



STATE OF CALIFORNIA • NATURAL RESOURCES AGENCY Gavin Newsom, Governor
DEPARTMENT OF FISH AND WILDLIFE Charlton H. Bonham, Director

South Coast Region
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August 28, 2023

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Subject: Pacifica Residential Project, Draft Environmental Impact Report (DEIR), SCH #2022110021

Dear Shannon Vitale:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability of a Draft Environmental Impact Report (DEIR) from the City of Oceanside (City) for the Pacifica Residential Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.

Thank you for the opportunity to provide comments and recommendations regarding the activities involved in the Pacifica 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.

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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.). To the extent 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 Oceanside has participated in the NCCP program by preparing a draft Subarea Plan (SAP) under the North County Subregional Multiple Habitat Conservation Program (MHCP). The MHCP was a comprehensive planning document prepared by the San Diego Association of Governments (SANDAG) addressing the cities in north San Diego County, specifically the cities of Oceanside, Carlsbad, Encinitas, Solana Beach, Vista, San Marcos, and Escondido (SANDAG 2003). The MHCP identified critical areas for the conservation of important sensitive species populations to ensure their persistence, core blocks of habitat large enough to support viable populations of diverse sensitive species, and essential areas for connecting between core blocks of habitat. In effect, the MHCP identified critically important biological resources, which if lost to development, would arguably result in significant specific or cumulative impacts within a given jurisdiction and perhaps across the MHCP subregion. Unfortunately, the Oceanside 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)). Nonetheless, CDFW considers the draft SAP to be a valuable document for screening projects and their proposed impacts for significance under CEQA.

PROJECT DESCRIPTION SUMMARY

Proponent: City of Oceanside

Objective: The proposed Project consists of development of 164 three-story attached townhomes on a 14.55-acre site. Approximately 10.15 acres would be developed with a density of 11.3 dwelling units per acre. Of the 14.55-acre site, 4 acres would not be developed. The 4 acres consist of 20- to 30-foot-tall slopes

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along the southeastern and western portions of the site. Common recreational spaces, consisting of 54,150 square feet, would include an off-leash dog park, pickle ball courts, bocce ball areas, barbeque area, and a space for outdoor games.

Location: The Project site is located at 4991 Macario Drive in the City of Oceanside and was the former Pacifica Elementary School site, which was demolished in 2004. The site is surrounded to the north and south by single-family homes, to the east by Roja Drive, and to the west by open space. The open space consists of Libby Lake and Libby Lake Park. The General Plan designation for the property is Civic Institution (CI) with the associated zoning category of Civic/Public (PS).

Biological Setting: The site was formerly the Pacifica Elementary School. The buildings were demolished in 2004 after they were found to be unsafe to withstand an earthquake. The site is not currently being used for any other functions. Although no walled structures remain, the site includes remnant pavement, a parking lot, playground areas, curbs, an overgrown sandbox, a shade structure, and a large field that is regularly mowed for fire abatement every 2.5 months. Per the DEIR, there were two vegetation communities mapped onsite, disturbed habitat (9.28 acres) and urban/developed (5.27 acres). Within the disturbed habitat there is a small patch (0.19 acre) of flat-topped buckwheat (*Eriogonum fasciculatum*). Implementation of the Project would result in permanent direct impacts to 10.17 acres of disturbed and urban/developed land cover. There is no proposed mitigation for impacts to these vegetation communities.

The Project site abuts Libby Lake Park. Libby Lake Park has a small lake that has the potential to support several species of resident and overwintering birds. Due to the close proximity to Libby Lake, there is the potential for tricolored blackbird (*Agelaius tricolor*), a California Endangered Species Act (CESA) listed threatened species to occur on or adjacent to the Project site. This species has been detected at Libby Lake Park and in the surrounding area and if currently present, would be susceptible to direct and indirect Project impacts during implementation of the Project.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City in identifying and/or mitigating Project impacts on biological resources and to

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ensure regional conservation objectives in the MHCP and draft Oceanside SAP would not be precluded by implementation of the Project.

1. Section 4.3.4 in the DEIR states implementation of the Project would result in permanent direct impacts to Diegan coastal sage scrub, non-native grasslands, ornamental vegetation, and disturbed habitat. Currently, there is no mitigation proposed for impacts to these listed vegetation communities. CDFW recommends mitigation for the impacts to Diegan coastal sage scrub (DCSS) and non-native grasslands be consistent with the draft SAP. Per the DEIR, there is 0.19 acre of flat-topped buckwheat onsite that will be impacted by the development. It is stated in the DEIR that the DCSS within the Project site, is not functioning as a native vegetation community due to high disturbance, patchy cover, and small size. Therefore, the 0.19-acre area is included in the disturbed habitat and no mitigation is proposed. However, the draft SAP (2010) Table 5-2, requires CSS to be mitigated at a 2:1 ratio if it is not within a Focused Planning Area (FPA), within Offsite Mitigation Zone II, or Remaining Areas as identified in the draft SAP. This site is not within an FPA or the Wildlife Corridor Planning Zone (WCPZ); therefore, mitigation should be applied for these impacts. CDFW recommends mitigating for the impacts to CSS or by purchasing CSS credits at an approved Mitigation Bank.
2. Mitigation Measure BIO-1 (MM-BIO-1) addresses avoidance measure to nesting birds. The nesting season stated in the DEIR for nesting birds is February 15 through August 31. Nesting season for raptors may start as early as January 1. CDFW recommends MM-BIO-1 be revised to include nesting season for birds to be January 1 through August 31, if raptors are suspected to nest in the immediate vicinity.

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:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>

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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

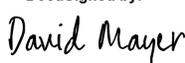
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order 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 DEIR to assist the City in identifying and mitigating significant Project-specific and cumulative impacts on biological resources by following the tenets of the draft Oceanside SAP under the overarching Subregional Northwestern 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.

Sincerely,

DocuSigned by:

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David Mayer
Environmental Program Manager
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References

California Department of Fish and Wildlife. 2020. California Natural Diversity Database. Available from: <https://wildlife.ca.gov/Data/CNDDDB>.

City of Oceanside Subarea Plan. 2010. Available from:
<https://ci.oceanside.ca.us/gov/dev/planning/subarea.asp>

Final MHCP Executive Summary. 2003. Multiple Habitat Conservation Program for the Cities of Carlsbad, Escondido, Oceanside, San Marcos, Solana Beach, and Vista.