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## MEMORANDUM

**DATE:** November 21, 2019

**TO:** City of Lake Forest and National Community Renaissance®

**FROM:** Claudia Bauer, MS, LSA Biologist

**SUBJECT:** Biological Resources Technical Memorandum for the Mountain View Affordable Housing Community Project in the City of Lake Forest (LSA Project Number NCO1904)

LSA was retained by National Community Renaissance to provide a biological resources technical memorandum (memo) in support of an Initial Study being prepared by the City of Lake Forest (City) in compliance with the California Environmental Quality Act (CEQA) for the Mountain View Affordable Housing Community Project (project). The proposed project is to build 71 affordable apartments following the demolition of the office building located at 24551 Raymond Way in the City of Lake Forest, Orange County, California. The approximately 3.74-acre project site is located at the northeast corner of Raymond Way and El Toro Road and is associated with Assessor's Parcel Number (APN) 617-441-02.

## METHODS

A literature review was conducted to assist in determining the existence or potential occurrence of special-status plant and animal species within the project site and in the project vicinity. A records search of the California Department of Fish and Wildlife's (CDFW) Natural Diversity Data Base application *Rarefind 5* online edition (CDFW, 2019) and California Native Plant Society's *Online Inventory of Rare and Endangered Plants* (CNPS, v8-03 0.39) for the *San Juan Capistrano, California*, USGS 7.5-minute quadrangle and relevant neighboring quadrangles was conducted on November 7, 2019. Soil information was taken from electronic data provided by Soil Data Mart (Natural Resource Conservation Service [NRCS] 2017). Current and historical aerial photographs were also reviewed in Google Earth (Google Earth 2019) and HistoricAerials.com (NETROnline 2019).

The site assessment was conducted on November 10, 2019, by LSA Biologist Claudia Bauer. Notes were made on general site conditions, the vegetation, potential jurisdictional waters, wildlife

species observed, and the suitability of habitat for various special-status species. Plant and animal species observed during the field survey were recorded.

## EXISTING SETTING

The project site is generally flat and currently developed with asphalt parking areas, ornamental landscaping, and two office buildings bordered by residential and commercial development in an urban setting. Due to existing development, the project site is highly disturbed, with paved surfaces covering a majority of the site. A review of historic aerials shows that the project site and surrounding area have been developed since at least 1980.

## RESULTS

Vegetation within the project site is not associated with any natural vegetation communities (Holland 1986). Rather, the vegetation consists of ornamental lawn, trees and shrubs associated with the landscaped areas of the project site. Plant species observed onsite include Indian hawthorn (*Rhaphiolepis indica*), English ivy (*Hedera helix*), and turfgrass. Approximately 100 ornamental/non-native trees were noted within the project site, including red ironbark eucalyptus (*Eucalyptus sideroxylon*), blue gum eucalyptus (*Eucalyptus globulus*), ficus (*Ficus* sp.), Brazilian pepper (*Schinus terebinthifolius*), and alder (*Alnus spaethii*). Animal species observed onsite include common raven (*Corvus corax*).

The City's Eucalyptus Tree Conservation Ordinance (Title 6, Chapter 6.20, City of Lake Forest Code of Ordinances; "Ordinance") was established to control infestation of the eucalyptus longhorn borer by regulating the maintenance and removal of eucalyptus trees. Removal of trees on the project site would require compliance with the Ordinance. The Ordinance provides no requirements for mitigating impacts associated with tree removal. Refer to the Ordinance for specific guidelines on eucalyptus tree cutting, pruning and/or removal guidelines.

The project site is not within the Orange County Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP), or any other adopted natural community conservation plan, habitat conservation plan, or adopted natural resource protection plan.

No drainage features, ponded areas, or riparian habitat potentially subject to jurisdiction by the CDFW or U.S. Army Corps of Engineers (USACE) were found within the project site.

The project site does not contain suitable habitat for species protected by the federal Endangered Species Act, the California Endangered Species Act, or the Native Plant Protection Act. Additionally, the CDFW, USFWS, local agencies, and special-status groups, such as the CNPS, maintain lists of species that they consider to be in need of monitoring. Legal protection for these special-status species varies widely. No other special-status species are expected to occur within the project site due to lack of suitable habitat.

The project site does not lie within any federally designated critical habitat.

The site contains suitable for habitat for nesting birds. During the bird breeding season (typically February 1 through August 31), large trees on or adjacent to the project site may be used by hawks, ravens, or other large birds for nesting. Smaller trees, shrubs, and other vegetation may provide

nest sites for smaller birds. Nesting bird species, with potential to occur, are protected by California Fish and Game Code Sections 3503, 3503.5, and 3800, and by the Migratory Bird Treaty Act (MBTA) (16 USC 703–711). These laws regulate the take, possession, or destruction of the nest or eggs of any migratory bird or bird of prey. However, the USFWS has recently determined that the MBTA should apply only to “... affirmative actions that have as their purpose the taking or killing of migratory birds, their nests, or their eggs” and will not be applied to incidental take of migratory birds pursuant to otherwise lawful activities.

## **RECOMMENDATIONS**

To avoid potential effects to fully protected raptors, special-status bird species, and other nesting birds protected by the California Fish and Game Code, the following measures will be implemented:

A nesting bird pre-construction survey will be conducted by a qualified biologist three days prior to demolition and/or vegetation removal activities. Should nesting birds be found, an exclusionary buffer will be established by the qualified biologist. The buffer may be up to 500 feet in diameter depending on the species of nesting bird found. This buffer will be clearly marked in the field by construction personnel under guidance of the qualified biologist and construction or clearing will not be conducted within this zone until the qualified biologist determines that the young have fledged or the nest is no longer active. Nesting bird habitat within the project site will be resurveyed during bird breeding season if there is a lapse in construction activities longer than seven days.