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources, including:

COMMENT 1: Inadequate and Outdated Baseline Conditions for Biological Resources

Issue: Section 3.4 of the draft EIR and Appendix C do not establish complete and current biological baseline conditions for the Project area. The biological analysis relies heavily on desktop database queries, outdated protocol-level surveys (7-11 years old), and a single reconnaissance-level general survey. CDFW generally considers biological field assessments for wildlife to be valid for a one-year period. Assessments for rare plants may be considered valid for a period of up to three years, except when significant environmental changes occur, such as disturbance resulting from urbanization or wildfire. As a result, the draft EIR lacks sufficient information to accurately characterize existing biological conditions or to support impact significance determinations.

Evidence of Significant Impacts: Because many species are cryptic or only seasonally detectable, their presence can be missed by a one-time, non-protocol survey, especially if conducted outside of the correct window. Inconsistent survey methodologies and the absence of County- or agency-level verification increase the risk that projects do not adequately account for impacts to sensitive biological resources. CEQA Guidelines §15125(a) require an EIR to describe the environmental setting “as it exists at the time the notice of preparation is published,” and this description forms the baseline against which project impacts are measured. A legally adequate baseline must be based on current, site-specific information sufficient to inform both the impact analysis and the public’s understanding of the project’s environmental consequences. Without a reliable baseline, an EIR cannot meaningfully evaluate whether a project would result in a substantial adverse change to biological resources (CEQA Guidelines §15126.2(a); Appendix G).

The absence of current baseline surveys is problematic where the Project proposes direct disturbance to streams, riparian habitat, and upland areas capable of supporting special-status species. Numerous studies demonstrate that species presence and habitat use can vary substantially across seasons and years, particularly for amphibians, bats, nesting birds, and annual or cryptic plant species. Without updated, seasonally-appropriate surveys, the EIR may incorrectly assume species absence or

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underestimate habitat value, leading to flawed impact conclusions (Li et al. 2019; Ranta et al. 2021). Without a current and complete biological baseline, the draft EIR risks underestimating impacts to biological resources and improperly deferring analysis to future permitting.

Recommendations: To address these deficiencies, CDFW recommends the following:

1. A qualified biologist with expertise in regional flora and fauna conduct updated protocol-level surveys for species with potential to be present in and around the Project area, consistent with CDFW and USFWS survey protocols during appropriate seasonal windows, including nocturnal and breeding-season surveys where relevant.
2. If project construction or occupancy could occur over multiple years or phases, updated biological surveys need to be conducted prior to each phase of ground-disturbing activities to ensure baseline conditions remain accurate.
3. Update impact significance determinations and mitigation measures based on the results of current baseline surveys. If updated data reveal greater biological value or species presence, the draft EIR should revise conclusions and incorporate additional avoidance, minimization, or mitigation measures as necessary.
4. Ensure that baseline conditions are established and disclosed in the draft EIR itself, rather than deferred to future permitting or construction-phase compliance.

COMMENT 2: Wildlife Movement and Connectivity

The Project is located at the eastern edge of core and patch habitat for movement of species across the Santa Cruz Mountain Range. Implementation of the proposed Project could prevent, decline, or otherwise alter use of existing wildlife movement corridors for a number of species. The Project area is an important linkage for badger (*Taxidea taxus*), mountain lion, dusky-footed woodrat (*Neotoma fuscipes*), long-eared Myotis (*Myotis evotis*), pallid bat (*Antrozous pallidus*), and white-tailed kite (*Elanus leucurus*) (BIOS Connectivity Modeling for the California Bay Area Linkage Network [ds854, ds864, ds863, ds879, ds865, ds860]). Maintaining connectivity through these linkages is critical to ensure current and future wildlife populations' abilities to move and adapt to a changing climate and habitat conditions. CDFW recommends that on-site features that contribute to habitat connectivity be evaluated and maintained. Aspects of the Project that could create physical barriers to wildlife movement, including direct or indirect Project-related activities, should be identified, and addressed in the draft EIR. CDFW recommends the Project avoid developing and encroaching onto wildlife corridors, essential connectivity blocks, critical wildlife passage areas, or potential linkage areas. Where not feasible, CDFW recommends mitigation for wildlife movement

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impacts, including, but not limited to a 1) wildlife movement study of existing use of wildlife corridors within the Project area before and after construction, 2) on-site or off-site compensatory mitigation, such as the development or enhancement of a local wildlife movement corridor.

COMMENT 3: Bats

Issue: The draft EIR does not adequately assess or disclose potential impacts to bats resulting from tree removal and structural disturbance associated with the Project. While the Project proposes removal of 367 trees and disturbance to features that may provide suitable roosting habitat, the draft EIR lacks a comprehensive bat habitat assessment and relies on limited, short-term pre-construction surveys to address potential impacts. Mitigation Measure MM BIO-1e proposes bat surveys within seven days prior to Project activities; however, this is insufficient to establish baseline conditions, identify seasonal roosting patterns, or ensure avoidance of maternity or hibernation roosts. Surveys should occur at least two seasons in advance of Project initiation. As a result, the draft EIR minimizes the potential for significant impacts to bats and does not demonstrate that impacts would be reduced to less-than-significant.

Evidence of Impacts: Bats are a sensitive species that rely on a variety of roosting features, including large trees with cavities or exfoliating bark, crevices in bridges and buildings, and other structural voids. Many bat species exhibit strong seasonal variation in roost use, shifting between maternity roosts, day roosts, night roosts, and hibernacula depending on time of year. Removal or disturbance of roosting habitat during critical life stages, such as maternity season, can result in direct mortality, abandonment of young, or long-term population declines (Kunz and Lumsden 2003; Cryan and Barclay 2009).

Scientific literature demonstrates that single-season or last-minute surveys are inadequate to characterize bat use of a site. Bat occupancy can vary substantially between spring, summer, and fall, and absence during a short survey window does not indicate absence during other biologically important periods (Weller 2007). Maternity colonies, which are typically present during late spring and summer, are especially vulnerable because females give birth to non-volant young that cannot escape disturbance or habitat removal (Kunz and Fenton 2005). Disturbance of maternity roosts is widely recognized as a significant impact because reproductive success in bats is low, with most species producing only one pup per year.

Recommendations: The draft EIR should include:

Multi-Season Bat Surveys: Focused bat surveys conducted during at least two biologically relevant seasons prior to project initiation, such as:

Spring/early summer (March 1–April 15) to identify maternity roost establishment;

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Late summer/fall (August 31–October 15) to document late-season roost use and migration-related activity;

Bat Habitat Monitoring by a qualified biologist of suitable habitat from March 1 to April 1 or August 31 to October 15 prior to construction activities. If the focused survey reveals the presence of roosting bats, then the appropriate exclusionary or avoidance measures will be implemented prior to construction during the period between March 1 to April 15 or August 31 to October 15.

Bat Project Avoidance: If active bat roosts are observed during environmental assessments or during construction, at any time, all Project activities should stop until the qualified biologist develops a bat avoidance plan to be implemented at the Project site. The bat avoidance plan should utilize seasonal avoidance, phased construction as well as temporary and permanent bat housing structures developed in coordination with CDFW.

COMMENT 4: Tree Removal, Oak Woodland Conversion, and Vegetation Impacts

Issue: The draft EIR acknowledges that project implementation would result in the removal of approximately 367 trees and the conversion or degradation of oak woodland habitat. While the draft EIR proposes mitigation measures related to tree replacement and on-site revegetation, it does not establish clear significance thresholds for oak woodland loss or mature tree removal, nor does it provide a framework for evaluating cumulative impacts associated with incremental vegetation loss over time. Additionally, the draft EIR relies heavily on replacement planting as mitigation without evaluating whether such replacement is ecologically feasible, functionally equivalent, or capable of offsetting long temporal lags associated with oak woodland recovery. As a result, the draft EIR does not demonstrate that impacts to oak woodland habitat and mature trees would be reduced to less-than-significant levels.

Evidence of Impacts: Oak woodlands and old-growth forests provide critical habitat for hundreds of species, including acorn woodpecker (*Melanerpes formicivorus*), pallid bat (*Antrozous pallidus*), and numerous pollinators and native understory plants. These systems also serve as carbon sinks, watershed protectors, and landscape connectors (Gaman & Firman, 2006). Oak regeneration is slow, and replacement planting is often unsuccessful without intensive site preparation, irrigation, and long-term management (McCreary, 2001). CEQA Guidelines §15126.2(a) require evaluation of both direct and indirect impacts, including habitat loss and degradation of natural communities. Additionally, §15130 requires analysis of cumulative impacts, especially for resource areas affected by incremental development. Incremental tree and canopy loss across multiple sites may not individually reach CEQA thresholds but can result in significant cumulative degradation of wildlife habitat and ecological function (Spero et al., 2018).

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Recommendations:

1. Prohibit removal of mature and legacy trees, such as native trees greater than 36 inches diameter at breast height (dbh) or those estimated to be over 100 years old.
2. Provide compensatory mitigation for loss of sensitive natural communities (e.g., oak woodland and scrub), which should be based on the species and size of trees to be impacted and at a minimum 5:1 replacement ratio. Appropriate compensatory mitigation should be through preservation and protection in perpetuity of equal or higher quality habitat, or through creation, enhancement, and/or restoration. A mitigation and monitoring plan should be developed and include success criteria to be met at the end of the monitoring period. If success criteria are not met, the mitigation plan should include adaptive management actions along with additional years of monitoring as well as additional mitigation for the temporal loss.
3. Require off-site mitigation for all tree removal exceeding on-site replanting capacity, with a preference for conservation easements, native habitat restoration, or purchase of appropriate credits from an approved mitigation bank.

COMMENT 5: Long-Term Lighting, Noise, and Human Disturbance Impacts

Issue: The draft EIR identifies lighting and noise as potential impacts to biological resources but mostly evaluates these impacts primarily in the context of temporary construction activities. The analysis does not adequately consider the permanent, operational effects associated with the proposed residential development, including continuous human presence, routine nighttime lighting, vehicular traffic, domestic noise, recreational activity, and long-term alteration of ambient sound and light conditions. Once occupied, the Project would introduce chronic sources of disturbance that would persist for the life of the development, fundamentally changing habitat conditions adjacent to riparian corridors and other sensitive biological areas.

While the draft EIR includes mitigation measures requiring lights that “avoid[s] light spillage” and generalized noise thresholds, these measures are insufficient to address chronic, indirect, and cumulative disturbance effects associated with residential land use. Residential development typically results in variable and unpredictable noise and lighting sources, including porch and landscape lighting, vehicle headlights, interior light spill, pets, human activity during crepuscular and nighttime periods, and increased use of nearby open space areas. The draft EIR does not establish biologically relevant thresholds, buffer-based protections, or operational restrictions to ensure that long-term lighting and noise impacts would not substantially degrade wildlife habitat or interfere with species movement, breeding, or foraging behavior.

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Evidence of Impacts: Sensitive species, wildlife, and their habitats may be adversely affected by increased and artificial night lighting, even temporarily due to night construction activities. Light plays a vital role in ecosystems by functioning as both an energy and an information source (Gaston et al. 2012, 2013). The addition of artificial light into a landscape disrupts this role, altering the natural circadian, lunar, and seasonal cycles under which species have evolved. Artificial lights result in direct illumination, altering the natural patterns of light and dark, and sky glow (i.e., scattered light in the atmosphere), which can extend the ecological impacts of light far beyond the light source (Longcore and Rich 2004). On cloudy nights in urban areas, for example, the sky glow effect can be of an equivalent or greater magnitude than high-elevation summer moonlight (Kyba et al. 2013). The addition of artificial light into a landscape can impact a broad range of system processes, including:

- Activity patterns;
- Availability and detectability of food resources;
- Movement, navigation and migration;
- The timing of phenological events;
- Physiological functions;
- Foraging behavior and predator-prey interactions;
- Phototaxis (attraction and movement towards light);
- Circadian rhythms (both physiological and behavioral); and
- Causing disorientation, entrapment, and temporary blindness.

Noise pollution can also trigger stress responses in wildlife, interfere with acoustic communication (particularly in birds and amphibians), and displace species from otherwise suitable habitat (Francis et al., 2012). Studies have shown that even chronic noise levels of 40–60 dBA can alter nesting success in birds and reduce habitat use by amphibians and mammals (Barber et al., 2010; Shannon et al., 2016). Despite these well-documented impacts, the draft EIR also does not clearly define riparian buffers as protection zones from light or noise. It also does not require mitigation for disturbance beyond generic equipment limitations. Without stronger design and timing standards, lighting and noise impacts will reduce the effectiveness of riparian setbacks and fragment wildlife corridors.

Under CEQA Guidelines §15126.2(a), the EIR must analyze all significant environmental effects, including those that are indirect or cumulative. Furthermore,

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Appendix G of the CEQA Guidelines requires evaluation of whether a project would interfere with wildlife movement, nursery sites, or result in habitat degradation through indirect disturbance such as noise or light.

Recommendations: To adequately address long-term biological impacts associated with residential occupancy, the EIR should be revised to include the following measures:

1. Designate riparian setbacks as light and noise protection zones. No permanent or temporary lighting or noise-generating activity shall be permitted within 150 feet of perennial streams and 100 feet of intermittent streams unless expressly designed and mitigated for wildlife sensitivity;
2. Establish operational noise limits based on sensitive receptor criteria. Instead of a decibel threshold across the board, adopt biologically informed criteria such as 45 dBA max at the riparian buffer edge during nighttime hours. Nighttime equipment uses (e.g., generators, trimming machines) should be located as far as possible from aquatic or nesting habitats and use noise attenuation measures;
3. Adopt enforceable operational lighting standards for residential development. Require fully shielded, downward-facing, warm-spectrum (less than 3000K) exterior lighting; prohibit decorative or landscape lighting adjacent to riparian areas; and limit lighting to motion-activated, security-only use during nighttime hours;
4. Restrict nighttime human activity near sensitive habitats. Prohibit nighttime recreational uses, amplified sound, or high-activity features (e.g., playgrounds, gathering areas) adjacent to riparian corridors or known sensitive species habitat;
5. Incorporate long-term monitoring and adaptive management. After the residential development is constructed, monitoring of light and noise conditions should be required adjacent to riparian areas, with enforceable corrective actions if thresholds are exceeded or wildlife use declines; and
6. If permanent residential disturbance cannot be mitigated to less-than-significant levels, the draft EIR must acknowledge and disclose unavoidable impacts to biological resources and consider additional avoidance or project redesign.

COMMENT 6: Exterior Windows

Issue: The glass used for exterior building windows could result in bird collisions, which can cause bird injury and mortality.

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Evidence the impact would be significant: Birds, typically, do not see clear or reflective glass, and can collide with glass (e.g., windows) that reflect surrounding landscape and/or habitat features (Klem and Saenger 2013). When birds collide with glass, they can be injured or killed. In the United States, the estimated annual bird mortality is between 365-988 million birds (Loss et al. 2014).

Recommendations to minimize significant impacts: CDFW recommends incorporating visual signals or cues to exterior windows to prevent bird collisions. Visual signals or cues include, but are not limited to, patterns to break up reflective areas, external window films and coverings, ultraviolet patterned glass, and screens. For best practices on how to reduce bird collisions with windows, please go to the USFWS website for Buildings and Glass (<https://www.fws.gov/birds/bird-enthusiasts/threats-to-birds/collisions/buildings-and-glass.php>).

COMMENT 7: Lake and Streambed Alteration Notification

Issue: The draft EIR notes in multiple places that the Project has the potential to impact streams on-site, but does not expressly state the Project Applicant will apply for a LSA Agreement. CDFW requires an LSA Agreement when a project activity may substantially adversely affect fish and wildlife resources. LSA Agreements provide actions to avoid and minimize adverse impacts and provide protections to California's fish and wildlife resources. It appears that CDFW does not currently have a record of LSA notification on file for this Project.

Recommendations: CDFW recommends the Applicant submit an LSA notification for the Project pursuant to Fish and Game Code section 1602 well in advance of Project construction. Additional information about the LSA notification process is described on CDFW's website at <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>.

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 CNDDB. The CNDDB field survey form can be found at the following link: <https://wildlife.ca.gov/Data/CNDDB/Submitting-Data#44524420-pdf-field-survey-form>. The completed form can be mailed electronically to CNDDB at the following email address: CNDDB@wildlife.ca.gov. The types of information reported to CNDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDB/Plants-and-Animals>.

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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 and Game Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

CDFW appreciates the opportunity to comment on the draft EIR to assist the City in identifying and mitigating Project impacts on biological resources. Please contact Emily Carlson, Environmental Scientist, at Emily.Carlson@wildlife.ca.gov; or Jason Faridi, Senior Environmental Scientist (Supervisory), at Jason.Faridi@wildlife.ca.gov if you have questions.

Sincerely,

DocuSigned by:

Erin Chappell
B77E9A6211EF486
Erin Chappell
Regional Manager
Bay Delta Reigon

Attachment: Attachment A

ec: Craig Weightman, Bay Delta Region - Craig.Weightman@wildlife.ca.gov

REFERENCES

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