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State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, CA 92123
wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director

September 16, 2025

Jamie Peltier
City of Oxnard
214 South C Street
Oxnard, CA 93030
Jamie.Peltier@oxnard.org

Subject: Draft Environmental Impact Report for the Avalon Homes Project, SCH No. 2016051075, Ventura, CA

Dear Jamie Peltier:

The California Department of Fish and Wildlife (CDFW) reviewed the Draft Environmental Impact Report (DEIR) from the City of Oxnard (City) for the Avalon Homes Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines[1].

Thank you for the opportunity to provide comments and recommendations regarding Project activities that may affect California fish and wildlife. Likewise, CDFW appreciates the opportunity to comment on those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's Trustee Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of the state (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Fish & G. Code, § 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 may also act 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. As proposed, for

[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.

Docusign Envelope ID: 668605E1-B896-4861-8040-271141EF292B

example, the Project may be subject to CDFW's lake and 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[2] of any species protected under the California Endangered Species Act (CESA; Fish & G. Code, § 2050 et seq.) or the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: Oxnard Dunes, LLC

Objective: The proposed Project involves the construction of 65 residential dwelling units on the southern 8.75 acres of a 38.33-acre property. The property would be subdivided into residential lots and five open space lots. The remaining 29.58 acres in the northern portion would mainly remain undeveloped. This area is proposed to be preserved for open space under a restoration plan. Improvements in this area would include a small parking lot and two loop trails, which total approximately 1.5 acres. Primary Project activities include site preparation, grading, and construction.

Location: The Project site is located on Assessor's Parcel Numbers 196-001-022, 196-001-023, and 196-001-027 in the City of Oxnard in Ventura County. It is at the southeastern corner intersection of Harbor Boulevard and West Fifth Street, north of the existing Oxnard Dunes Subdivision. The site is accessible from Dunes Street off of Harbor Boulevard to the west and Canal Street off of West Wooly Road to the south. East of the site is the Edison Canal, which runs generally north to south.

Timeframe: The Project is proposed to occur Fall 2026 to 2028.

Biological Setting: The Project site is currently undeveloped with existing vegetation. The surrounding area is largely comprised of agricultural and residential land. The northern portion of the Project site extends into the Resource Protection land use designation, which includes Environmental Sensitive Habitat Areas (ESHA) associated with the Oxnard dunes and riparian vegetation.

A biological assessment was prepared in January 2014 by Impact Sciences, Inc., and a field survey was performed in 2014 and 2016 by Impact Sciences, Inc. and Rincon biologists. A field survey was conducted in October 2024 by Rincon biologists. Four vegetation associations were recorded during the 2014 biological assessment of the Project site. These include the *Ericameria ericoides* Shrubland Alliance (State Rank (S) 3; 24.94 acres), *Salix lasiolepis* Shrubland Alliance (S4; 9.56 acres), *Carpobrotus* Semi-Natural Herbaceous Stand (2.96 acres), and ornamental landscaping (0.32 acre). These vegetation associations were consistent with the findings of the 2024 field survey. No

[2] "Take" is defined in Section 86 of the Fish and Game Code as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill."

Docusign Envelope ID: 668605E1-B896-4861-8040-271141EF292B

focused surveys were conducted. Yellow warbler (*Setophaga petechia*; California Species of Special Concern (SSC)) was observed on site in 2014 and 2016.

Special-status species that are of potential concern include, but are not limited to, least Bell's vireo (*Vireo bellii pusillus*; Endangered Species Act (ESA)-listed endangered; CESA-listed endangered), Orcutt's pincushion (*Chaenactis glabriuscula var. orcuttiana*; California Rare Plant Rank (CRPR) 1B.1), Ventura Marsh milk-vetch (*Astragalus pycnostachyus var. lanosissimus*; ESA-listed endangered; CESA-listed endangered; CRPR 1B.1), Southern California legless lizard (*Anniella stebbinsi*; SSC), yellow warbler, nesting birds, and raptors.

The DEIR proposes mitigation measures regarding a pre-construction botanical survey, a mitigation plan, a nesting bird survey, the establishment appropriate buffers during grading and construction, biological monitoring, protection and enhancement of the resource protection designated area, management of residential landscaping, consultation with regulatory agencies, a revegetation plan, and protection measures during construction.

Project History: CDFW previously commented on the NOP in 2016 and the initial DEIR in 2020. Comments addressed special-status flora and fauna species and potential impacts to streams.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Additional comments or other suggestions are also included to improve the document.

COMMENT # 1: Impacts to Mock Heather Scrub

Issue: *Ericameria ericoides* Shrubland Alliance, or mock heather scrub, will be impacted by Project activities.

Specific impact: The Project proposes development within mock heather scrub but does not provide compensatory mitigation for adverse impacts.

Why impact would occur: The Project proposes to impact 4.44 acres of mock heather scrub in order to construct the residential housing. The implementation of the Project will include grading, vegetation clearing for construction, and other activities that may result in direct mortality, population declines, or local extirpation of the sensitive plant species. Mock heather scrub is considered an ESHA in the Oxnard Coastal Land Use Plan and a S3 sensitive natural community. While CDFW appreciates the implementation of BIO-6(b), which addresses revegetation for impacted jurisdictional wetland/habitat, there are concerns that mock heather scrub will not be considered for revegetation, particularly in areas that are not within jurisdictional wetland/habitat. Mock

Docusign Envelope ID: 668605E1-B896-4861-8040-271141EF292B

heather scrub serves as a buffer on the Project site between the preserved habitat and residential community in the south. The vegetation alliance may act as a habitat to multiple special-status wildlife and plant species. Compensatory mitigation is necessary to help offset the overall decline of this sensitive vegetation community given the rarity and potential cumulative loss of dune habitat along the coast. Additionally, according to the DEIR, an increase of dense development in the west and south has reduced the extent to which onshore winds affect natural processes of dune formation and vegetation growth. Compensatory mitigation would help reduce this adverse impact by providing supplemental habitat.

Evidence impact would be significant: CDFW considers plant communities, alliances, and associations with a statewide ranking of S1, S2, S3 and S4 as sensitive and declining at the local and regional level (Sawyer et al. 2008). An S3 ranking indicates there are 21-80 occurrences of this community in existence in California, S2 has 6-20 occurrences, and S1 has less than 6 occurrences. The Project may have direct or indirect effects to these sensitive species.

Impacts to special-status plant species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. Inadequate avoidance, minimization, and mitigation measures for impacts to these sensitive plant species will result in a project(s) 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 in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS).

Recommended Potentially Feasible Mitigation Measure(s)

CDFW requests the following recommendations and mitigation measures are incorporated into the final CEQA document:

Mitigation Measure #1: Compensatory Mitigation

CDFW recommends avoiding any sensitive natural communities, specifically *Ericameria ericoides* Shrubland Alliance (mock heather scrub), found within or near the Project. If avoidance is not feasible, mitigating at a minimum ratio of 2:1 should be implemented. This ratio should be for the acreage and the individual plants that comprise each unique community. All revegetation/restoration areas that will serve as mitigation should include preparation of a restoration plan by a qualified restoration biologist for review and approval by the City prior to any ground disturbance. The restoration plan should include restoration and monitoring methods; annual success criteria; contingency actions should success criteria not be met; long-term management and maintenance goals; and, a funding mechanism to assure for in perpetuity management and reporting. Areas proposed as mitigation should have a recorded conservation easement and be dedicated to an entity which has been approved to hold/manage lands (Assembly Bill 1094; Government Code, §§ 65965-65968).

Docusign Envelope ID: 668605E1-B896-4861-8040-271141EF292B

COMMENT # 2: Impacts to Least Bell's Vireo

Issue: The DEIR does not provide mitigation measures to reduce impacts to least Bell's vireo.

Specific impact: The DEIR states that least Bell's vireo has the potential to occur on site; however, focused surveys were not conducted prior to circulation, and mitigation measures were not included.

Why impact would occur: Least Bell's vireo was observed within the Project footprint in 2009.The DEIR states that "arroyo willow thickets provide marginal habitat for least Bell's vireo." CDFW disagrees that least Bell's vireo has a low potential to occur due to suitable habitat and a recent occurrence on site. Construction during the breeding season of nesting birds could potentially result in the incidental loss of breeding success or otherwise lead to nest abandonment. Noise from construction activities, generators, and heavy equipment may disrupt vireo mating calls or songs, which could impact reproductive success (Patricelli and Blickley 2006, Halfwerk et al. 2011). Although there is potential for least Bell's vireo to occur during Project activities, the DEIR incorporates a general pre-construction nesting bird survey rather than focused surveys for this listed species. Without focused surveys, the Project may result in missed detection of least Bell's vireo and adverse impacts. Adverse impacts that may occur to least Bell's vireo includes, but is not limited to, direct injury, direct mortality by heavy machinery, or entrapment.

Evidence impact may be significant: There are only a few populations and breeding pairs of least Bell's vireo remaining. Project construction and activities resulting in loss of breeding pairs or nestlings or habitat supporting least Bell's vireo may result in the Project potentially causing a wildlife population to drop below self-sustaining levels; threaten to eliminate an animal community; or substantially reduce the number of restrict the range of an endangered, rare, or threatened species (CEQA Guidelines, § 15065).

CDFW considers adverse impacts to a species protected by CESA to be significant without mitigation under CEQA. Inadequate avoidance, minimization, and mitigation measures for impacts on the least Bell's vireo will result in the Project continuing to have a substantial adverse direct, indirect, and cumulative effect, either directly or through habitat modifications, on a wildlife species identified as special status by CDFW and USFWS. As to CESA, take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). Take under ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting.

Docusign Envelope ID: 668605E1-B896-4861-8040-271141EF292B

Recommended Potentially Feasible Mitigation Measure(s)

CDFW requests the following recommendations and mitigation measures are incorporated into the final CEQA document:

Mitigation Measure #2: Least Bell's Vireo Focused Surveys

The Project proponent shall retain a qualified biologist to conduct protocol surveys for least Bell's vireo. The qualified biologist shall conduct surveys according to the United States Fish and Wildlife Service's Least Bell's Vireo Survey Guidelines[3] (USFWS 2001). Per protocol, all potential least Bell's vireo habitat shall be surveyed at least eight times during the period from April 10 through July 31. CDFW recommends CDFW and USFWS shall be notified of survey findings, including negative findings, within 45 calendar days following the completion of protocol-level surveys.

If least Bell's vireo is identified within 500 linear feet of Project activities, the Project Proponent shall develop a plan to completely avoid impacts to the species and submit to CDFW for review and approval. The Project Proponent shall not conduct any Project activities within 1000 linear feet of occupied habitat from March 1 through July 15. The Project Proponent shall not conduct any Project activities within 500 linear feet of occupied habitat from July 15 to September 15. If full avoidance cannot be accomplished, the Project Proponent shall postpone the Project until appropriate CESA authorization is obtained.

Mitigation Measure #3: Incidental Take Permit

If take or adverse impacts to least Bell's vireo cannot be avoided, the Project Proponent shall consult with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish & Game Code, § 2080 et seq). The Project proponent shall comply with the mitigation measures detailed in the take authorization issued by CDFW. The Project proponent shall provide a copy of a fully executed take authorization prior to the issuance of a grading permit and before any ground disturbance and vegetation removal.

Recommendation #1: ESA Consultation

Take under the ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. CDFW recommends consultation with the USFWS, in order to comply with ESA, well in advance of any ground-disturbing activities and/or vegetation removal that may impact least Bell's vireo.

[3] https://www.fws.gov/sites/default/files/documents/survey-protocol-for-least-bells-vireo.pdf

Docusign Envelope ID: 668605E1-B896-4861-8040-271141EF292B

COMMENT # 3: Impacts to Special-Status Plants

Issue: Mitigation measure BIO-1(a) may not adequately avoid or minimize Project impacts on special-status plants.

Specific impact: Ground-disturbing activities (i.e., vegetation removal and grading) may result in loss of suitable habitat, loss of population, and direct mortality of special-status plants. The DEIR does not provide avoidance buffers for special-status plants if they are observed on site.

Why impact would occur: According to the DEIR, there is a moderate potential for Orcutt's pincushion to occur within the Project site due to suitable coastal bluff scrub habitat. Additionally, Ventura marsh milk-vetch was observed approximately 100 feet north of the Project site. While CDFW appreciates inclusion of mitigation measure BIO-1(a) to conduct a pre-construction botanical survey, there is no inclusion of an avoidance buffer if a special-status species does occur on site. A lack of avoidance buffers around special-status plant species may result in adverse impacts due to Project activities occurring in proximity. CDFW recommends a minimum 50-foot buffer around special-status plant species. Biological buffer zones may be determined by a qualified botanist based on the species and environmental context (adjacent land uses, etc.) with 50 feet as the minimum.

Evidence impact would be significant: Take of any endangered, threatened, candidate species that results from the Project is prohibited, except as authorized by State law (Fish & G. Code, §§ 86, 2062, 2067, 2068, 2080, 2085; Cal. Code Regs., tit. 14, § 786.9). Plants with a CRPR of 1B are rare throughout their range, endemic to California, and are seriously or fairly threatened.

Impacts to any sensitive or special status species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. The Project and environmental document should be conditioned to avoid and/or mitigate for potential impacts to special-status plants if present. 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)

CDFW requests the following recommendations and mitigation measures are incorporated into the final CEQA document:

Mitigation Measure #4: Rare Plant Survey

Within one year prior to the commencement of ground-disturbing activities, habitat assessment surveys for the special-status plants shall be conducted by a qualified

Docusign Envelope ID: 668605E1-B896-4861-8040-271141EF292B

botanist. Surveys shall be in accordance with the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities[4] (CDFW 2018) and Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed and Candidate Plants[5] (USFW 2000) at the appropriate time of year when the target species would be in flower or otherwise clearly identifiable. Locations of special-status plant populations shall be clearly identified in the field by staking, flagging, or fencing a minimum 50-foot-wide buffer around them prior to the commencement of activities that may cause disturbance.

Mitigation Measure #5: Pre-Construction Botanical Survey – The City should revise BIO-1(a) to incorporate the underlined language and omit language in strikethrough:

Prior to issuance of a grading permit for the project, spring and summer seasonal botanical surveys for special status plants, including but not limited to Orcutt's pincushion, shall be conducted within the impact area by a qualified botanist satisfactory to the City. All occurrences of special status species will be mapped and occurrences within 100 feet of the project activities shall be flagged in the field. A minimum of a 50-foot buffer shall be placed around all known locations of special-status species within 100-feet of project activities to avoid potential impacts to seed banks and microhabitats that support the species. These buffers shall be flagged/fenced and avoided during construction. A summary of the survey findings shall be provided to the City for approval. If any special status species are observed, avoidance, minimization, and/or mitigation shall be performed to reduce effects. If the species cannot be fully avoided, the Applicant shall draft a plan to offset impacts to the species as discussed in Mitigation Measure BIO-1(b). If state-listed endangered, threatened, or rare plants are detected in areas proposed for development, the Applicant shall contact the CDFW to secure incidental take authorization or develop an avoidance strategy.

COMMENT # 4: Impacts to SSC

Issue: SSC may be adversely impacted by Project buildout.

Specific impact: Direct impacts to SSC reptiles could result from Project construction and activities (e.g., equipment staging, mobilization, and grading); ground disturbance; vegetation clearing; and trampling or crushing from construction equipment, vehicles, and foot traffic. Additionally, relocation of species may result in adverse impacts during trapping and/or transit.

Why impact would occur: The City acknowledges the potential presence of Southern California legless lizard and provides mitigation measure BIO-3, which describes the presence of a qualified biologist and relocation strategies. Based on the mitigation measure, there is no indication that the qualified biologist will conduct a pre-construction

[4] https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline
[5] https://cnps.org/wp-content/uploads/2019/10/Bot-Cert_US-Fish-and-Wildlife-Service-guidelines-botanical-inventories-LR.pdf

Docusign Envelope ID: 668605E1-B896-4861-8040-271141EF292B

survey prior to Project activities. This may allow species to be present within the Project site and go undetected until activities commence. CDFW recommends a pre-construction survey be conducted within three days prior to the initiation of ground disturbing activities to further avoid adverse effects to SSC. Moreover, actively relocating species out of the Project site may result in incidental injury or physical distress, especially during the transit process. While relocation activities may be warranted, species should be given the opportunity to move out of harm's way on their own accord.

Evidence impact 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 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 2025).

Recommended Potentially Feasible Mitigation Measure(s)

CDFW requests the following recommendations and mitigation measures are incorporated into the final CEQA document:

Mitigation Measure #6: Biological Monitoring – The City should revise BIO-3 to incorporate the underlined language and omit language in strikethrough:

A qualified biologist ~~biological monitor familiar with globose dune beetle and southern California legless lizard~~ shall conduct surveys for special-status wildlife, including globuse dune beetle and southern California legless lizard, three days prior to the initiation of and be present during initial ground-disturbing activities (including, but not limited to, site preparation, grading, excavation, and trenching) ~~within suitable habitat for these species~~. The qualified biologist ~~biological monitor~~ shall have the authority to temporarily stop work if one or more individuals are observed. Individuals of these species that are found shall be relocated to suitable undisturbed habitat, outside of the areas directly and indirectly (e.g., noise) affected by ground disturbance activities, as determined by the qualified biologist. The qualified biologist, with the appropriate

Docusign Envelope ID: 668605E1-B896-4861-8040-271141EF292B

permits, shall conduct surveys and relocation activities according to methods approved by CDFW. If a special-status species is found, the qualified biologist shall contact CDFW, and the species shall be passively ushered out of harm's way to an area that is unaffected by the Project. If the Project requires special-status species to be removed, disturbed, or otherwise handled, 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 monitor shall then relocate these individuals to suitable undisturbed habitat, outside the areas directly and indirectly affected by ground disturbance activities.~~

COMMENT # 5: Impacts to Nesting Birds and Raptors

Issue: Mitigation Measures BIO-2(a) and BIO-2(b) may be improved to ensure adequate surveys occur prior to the start of construction.

Specific impact: Project activities such as tree removal and vegetation clearing may result in mortality or injury to individual birds and raptors present within the Project site. Additionally, the DEIR does not include the implementation of an avoidance buffer.

Why impact would occur: Yellow warbler was observed within the Project site due to the adjacent riparian habitat. Bird species can construct nests and begin laying eggs in less than seven days. Therefore, a pre-construction nesting bird survey scheduled within one week prior to construction may miss some instances of nesting. To minimize the chances of missing nests, CDFW recommends scheduling the survey within three days before the start of ground disturbing activities and/or vegetation clearing. Additionally, the mitigation measures do not include an avoidance buffer in the event a nesting bird is observed on site. Disturbance too close to the nest may impact the parents' ability to forage effectively and reduce nestlings' chances of survival. In some cases, disturbance can cause the parents to abandon the nest completely.

Evidence impact would be significant: Sections 3503, 3503.5, and 3513 of the Fish and Game Code protect nesting and migratory birds and birds of prey. Section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by the Fish and Game Code or any regulation made pursuant thereto. Section 3503.5 states that it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by the Fish and Game Code or any regulation adopted pursuant thereto. Section 3513 states that it is unlawful to take or possess any migratory nongame bird as designated in the federal Migratory Bird Treaty Act.

Recommended Potentially Feasible Mitigation Measure(s)

CDFW requests the following recommendations and mitigation measures are incorporated into the final CEQA document:

Docusign Envelope ID: 668605E1-B896-4861-8040-271141EF292B

Mitigation Measure #7: Nesting Bird Survey – The City shall revise MM-BIO-2(a) to incorporate the underlined language and omit the language in strikethrough:

If grading or tree removal is to occur during the bird-breeding season (January 1 through September 15), at a minimum, one (1) survey shall be conducted prior to the initiation of grading or tree removal by a qualified biologist (a person with ~~a biology degree and/or~~ established skills in bird recognition). The survey shall occur no more than ~~one (1) week~~ three days prior to grading or tree removal. The work limits plus a 500-foot buffer, as feasible, shall be surveyed to accommodate potential active raptor nests, as well as other birds nesting nearby. A copy of the biologist contract for these services shall be submitted to the Planning Department for review and approval prior to issuance of grading permits. A report summarizing the findings of the survey and the recommended buffers shall be provided to the Planning Department prior to vegetation removal activities.

Mitigation Measure #8: Establishment of Appropriate Buffers During Grading and Construction – The City shall revise MM-BIO-2(b) to incorporate the underlined language and omit the language in strikethrough:

Based on the nesting bird survey, in the event that nesting birds are observed within 500 feet of the disturbance/construction area, the following buffers shall be established: 1) no work within 300 feet of a non-listed nesting migratory bird nest, and 2) no work within 500 feet of a listed bird or raptor nest. The species-specific exclusionary buffers shall be implemented as determined by the qualified biologist, and construction timing and location shall be adjusted accordingly until the nestlings have fledged and are no longer dependent upon the nest. The active nests and exclusionary buffers shall be monitored by a qualified biologist ~~(at least initially)~~ to determine if the active nests are being adversely affected by construction activities and to determine if a buffer would need to be increased to reduce such effects. If construction must take place within the recommended buffer widths above, the Project applicant will contact the City and Wildlife Agencies to determine the appropriate buffer.

ADDITIONAL COMMENTS

Mitigation and Monitoring Reporting Plan. CDFW recommends the Project's environmental document include mitigation measures recommended in this letter. CDFW has provided comments via a mitigation monitoring and reporting plan to assist in the development of feasible, specific, detailed (i.e., responsible party, timing, specific actions, location), and fully enforceable mitigation measures (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). The Lead Agency is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation Monitoring and Reporting Plan (Attachment A).

Docusign Envelope ID: 668605E1-B896-4861-8040-271141EF292B

Fencing. Fencing associated with trail creation and maintenance could obstruct wildlife movement and result in wildlife injury or mortality due to impalement and entanglement (e.g., chain link fencing). CDFW recommends the City provide wildlife friendly fencing designs within the northern preserve on site. Fencing designs should be disclosed and evaluated in the FEIR for potential impacts on biological resources and wildlife movement. The FEIR should discuss how fencing proposed for the Project would minimize impacts on biological resources, specifically wildlife movement. CDFW supports the use of wildlife-friendly fencing. Wildlife-friendly fencing should be used and strategically placed in areas of high biological resource value to protect biological resources, habitat, and wildlife movement. CDFW recommends A Landowner's Guide to Wildlife Friendly Fences[6] for information wildlife-friendly fences (MFWP 2012).

Lake and Streambed Alteration Agreement Acknowledgement. CDFW concurs with MM BIO-6(a) to coordinate with CDFW pursuant to Fish and Game Code, section 1600 et seq. The Project proponent should notify prior to any Project construction or activities. Based on this notification and other information, CDFW determines whether an LSA with the Project proponent is required prior to conducting the proposed activities. Please visit the Lake and Streambed Alteration[7] Program webpage to obtain a notification package for an LSA. We look forward to further coordination with the City, and receipt of the streambed notification package for the Project.

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 (CNDDB). The CNDDB website[8] provides direction regarding the types of information that should be reported and allows on-line submittal of field survey forms.

In addition, information on special status native plant populations and sensitive natural communities, should be submitted to CDFW's Vegetation Classification and Mapping Program using the Combined Rapid Assessment and Relevé Form[9].

The City should ensure data collected for the preparation of the DEIR is properly submitted.

[6] https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=134713&inline
[7] https://wildlife.ca.gov/Conservation/Environmental-Review/LSA
[8] https://wildlife.ca.gov/Data/CNDDB
[9] https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit

Docusign Envelope ID: 668605E1-B896-4861-8040-271141EF292B

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist the City in identifying and mitigating Project impacts on 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)).

Questions regarding this letter or further coordination should be directed to Joleena De La Fe[10], Environmental Scientist.

Sincerely,

DocuSigned by:
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Victoria Tang
Environmental Program Manager
South Coast Region

ATTACHMENTS

Attachment A: Draft Mitigation, Monitoring, and Reporting Program

ec: California Department of Fish and Wildlife
Victoria Tang, Environmental Program Manager
Frederic (Fritz) Rieman, Senior Environmental Scientist (Supervisor)
Joleena De La Fe, Environmental Scientist

Office of Land Use and Climate Innovation
State.Clearinghouse@lci.ca.gov

REFERENCES

[CDFW] California Department of Fish and Wildlife. 2018. Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural

[10] Phone: (858) 354-3527; Email: joleena.delafe@wildlife.ca.gov

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Communities. Available from: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline

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Docusign Envelope ID: 668605E1-B896-4861-8040-271141EF292B

ATTACHMENT A: DRAFT MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

CDFW provides the following language to be incorporated into the MMRP for the Project.

Mitigation Measure	Timing	Responsible Party
Mitigation Measure #1: Compensatory Mitigation CDFW recommends avoiding any sensitive natural communities, specifically *Ericameria ericoides* Shrubland Alliance (mock heather scrub), found within or near the Project. If avoidance is not feasible, mitigating at a minimum ratio of 2:1 should be implemented. This ratio should be for the acreage and the individual plants that comprise each unique community. All revegetation/restoration areas that will serve as mitigation should include preparation of a restoration plan by a qualified restoration biologist for review and approval by the City prior to any ground disturbance. The restoration plan should include restoration and monitoring methods; annual success criteria; contingency actions should success criteria not be met; long-term management and maintenance goals; and, a funding mechanism to assure for in perpetuity management and reporting. Areas proposed as mitigation should have a recorded conservation easement and be dedicated to an entity which has been approved to hold/manage lands (Assembly Bill 1094; Government Code, §§ 65965-65968).	Prior to Project Initiation/After Project Completion	Lead Agency/Project Proponent
Mitigation Measure #2: Least Bell's Vireo Focused Surveys The Project proponent shall retain a qualified biologist to conduct protocol surveys for least Bell's vireo. The qualified biologist shall conduct surveys according to the	Prior to Project Initiation/During Project Construction	Qualified Biologist/Project Proponent

Docusign Envelope ID: 668605E1-B896-4861-8040-271141EF292B

Mitigation Measure	Timing	Responsible Party
United States Fish and Wildlife Service's Least Bell's Vireo Survey Guidelines[11] (USFWS 2001). Per protocol, all potential least Bell's vireo habitat shall be surveyed at least eight times during the period from April 10 through July 31. CDFW recommends CDFW and USFWS shall be notified of survey findings, including negative findings, within 45 calendar days following the completion of protocol-level surveys. If least Bell's vireo is identified within 500 linear feet of Project activities, the Project Proponent shall develop a plan to completely avoid impacts to the species and submit to CDFW for review and approval. The Project Proponent shall not conduct any Project activities within 1000 linear feet of occupied habitat from March 1 through July 15. The Project Proponent shall not conduct any Project activities within 500 linear feet of occupied habitat from July 15 to September 15. If full avoidance cannot be accomplished, the Project Proponent shall postpone the Project until appropriate CESA authorization is obtained.		
Mitigation Measure #3: Incidental Take Permit If take or adverse impacts to least Bell's vireo cannot be avoided, the Project Proponent shall consult with CDFW and obtain appropriate take authorization from CDFW (pursuant to Fish & Game Code, § 2080 et seq). The Project proponent shall comply with the mitigation measures detailed in the take authorization issued by CDFW. The Project proponent shall provide a copy of a fully executed take authorization prior to the issuance of a grading permit and before any ground disturbance and vegetation removal.	Prior to Project Initiation	Project Proponent

[11] https://www.fws.gov/sites/default/files/documents/survey-protocol-for-least-bells-vireo.pdf

Docusign Envelope ID: 668605E1-B896-4861-8040-271141EF292B

Mitigation Measure	Timing	Responsible Party
Recommendation #1: ESA Consultation Take under the ESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. CDFW recommends consultation with the USFWS, in order to comply with ESA, well in advance of any ground-disturbing activities and/or vegetation removal that may impact least Bell's vireo.	Prior to Project Initiation	Project Proponent/Lead Agency
Mitigation Measure #4: Rare Plant Survey Within one year prior to the commencement of ground-disturbing activities, habitat assessment surveys for the special-status plants shall be conducted by a qualified botanist. Surveys shall be in accordance with the Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities[12] (CDFW 2018) and Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed, Proposed and Candidate Plants[13] (USFW 2000) at the appropriate time of year when the target species would be in flower or otherwise clearly identifiable. Locations of special-status plant populations shall be clearly identified in the field by staking, flagging, or fencing a minimum 50-foot-wide buffer around them prior to the commencement of activities that may cause disturbance.	Prior to Project Initiation	Qualified Biologist/Project Proponent

[12] https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18959&inline
[13] https://cnps.org/wp-content/uploads/2019/10/Bot-Cert_US-Fish-and-Wildlife-Service-guidelines-botanical-inventories-LR.pdf

Docusign Envelope ID: 668605E1-B896-4861-8040-271141EF292B

Mitigation Measure	**Timing**	**Responsible Party**
Mitigation Measure #5: Pre-Construction Botanical Survey - The City should revise BIO-1(a) to incorporate the underlined language and omit language in strikethrough: Prior to issuance of a grading permit for the project, spring and summer seasonal botanical surveys for special status plants, including but not limited to Orcutt's pincushion, shall be conducted within the impact area by a qualified botanist satisfactory to the City. All occurrences of special status species will be mapped and occurrences within 100 feet of the project activities shall be flagged in the field. A minimum of a 50-foot buffer shall be placed around all known locations of special-status species within 100-feet of project activities to avoid potential impacts to seed banks and microhabitats that support the species. These buffers shall be flagged/fenced and avoided during construction. A summary of the survey findings shall be provided to the City for approval. If any special status species are observed, avoidance, minimization, and/or mitigation shall be performed to reduce effects. If the species cannot be fully avoided, the Applicant shall draft a plan to offset impacts to the species as discussed in Mitigation Measure BIO-1(b). If state-listed endangered, threatened, or rare plants are detected in areas proposed for development, the Applicant shall contact the CDFW to secure incidental take authorization or develop an avoidance strategy.	Prior to Project Initiation	Lead Agency
Mitigation Measure #6: Biological Monitoring - The City should revise BIO-3 to incorporate the underlined language and omit language in strikethrough: A qualified biologist ~~biological monitor familiar with globose dune beetle and southern California legless lizard~~ shall conduct surveys for special-status wildlife, including globuse dune beetle and southern California legless lizard, three days	Prior to Project Initiation	Lead Agency

Docusign Envelope ID: 668605E1-B896-4861-8040-271141EF292B

Mitigation Measure	Timing	Responsible Party
prior to the initiation of and be present during initial ground-disturbing activities (including, but not limited to, site preparation, grading, excavation, and trenching) ~~within suitable habitat for these species~~. The qualified biologist ~~biological monitor~~ shall have the authority to temporarily stop work if one or more individuals are observed. Individuals of these species that are found shall be relocated to suitable undisturbed habitat, outside of the areas directly and indirectly (e.g., noise) affected by ground disturbance activities, as determined by the qualified biologist. The qualified biologist, with the appropriate permits, shall conduct surveys and relocation activities according to methods approved by CDFW. If a special-status species is found, the qualified biologist shall contact CDFW, and the species shall be passively ushered out of harm's way to an area that is unaffected by the Project. If the Project requires special-status species to be removed, disturbed, or otherwise handled, 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 monitor shall then relocate these individuals to suitable undisturbed habitat, outside the areas directly and indirectly affected by ground disturbance activities.~~		
Mitigation Measure #7: Nesting Bird Survey - The City shall revise MM-BIO-2(a) to incorporate the underlined language and omit the language in strikethrough: If grading or tree removal is to occur during the bird-breeding season (January 1 through September 15), at a minimum, one (1) survey shall be conducted prior to the initiation of grading or tree removal by a qualified biologist (a person with ~~a biology degree and/or~~ established skills in bird recognition). The survey shall occur no more than ~~one (1) week~~ three days prior to grading or tree removal. The work	Prior to Project Initiation	Lead Agency

Docusign Envelope ID: 668605E1-B896-4861-8040-271141EF292B

Mitigation Measure	Timing	Responsible Party
limits plus a 500-foot buffer, as feasible, shall be surveyed to accommodate potential active raptor nests, as well as other birds nesting nearby. A copy of the biologist contract for these services shall be submitted to the Planning Department for review and approval prior to issuance of grading permits. A report summarizing the findings of the survey and the recommended buffers shall be provided to the Planning Department prior to vegetation removal activities.		
Mitigation Measure #8: Establishment of Appropriate Buffers During Grading and Construction - The City shall revise MM-BIO-2(b) to incorporate the underlined language and omit the language in strikethrough: Based on the nesting bird survey, in the event that nesting birds are observed within 500 feet of the disturbance/construction area, the following buffers shall be established: 1) no work within 300 feet of a non-listed nesting migratory bird nest, and 2) no work within 500 feet of a listed bird or raptor nest. The species-specific exclusionary buffers shall be implemented as determined by the qualified biologist, and construction timing and location shall be adjusted accordingly until the nestlings have fledged and are no longer dependent upon the nest. The active nests and exclusionary buffers shall be monitored by a qualified biologist ~~(at least initially)~~ to determine if the active nests are being adversely affected by construction activities and to determine if a buffer would need to be increased to reduce such effects. If construction must take place within the recommended buffer widths above, the Project applicant will contact the City and Wildlife Agencies to determine the appropriate buffer.	Prior to Project Initiation	Lead Agency

Docusign Envelope ID: 668605E1-B896-4861-8040-271141EF292B

Mitigation Measure	Timing	Responsible Party
Fencing. Fencing associated with trail creation and maintenance could obstruct wildlife movement and result in wildlife injury or mortality due to impalement and entanglement (e.g., chain link fencing). CDFW recommends the City provide wildlife friendly fencing designs within the northern preserve on site. Fencing designs should be disclosed and evaluated in the FEIR for potential impacts on biological resources and wildlife movement. The FEIR should discuss how fencing proposed for the Project would minimize impacts on biological resources, specifically wildlife movement. CDFW supports the use of wildlife-friendly fencing. Wildlife-friendly fencing should be used and strategically placed in areas of high biological resource value to protect biological resources, habitat, and wildlife movement. CDFW recommends A Landowner's Guide to Wildlife Friendly Fences[14] for information wildlife-friendly fences (MFWP 2012).	Prior to Project Initiation	Lead Agency

[14] https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=134713&inline