



*A Community Organization Dedicated to Improving and Preserving  
the Quality of Life in Laurel Canyon*

May 3, 2023

**VIA ELECTRONIC MAIL**

Los Angeles City Council  
200 N. Spring Street, Rm. 395  
Los Angeles, CA 90012

**Re: Hollywood Community Plan Update (CF 21-0934; CPC-2016-1450-CPU, ENV-2016-1451- EIR; SCH. No. 2016041093)**

Dear Members of the City Council:

I am writing on behalf of the Laurel Canyon Association (“LCA”), which has participated extensively in the administrative process for the Hollywood Community Plan Update (“Project”). LCA submitted a comment letter to the Planning and Land Use Management Committee (“PLUM”) focused on the biological resource impacts of the Project. The letter explained that the mitigation measures were legally deficient. The City of Los Angeles Department of Community Planning (“DCP” or “City”) has now prepared supplemental responses to comments, which were populated to the Council File Management System yesterday. This letter is a rebuttal to the responses prepared by DCP.

The City admits that a tool is available is now available in ZIMAS to easily determine if a parcel provides habitat for protected species. However, the City persists in arguing that applying the mitigation measures in BR-1 to BR-6 to ministerial projects would be “infeasible” because more than 7,000 parcels have been identified as containing habitat for protected species. The City then provides examples of remodel projects that it contends would be subject to biological resource assessments. The City’s response are quoted below

“Earlier this year, LA City Planning’s SB 9 Eligibility Criteria Checklist on ZIMAS tags properties that have "habitat for "habitat for protected species" - this tool can be used to evaluate ministerial projects that should be subject to mitigation. protected species" so the commenter is correct that identifying parcels that may contain habitat for protected species would not require significant City resources. However, if all

ministerial projects on parcels that ZIMAS flags as having "habitat for protected species" were required to complete a biological resource assessment report and submit the report to DCP and California Department of Fish and Wildlife, this new requirement and review process would likely affect over 7,000 parcels in the CPA. That would also mean that a minor addition to an existing house, which otherwise meets all other City and zoning requirements, would have to complete a biological resource assessment report and City Planning would have to create a new administrative review process to review and provide input on the report, in addition to CDFW's involvement. For example, someone who wanted to build a second story addition, which wouldn't change the building footprint and would otherwise be a ministerial by-right project where they would need to apply for a building permit, would now be required to complete a biological resource assessment report. LADBS would have to add a new clearance to the building permit for DCP's clearance. As part of the."

Response to Comments dated May 2, 2023 at page 57.

There are several problems with the City's responses. First, it appears the City has quoted the total number of parcels (7,000) that have been mapped as containing habitat for protected species. However, the City has already committed to applying a mitigation measure to discretionary projects subject to the Baseline Hillside Ordinance ("BHO"). The issue is whether this mitigation measure should be extended to certain ministerial projects subject to the BHO. The City has provided no data or objective metrics to ascertain the total volume of ministerial projects that could be impacted by the extension of the mitigation measure to ministerial projects. Rather, the City has simply provided the public with the total number of parcels that have been mapped as containing habitat. What is needed is the volume of ministerial projects. This is an important consideration and necessary to determine whether it would be "infeasible" to require a biological resource assessment for such projects. For example, if only 5 percent of those parcels applied for ministerial permits on an annual basis that would only be 350 biological reviews per year. Certainly, only a small number of people actually remodel their home on an annual basis. No reasonable person would conclude otherwise. The City has simply provided a raw number (the total number of parcels) in order to make it appear that it would be infeasible to require such analysis and mitigation. The City has the data of the total number of ministerial permits issued on an annual basis and has deliberately chosen not to provide this information in its response. This information is clearly relevant. Second, to the extent that the City believes that it would be too burdensome to require biological resource assessments for a "minor addition to an existing house" or for a "second story addition" the City could easily limit such assessments to those ministerial projects subject to the BHO proposed on

previously undeveloped parcels (i.e vacant land). In fact, most of the habitat value for protected species is located on such lots. The City knows how to resolve this issue and has simply chosen to exaggerate the burden that would be required to undertake the legally require mitigation. As LCA noted in its previous letter, however, any infeasibility determination must be supported by substantial evidence. The City does not have the luxury to just decide it does not want to mitigate admittedly *significant* impacts to biological resources. Mitigation must truly be “unavoidable,” not just inconvenient. The City has not met its burden. The City could easily require biological resource assessments for ministerial projects subject to the BHO for projects proposed on previously undeveloped parcels (exempting remodels for existing homes). Revised mitigation measures demonstrating this are attached hereto as Exhibit 1.

Finally, the City’s responses do not address the issue identified in LCA’s letter that the proposed mitigation for sensitive natural communities is inadequate (i.e. area-based mitigation is required).

In conclusion, the City’s infeasibility determination remains unsupported by substantial evidence and the proposed biological resource mitigation measures are legally insufficient. As such, the FEIR that the City is poised to certify does not comply with the California Environmental Quality Act. I may be contacted at 310-380-0845 or at [jhall@laurelcanyon.org](mailto:jhall@laurelcanyon.org) if you have any questions, comments or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jamie T. Hall', written in a cursive style.

Jamie T. Hall  
Laurel Canyon Association  
President

# **Exhibit 1**

## **BR-1**

For ministerial projects subject to the Baseline Hillside Ordinance that are located on undeveloped parcels identified in ZIMAS as containing habitat for protected or sensitive species and for discretionary projects that are in or within 200 feet of Griffith Park, dedicated open space or are required to comply with the City's Baseline Hillside Ordinance, project applicants shall be required to conduct a biological resources assessment report to characterize the biological resources on-site and to determine the presence or absence of sensitive species. The report shall identify 1) approximate population size and distribution of any sensitive plant or animal species, 2) any sensitive habitats (such as wetlands or riparian areas), and 3) any potential impacts of proposed project on wildlife corridors and wildlife movement across the property or within the property vicinity. Off-site areas that may be directly or indirectly affected by the individual project shall also be surveyed. Survey times should correspond with the most likely time the potential species would be observed. The report shall include site location, literature sources, methodology, timing of surveys, vegetation map, site photographs, and descriptions of on-site biological resources (e.g., observed and detected species, as well as an analysis of those species with the potential to occur on-site). The biological resources assessment report and surveys shall be conducted by a qualified biologist, and any special status species surveys shall be conducted according to standard methods of surveying for the species as appropriate. The biological resources assessment report will document the potential for the sensitive species to occur on the site. If sensitive species and/or habitat are absent from or there is no suitable habitat to support the sensitive species on the individual project site and adjacent lands potentially affected by the individual project, a written report substantiating such shall be submitted to Department of City Planning (DCP), California Department of Fish and Wildlife and Santa Monica Mountains Conservancy ("SMMC") prior to issuance of a grading permit issuance of the first permit for the Project. The City shall consult with trustee agencies prior to approval of the Project.

If sensitive species and/or habitat are identified, the biological resources assessment report shall require pre-construction surveys for sensitive species and/or construction monitoring to ensure avoidance, relocation, or safe escape of the sensitive species from the construction activities, as appropriate. If avoidance is not feasible to sensitive natural communities, area-based mitigation shall be proposed that involves on-or off-site permanent protection or restoration of the same habitat type at a specified mitigation ratio recommended by CDFW. The City shall submit the biological resource assessment report to trustee agencies and consult with said agencies to determine the completeness and appropriate mitigation for the Project. If sensitive species are found to be nesting, brooding, denning, etc. on-site during the pre-construction survey or during construction monitoring, construction activities shall be halted until offspring are weaned, fledged, etc. and are able to escape the site or be safely relocated to appropriate off-site habitat areas. A qualified biologist shall be on-site to conduct surveys, for construction monitoring, to perform or oversee implementation of protective measures, and to determine when construction activity may resume. Additionally, the biological resources assessment report shall be submitted to DCP, ~~and CDFW and SMMC any ground-disturbing activities.~~ prior to the issuance of the first permit for the Project. A follow-up report documenting construction monitoring, relocation methods, and the results of the monitoring and species relocation shall also be submitted to DCP and CDFW following construction.

## **BR-2**

If indicated as appropriate by the biological resources assessment report required in **Mitigation Measure BR-1**, focused surveys for special status plants shall be conducted. Prior to vegetation clearing for construction in open space areas, special status plants identified in the focused surveys shall be counted and mapped and a special-status plant relocation plan shall be developed and implemented to provide for translocation of the plants. The plan shall be prepared by a qualified biologist and shall include the following components: (1) identify an area of appropriate habitat, on-site preferred; (2) depending on the species detected, determine if translocation will take the form of seed collection and deposition, or transplanting the plants and surrounding soil as appropriate; (3) develop protocols for irrigation and maintenance of the translocated plants where appropriate; (4) set forth performance criteria (e.g., establishment of quantitative goals, expressed in percent cover or number of individuals, comparing the restored and impacted population) and remedial measures for the translocation effort; and (5) establish a five-year monitoring procedures/protocols for the translocated plants. The City shall submit the special-status plant relocation plan to both the SMMC and CDFW for review and comment prior to approval. If relocation is not feasible, area-based mitigation shall be proposed that involves on-or off-site permanent protection or restoration of the same habitat type at a specified mitigation ratio recommended by CDFW. The City shall submit the biological resource assessment report to trustee agencies and consult with said agencies to determine the completeness and appropriate mitigation for the Project. Five years after initiation of the restoration activities, a report shall be submitted to DCP, ~~and~~ CDFW and SMMC, which shall at a minimum discuss the implementation, monitoring, and management of the restoration activities over the five-year period and indicate whether the restoration activities have, in part or in whole, been successful based on the established performance criteria. The restoration activities shall be extended if the performance criteria have not been met at the end of the five-year period to the satisfaction of DCP, CDFW, SMMC and U.S. Fish and Wildlife Service (USFWS), when applicable.

## **BR-3**

During environmental review for projects that are discretionary or in a CPIO District subarea or for ministerial projects subject to the Baseline Hillside Ordinance that are located on undeveloped parcels identified in ZIMAS as containing habitat for protected or sensitive species, in areas potentially containing jurisdictional waters or riparian habitat, including streams, wetlands, and other water bodies, affected sites as well as off-site areas that may be directly or indirectly affected by the individual development project shall be surveyed by a qualified biologist for Waters of the U.S. and Waters of the State (e.g., streams, wetlands, or riparian habitat). Whenever possible, individual projects shall be designed and/or sited to avoid disturbance to or loss of jurisdictional resources. If Waters of the U.S. or Waters of the State cannot be avoided and would be affected by the individual project, the regulatory agencies shall be consulted regarding the required permits. Individual project applicants shall demonstrate to DCP, if the lead agency, the regulating agency that the requirements of agencies with jurisdiction over the subject resource can be met prior to obtaining ~~grading permits~~ the first permit for the Project. This will include, but not be limited to, consultation with those agencies, securing the

appropriate permits, waivers, or agreements, and arrangements with a local or regional mitigation bank including in lieu fees, as needed.

#### **BR-4**

At the discretion of the regulatory agencies, including DCP, if applicable, discretionary development projects or ministerial projects subject to the Baseline Hillside Ordinance that are located on undeveloped parcels identified in ZIMAS as containing habitat for protected or sensitive species resulting in the modification, change, and/or loss of Waters of the U.S. and Waters of the State (e.g., streams, wetland, or riparian habitat) under jurisdiction of the regulatory agencies shall be required to contribute to a mitigation bank, contribute to an in-lieu fee program, establish on-site or off-site restoration of in-kind habitat, or establish on-site or off-site restoration of out-of-kind habitat that is of high value to the watershed and provides important watershed functions. Individual project applicants shall submit a compensatory plan for review and approval by relevant regulatory agencies, including DCP, if applicable. The compensatory plan shall be developed by a qualified biologist or restoration ecologist and approved by the relevant regulatory agencies prior to issuance of ~~a grading permit~~ the first permit issued for the Project. The plan shall be based on the U.S. Army Corps of Engineers (USACE) *Final Mitigation Guidelines and Monitoring Requirements* (April 19, 2004) and the Los Angeles District's Recommended Outline for Draft and Final Compensatory Mitigation and Monitoring Plans. In broad terms, this plan shall at a minimum include:

- Description of the project/impact and mitigation sites
- Specific objectives
- Implementation plan
- Success criteria
- Required maintenance activities
- Monitoring plan
- Contingency measures

At the discretion of DCP and relevant regulatory agencies, Waters of the U.S. and Waters of the State shall be replaced at a minimum 3:1 ratio. The specific success criteria and methods for evaluating whether an individual development project has been successful at meeting those criteria shall be determined by the qualified biologist or restoration ecologist and included in the compensatory plan.

Implementation of the compensatory plan shall commence prior to issuance of ~~a grading permit~~ the first permit issued for the Project for individual projects. If the compensatory plan involves establishment or restoration activities, these activities shall be implemented over a five-year period. The establishment or restoration activities shall incorporate an iterative process of annual monitoring and evaluation of progress, and allow for adjustments to the activities, as necessary, to achieve desired outcomes and meet the success criteria. Five years after initiation of establishment or restoration activities, a final report shall be submitted to the relevant regulatory agencies and DCP, which shall at a minimum discuss the implementation, monitoring, and management of the activities over the five-year period, and indicate whether the activities have,

in part, or in whole, been successful based on established success criteria. The establishment or restoration activities shall be extended if the success criteria have not been met to the satisfaction of DCP and relevant regulatory agencies.

#### **BR-5**

For projects that are discretionary or in a CPIO District subarea or ministerial projects subject to the Baseline Hillside Ordinance that are located on undeveloped parcels identified in ZIMAS as containing habitat for protected or sensitive species, prior to construction activities on properties that contain seasonal or perennial streams, year-round or intermittent wetlands, riparian habitat, or the Los Angeles River, project applicants shall be required to prepare and submit to the U.S. Army Corps of Engineers a “Preliminary Delineation Report for Waters of the U.S.” (which shall delineate any on-site wetlands) and, as appropriate, a Streambed Alteration Notification package to CDFW. If these agencies determine that project features are not regulated under their jurisdiction, then no further protection measure is necessary. However, if the U.S. Army Corps of Engineers determines that a federally-protected wetland is located on-site or considers the feature to be jurisdictional through a "significant nexus" test per recent U.S. Army Corps of Engineers and USEPA guidance,<sup>21</sup> then a Clean Water Act Section 404 permit shall be obtained from the U.S. Army Corps of Engineers, and any permit conditions shall be agreed to, prior to the start of construction activities in the affected area. If CDFW determines that the drainage is a regulated "streambed", then a Streambed Alteration Agreement shall be entered into with CDFW and any associated conditions shall be agreed to prior to the start of construction in the affected area.

#### **BR-6**

For ministerial projects subject to the Baseline Hillside Ordinance that are located on undeveloped parcels identified in ZIMAS as containing habitat for protected or sensitive species and for discretionary projects that are in or within 200 feet of Griffith Park, dedicated open space or are required to comply with the City’s Baseline Hillside Ordinance, the biological resources assessment report, as mentioned in Mitigation Measure BR-1, shall analyze how the individual development project could affect wildlife corridors and wildlife movement. The biological resources assessment report shall include a biological constraints analysis that shall identify measures (such as providing native landscaping to provide cover on the wildlife corridor) that the individual project would be required to implement such that the existing wildlife corridor would remain. Wildlife corridors identified in the biological resources assessment report shall not be entirely obstructed from wildlife passage by the ~~discretionary~~ project and shall be kept open to the maximum extent feasible. Measures to support wildlife movement include but are not limited to: retention of onsite native trees and vegetation, or unobstructed setbacks or wildlife friendly fencing on at least two edges of the property, or minimum 25-foot buffers from the edge of stream, reservoir, riparian or wetland habitat. The biological resources assessment report and constraint analysis shall be submitted to DCP, CDFW and SMMC for review and comment prior to issuance of the first permit for the Project.