



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



January 18, 2023

Sara Osborn
 City of San Diego
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**Subject: Lot 31 Rancho del Sol (PROJECT)
 DRAFT MITIGATED NEGATIVE DECLARATION (MND)
 SCH# 2022120055**

Dear Ms. Osborn:

The California Department of Fish and Wildlife (CDFW) has reviewed the above-referenced Mitigated Negative Declaration (MND) for the Lot 31 Rancho del Sol (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹ CDFW staff (Karen Drewe and Heather Schmalbach) also discussed the proposed Project with City of San Diego (City) staff (Kristy Forburger, Dan Monroe, and Laura Ball) at a meeting on January 6, 2023.

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 is also submitting comments as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381.) CDFW 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.*). CDFW also administers the Natural Community Conservation Planning (NCCP) program (Fish and Game Code 2800 *et seq.*). The City of San Diego (City) participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan (SAP) and Implementing Agreement (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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Sara Osborn
City of San Diego
January 18, 2023
Page 2 of 4

Project Setting

The proposed Project includes grading and construction of a single-family home and associated improvements (equestrian area, access driveways, biofiltration basins, and brush management zones) and a public-access trail on a 10.2-acre site in the Rancho del Sol subdivision of the Pacific Highlands Ranch Community Plan. The Project site is adjacent to existing residential neighborhoods to the north and south, and existing open space to the east and west. The entirety of the site is identified as Multi-Habitat Planning Area (MHPA) under the Pacific Highlands Ranch Specific Plan. Some of the brush management and the new public trail will overlap with an existing on-site open space easement dedicated to the City in 1992 and are considered allowable uses by the City. All land outside the grading impact footprint and Zone 1 brush management (7.98 acres, or 78.2% of the Project site) would be preserved in a Covenant of Easement granted in favor of the City, CDFW, and the U.S. Fish and Wildlife Service.

Total impacts to sensitive habitats from the proposed Project are 1.07 acres (0.03 acre scrub oak chaparral [Tier I], 0.14 acre Diegan coastal sage scrub [Tier II], 0.75 acre chamise chaparral [Tier III], and 0.15 acre non-native grassland [Tier III]). Mitigation proposed for impacts to sensitive habitats totals 1.10 acres, utilizing appropriate mitigation ratios by tiers per the City's Land Development Code Biology Guidelines where both impacts and mitigation occur within the MHPA. All mitigation would occur within the remaining MHPA on site. Sensitive species anticipated to be impacted by the Project include 27 individual Nuttall's scrub oak (*Quercus dumosa*; California Rare Plant Rank [CRPR] 1B.1) and six California adolphia (*Adolphia californica*; CRPR 2B.1). Coastal California gnatcatcher (*Polioptila californica californica*; federally threatened, state species of special concern, MSCP Covered Species) is also assumed to be present on site, though direct impacts are anticipated to be avoided through mitigation measures including nesting season avoidance and pre-construction survey requirements.

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 and consistency with the SAP. These comments account for supplemental information provided by the City during our meeting on January 6, 2023.

1. **Trail.** The Project proposes the construction of a multi-use public trail crossing from east to west through the remaining on-site MHPA to connect with the existing City trail system. A public recreation easement would be recorded over the trail alignment. Per the draft MND, management and maintenance of the trail would be the responsibility of the homeowner. CDFW recommends that the final MND clarify that the trail will be designed and maintained consistent with the City's MSCP standards for trails within the MHPA, including the addition of measures to avoid/minimize impacts related to hikers straying off-trail or trail use by unauthorized vehicles or electric bicycles. CDFW reminds the City that motorized vehicles are not authorized or considered a compatible passive use of trails within the MSCP Preserve.

Sara Osborn
City of San Diego
January 18, 2023
Page 3 of 4

2. Long-term management of MHPA: The draft MND states that long-term management of the remaining MHPA on site, including those portions designated as mitigation areas, would be provided by the property owner. No assurances are made regarding the specific actions, reporting, or funding of the long-term management. The City is ultimately responsible for preservation and maintenance of any lands that provide conservation and/or mitigation credit under the SAP. CDFW recommends the final MND require development of a habitat management plan consistent with the Framework Management Plan of the MSCP, annual reports to be submitted and reviewed by the City, establishment of an endowment to fund long-term management, and regular inspections by the City to assure the conservation values of the on-site MHPA and mitigation areas are maintained. This is of particular importance due to the establishment of a public trail on site through the conservation area.
3. Jurisdictional Waters. As a Responsible Agency under CEQA, CDFW 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 (or "entity") must provide written notification to CDFW pursuant to Fish and Game Code Section 1600 *et seq.* Figure 4 of the Biological Technical Report (Alden Environmental, July 15, 2022) shows the proposed trail crosses the on-site ephemeral drainage. As such, CDFW recommends the final MND identify any potential impacts to the stream, and if impacts cannot be avoided, provide adequate mitigation, monitoring, and reporting commitments for issuance of a Lake and Streambed Alteration Agreement (LSAA). Please visit CDFW's [Lake and Streambed Alteration Program webpage](#) to for information about LSA notification and online submittal through the [Environmental Permit Information Management System \(EPIMS\) Permitting Portal](#).

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 Forms](#) 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 Information](#).

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 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 draft MND to assist the City in identifying and mitigating Project impacts on biological resources. If you have any questions or comments

Sara Osborn
City of San Diego
January 18, 2023
Page 4 of 4

regarding this letter, please contact Heather Schmalbach, Senior Environmental Scientist (Specialist), by email at Heather.Schmalbach@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. 2021. CNDDDB – Plants and Animals.
Available from: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

California Department of Fish and Wildlife. 2023. Lake and Streambed Alteration Program. Available from: <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>

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