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GAVIN NEWSOM, Governor  
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Governor's Office of Planning & Research

September 29 2023

September 28, 2023

## STATE CLEARINGHOUSE

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**Subject: CT Homes Single Family Residential Unit (No. 557456), Mitigated Negative Declaration (MND), SCH #2023080754**

Dear Jeff Szymanski:

The California Department of Fish and Wildlife (CDFW) received a Notice of Availability (NOA) of a draft Mitigated Negative Declaration (MND) from the City of San Diego (City) for the CT Homes Single Family Residential Unit (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments on the draft MND. The Wildlife Agencies engaged in prior Project scoping meetings with the City and Project Applicant on June 16, 2023, and June 28, 2023.

### 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 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 (Fish & G. Code § 2800 *et seq.*), a California regional habitat conservation planning program. The City of San Diego has an approved and permitted Subarea Plan (SAP) and Implementing Agreement (IA) under the subregional Multiple Species Conservation Program (MSCP). The Multi-Habitat Planning Area (MHPA) is the area

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<sup>1</sup> 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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from which a final hardline reserve becomes established in the City to adequately conserve covered species pursuant to the SAP. The MND for the proposed Project must ensure and verify that all requirements and conditions of the SAP and IA are met. The MND should also address biological issues that are not addressed in the SAP and IA, such as specific impacts to and mitigation requirements for wetlands or sensitive species and habitats that are not covered by the SAP and IA.

## PROJECT DESCRIPTION SUMMARY

**Location:** The 0.435-acre Project site is located at 2385 Felton Street, within the Greater North Park Community of the City of San Diego (APN 539-132-02). The Project site is currently undeveloped mesa, surrounded by residential development to the north and open space/MHPA to the east, south, and west. The Project area is within a Very High Fire Severity Zone.

**Objective:** The Project proposes to construct a 2,643 square-foot, two-story single-family residence with an attached garage and concrete retaining walls along the north and south sides of the property (0.12-acre total). In addition, the Project proposes off-site improvements including construction of a 30-foot-wide driveway, sewer and water utilities infrastructure, and concrete retaining walls (0.315-acre total). Project activities include grading, construction, landscaping, and fuel modification activities including the establishment of a 30-foot-wide brush management zone and construction of a 6-foot-tall fire wall at the eastern end of the property boundary.

**Biological Setting:** Per the Biological Technical Report (BTR), the Project site consists of 0.202 acre of southern maritime chaparral, a Tier I habitat under the City's Biological Guidelines, 0.036 acre of non-native vegetation, and 0.196 acre of disturbed habitat which will all be directly impacted by the proposed Project (Merkel and Associates, Inc., 2023). A total of 0.164 acre of the Project development footprint occurs within the MHPA and as proposed would exceed the amount of development impacts authorized under the City's SAP; therefore, the City is proposing a Boundary Line Adjustment (BLA). Two sensitive plant species were detected within the Project area, namely, wart-stemmed ceanothus (*Ceanothus verrucosus*; California Rare Plant Rank (CRPR) 2.2) and Nuttall's scrub oak (*Quercus dumosa*; CRPR 1B.1). The southern maritime chaparral within the Project area contains suitable habitat for Crotch's bumble bee (*Bombus crotchii*; California Endangered Species Act (CESA)-candidate). As proposed, the Project will directly impact 29 Nuttall's scrub oak and five wart-stemmed ceanothus, which are both covered species under the City's SAP.

Under the proposed BLA, the Project will mitigate the loss of MHPA (0.164 acre) by payment into the City's Habitat Acquisition Fund (HAF) at a 4:1 ratio; these funds will be utilized to purchase land for MHPA preservation (0.656 acre). In addition, the Project will mitigate impacts to 0.202 acre of southern maritime chaparral, a Tier 1 habitat, at an additional 1:1 payment into HAF to facilitate acquisition of 0.202 acre of southern

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maritime chaparral or Tier 1 habitat. Furthermore, impacts to wart-stemmed ceanothus will be mitigated at a 2:1 ratio through on-site restoration. Mitigation measures to avoid and/or minimize impacts to sensitive plants and wildlife species, nesting birds, and adjacent conserved lands are further identified in the MND.

**Project History:** The Wildlife Agencies and City previously provided concurrence on the Project's proposed BLA in November 2019 via email. Minor infrastructure revisions to the Project that resulted in an addition 0.136 acre of encroachment into the MHPA required a subsequent BLA concurrence request and the Project was revisited at our June 16, 2023, MHPA BLA meeting. Following consultation with the City, CDFW provided concurrence on the updated Project BLA via email on August 10, 2023.

## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in avoiding, minimizing, and adequately mitigating Project-related impacts to fish and wildlife (biological) resources and to ensure the Project is consistent with the City's MSCP SAP.

### Comments

1. Boundary Line Adjustment Consistency. Thank you for consulting with CDFW early in the CEQA process to resolve the Project's proposed BLA prior to the circulation of the MND. We appreciate the City updating the BTR and Revegetation Plan to address our comments.
2. Possible Impacts to Crotch's bumble bee. Based on the presence of suitable habitat within the Project area, there is a potential for Crotch's bumble bee and its habitat to be impacted by Project activities. Currently, Crotch's bumble bee is a candidate under CESA and is not covered by the City of San Diego MSCP Subarea Plan. Construction of the proposed housing and use of herbicide during restoration as described may cause direct mortality to Crotch's bumble bee, or injury of adults, eggs, and larva, burrow collapse, nest abandonment, and reduced nest success. Crotch's bumble bee is far-ranging, as they are generalist foragers and can utilize many different plant and vegetation communities. Suitable habitats present within the study area include but are not limited to southern maritime chaparral with requisite floral resources for nectaring, as well as small mammal burrows which provide potential nest sites.

CDFW recommends that a qualified biologist conduct surveys for this candidate species within the Project area during the bumble bee's flight period (March 1<sup>st</sup> through mid-October; Thorpe et al. 1983) to inform appropriate avoidance, minimization, and mitigation measures as necessary. CDFW requests that the City work with CDFW staff to develop appropriate survey protocol, using the latest available survey guidance from CDFW (Survey Considerations for

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California Endangered Species Act (CESA) Candidate Bumble Bee Species). Once Project activities with the potential to impact Crotch's bumble bee begin, we recommend a qualified biologist monitor potential nest sites and floral resources for Crotch's bumble bee and record any observations using photographs and GPS points to report to the California Natural Diversity Database (CNDDDB). If the species is detected and take may occur, the qualified biologist shall notify CDFW immediately to avoid take and ensure compliance with CESA.

In addition, page 9 of the August 2023 Revegetation Plan for the Project mentions the use of herbicide for "hard to control weeds such as Brazilian pepper tree, giant reed, tamarisk, Bermuda grass, and pampas grass." CDFW recommends that any application of herbicide consider proximity to known Crotch's bumble bee nests (within 1km of the revegetation site) during the nesting season (approximately February 15-September 15), and to the extent feasible avoid the peak blooming season for potential foraging resources. If the species or a nest is found during revegetation activities, please notify and coordinate with CDFW for appropriate avoidance measures.

## 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>.

## CONCLUSION

Thank you for the opportunity to comment on the MND. CDFW appreciates the partnership with the City, and we look forward to working together in the future. Questions regarding this letter or further coordination should be directed to Alison Kalinowski, Environmental Scientist, by email at, [Alison.Kalinowski@wildlife.ca.gov](mailto:Alison.Kalinowski@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
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## REFERENCES

California Department of Fish and Wildlife. June 2023. Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species. Accessed from: <https://wildlife.ca.gov/Conservation/Survey-Protocols#377281281-invertebrates>.

City of San Diego. March 1997. Multiple Species Conservation Program, City of San Diego MSCP Subarea Plan.

City of San Diego. April 2018. San Diego Municipal Code Land Development Code Biology Guidelines.

Merkel and Associates, Inc. July 2023. Biological Technical Report for the CT Homes Felton Residence (APN 539-132-02).