



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**



Governor's Office of Planning & Research

**Nov 01 2021**

November 1, 2021

## STATE CLEARINGHOUSE

Mr. John Conley,  
Director of Community Development  
City of Vista Community Development, Department Planning Division  
200 Civic Center Drive  
Vista, CA 92084  
[JConley@cityofvista.com](mailto:JConley@cityofvista.com)

**Subject: Vista Grande Residential Project (PROJECT); Mitigated Negative Declaration (MND); SCH #2021090600**

Dear Mr. Conley:

The California Department of Fish and Wildlife (CDFW) has reviewed the City of Vista's draft MND for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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 **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW may also need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority. (Fish & G. Code, § 1600 *et seq.*) Likewise, 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.

CDFW also administers the Natural Community Conservation Planning (NCCP) program. The City has participated in the NCCP program by preparing a draft Subarea Plan (SAP) under the

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<sup>1</sup> 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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subregional Multiple Habitat Conservation Plan (MHCP), which addressed eight incorporated cities in northern San Diego County. However, the City's SAP was not finalized and has not been adopted by the City or received permits from the Wildlife Agencies (collectively CDFW and the U.S. Fish and Wildlife Service (USFWS)).

## PROJECT DESCRIPTION SUMMARY

**Proponent:** City of Vista (City)

**Objective:** The proposed Project involves the approval of a General Plan Amendment, zoning change, and Tentative Subdivision Map to construct 28 single-family detached lots, an access road, and associated utilities situated on two parcels in the northeastern part of the City. The site is currently designated Rural Residential in the Vista General Plan 2030 (City of Vista 2012)<sup>2</sup>, which allows up to one dwelling unit per acre. The project proposes to change the General Plan land use designation to Low Density Residential, which would allow up to two dwellings per acre. The property is currently zoned Agricultural Zone. The Project also proposes to rezone the property as Estates Residential.

The Project proposes to construct 28 residential lots. The proposed single-family detached residences would be a mix between single-story and two-story structures and range in size from approximately 3,200 sf to 4,200 square feet (ft). In addition, the proposed project would include four open space areas that would contain decomposed granite trails and park benches.

**Location:** The City is a largely built out, being a predominantly low-density residential community approximately seven miles inland from the Pacific Ocean in northern San Diego County. The 16.99-acre Project site lies east of East Vista Way, north of Warmlands Avenue, and west of Green Hills Way in the northeast part of the City, bordering unincorporated San Diego County to the north and east. The Project site is composed of two parcels, Assessor's Parcel Numbers 171-100-05 and 171-100-28. An occupied single-family residence exists on the western parcel, and the remainder of the site is vacant. An existing road easement runs north to south along the western border of the site, and existing aboveground power lines run along the southern border of the project site.

**Biological Setting:** The Project site has moderately steep slopes and is on a south-facing slope of an east-to-west-trending ridge. Elevations range from 725 ft above mean sea level in the northern corner of the site on the ridge and 630 ft above mean seal level in the southwestern corner of the site at Vista Grande Drive, with a total elevation difference of approximately 95 ft. According to the Vista Grande Biological Report prepared for the Project in February 2021 by Tierra Data, the Project site supports five distinct vegetation communities/land covers: approximately 0.13 acre of Diegan coastal sage scrub (CSS) that is contiguous with an approximately 60-foot wide band of CSS directly to the north of the site, 0.01 acre of disturbed coastal sage scrub in the southeast corner of the Project site, 12.65 acres of non-native grassland (NNG), 2.85 acres of disturbed habitat (compacted soils, very low vegetation cover consisting primarily of nonnative, weedy species that are indicators of surface disturbance and soil compaction), and 1.34 acres that are developed. No special-status plant or animal species were observed on site, and none have a high potential to occur on site. It is assumed that the whole Project site will be impacted with no areas remaining for biological open space. The Project would also impact 0.10 acre of off-site disturbed

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<sup>2</sup> City of Vista. 2012. Vista General Plan 2030. Adopted February 28. Accessed September 2021. <https://www.cityofvista.com/city-services/city-departments/community-development/building-planning-permits-applications/vista-general-plan-2030>.

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CSS and 0.33 acre of off-site NNG, which would be added to the total impacts to be mitigated off site.

No Critical Habitat has been designated on site. The nearest land under such designation is for the federal-listed threatened coastal California gnatcatcher (gnatcatcher; *Poliophtila californica californica*) approximately 0.30 mile to the north and northeast of the northeastern corner of the Project site.

In compliance with the City's draft MSCP SAP, the Project shall mitigate the proposed impact to CSS and disturbed CSS at a ratio of 1:1 with acquisition of a minimum of 0.24 acre of CSS at an off-site location, acceptable to the City, CDFW, and USFWS (jointly, the Wildlife Agencies). The Project shall mitigate the proposed impact to NNG at a 0.5:1 ratio with acquisition of a minimum of 6.49 acres of NNG at an off-site location, acceptable to the City and the Wildlife Agencies.

## 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.

### I. Mitigation Measure or Alternative and Related Impact Shortcoming

#### COMMENT #1: Surveys for coastal California gnatcatcher

**Issue:** Surveys for gnatcatcher were last conducted in 2010 and 2014 on the property to the north of the Project site. Those surveys showed no usage by gnatcatcher of the band of CSS bordering and overlapping the site. The MND speculates that the band of CSS is likely too narrow to support gnatcatcher. The general Project site survey was performed on January 22, 2021, early in the season, which limited the potential for observing gnatcatcher.

**Specific impact:** If gnatcatcher is currently utilizing the CSS habitat adjacent to and overlapping the Project site, construction of the Project could impact individuals of the species.

**Why impact would occur:** It is possible that gnatcatcher may have begun utilizing the CSS patch to the north and overlapping the Project site in the years since the previous gnatcatcher surveys. The January 2021 general survey of the Project site may have been too early in the year to detect gnatcatcher activity.

**Evidence impact would be significant:** Gnatcatcher is listed as threatened under the federal Endangered Species Act (ESA) and is also designated as a Bird Species of Special Concern by the State of California.

#### Recommended Potentially Feasible Mitigation Measure(s) (Regarding Mitigation Measure or Alternative and Related Impact Shortcoming)

##### Mitigation Measure #1:

**To reduce impacts to less than significant:** CDFW recommends that updated protocol-level gnatcatcher surveys be conducted to determine the status of gnatcatcher within the on- and off-site CSS. If found, potential impacts to the gnatcatcher could be addressed under section 7 (if there is a federal nexus) or 10 of the ESA.

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## 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](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](mailto: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](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 in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Meredith Osborne, Environmental Scientist, at [Meredith.Osborne@wildlife.ca.gov](mailto:Meredith.Osborne@wildlife.ca.gov).

Sincerely,

DocuSigned by:



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David Mayer  
Environmental Program Manager  
South Coast Region

ec: CDFW

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Attachments

- A. CDFW Comments and Recommendations

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**Attachment A:**

**CDFW Comments and Recommendations**

	<b>Recommendations/Mitigation Measures</b>	<b>Timing</b>	<b>Responsible Party</b>
Mitigation Measure 1	CDFW recommends that updated protocol-level gnatcatcher surveys be conducted to determine the status of gnatcatcher within the on- and off-site coastal sage scrub. If found, potential impacts to the gnatcatcher could be addressed under section 7 (if there is a federal nexus) or 10 of the ESA.	Prior to construction activities	City of Vista