



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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May 30, 2023

Governor's Office of Planning & Research

**MAY 30 2023**

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**STATE CLEARINGHOUSE**

**Subject: Notice of Preparation of a Draft Environmental Impact Report for the Capalina Apartments Project, SCH #2023050006, San Diego County**

Dear Mr. del Solar:

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 Marcos (City) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.

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 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, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (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

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efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW also administers the Natural Community Conservation Planning (NCCP) program, a California regional habitat conservation planning program. The City was a local jurisdiction participant in the early planning of the Subregional Multiple Habitat Conservation Program (MHCP) in the late 1990's and early 2000's. The City had prepared a draft Subarea Plan under the Subregional MHCP, which addressed regional conservation planning across seven incorporated jurisdictions on northern San Diego County. However, the San Marcos Subarea Plan was not finalized, and state and federal permits have not been issued to the City. To date, only the City of Carlsbad has received permits pursuant to the MHCP; however, the conservation principals remain relevant for development projects occurring in other jurisdictions. The City is no longer an active participant in the plan; however, it is the City's policy to comply with the conservation policies identified in the draft San Marcos Subarea Plan.

## PROJECT DESCRIPTION SUMMARY

**Proponent:** City of San Marcos (City)

**Objective:** The Project includes the rezoning and development of a 2.54-acre vacant lot into 119 apartment units, 4,000 square feet of commercial use, 147 parking spots, and associated residential amenities including a common open space area and a recreation/fitness center.

**Location:** The site is located along Capalina Road in the City of San Marcos, California. The Project site is currently an undeveloped, vacant lot located just north of Capalina Road, south of West Mission Road, east of South Rancho Santa Fe Road, and about one block north of CA State Route 78 (SR-78) in the Business/Industrial District. The SPRINTER rail line is also located in the Project vicinity. The Project site is undeveloped and generally flat with elevations ranging from approximately 580 to 600 feet above mean sea level (amsl).

**Biological Resources:** Though the Project site is mostly surrounded by development, multiple sensitive resources have previously been mapped within the surrounding areas, including thread-leaved brodiaea (*Brodiaea filifolia*; federally listed-threatened, state listed endangered, CNPS Rare Plant Rank 1B.1, proposed Narrow Endemic under the MHCP), Orcutt's brodiaea (*Brodiaea orcuttii*; CNPS Rare Plant Rank 1B.1), and San Diego button celery (*Eryngium aristulatum* var. *parishii*; federally listed-endangered, state listed-endangered,

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California Native Plant Society (CNPS) Rare Plant Rank 1B.1, proposed Narrow Endemic under the MHCP). The site is mainly comprised of disturbed habitat containing non-native forbs and invasive grasses, mainly dominated by Russian thistle (*Salsola tragus*), Bermuda grass (*Cynodon dactylon*), tocalote (*Centaurea melitensis*), short-pod mustard (*Hirschfeldia incana*), and various species of bromes (*Bromus sp.*) and erodium (*Erodium sp.*). There are several non-native trees scattered throughout the site including Mexican fan palms (*Washingtonia robusta*) and Peruvian pepper tree (*Schinus molle*).

### **Comments and Recommendations**

CDFW offers the comments and recommendations below to assist the City in adequately identifying, avoiding, and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. The DEIR should provide adequate and complete disclosure of the Project's potential impacts on biological resources [Pub. Resources Code, § 21061; CEQA Guidelines, §§ 15003(i), 15151]. CDFW looks forward to commenting on the DEIR when it is available.

### **General Comments**

1. **Biological Resource Inventory:** The DEIR document should contain a complete description of the Project, including purpose and need, that describes all habitats within or adjacent to the Project area, all staging areas and access routes to the construction and staging areas. The Project area is described as the area in which potential effects may occur.

The document should also provide a complete assessment of the flora and fauna 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 complete floral and faunal species compendium of the Project site, undertaken at the appropriate time of year. Species to be further addressed should include all those which meet the CEQA definition (see CEQA Guidelines, § 15380). This should include sensitive fish and wildlife species. Seasonal variations in use of the Project area by wildlife 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 required. Acceptable species-specific survey procedures

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should be developed in consultation with CDFW and the U.S. Fish and Wildlife Service.

2. **Mitigation for Project-related Biological Impacts:** 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, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable and therefore not adequately mitigate the loss of biological functions and values, off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be discussed.
3. **MHCP Alignment:** While the City is not an active participant in the draft Subarea Plan, CDFW encourages consistency with draft Subarea Plan and appreciates the City's efforts to adhere to policies in that plan. Additionally, early, pre-Project coordination between the City and CDFW regarding regional conservation goals and objectives is also encouraged.
4. **Cumulative Effects Analysis:** A cumulative effects analysis should be developed 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. The DEIR should evaluate the full scope of potential actions as part of the cumulative impact analysis and discussion of related actions.

### Specific Comments

5. **Brodiaea Surveys:** To avoid potential impacts to rare plants, CDFW recommends conducting an additional focused survey for brodiaea during the appropriate blooming period of March-May to compare with previous focused survey data from 2021. Additionally, seasonally appropriate brodiaea pre-construction checks should occur prior to the start of construction.
6. **Mitigation for Project-related Biological Impacts to Nonnative Grassland:** According to the Biological Resources letter provided by Dudek in April of 2023, the Project site is "extraordinarily disturbed with European grasses

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and broadleaf mustards" (Dudek 2023). Despite the site characteristics being classified as disturbed, grasses are pictured on page C-1 of Attachment C of the Biological Resources Letter. Additionally, CDFW points out that the vegetation delineation methods from the MHCP include non-native forb associations in the non-native grassland category, and thus these conditions should be defined as such and mitigated accordingly rather than delineated as "disturbed" with no associated mitigation requirement. This non-native grassland recognition ensures that habitat value for many species, including for raptor foraging, will be appropriately off-set when permanently lost to development. Thus, CDFW encourages the applicant to reassess the site and map land cover/vegetation consistent with the MHCP classifications, and mitigate accordingly.

7. **Nesting Bird Surveys and Avoidance:** CDFW appreciates the mitigation measures described in Mitigation Measure 1 (MM-BIO-1) of the Biological Resources Letter (Dudek, 2023). CDFW recommends the following changes (**in bold** and ~~strike through~~).

MM-BIO-1: Construction-related ground-disturbing activities (e.g., clearing/grubbing, grading, and other intensive activities) that occur during the breeding season (typically February 1 through September 15) shall require a one-time biological survey for nesting bird species to be conducted within the limits of grading within 72 hours prior to construction. This survey is necessary to ensure avoidance of impacts to nesting raptors and/or birds protected by the federal Migratory Bird Treaty Act and California Fish and Game Code, Sections 3503 and 3513. If any active nests are detected, the area shall be flagged and mapped on the construction plans or a biological resources figure, and the information provided to the construction supervisor and any personnel working near the nest buffer. Active nests will have buffers established around them (e.g., 250 feet for passerines, **300 feet for listed bird species, and** 500 feet for raptors) by the Project biologist in the field with brightly colored flagging tape, conspicuous fencing, or other appropriate barriers or signage. The Project biologist shall serve as a construction monitor during those periods when construction activities occur near active nest areas to avoid inadvertent impacts to these nests, **providing daily "sweeps" at the start of each workday.**

**After conferring with CDFW and gaining approval, the** Project biologist may adjust the 250-foot to 500-foot setback ~~at his or her discretion~~ depending on the

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species and the location of the nest (e.g., if the nest is well protected in an area buffered by dense vegetation). However, if needed, additional qualified monitor(s) shall be provided in order to monitor active nest(s) or other Project activities in order to ensure all of the Project biologist's duties are completed. Once the nest is no longer occupied for the season, construction may proceed in the setback areas.

If construction activities, particularly clearing/grubbing, grading, and other intensive activities, stop for more than 3 days, an additional nesting bird survey shall be conducted within the proposed impact area **before construction proceeds**.

### **ENVIRONMENTAL DATA**

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database 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 filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

### **ENVIRONMENTAL DOCUMENT FILING FEES**


The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document 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 environmental document filing 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**

We appreciate the opportunity to comment on the NOP for the Capalina Apartments Project to assist the City in identifying and mitigating Project impacts on biological resources. If you have any questions or comments regarding this letter, please contact Alex Troeller, Environmental Scientist, at [Alexandra.Troeller@wildlife.ca.gov](mailto:Alexandra.Troeller@wildlife.ca.gov) or (858) 354-4299.

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Sincerely,

DocuSigned by:  
  
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David Mayer  
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ec: CDFW

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## REFERENCES

California Department of Fish and Wildlife. 2023. California Natural Diversity Database (CNDDDB) – Plants and Animals. Available from:

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

Dudek, 2023. Biological Resources Letter Report for the Capalina Apartments Project, City of San Marcos, California (GPA22-0003, R22-0003, SDP22-000)