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In Reply Refer to:
FWS/CDFW-2023-0016497

Doug Thomsen
Senior Planner
City of Santee
10601 Magnolia Avenue
Santee, California 92071



December 8, 2022
Sent Electronically

Subject: Proposed Tyler Street Subdivision Project draft Mitigated Negative Declaration
(SCH 2022100498)

Dear Doug Thomsen:

The U.S. Fish and Wildlife Service (Service) and the California Department of Fish and Wildlife (Department), collectively referred to as the Wildlife Agencies, have reviewed the draft Mitigated Negative Declaration (MND) and associated documents for the proposed Tyler Street Subdivision (Project) received on October 25, 2022. The comments and project details referenced here are based on information provided in those documents, as well as a site visit on November 17, 2022, attended by the Wildlife Agencies and the City of Santee (City).

The primary concern and mandate of the Service is the protection of fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and threatened and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Federal Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), including habitat conservation plans (HCP) developed under section 10(a)(1)(B) of the Act. The Department is a Trustee Agency with jurisdiction over natural resources affected by the proposed project [California Environmental Quality Act (CEQA) Guidelines §15386] and is a Responsible Agency under CEQA Guidelines Section 15381 over those aspects of the proposed project that come under the purview of the California Endangered Species Act (CESA; Fish and Game Code §2050 *et seq.*) and Fish and Game Code Section 1600 *et seq.* The Department also administers the Natural Community Conservation Planning (NCCP) Program, a California regional habitat conservation planning program. The City is in the process of developing an NCCP/HCP Subarea Plan under the Multiple Species Conservation Program (MSCP) Subregional Plan; however, a Subarea Plan (SAP) has not yet been adopted by the City or permitted by the Service or the Department. The Wildlife Agencies continue to meet frequently with the City in an effort to complete the Subarea Plan, which will be brought forward for public review. Comments below are based on applicable regulations, those noted discussions, and the Draft SAP.

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The proposed Project is located on an undeveloped 27.35-acre site in the southwestern portion of the City near the existing southern terminus of Tyler Road. The proposed Project would include construction of 14 single-family homes, an extension of Tyler Road, and associated improvements. The remainder of the site (approximately 19.45 acres) would, as proposed, be preserved in two open space easements (referred to in project documents as Lots B and C). Existing surrounding land uses include residential neighborhoods to the north and west and natural open space with some lower density residential to the east and south. A 0.91-acre existing “Diegan sage scrub” easement to the Padre Dam Water District (Padre Dam Diegan sage scrub easement) occurs in the southeastern portion of the Project site.¹ Per the proposed project plans provided to us, Zone 1 and 2 fuel modification areas for the Project would be confined to the development footprint, except for some Zone 2 areas that would extend into portions of Lot C and the Padre Dam Diegan sage scrub easement. The proposed Lot C intersects an ephemeral drainage that runs along the eastern and northeastern boundary of the Project site; this drainage supports an area of willow scrub. Per conversations on November 17, 2022, with Doug Thomsen of the City’s staff, the proposed Project has recently been modified such that no fuel modification zones or any construction fill are currently proposed within the ephemeral drainage area on Lot C or the noted Padre Dam Diegan sage scrub easement.

The Project site is dominated by a relatively steep ridgeline running east-to-west through the site, gradually sloping down to a more shallow-sloped area in the northern portion of the site. Natural community types mapped on-site include Diegan coastal sage scrub, southern mixed chaparral, native grassland, nonnative grassland, disturbed southern willow scrub, and disturbed habitat. Per the Biological Assessment Report for the Project (BLUE 2022), biological surveys conducted on the Project site in 2013 included protocol-level surveys for coastal California gnatcatcher [*Polioptila californica californica*; federally threatened, state species of special concern (SSC)] and Quino checkerspot butterfly (*Euphydryas editha quino*; federally endangered) in addition to general biological and rare plant surveys. An updated general biological survey was conducted in 2016 to confirm that the status of the site had not changed significantly since 2013. Substantial areas of cactus scrub [thickets of cholla (*Cylindropuntia prolifera*) and prickly pear (*Opuntia* spp.) dominated stands of Diegan coastal sage scrub] occurs on the south-facing slope of the Project site, as observed by Wildlife Agency and Santee staff in the field.

Sensitive plant species detected or with a high potential to occur on the Project site include San Diego viguiera [*Bahiopsis (Viguiera) laciniata*; California Rare Plant Rank (CRPR) List 4], San Diego goldenstar [*Bloomeria (Muilla) clevelandii*; CRPR 1B], decumbent goldenbush (*Isocoma menziesii* var. *decumbens*; CRPR 1B), and Palmer’s grappling hook (*Harpagonella palmeri* var. *palmeri*; CRPR List 2). Sensitive wildlife species detected or with a high potential to occur on-site include coastal California gnatcatcher (one pair with an active nest in 2013), coastal cactus wren (*Campylorhynchus brunneicapillus*; state SSC), southern California rufous-crowned sparrow (*Aimophila ruficeps canescens*; state watch list), Cooper’s hawk (*Accipiter cooperii*; state watch list), Belding’s orange-throated whiptail (*Aspidoscelis hyperythra*; state watch list), and coast horned lizard (*Phrynosoma blainvillii*; state SSC). Host plants for Quino checkerspot

¹ The Padre Dam Diegan sage scrub easement is a “permanent easement for the establishment, maintenance, preservation, and reestablishment of the Diegan sage scrub plant community.”

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butterfly are present on-site. Similarly, a substantial number of host and nectaring plants for Hermes copper butterfly (*Lycaena hermes*; federally threatened) occur on-site. We consider both butterfly species as having a high potential to occur on the Project site. In addition, San Diego barrel cactus (*Ferocactus viridescens*; CRPR 2B.1) was observed on the south-facing slopes of the Project site by Wildlife Agency and Santee staffs.

No direct impacts to Diegan coastal sage scrub or cactus scrub are anticipated from the Project. Pursuant to the draft MND, impacts to sensitive plant and wildlife species would be reduced by siting the proposed development in what may potentially be a historically disturbed portion of the Project site and by implementing general biological mitigation measures during construction (e.g., biological monitors and temporary avoidance fencing). The Wildlife Agencies offer the following comments and recommendations to assist the City and the applicant in avoiding, minimizing, and adequately mitigating project-related impacts to biological resources and to ensure the Project is consistent with the Draft SAP:

1. As proposed, the Project appears to meet the 30/70 development to preservation area ratio currently under discussion for the Draft SAP Standards Areas. The draft MND states that the Project site is not located within the Draft SAP Preserve and was not proposed for conservation under the plan; this was likely correct when the draft MND was released. The project area was shown as a Standards Area in a draft Preserve Map V12 (provided to the Wildlife Agencies on April 5, 2022) and as a Hardline Project in a more recent draft Preserve Map V13 (dated October 25, 2022). The final MND should clarify the status of the project site pursuant to the most recent version of the draft Subarea Plan as of the date of the final MND. Regardless of SAP mapping status, we recommend that the Project at a minimum meet the 30/70 development to preservation area ratio.
2. Per the draft MND, approximately 6.78 acres of sensitive habitats would be directly affected by the Project. Compensatory mitigation for these impacts is proposed by the applicant to occur off-site through the purchase of habitat mitigation credits. We are unclear as to why mitigation is currently proposed to occur off-site when a large proportion of the Project site is proposed to be preserved. We recommend the final MND require that the proposed Project provide for the permanent legal protection, biological monitoring, and ecological management in perpetuity of the 19.45 acres of the Project site that would not be directly developed.
3. Per the Biological Assessment Report and as observed in the field, the Project site supports California buckwheat (*Eriogonum fasciculatum*) and spiny redberry (*Rhamnus crocea*), the primary nectar source and host plants for the Hermes copper butterfly. We recommend focused surveys for Hermes copper butterfly be performed on the Project site, following the County of San Diego (County) guidance (see Attachment B, page 73, of the County's Report Format and Content Requirement for Biological Resources). If the site is determined to be occupied or if surveys are inconclusive, we recommend that final MND include a mitigation measure to avoid and minimize impacts to potentially suitable Hermes copper butterfly habitat by establishing appropriate buffers

and management around patches of spiny redberry and California buckwheat adjacent to the Project footprint. Such measures should provide for reduced propagation of Argentine ants within preserve areas adjacent to the proposed development, including elimination of irrigated landscaping and minimization of new brow ditches near preserve areas. These minimization measures would likely also benefit coast horned lizards through improved conservation of native ants within preserve areas.

4. The Biological Assessment Report identifies the presence of dot-seed plantain (*Plantago erecta*), a primary host plant for the Quino checkerspot butterfly, as occurring on-site. Focused surveys for Quino checkerspot butterflies were conducted on the site in 2013, and the species was not observed. Quino checkerspot butterflies can be difficult to detect in specific habitat patches because in some years no adults may be present (the most easily observed life stage), and larvae (caterpillars) are capable of remaining dormant for more than one year. Quino checkerspot butterflies are also capable of recolonizing sites from fairly long distances, at least 1 kilometer (0.6 mile) away. Therefore, we recommend updated focused surveys for this species be performed on the Project site.²
5. Figure 7 of the Biological Assessment Report includes mapped locations of “jewel flower,” but the draft MND and Biological Assessment Report make no mention of this species. We recommend the final MND clarify what sensitive species is being represented on the map and include it in the list of sensitive plant species observed on the Project site.
6. Per the draft MND, approximately 0.61 acre of the total 1.24 acres of native grassland on-site would be directly affected by the Project.³ The Wildlife Agencies are not aware of any native grassland mitigation credits available for purchase in San Diego County. Consistent with section 5.5.1.1 of the draft SAP, we recommend the City and applicant avoid impacts to native grassland (valley needlegrass grassland) to the extent practicable and incorporate restoration and enhancement within non-native grassland and native grassland areas in the on-site preserve as in-kind mitigation for impacts to this sensitive habitat. This restoration and enhancement should include native lily (*Lilium* sp.) and perennial bunch grass (e.g., *Vulpia* sp.) salvage from the project

² Chapter 3 of the draft Santee Subarea Plan states “During implementation of the Subarea Plan, project surveys will be completed to document habitat and species presence on the ground prior to initiation of a Covered Activity to determine appropriate avoidance, minimization, and mitigation measures.” Chapter 5 of the Subarea Plan also states under species-specific conservation standards that where suitable habitat for a covered species is found focused surveys must be conducted as a component of CEQA review.

³ Note that the Wildlife Agencies generally define grasslands consistent with the following: “Vegetation scientists at NatureServe, the California Native Plant Society, and CDFW determine non-native [grassland] stands based on a rule of at least 90% cover of non-native species without evenly distributed or diverse native forbs and grasses at any time in the growing season. Conversely, a stand is considered native [grassland] if 10% or more relative cover consists of native taxa that are evenly distributed in the stand and present at any time during growing season.” (CDFW 2022). Wildlife Agency staff observed substantial areas of valley needlegrass grassland in northern portion of the site on November 17, 2022, consistent with vegetation communities as described in Oberbauer *et al.* (2008). Please also see Sproul *et al.* (2011) regarding definitions of “vegetation dominated by herbs.”

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footprint, ongoing invasive exotic plant control, and closure and restoration of unauthorized trails in the Project site preserve grassland areas.

7. As noted above, it is our understanding from City staff that the proposed Project has been recently modified to avoid direct footprint impacts to the on-site Padre Dam Diegan sage scrub easement. Similarly, modifications to the Project's fuel modification zones and fill slopes to protect biological resources, including minimizing potential impacts to the ephemeral drainage area on site, have recently been made to the proposed Project. These important changes should be confirmed and detailed within the final MND.
8. Page 5 of the Biological Assessment Report indicates that impacts to nesting migratory birds and raptors will be mitigated by limiting clearing activities to outside the standard avian breeding season (February 1–August 31) unless preconstruction surveys indicate that no nesting birds are present within 300–500 feet of the impact area. We recommend this mitigation measure be incorporated in the final MND for the proposed Project.
9. Focused species surveys should be performed for western burrowing owl (*Athene cunicularia* ssp. *hypugaea*) on the Project site, consistent with section 5.5.8.1. of the draft SAP. Similarly, focused surveys for the least Bell's vireo (*Vireo bellii pusillus*; federally and state endangered) should be performed within the willow scrub/ephemeral drainage area in and near proposed Lot C.
10. The draft MND acknowledges that the Project site is actively used by the surrounding residential community for unauthorized recreation (e.g. hiking, biking, pet walking) and contains multiple unauthorized trails. Given the presence of occupied California gnatcatcher and cactus wren habitat on-site, as well as potential Quino and Hermes copper butterfly habitat and native grasses, any public access should be located outside of the preserve areas. The Wildlife Agencies are willing to work with the City to identify compatible public access within the development footprint (e.g., within the fuel modification zone), if needed. The final MND should further identify what measures will be put in place to prevent recreational impacts within the on-site preserved areas, such as: restoration of unauthorized trails, gating of the proposed utility easement access road through the extension of Tyler Street, and elimination of any public access to the preserve portion of the site from the proposed Project.
11. The final MND should include details on how the management of the on-site preserve will be conducted and funded in perpetuity. A site-specific resource management plan, including projected costs, will be needed to accurately identify funding needs. The long-term funding and manager for the preserve portion of the property should also be identified. Additionally, we recommend use of a conservation easement consistent with California Civil Code 815, *et seq.*, versus an open space easement, to ensure conservation of the preserve in perpetuity. These measures (e.g., management plan, manager, funding endowment, conservation easement) should be subject to Wildlife Agency review and approval before initiation of any project-clearing activities on-site.

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Specific to the Department:

12. The Department has authority over activities in streams and/or lakes that will divert or obstruct the natural flow; or change the bed, channel, or bank (including vegetation associated with the stream or lake) of a river or stream; or use material from a streambed. For any such activities, the project applicant must provide written notification to the Department pursuant to section 1600 *et seq.* of the Fish and Game Code. Based on this notification and other information, the Department determines whether a Lake and Streambed Alteration (LSA) Agreement with the applicant is required prior to conducting the proposed activities. Please visit the Department's Lake and Streambed Alteration Program webpage ([Lake and Streambed Alteration Program](#)) for information about LSA notification and online submittal through the Environmental Permit Information Management System (EPIMS) Permitting Portal.

We appreciate the opportunity to comment on the draft MND. If you have questions or comments regarding this letter, please contact [Heather Schmalbach](#)⁴ of the Department at 858-775-7399, or [Jon Avery](#)⁵ of the Service at 760-431-9440.

Sincerely,

JONATHAN SNYDER
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Jonathan Snyder
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LITERATURE CITED

[BLUE] BLUE Consulting Group. 2022. Biological Assessment Report for the Tyler Street Residential TM, City of Santee. July 15, 2022.

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