



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

April 24, 2023

**VIA ELECTRONIC MAIL**

Hon. Marqueece Harris-Dawson, Chair  
Planning and Land Use Committee  
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 PLUM Committee:

I am writing on behalf of the Laurel Canyon Association (“LCA”) and the Los Feliz Improvement Association (“LFIA”) with regard to the proposed update to the Hollywood Community Plan (“Plan”) and the Environmental Impact Report (EIR”) prepared for the Plan. LCA and LFIA wrote extensive comment letters during the public comment period. As explained below, the EIR for the Project remains deficient and both organizations object to the approval of the Plan and certification of the EIR.

The City proposes to limit the mitigation measures in BR-1, BR-2, BR-3, BR-4, BR-5 and BR-6 to projects that are *discretionary* in nature. The DEIR states the following at page 4.4-25<sup>1</sup>:

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<sup>1</sup> The FEIR’s response to comments does not provide any additional rationale for the City’s infeasibility determination.

### Infeasibility Discussion in DEIR

Requiring Mitigation Measures **BR-1** and **BR-2**, if applicable, for all projects would be infeasible because the City has determined that the use of staff resources to apply these mitigation measures to all ministerial projects is not justified. It would require City staff to evaluate each and every ministerial project to determine if that project, because of its unique characteristics, should be subject to this mitigation. Alternatively, it would require rezoning every property. As discussed above in the impact analysis, the majority of the properties in and around Griffith Park and the hillsides are not expected to be altered during the Proposed Plan's 20-year horizon. From an implementation and administrative point of view requiring these procedures or actions would be extremely difficult and require an inordinate amount of staff time and resources to capture the small number of projects that could have significant impacts. Therefore, the Proposed Plan would result in a *significant and unavoidable* impact after mitigation.

The City's infeasibility discussion is not supported by substantial evidence. It is premised on a faulty assumption – that it “would require City staff to evaluate each and every ministerial project to determine if that project, because of its unique characteristics, should be subject to this mitigation.” This is simply not accurate. There is already a quick and easy way for the City to determine which projects should be subject to this mitigation. The City has pre-screened hillside parcels in the Hollywood Community Plan Area to determine if they contain “habitat for protected species” pursuant to Government Code Section 65913.4(a)(6)(J)<sup>2</sup>.

These results have been populated to ZIMAS and can be accessed using the City's SB9 Eligibility Criteria Tool.

Special Status	Areas
SN: Sign District	No
SB 9 Eligibility	View
SB 35 Eligibility	View
AB 2334: Very Low VMT	Yes
AB 2097: Reduced Parking Areas	No

<sup>2</sup> This section of the Government Code provides for special protection for lots that provide:

“Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).”



A screenshot of this tool from a sample property in the hillsides of the Hollywood Community Plan Area<sup>3</sup> can be found below:

### SB 9 Eligibility Criteria Checklist

PIN Number: 150A175 160

Site Address: 8148 W GOULD AVE

Tract: TR 2019

Map Reference: M B 22-126/127

Block: 57

Lot: 7

Arb (Lot Cut Reference): None

A. Planning/Housing Standards. All answers must be "Yes"	
1. The parcel is located within a single-family residential zone.	YES
2. The site is a legal parcel or parcels located in a city if, and only if, the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or, for unincorporated areas, a legal parcel or parcels wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.	YES
3. The development is not located within a historic district (HPOZ) or property included on the State Historic Resources Inventory, as defined in Section 5020.1 of the Public Resources Code, or within a site that is designated or listed as a Historic Cultural Monument (HCM) or historic property or district pursuant to any ordinance.	YES
4. Lots have not been previously split using SB9	

B. Environmental Standards (to be verified by the Department of City Planning in consultation with other agencies as needed). All answers must be "No" Is the development located on a site that is any of the following:	
1. Either <b>prime farmland</b> or <b>farmland of statewide importance</b> , as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that jurisdiction.	NO
2. <b>Wetlands</b> , as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).	NO
3. A <b>hazardous waste site</b> that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.	NO
4. Within a regulatory floodway as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency, unless the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations. If a development proponent is able to satisfy all applicable federal qualifying criteria in order to provide that the site satisfies this subparagraph and is otherwise eligible for streamlined approval under this section, a local government shall not deny the application on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site.	NO
5. Lands identified for <b>conservation</b> in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or other adopted natural resource protection plan.	NO
A. Natural Community Conservation Planning Act	NO
B. Habitat Conservation Plan	NO
C. Other Adopted Natural Resource Protection Plan (LA County Significant Ecological Areas)	NO
6. <b>Habitat for protected species</b> identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).	YES
7. Lands under a <b>conservation easement</b> .	NO

<sup>3</sup> The result of the Tool for this property can be accessed at <http://zimas.lacity.org/ProjectDatatab?project=SB9Eligibility&pin=150A175%20%20%20160&address=8148%20W%20GOULD%20AVE>

In a Fact Sheet<sup>4</sup> brochure prepared by the City and dated March 16, 2023 the City states as follows, “Properties have been assessed based on the potential presence of biological resources to pre-screen parcels that have a high likelihood of containing habitat or need further analysis to determine if habitat exists, as defined by geographical datasets from federal, State, and local agencies such as the Protected Areas for Wildlife (PAWs) study, County identified Sensitive Ecological Areas (SEAs), and US Fish and Wildlife Service (USFWS) - identified Critical Habitat Areas or determined through a biologist’s assessment.” The City also published a Memorandum dated March 16, 2023 authored by Planning Director Vince Bertoni<sup>5</sup> which explains the City’s process of pre-screening these parcels to determine their biological resource value. The Memo states as follows:

Except from City Memo re SB9

**Habitat for Certain Species.** The law prohibits SB 9 developments on sites that contain habitat for candidate species, sensitive species, or species of special status identified by state or federal agencies, or species protected by laws such as the California Endangered Species Act. The City has two ways of identifying SB 9 habitat areas.

The first method is based on certain areas geographically delineated as habitat areas for protected species through substantial evidence, such as official agency designations including the County’s Significant Ecological Areas (SEAs) or the US Fish and Wildlife Service Critical Habitat areas, as well as areas identified in the City’s Protected Areas for Wildlife (PAWs) report<sup>1</sup> as containing habitat for species listed under the federal Endangered Species Act or the California Endangered Species Act. These areas are all excluded from SB 9 consideration.

The second method is through a screening process for areas that have been identified by City Planning as potentially containing habitat for protected or sensitive species and must be evaluated by a qualified biologist to determine if habitat exists onsite. The guidelines for determining habitat are outlined in the Biologist’s Statement of Habitat ([CP-3610](#)). Habitat may include commonly found sensitive vegetative communities such as California walnut groves and Coast live oak woodlands and may require a Habitat Integrity Analysis to determine if these vegetative communities qualify as habitat. If the biologist determines that such habitat occurs on the project site, it becomes ineligible for SB 9 consideration.

Notably, the Memo admits that the City’s “Protected Areas for Wildlife (PAWs) study is supported by substantial evidence and that it geographically

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<sup>4</sup> This FAQ is available at <https://planning.lacity.org/odocument/597fb369-6fbd-4148-a057-3f33233405d2/SB9FAQ2.71.pdf>

<sup>5</sup> This memorandum can be accessed at [https://planning.lacity.org/odocument/bef6b998-de32-4090-9557-5f98711c6c15/SB9\\_Memo\\_2-7-22MG\\_-\\_signed.pdf](https://planning.lacity.org/odocument/bef6b998-de32-4090-9557-5f98711c6c15/SB9_Memo_2-7-22MG_-_signed.pdf)

delineates habitat areas for protected species. The PAWs study analyzed the hillsides of the Hollywood Community Plan Area<sup>6</sup>.

City staff could easily and efficiently use the SB9 Eligibility Criteria Tool to determine if a ministerial project subject to the Baseline Hillside Ordinance should be required to prepare a Biological Resource Assessment in order to comply with BR-1, BR-2, BR-3, BR-4, BR-5 and BR-6. Requiring these procedures would not be “extremely difficult” or “require an inordinate amount of staff time and resources.” Moreover, rezoning every property would not be required. The best evidence that this would not be “extremely difficult” is that fact that the City states the following on its website<sup>7</sup>:

*“The best way to assess whether a parcel is eligible for SB 9 is to use City Planning’s Zone Information and Map Access System (ZIMAS) tool. Enter the address in the pop-up window, click the “Planning and Zoning” menu on the left side of the screen, and scroll down to the “SB 9 Eligibility” line. Click the adjacent link to display the Eligibility Criteria Checklist, which will indicate whether the site is eligible for SB 9.”*

There is no way asking a City employee to do the same thing (using the SB9 Eligibility Tool” to see if a parcel has been indemnified as containing habitat for protected species) would be unreasonable.

Alternatively, the City could require that ministerial projects located in Habitat Blocks in the Santa Monica Mountains Conservancy’s Natural Resource Protection Plan<sup>8</sup> (NRPP) be subject to BR-1, BR-2, BR-3, BR-4, BR-5 and BR-6. These maps are easily accessible<sup>9</sup> and the City’s has acknowledged their legitimacy. Precise parcels lines are shown in the map and a City staffer would simply have to look at the map to see if a ministerial project was located in a Habitat Block. A screenshot from the SMMC’s maps can be seen below.

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<sup>6</sup> The full report can be accessed at [https://planning.lacity.org/odocument/13de48cd-2fae-4ce7-ab4b-3ae213020b87/2021-02-26 ESA PAW-WMP Final Report.pdf](https://planning.lacity.org/odocument/13de48cd-2fae-4ce7-ab4b-3ae213020b87/2021-02-26_ESA_PA-WMP_Final_Report.pdf)

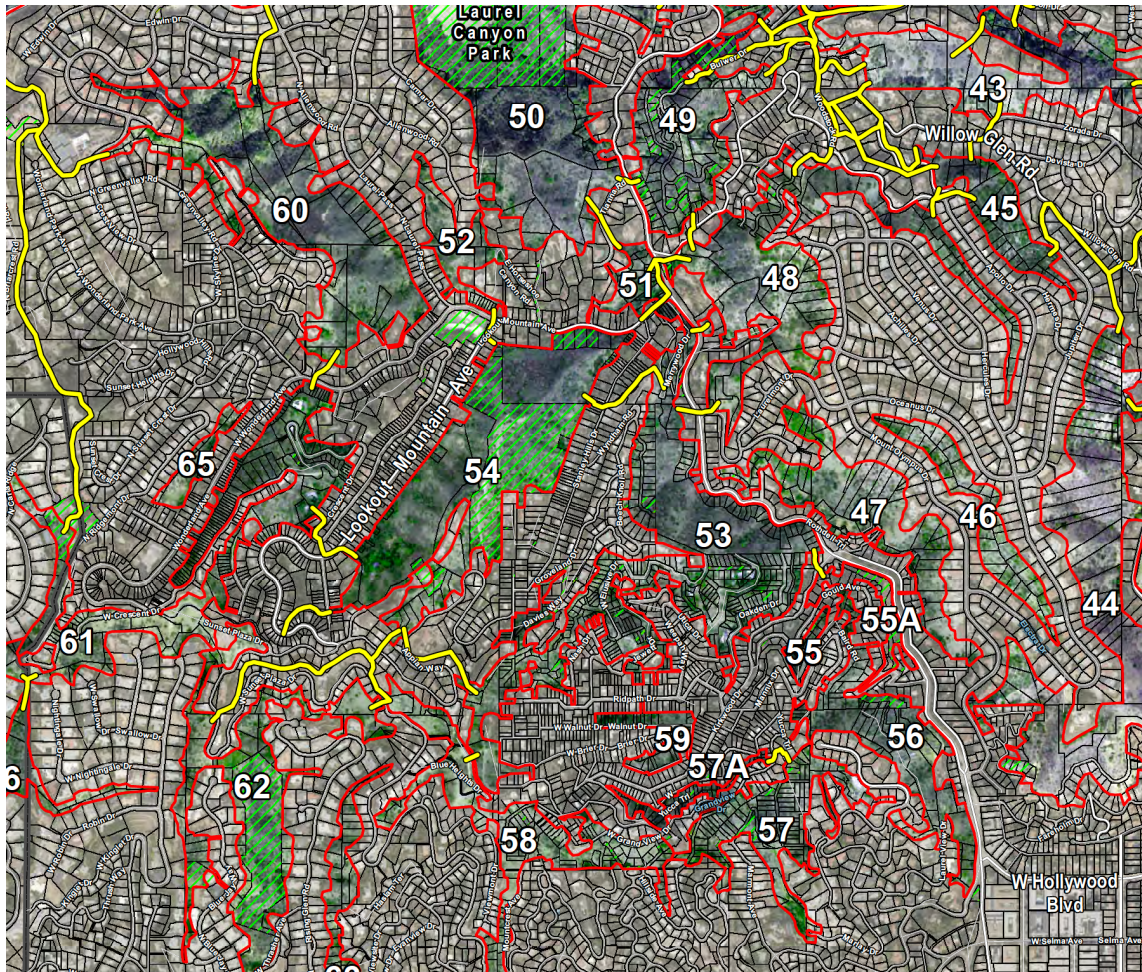
<sup>7</sup> This website can be accessed at <https://planning.lacity.org/development-services/senate-bill-9>

<sup>8</sup> The SMMC’s Natural Resource Protection Plan can be accessed at <https://smmc.ca.gov/wp-content/uploads/2021/12/ESSM-NRPP.pdf>

<sup>9</sup> The SMMC’s Eastern Santa Monica Mountains Habitat Linkage Planning Map can be accessed at <https://smmc.ca.gov/wp-content/uploads/2021/12/Eastern-Santa-Monica-Mountains-Habitat-Linkage-Planning-Map-Copy.pdf>



### **Screenshot Showing Habitat Blocks in Laurel Canyon**



#### **Eastern Santa Monica Mountains Habitat Linkage Planning Map**

**Santa Monica Mountains Conservancy, State of California**

April 19, 2021



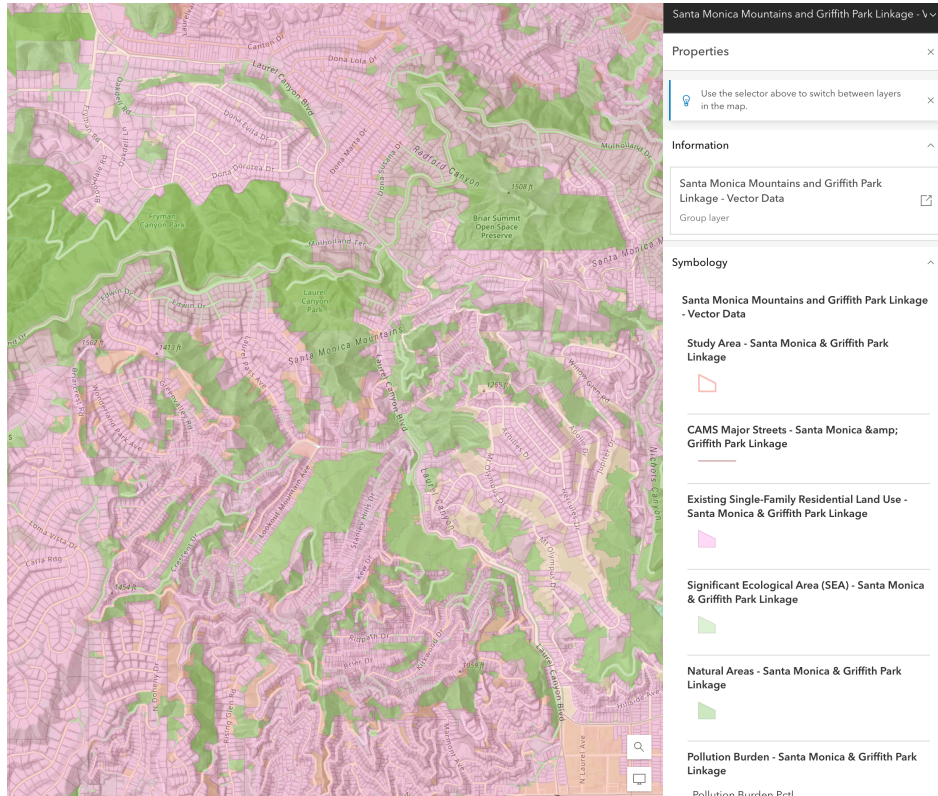
Alternatively, the City could require that ministerial projects located in “natural areas” mapped by LA Sanitation should be subject to BR-1, BR-2, BR-3, BR-4, BR-5 and BR-6. The map prepared by LA Sanitation is publicly available on the County’s ArcGIS website<sup>10</sup>. Precise parcel lines are shown on

<sup>10</sup> This map can be accessed at <https://www.arcgis.com/apps/mapviewer/index.html?panel=gallery&layers=06cd795955144557b4b9a863b672e061>



the map and a City staffer could easily assess a parcel's location in a "natural area." A screenshot from this map is shown below:

### **Screenshot of Natural Areas Mapped by LA Sanitation**



#### **Natural Areas - Santa Monica & Griffith Park Linkage**



In sum, there are at least three ways that the City could extend these important mitigation measures to ministerial projects subject to the Baseline Hillside Ordinance. None of these approaches would be "extremely difficult" to implement or require an "inordinate amount of staff time and resources" to capture projects that could have significant impacts.

The City's infeasibility determination is not supported by substantial evidence. "Feasible" is defined as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, technological, and legal factors. Pub. Res.

Code §21061.1; 14 Cal Code Regs §15364. An infeasibility finding must "describe the specific reasons" for the agency's decision to reject the mitigation measure or alternative. 14 Cal Code Regs §15091(c). The finding must be supported by substantial evidence in the record of the agency's proceedings. Pub. Res. Code §21081.5; 14 Cal Code Regs §15091(b). Here, the City's determination is devoid of evidence. As noted above, it is premised on a false premise that there are no efficient means by which to evaluate which ministerial projects should be subject to BR-1, BR-2, BR-3, BR-4, BR-5 and BR-6). No reasonable person would conclude that extending the mitigation measure to ministerial projects subject to the Baseline Hillside Ordinance could not be "accomplished in a successful manner within a reasonable period of time" if the City used one of the three mapping tools identified above. A City staffer could - within a matter of minutes - determine if a ministerial project should be required to prepare a Biological Resource Assessment pursuant to BR-1, BR-2, BR-3, BR-4, BR-5 and BR-6.

Finally, the City should be aware that ministerial projects subject to the Baseline Hillside Ordinance are being approved and constructed with significant environmental impacts<sup>11</sup>. For example, at 8144 and 8148 Gould in Laurel Canyon, two large homes were constructed within SMMC Habitat Block 56 with zero environmental review or oversight. The City's own SB9 Eligibility Criteria Tool indicates that these two parcels contained "habitat for protected species." See above. Over 9500 square feet of habitat was lost to these development projects.

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<sup>11</sup> Without any objective analysis, the City claims that only a "small number" of projects that have significant impacts will be deemed "ministerial." Even if that was true (which it is not), the City should be aware that the legislature has been adopting bills requiring ministerial approval of residential projects and removing discretion from local agencies. The volume of residential projects deemed ministerial will undoubtedly increase during the lifetime of the plan.



Arial View from ZIMAS of Gould Lots Prior to Construction



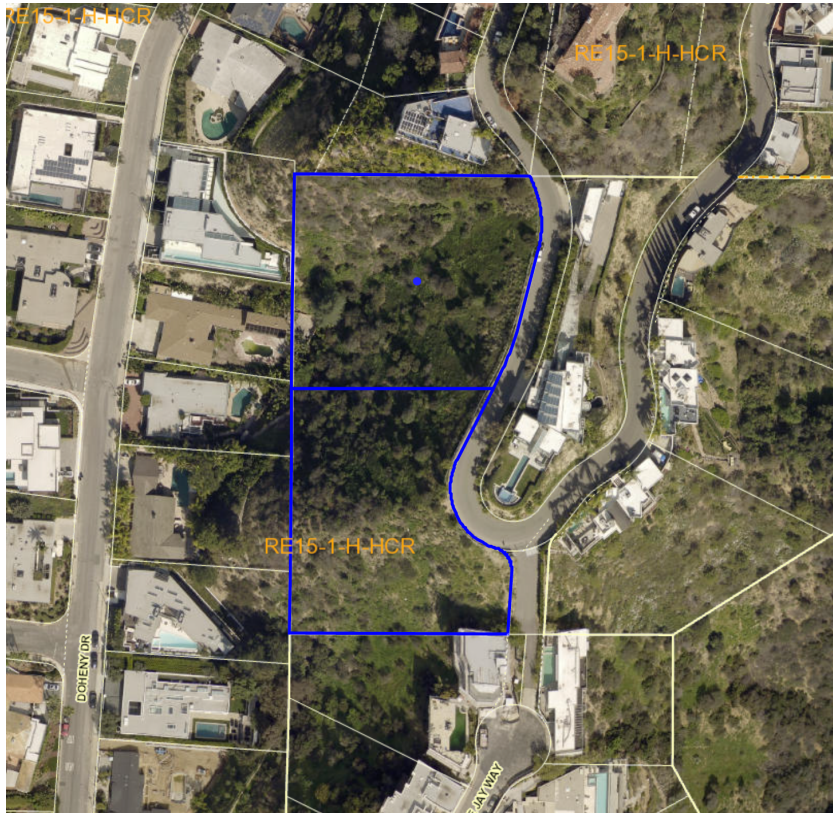
Two Homes Under Construction Displacing Habitat with Zero Mitigation





Another example are two ministerial projects at 2251 Sunset Plaza Drive (11,118 square foot home) and 2275 Sunset Plaza Drive (9100 square foot home). The City issued permits for two massive luxury homes for these two parcels even though the SB9 Eligibility Criteria Tool indicates that these two parcels contained “habitat for protected species.”

Arial View from ZIMAS of Sunset Plaza Lots Prior to Construction



Screenshot of SB Eligibility Criteria Tool for 2251 Sunset Plaza Drive

**SB 9 Eligibility Criteria Checklist**

**PIN Number:** 150B169 1259  
**Site Address:** 2251 N SUNSET PLAZA DR  
**Tract:** None  
**Map Reference:** NE 1/4 SEC 7 T1S R14W  
**Block:** None  
**Lot:** PT NE 1/4 SEC 7 T1S R14W  
**Arb (Lot Cut Reference):** 162

6.	<b>Habitat for protected species</b> identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).	YES
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## Screenshot of SB Eligibility Criteria Tool for 2275 Sunset Plaza Drive

### SB 9 Eligibility Criteria Checklist

**PIN Number:** 150B169 1650  
**Site Address:** 2275 N SUNSET PLAZA DR  
**Tract:** None  
**Map Reference:** NE 1/4 SEC 7 T1S R14W  
**Block:** None  
**Lot:** PT NE 1/4 SEC 7 T1S R14W  
**Arb (Lot Cut Reference):** 3

the Native Plant Protection Act (Chapter 10 (commencing with Section 1800) of Division 3 of the Fish and Game Code), California Endangered Species Act (Chapter 12 (commencing with Section 5020) of Division 3 of the Fish and Game Code), or protected species or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) the habitat for protected species identified as candidate sensitive species or species of special status by state or federal agencies, until	AE2
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A mitigation measure must truly be “infeasible” in order for the City to determine that an impact is “significant and *unavoidable*.” Here, the impact is **avoidable** because the City can determine which ministerial projects should require a biological resource assessment in a “successful manner within a reasonable period of time taking into account economic, environmental, social, technological, and legal factors.”

### Mitigation Measures for Sensitive Natural Communities

The mitigation measures proposed biological resources fail to take into account that mitigation for sensitive natural community takes the form of area when avoidance is not possible. BR-1 and BR-2 do not require this type of mitigation. BR-1, for example, requires that the biological resources assessment require “avoidance, relocation, or safe escape of the sensitive species from the construction activities, as appropriate” if sensitive species or habitat is identified. BR-2 requires the preparation of a “special-status plant relocation plan.” However, “relocation” may be infeasible. The City’s proposed mitigation measure fails to acknowledge and incorporate the area-based mitigation recommended by CDFW (5:1 in area/acreage).

Dr. Travis Longcore has authored a report entitled "*Conservation of California Walnut in the Eastern Santa Monica Mountains*" that is highly relevant<sup>12</sup>. This report details the failings of the City’s current procedures to mitigate for the loss of walnut woodlands.

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<sup>12</sup> This report can be accessed at  
<https://www.urbanwildlands.org/Resources/ConservationCaliforniaWalnutUWG.pdf>

As noted by Dr. Longcore, meaningful mitigation for impacts to a Sensitive Natural Community should involve on-or off-site permanent protection or restoration of the same habitat type at a specified mitigation ratio. A typical mitigation ratio for loss of a Sensitive Natural Community ranked S3 (all of those with *Juglans californica*) as usually recommended by CDFW would be 5:1 (in area/acreage). Avoidance of significant impacts on rare species and Sensitive Natural Communities is always the most desirable outcome. If impacts are unavoidable, an area-based mitigation scheme is required, with permanent protection, performance criteria, and enforceability, as part of CEQA compliance<sup>13</sup>. The current mitigation measures in the Hollywood Community Plan to not require area-based mitigation.

Without area-based mitigation, sensitive natural communities can slowly disappear or shrink in size. One such example can be found at 9330 Flicker, Los Angeles, CA. The National Park Service mapped this area as a Walnut Woodland (a sensitive natural community per CDFW) in 2006<sup>14</sup>. Today, it has been completely destroyed by luxury development with zero mitigation. The maps below tell a clear story. You can see how lush the woodland was in 2011. By 2017 all you see is multiple developments in the process. The City deemed these projects "exempt" under CEQA and did not impose area-based mitigation.

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<sup>13</sup> A sample letter from CDFW that also includes this mitigation approach is attached hereto as **Exhibit 1**.

<sup>14</sup> The NPS mapping of native woodlands took place in 2006. The data from the mapping is publicly available and can be accessed at <https://gisucla.maps.arcgis.com/apps/instant/basic/index.html?appid=868b0af352f5426c8ecef8d31e0796f9>. The mapping is down to the parcel level. The full NPS report can be accessed at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18243>.

2006 NPS Map of Walnut Woodland



2011 ZIMAS Map Showing Lush Walnut Woodland



2017 ZIMAS Map Showing Destruction of Woodland with Ongoing Construction



The City should also require that the biological resources assessment report be submitted to trustee agencies such as CDFW and the SMMC prior to the issuance of the first permit for the Project. The City should also be required to consult with these agencies regarding the completeness of these reports and the appropriateness of the mitigation recommended by the qualified biologist.

**Open Space Rezoning Procedure**

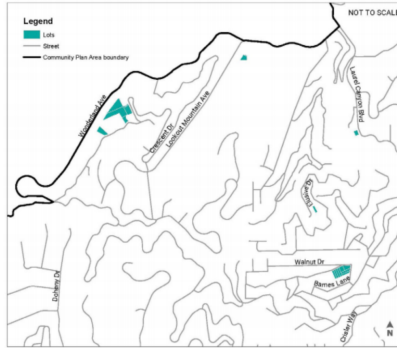
The Laurel Canyon Association is pleased that the City has rezoned to open space land that was acquired by the Laurel Canyon Land Trust (“LCLT”)<sup>15</sup>, a 501(c)(3) organization. A map of the rezoned properties is contained below:

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<sup>15</sup> The Laurel Canyon Land Trust is the sister organization of the Laurel Canyon Association.



### Map of LCLT Properties Rezoned to Open Space



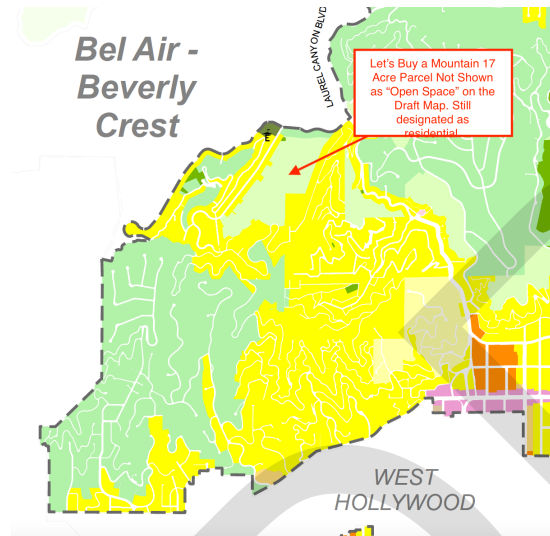
Properties shown are proposed to change from Minimum Residential, Very Low II Residential, and Low II Residential land use, and R1-1-HCR, RE11-1-HCR, and RE40-1-H-HCR zoning designations to Open Space land use, and OS-1XL zoning designation. The properties include the following Assessor Parcel Numbers: 5567018017, 5562001036, 5567029026, 5556011063, 5556011064, 5556011044, 5563005005, 5563005011, 5563005012, 5563005015, 5563005013.

However, since the hearing before the City Planning Commission back in 2021 LCLT has acquired several more parcels, including a 9-acre parcel located at 8516 Lookout Mountain (APN 5567-004-014). A chart showing these additional parcels is shown below:

### Additional Parcels Acquired by LCLT Since CPC Hearing

No	Parcel Address	Parcel APN	Square Footage
1	8516 Lookout Mountain	5567-004-014	384634.8
2	8460 Elusive Drive	5567-018-039	3973
3	8464 Elusive Drive	5567-018-040	4372
4	1953 Jewett Drive	5567-018-050	3044
			396023.8

Moreover, the City has not rezoned all of the land acquired by the Mountains Recreation and Conservation Authority (“MRCA”) as part of the Community Plan Update (e.g, the 17 acre Let’s Buy a Mountain parcel located at 8599 W. Appian; APN 5562-006-901). A list of the MRCA land in the Laurel Canyon area that should be rezoned to Open Space is attached hereto as **Exhibit 2**.



The Laurel Canyon Association requests all land acquired by the MRCA and LCLT be rezoned as open space. The Staff Report prepared for this hearing indicates as follows: “The Plan also intends that when a board or governing body of a government agency, nonprofit or conservation and trust officially determines that vacant land user their ownership is to be used as open space, the property may be redesignated and/or rezoned to Open Space (OS).” LCA seeks clarification as to the process by which future acquired lands will be rezoned. Is this an administrative process? Will the City initiate the process of rezoning? Please provide clarity.

### **Requested Changes to the Biological Resource Mitigations**

For ease of use, the mitigation measures proposed by the City have been redlined so that they can be amended by the City prior to adoption of the Plan and certification of the FEIR.

#### **BR-1**

For ministerial projects subject to the Baseline Hillside Ordinance that are located on 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 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 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 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 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.

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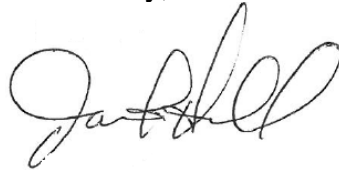
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## **Conclusion**

The City has not updated the Hollywood Community Plan since 1988. Since that time, much has been learned about the biological resources in the Santa Monica Mountains (as well as the appropriateness of mitigation). The City should take the effort to revise the mitigation measures to ensure that long term protection can be provided in the next 20 years as development occurs within admittedly environmentally sensitive areas.

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', with a stylized, cursive script.

Jamie T. Hall  
Laurel Canyon Association  
President

# **Exhibit 1**





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](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



Governor's Office of Planning & Research

April 17, 2020

**APR 17 2020**

## **STATE CLEARINGHOUSE**

Jane Choi  
City of Los Angeles  
City Planning  
200 N. Spring St. Room 621  
Los Angeles, CA 90012  
[jane.choi@lacity.org](mailto:jane.choi@lacity.org)

**Subject: Onyx32 – 32 Small Lot Homes, Mitigated Negative Declaration (MND), SCH #2020039066, Los Angeles County**

Dear Ms. Choi:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Onyx32 – 32 Small Lot Homes Project (Project). The Initial Study's supporting documentation includes a *Biological Assessment* (Assessment) and a *Protected Tree Report* (Tree Report). 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's 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, subdivision (a) & 1802; Public Resources Code, § 21070; California Environmental Quality Act (CEQA) Guidelines, § 15386, subdivision (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 state fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Public Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed 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.), or state-listed rare plant pursuant to the Native Plant Protection Act (NPPA; Fish & G. Code, § 1900 et seq.) authorization as provided by the applicable Fish and Game Code will be required.

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## Project Description and Summary

**Objective:** The proposed Project would consist of the subdivision of the existing 186,956 square foot vacant site (four parcels) into 32 parcels that range in area from 1,673 square feet to 15,381 square feet. The development of 32 small lot residences (one per parcel) would also include the construction of related improvements [new public roads, curb and gutters, retaining walls, driveways, common access areas (public access staircases and private pocket parks), and utilities]. Earthwork for the proposed Project would result in approximately 22,474 cubic yards of cut, 4,960 cubic yards of fill, and 17,514 cubic yards of soil export. Project construction would also require removal of 31 Protected Trees (California Black walnut trees), which would be replaced, with review and approval by the Board of Public Works.

**Location:** The subject property is located at 4103 E. Supreme Court, 4108 E. Superior Court, 4102 E. Supreme Court, and 2730 N. Onyx Drive, Los Angeles, California, 90032. The Project site occupies an east-southeast-facing slope within the watershed of the Los Angeles River. Elevation on the property ranges from approximately 965 feet at the northeastern corner of the property to 1,160 feet at the western tip. Forest Park Drive runs roughly north/south through the western part of the property.

## Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City of Los Angeles (City) in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring and reporting program (Public Resources Code, § 21081.6 and CEQA Guidelines, § 15097).

### Comment #1: Impacts to Sensitive Plant Species

**Issue:** The Initial Study recognizes the need for mitigation for the Southern California black walnut trees due to the required removal of numerous individuals to conduct Project activities. However, Mitigation Measures IV-01 and IV-80 in the Initial Study do not determine a specific replacement ratio for each of the individual Southern California black walnut (*Juglans californica*) trees that will be removed during Project activities.

**Specific impacts:** Mitigation Measure IV-01 states, "California black walnut trees covered under the City's Protected Tree Ordinance and that would be removed, replace them on a 1:1 basis with the same species trees." However, Mitigation Measure IV-80 states, "A minimum of four trees (tree size to be determined by the City) shall be planted for each protected tree that is removed." If the replacement ratio is 1:1, this may not be sufficient when accounting for the temporal loss of mature Southern California black walnut trees. CDFW considers walnut woodlands distinct biological communities, consisting of trees, shrubs, vines, and herbaceous understory vegetation. The MND only considers the value of the trees and does not appear to characterize the value of these unique communities in a biological setting. Removal or thinning of an understory in walnut woodland directly impacts the functions and values of the entire walnut woodland.

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**Why impact would occur:** Project implementation includes grading, vegetation clearing, building construction, and other activities that may result in direct mortality, population declines, or local extirpation of sensitive plant species.

**Evidence impact would be significant:** Southern California black walnut is a sensitive and declining habitat type, is difficult to restore, and takes many years before habitat functions and values in restoration areas are equivalent to impacted areas. The Southern California black walnut is also designated S-3, which is considered vulnerable in the state due to a restricted range with relative few populations. An S-3 ranking indicates there are 21 to 80 occurrences of this community in existence in California, S-2 has 6 to 20 occurrences, and S-1 has less than 6 occurrences. CDFW considers plant communities, alliances, and associations with a statewide ranking of S-1, S-2, S-3 and S-4 as sensitive and declining at the local and regional level (Sawyer et al. 2008). In addition, the Southern California black walnut tree (*Juglans californica*) is covered under the City of Los Angeles Protected Tree Ordinance. Given that these species meet the CEQA definition of Endangered, Rare or Threatened Species that may qualify for listing (CEQA Guidelines, § 15380(d)), impacts to these locally rare resources and adequate mitigation measures that reduce the impacts to less than significant should be described and incorporated into the final environmental document (CEQA Guidelines, § 15125(c)).

#### **Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure #1:** The Tree Report, which is to be submitted to the Urban Forestry Division of the Bureau of Street Services, Department of Public Works, City of Los Angeles, should provide a thorough discussion on the presence/absence of sensitive plants on-site and identify measures to protect sensitive plant communities from Project-related direct and indirect impacts.

For example, larger southern California black walnut trees may be over 100 years old and are not readily replaced, which would be considered significant under CEQA. CDFW recommends the Tree Report clarify the size and number of individuals anticipated to be permanently impacted, analyze the significance of impact within the Project footprint, and provide adequate mitigation, if necessary, to reduce impacts to less than significant. Feasible mitigation could include long-term protection in place; on-site nuts/seed collection for an on- or off-site mitigation enhancement/restoration area suitable to the species; and/or off-site land acquisition of similar or better habitat, all to be preserved in perpetuity with the necessary management and endowment funds.

**Mitigation Measure #2:** CDFW also recommends avoiding any sensitive natural communities found on the Project. If avoidance is not feasible, mitigating at a ratio of no less than 5:1 for impacts to S-3 ranked communities and 7:1 for S-2 communities should be implemented. This ratio is for the acreage and the individual plants that comprise each unique community. CDFW also recommends 'tree removal' be mitigated at a community-level that has been impacted. This mitigation should include a combination of native trees and/or appropriate understory and lower canopy plantings.

All revegetation/restoration areas that will serve as mitigation should include preparation of a restoration plan, to be approved by U.S. Fish and Wildlife Service and CDFW prior to any ground disturbance. The restoration plan should include restoration and monitoring methods; annual success criteria; contingency actions should success criteria not be met; long-term

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management and maintenance goals; and, a funding mechanism to assure for in perpetuity management and reporting. Areas proposed as mitigation should have a recorded conservation easement and be dedicated to an entity which has been approved to hold/manage lands pursuant to Assembly Bill (AB) 1094 (2012), which amended Government Code sections 65965-65968.

**Recommendation #3:** Please note, in 2007, the State Legislature required CDFW to develop and maintain a vegetation mapping standard for the state (Fish & Game Code, § 1940). This standard complies with the National Vegetation Classification System, which utilizes alliance- and association-based classification of unique vegetation stands. CDFW utilizes vegetation descriptions found in the Manual of California Vegetation (MCV), found online at <http://vegetation.cnps.org/>. To determine the rarity ranking of vegetation communities on the Project site, the MCV alliance/association community names should be provided as CDFW only tracks rare natural communities using this classification system.

## **Comment #2: Impacts to Bat Species**

**Issue:** The Project includes activities that will result in the removal of Southern California black walnut trees and surrounding environment that may provide roosting or foraging habitat for bat species. A review of California Natural Diversity Database (CNDDB) indicates occurrences of bat species within five (5) miles east of the Project site. In addition, Table A (Special-Status Species) identifies two bat species, both of which are California Species of Special Concern (including pallid bat (*Antrozous pallidus*) and western mastiff bat (*Eumops perotis* ssp. *californicus*)) as possible likelihood to occur on site.

**Specific impacts:** Project activities include the removal of trees, vegetation, and/or structures that may provide maternity roost (e.g., in cavities or under loose bark) or foraging habitat, and therefore has the potential for the direct loss of bats.

**Why impacts would occur:** The removal of trees and conversion of open space to a residential area will potentially result in the loss of habitat for bats.

**Evidence impacts would be significant:** Bats are considered non-game mammals and are afforded protection by State law from take and/or harassment, (Fish & G. Code, § 4150; Cal. Code of Regs, § 251.1). Bat species, such as the western yellow bat, can be found year-round in urban areas throughout the south coast region (Miner & Stokes, 2005). Several bat species are considered California Species of Special Concern and meet the CEQA definition of rare, threatened or endangered species (CEQA Guidelines, § 15065). Take of California Species of Special Concern could require a mandatory finding of significance by the Lead Agency (CEQA Guidelines, § 15065).

## **Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure #1:** To the extent feasible, tree removal or relocation should be scheduled between October 1 and February 28, outside of the maternity roosting season. Maternity season lasts from March 1 to September 30. Trees and/or structures determined to be maternity roosts should be left in place until the end of the maternity season.

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**Mitigation Measure #2:** If trees and/or structures must be removed during the maternity season (March 1 to September 30), a qualified bat specialist should conduct a pre-construction survey to identify those trees and/or structures proposed for disturbance that could provide hibernacula or nursery colony roosting habitat for bats. CDFW recommends the use of acoustic recognition technology to maximize detection of bat species to minimize impacts to sensitive bat species. Each tree and/or structure identified as potentially supporting an active maternity roost should be closely inspected by the bat specialist no greater than 7 days prior to tree disturbance to more precisely determine the presence or absence of roosting bats.

**Mitigation Measure #3:** If bats are not detected, but the bat specialist determines that roosting bats may be present at any time of year, it is preferable to push any tree down using heavy machinery rather than felling it with a chainsaw. In order to ensure the optimum warning for any roosting bats that may still be present, the tree should be pushed lightly two to three times, with a pause of approximately 30 seconds between each nudge to allow bats to become active. The tree should then be pushed to the ground slowly and should remain in place until it is inspected by a bat specialist. Trees that are known to be bat roosts should not be sawn up or mulched immediately. A period of at least 24 hours, and preferably 48 hours, should elapse prior to such operations to allow bats to escape. Bats should be allowed to escape prior to demolition of buildings. This may be accomplished by placing one-way exclusionary devices into areas where bats are entering a building that allow bats to exit but not enter the building.

The bat specialist should document all demolition monitoring activities and prepare a summary report to the City upon completion of tree disturbance and/or building demolition activities.

### **Comment #3: Mitigation Replacement and Landscaping**

**Issue #1:** The Tree Report identified two individuals of *Schinus molle* or Peruvian pepper tree (erroneously called California pepper tree) and one Blue Gum (*Eucalyptus globulus*). These trees were designated as "Significant tree[s]" under the City's Department of Planning policy, due to Diameter at Breast Height (DBH) greater than eight (8) inches. These Significant Trees will be mitigated as such: "The location of trees planted for the purposes of replacing a removed protected tree shall be clearly indicated on the required landscape plan, which shall also indicate the replacement tree species." It is unclear if these trees will be replaced with the same species. *Schinus molle* and *Eucalyptus globulus* are designated as an invasive species by the California Invasive Pest Plant Council (Cal-IPC).

**Issue #2:** Landscaping throughout the Project site is indicated in the Initial Study. There does not appear to be a landscaping plan available at this time. It is, therefore, unclear the types of plant species that will be utilized for landscaping purposes on the Project site.

**Specific impact:** Habitat loss and invasive plants are a leading cause of native biodiversity loss. Invasive plant species spread quickly and can displace native plants, prevent native plant growth, and create monocultures. Invasive plants reduce native plant species diversity.

**Why impact would occur:** Planting invasive trees or plant species would further degrade natural open space or riparian habitats. In addition, without replacing native trees with similar native tree species, the function and value of the impacted native trees replacement trees would not be fully mitigated.

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**Evidence impact would be significant:** Invasive species have contributed to the decline of forty-two percent of U.S. threatened and endangered species (USDA Forest Service 2019). Invasive species compete directly with native species for moisture, sunlight, nutrients, and physical space. Cumulative impacts may result due to the City's tree policy and ordinance recommending an invasive tree be planted throughout areas including sensitive, natural habitat.

### **Recommended Potentially Feasible Mitigation Measure(s):**

**Mitigation Measure #1:** CDFW recommends that the Project prohibit the planting of any species contained in the Cal-IPC Invasive Plant Checklist listed for any region.

**Mitigation Measure #2:** CDFW recommends the use of native tree species or non-invasive drought tolerant tree species be used to replace the non-native trees being impacted by the Project.

**Mitigation Measure #3:** CDFW recommends that all open space preservation/mitigation land be protected in perpetuity with minimal human intrusion. This can be accomplished by recording and executing a perpetual conservation easement in favor of an approved agent dedicated to conserving biological resources. In addition, CDFW recommends all mitigation lands be owned or managed by an entity with experience in managing habitat. CDFW has encountered problems with using portions of privately-owned lots as open-space-habitat mitigation under CEQA because homeowners may grade and remove vegetation on their land with little legal recourse to remedy this loss under CEQA. Mitigation lands should be owned or managed by a conservancy or other land management entity to allow for legal remedies should trespass and clearing/damage occur. A management and monitoring plan, including a funding commitment, should be developed for any conserved land, and implemented in perpetuity to protect existing biological functions and values. Permeable wildlife fencing should be erected around any conserved land to restrict incompatible land uses and signage posted and maintained at conspicuous locations communicating these restrictions to the public.

### **Filing Fees**

The Project, as proposed, could 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**

We appreciate the opportunity to comment on the Project to assist the City in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City has to our comments and to receive notification of any forthcoming hearing date(s) for the Project. Questions regarding this letter and further coordination on these issues should be directed to Felicia Silva, Environmental Scientist, at [Felicia.Silva@wildlife.ca.gov](mailto:Felicia.Silva@wildlife.ca.gov) or (562) 430-0098.



Jane Choi  
City of Los Angeles  
Page 7 of 10  
April 17, 2020

Sincerely,

DocuSigned by:  


5991E19EF8094C3...  
Signing for Erinn Wilson  
Environmental Program Manager I

ec: CDFW

Victoria Tang – Los Alamitos  
Felicia Silva – Los Alamitos  
Andrew Valand – Los Alamitos  
Malinda Santonil – Los Alamitos  
Susan Howell – San Diego  
CEQA Program Coordinator - Sacramento

State Clearinghouse

**References:**

Miner, Karen L. & Stokes, Drew C. 2005. Bats in the South Coast Ecoregion: Status, Conservation Issues, and Research Needs. USDA Forest Service General Technical Report PSW-GTR-195.  
[https://www.fs.fed.us/psw/publications/documents/psw\\_gtr195/psw\\_gtr195\\_2\\_13\\_Miner.pdf](https://www.fs.fed.us/psw/publications/documents/psw_gtr195/psw_gtr195_2_13_Miner.pdf)  
Sawyer, J.O., Keeler Wolf, T., and Evens J.M. 2008. A manual of California Vegetation, 2<sup>nd</sup> ed. ISBN 978 0 943460 49 9.

USDA Forest Service. 2019. Invasive Plants. (see <https://www.fs.fed.us/wildflowers/invasives/index.shtml>).

USDA Forest Service. 2019. Pacific Northwest Research Station. (see <https://www.fs.fed.us/pnw/invasives/index.shtml>).





State of California – Natural Resources Agency  
 DEPARTMENT OF FISH AND WILDLIFE  
 South Coast Region  
 3883 Ruffin Road  
 San Diego, CA 92123  
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**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



CDFW recommends the following language to be incorporated into a future environmental document for the Project.

<b>Biological Resources</b>			
	<b>Mitigation Measure</b>	<b>Timing</b>	<b>Responsible Party</b>
<b>MM-BIO-1- Impacts to Sensitive Plants</b>	<p>The Tree Report, which is to be submitted to the Urban Forestry Division of the Bureau of Street Services, Department of Public Works, City of Los Angeles, shall provide a thorough discussion on the presence/absence of sensitive plants on-site and identify measures to protect sensitive plant communities from project-related direct and indirect impacts.</p> <p>The Tree Report shall clarify the size and number of individuals anticipated to be permanently impacted, analyze the significance of impact within the Project footprint, and provide adequate mitigation, if necessary, to reduce impacts to less than significant. Feasible mitigation could include long-term protection in place; on-site nuts/seed collection for an on- or off-site mitigation enhancement/restoration area suitable to the species; and/or off-site land acquisition of similar or better habitat, all to be preserved in perpetuity with the necessary management and endowment funds.</p>	Prior to Construction	City of Los Angeles  Project Proponent
<b>MM-BIO-2- Sensitive Natural Communities</b>	<p>Avoid any sensitive natural communities found on the Project. If avoidance is not feasible, mitigating at a ratio of no less than 5:1 for impacts to S-3 ranked communities. This mitigation shall include a combination of native trees and/or appropriate understory and lower canopy plantings.</p> <p>All revegetation/restoration areas that will serve as mitigation shall include preparation of a restoration plan, to be approved by U.S. Fish and Wildlife Service and CDFW prior to any ground disturbance. The restoration</p>	Prior to construction and throughout Project	City of Los Angeles  Project Proponent

Jane Choi  
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	plan shall include restoration and monitoring methods; annual success criteria; contingency actions shall success criteria not be met; long-term management and maintenance goals; and, a funding mechanism to assure for in perpetuity management and reporting.		
<b>MM-BIO-3-Bat Species</b>	To the extent feasible, tree removal or relocation shall be scheduled between October 1 and February 28, outside of the maternity roosting season. Maternity season lasts from March 1 to September 30. Trees and/or structures determined to be maternity roosts shall be left in place until the end of the maternity season.	Prior to Construction	City of Los Angeles
<b>MM-BIO-4-Bat Species</b>	If trees and/or structures must be removed during the maternity season (March 1 to September 30), a qualified bat specialist shall conduct a pre-construction survey to identify those trees and/or structures proposed for disturbance that could provide hibernacula or nursery colony roosting habitat for bats. Acoustic recognition technology shall be used to maximize detection of bat species to minimize impacts to sensitive bat species. Each tree and/or structure identified as potentially supporting an active maternity roost shall be closely inspected by the bat specialist no greater than 7 days prior to tree disturbance to more precisely determine the presence or absence of roosting bats.	Prior to Construction	City of Los Angeles
<b>MM-BIO-5-Bat Species</b>	If bats are not detected, but the bat specialist determines that roosting bats may be present at any time of year, it is preferable to push any tree down using heavy machinery rather than felling it with a chainsaw. In order to ensure the optimum warning for any roosting bats that may still be present, the tree shall be pushed lightly two to three times, with a pause of approximately 30 seconds between each nudge to allow bats to become active. The tree shall then be pushed to the ground slowly and shall remain in place until it is inspected by a bat specialist.	Prior to Construction	City of Los Angeles

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	Trees that are known to be bat roosts shall not be sawn up or mulched immediately. A period of at least 24 hours, and preferably 48 hours, shall elapse prior to such operations to allow bats to escape. Bats shall be allowed to escape prior to demolition of buildings. This may be accomplished by placing one-way exclusionary devices into areas where bats are entering a building that allow bats to exit but not enter the building.		
<b>MM-BIO-6-Prohibit Invasive Plants</b>	Prohibit the planting of any species contained in the Cal-IPC Invasive Plant Checklist listed for any region.	Prior to Construction	City of Los Angeles
<b>MM-BIO-7-Nonnative tree replacement</b>	Native tree species or non-invasive drought tolerant tree species be used to replace the non-native trees being impact by the Project.	During Construction	City of Los Angeles
<b>MM-BIO-8-Conserved land</b>	All open space preservation/mitigation land be protected in perpetuity with minimal human intrusion. This can be accomplished by recording and executing a perpetual conservation easement in favor of an approved agent dedicated to conserving biological resources. In addition, all mitigation lands shall be owned or managed by an entity with experience in managing habitat. Mitigation lands shall be owned or managed by a conservancy or other land management entity to allow for legal remedies in the event trespass and clearing/damage occur. A management and monitoring plan, including a funding commitment, shall be developed for any conserved land, and implemented in perpetuity to protect existing biological functions and values. Permeable wildlife fencing shall be erected around any conserved land to restrict incompatible land uses and signage posted and maintained at conspicuous locations communicating these restrictions to the public.	Post Construction	City of Los Angeles  Project Proponent

# **Exhibit 2**

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