



September 27, 2023

OUHNAR LLC

Attention: Narbik Babakhanian
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Glendale, California 91208

SUBJECT: Biological Resources Assessment for a Proposed Multi-Family Residential Development Located on the Northeast Corner of the Intersection of Willow Street and 3rd Avenue in the City of Hesperia, San Bernardino County, California

Introduction

This report contains the findings of ELMT Consulting’s (ELMT) habitat assessment for the approximately 5.3-acre Multi-Family Residence Project located within Assessor Parcel Number (APN) 0407-052-03 in the City of Hesperia, San Bernardino County, California. The habitat assessment was conducted by biologist Rachael A. Lyons on July 19, 2023, to document baseline conditions and assess the potential for special-status¹ plant and wildlife species to occur within the project site that could pose a constraint to development of the 4.5-acre site.

Project Location

The project site is generally located west of Hesperia Road, north of Main Street, east of Interstate 15, and south of Mesa Street in the City of Hesperia, San Bernardino County, California. The site is depicted on the Hesperia quadrangle of the United States Geological Survey’s (USGS) 7.5-minute map series within Section 16 of Township 4 North, Range 4 West. Specifically, the project site is bounded to the south by Willow Street, to the west by 3rd Avenue, to the east by 2nd Avenue, and lies south of Hercules Street within Assessor Parcel Number (APN) 407-052-03. Refer to Exhibits 1 and 3 in Attachment A.

Methodology

A literature review and records search were conducted to determine which special-status biological resources have the potential to occur on or within the general vicinity of the project site. In addition to the literature review, a general habitat assessment or field investigation of the project site was conducted to document existing conditions and assess the potential for special-status biological resources to occur within the project site.

Literature Review

Prior to conducting the field investigation, a literature review and records search was conducted for special-

¹ As used in this report, “special-status” refers to plant and wildlife species that are federally and State listed, proposed, or candidates; plant species that have been designated with a California Native Plant Society Rare Plant Rank; wildlife species that are designated by the CDFW as fully protected, species of special concern, or watch list species; and specially protected natural vegetation communities as designated by the CDFW.

status biological resources potentially occurring on or within the vicinity of the project site. Previously recorded occurrences of special-status plant and wildlife species and their proximity to the project site were determined through a query of the CDFW's QuickView Tool in the Biogeographic Information and Observation System (BIOS), CNDDDB Rarefind 5, the California Native Plant Society's (CNPS) Electronic Inventory of Rare and Endangered Vascular Plants of California, Calflora Database, compendia of special-status species published by CDFW, and the United States Fish and Wildlife Service (USFWS) species listings.

All available reports, survey results, and literature detailing the biological resources previously observed on or within the vicinity of the project site were reviewed to understand existing site conditions and note the extent of any disturbances that have occurred within the project site that would otherwise limit the distribution of special-status biological resources. Standard field guides and texts were reviewed for specific habitat requirements of special-status and non-special-status biological resources, as well as the following resources:

- Google Earth Pro historic aerial imagery (1985-2023);
- United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS), Soil Survey²;
- USFWS Critical Habitat designations for Threatened and Endangered Species; and
- USFWS Endangered Species Profiles.

The literature review provided a baseline from which to inventory the biological resources potentially occurring within the project site. The CNDDDB database was used, in conjunction with ArcGIS software, to locate the nearest recorded occurrences of special-status species and determine the distance from the project site.

Field Investigation

Following the literature review, biologist Rachael A. Lyons inventoried and evaluated the condition of the habitat within a 200-foot buffer around the project site, where applicable, on July 19, 2023. Plant communities and land cover types identified on aerial photographs during the literature review were verified by walking meandering transects throughout the project site. In addition, aerial photography was reviewed prior to the site investigation to locate potential natural corridors and linkages that may support the movement of wildlife through the area. These areas identified on aerial photography were then walked during the field investigation.

Soil Series Assessment

On-site and adjoining soils were researched prior to the field investigation using the USDA NRCS Soil Survey for San Bernardino County, California. In addition, a review of the local geological conditions and historical aerial photographs was conducted to assess the ecological changes that the project site has undergone.

2 A soil series is defined as a group of soils with similar profiles developed from similar parent materials under comparable climatic and vegetation conditions. These profiles include major horizons with similar thickness, arrangement, and other important characteristics, which may promote favorable conditions for certain biological resources.

Plant Communities

Plant communities were mapped using 7.5-minute USGS topographic base maps and aerial photography. The plant communities were classified in accordance with Sawyer, Keeler-Wolf and Evens (2009), delineated on an aerial photograph, and then digitized into GIS Arcview. The Arcview application was used to compute the area of each plant community and/or land cover type in acres.

Plants

Common plant species observed during the field investigation were identified by visual characteristics and morphology in the field and recorded in a field notebook. Unusual and less-familiar plants were photographed in the field and identified in the laboratory using taxonomic guides. Taxonomic nomenclature used in this study follows the 2012 Jepson Manual (Hickman 2012). In this report, scientific names are provided immediately following common names of plant species (first reference only).

Wildlife

Wildlife species detected during the field investigation by sight, calls, tracks, scat, or other sign were recorded during surveys in a field notebook. Field guides used to assist with identification of wildlife species during the survey included The Sibley Field Guide to the Birds of Western North America (Sibley 2003), A Field Guide to Western Reptiles and Amphibians (Stebbins 2003), and A Field Guide to Mammals of North America (Reid 2006). Although common names of wildlife species are well standardized, scientific names are provided immediately following common names in this report (first reference only).

Jurisdictional Drainages and Wetlands

Aerial photography was reviewed prior to conducting a field investigation in order to locate and inspect any potential natural drainage features, ponded areas, or water bodies that may fall under the jurisdiction of the United States Army Corps of Engineers (Corps), Regional Water Quality Control Board (Regional Board), or CDFW. In general, surface drainage features indicated as blue-line streams on USGS maps that are observed or expected to exhibit evidence of flow are considered potential riparian/riverine habitat and are also subject to state and federal regulatory jurisdiction. In addition, ELMT reviewed jurisdictional waters information through examining historical aerial photographs to gain an understanding of the impact of land-use on natural drainage patterns in the area. The USFWS National Wetland Inventory (NWI) and Environmental Protection Agency (EPA) Water Program “My Waters” data layers were also reviewed to determine whether any hydrologic features and wetland areas have been documented on or within the vicinity of the project site.

Existing Site Conditions

The proposed project site is located in an area that primarily supports residential development. The land immediately surrounding the project site is comprised of a mix of undeveloped, vacant land and residential development. The site itself has been subjected to a variety of anthropogenic disturbances including illegal dumping, off-road vehicular use, weed abatement, and fire.

Topography and Soils

The project site is generally flat with an elevation range of approximately 3,171 to 3,184 feet above mean

sea level and no significant areas of topographic relief. Based on the NRCS USDA Web Soil Survey, the project site is historically underlain by Bryman loamy fine sand (0 to 2 percent slopes) and Cajon sand (0 to 2 percent slopes). Soils on-site have been compacted by surrounding development, foot traffic, and off-road vehicular use; and disturbed by activities such as illegal dumping, fire, and weed abatement.

Vegetation

The project site supports a disturbed land cover type (refer to Exhibit 4, *Vegetation*). Plant species present within the site include nonnative, weedy, invasive, and primary-successional species. Plant species observed onsite primarily support non-native and early successional plant species consisting of bur ragweed (*Ambrosia acanthicarpa*), Mediterranean mustard (*Hirschfeldia incana*), prickly lettuce (*Lactuca seriola*), and ripgut brome (*Bromus diandrus*). Additionally, thirteen (13) western Joshua trees (*Yucca brevifolia*), ranging in size from 0.7 meters to 4 meters, were observed on-site during the field investigation.

Wildlife

This section provides a discussion of those wildlife species that were observed or are expected to occur within the project site. The discussion is to be used a general reference and is limited by the season, time of day, and weather conditions in which the field investigation was conducted. Wildlife detections were based on calls, songs, scat, tracks, burrows, and direct observation. The project site provides limited habitat for wildlife species except those adapted to a high degree of anthropogenic disturbances and development.

Fish

No fish or hydrogeomorphic features (e.g., perennial creeks, ponds, lakes, reservoirs) that would provide suitable habitat for fish were observed on or within the vicinity of the project site. Therefore, no fish are expected to occur and are presumed absent from the project site.

Amphibians

No amphibians or hydrogeomorphic features (e.g., perennial creeks, ponds, lakes, reservoirs) that would provide suitable habitat for amphibian species were observed on or within the vicinity of the project site. Therefore, no amphibians are expected to occur on the project site and are presumed absent.

Reptiles

The survey area provides suitable foraging and cover habitat for local reptile species adapted to conditions within the Mojave Desert. No reptilian species were observed onsite at the time of the investigation. Common reptilian species that could be expected to occur include western side-blotched lizard (*Uta stansburiana elegans*) and Great Basin fence lizard (*Sceloporus occidentalis longipes*).

Birds

The project site very little foraging and nesting habitat for bird species adapted to conditions within the Mojave Desert. Bird species detected during the field investigation include house finch (*Haemorhous mexicanus*), northern mockingbird (*Mimus polyglottos*), and American crow (*Corvus brachyrhynchos*). Additional avian species that could be expected to occur include common raven (*Corvus corax*), California horned lark (*Eremophila alpestris actia*), red-tailed hawk (*Buteo jamaicensis*), mourning dove (*Zenaidura macroura*), and turkey vulture (*Cathartes aura*).

Mammals

The survey area provides suitable foraging habitat for mammalian species adapted to conditions within the Mojave Desert. The only mammalian species detected during the field investigation was the California ground squirrel (*Otospermophilus beecheyi*). Common mammalian species that could be expected to occur pocket gopher (*Thomomys bottae*), domestic cat (*Felis catus*), and coyote (*Canis latrans*).

Nesting Birds

No active nests or birds displaying nesting behavior were observed during the field survey, which was conducted outside of breeding season. The plant communities and land cover types found on-site have the potential to provide suitable nesting habitat for year-round and seasonal avian residents, as well as migrating songbirds that could occur in the area that area adapted to urban environments. No raptors are expected to nest on-site due to lack of suitable nesting opportunities.

Nesting birds are protected pursuant to the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code (Sections 3503, 3503.5, 3511, and 3513 prohibit the take, possession, or destruction of birds, their nests or eggs). If construction occurs between February 1st and August 31st, a pre-construction clearance survey for nesting birds should be conducted within three (3) days of the start of any vegetation removal or ground disturbing activities to ensure that no nesting birds will be disturbed during construction.

Migratory Corridors and Linkages

Habitat linkages provide connections between larger habitat areas that are separated by development. Wildlife corridors are similar to linkages but provide specific opportunities for animals to disperse or migrate between areas. A corridor can be defined as a linear landscape feature of sufficient width to allow animal movement between two comparatively undisturbed habitat fragments. Adequate cover is essential for a corridor to function as a wildlife movement area. It is possible for a habitat corridor to be adequate for one species yet still inadequate for others. Wildlife corridors are features that allow for the dispersal, seasonal migration, breeding, and foraging of a variety of wildlife species. Additionally, open space can provide a buffer against both anthropogenic disturbance and natural fluctuations in resources.

The project site does not occur within any known migratory corridors or linkages. Further, the project site does not support any features, e.g., a drainage corridor, that would facilitate wildlife movement through the area. Implementation of the proposed project is not expected to impact wildlife movement opportunities.

According to the San Bernardino County General Plan, the project site has not been identified as occurring within a Wildlife Corridor or Linkage. As designated by the San Bernardino County General Plan Open Space Element, the nearest major open space area to the site is located approximately 3.5 miles to the east of the site associated with the Mojave River. The site is separated from nearby open spaces by existing development and roadways, and undeveloped open space, and there are no riparian corridors or creeks connecting the project site to the Mojave River. As such, implementation of the proposed project is not expected to have a significant impact to wildlife movement opportunities or prevent local wildlife movement through the area since there is ample habitat adjacent to the project site to support wildlife movement opportunities.

Jurisdictional Areas

There are three key agencies that regulate activities within inland streams, wetlands, and riparian areas in California. The Corps Regulatory Branch regulates discharge of dredge or fill materials into “waters of the United States” pursuant to Section 404 of the Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act. Of the State agencies, the CDFW regulates alterations to streambed and bank under Fish and Wildlife Code Sections 1600 et seq., and the Regional Board regulates discharges into surface waters pursuant to Section 401 of the CWA and the California Porter-Cologne Water Quality Control Act.

The project site does not support any discernible drainage courses, inundated areas, wetland features, or hydric soils that would be considered jurisdictional by the Corps, Regional Board, or CDFW. A query of the NWI database determined that no potential blue-line streams, riverine, or other aquatic resources occur within or adjacent to the project site. Therefore, project activities will not result in impacts to Corps, Regional Board, or CDFW jurisdictional areas and regulatory approvals will not be required.

Special-Status Biological Resources

The CNDDDB Rarefind 5 and the CNPS Electronic Inventory of Rare and Endangered Vascular Plants of California were queried for reported locations of special-status plant and wildlife species as well as special-status natural plant communities in the Hesperia USGS 7.5-minute quadrangle. According to the CNDDDB, seven (7) special-status plant species and fourteen (14) special-status wildlife species occur within the Hesperia quadrangle. Only one quadrangle was queried due to the proximity of the site to quadrangle boundaries, regional topography, and conditions in the vicinity of the site. The habitat assessment evaluated the conditions of the habitat(s) within the boundaries of the project site to determine if the existing plant communities, at the time of the survey, have the potential to provide suitable habitat(s) for special-status plant and wildlife species.

Special-Status Plants

According to the CNDDDB and CNPS, seven (7) special-status plant species have been recorded in the Hesperia quadrangle (refer to Attachment C). The only special-status plant species observed on-site during the field investigation was Joshua tree. As noted above, the western Joshua tree is now a State Candidate species. A total of thirteen (13) western Joshua trees were found on the project site. However, the project site has been subject to anthropogenic disturbances which have greatly reduced the suitability of the habitat to support special-status plant species known to occur in the region.

Based on habitat requirements of the other special-status plant species known to occur within the Hesperia quadrangle, and the availability and quality of habitats needed by each species, it was determined that the project site does not have the potential to support any additional special-status plant species and all are presumed to be absent.

Western Joshua Tree

The California Fish and Game Commission (Commission) designated the western Joshua tree as a candidate for listing under the California Endangered Species Act (CESA) in October 2020. This action afforded the western Joshua tree the same CESA protections as listed species, which means that removal of the desert trees was subject to fines and criminal penalties unless authorized by a “take” permit issued by the CDFW.

Such permits were difficult to obtain, and when issued would authorize removal only in limited circumstances. The new law, which became effective July 1, streamlines the western Joshua Tree take permit process and broadens the purposes for which a permit may be issued. A western Joshua tree may now be removed for any purpose, so long as a permit is obtained and the removal is fully mitigated, or alternatively, an in-lieu mitigation fee is paid. The table below summarizes the new rules for the area in which the project site is located.

| Location | Project Type | Requirements |
|--|--------------------|--|
| The project site is located within the area bounded on the east and west by Interstate 5 and Interstate 15, respectively, and on the north and south by Highway 58 and Highways 138 and 18, respectively. Nor is the site located within two miles of Joshua Tree National park. | All project types. | Full mitigation, or in-lieu fee as follows: <ul style="list-style-type: none"> • \$1,000 per tree > 5 meters tall • \$300 per tree 1 to 5 meters tall • \$150 per tree < 1 meter tall |

Three (3) western Joshua trees, one being less than 1 meter in height, were observed on the project site during the field investigation. In addition, eleven (11) western Joshua trees, all 1 to 5 meters in height were observed. In total, 3 western Joshua trees under 1 meter in height, totaling \$450, and 11 western Joshua trees 1 to 5 meters in height, totaling, \$3,300. Impacts to the on-site Joshua trees will require a mitigation fee of \$3,750 to be paid into the western Joshua tree mitigation tree fund.

Special-Status Wildlife

According to the CNDDDB, fourteen (14) special-status wildlife species have been reported in the Hesperia quadrangle (refer to Attachment C). No special-status wildlife species were observed on-site during the field investigation. The disturbances which have historically occurred within the project site have eliminated the natural plant communities that once occurred onsite. This has greatly reduced the potential foraging and nesting/denning opportunities for wildlife species. Based on the habitat requirements for the special-status wildlife species known to occur within the Hesperia quadrangle, and the availability and quality of onsite habitat, it was determined that the proposed project has a low potential to support Cooper’s hawk (*Accipiter cooperii*) and loggerhead shrike (*Lanius ludovicianus*). Further, it was determined the site does not have the potential to support any additional special-status wildlife species, and all are presumed to be absent.

Cooper’s hawk and loggerhead shriek are not state or federally listed as threatened or endangered. In order to ensure impacts to avian species do not occur from implementation of the proposed project, a pre-construction nesting bird clearance survey shall be conducted prior to ground disturbance. With implementation of the pre-construction nesting bird clearance survey, impacts to special-status avian species will be less than significant and no mitigation will be required.

Critical Habitats

Under the federal Endangered Species Act, “Critical Habitat” is designated at the time of listing of a species or within one year of listing. Critical Habitat refers to specific areas within the geographical range of a

species at the time it is listed that include the physical or biological features that are essential to the survival and eventual recovery of that species. Maintenance of these physical and biological features requires special management considerations or protection, regardless of whether individuals or the species are present or not. All federal agencies are required to consult with the USFWS regarding activities they authorize, fund, or permit which may affect a federally listed species or its designated Critical Habitat. The purpose of the consultation is to ensure that projects will not jeopardize the continued existence of the listed species or adversely modify or destroy its designated Critical Habitat. The designation of Critical Habitat does not affect private landowners, unless a project they are proposing is on federal lands, uses federal funds, or requires federal authorization or permits (e.g., funding from the Federal Highways Administration or a Clean Water Act Permit from the United States Army Corps of Engineers). If there is a federal nexus, then the federal agency that is responsible for providing the funding or permit would consult with the USFWS.

The project site is not located within federally designated Critical Habitat. The nearest Critical Habitat occurs approximately 3.7 miles to the northeast for southwestern willow flycatcher (*Empidonax traillii extimus*). Therefore, no impacts to federally designated Critical Habitat will occur from implementation of the proposed project.

Conclusion

Based on the literature review and field survey, and existing site conditions discussed in this report, implementation of the project will have no significant impacts on federally or State listed species known to occur in the general vicinity of the project site. Additionally, the project will have no effect on designated Critical Habitat, or regional wildlife corridors/linkage because none exists within the area. No jurisdictional drainage and/or wetland features were observed on the project site during the field investigation. No further surveys are recommended. With completion of the recommendations provided below, no impacts to year-round, seasonal, or special-status avian residents or special-status species will occur from implementation of the proposed project.

Recommendations

Migratory Bird Treaty Act and Fish and Game Code

Nesting birds are protected pursuant to the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code (Sections 3503, 3503.5, 3511, and 3513 prohibit the take, possession, or destruction of birds, their nests or eggs). In order to protect migratory bird species, a nesting bird clearance survey should be conducted prior to any ground disturbance or vegetation removal activities that may disrupt the birds during the nesting season.

If construction occurs between February 1st and August 31st, a pre-construction clearance survey for nesting birds should be conducted within three (3) days of the start of any vegetation removal or ground disturbing activities to ensure that no nesting birds will be disturbed during construction. The biologist conducting the clearance survey should document a negative survey with a brief letter report indicating that no impacts to active avian nests will occur. If an active avian nest is discovered during the pre-construction clearance survey, construction activities should stay outside of a no-disturbance buffer. The size of the no-disturbance buffer will be determined by the wildlife biologist and will depend on the level of noise and/or surrounding

anthropogenic disturbances, line of sight between the nest and the construction activity, type and duration of construction activity, ambient noise, species habituation, and topographical barriers. These factors will be evaluated on a case-by-case basis when developing buffer distances. Limits of construction to avoid an active nest will be established in the field with flagging, fencing, or other appropriate barriers; and construction personnel will be instructed on the sensitivity of nest areas. A biological monitor should be present to delineate the boundaries of the buffer area and to monitor the active nest to ensure that nesting behavior is not adversely affected by the construction activity. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, construction activities within the buffer area can occur.

Western Joshua Tree

With payment into the western Joshua tree mitigation fund, impacts to western Joshua tree will be less than significant.

Please do not hesitate to contact Tom McGill at (951) 285-6014 or tmcgill@elmtconsulting.com or Travis McGill at (909) 816-1646 or travismcgill@elmtconsulting.com should you have any questions this report.

Sincerely,



Thomas J. McGill, Ph.D.
Managing Director



Travis J. McGill
Director

Attachments:

- A. *Project Exhibits*
- B. *Site Plan*
- C. *Site Photographs*
- D. *Potentially Occurring Special-Status Biological Resources*
- E. *Regulations*