



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 South Coast Region
 3883 Ruffin Road
 San Diego, CA 92123
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



September 14, 2020

Governor's Office of Planning & Research

Sep 14 2020

STATE CLEARINGHOUSE

Morgan Dresser
 Development Services Center
 City of San Diego
 1222 First Avenue, MS 501
 San Diego, CA 92101
MDresser@sandiego.gov

Dear Ms. Dresser:

Lisbon Heights (PROJECT)
 MITIGATED NEGATIVE DECLARATION (MND)
 SCH# 2020080143

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the City of San Diego (City) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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 administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program. The City of San Diego (City) participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan (SAP).

PROJECT DESCRIPTION SUMMARY

Proponent: Cheryl Lee, Bay View Methodist Heights

Objective: The scope of work on the 3.73-acre Project site includes 24 single-family dwelling units, private drives, two biofiltration basins, and small patches of open space between several of the residences. These dwelling units would range in size from 3,277 to 9,329 square feet.

Biological Setting: The Project footprint supports 1.83 acres of non-native grassland, 1.73 acres of disturbed land, and 0.17 acre of developed land. As a result of development, the entirety of these vegetation community/land cover categories will be directly impacted. Per Table 3 (Upland Mitigation Ratios) in the City's Biology Guidelines and consistent with the City's MSCP, the 1.83 acres of non-native grassland (Tier IIIB) outside of the MHPA will be mitigated at a 1:1 ratio. The applicant proposes mitigation for direct impacts to non-native grasslands through payment to the City's Habitat Acquisition Fund plus a ten

¹ CEQA is codified in the 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.

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percent administrative fee. No sensitive plant or animal species were observed during the October 2018 on-site survey.

Location: The 3.73-acre Project is located at 7108-7112 Lisbon Street in the Skyline-Paradise Hills Community Planning Area of the City. California State Route 94 is located approximately two miles to the northwest and California State Route 125 is located approximately 1.8 miles to the east. The site is an infill property and bordered by development on all sides. The Project is located within the City's MSCP, but not within the Multi-Habitat Planning Area (MHPA). The nearest MHPA land is located approximately one mile south of the site.

Timeframe: No development timeframe was mentioned in the MND.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist 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. Project Description and Related Impact Shortcoming

COMMENT #1: Easement Vacation

Issue: One of the Project requests within the MND is an easement vacation, yet there is no reference throughout the rest of the document to what type of easement this is or where it is located on-site. The vacation of a conservation easement would potentially be significant, but CDFW is unable to determine this because the type of easement being vacated is not discussed in the MND.

Specific Impact: The location of the easement being vacated is not mapped in the MND and the type of easement being vacated is not stated.

Why the impact would occur: The impact would potentially occur if the type of easement being vacated is a conservation easement.

Evidence impact would be significant: There is not enough evidence to determine whether the impact would be significant because it is unclear what type of easement is being vacated.

Recommendation #1:

CDFW recommends the MND include the type of easement that is being vacated, why it is being vacated, and where it is located on the site.

II. Mitigation Measure and Related Impact Shortcoming

COMMENT #2: Raptor Nesting Avoidance Measures

Issue: The only biological resource on-site is 1.83 acres of non-native grassland. The BRLR reported the presence of Botta's pocket gopher (*Thomomys bottae*) but did not report any observations of raptors. Still, Project site photographs taken in October 2018 do show large established eucalyptus and palm trees adjacent to the northern perimeter of the site at the top of a slope.

Specific impacts: While the patch of non-native grassland is small and surrounded by development on all sides, these trees do provide suitable perch sites for raptors foraging in the grassland and as potential nest sites.

Why impact would occur: Impacts to nesting birds could result from ground disturbing activities. Project disturbance activities could result in mortality or injury to nestlings, as well temporary or long-term loss of suitable foraging habitats. Construction during the

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breeding season of nesting birds could result in the incidental loss of breeding success or otherwise lead to nest abandonment.

Evidence impact would be significant: The loss of occupied habitat or reductions in the number of rare bird species, either directly or indirectly through nest abandonment or reproductive suppression, would constitute a significant impact absent appropriate mitigation. Furthermore, nests of all native bird species are protected under state laws and regulations, including Fish and Game Code sections 3503 and 3503.5.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #1:

To minimize significant impacts: CDFW recommends that a mitigation measure be included that reads as follows:

To avoid impacts to nesting birds, preconstruction nesting surveys should be conducted by a qualified biologist no more than three days prior to the initiation of construction activities. The survey area shall cover the limits of disturbance and 300 feet (500 feet for raptors) from the area of disturbance.

Per CEQA Guidelines Section 21081.6(a)(1), CDFW has provided the City with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A).

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database 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 found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/CNDDDB_FieldSurveyForm.pdf. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: http://www.dfg.ca.gov/biogeodata/cnddb/plants_and_animals.asp.

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 of San Diego in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Melissa Stepek, Senior Environmental Scientist at (858) 637-5510 or Melissa.Stepek@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Erinn Wilson-Olgin

Erinn Wilson-Olgin

Environmental Program Manager

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Attachment A: Draft MMRP (CDFW 2020)

ec: Office of Planning and Research, State Clearinghouse, Sacramento
David Zoutendyk, U.S. Fish and Wildlife Service, Carlsbad
Sue Howell, California Department of Fish and Wildlife, San Diego
ceqacommentletters@wildlife.ca.gov

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Attachment A:

CDFW Draft Mitigation, Monitoring, and Reporting Plan and Associated Recommendations

Biological Resources			
	Mitigation Measures	Timing	Responsible Party
Recommendation #1	CDFW recommends a discussion be included in the MND as to what type of easement is being vacated, why it is being vacated, and where it is located on-site.	Prior to finalization of the MND	City of San Diego
Mitigation Measure #1	To avoid impacts to nesting birds, preconstruction nesting surveys should be conducted no more than three days prior to the initiation of project activities. The survey area shall cover the limits of disturbance and 300 feet (500 feet for raptors) from the area of disturbance.	Before construction	City of San Diego in coordination with the qualified biologist