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July 18, 2022

Governor's Office of Planning & Research

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Jul 18 2022

STATE CLEARINGHOUSE

**Subject: Palm Hollister Apartments (Project), Notice of Preparation (NOP),
SCH #2022060468**

Dear Ms. Dresser:

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 San Diego (City) for the Palm Hollister Apartments (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's 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; California Environmental Quality Act (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 also administers the Natural Community Conservation Planning (NCCP) program (Fish & G. Code, § 2800 *et seq.*). The City participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan (SAP) and Implementing Agreement (IA). The NOP for the proposed Project must ensure that all requirements and conditions of the SAP and IA are met. The NOP should also address any biological issues that are not addressed in the SAP and IA, such as specific impacts to and mitigation requirements for sensitive species that are not covered by the SAP and IA.

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 1500.

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PROJECT DESCRIPTION SUMMARY

Proponent: City of San Diego

Project Location: The 5.92-acre Project site is located east of Interstate 5 and Hollister Street, west of Beyer Boulevard, north of Palm Avenue, south of Main Street, within the City's Otay Mesa-Nestor Community Planning Area (CPA). The Project site is partially developed with an abandoned single-family residence, small storage structure, canopy, and unpaved roadway on-site. The Project site is within the City's MSCP SAP, and the northern portion of the site is within the City's Multi-Habitat Planning Area (MHPA) established by the SAP. Surrounding land uses include mixed residential to the west and south and active agriculture to the north and east. The Otay Valley Regional Park is located further north of the site.

Project Description/Objectives: The Project proposes to demolish the existing structures on-site and develop 13 buildings (198 residential units) with associated community buildings and outdoor amenities. Project-related activities would include grading, landscaping, utilities, and construction of a retaining wall and pedestrian walkway along the northern border of the site. The proposed Project would require a CPA Amendment to change the existing land use from Open Space to Medium-High Density and Rezone. The Project is also requesting a MHPA Boundary Line Adjustment (BLA).

Biological Setting: As mentioned above, the Otay Valley Regional Park is located north of the site and this area is within the City's MHPA. CNDDDB aerial imagery indicates that the Project's development area consists of agricultural, disturbed, and urban/developed land. Special-status species known to occur within or adjacent to the Project area include coast horned lizard (*Phrynosoma blainvillii*; California Species of Special Concern (SSC)) and singlewhorl burrobrush (*Ambrosia monogyra*; California Rare Plant Rank (CRPR) 2B.2) (CNDDDB 2022).

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations 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.

- 1) Multi-Habitat Planning Area (MHPA) Boundary Line Adjustment (BLA). CDFW recommends that the City consult with the Wildlife Agencies (CDFW and United States Fish and Wildlife Service (USFWS)) early in the CEQA process to resolve the Project's proposed BLA prior to the circulation of the DEIR. To ensure consistency with the MSCP's conservation goals and objectives, the DEIR should provide full disclosure and functional equivalency analysis of the proposed BLA per Sections 1.1.1 and 5.42 of the MSCP SAP (City of San Diego 1997). The Wildlife Agencies will need to agree and provide written concurrence for the requested BLA after we have had the opportunity to review all information provided by the City. When evaluating a proposed BLA and habitat equivalency assessment, the Wildlife Agencies generally consider the following biological goals:
 - No net loss of MHPA acreage;
 - No net reduction of higher sensitivity vegetation communities (i.e., Tier I, II, IIIa and IIIb);
 - Net impacts/conservation of covered listed species resulting from the BLA;
 - Net impacts/conservation of covered non-listed sensitive species resulting from the BLA; and

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- Landscape configuration to maintain connectivity of the MHPA (i.e., net effects to 'Preserve Design')
- 2) Lighting. Per the NOP, the Project proposes to construct a retaining wall and landscaped walkway along the northern border of the Project site. To minimize light pollution spillover into zoned open space area, CDFW recommends that all Project-related artificial lighting installed on the northern border and/or utilized during construction should be anti-glare, shielded, and directed toward the Project impact area and away from the Otay Valley Regional Park.
 - 3) Fire Buffers. Project activities may include fuel modification within and around the Project boundary. CDFW requires that all fuel modification zones be included in the development footprint and be considered and mitigated as a permanent impact.
 - 4) Nesting Birds. To avoid impacts to nesting birds, CDFW recommends that clearing of vegetation 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 Project construction is necessary during the bird breeding season, a qualified biologist with experience in conducting bird breeding surveys should conduct weekly bird surveys for nesting birds, within three days prior to the work in the area, and ensure no nesting birds in the Project area would be impacted by the Project. If an active nest is identified, a buffer shall be established between the construction activities and the nest so that nesting activities are not interrupted. For the given Project site, CDFW generally recommends a 100-foot buffer from common avian species, 300 feet for listed or highly sensitive species (that are otherwise not addressed by the MSCP), and 500 feet for raptors. The buffer should be delineated by temporary fencing and remain in effect as long as construction is occurring. No Project construction shall occur within the fenced nest zone until the young have fledged, are no longer being fed by the 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, ambient levels of human activity, screening vegetation, or possibly other factors.

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: [Submitting Data to the CNDDDB \(ca.gov\)](#). 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: [CNDDDB - Plants and Animals \(ca.gov\)](#).

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

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is required 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.

Questions regarding this letter or further coordination should be directed to Alison Kalinowski, Environmental Scientist, by email at Alison.Kalinowski@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 Department of Fish and Wildlife. 2022. California Natural Diversity Database (CNDDDB). Available from: <https://wildlife.ca.gov/Data/CNDDDB>.

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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 Invasive Plant Council (Cal-IPC). 2022. Responsible Landscaping. Available from: <https://www.cal-ipc.org/plants/inventory/>.

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).

City of San Diego. March 1997. City of San Diego Multiple Species Conservation Program (MSCP) Subarea Plan.