



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



December 2, 2022

Liz Shearer-Nguyen
Program Manager
City of San Diego
1222 1st Avenue
San Diego, CA 92101
EShearer@sandiego.gov



**Subject: One Alexandria North (Project), Mitigated Negative Declaration (MND),
SCH #2019060003**

Dear Ms. Shearer-Nguyen:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the City of San Diego for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines. CDFW previously submitted comments in response to the Notice of Preparation of the DEIR for the Transit Authority Housing and Infrastructure Incentive Program (Duplicate SCH# 2019060003).

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 ROLE

CDFW is California's Trustee Agency for fish and wildlife resources, and holds those resources in trust by statute for all the people of the state. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) 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 fish and wildlife resources.

CDFW also oversees implementation of the Natural Community Conservation Planning (NCCP) program. The City of San Diego participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan (SAP). This affords the City "take" of MSCP covered species that are listed under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.). If any CESA-listed species may be impacted by the Project that are not covered by the MSCP, the project proponent may seek related take authorization as provided by the Fish and Game Code.

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PROJECT DESCRIPTION SUMMARY

Proponent: City of San Diego (City)

Objective: The objective of the Project is to construct four new buildings, a central utility plant, and a parking structure. Primary Project activities include demolition of three existing buildings, underground parking, tennis courts, a pool, and helistop; vegetation clearing; construction of four new buildings, a central utility plant, and a parking structure; as well as hardscape and landscape site improvements.

Location: The 11.3-acre Project site is located at 11255 and 11355 North Torrey Pines Road in La Jolla, CA.

Biological Setting: The eastern portion of the Project site is adjacent to, and partially within, the MSCP's Multiple-Habitat Planning Area (MHPA). The eastern portion of the Project boundary contains disturbed southern maritime chaparral habitat. Supporting documentation in the Biological Technical Report (Helix 2022; BTR) indicates that, based on analysis of historic aerials, the areas within the Project boundary that contain disturbed southern maritime chaparral were entirely cleared and graded in 1980, prior to implementation of the MSCP. Based on the historic site information, the City proposes an MHPA boundary line correction of 0.2 acre.

Once the MHPA boundary line correction is approved, all Project impacts will occur outside of the MHPA. Vegetation impacts include 0.3 acre of disturbed southern maritime chaparral, less than 0.1 acre of undisturbed southern maritime chaparral, less than 0.1 acre of non-native vegetation, and 10.0 acres of developed area. The MND proposes to mitigate for direct impacts to 0.3 acre of Tier I southern maritime chaparral (including disturbed) outside of the MHPA at a 2:1 mitigation ratio, totaling 0.6 acre, in accordance with the City of San Diego Biology Guidelines (City 2018). The mitigation would consist of deducting 0.6 acre of Tier I southern maritime chaparral at the nearby Callan Road mitigation site. The Callan Road site has 1.6 acres of existing southern maritime chaparral habitat, of which 1.2 acres remain available for use. The MND indicates that the excess mitigation of 0.6 acre of southern maritime chaparral and 0.4 acre of Diegan coastal sage scrub will be preserved in excess of the Project's mitigation obligation, and will remain unassigned and available for future mitigation opportunities. However, the excess is only available to the current landowner/developer, and cannot be sold or transferred to outside parties as if it was a conservation bank. Use of the excess acreage would further be subject to City review and approval. The Project proponent will act as resource manager and a covenant of easement will be recorded against the title to preserve the site in perpetuity.

Special-status plants that occur within the survey area include wart-stemmed ceanothus (*Ceanothus verrucosus*; California Rare Plant Rank (CRPR) 2B.2), Nuttall's scrub oak (*Quercus dumosa*; CRPR 1B.1), and Torrey pine (*Pinus torreyana* spp. *torreyana*; CRPR 1B.2). The Project avoids direct impacts to naturally occurring Torrey pines; however, Torrey pines within the Project footprint that are designated as ornamental landscaping will be removed. Wart-stemmed ceanothus will be replaced at a 2:1 ratio within undeveloped portions of the property, in addition to preservation of 23 wart-stemmed ceanothus within the Callan Road mitigation site.

Special-status animals with a high potential to occur on the Project site include Belding's orange-throated whiptail (*Aspidoscelis hyperythra beldingi*; CDFW Watch List; MSCP Covered Species), San Diego tiger whiptail (*Aspidoscelis tigris stejnegeri*; CDFW Species of Special Concern), and

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Cooper's hawk (*Accipiter cooperii*; CDFW Watch List; MSCP Covered Species). No special-status animals were observed during reconnaissance level biological surveys.

COMMENTS AND RECOMMENDATIONS

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

I. Mitigation Measure or Alternative and Related Impact Shortcoming

COMMENT #1: Biological Construction Mitigation/Monitoring Exhibit

Section D of Mitigation Measure BIO-3 indicates that the Project biologist will submit a Biological Construction Mitigation/Monitoring Exhibit (BCME), which will include restoration/revegetation plans, salvage plans for the wart-stemmed ceanothus, Torrey pine Tree Protection Zone (TPZ) avoidance areas, avian and other wildlife survey information and schedules, impact avoidance areas, and a biological mitigation/monitoring program. The BCME is subject to approval by the City's Mitigation Monitoring Coordination section. A draft of the BCME is not included in the MND; absent its inclusion, the BCME does not benefit from public review and analysis. We recommend that the BCME be made available to CDFW and USFWS (collectively the Wildlife Agencies) for review and approval prior to implementation.

COMMENT #2: Nesting Bird Surveys

HELIX Environmental Planning surveyed the Torrey pines within the Project site and surrounding buffer and prepared a Tree Survey Report (HELIX 2021). Of the 213 Torrey pines surveyed, 101 were categorized as ornamental trees based on comparative analysis of a 1980 historic aerial, which shows much of the site as previously graded. Most of the ornamental Torrey pines are within the Project footprint and will be removed; because ornamental Torrey pines are not considered sensitive resources, their removal does not require mitigation under the City's SAP. Although mitigation is not required for removal of the ornamental Torrey pines, the mature trees provide substantial habitat for nesting birds. California Fish and Game Code Sections 3503, 3503.5, and 3513 require the avoidance of the incidental loss of fertile eggs or nestlings, or activities that lead to nest abandonment (Fish & G. Code, § 3503, 3503.5, and 3513 *et seq.*).

The BTR indicates that the Project will comply with the MHPA Land Use Adjacency Guidelines, including conducting pre-construction surveys for nesting birds, however no timeline is identified. The MND defers to the Project biologist's BCME to specify timelines for avian and other wildlife surveys. In order to avoid impacts to nesting birds, the MND should require that clearing of vegetation and construction occur outside of the peak avian breeding season, which generally runs from February 1 through September 1 (as early as January 1 for some raptors). If construction is necessary during the bird breeding season, a qualified biologist with experience in conducting bird breeding surveys should conduct weekly surveys for nesting birds. Surveys should be completed **within three days** prior to vegetation clearing or construction in the area to ensure no nesting birds would be impacted by the Project. If an active nest is identified, a buffer should be established between the construction activities and the nest so that nesting activities are not interrupted. The buffer should be a minimum of 100 feet (300 feet for raptors), be delineated by temporary fencing, and remain in effect as long as construction is occurring or until the nest is no longer active. No Project construction should occur within the fenced nest zone until the young have fledged, are no longer being fed by the

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parents, have left the nest, and will no longer be impacted by the Project. Reductions in the nest buffer distance may be appropriate depending on the avian species involved and ambient levels of human activity.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

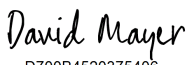
CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Jessie Lane, Environmental Scientist at Jessie.Lane@wildlife.ca.gov.

Sincerely,

DocuSigned by:


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David Mayer
Environmental Program Manager
South Coast Region

ec: CDFW

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REFERENCES

California Environmental Quality Act (CEQA). California Public Resources Code in section 21000 et seq. The “CEQA Guidelines” are found in Title 14 of the California Code of Regulations, commencing with section 15000.

City of San Diego (City). 2018. City of San Diego Municipal Code, Land Development Code, Biology Guidelines. Amended. February 1 by Resolution No. R-311507. Available at: https://www.sandiego.gov/sites/default/files/amendment_to_the_land_development_manual_biology_guidelines_february_2018_-_clean.pdf.

City of San Diego (City). 1997. Multiple Species Conservation Program: City of San Diego MSCP Subarea Plan. March. Available at: <https://www.sandiego.gov/sites/default/files/legacy/planning/programs/mscp/pdf/subareafullversion.pdf>.

HELIX Environmental Planning, Inc. (HELIX). 2022. One Alexandria North Project Biological Technical Report. February.

HELIX Environmental Planning, Inc. (HELIX). 2021. Tree Survey Report for the One Alexandria North Project (PTS-0691942). July.