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Governor's Office of Planning & Research

July 29, 2021

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STATE CLEARINGHOUSE

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Subject: North Iris Lane Residential Project, Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR), SCH# 2021060702

Dear Mr. Paul:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) from the City of Escondido (City) for the North Iris Lane Residential Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding the activities involved in the North Iris Lane Residential 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, subdivision (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines, § 15386, subdivision (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 state fish and wildlife resources.

CDFW is also submitting comments as a Responsible Agency under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code, including lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent

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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implementation of the Project as proposed may result in “take” (see Fish & G. Code, § 2050) of any species protected under the California Endangered Species Act (CESA; Fish & G. Code, § 2050 et seq.) or the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 et seq.), CDFW recommends the Project proponent obtain appropriate authorization under the Fish and Game Code.

CDFW also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program. The City of Escondido has participated in the NCCP program by preparing a draft Subarea Plan (SAP) under the North County Multiple Habitat Conservation Program (MHCP). However, the Escondido 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: City of Escondido

Objective: The Project proposes to build 102 multifamily attached condominium dwelling units on a 7.7-acre site in Escondido. The units will range in size from 1,228 to 1,913 square feet and will consist of two to three stories. Each unit will have a private two-car covered garage; 26 uncovered guest parking spots will be located throughout the development. The Project will also include private decks and patios, a tot lot, a barbeque area, a fitness circuit, seating areas, and landscaping. Primary access to the site will be from Robin Hill Lane. The Project also plans to detach the assessor parcel numbers (APNs) from the county jurisdiction and annex into the City of Escondido. It also includes a general plan amendment (GPA) to “change the land use to U3 and rezone to R3 18 DU/acre (PD-R-18)”.

Location: The Project site is located at the southwest corner of North Iris Lane and Robin Hill Lane in the City of Escondido, San Diego County. The site is east of Interstate 15 (I-15) and northeast of Center City Parkway. Surrounding the Project site are track home communities, private residences, a school, and a multifamily senior living development. The Project site consists of non-native grasslands and mature trees. The site has existing homes and an active horse corral. An above surface drainage channel captures rainwater runoff from properties located to the west. The water drains southwest to the culvert inlet located at the southwest corner of the Project site.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City in adequately identifying and/or mitigating Project impacts on biological resources and to ensure regional conservation objectives in the MHCP and draft Escondido SAP would not be eliminated by implementation of the Project.

Specific Comments

- 1) Biological Baseline Assessment. CDFW recommends providing a complete assessment and impact analysis of the flora and fauna within and adjacent to the Project site, with emphasis

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upon identifying endangered, threatened, sensitive, regionally and locally unique species, including any Covered Species under the City's draft SAP, and sensitive habitats. Although CDFW recognizes the Escondido SAP was not adopted, it remains a valuable reference to evaluate the importance of local biological resources and the potential implications to long-term conservation objectives within and beyond the City's boundaries. Absent this recognition the City's actions could cause further decline of species and their requisite habitats, including biological connectivity, leading to the need to list species as threatened or endangered. The Project impact analysis should therefore address direct, indirect, and cumulative biological impacts, as well as provide specific mitigation or avoidance measures necessary to offset those impacts. CDFW recommends avoiding any sensitive natural communities found on or adjacent to the Project. The DEIR should include the following information:

- a) Information on the regional setting that is critical to an assessment of environmental impacts, with special emphasis on resources that are rare or unique to the region [CEQA Guidelines, § 15125(c)]. The DEIR should include measures to fully avoid and otherwise protect Sensitive Natural Communities from Project-related impacts. Project implementation may result in impacts to rare or endangered plants or plant communities that have been recorded in the Project vicinity. CDFW considers these communities as threatened habitats having both regional and local significance. Plant communities, alliances, and associations with a state-wide ranking of S1, S2, S3 and S4 should be considered sensitive and declining at the local and regional level. These ranks can be obtained by visiting <https://www.wildlife.ca.gov/Data/VegCAMP/Natural-Communities#sensitive%20natural%20communities>;
- b) A complete floristic assessment within and adjacent to the Project area, with particular emphasis upon identifying endangered, threatened, sensitive, and locally unique species and sensitive habitats. This should include a thorough, recent, floristic-based assessment of special status plants and natural communities.
- c) A complete, recent, assessment of the biological resources associated with each habitat type onsite and within adjacent areas that could also be affected by the Project. CDFW's California Natural Diversity Database (CNDDDB) should be reviewed to obtain current information on any previously reported sensitive species and habitat. CDFW recommends that CNDDDB Field Survey Forms be completed and submitted to CNDDDB to document survey results. Online forms can be obtained and submitted at http://www.dfg.ca.gov/biogeodata/cnddb/submitting_data_to_cnddb.asp;
- d) The DEIR should have a complete, recent, assessment of rare, threatened, and endangered, and other sensitive species onsite and within the area of potential effect, including California Species of Special Concern and California Fully Protected Species (Fish & G. Code, §§ 3511, 4700, 5050 and 5515). Species to be addressed should include all those which meet the CEQA definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Seasonal variations in use of the Project area should also be addressed. Focused species-specific surveys, conducted at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are necessary. Acceptable species-specific

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survey procedures should be developed in consultation with CDFW and USFWS;
and,

- e) A recent, wildlife and rare plant survey. CDFW generally considers biological field assessments for wildlife to be valid for a one-year period, and assessments for rare plants may be considered valid for a period of up to three years as long as there was not a prevailing drought during the time of the botanical survey. Some aspects of the proposed Project may warrant periodic updated surveys for certain sensitive taxa, particularly if build out could occur over a protracted time frame, or in phases.
- 2) Sensitive Bird Species. Project activities occurring during the breeding season of nesting birds could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment in habitat directly adjacent to the Project boundary. The Project could also lead to the loss of foraging habitat for sensitive bird species.
 - a) CDFW recommends that measures be taken, primarily, to avoid Project impacts to nesting birds. Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (Code of Federal Regulations, Title 50, § 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the MBTA).
 - b) Project activities including (but not limited to) staging and disturbances to native and nonnative vegetation, structures, and substrates should occur outside of the avian breeding season which generally runs from February 15 through August 31 (as early as January 1 for some raptors) to avoid take of birds or their eggs. If avoidance of the avian breeding season is not feasible, CDFW recommends surveys by a qualified biologist with experience in conducting breeding bird surveys to detect protected native birds occurring in suitable nesting habitat that is to be disturbed and (as access to adjacent areas allows) any other such habitat within 300-feet of the disturbance area (within 500-feet for raptors). Project personnel, including all contractors working onsite, should be instructed on the sensitivity of the area. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.
- 3) Tree Removal: Based off aerial imagery, the Project site contains several mature trees. Although some of the current tree inventory may be non-native, these mature trees can still serve as habitat for native fauna. Habitat loss is one of the leading causes of native biodiversity loss. To compensate for any loss of trees, CDFW recommends replacing all non-native trees removed as a result of the proposed work activities at least a 1:1 ratio with native trees.
 - a) Due to tree removal, Project activities have the potential to result in the spread of tree insect pests and disease into areas not currently exposed to these stressors. This could result in expediting the loss of oaks, alders, sycamore, and other trees in California which support a high biological diversity including special status species.

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To reduce impacts to less than significant, the final environmental document should describe an infectious tree disease management plan and how it will be implemented to avoid significant impacts under CEQA. All trees identified for removal resulting from the Project should be inspected for contagious tree diseases including but not limited to: thousand canker fungus (*Geosmithia morbida*), see <http://www.thousandcankers.com/>; Polyphagous Shot Hole Borer (*Euwallacea spp.*), see <http://eskalenlab.ucr.edu/avocado.html>; and goldspotted oak borer (*Agrilus auroguttatus*), see <http://ipm.ucanr.edu/PMG/PESTNOTES/pn74163.html>. To avoid the spread of infectious tree diseases, diseased trees should not be transported from the Project site without first being treated using best available management practices relevant for each tree disease observed.

- 4) Lake and Streambed: An above surface drainage channel is on the southern portion of the Project site. The site is within 0.25 mile of Escondido Creek. CDFW has regulatory authority over activities in streams and/or lakes that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of any river, stream, or lake or use material from a river, stream, or lake. For any such activities, the Project applicant (or "entity") must provide written notification to CDFW pursuant to section 1600 et seq. of the Fish and Game Code. Based on this notification and other information, CDFW determines whether a Lake and Streambed Alteration Agreement (LSAA) with the applicant is required prior to conducting the proposed activities. CDFW's issuance of a LSAA for a Project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. To minimize additional requirements by CDFW pursuant to section 1600 et seq. and/or under CEQA, the DEIR should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSAA. CDFW recommends the Applicant submit a Lake and Streambed Alteration Notification to CDFW.
- 5) Landscaping: The Project Description includes landscaping throughout the Project site. Habitat loss and invasive plants are a leading cause of native biodiversity loss. CDFW recommends that the DEIR also stipulate that no invasive plant material shall be used. Furthermore, we recommend using native, locally appropriate plant species for landscaping on the Project site. A list of invasive/exotic plants that should be avoided as well as suggestions for suitable landscape plants can be found at California Native Plant Council <https://www.cal-ipc.org/solutions/prevention/landscaping/>.

General Comments

- 1) Project Description and Alternatives. To enable CDFW to adequately review and comment on the Project from the standpoint of the protection of plants, fish, and wildlife, we recommend the following information be included in the DEIR:
 - a) A complete discussion of the purpose and need for, and description of, the Project, including all staging areas and access routes to the construction and staging areas;
 - b) A range of feasible alternatives to Project component location and design features to ensure that alternatives to the proposed Project are fully considered and evaluated. The

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alternatives should avoid or otherwise minimize direct and indirect impacts to sensitive biological resources and wildlife movement areas.

- 2) Compensatory Mitigation. The DEIR should include mitigation measures for adverse Project-related impacts to sensitive plants, animals, and habitats. Mitigation measures should emphasize avoidance and reduction of Project impacts. For unavoidable impacts, onsite habitat restoration or enhancement should be discussed in detail. If onsite mitigation is not feasible or would not be biologically viable and therefore would not adequately mitigate the loss of biological functions and values, offsite mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. Areas proposed as mitigation lands should be protected in perpetuity with a conservation easement, financial assurance, and dedicated to a qualified entity for long-term management and monitoring. Under Government Code section 65967, the Lead Agency must exercise due diligence in reviewing the qualifications of a governmental entity, special district, or non-profit organization to effectively manage and steward land, water, or natural resources on mitigation lands that it approves.

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 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 NOP to assist the City in identifying and mitigating Project impacts on biological resources and ensuring Project consistency with the requirement of the draft SAP under the San Diego County MHCP.

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

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Sincerely,

DocuSigned by:

Jennifer Turner

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