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GAVIN NEWSOM, Governor
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November 18, 2020

Governor's Office of Planning & Research

Mr. Sergio Madera, Principal Planner
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 City of Oceanside
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 Oceanside, CA 92054
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Nov 18 2020

STATE CLEARINGHOUSE

Subject: Sunrise Assisted Living Facility, MITIGATED NEGATIVE DECLARATION (MND), SCH# 2020100325, City of Oceanside

Dear Mr. Madera:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the City of Oceanside for the Sunrise Assisted Living Facility (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines (see References).

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 is also submitting comments as a potential **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) This may be applicable if CDFW needs to exercise any regulatory authority as provided by the Fish and Game Code. For example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 *et seq.*), or 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.*), the project proponent may seek related take authorization as provided by the Fish and Game Code.

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CDFW also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program. The City of Oceanside (City) has participated in the NCCP program by preparing a draft Subarea Plan (SAP) under the San Diego County Multiple Habitat Conservation Plan (MHCP). However, the SAP has not been finalized and has not been adopted by the City or received permits from the Wildlife Agencies (jointly, CDFW and the U.S. Fish and Wildlife Service (USFWS)).

PROJECT DESCRIPTION SUMMARY

Proponent: Sunrise Assisted Living Facility

Objective: The Sunrise Senior Living Facility (Project) is the development of a 120 bed, 78,100 square foot Senior Assisted Living and Memory Care Facility including parking areas, driveways and other infrastructure, and the subdivision of an existing 14.24-acre parcel into two parcels. Currently, the site consists of Lot 'D' (zoned commercial) and Parcel 'B' (zoned commercial to the south and open space to the north). Subdivision of Parcel 'B' would create Parcel 'C' to the south to be zoned as commercial such that Parcel 'B' would remain partly commercial and open space. The property currently contains a church, church office space, a parking lot, playground, and vacant land. In addition to construction of the Senior Living Facility, the project involves the relocation of 68 parking stalls from the east side of the property to a currently unpaved overflow parking area on the west side of the church. The property is located on the northeast corner of College Boulevard and Mesa Drive at 4700 Mesa Drive, in the central portion of the City of Oceanside.

Location: The 14.24-acre Project Site (APN 161-511-19-00) is comprised of two areas; the western half identified as Lot 'D' per Map 11409, and the eastern half identified as Parcel 'B' per Parcel Map 16691. The Project Site is located south of Frazee Road, west of Avenida de La Plata, directly north of Mesa Drive, and directly east of College Boulevard in the City of Oceanside. The Project Site can be accessed by State Route (SR) 76 approximately 1.7 miles to the north via the Frazee Road exit. The proposed project is to develop a senior assisted living and memory care facility on the vacant area located on the eastern portion of Parcel 'B' of the site. This area would be separated from Parcel 'B' via subdivision and create a new Parcel 'C' as a part of the Proposed Project.

Biological Setting: The Project site is developed with the Lighthouse Christian Church and accompanying ancillary improvements, such as parking area and landscape. It should be noted that the Project site is described in the MND materials as the subdivided Parcel 'C' and Lot 'D'. A portion of the Project site is currently vacant, open disturbed area comprised mostly of compacted decomposed granite. Existing vegetation on the site is maintained, including frequent mowing. The Project Site was cleared and graded at the time of the church's development. Most of the area remains bare mineral earth with vegetation which appears to be frequently mowed. Where present, vegetation consists of weedy, non-native invasive herbaceous plants such as short-pod mustard (*Hirschfeldia incana*), filaree (*Erodium cicutarium*), and dandelion (*Taraxacum erythrospermum*). No native plant species were detected within the direct impact footprint and the current state of the vegetation is best described as Urban/Developed and Ruderal. However, the entirety of Lot 'D' and Parcel 'B' prior to subdivision also includes designated Open Space with coastal sage scrub (CSS) and non-native grassland. Ornamental pines (*Pinus* sp.), coast live oak (*Quercus agrifolia*), and western sycamore (*Platanus racemosa*) occur to the north of current Lot 'D' and Parcel 'B'. Acreage for these habitat types were not specified within the MND materials. Approximately 100 meters

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northwest of the proposed facility is a patch of coastal sage scrub vegetation. Surrounding land uses include open space to the north, single-family residential to the east and north, multifamily residential to the west, and the Joe and Mary Mottino Family YMCA to the south.

Timeframe: Approximately 15 months, beginning February 2021

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. Editorial comments or other suggestions may also be included to improve the document. 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).

I. Project Description, Environmental Setting, Mitigation Measure, and Related Impact Shortcoming

COMMENT #1: Biological Resources

Issue: The Biological Resources Evaluation (BRE) must include an assessment of the entire site, to include 'Lot D' and the subdivided 'Parcel B', regardless of the ruderal state of the proposed area of impact ('Parcel C'). The MND materials and attached Appendix B do not provide an acreage breakdown of habitat types, a list of species present, nor does it address any species likely to occur onsite.

Specific Impact: While the BRE provides some information of the potential biological resources, current botanical and wildlife surveys are needed to evaluate the potential direct and indirect impacts from the potential Project.

Why the impact would occur: The proposed project includes major construction and grading activities, which produce many effects, such as fugitive dust, excess noise and lighting, to habitat within the area.

Evidence impact would be significant: The loss of occupied habitat, especially that of special status species, would constitute a significant impact absent mitigation. Surveys that are not species-specific would not likely provide enough information regarding the presence/absence of the species within the Project footprint. False negatives can result in mortality of individuals that were not detected during survey efforts.

Recommendation #1: A thorough biological evaluation should be done during the appropriate time of year to assess any sensitive plant or animal species present onsite and in the open space adjacent to the site.

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COMMENT #2: California Gnatcatcher Surveys

Issue: CDFW is concerned that the City did not evaluate potential Project-related impacts to areas adjacent to the Project site where coastal sage scrub habitat is present. Furthermore, California gnatcatcher use of the coastal sage scrub is based on outdated surveys. The Biological Resources Evaluation (Everett and Associates 2020) references a Biological Resources Report completed by Dudek in 2001 for the adjacent development, which states that there was no California gnatcatcher (gnatcatcher) or gnatcatcher suitable habitat onsite. However, the BRE states that there is coastal sage scrub 100 meters from the direct impact area, and this CSS is contiguous with designated open space. CDFW believes that current surveys are needed to evaluate the presence or absence of gnatcatcher onsite or adjacent to the site.

Specific Impact: Construction and occupancy of the residential area could have a direct, indirect and cumulative impact on any residing California gnatcatcher in the area and constrain movement of the species throughout the area.

Why the impact would occur: Page 12 of the Initial Study/Mitigated Negative Declaration (IS/MND) states that the project construction would include grading activities which include the export of 7,300 cubic yards of material from the Project Site over a four-week grading period. Demolition will be conducted onsite to remove 30,500 square feet of pavement from Parcel 'C'. The Project proposes facilities with potentially high-use, such as a courtyard and walking path along the open space boundary and a parking lot.

Evidence impact would be significant: The California gnatcatcher is listed as federally threatened and is a California Species of Special Concern. It is closely associated with CSS vegetation. Impact to the gnatcatcher's limited and sensitive habitat could result in declines to the already threatened population. In addition, human activities from residents may adversely affect the gnatcatcher with increased noise, lighting, and presence of pets.

Recommended Potentially Feasible Mitigation Measure(s)

The project proponent should conduct surveys following USFWS protocols to assess the presence or absence of gnatcatcher. If gnatcatcher is detected, provisions should be made to avoid and minimize impacts to the species.

Mitigation Measure #1: CDFW recommends an updated gnatcatcher survey and assessment of CSS onsite and adjacent to the site. If gnatcatcher is detected, Section 5.2.8 of the draft Oceanside Subarea Plan requires a biologist onsite to monitor construction activities. CDFW believes this is an appropriate measure to incorporate into an approved project. Additionally, if gnatcatcher is detected, construction may need to be avoided during the gnatcatcher breeding season (February 15 through August 30).

COMMENT #3: Provisions for Edge Effects along Open Space boundary

Issue: No provisions are made for reducing edge effects along the Open Space boundary.

Specific Impact: The Project site will have significant human use by residents, employees and visitors within the facility and the parking areas and thereby the sensitive natural resources

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within the adjacent open space could easily be subject to trespassing, invasive species, litter, etc.

Why the impact would occur: The construction of a care facility and parking areas potentially facilitates various anthropogenic impacts to the habitat, such as litter, pet feces, introduction of invasive species, as well as noise and light pollution.

Evidence impact would be significant: Edge effects are known to result in extirpation of species from an area and facilitation of invasive species introduction.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #1: CDFW recommends fencing and signage along the open space to restrict entry to the coastal sage scrub habitat.

Mitigation Measure #2: CDFW recommends all lighting be directed away from the open space boundary. The lighting should be kept to a minimum and glare should avoid sensitive areas.

II. Editorial Comments or Suggestions

1. Landscaping: 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. The District should not plant, seed, or otherwise introduce invasive exotic plant species to landscaped areas that are adjacent and/or near native habitat areas. CDFW recommends using native, locally appropriate plant species and drought tolerant, lawn/grass alternatives to reduce water consumption. Information on alternatives for invasive, non-native, or landscaping plants may be found on the [California Invasive Plant Council's 'Don't Plant a Pest'](#) webpage.

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: <https://wildlife.ca.gov/data/CNDDDB/submitting-data#44524420-pdf-field-survey-form>. 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: <https://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.)

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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 Melanie Burlaza, Environmental Scientist at MelanieAnne.Burlaza@wildlife.ca.gov

Sincerely,

DocuSigned by:


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David Mayer
Environmental Program Manager I
South Coast Region

Ec: CDFW

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ATTACHMENT

Attachment A: Recommended Mitigation Measures

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.

California Office of Planning and Research. 2009 or current version. CEQA: California Environmental Quality Act. Statutes and Guidelines, § 21081.6 and CEQA Guidelines, § 15097, §15126.4(2)

Fish & Game Code §3503

City of Oceanside 2010. Oceanside Draft MHCP Subarea Plan
<http://www.ci.oceanside.ca.us/gov/dev/planning/subarea.asp>

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Attachment A: Recommended Mitigation Measures and General Recommendations

Documentation of Biological Resources	Recommendation #1	A thorough biological evaluation should be done during the appropriate time of year to assess any sensitive plant or animal species present onsite and in the open space adjacent to the site
Assessment for California Gnatcatcher	Recommendation #2	CDFW recommends an updated gnatcatcher survey and assessment of CSS onsite and adjacent to the site. If gnatcatcher is detected, Section 5.2.8 of the draft Oceanside Subarea Plan requires a biologist onsite to monitor construction grading activities. If gnatcatcher is detected, grading should be avoided during the gnatcatcher breeding season (February 15 through August 30).
Provisions for Edge Effects along Open Space Boundary	Mitigation Measure #1 and 2	Signage and fencing shall be installed along the open space to restrict entry. Environmentally sensitive lighting along the open space boundary shall be directed away from open space.