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March 04 2024

March 4, 2024

STATE CLEARINGHOUSE

Wilfredo Chua
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SUBJECT: 3948 SKELTON CANYON CIRCLE SINGLE FAMILY DWELLING PROJECT (PROJECT); MITIGATED NEGATIVE DECLARATION (MND); SCH #2024020027

Dear Wilfredo Chua:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt an MND from the City of Thousand Oaks (City) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

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 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

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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streambed alteration regulatory authority (Fish & G. Code, § 1600 *et seq.*). Likewise, to the extent implementation of the Project as proposed may result in “take”, as defined by State law, of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 *et seq.*), or CESA-listed rare plant pursuant to 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.

Project Description Summary

Proponent: Tricia Ferruzza

Objective: The Project proposes the construction of a single-family residence, garage, guesthouse, swimming pool, and spa within a previously graded pad. The residential development footprint would cover 0.17 acre of the 15.88-acre Project site. A new driveway and hammerhead turnaround would be constructed adjacent to the residential development. The Project would also incorporate utilities, landscape, hardscape, and a 100-foot fuel modification zone. Removal of three oak trees, relocation of one oak tree, encroachment on the protected zone (as designated by City ordinance) of several trees, and clearance pruning would occur as part of the proposed Project.

Location: The 15.88-acre Project site is located on a hillside at 3948 Skelton Canyon Circle in the City. The Project site is bound by open space to the west, North Westlake Boulevard to the east, and residential properties to the north and south. The Assessor’s Parcel Numbers (APN) associated with the Project site include 690-0-010-105 and 690-0-010-015.

Biological Setting: The Project site is currently vacant and undeveloped within a residential neighborhood in Ventura County. The residential development and fuel modification activities would occur on a 9.12-acre parcel (APN: 690-0-010-105). The second 6.76-acre parcel (APN: 690-0-010-015) is undeveloped and directly abuts roughly 474 acres of open space owned by the Conejo Open Space Conservation Agency. The Project site has varying topography with 12.2 acres having 25% or greater natural slope. The proposed Project would occur primarily at the base of the hillside and encroach upon 3,633 square feet (0.08 acre) of slope. Additionally, the Project site was subject to the 2018 Woolsey Fire.

For the 9.12-acre parcel, an initial general biological survey was conducted on August 29, 2006, and an updated general biological survey was conducted on May 13, 2022. A botanical inventory was conducted in 2019 and plant communities were mapped. Findings from surveys and maps were compiled in a Biological Assessment (BA). Vegetative communities within the Project site consist of coast live oak woodland (*Quercus agrifolia* woodland alliance; 1.83 acres), ruderal (*Brassica nigra* herbaceous semi-natural alliance; 2.05 acres), California sagebrush–black sage scrub (*Artemisia californica*–*Salvia mellifera* shrubland alliance; 1.73 acres), bush mallow scrub (*Malacothamnus fasciculatus*

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shrubland alliance; 0.29 acres), and California sagebrush-purple sage scrub (*Artemisia californica* – *Salvia leucophylla* shrubland alliance; 2.93 acres). Vegetation communities that occur within the residential development footprint consist of California sagebrush-purple sage scrub (0.01 acres), ruderal (0.03 acres), and coast live oak woodland (0.02 acres). Additionally, California sagebrush-purple sage scrub (0.40 acres), ruderal (0.06 acres), and coast live oak woodland (0.44 acres) are present within the fuel modification zone. No special-status plant species were observed during the botanical or general surveys. The Arroyo Conejo Creek is an ephemeral tributary to Conejo Creek and runs along the eastern portion of the Project site.

In regard to wildlife species, no special-status wildlife species were observed during the surveys. According to the BA, the following special-status species have a moderate to high potential of occurring within the Project site, Southern western pond turtle (*Actinemys pallida*; California Species of Special Concern (SSC)), two-striped garter snake (*Thamnophis hammondi*; SSC), South coast garter snake (*Thamnophis sirtalis* ssp.; SSC), coast range newt (*Taricha torosa torosa*; SSC) coast horned lizard (*Phrynosoma blainvillii*; SSC), coastal whiptail (*Aspidoscelis tigris stejnegeri*; SSC), San Diego desert woodrat (*Neotoma lepida intermedia*; SSC), coast patch-nosed snake (*Salvadora hexalepis virgulata*; SSC), and San Diego Mountain kingsnake (*Lampropeltis zonata pulchra*; SSC). Furthermore, the BA states that the Southern California legless lizard (*Anniella stebbensi*; SSC) is expected to occur during Project activities.

Comments and Recommendations

CDFW offers the comments and recommendations below to assist the City in adequately identifying the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions are also included to improve the environmental document. CDFW recommends the measures or revisions below be included in a science-based monitoring program that contains adaptive management strategies as part of the Project's CEQA mitigation, monitoring, and reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097).

Specific Comments

Comment #1: Fuel Modification Zone

Issue: The Project will impact California sagebrush scrub and coast live oak woodland through fuel modification within a 100-foot buffer of the residential development.

Specific impacts: The MND does not provide compensatory mitigation to offset the loss of habitat within the fuel modification zone. Impacts to native vegetation communities to create defensible space should be treated as permanent impacts and mitigated as such.

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Why impact would occur: According to *Exhibit K. Impact Analysis* in the BA, the proposed fuel modification zone would cover 0.40 acre of California sagebrush scrub and 0.44 acre of coast live oak woodland. Both natural communities provide suitable habitat for a variety of species including SSCs within the Project site. The MND states that, “[R]emoval of coastal sage scrub communities will result in the loss of habitat that could support the Southern California legless lizard, San Diegan tiger whiptail, coast patch-nosed snake, San Diego Mountain kingsnake, South coast garter snake, coast range newt, and the San Diego woodrat” (page 20). Moreover, coast live oak woodlands have a positive ecological relationship with a variety of wildlife species, including urban wildlife, and provide ecological benefits to an environment, including providing nesting and perching habitat for approximately 170 species of birds (Griffin and Muick 1990).

The MND provides mitigation measure BIO-2 Fuel Modification Plan/Erosion Control Plan, which notes that the fuel modification zone would extend across the Arroyo Conejo Creek, and fuel modification activities would be limited to removal of non-native species and trimming of oak branches. It is important to note that fuel modification activities constitute ongoing impacts that will perpetually impact the plant communities and the species that depend on these natural communities. Indirect effects (e.g., noise) from fuel modification activities may also have an impact on wildlife that utilize the open space that abuts the Project site. Given that fuel modification activities will result in ongoing direct and indirect impacts to natural resources within the Project site and surrounding open space, compensatory mitigation should be provided.

Evidence impacts would be significant: Oak trees and woodlands are protected by the Oak Woodlands Conservation Act (pursuant under Fish and Game Code sections 1360-1372) and Public Resources Code section 21083.4, due to the historic and on-going loss of these resources. Currently, coast live oak has a reduced range largely due to development and are often vulnerable to environmental effects of projects. Inadequate or lack of avoidance, minimization, and mitigation measures for impacts to special status plant species, such as coast live oak, may not minimize the Project direct, indirect, and cumulative impacts to biological resources.

Recommended Potentially Feasible Mitigation Measure(s):

Recommendation #1: MND Revision – The City should revise the MND to include a Fire Management Plan for public review. With respect to defensible space, the Fire Management Plan should fully describe and identify the location, acreage, and composition of defensible space within the Project site. The City through its planning processes, should ensure that defensible space is provided and accounted for within proposed development areas, and not included in any conservation areas. Additionally, the Fire Management Plan should outline compensatory mitigation to offset the permanent loss of natural vegetation.

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Mitigation Measure #1: Compensatory Mitigation – The Project proponent shall provide compensatory mitigation for natural vegetation impacted within the fueling modification zone. At a minimum, the Project proponent shall demonstrate at least a 2:1 in-kind replacement ratio in the undisturbed areas of the Project site that is outside of the development footprint and fuel modification zone.

Comment #2: Impacts on Arroyo Conejo Creek

Issue: The Project may impact the Arroyo Conejo Creek that flows along the eastern portion of the Project site.

Specific impacts: Project construction, fuel modification activities, and ground-disturbing activities (e.g., equipment staging, mobilization, and grading) may result in fugitive dust, runoff, and encroachment on the creek and its associated riparian vegetation. CDFW is concerned that a setback of 37.5 feet and fencing cannot fully avoid accidental discharge into the creek, avoid impacts to sensitive species, nor stop encroachment into the riparian zone during fuel modification activities.

Why impacts would occur: The Arroyo Conejo Creek meanders across the eastern boundary of the property alongside an oak woodland. Based on *Exhibit K. Impact Analysis* in the BA, the proposed 100-foot fuel modification zone would include a portion of the creek, as well as 0.44 acre of oak woodland that is present along the creek. The MND states that the creek will be avoided by maintaining a buffer of 37.5 feet from the residential development; however, ongoing fuel modification activities may impact riparian vegetation associated with the creek. In addition to the development buffer, the City incorporated mitigation measure BIO-7 Drainage Protection Plan, which uses orange construction fence and silt fence as tools to protect the creek and special-status species (e.g., southern western pond turtle, coast range newt, etc.) associated with the creek. Finally, there appears to be two earthen drainages within the Project site where water from the hillside flows down and enters the creek. Project impacts to the creek, associated riparian vegetation, and additional drainages on site would also be subject to a Section 1602 Lake and Streambed Alteration Agreement (LSA).

Evidence impacts would be significant: CDFW exercises its regulatory authority as provided by Fish and Game Code section 1600 et seq. to conserve fish and wildlife resources which includes rivers, streams, or lakes and associated natural communities. Fish and Game Code section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

- 1) Divert or obstruct the natural flow of any river, stream, or lake;
- 2) Change the bed, channel, or bank of any river, stream, or lake;
- 3) Use material from any river, stream, or lake; or,
- 4) Deposit or dispose of material into any river, stream, or lake.

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The Project may adversely affect the existing water feature directly east of the Project site. Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Recommendation #2: Project Design – The City should revise the Project design to accommodate a 100-foot buffer to avoid Project impacts to water features within the Project site.

Mitigation Measure #2: LSA – The Project proponent shall notify CDFW pursuant to Fish and Game Code 1602 and obtain an LSA Agreement from CDFW prior to obtaining a grading permit. The LSA Notification shall include a hydrology report to evaluate whether altering streams within the Project site may impact hydrologic activity. The hydrology report shall also include a hydrological evaluation of any potential scour or erosion at the Project site due to a 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions. The Project proponent shall comply with the mitigation measures detailed in an LSA Agreement issued by CDFW. The Project proponent shall also provide compensatory mitigation at no less than 2:1 for any impacted stream and associated natural community, or at a ratio acceptable to CDFW. Please visit CDFW’s [Lake and Streambed Alteration Program](#) webpage for more information (CDFW 2024a).

Comment #3: Impacts on California Species of Special Concern

Issue: The Project may impact several SSC that utilize the natural resources within the Project site.

Specific impacts: Direct impacts to SSC could result from Project construction and activities (e.g., equipment staging, mobilization, and grading); ground disturbance; vegetation clearing; trampling or crushing from construction equipment, vehicles, and foot traffic. Project ground-disturbing activities such as vegetation removal will also result in habitat destruction, causing the death or injury of adults, juveniles, eggs, or hatchlings.

Why impacts would occur: The MND states, “[T]he proposed Project has the potential to impact special status species through habitat removal...” (page 20). Construction and maintenance of defensible space may affect SSC through removal of hibernacula or by incidental harm. Additionally, tree removal and continual trimming of oak branches would impact avian and bat species that may utilize the oak woodland as nesting habitat and scrub vegetation for foraging opportunities. While CDFW appreciates the incorporation of several protection and relocation plans in multiple mitigation measures (i.e., BIO-3, 4, 5, and 9), the measures do not include compensatory mitigation for the loss of suitable

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habitat that support these SSC. In addition to no compensatory mitigation, some of the measures discuss relocating species to an undisclosed location. Injury or death of SSC may occur during the transit process when relocating a species from one area to another. Additionally, the relocation site may not have suitable habitat for a particular SSC. Due to the high level of risk involved in relocating species, relocation of species should be viewed as a last resort for protection of SSC.

Evidence impacts would be significant: A California Species of Special Concern is a species, subspecies, or distinct population of an animal native to California that currently satisfies one or more of the following (not necessarily mutually exclusive) criteria:

- 1) if the species is extirpated from the State or, in the case of birds, is extirpated in its primary season or breeding role;
- 2) if the species is listed as threatened or endangered under Endangered Species Act (ESA)-, but not CESA-, threatened, or endangered;
- 3) if the species meets the State definition of threatened or endangered but has not formally been listed;
- 4) if the species is experiencing, or formerly experienced, serious (noncyclical) population declines or range retractions (not reversed) that, if continued or resumed, could qualify it for State threatened or endangered status; and,
- 5) if naturally small populations exhibiting high susceptibility to risk from any factor(s), that if realized, could lead to declines that would qualify it for CESA-threatened or -endangered status (CDFW 2024b).

CEQA provides protection not only for CESA-listed species, but for any species including but not limited to SSC that can be shown to meet the criteria for State listing. These SSC meet the CEQA definition of rare, threatened, or endangered species (CEQA Guidelines, § 15380). The MND does not provide mitigation for potential impacts on SSC. Inadequate avoidance, minimization, and mitigation measures for impacts to sensitive or special status species will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species by CDFW.

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #3: SSC Compensatory Mitigation – CDFW recommends the City revise Mitigation Measure BIO-9 by incorporating the underlined language and removing the language with strikethrough:

The intent of this measure is protecting special-status species ~~including Southern California legless lizard, San Diegan tiger whiptail, coast patch-nosed snake, and San Diego Mountain kingsnake~~ during Project activities and outline compensatory mitigation for impacts to SSC construction. A qualified biologist shall conduct a pre-construction survey 3 days prior to Project activities ~~1 day before activities are scheduled to occur and will~~

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~~monitor clearing of vegetation, grubbing, and initial grading activities. If special status species or any other wildlife is located, they shall be ushered out of harm's way or captured and relocated to an area of the property that is not affected by the proposed development or fuel modification zone. The qualified biologist must hold a CDFW Scientific Collectors Permit and Memorandum of Understanding authorizing capture and handling of the special status species that are most likely to occur.~~

For SSC that have been confirmed and/or are expected to occur within the Project site, the Project proponent shall provide compensatory mitigation for temporary and permanent loss of any habitat supporting SSC. There shall be no net loss of habitat supporting SSC [CEQA Guidelines, § 15370(e)]. Compensatory mitigation shall be provided within the Project boundary at no less than 2:1. Mitigation shall provide appropriate habitat (depending on the species), refugia, and habitat structures that supports that species (e.g., woody material, rocks, brush piles, pools, burrows). Any proposed mitigation area/plan shall include a discussion on the territory size; nesting, breeding, foraging, and refuge locations; invasive, non-native plant and wildlife species present; food availability; and how all life cycle functions will be mitigated. Any mitigation plan for SSC shall be distributed and approved by CDFW prior to issuance of City permits. The replacement habitat shall be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which should include an appropriate endowment to provide for the long-term management of mitigation lands.

Mitigation Measure #4: Southern California Legless Lizard - CDFW recommends the City revise Mitigation Measure BIO-3 by incorporating the underlined language and removing the language with strikethrough:

Southern California legless lizard undoubtedly occurs at the property. Although the CDFW considers the species to have special status, they have not developed guidelines or protocols to survey for it. The species lives mostly underground, which makes it very difficult to conduct surveys for it. The method that has proven to be most successful in locating legless lizard is raking but the technique is only suitable for use in sandy soils and leaf litter. In other habitats, boards are typically placed on the ground and checked periodically; however, this method does not appear to have any great success. Decision makers should assume the presence of this species.

~~Lacking specific guidelines and protocols, the following measures are based on previous experiences and life history of the species. A qualified biologist shall rake through the leaf litter within the proposed development footprint and fuel modification zone, including the driveway, in an attempt to locate individuals. If legless lizards are found, they shall be allowed to move away on their own (non-invasive, passive relocation) to adjacent appropriate habitat within the open space on site or in suitable habitat adjacent to the Project area. If the legless lizard does not move out of harm's way, a qualified biologist with proper handling permits may relocate the species~~ relocated to another area of the property well beyond the proposed development footprint area and fuel modification zones.

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~~All leaf litter shall then be raked from the development area and spread elsewhere within the oak woodland but beyond fuel modification zones. The qualified biologist must hold a CDFW Scientific Collectors Permit and Memorandum of Understanding authorizing capture and handling of this species. The qualified biologist shall prepare a species-specific list (or plan) of proper handling and passive relocation protocols. The list (or plan) of protocols shall be implemented during Project construction and activities/biological construction monitoring. The City/qualified biologist may consult with CDFW to prepare species-specific protocols for proper handling and passive relocation procedures. A passive relocation plan shall be submitted to CDFW for review and comment prior to implementing Project-related ground-disturbing activities. The Southern California Legless Lizard Protection Plan shall be implemented 3 – 5 days before any clearing, grubbing, or grading activities occur.~~

Mitigation Measure #5: San Diegan Desert Woodrat - CDFW recommends the City revise Mitigation Measure BIO-4 by incorporating the underlined language and removing the language with strikethrough:

The biologist observed at least two woodrat houses on the property. It is likely that the houses belong to big eared woodrat; however, San Diego woodrat cannot be ruled out. A qualified biologist with the proper handling permits shall survey suitable habitat for woodrats within the proposed development footprint and fuel modification zone, within 14 days prior to the initiation of Project activities. If the qualified biologist does not find any woodrat nests, then no further action is required. If woodrat nests are identified, a fence shall be erected with a 50-foot buffer around the nest site. Adequate space should be provided for sufficient foraging habitat at the discretion of the qualified biologist in consultation with CDFW. If young are present, no work shall occur within the fenced area until young have left the nest. The woodrat houses and vegetation within 10 feet of them shall therefore be left in place if feasible. If woodrat nests they cannot be left in place, the qualified biologist shall prepare a plan of proper handling and relocation protocols. The plan of protocols shall be implemented during Project activities and biological construction monitoring. The City/qualified biologist may consult with CDFW to prepare species-specific protocols for proper handling and relocation procedures. A relocation plan shall be submitted to CDFW for review and comment prior to implementing Project-related ground-disturbing activities. ~~they shall be dismantled and the sticks of each placed in a pile beyond the proposed development area and fuel modification zones. This will reduce the potential for direct mortality upon woodrat including San Diego desert woodrat, should the species occur. It will also provide them a chance to escape and a source of sticks that they could potentially use to rebuild their houses. The Woodrat Avoidance & Relocation Plan shall be implemented 3 – 5 days before any clearing, grubbing, or grading activities occur.~~

Mitigation Measure #6: Bat Species - CDFW recommends the City revise Mitigation Measure BIO-5 by incorporating the underlined language and removing the language with strikethrough:

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~~The Fire Department will require the removal of large oak tree branches particularly along the driveway. A qualified bat specialist shall conduct bat surveys within the Project site that has suitable habitat (plus a 100-foot buffer as access allows). These surveys shall identify potential habitat that could provide daytime and/or nighttime roost sites, and any maternity roosts. Acoustic recognition technology shall be utilized to maximize detection of bats. If bats are not detected, but the bat specialist determines that roosting bats may be present, the~~ A qualified bat biologist shall be present and shall monitor the removal of the branches. ~~The Bat Avoidance & Protection Plan will reduce the potential for the Project to adversely affect bats, including pallid bat, should they occur. The arborist removing the branches shall inspect all cavities and ensure that they are bat free (and free of bird nests) before they are removed.~~

~~If bats are discovered in any of the cavities, the qualified biologist will make an attempt to identify the species and determine if they are using any of the cavities as a maternal site or not. If visual identification is not possible, the qualified biologist shall conduct an acoustical survey to determine species. If bats are using any of the cavities as a maternal site, work shall be scheduled between October 1 and February 28, outside of the maternity roosting season when young bats are present but are ready to fly out of the roost (March 1 to September 30). Work shall not occur within 100 feet of or directly under or adjacent to an active roost and work shall not occur between 30 minutes before sunset and 30 minutes after sunrise. the branch with the cavity will be left in place until the biologist determines that the pups are independent of adults. If bats are present but the cavity is not being used as a maternal site, the biologist shall consult with CDFW prior to any take-steps to passively exclude them before any removal of branches or limbs occurs. The qualified biologist shall prepare a bat avoidance and exclusion plan of proper handling of branches and exclusionary protocols. The plan shall be implemented during Project activities and submitted to CDFW for review and comment prior to implementing Project-related ground-disturbing activities. If the biologist identifies special-status bats, they shall consult the CDFW before any exclusion occurs. The qualified biologist must hold a CDFW Scientific Collectors Permit and Memorandum of Understanding authorizing capture and handling. The Bat Avoidance & Protection Plan can be implemented any time after the Project is approved but before any clearing, grubbing, or grading activities occur; however, it is best to implement it late fall.~~

Additional Recommendations

Project Characteristics. CDFW recommends that the following components are addressed in a revised version of the MND.

1. Driveway and hammerhead turnaround – The Project description states that the driveway and hammerhead turnaround are omitted from residential development footprint. It remains unclear if these components of the Project were taken into account when the City analyzed the Project impacts. Given that the driveway would provide access to the residential property, both components should have been

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included in the residential development footprint. CDFW recommends that the City discusses why these components were not included in the residential development footprint and update the acreage of residential development footprint. These aspects of the project design should be analyzed with respect to impacts on biological resources.

2. 6.76-acre Parcel – The MND states that the Project site consist of two parcels. However, based on the Project design in the BA and MND, Project activities are limited to the 9.12-acre parcel. This is of particular interest to CDFW, given the 6.76-acre parcel abuts conserved open space. The City should revise the MND to discuss how the Project proponent intends to utilize the 6.76-acre parcel. If the Project will impact the 6.76-acre parcel, the City should require that a biological assessment is conducted on the 6.76-acre parcel since the parcel was not included in the biological surveys. The impacts to the parcel should be discussed with respect to its adjacency to conserved lands.

Biological Assessment. A complete BA provides a thorough assessment and impact analysis of the flora and fauna within and adjacent to the Project site, as well as where the Project may result in ground disturbance. According to the BA, plant communities were mapped, and a botanical inventory was conducted in 2019, a year post fire. 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. It is highly possible that the acreage and composition of vegetation communities within the Project site may have changed since 2019. CDFW strongly recommends that the City require the Project proponent to retain a qualified biologist to perform an updated botanical survey to account for the current state of the Project site and provide an updated flora inventory and natural communities mapped.

Nesting Birds and Raptors. CDFW recommends the City revise Mitigation Measure 6 by incorporating the underlined language and removing the language with strikethrough:

Initial grubbing, grading, and construction should be scheduled to occur outside the nesting season of birds (January 1 through September 15) ~~as defined by the CDFW~~, if feasible. Regardless of timing, a qualified biologist shall conduct a nest survey or surveys where suitable habitat exists throughout the Project site before any activities are scheduled to occur. ~~This will reduce the potential for the Project to adversely affect nesting birds should it occur.~~

- a. The biologist must be familiar with nesting ecology of southern California avian species, must have a proven track record of finding nests, and must be approved by CDFW and/or preferably holds permits that allow them to survey for nests including those of rare, threatened, and endangered species.

- b. If initial vegetation clearance, grubbing, grading, and construction activities are scheduled to occur outside the CDFW defined nesting season, the biologist should

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conduct a survey 7 days and again 3 days before the activities are scheduled to begin. ~~The biologist should focus their effort within the proposed development envelope and areas within 50 feet of it.~~ The biologist ~~shall~~ should also survey within a 500-foot radius of the proposed development footprint 300 feet beyond the development areas to determine if there are active raptor nests nearby.

c. If initial vegetation clearance, grubbing, grading, and construction activities are scheduled to occur within the CDFW defined nesting season, the biologist should conduct a series of surveys, which should begin 31 days before any scheduled activities, and be conducted one week a part with the final survey being conducted 3 days before schedule activities begin.

d. The biologist shall prepare a brief report summarizing the results of the surveys and submit it to the City of Thousand Oaks.

e. If the biologist determines that there are active nests within or adjacent to these areas, they should establish a 100 ~~50~~-foot buffer for passerine nests and a 500~~100 to 300~~-foot buffer for raptor nests.

f. The biologist should clearly delineate ~~mark~~ the buffer area around every active nest within the Project site in the field in areas where it overlaps the proposed grading limits/development area.

g. No work will occur within a nest buffer under any circumstance ~~unless authorized in writing by the CDFW,~~ or until the fledglings are no longer dependent on the nest, or until the biologist ~~otherwise~~ determines that the nest is inactive.

h. The driveway shall remain open even if the buffers of nests extend across it; however, there shall be no stopping within these buffers and under no circumstance can large vehicles or equipment pass within 10 feet of a nest without the presence of the biologist.

i. If the biologist determines that a buffer reduction is feasible, without affecting the outcome of a nest, they shall prepare and submit a letter requesting a reduction to the CDFW along with any necessary information and a statement of justification so that the CDFW can make an informed decision to allow the reduction or not. ~~32~~-CDFW buffer reduction approvals must be provided to the City of Thousand Oaks.

i. In circumstances when activities are scheduled to occur between an original buffer and a reduced buffer, a qualified biologist should monitor the nest before, during, and after the activities, to determine if it's being affected.

ii. The only activities that shall be allowed between the original buffer and the reduced buffer are those that generate noise levels less than 60 dBA as measured at the resource.

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iii. The biologist shall record noise levels every hour and must have the authority to stop any activities that exceed 60 dBA if they determine that it is affecting or has the potential to affect the outcome of a nest.

iv. The biologist shall send weekly monitoring reports ~~to the CDFW~~ the City of Thousand Oaks documenting the status of monitored nests and others as necessary. Both shall be notified immediately if any of the Project activities result in take.

v. This plan shall also be implemented before any fuel modification activities occur. Fuel modification activities should only occur after the construction phase of the Project has been completed or as otherwise directed by the Fire Department.

Environmental Data. CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database (i.e., California Natural Diversity Database) which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Information on special status species should be submitted to the CNDDDB by completing and submitting [CNDDDB Field Survey Forms](#) (CDFW 2024c). Information on special status native plant populations and sensitive natural communities, the [Combined Rapid Assessment and Relevé Form](#) should be completed and submitted to CDFW's Vegetation Classification and Mapping Program (CDFW 2024d).

Mitigation and Monitoring Reporting Plan. CDFW recommends the City update the Project's proposed Biological Resources Mitigation Measures and condition the environmental document to include mitigation measures recommended in this letter. CDFW provides comments to assist the City in developing mitigation measures that are specific, detailed (i.e., responsible party, timing, specific actions, location), and clear in order for a measure to be fully enforceable and implemented successfully via a mitigation monitoring and/or reporting program (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). Per Public Resources Code section 21081.6(a)(1), CDFW has provided the City with a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation and Monitoring Reporting Plan (MMRP; Attachment A).

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.)

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Conclusion

We appreciate the opportunity to comment on the Project to assist the City in adequately analyzing and minimizing/mitigating impacts to biological resources. CDFW requests an opportunity to review and comment on any response that the City has to our comments and to receive notification of any forthcoming hearing date(s) for the Project [CEQA Guidelines, § 15073(e)]. If you have any questions or comments regarding this letter, please contact Julisa Portugal, Environmental Scientist, at Julisa.Portugal@wildlife.ca.gov or (562) 330-7563.

Sincerely,

DocuSigned by:

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Victoria Tang
Environmental Program Manager
South Coast Region

EC: California Department of Fish and Wildlife
Victoria Tang, Seal Beach – Victoria.Tang@wildlife.ca.gov
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References:

- [CDFW] California Department of Fish and Wildlife. 2024a. Lake and Streambed Alteration Program. Available at: <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>
- [CDFW] California Department of Fish and Wildlife. 2024b. Threatened and Endangered Species. Available at: <https://wildlife.ca.gov/Conservation/CESA>
- [CDFW] California Department of Fish and Wildlife. 2024c. Submitting Data to the CNDDDB. Available at: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.
- [CDFW] California Department of Fish and Wildlife. 2024d. Combined Rapid Assessment and Releve Form. Available at: <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>
- Griffin and Muick. 1990. California Native Oaks: Past and Present. Fremontia 18(3): 4-12.

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Attachment A:

CDFW Draft Mitigation, Monitoring, and Reporting Plan and Associated Recommendations

Recommendation	Mitigation Measures	Timing	Responsible Party
<p>MM-BIO-1 – Compensatory Mitigation</p>	<p>The Project proponent shall provide compensatory mitigation for natural vegetation impacted within the fueling modification zone. At a minimum, the Project proponent shall demonstrate at least a 2:1 in-kind replacement ratio in the undisturbed areas of the Project site that is outside of the development footprint and fuel modification zone.</p>	<p>Prior to Project activities</p>	<p>Project proponent</p>
<p>MM-BIO-2- LSA</p>	<p>The Project proponent shall notify CDFW pursuant to Fish and Game Code 1602 and obtain an LSA Agreement from CDFW prior to obtaining a grading permit. The LSA Notification shall include a hydrology report to evaluate whether altering streams within the Project site may impact hydrologic activity. The hydrology report shall also include a hydrological evaluation of any potential scour or erosion at the Project site due to a 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions. The Project proponent shall comply with the mitigation measures detailed in an LSA Agreement issued by CDFW. The Project proponent shall also provide compensatory mitigation at no less than 2:1 for any impacted stream and</p>	<p>Prior to Project activities</p>	<p>Project proponent</p>

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	<p>associated natural community, or at a ratio acceptable to CDFW. Please visit CDFW's Lake and Streambed Alteration Program webpage for more information.</p>		
<p>MM-BIO-3- SSC Compensatory Mitigation</p>	<p>The intent of this measure is protecting special-status species-during Project activities and outline compensatory mitigation for impacts to SSC. A qualified biologist shall conduct a pre-construction survey 3 days prior to Project activities. If special status species or any other wildlife is located, they shall be ushered out of harm's way to an area of the property that is not affected by the proposed development or fuel modification zone.</p> <p>For SSC that have been confirmed and/or are expected to occur within the Project site, the Project proponent shall provide compensatory mitigation for temporary and permanent loss of any habitat supporting SSC. There shall be no net loss of habitat supporting SSC. Compensatory mitigation shall be provided within the Project boundary at no less than 2:1. Mitigation shall provide appropriate habitat (depending on the species), refugia, and habitat structures that supports that species (<u>e.g., woody material, rocks, brush piles, pools, burrows</u>). Any proposed mitigation area/plan shall include a discussion on the territory size; nesting, breeding,</p>	<p>Prior to Project activities</p>	<p>Project Proponent/Qualified Biologist</p>

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	<p>foraging, and refuge locations; invasive, non-native plant and wildlife species present; food availability; and how all life cycle functions will be mitigated. Any mitigation plan for SSC shall be distributed and approved by CDFW prior to issuance of City permits. The replacement habitat shall be protected in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity, which should include an appropriate endowment to provide for the long-term management of mitigation lands.</p>		
<p>MM-BIO-4-Southern California Legless Lizard</p>	<p>Southern California legless lizard undoubtedly occurs at the property. Although the CDFW considers the species to have special status, they have not developed guidelines or protocols to survey for it. The species lives mostly underground, which makes it very difficult to conduct surveys for it. The method that has proven to be most successful in locating legless lizard is raking but the technique is only suitable for use in sandy soils and leaf litter. In other habitats, boards are typically placed on the ground and checked periodically; however, this method does not appear to have any great success. Decision makers should assume the presence of this species.</p>	<p>Prior to Project activities</p>	<p>Project Proponent/ Qualified Biologist/City</p>

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	<p>A qualified biologist shall rake through the leaf litter within the proposed development footprint and fuel modification zone in an attempt to locate individuals. If legless lizards are found, they shall be allowed to move away on their own (non-invasive, passive relocation) to adjacent appropriate habitat within the open space on site or in suitable habitat adjacent to the Project area. If the legless lizard does not move out of harm's way, a qualified biologist with proper handling permits may relocate the species to another area of the property well beyond the proposed development footprint and fuel modification zone. The qualified biologist must hold a CDFW Scientific Collectors Permit and Memorandum of Understanding authorizing capture and handling of this species. The qualified biologist shall prepare a species-specific list (or plan) of proper handling and passive relocation protocols. The list (or plan) of protocols shall be implemented during Project construction and activities/biological construction monitoring. The City/qualified biologist may consult with CDFW to prepare species-specific protocols for proper handling and passive relocation procedures. A passive relocation plan shall be submitted to CDFW for review and comment prior to implementing Project-related ground-disturbing activities.</p>		
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<p>MM-BIO-5 – San Diegan Desert Woodrat</p>	<p>The biologist observed at least two woodrat houses on the property. It is likely that the houses belong to big eared woodrat; however, San Diego woodrat cannot be ruled out. A qualified biologist with the proper handling permits shall survey suitable habitat for woodrats within the proposed development footprint and fuel modification zone, within 14 days prior to the initiation of Project activities. If the qualified biologist does not find any woodrat nests, then no further action is required. If woodrat nests are identified, a fence shall be erected with a 50-foot buffer around the nest site. Adequate space should be provided for sufficient foraging habitat at the discretion of the qualified biologist in consultation with CDFW. If young are present, no work shall occur within the fenced area until young have left the nest. If woodrat nests cannot be left in place, the qualified biologist shall prepare a plan of proper handling and relocation protocols. The plan of protocols shall be implemented during Project activities and biological construction monitoring. The City/qualified biologist may consult with CDFW to prepare species-specific protocols for proper handling and relocation procedures. A relocation plan shall be submitted to CDFW for review and comment prior to implementing Project-related</p>	<p>Prior to Project activities</p>	<p>Project Proponent/ Qualified Biologist/City</p>
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	ground-disturbing activities.		
<p>MM-BIO-6 – Bat Species</p>	<p>A qualified bat specialist shall conduct bat surveys within the Project site that has suitable habitat (plus a 100-foot buffer as access allows). These surveys shall identify potential habitat that could provide daytime and/or nighttime roost sites, and any maternity roosts. Acoustic recognition technology shall be utilized to maximize detection of bats. If bats are not detected, but the bat specialist determines that roosting bats may be present, the qualified bat biologist shall be present and shall monitor the removal of the branches. The arborist removing the branches shall inspect all cavities and ensure that they are bat free (and free of bird nests) before they are removed.</p> <p>If bats are using any of the cavities as a maternal site, work shall be scheduled between October 1 and February 28, outside of the maternity roosting season when young bats are present but are ready to fly out of the roost (March 1 to September 30). Work shall not occur within 100 feet of or directly under or adjacent to an active roost and work shall not occur between 30 minutes before sunset and 30 minutes after sunrise. If bats are present but the cavity is not being used as a maternal site, the biologist shall consult with CDFW prior to any steps to passively exclude</p>	<p>Prior to Project activities</p>	<p>Project Proponent/ Qualified Biologist</p>

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	<p>them before any removal of branches or limbs occurs. The qualified biologist shall prepare a bat avoidance and exclusion plan of proper handling of branches and exclusionary protocols. The plan shall be implemented during Project activities and submitted to CDFW for review and comment prior to implementing Project-related ground-disturbing activities. The qualified biologist must hold a CDFW Scientific Collectors Permit and Memorandum of Understanding authorizing capture and handling.</p>		
<p>MM-BIO-7 – Nesting Bird and Raptor Survey</p>	<p>Initial grubbing, grading, and construction should be scheduled to occur outside the nesting season of birds (January 1 through September 15), if feasible. Regardless of timing, a qualified biologist shall conduct a nest survey or surveys where suitable habitat exists throughout the Project site before any activities are scheduled to occur.</p> <p>a. The biologist must be familiar with nesting ecology of southern California avian species, must have a proven track record of finding nests, and must be approved by CDFW and/or preferably holds permits that allow them to survey for nests including those of rare, threatened, and endangered species.</p> <p>b. If initial vegetation clearance,</p>	<p>Prior to Project activities</p>	<p>Project Proponent/ Qualified Biologist</p>

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	<p>grubbing, grading, and construction activities are scheduled to occur outside the CDFW defined nesting season, the biologist should conduct a survey 7 days and again 3 days before the activities are scheduled to begin. The biologist shall survey within a 500-foot radius of the proposed development footprint to determine if there are active raptor nests nearby.</p> <p>c. If initial vegetation clearance, grubbing, grading, and construction activities are scheduled to occur within the CDFW defined nesting season, the biologist should conduct a series of surveys, which should begin 31 days before any scheduled activities, and be conducted one week a part with the final survey being conducted 3 days before schedule activities begin.</p> <p>d. The biologist shall prepare a brief report summarizing the results of the surveys and submit it to the City of Thousand Oaks.</p> <p>e. If the biologist determines that there are active nests within or adjacent to these areas, they should establish a 100-foot buffer for passerine nests and a 500-foot buffer for raptor nests.</p> <p>f. The biologist should clearly delineate the buffer area around</p>		
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	<p>every active nest within the Project site.</p> <p>g. No work will occur within a nest buffer under any circumstance until the fledglings are no longer dependent on the nest, or until the biologist determines that the nest is inactive.</p> <p>h. The driveway shall remain open even if the buffers of nests extend across it; however, there shall be no stopping within these buffers and under no circumstance can large vehicles or equipment pass within 10 feet of a nest without the presence of the biologist.</p> <p>i. If the biologist determines that a buffer reduction is feasible, without affecting the outcome of a nest, they shall prepare and submit a letter requesting a reduction to CDFW along with any necessary information and a statement of justification so that CDFW can make an informed decision to allow the reduction or not CDFW buffer reduction approvals must be provided to the City of Thousand Oaks.</p> <p>i. In circumstances when activities are scheduled to occur between an original buffer and a reduced buffer, a qualified biologist should monitor the nest before, during, and after the activities, to determine if it's being affected.</p>		
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	<p>ii. The only activities that shall be allowed between the original buffer and the reduced buffer are those that generate noise levels less than 60 dBA as measured at the resource.</p> <p>iii. The biologist shall record noise levels every hour and must have the authority to stop any activities that exceed 60 dBA if they determine that it is affecting or has the potential to affect the outcome of a nest.</p> <p>iv. The biologist shall send weekly monitoring reports to the City of Thousand Oaks documenting the status of monitored nests and others as necessary. Both shall be notified immediately if any of the Project activities result in take.</p> <p>v. This plan shall also be implemented before any fuel modification activities occur. Fuel modification activities should only occur after the construction phase of the Project has been completed or as otherwise directed by the Fire Department.</p>		
<p>REC-1- MND Revision</p>	<p>The City should revise the MND to include a Fire Management Plan for public review. With respect to defensible space, the Fire Management Plan should fully describe and identify the location, acreage, and composition of defensible space within the Project site. The City through its planning processes,</p>	<p>Prior to adoption of MND</p>	<p>City</p>

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	<p>should ensure that defensible space is provided and accounted for within proposed development areas, and not included in any conservation areas. Additionally, the Fire Management Plan should outline compensatory mitigation to offset the permanent loss of natural vegetation.</p>		
<p>REC-2- Project Buffer</p>	<p>The City should revise the Project design to accommodate a 100-foot buffer to avoid Project impacts to water features within the Project site.</p>	<p>Prior to adoption of MND</p>	<p>City</p>
<p>REC-3- Project Characteristics</p>	<p>CDFW recommends that the following components are addressed in a revised version of the MND.</p> <p>1. Driveway and hammerhead turnaround – The Project description states that the driveway and hammerhead turnaround are omitted from residential development footprint. It remains unclear if these components of the Project were taken into account when the City analyzed the Project impacts. Given that the driveway would provide access to the residential property, both components should have been included in the residential development footprint. CDFW recommends that the City discusses why these components were not included in the residential development footprint and update the acreage of residential development footprint. These aspects of the Project design</p>	<p>Prior to adoption of MND</p>	<p>City</p>

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	<p>should be analyzed with respect to impacts on biological resources.</p> <p>2. 6.76-acre Parcel – The MND states that the Project site consist of two parcels. However, based on the Project design in the BA and MND, Project activities are limited to the 9.12-acre parcel. This is of particular interest to CDFW, given the 6.76-acre parcel abuts conserved open space. The City should revise the MND to discuss how the Project proponent intends to utilize the 6.76-acre parcel. If the Project will impact the 6.76-acre parcel, the City should require that a biological assessment is conducted on the 6.76-acre parcel since the parcel was not included in the biological surveys. The impacts to the parcel should be discussed with respect to its adjacency to conserved lands.</p>		
<p>REC-4- Biological Assessment</p>	<p>A complete BA provides a thorough assessment and impact analysis of the flora and fauna within and adjacent to the Project site, as well as where the Project may result in ground disturbance. According to the BA, plant communities were mapped, and a botanical inventory was conducted in 2019, a year post fire. 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</p>	<p>Prior to adoption of MND</p>	<p>City/Qualified Biologist</p>

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	<p>period of up to three years. It is highly possible that the acreage and composition of vegetation communities within the Project site may have changed since 2019. CDFW strongly recommends that the City require the Project proponent to retain a qualified biologist to perform an updated botanical survey to account for the current state of the Project site and provide an updated flora inventory and natural communities mapped.</p>		
<p>REC-5 – Environmental Data</p>	<p>CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database (i.e., California Natural Diversity Database) which may be used to make subsequent or supplemental environmental determinations. Information on special status species should be submitted to the CNDDDB by completing and submitting CNDDDB Field Survey Forms. Information on special status native plant populations and sensitive natural communities, the Combined Rapid Assessment and Relevé Form should be completed and submitted to CDFW’s Vegetation Classification and Mapping Program.</p>	<p>Prior to Project activities</p>	<p>Qualified Biologist</p>