



State of California – The Natural Resources Agency
DEPARTMENT OF FISH AND GAME
Bay Delta Region
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EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



September 4, 2012

Ms. Rachel Grossman
City of Menlo Park
701 Laurel Street
Menlo Park, CA 94025

Dear Ms. Grossman:

Subject: Commonwealth Corporate Center Project, Notice of Preparation of a Draft Environmental Impact Report, SCH #2012082021, City of Menlo Park, San Mateo County

This letter is intended to summarize the Department of Fish and Game's (DFG) concerns regarding the botanical and terrestrial impacts associated with the subject project. DFG is providing comments on the Notice of Preparation (NOP) as a Trustee Agency pursuant to the California Environmental Quality Act (CEQA) Section 15386. As trustee for the State's fish and wildlife resources, DFG has jurisdiction over the conservation, protection, and management of the fish, wildlife, native plants, and the habitat necessary for biologically sustainable populations of such species for the benefit and use by the people of California.

The NOP states the Environmental Impact Report (EIR) will not analyze whether the proposed project would have significant environmental impacts in biological resources. However, the proposed project description states 23 heritage trees will be removed as part of the project. The EIR should analyze the impacts this removal of large trees may have on wildlife inhabiting or using trees for shelter, food, nesting and cover and how those impacts could be avoided, minimized or mitigated to a less-than-significant level. If removal is necessary, an appropriate re-planting or re-vegetation mitigation plan for the loss of heritage trees and habitat should be proposed and analyzed in the EIR..

Fish and Game Code §3503.5 states it is unlawful to take, possess, or destroy any birds in the orders of Falconiformes or Strigiformes (birds of prey or raptors) or take, possess, or destroy the nest or eggs of any such bird, additionally Fish and Game Code §3503 protects the nests or eggs of any bird. Removal of trees may destroy the nests and eggs of birds during nesting season. Activities such as excavation, grading, construction, staging, access and other ground-disturbing activities may create substantial noise impacts which may cause nest abandonment or premature fledging of nesting birds. Protective, avoidance and minimization measures should be noted in the EIR and should include but not be limited to, biological surveys to determine which species occur in the area, timing of construction activities to occur outside of the bird nesting season, conducting protocol-level pre-

Ms. Rachel Grossman
September 4, 2012
Page 2

construction surveys for birds by a qualified biologist (as determined by a combination of academic training and professional experience in biological sciences and related resource management activities), and buffer establishment if birds are found nesting.

The project location is very close to the Don Edwards San Francisco Bay National Wildlife Refuge, an important area for migratory birds in the Pacific Flyway and a valuable area for many resident bird species. The project description includes constructing buildings exceeding the maximum height limit for that zone. Impacts to resident or migratory birds by constructing tall buildings may include increased deaths by collisions with the increased reflective or transparent glass and disruption of birds' orientation, flight and foraging patterns by increased lighting. The EIR should disclose any potential impacts this exceedance of height may have on birds and include measures to reduce those impacts to a less-than-significant level.

If you have any questions, please contact Ms. Suzanne DeLeon, Environmental Scientist, at (831) 440-9433; or Mr. Craig Weightman, Acting Environmental Program Manager at (707) 944-5577.

Sincerely,



for Scott Wilson
Acting Regional Manager
Bay Delta Region

cc: State Clearinghouse