



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 South Coast Region
 3883 Ruffin Road
 San Diego, CA 92123
 (858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
 CHARLTON H. BONHAM, Director



December 8, 2022

Robert Dmohowski
 Principal Planner
 City of Oceanside
 300 N. Coast Highway
 Oceanside, CA 92057
RDmohowski@oceansideca.org



Subject: Guajome Crest Project, Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR), SCH #2022110028

Dear Mr. Dmohowski:

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 Oceanside (City) for the Guajome Crest 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 Guajome Crest 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 implementation of the Project as proposed may result in "take" (see Fish & G. Code, § 2050) of

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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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). However, 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)).

PROJECT DESCRIPTION SUMMARY

Proponent: City of Oceanside

Objective: The proposed Project would involve a request for approval of a Development Plan, Tentative Map, and Density Bonus to allow for the construction of 83 single-family homes. The proposed Project would develop the homes across 12.45 acres of the 16.78-acre Project site. The primary access to the Project site would be from Guajome Lake Road, which would be improved as part of the Project plans. Road improvements would include 40-foot curb to curb improvements including a 5.5-foot parkway and a 4.5-foot sidewalk. The internal private road would be 28-32 feet wide with 5-foot sidewalks. The Project would be required “to clear part or all the coastal sage scrub to accommodate fuel modification zone for fire requirements”. The Project would avoid the northernmost portion of the site along the riparian corridor, preserving 3.77 acres of riparian habitat as open space.

Location: The Project site is located north of Guajome Lake Road and east of Albright Street, in the City of Oceanside, California. Residential development is present to the north, northwest, and east of the site. South of the site is Guajome Regional Park which includes Guajome Lake and several trails that go through the park for recreational use. Highway 76 is a half mile north of the project site.

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

Specific Comments

- 1) Project Setting. The southern portion of the site, where the homes would be developed, is described as disturbed habitat. According to the SAP Figure 3-2 Updated Vegetation Communities, this portion of the site was originally mapped as grassland. The northern portion of the site has coastal sage scrub (CSS) and riparian habitat. The northeastern

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portion of the site was delineated within a Focused Planning Area (FPA) recognized in the Northwestern San Diego County MHCP (2003), which is a regional planning document intended to adequately conserve, individually and cumulatively, the most important biological habitat areas in the north San Diego County cities (i.e., Oceanside, Carlsbad, Encinitas, Vista, San Marcos, Solana Beach, and Escondido). The MHCP FPAs are core areas of essential habitat, locations of listed or otherwise highly sensitive species populations, buffers to those species/habitats, and connections to maintain viability of potentially fragmented populations across northern San Diego County.

- 2) Focused Planning Area (FPA). The Project site is partially within a Focused Planning Area (FPA) recognized in the Northwestern San Diego County Subregional MHCP and the draft Oceanside SAP. The FPAs were designed to conserve as much of the Biological Core and Linkage Area (BCLA) as possible, minimize preserve fragmentation, maximize use of existing public lands and open space, and maintain private property rights and economic viability (MHCP Executive Summary 2003). Within the plan, hardline areas are specifically delineated with identified limits of development along with the corresponding onsite areas for conservation. This contrasts with areas of FPA called out as softline areas that are allowed a certain percentage of development but which lack a specific direction as to the portions of the property to be developed/conserved. The Guajome Crest property was identified as a hardline site, meaning that the areas for conservation are particularly important biologically to the regional conservation strategy. Because of the biological importance of the identified hardline conservation area, CDFW recommends that this portion of the property not be subject to development or any fuel modification required by the development.
- 3) Fuel Modification. The draft SAP states that fuel modification activities shall not occur within the 100-ft biological buffer from the San Luis Rey and the 100-ft buffer (50-foot biological buffer and 50-foot planning buffer) that is established for upland habitats, beginning at the outer edge of riparian vegetation along tributaries and creeks (City of Oceanside SAP Section 5-15). Project activities include fuel modification within the Project boundary that could impact the CSS and the riparian vegetation. The DEIR should include information as to how the Project or adjacent land may be affected by fuel modification requirements. Fuel modification should not adversely impact resources in the adjacent areas or mitigation lands. A discussion of any fuel modification requirements for this Project should be included in the DEIR to allow CDFW to assess potential impacts to biological resources. CDFW recommends all fuel modification requirements be met on the Project, and not in mitigation lands or habitat adjacent to the Project. Habitat being subjected to fuel modification (e.g., thinning, trimming, removal of mulch layer) should be considered an impact to these vegetation communities and mitigated accordingly. CDFW also recommends any irrigation proposed in fuel modification zones drain back into the development and away from natural habitat areas because perennial sources of water may have negative impacts such as the introduction of invasive Argentine ants.
- 4) Biological Direct, Indirect, and Cumulative Impacts. Due to the proximity of the Project site to the San Luis Rey-Escondido watershed, it is essential to understand how the open space and biological diversity within it may be impacted by Project activities. This area is part of an essential wildlife corridor and open space that supports the biological diversity in the area. Any impacts to this watershed could affect this major corridor within the City of Oceanside. CDFW recommends providing a thorough discussion of direct, indirect, and cumulative

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impacts expected to adversely affect biological resources, with specific measures to offset such impacts. The following should be addressed in the DEIR:

- a) A discussion regarding indirect Project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands (e.g., preserve lands associated with an NCCP (NCCP, Fish & G. Code, § 2800 et. seq.)). Impacts on, and maintenance of, wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated in the DEIR;
 - b) A discussion of potential adverse impacts from lighting, noise, temporary and permanent human activity, and exotic species and identification of any mitigation measures;
 - c) A discussion on Project-related changes on drainage patterns downstream of the Project site; the volume, velocity, and frequency of existing and post-Project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-Project fate of runoff from the Project site. Mitigation measures proposed to alleviate such Project impacts should be included;
 - d) An analysis of impacts from land use designations and zoning located nearby or adjacent to natural areas that may inadvertently contribute to wildlife-human interactions. A discussion of possible conflicts and mitigation measures to reduce these conflicts should be included in the DEIR; and,
 - e) A cumulative effects analysis, as described under CEQA Guidelines section 15130. General and specific plans, as well as past, present, and anticipated future projects, should be analyzed relative to their impacts on similar plant communities and wildlife habitats.
- 5) Sensitive Bird Species. Under the public notice, the Project description states, “The project may be required to clear part or all of the coastal sage scrub to provide a fuel modification zone for fire requirements”. Based on the location of the Project, there is potential for special-status bird species to occur onsite 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

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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.

- 6) Coastal California Gnatcatcher and Least Bell's Vireo. There is a strong possibility that these two species occur on or near the Project site. The DEIR should include a complete, recent habitat assessment for suitable coastal California gnatcatcher (*Poliioptila californica californica*) and least Bell's vireo (*Vireo bellii pusillus*) habitat. If suitable habitat for the coastal California gnatcatcher and least Bell's vireo is present onsite or adjacent to the Project site, CDFW recommends protocol level surveys for gnatcatcher and vireo to determine presence or absence of this species. Mitigation for direct, indirect, and cumulative impacts to this species should be determined after the completion of these surveys.
- 7) 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 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 Oceanside 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 generally recommends avoiding any sensitive natural communities found on or adjacent to the Project, and where such impacts would occur, that the provisions of the Oceanside draft subarea plan be followed to avoid conflicts with the Subregional MHCP planning effort. The DEIR should include the following information:
 - a) 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.
 - b) 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 <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.

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- c) Vegetation mapping should follow criteria and definitions developed for the subregional MHCP. More specifically, areas of the property which may show invasion by non-native forbs (e.g., mustards, etc.) should nonetheless be identified as non-native grassland vegetation and any impacts mitigated accordingly. Such areas should not be categorized as 'Disturbed' or ruderal unless there is strong documentation that the property had been subject to an authorized use which caused a truly disturbed condition of the vegetation.
- 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 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.

General Comments

- 1) Lake and Streambed. 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.
- 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. Because the Project site is partially located within an FPA, onsite mitigation is recommended. These mitigation ratios

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will be higher than if the impacts were outside the FPA (MHCP 2003, Section 4.4). 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:

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

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

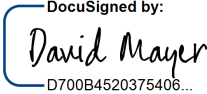
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order 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 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
South Coast Region

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ec: CDFW

Karen Drewe, San Diego – Karen.Drewe@wildlife.ca.gov
Jennifer Turner, San Diego – Jennifer.Turner@wildlife.ca.gov
Cindy Hailey, San Diego – Cindy.Hailey@wildlife.ca.gov

OPR

State Clearinghouse, Sacramento – State.Clearinghouse@opr.ca.gov

USFWS

Jonathan Snyder – Jonathan_Snyder@fws.gov

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