

**Final Initial Study/
Mitigated Negative Declaration**

Prepared for the

**Municipal Code Text Amendment 20-0005
San Dimas - MCTA 20-0005 Project
In San Dimas, California**

State Clearinghouse Number: 2022120594

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October 2024

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1.0 EXECUTIVE SUMMARY

In December 2023, the City of San Dimas (City) circulated a Draft Initial Study/Mitigated Negative Declaration (IS/MND) for the Municipal Code Text Amendment (MCTA) 20-0005 San Dimas - MCTA 20-0005 Project (Project) pursuant to the California Environmental Quality Act (CEQA).

During public review of the Draft IS/MND, the City received a comment from California Department of Fish and Wildlife (CDFW) that identified revisions in the biological resources analyses which were needed.

As required by Section 15073.5 of the State CEQA Guidelines, a lead agency is required to recirculate a negative declaration when the document must be substantially revised after public notice of its availability but prior to its adoption. A “substantial revision” of the negative declaration means: (1) A new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance, or (2) The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required.

On June 21, 2024, a Recirculated Draft IS/MND was circulated for public review to provide the public, interested agencies, and other stakeholders with an opportunity to review and comment on the updated biological resources analyses that was prepared for the Project since the original Draft IS/MND was circulated in December 2023. The public review period occurred from June 21, 2024 to July 21, 2024. During the public review period, a total of four comments were received including comments from one agency and three individuals as detailed below in Table 1.

Table 1 - Commentors on the Recirculated Draft IS/MND

Agencies	
A-1	California Department of Fish and Wildlife
Individuals	
1	John Davis
2	John Begin
3	Riener Nielsen

CEQA Guidelines Section 15074(b) states that prior to approving a project, the lead agency must consider the proposed IS/MND together with any comments received during the public review process. Written responses to comments are not required; however, the City of San Dimas, as lead agency, has prepared a written response to the comment received for consideration by the City Council. The comment letter followed by the City's response are attached in Section 2.0 of this Final IS/MND.

Based on the evaluation in the IS/MND and the comments received, the City has determined that all potential impacts associated with the Project are less than significant with incorporation of identified mitigation measures. A Mitigation Monitoring and Reporting Program has also been prepared and will be implemented for the Project. Therefore, the City of San Dimas has determined that and Mitigated Negative Declaration in accordance with CEQA is the appropriate environmental document for the Project.

2.0 COMMENTS

Comment Letter A-1 from California Department of Fish and Wildlife:

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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
(858) 467-4201
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



July 29, 2024

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SUBJECT: MUNICIPAL CODE TEXT AMENDMENT 20-0005 SAN DIMAS – MCTA 20-0005, MITIGATED NEGATIVE DECLARATION, SCH #2022120594, LOS ANGELES COUNTY, CA

Dear Luis Torrico:

The California Department of Fish and Wildlife (CDFW) has reviewed the Mitigated Negative Declaration (MND) from the City of San Dimas (City; Lead Agency) for Municipal Code Text Amendment 20-0005 San Dimas-MCTA 20-0005 (Project). 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 (CEQA) 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 streambed alteration regulatory authority (Fish & G. Code, § 1600 *et seq.*). Likewise, to the extent implementation of the Project as proposed may result in "take",

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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: City of San Dimas

Objective: The San Dimas Municipal Code Chapter 18.518: Specific Plan No. 11 allows for mass grading for roadway access and excavation to construct foundations for primary residences. The Project proposes to amend the municipal code to expand the amount of grading for each residential lot within the Project area. The Project area consists of 36 residential lots, of which 29 lots are developed with single family residences and seven are vacant. The proposed additional grading would remove an additional 1,000 cubic yards per lot, for a total of 36,000 cubic yards throughout the 92-acre Project area. The increase in grading would permit property owners to grade backyards to increase usable space for amenities such as swimming pools and decks. The proposed Project would also include development standards for the grading, landscaping, and retaining walls that the additional grading would require.

Project Timeline: Currently no specific construction activities are proposed. Project activities would commence on an individual basis by future homeowners.

Location: The Project area is located in the southwest portion of the City of San Dimas, Los Angeles County. It is bounded by Puente Street to the north, East Covina Hills Road to the south, North Rancho El Encino Drive to the west, and East Via Verde Street to the east. The area includes 36 residential lots with their respective Assessor's Parcel Numbers.

Biological Setting: General biological surveys were conducted by Ultra systems from June through August of 2022. Psomas conducted an additional general biological survey of the Project area on July 11, 2023, and findings from these surveys were compiled in a Biological Technical Report. No focused surveys or jurisdictional delineations were conducted. The 92-acre Project area contains a mix of residential development on lots that slope down to natural open space in the canyon bottoms. Vegetation within the impacted areas of the Project area includes 3.064 acres of coastal sage scrub habitat, 10.752 of native woodlands, and 8.711 acres of non-native woodland/herbaceous areas. The coastal sage scrub habitat is comprised of California sagebrush (*Artemisia californica*) scrub, California buckwheat (*Eriogonum fasciculatum*) scrub, and coast prickly pear (*Opuntia littoralis*) scrub. Native woodlands consist of California walnut (*Juglans californica*) groves and coast live oak (*Quercus agrifolia*) woodland. Vegetation designated as a sensitive natural community within the impacted

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areas of the Project area includes coast prickly pear scrub (0.329 acre) and California walnut groves (9.77 acres). Aside from southern California black walnut trees (California Rare Plant Rank (CRPR) 1B.1), no additional special-status plants were observed within the Project area. According to the Biological Technical Report, there is suitable habitat within the Project area for thread-leaved brodiaea (*Brodiaea filifolia*; Endangered Species Act (ESA)-listed threatened and CESA-listed endangered) and Nevin's Barberry (*Berberis nevinii*; ESA- and CESA-listed endangered) to occur.

Additionally, potential jurisdictional water features were identified within the Project area through literature review by Psomas. Wildlife observed during the surveys includes, but is not limited to, a variety of common bird species along with California ground squirrel (*Otospermophilus beecheyi*), coyote (*Canis latrans*), big-eared woodrat (*Neotoma macrotis*), and western fence lizard (*Sceloporus occidentalis*). A monarch butterfly (*Danaus plexippus*) was also observed foraging during the 2023 survey. No monarch overwintering sites were observed within the Project area. Vegetation within the Project area may provide suitable habitat for various wildlife including, but not limited to, Crotch's bumble bee (*Bombus crotchii*; CESA candidate species), southern California legless lizard (*Anniella stebbinsi*; California Species of Special Concern (SSC)), California glossy snake (*Arizona elegans*; SSC), Blainville's horned lizard (*Phrynosoma blainvillii*; SSC), red diamond rattlesnake (*Crotalus ruber*; SSC) coastal whiptail (*Aspidoscelis tigris stejnegeri*; SSC), burrowing owl (*Athene cunicularia*; SSC), western red bat (*Lasiurus frantzii*; SSC), and western mastiff bat (*Eumops perotis californicus*; SSC).

There are 13 mitigation measures that are incorporated into the recirculated MND to avoid, minimize, and/or mitigate adverse Project impacts on biological resources and wildlife. The majority of the mitigation measures are species specific; however, some measures outline best management practices, environmentally sensitive area design checks, invasive species management, and night lighting checks. Each mitigation measure is applicable only to specific lots depending on the vegetation composition within each individual lot.

Project History: In December 2023, the City circulated an MND for the Project. During public review, CDFW submitted comments to the City on January 18, 2023. Following the initial public review period for the MND, the City hired Psomas to review the survey findings by Ultrasystems. Psomas conducted a field visit to verify vegetation mapping and updated the impact analyses and mitigation approach. The MND was recirculated on June 28, 2024, via CEQAnet. A meeting was conducted between CDFW, the City, and Psomas on July 2, 2024, to provide an overview of the revisions to the Biological Resources section in the MND.

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in

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adequately avoiding and/or mitigating the Project's impacts on fish and wildlife (biological) resources. Additional comments or other suggestions may also be included to improve the 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).

Comment #1: Impacts on Biological Resources Throughout the Project Area

Issue: Mitigation measures are applied to subareas of the Project area and not the entire Project site.

Specific impacts: Future project ground-disturbing activities (e.g., grading, vegetation clearing, paving, etc.) may result in the following impacts: direct loss or alteration of habitat, injury or mortality of wildlife, reduced local population of various species, and reduced reproduction activity. When mitigation measures are only applied to specific lots, these impacts may not avoid, minimize, or mitigate the impacts to these resources as intended.

A-1A

Why impact would occur: CDFW continues to assert that the mitigation measures outlined for the Project should be applied to all 36 lots in the Project area, rather than by each individual lot. Within the Project area, there are vegetation communities that are considered locally and regionally rare (i.e., California walnut grove, coast prickly pear scrub, and coast live oak woodland). According to the MND, there are two listed plants and nine additional plant species with a CRPR 1 or 2 that could occur within the Project area. Variations in precipitation year-to-year can impact the amount of germination from the seed bank; additionally, seeds can be spread by weather or wildlife, making assessment by individual lot inaccurate.

A-1B

In addition to special status plants, there are more than 20 wildlife species that may occur in the Project area. While wildlife may have specific habitat preference, they are not confined to specific areas and may utilize a variety of breeding and foraging habitat. For example, burrowing owl pre-construction surveys are only required for future projects on 29 of the 36 lots within the Project area. While burrowing owls generally find suitable habitat in open fields, they have been known to occupy developed land that has small crevices in pipes, cracks in debris piles, or other construction-related structures or materials on site. Similar to burrowing owls, bats species are not confined to specific residential lots and can utilize various trees or man-made structures as roost sites. Mitigation measures that require a habitat assessment and pre-construction surveys should apply to all 36 residential lots. If surveys are not conducted, there is a possibility that special-status species may go undetected and consequently be impacted by the Project. Project-related impacts that may occur towards biological resources within the area includes loss of breeding, foraging, or sheltering habitat, reduction of productivity, injury or mortality by heavy machinery, entrapment, and increase of human activity.

A-1C

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Evidence impact would be significant: CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible. In regulating public or private activities, agencies are required to consider preventing environmental damage. [CEQA Guidelines, § 15021(1)]. Mitigation measures which only apply to narrow portions of the Project may not fulfill this obligation. Therefore, the Project may adversely affect the existing biological resources within the Project area.

A-1C
 cont.

Recommended Potentially Feasible Mitigation Measure(s):

Recommendation #1: MND Revision – The City should amend the MND such that all mitigation measures apply to the entire Project area, so that impacts to biological resources are appropriately avoided and/or minimized.

A-1D

Comment #2: Mitigation Measure Buffer

Issue: The mitigation measures outlined in the MND contain distance buffers that may not reduce future project impacts to a level less than significant.

Specific impacts: Given the inclusion of a 200-foot buffer in mitigation measures, (i.e., if the project activities would occur within 200 feet of a biological resource), future project-related activities such as grading, clearing, disking, excavation, and paving may negatively impact biological resources within the Project area.

Why impact would occur: Special-status vegetation, plants, and wildlife may be impacted beyond a 200-foot buffer from future project activities. Mitigation Measures BIO-1, BIO-9, and BIO-11 use 200 feet as a buffer outside of which Project activities would not have an impact to a biological resource. CDFW is concerned that the MND does not provide biological justification as to why a distance of 200 feet is sufficient for Project activities to not have adverse impacts on a variety of biological resources, including drainages and sensitive plants and habitats. The MND also does not include a discussion of how this buffer was determined to be appropriate, nor does the buffer appear to be supported by peer reviewed literature, best available science, or industry standards. As each residential lot is cleared and graded for additional development, construction dust, erosion, and increased soil compaction may alter vegetation communities within the lot but outside of the 200-foot buffer.

A-2

Additionally, CDFW jurisdiction under FCG section 1600 may expand to water features outside a 200-foot buffer from given Project activities. CDFW recommends that mitigation in the MND require a jurisdictional delineation for the Project regardless of buffer distance, such that impacts to streams and drainages can be appropriately assessed.

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Evidence impact would be significant: Impacts on rare flora could be considered a significant effect on the environment. Impacts to CRPR 1 and 2 plant species and their habitat meet the definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Impacts to CRPR 1 and 2 plant species and their habitat may result in a mandatory finding of significance because the Project would have the potential to threaten to eliminate a plant community and substantially reduce the number or restrict the range of an endangered, rare, or threatened species (CEQA Guidelines, § 15065). Insufficient mitigation may result in unmitigated temporal or permanent impacts to a rare plant species. Subsequently, the Project would continue 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.

Additionally, 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.

A-2 cont.

The Project may adversely affect the existing water features and the hydrology pattern 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):

Mitigation Measure #1: MM BIO-1: Environmentally Sensitive Areas – The City should revise MM BIO-1 to incorporate the underlined language and omit language in strikethrough:

Avoidance. Impacts on sensitive natural communities (i.e., coast prickly pear scrub, California walnut groves, and California walnut groves [disturbed]), jurisdictional features, Threatened and Endangered and CRPR 1B and 2B plant locations shall be avoided or minimized to the extent practicable during Project design. ~~While not required,~~ it is recommended that other coastal sage scrub and coast live oak woodland communities and CRPR 3 and 4 locations also be avoided to the extent practicable. Project plans shall be submitted to the City demonstrating that sensitive natural communities, jurisdictional features, special status plant locations, and other native

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vegetation types have been avoided to the extent practicable. If any sensitive natural communities, jurisdictional features, special status plant locations, or other native vegetation types are located within 500 feet of the project, they will be shown on project plans and labeled Environmentally Sensitive Areas. If the sensitive natural communities, jurisdictional features, special status plant locations, or other native vegetation types are present located within 200 feet, the plans shall also include a note with the information below with regard to "Protection" of these resources.

Protection. If a future homeowner project involves vegetation clearing and/or the use of mechanized equipment, and the lot has sensitive habitats (i.e., coast prickly pear scrub, California walnut groves, and California walnut groves [disturbed]), jurisdictional features, or Threatened and Endangered and CRPR 1B or 2B plant locations ~~within 200 feet of the project limits~~, the limits shall be marked prior to the initiation of project activities. ~~While not required, it~~ It is also recommended that this protection also be implemented if other native vegetation types (i.e., coastal sage scrub and coast live oak woodland) or CRPR 3 or 4 plant locations are present ~~within 200 feet of project limits~~. Sensitive natural communities, jurisdictional features, special status plant locations, as well as other native vegetation types (i.e., Environmentally Sensitive Areas), outside the limits shall be avoided during project activities. No equipment, spoils piles, materials storage, or other disturbance shall occur within sensitive natural communities, jurisdictional features, special status plant locations or other native vegetation types (i.e., Environmentally Sensitive Areas).

A-2 cont.

Mitigation Measure #2: MM BIO-9: Bird Strikes – The City should revise MM BIO-9 to incorporate the underlined language and omit language in strikethrough:

If landscaping or improvements includes installation of glass walls in outdoor areas within lots that contain 200 feet of coastal sage scrub or native woodlands, landscaping plans shall demonstrate that window/glass used are designed to minimize bird strikes. This may include measures such as angling of windows/glass downward so that the windows reflect the ground instead of the surrounding habitat or sky or the use of bird-safe glass that exhibits the "2x4 Rule", as defined by the American Bird Conservancy. The 2 X 4 Rule describes the distance between elements making up a pattern applied to windows for the purpose of preventing bird strikes. To be effective, the pattern must uniformly cover the entire window and consist of elements of any shape (e.g., lines, dots, other geometric figures) separated by no more than 2 inches if oriented in horizontal rows, or 4 inches if oriented in vertical columns (i.e., the 2 X 4 Rule). These patterns reduce bird-window collisions when applied to the outer surface of reflective panes. Greater spacing between pattern elements increases the risk of a strike and casualties. Bird-safe glass may include a uniformly dense dot, striped, or grid pattern created as ceramic frit on the external surface of the window or a uniformly dense dot, striped, or grid patterns of clear UV-reflecting and UV-absorbing film applied to the exterior of windows. Opaque glass can also be used. It should be noted that single decals (e.g., falcon silhouettes or large eye patterns) are ineffective and shall not be

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used unless the entire glass surface is uniformly covered with the objects or patterns (Klem 1990).

Mitigation Measure #3: MM BIO-11: Jurisdictional Permitting – The City should revise MM BIO-11 to incorporate the underlined language and omit language in strikethrough:

If a residential lot contains a ~~the project activities would occur within 200 feet of a~~ potential drainage, including potential jurisdictional features shown on Figure 7, or other topographic features that may comprise a bed, bank, or channel, a formal Jurisdictional Delineation shall be prepared by a qualified biologist ~~Regulatory Specialist~~. The project shall follow avoidance and protective measures described under MM BIO-1.

To assist homeowners in the BSA, the HOA could retain a qualified biologist ~~Regulatory Specialist~~ to prepare a Jurisdictional Delineation for the entire BSA. This would identify jurisdictional features and associated regulatory authority for each lot. Following the preparation of the Jurisdictional Delineation, a map overlay could be made showing jurisdictional features to be avoided in order to avoid the need for further regulatory permitting. The preparation of a single Jurisdictional Delineation throughout the BSA would provide an efficiency of scale that would be more cost-effective than the preparation of individual Jurisdictional Delineations by lot. However, the Jurisdictional Delineation may need to be periodically updated if regulatory requirements change over time.

A-2 cont.

If project activities would impact features under the jurisdiction of the USACE (if applicable), CDFW, and/or RWQCB, the homeowner shall obtain all necessary permits for impacts to jurisdictional areas. Potential mitigation options shall include payment of an in-lieu mitigation fee to an approved mitigation bank; long-term preservation of existing jurisdictional habitat at an on-site or off-site location; or another strategy as approved by the USACE, CDFW, and/or RWQCB. Jurisdictional areas shall be replaced at a minimum 1:1 ratio, or as otherwise determined by the resource agencies during permitting. The appropriate jurisdictional permits must be obtained and mitigation must be secured (i.e., in-lieu mitigation fee paid or demonstration of long-term preservation has been obtained) prior to issuance of a grading or building permit.

Comment #3: Impacts on Special Status Plants

Issue: MM-BIO-2 does not adequately offset Project-related impacts on special status plants.

A-3A

Specific impacts: Project ground-disturbing activities (i.e., grading, vegetation removal) would result in loss of suitable habitat, loss of population, and direct mortality of special status plant species.

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Why impact would occur: The Project area has the potential to support listed plant species and plant species designated as rare with a CRPR of 1B or 2B. In the MND, Mitigation Measure BIO-2 states that if plants with a CRPR 1B or 2B cannot be avoided and the population size represents less than five percent of the regional population, then the impact would be considered less than significant, and no mitigation would be required. CDFW disagrees that impacts should be considered as less than significant. According to the [California Native Plant Society](#), plants with a CRPR of 1B are rare throughout their range with the majority of these plants are endemic to California (CNPS 2024). Additionally, plants with a CRPR of 2B may be common in other states but are considered rare, threatened, or endangered in California. Whether or not there is a large population regionally, these plant species are still considered significant under CEQA, and compensatory mitigation should be provided if any individual rare plant is observed on site. CDFW is also concerned that the MND does not provide biological justification as to why five percent of the regional population is the minimum threshold. Project activities near individual rare plants or a stand of rare plants may result in adverse impacts through dust suppression, removal of individual plants, human disturbance, and encroachment. Additionally, the mitigation measure proposes the option of collecting seeds of rare plants and donating them to the California Botanic Garden. Handing seeds or bulbs to a local organization for future use does not guarantee that Project impacts in that particular area would be appropriated mitigated.

A-3B

A-3C

Evidence impact would be significant: Impacts on rare flora could be considered a significant effect on the environment. Impacts to CRPR 1 and 2 plant species and their habitat meet the definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). Some CRPR 3 and 4 species meet the definitions of endangered, rare, or threatened under CEQA. Impacts to CRPR 1 and 2 plant species and their habitat may result in a mandatory finding of significance because the Project would have the potential to threaten to eliminate a plant community and substantially reduce the number or restrict the range of an endangered, rare, or threatened species (CEQA Guidelines, § 15065). Insufficient mitigation may result in unmitigated temporal or permanent impacts to a rare plant species. Subsequently, the Project would continue 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.

A-3D

Recommended Potentially Feasible Mitigation Measure(s):

Mitigation Measure #4: MM BIO-2: Special Status Plants – The City should revise MM BIO-1 to incorporate the underlined language and omit language in strikethrough:

A-3E

Prior to obtaining removal of vegetation (including coastal sage scrub, native woodland, ~~non-native woodland, or non-native herbaceous vegetation types~~) for projects requiring a City permit, the homeowner shall retain a qualified ~~B~~otanist to conducted focused surveys for special status plant species within the proposed impact area. The survey

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shall be performed during the target species' peak blooming period in accordance with the most current protocols approved by CDFW and CNPS. Because blooming periods overlap, generally one early spring (i.e., March/April) and one late spring/early summer (May/June) survey can be conducted to cover all target species. The peak blooming time varies based on the rainfall of the year.

To assist homeowners in the BSA, the HOA could retain a qualified ~~botanist~~Biologist to conduct a special status plant survey for the entire BSA during a year of adequate rainfall. This would identify special status plant locations for each lot. Following the survey, a map overlay could be made showing special status plant locations to be avoided in order to avoid the need for further mitigation. The preparation of a single special status plant survey throughout the BSA would provide an efficiency of scale that would be more cost-effective than the preparation of individual special status plant surveys by lot.

If no special status plant species are located within 200 feet of project activities, no further measures would be required.

~~If there is a special status plant location present, but it would not be impacted, avoidance and protective measures described under MM-BIO-1 shall be followed.~~

~~If a special status plant location is observed within the project impact area, no Project activities shall commence. The homeowner shall the qualified Biologist conducting the survey shall coordinate with CDFW and/or USFWS to determine if avoidance is achievable. evaluate the significance with respect to the number of individuals that would be impacted and the status of the species.~~

A-3E cont.

- ~~If Nevin's barberry or thread-leaved brodiaea are observed in the impact area and cannot be avoided, any impact on these species shall be considered significant. Prior to issuance of City permits impacting individuals of either species, the homeowner shall obtain appropriate take authorization from approval shall be required from both the USFWS and/or CDFW. The homeowner shall comply with measures and compensatory mitigation take authorization permits issued by USFWS and/or CDFW. The homeowner shall provide the City of a fully executed take authorization to the City. One of the following mitigation options shall be required: (1) payment of an in-lieu mitigation fee to an approved mitigation bank with credits for the subject species; or (2) preparation of a Special Status Plant Translocation Plan. If translocation is selected, a qualified Restoration Biologist shall be retained to prepare a Special Status Plant Species Translocation Plan for approval by the USFWS and CDFW. The Special Status Plant Translocation Plan shall include the following topics: (1) responsibilities and qualifications of the personnel to implement and supervise the plant, (2) mitigation site selection criteria, (3) methods for seed/bulb/corm or individual collection; (4) site preparation and planting implementation, (5) implementation~~

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schedule, (6) maintenance plan/guidelines, (7) monitoring plan, and (8) long-term preservation. If seeds/bulbs/corms or individuals will be collected as part of the mitigation strategy, a qualified Restoration Biologist/Seed Collector shall collect seed/bulbs/corms or individuals for translocation and shall store them in appropriate conditions to maintain the viability of the seed.

- If plants with a CRPR of 1B or 2B are observed in the impact area and cannot be avoided, no Project activities shall commence, and the homeowner shall coordinate with CDFW to discuss avoidance of the rare plant on site. If complete avoidance is unattainable, the Project proponent shall provide compensatory mitigation to offset the Project's impact on rare plants observed on site at no less than 2:1. The total habitat acreage within the mitigation land shall be no less than 2:1. The Project proponent shall acquire CDFW approved mitigation land that has presence of slender mariposa lily and is located in the same watershed as the Project site. The mitigation land shall also provide equivalent or greater habitat value than that of the Project site. The Project proponent shall protect replacement habitat in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094. Recordation of the conservation easement shall occur prior to commencement of Project activities. An appropriate endowment shall also be provided for the long-term monitoring and management of mitigation lands. determination of significance will be based on the size of the impacted population relative to the regional population size. The regional population size will be determined based on the current total population sizes (excluding occurrences considered extirpated) of CNDDDB and CCH records from the USGS Baldwin Park, San Dimas, Ontario, La Habra, Yorba Linda, Prado Dam, Azusa, Glendora, and Mt. Baldy 7.5-minute quadrangles. If the impacted population of CRPR 1B or 2B species represents less than five percent of the regional population, the impact will be considered less than significant and no mitigation will be required. If the impacted population of CRPR 1B or 2B species represents five percent or more of the regional population, compensatory mitigation shall be required. One of the following mitigation options shall be required: (1) payment of an in-lieu mitigation fee to an approved mitigation bank with credits for the subject species; (2) collection of seeds/bulbs/corms or individuals by a qualified Seed Collector and donation to the California Botanic Garden for their use; or (3) preparation of a Special Status Plant Translocation Plan. If translocation is selected, a qualified Restoration Biologist shall be retained to prepare a Special Status Plant Species Translocation Plan for approval by the City. The Special Status Plant Translocation Plan shall include the following topics: (1) responsibilities and qualifications of the personnel to implement and supervise the plant, (2) mitigation site selection criteria, (3) methods for seed/bulb/corm or individual collection; (4) site preparation and planting implementation, (5) implementation schedule, (6) maintenance plan/guidelines, (7) monitoring plan, and (8) long-term

A-3E
 cont.

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~~preservation. If seeds/bulbs/corms or individuals will be collected as part of the mitigation strategy, a qualified Restoration Biologist/Seed Collector shall collect seed/bulbs/corms or individuals for translocation and shall store them in appropriate conditions to maintain the viability of the seed.~~

A-3E
 cont.

- If plants with a CRPR of 3 or 4 are observed in the impact area and cannot be avoided, the impact shall be considered less than significant and no further measures shall be required. However, it should be noted that any Southern California black walnut (CRPR 4.2) meeting the definition of a mature significant tree shall be subject to the requirements of MM BIO-10.

Comment #4: Impacts on California Species of Special Concern

Issue: The MND does not provide avoidance or minimization measures to reduce Project impacts on SSC.

Specific Impact: Direct impacts to SSC could result from Project 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 impact would occur: While there may be open space in the surrounding areas, there are no avoidance or minimization measures outlined in the MND for SSC to prevent injury or mortality during Project activities. Southern California legless lizard, California glossy snake, Blainville's horned lizard, coastal whiptail, red diamond rattlesnake, and San Diego desert woodrat have potential to occur within the Project area during Project activities. The MND states that due to the limited amount of habitat loss from the Project relative to the availability of habitat in surrounding open space, adverse impacts would be insignificant, and no mitigation is required. Without mitigation, impacts to these species may not be reduced to less than significant.

A-4A

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)

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- 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 2024c).

A-4A
cont.

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 #5: Pre-Construction Wildlife Survey - Prior to issuance of a grading permit, a qualified biologist shall conduct a survey of individual project area and 50-foot buffer within 72 hours of the proposed activities. Any coastal whiptail, Southern California legless lizard, California glossy snake, or Blainville’s horned lizard found shall be moved out of harm’s way to an area that is unaffected by the Project. The qualified biologist shall obtain all appropriate permits and prepare a species-specific list (or plan) of proper handling and passive relocation protocols, including but not limited to a Scientific Collecting Permit. The list (or plan) of protocols shall be implemented during Project construction and activities/biological construction monitoring.

A-4B

Mitigation Measure #6: Compensatory Mitigation - For SSC that have been observed on site 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 Project activities. 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.

A-4C

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Additional Comments

Crotch's Bumble Bee. The City should revise Mitigation Measure BIO-3 to incorporate the underlined language and omit language in strikethrough:

~~If CDFW determines that listing of the Crotch bumble bee is not warranted prior to or during implementation of the project activities, this measure shall not be required. Until CDFW makes a determination, or if CDFW determines that listing of the Crotch bumble bee is warranted, the following measure shall be required.~~

Prior to vegetation clearing or grading, homeowners requiring grading permits shall retain a qualified ~~Biologist~~ entomologist with appropriate handling permits to conduct pre-construction focused surveys for Crotch bumble bee ~~throughout the individual lot within 100 feet of Project impact areas.~~ Focused surveys shall follow CDFW's Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023). The survey shall be performed during the appropriate window for this species (i.e., ~~April to August~~ March to July). Three visual surveys will be conducted by a qualified ~~entomologist~~ Biologist. Surveys shall be conducted at least two hours after sunrise and three hours before sunset during suitable weather conditions. Sunny days with temperatures greater than 60 degrees Fahrenheit and wind speeds less than 8 mph are optimal, but partially cloudy days or overcast conditions are permissible if a person's shadow is visible. Surveys shall not be conducted during wet, foggy, or rainy conditions. Meandering transects shall be walked slowly within the Project survey area to obtain a 100% survey cover. ~~Transect spacing will depend on the habitat.~~ The ~~Biologist~~ qualified entomologist will search for Crotch's bumble bee activity and the presence of ground nests. Cavities such as mammal burrows shall be inspected with binoculars for evidence of bumble bee use. If multiple exiting/entering bumble bees are observed at a cavity, further observation shall occur until nesting is confirmed (e.g. multiple individuals entering the cavity). Survey results, including negative findings, shall be submitted to CDFW and the City prior to implementing Project ground-disturbing activities.

A-5

If no Crotch bumble bee are observed, no further action will be required within the year that the focused survey is conducted. Because Crotch bumble bee moves ground nests annually, the pre-construction focused survey shall be repeated if construction does not begin before the spring (i.e., March 1) following the previous focused survey.

If Crotch bumble bee is present, no work shall commence until the homeowner coordinates Project Applicant 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 to the City prior to implementing Project ground-disturbing activities and vegetation removal. ~~to determine if a permit (2081) will be needed. If a ground nest is~~

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~~observed, it shall be protected in place until it is no longer active as determined by a Biologist. An initial protective buffer of at least 100 feet shall be established around the active ground nest until CDFW can be consulted. A qualified Biologist shall determine the protective buffer distance needed depending on the location with respect to construction activities and the type of construction activities occurring; CDFW shall approve the protective buffer distance needed.~~

A-5
 cont.

~~A Letter Report shall be prepared to document the results of the pre-construction surveys and shall be provided to CDFW within 30 days of completion of the survey.~~

Mitigation for Sensitive Communities. The MND does not provide any compensatory mitigation in the event of unavoidable impacts to sensitive vegetation communities. CDFW disagrees with the MND's conclusion that such mitigation is not necessary to bring Project impacts to below significant. The MND should be amended to include a discussion of compensatory mitigation for coastal sage scrub, coast prickly pear scrub, and/or California walnut groves, including a mitigation measure or measures that provide specific requirements to meet mitigation obligations for these sensitive communities.

A-6

Conservation Easement. The MND notes that within each lot there is a conservation easement area that would remain as open space and could not be impacted by future homeowner projects. CDFW recommends that the City clarify in the MND whether the conservation easement area, as depicted in Figure 4.4-4, has already been protected or whether the conservation easement will be granted through a formal protection mechanism.

A-7

Coordination. CDFW appreciates the conversation to discuss the updated biological resources and welcomes an additional meeting prior to adoption of the MND to lessen significant impacts to the maximum extent feasible. We are available to continue the discussion of how to best avoid, minimize, and mitigate impacts of Project to biological resources, and look forward to future coordination with the City.

A-8

Data. CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., CNDDDB], which may be used to make subsequent or supplemental environmental determinations [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special status species detected by completing and submitting [CNDDDB Online Field Survey Form](#) (CDFW 2024). The Project proponent should ensure that data was submitted data properly, with all data fields applicable filled out, prior to finalizing/adopting the environmental document. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred. The Project proponent should provide CDFW with confirmation of data submittal.

A-9

Mitigation and Monitoring Reporting Plan. CDFW recommends updating the MND's proposed Biological Resources Mitigation Measures to include mitigation measures

A-10

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recommended in this letter. Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments [Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15126.4(a)(2)]. As such, CDFW has provided comments and recommendations to assist the City in developing mitigation measures that are (1) consistent with CEQA Guidelines section 15126.4; (2) specific; (3) detailed (i.e., responsible party, timing, specific actions, location), and (4) clear for a measure to be fully enforceable and implemented successfully via mitigation monitoring and/or reporting program (Pub. Resources Code, § 21081.6; CEQA Guidelines, § 15097). The City 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 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).

A-10
 cont.

Filing Fees

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

A-11

Conclusion

CDFW appreciates 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)].

Questions regarding this letter or further coordination should be direct to Julisa Portugal, Environmental Scientist, at Julisa.Portugal@wildlife.ca.gov or (562) 330-7563.

Sincerely,

DocuSigned by:



5991E19EEB094C3...

Victoria Tang

Environmental Program Manager
 South Coast Region

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EC: California Department of Fish and Wildlife
Jennifer Turner
Steve Gibson
Frida Diaz-Barriga
Cindy Hailey

References:

- [CDFW] California Department of Fish and Wildlife. 2017. California Terrestrial and Vernal Pool Invertebrates of Conservation Priority. Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=149499&inline>
- [CDFW] California Department of Fish and Wildlife. 2023. Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species. Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=213150&inline>
- [CDFW] California Department of Fish and Wildlife. 2024. Submitting Data to the CNDDDB. Available at: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.
- [CNPS] California Native Plant Society. 2024. California Rare Plant Ranks. Available at: <https://www.cnps.org/rare-plants/california-rare-plant-ranks>

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Attachment A: Draft Mitigation and Monitoring Reporting Plan

CDFW recommends the following language to be incorporated into a future environmental document for the Project.

Biological Resources (BIO)			Responsible Party
Mitigation Measure (MM) or Recommendation (REC)	Timing		
<p>Mitigation Measure #1 – MM BIO-1</p> <p>Avoidance. Impacts on sensitive natural communities (i.e., coast prickly pear scrub, California walnut groves, and California walnut groves [disturbed]), jurisdictional features, Threatened and Endangered and CRPR 1B and 2B plant locations shall be avoided or minimized to the extent practicable during Project design. It is recommended that other coastal sage scrub and coast live oak woodland communities and CRPR 3 and 4 locations also be avoided to the extent practicable. Project plans shall be submitted to the City demonstrating that sensitive natural communities, jurisdictional features, special status plant locations, and other native vegetation types have been avoided to the extent practicable. If any sensitive natural communities, jurisdictional features, special status plant locations, or other native vegetation types are located within 500 feet of the project, they will be shown on project plans and labeled Environmentally Sensitive Areas. If the sensitive natural communities, jurisdictional features, special status plant locations, or other native vegetation types are present, the plans shall also include a note with the information below with regard to "Protection" of these resources.</p>	<p>Prior and during Project activities</p>		<p>Individual homeowners</p>

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	<p>Protection. If a future homeowner project involves vegetation clearing and/or the use of mechanized equipment, and the lot has sensitive habitats (i.e., coast prickle pear scrub, California walnut groves, and California walnut groves [disturbed]), jurisdictional features, or Threatened and Endangered and CRPR 1B or 2B plant locations, the limits shall be marked prior to the initiation of project activities. It is also recommended that this protection also be implemented if other native vegetation types (i.e., coastal sage scrub and coast live oak woodland) or CRPR 3 or 4 plant locations are present. Sensitive natural communities, jurisdictional features, special status plant locations, as well as other native vegetation types (i.e., Environmentally Sensitive Areas), outside the limits shall be avoided during project activities. No equipment, spoils piles, materials storage, or other disturbance shall occur within sensitive natural communities, jurisdictional features, special status plant locations or other native vegetation types (i.e., Environmentally Sensitive Areas).</p>		
<p>Mitigation Measure #2 – MM BIO-9</p>	<p>If landscaping or improvements includes installation of glass walls in outdoor areas within lots that contain coastal sage scrub or native woodlands, landscaping plans shall demonstrate that window/glass used are designed to minimize bird strikes. This may include measures such as angling of windows/glass downward so that the windows reflect the ground instead of the surrounding habitat or sky or the use of bird-safe glass that exhibits the "2x4 Rule", as defined by the American Bird Conservancy. The 2 X 4 Rule describes the distance between elements making up a pattern applied to windows for the purpose of preventing</p>	<p>During Project activities</p>	<p>Individual homeowners</p>

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	<p>bird strikes. To be effective, the pattern must uniformly cover the entire window and consist of elements of any shape (e.g., lines, dots, other geometric figures) separated by no more than 2 inches if oriented in horizontal rows, or 4 inches if oriented in vertical columns (i.e., the 2 X 4 Rule). These patterns reduce bird-window collisions when applied to the outer surface of reflective panes. Greater spacing between pattern elements increases the risk of a strike and casualties. Bird-safe glass may include a uniformly dense dot, striped, or grid pattern created as ceramic frit on the external surface of the window or a uniformly dense dot, striped, or grid patterns of clear UV-reflecting and UV-absorbing film applied to the exterior of windows. Opaque glass can also be used. It should be noted that single decals (e.g., falcon silhouettes or large eye patterns) are ineffective and shall not be used unless the entire glass surface is uniformly covered with the objects or patterns (Klem 1990).</p>		
<p>Mitigation Measure # 3 – MM BIO-11</p>	<p>If a residential lot contains a potential drainage, including potential jurisdictional features shown on Figure 7, or other topographic features that may comprise a bed, bank, or channel, a formal Jurisdictional Delineation shall be prepared by a qualified biologist. The project shall follow avoidance and protective measures described under MM BIO-1.</p> <p>To assist homeowners in the BSA, the HOA could retain a qualified biologist to prepare a Jurisdictional Delineation for the entire BSA. This would identify jurisdictional features and associated regulatory authority for each lot. Following the preparation of the Jurisdictional Delineation,</p>	<p>Prior to issuance of City permits</p>	<p>Individual homeowners/ Qualified Biologist</p>

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<p>Mitigation Measure #4 – MM BIO-2</p>	<p>a map overlay could be made showing jurisdictional features to be avoided in order to avoid the need for further regulatory permitting. The preparation of a single Jurisdictional Delineation throughout the BSA would provide an efficiency of scale that would be more cost-effective than the preparation of individual Jurisdictional Delineations by lot. However, the Jurisdictional Delineation may need to be periodically updated if regulatory requirements change over time.</p> <p>If project activities would impact features under the jurisdiction of the USACE (if applicable), CDFW, and/or RWQCB, the homeowner shall obtain all necessary permits for impacts to jurisdictional areas. Potential mitigation options shall include payment of an in-lieu mitigation fee to an approved mitigation bank; long-term preservation of existing jurisdictional habitat at an on-site or off-site location; or another strategy as approved by the USACE, CDFW, and/or RWQCB. Jurisdictional areas shall be replaced at a minimum 1:1 ratio, or as otherwise determined by the resource agencies during permitting. The appropriate jurisdictional permits must be obtained and mitigation must be secured (i.e., in-lieu mitigation fee paid or demonstration of long-term preservation has been obtained) prior to issuance of a grading or building permit.</p> <p>Prior to obtaining a City permit, the homeowner shall retain a qualified botanist to conduct focused surveys for special status plant species within the proposed impact area. The survey shall be performed during the target species' peak blooming period in accordance with the most current protocols approved by CDFW and CNPS. Because</p>	<p>Prior to issuance of City permits</p>	<p>Individual homeowners/ Qualified Botanist</p>
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	<p>blooming periods overlap, generally one early spring (i.e., March/April) and one late spring/early summer (May/June) survey can be conducted to cover all target species. The peak blooming time varies based on the rainfall of the year.</p> <p>To assist homeowners in the BSA, the HOA could retain a qualified botanist to conduct a special status plant survey for the entire BSA during a year of adequate rainfall. This would identify special status plant locations for each lot. Following the survey, a map overlay could be made showing special status plant locations to be avoided in order to avoid the need for further mitigation. The preparation of a single special status plant survey throughout the BSA would provide an efficiency of scale that would be more cost-effective than the preparation of individual special status plant surveys by lot.</p> <p>If no special status plant species are located, no further measures would be required.</p> <p>If a special status plant is observed within the project area, no Project activities shall commence. The homeowner shall coordinate with CDFW and/or USFWS to determine if avoidance is achievable.</p> <ul style="list-style-type: none"> • If Nevin's barberry or thread-leaved brodiaea are observed in the impact area and cannot be avoided, any impact on these species shall be considered significant. Prior to issuance of City permits, the homeowner shall obtain appropriate take authorization from the USFWS and/or CDFW. The 		
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	<p>homeowner shall comply with measures and compensatory mitigation take authorization permits issued by USFWS and/or CDFW. The homeowner shall provide the City of a fully executed take authorization to the City.</p> <ul style="list-style-type: none"> • If plants with a CRPR of 1B or 2B are observed in the impact area and cannot be avoided, no Project activities shall commence, and the homeowner shall coordinate with CDFW to discuss avoidance of the rare plant on site. If complete avoidance is unattainable, the Project proponent shall provide compensatory mitigation to offset the Project's impact on rare plants observed on site at no less than 2:1. The total habitat acreage within the mitigation land shall be no less than 2:1. The Project proponent shall acquire CDFW approved mitigation land that has presence of slender mariposa lily and is located in the same watershed as the Project site. The mitigation land shall also provide equivalent or greater habitat value than that of the Project site. The Project proponent shall protect replacement habitat in perpetuity under a conservation easement dedicated to a local land conservancy or other appropriate entity that has been approved to hold and manage mitigation lands pursuant to Assembly Bill 1094. Recordation of the conservation easement shall occur prior to commencement of Project activities. An appropriate endowment shall also be provided for the long-term monitoring and management of mitigation lands. 		
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	<ul style="list-style-type: none"> If plants with a CRPR of 3 or 4 are observed in the impact area and cannot be avoided, the impact shall be considered less than significant and no further measures shall be required. However, it should be noted that any Southern California black walnut (CRPR 4.2) meeting the definition of a mature significant tree shall be subject to the requirements of MM BIO-10. 		
<p>Mitigation Measure #5 – Pre-construction Wildlife Surveys</p>	<p>Prior to issuance of a grading permit, a qualified biologist shall conduct a survey of individual project area and 50-foot buffer within 72 hours of the proposed activities. Any coastal whiptail, Southern California legless lizard, California glossy snake, or Blainville’s horned lizard found shall be moved out of harm’s way to an area that is unaffected by the Project. The qualified biologist shall obtain all appropriate permits and prepare a species-specific list (or plan) of proper handling and passive relocation protocols, including but not limited to a Scientific Collecting Permit. The list (or plan) of protocols shall be implemented during Project construction and activities/biological construction monitoring.</p>	<p>Prior to issuance of City permits and during Project activities</p>	<p>Qualified Biologist</p>
<p>Mitigation Measure #6 – Compensatory Mitigation</p>	<p>For SSC that have been observed on site 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</p>	<p>Prior to Project activities</p>	<p>Individual homeowners</p>

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<p>Mitigation Measure #7 – MM BIO-3</p>	<p>(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 Project activities. 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. Prior to vegetation clearing or grading, homeowners requiring grading permits shall retain a qualified entomologist with appropriate handling permits to conduct pre-construction focused surveys for Crotch bumble bee throughout the individual lot. Focused surveys shall follow CDFW's Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species. The survey shall be performed during the appropriate window for this species (i.e., April to August). Three visual surveys will be conducted by a qualified entomologist. Surveys shall be conducted at least two hours after sunrise and three hours before sunset during suitable weather conditions. Sunny days with temperatures greater than 60 degrees Fahrenheit and wind speeds less than 8 mph are optimal, but partially cloudy days or overcast conditions are permissible if a person's shadow is visible. Surveys shall not be conducted during wet, foggy, or rainy conditions. Meandering transects shall be walked slowly within the Project survey area to obtain a 100% survey cover. The</p>	<p>Prior to Project activities</p>	<p>Individual homeowners/ Qualified Entomologist</p>
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	<p>qualified entomologist will search for Crotch's bumble bee activity and the presence of ground nests. Cavities such as mammal burrows shall be inspected with binoculars for evidence of bumble bee use. If multiple exiting/entering bumble bees are observed at a cavity, further observation shall occur until nesting is confirmed (e.g. multiple individuals entering the cavity). Survey results, including negative findings, shall be submitted to CDFW and the City prior to implementing Project ground-disturbing activities.</p> <p>If no Crotch bumble bee are observed, no further action will be required within the year that the focused survey is conducted. Because Crotch bumble bee moves ground nests annually, the pre-construction focused survey shall be repeated if construction does not begin before the spring (i.e., March 1) following the previous focused survey.</p> <p>If Crotch bumble bee is present, no work shall commence until the homeowner coordinates 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 to the City prior to implementing Project ground-disturbing activities and vegetation removal.</p> <p>The City should amend the MND such that all mitigation measures apply to the entire Project area, so that impacts</p>		
REC # 1 – MND Revision		Prior to adoption of MND	City

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	to biological resources are appropriately avoided and/or minimized.		
REC #2 – Mitigation for Sensitive communities	The MND should be amended to include a discussion of compensatory mitigation for coastal sage scrub, coast prickly pear scrub, and/or California walnut groves, including a mitigation measure or measures which provide specific requirements to meet mitigation obligations for these sensitive communities.	Prior to adoption of MND	City
REC #3 – Conservation Easement	CDFW recommends that the City clarifies in the MND whether the conservation easement area, as depicted in Figure 4.4-4, has already been protected or whether the conservation easement will be granted through a formal protection mechanism.	Prior to adoption of MND	City
REC #4 - Coordination	CDFW appreciates the conversation to discuss the updated biological resources and welcomes an additional meeting prior to adoption of the MND to lessen significant impacts to the maximum extent feasible. We are available to continue the discussion of how to best avoid, minimize, and mitigate impacts of Project to biological resources, and look forward to future coordination with the City.	Prior to adoption of MND	City

A-12
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Response to Comment Letter A-1 from California Department of Fish and Wildlife:

A-1A: The commentor states that the Project’s mitigation measures should equally apply to all parcels in the Project Site rather than specific to each parcel as is currently proposed.

The comment is noted. This Project is not proposing any specific improvements; rather, the Project would change the City’s municipal code to allow individual homeowners to make improvements to their respective lots. The Recirculated IS/MND analyzes the worst-case scenario, which assumes that all homeowners would choose to improve their entire lot, up to the conservation easement. In implementation, some homeowners may not choose to do any improvements, some may make some limited improvements to a small portion of their lot, and some may choose to do improvements that would impact their entire lot. Because the improvements would be proposed by individual homeowners, the mitigation responsibility would fall on the individual homeowners to implement with verification by the City. Mitigation measures would be applied to each lot (as applicable) based on the biological resources contained on the specific lot rather than as a blanket requirement for all parcels. The Recirculated IS/MND identifies which mitigation measures are applicable to each lot. While the mitigation measures would only be applied to one lot at a time, they would mitigate impacts as they would occur. The mitigation strategy outlines a series of plan checks for the homeowners where the City would review the proposed improvements and would require that the homeowners implement the required avoidance, minimization, and mitigation measures prior to receiving approval on their plans. Therefore, mitigation would occur across the entire Project area, as needed, lot by lot.

In summary, the comment is noted and will be provided to the City Planning Commission and City Council. Given that the comment does not relate to the content or accuracy of the Draft IS/MND, no further response is required.

A-1B: The commentor states that according to the Recirculated Draft IS/MND, there are two listed plants and nine additional plant species with a CRPR 1 or 2 that could occur within the Project Site. Variations in precipitation year-to-year can impact the amount of germination from the seed bank; additionally, seeds can be spread by weather or wildlife, making assessment by individual lot inaccurate.

The comment is noted. A special status plant survey of 1 acre and a special status plant survey of 100 acres, should not vary in accuracy as long as appropriate protocols are followed. The Recirculated IS/MND requires MM BIO-2 for all lots, except for Lots 1, 34, and 36, which are entirely developed. MM BIO-2 requires that special status plant surveys be conducted “following the most current protocols approved by CDFW and CNPS” prior to removal of any vegetation for improvements. This survey would detect special status plant species if they were present and would require avoidance and/or mitigation if the proposed improvements would impact a significant population¹ of the special status plant species.

¹ A quantitative threshold of significance is defined within MM BIO-2 for each category of special status plants.

MM BIO-2 would allow for the Home Owner's Association (HOA) to conduct focused surveys across the entire Biological Study Area (BSA), as it would be more cost effective to do one focused plant survey of the entire area rather than conducting separate focused surveys lot by lot. However, as many homeowners may not be proposing improvements, they may not be supportive of spending HOA funds to support the improvements of individual lots. Therefore, it cannot be assumed that the HOA will provide for conducting the focused surveys of the entire area. Instead, each individual homeowner would be responsible for carrying out the mitigation that would be triggered by their proposed improvements. The text of MM BIO-2 has been revised to require the impacts on special status plants to be considered cumulatively within the BSA.

In summary, the comment is noted and will be provided to the City Planning Commission and City Council. Given that the comment does not relate to the content or accuracy of the Draft IS/MND, no further response is required.

A-1C: The commentor states that there are more than 20 wildlife species that may occur in the Project Site. The commentor states that while wildlife may have specific habitat preference, they are not confined to specific areas and may utilize a variety of breeding and foraging habitat. The commentor states that for example, burrowing owl pre-construction surveys are only required for future projects on 29 of the 36 lots within the Project area. While burrowing owls generally find suitable habitat in open fields, they have been known to occupy developed land that has small crevices in pipes, cracks in debris piles, or other construction-related structures or materials on site. The commentor states that similar to burrowing owls, bats species are not confined to specific residential lots and can utilize various trees or man-made structures as roost sites. The commentor states that mitigation measures that require a habitat assessment and pre-construction surveys should apply to all 36 residential lots. If surveys are not conducted, the commentor states that there is a possibility that special-status species may go undetected and consequently be impacted by the Project.

The comment is noted. However, homeowner improvements would likely be staggered over time. As described above, some homeowners may not choose to do any improvements, some may make some limited improvements to a small portion of their lot, and some may choose to do improvements that would impact their entire lot. This means that only a small portion of habitat would be disturbed at a time; most lots (31 out of 36 lots) contain less than one acre of habitat. The habitat area within the Conservation Easement (53.18 acres) would remain available to wildlife for breeding, foraging, and sheltering.

MM BIO-5 requires pre-construction surveys for all lots, except for lots that are entirely developed/ornamental (i.e., Lots 1, 34, and 36) and lots that consist entirely of woodland habitat (i.e., Lots 20, 21, and 27). While burrowing owls may sometimes nest in standpipes and in debris piles, those sites are typically surrounded by a debris basin or other larger area of open space. Burrowing owls do not typically occur in a suburban yard that is entirely landscaped and they do not typically occur in woodlands. While pre-construction burrowing owl surveys would not be required in these lots, MM BIO-6 requires pre-construction nesting bird surveys for all lots, including those with woodland habitat; therefore, if burrowing owl

were nesting in the woodland habitat on Lots 20, 21, and 27, they would be detected during the nesting bird survey. The only lots that do not require either pre-construction burrowing owl or nesting bird surveys are lots that are mapped as entirely developed/ornamental (i.e., Lots 1, 34, and 36); in these cases, the lots have already been developed up to the conservation easement and do not contain any natural habitat. The potential for burrowing owl to nest on these sites is not expected; therefore, the homeowners should not be burdened with additional surveys when the chance that the species would occur is so small that it is not expected.

MM BIO-7 requires pre-construction surveys for roosting bats on all lots, except for lots that are entirely developed/ornamental (i.e., Lots 1, 34, and 36) and lots that consist entirely of ruderal or coastal sage scrub habitat (i.e., Lots 5, 6, 29, and 30). If an area is already developed (typically with a house), it likely would not be removed by the proposed improvements. Bats do not roost in sage scrub shrubs or weedy ruderal vegetation. As discussed above, homeowners should not be burdened with additional surveys when the chance that bat roosting would occur is so small that it is not expected.

In summary, the comment is noted and will be provided to the City Planning Commission and City Council. Given that the comment does not relate to the content or accuracy of the Draft IS/MND, no further response is required.

A-1D: The commentor states that the City should amend the MND such that all mitigation measures apply to the entire Project area, so that impacts to biological resources are appropriately avoided and/or minimized.

As explained above, although implemented lot by lot, significant impacts on biological resources would be fully mitigated by the homeowners who choose to make improvements that would impact habitat. The mitigation strategy contains plan checks whereby the City would confirm that required pre-construction surveys and avoidance, minimization, and mitigation measures are being implemented, as applicable. As explained above, the City finds that the requirements in MM BIO-2, MM BIO-5, and MM-BIO 7 reasonably exclude the few lots where the target species are not expected to occur; as such, the measures will not be applied to all lots as requested by CDFW.

In reviewing Table 4.4-5, it was noted that Lot 28 contains a small amount of coastal sage scrub; therefore, Lot 28 should be included as a lot that requires pre-construction burrowing owl surveys per MM BIO-5. This revision has been made in the Mitigation Monitoring and Reporting Program that accompanies this Final Recirculated IS/MND as Appendix D.

A-2: The commentor states that the mitigation measures outlined in the Draft Recirculated MND contain distance buffers that may not reduce future project impacts to a level less than significant. The commentor states that the inclusion of a 200-foot buffer in mitigation measures, (i.e., if the project activities would occur within 200 feet of a biological resource), future project-related activities such as grading, clearing, disking, excavation, and paving may negatively impact biological resources within the Project area. The commentor also suggests revisions to mitigation measures in this comment.

The comment is noted. The 200-foot buffer was not based on specific guidelines or a specific source. Instead, the 200-foot buffer was based on the 100-foot setback distance from riparian areas/jurisdictional features required by various other cities and counties in their general plans (e.g., City of Simi Valley). Double this distance (i.e., 200 feet), was considered a reasonable distance to require the homeowner to conduct additional surveys and/or protective measures. After measuring the distance from the homes to the end of each lot, there is not much of difference between limiting the distance to 200 feet versus requiring for the entire lot; in other words, if sensitive habitat is within the lot, it is usually located within 200 feet, so changing the distance in the referenced measures would not change the implementation substantially, and it would make the measures easier for the City to apply. The City accepts the changes to MM BIO-1, MM BIO-9, and MM BIO-11 suggested by the commentor. This comment was also applied to MM BIO-2. The revised mitigation measures are shown in the MMRP that is provided as Appendix D.

In summary, the comment is noted and will be provided to the City Planning Commission and City Council. The commentor's revisions to mitigation measures have been incorporated. Given that the comment does not relate to the content or accuracy of the Draft IS/MND, no further response is required.

A-3A: The commentor states that MM-BIO-2 does not adequately offset Project-related impacts on special status plants. The commentor states that the Project's ground-disturbing activities would result in loss of suitable habitat, loss of population, and direct mortality of special status plant species.

The comment is noted. No special status plant surveys have been conducted in the BSA to date; it is currently unknown whether any special status plant species occur in the BSA. Therefore, it is incorrect to state that Project activities would result in the loss of special status plant species because the impact is currently unknown. Because special status plant species have potential to occur in the BSA, there is potential for there to be an impact.

A-3B: The commentor states that the Project area has the potential to support listed plant species and plant species designated as rare with a CRPR of 1B or 2B. The commentor states that in the Recirculated Draft IS/MND, MM BIO-2 was included which states that if plants with a CRPR 1B or 2B cannot be avoided and the population size represents less than five percent of the regional population, then the impact would be considered less than significant, and no mitigation would be required. The commentor states that CDFW disagrees that impacts should be considered as less than significant. According to the California Native Plant Society, plants with a CRPR of 1B are rare throughout their range with the majority of these plants are endemic to California (CNPS 2024). Additionally, plants with a CRPR of 2B may be common in other states but are considered rare, threatened, or endangered in California. Whether or not there is a large population regionally, these plant species are still considered significant under CEQA, and compensatory mitigation should be provided if any individual rare plant is observed on site. CDFW is also concerned that the MND does not provide biological justification as to why five percent of the regional population is the minimum threshold

The comment is noted. Because the presence of special status plant species in the BSA is currently unknown, the mitigation must establish a quantitative criteria upon which future survey results can be evaluated for significance. MM BIO-2 establishes that any impact (i.e., impacts to one individual) on a federally or State-listed plant species would be a significant impact and would require take authorization be obtained from the USFWS and/or CDFW (depending on whether the species is federally or State listed), which is in agreement with the commentor. For California Rare Plant Rank (CRPR) 1 and 2 species, which are considered rare, threatened or endangered in California by the California Native Plant Society, the CEQA impact analysis considers Section 15065 as to whether the Project impacts would “substantially reduce the number or restrict the range of a rare, threatened, or endangered species”. The City disagrees with the commentor that any impact (i.e. impacts to one individual) on a CRPR 1 or 2 species would be considered significant. MM BIO-2 establishes that if a CRPR 1 or 2 species were observed on an individual lot, but only a few individuals of that species were observed, the Biologist would then consider whether the loss of these few individuals would substantially reduce the number or restrict the range of the species in the Project region. Special status species vary substantially based on each species’ specific life history traits, some occur as scattered individuals with 20 individuals occurring over 10 acres while others occur in patches of a few thousand in a polygon 10 feet in diameter. Therefore, it is not possible to set a specific number of individuals that would apply to all species; hence, MM BIO-2 specifies five percent of the regional population as the threshold of significance. If the number of individuals found would not substantially reduce the regional population or restrict the range of the species, then the impact would not be considered significant, and no mitigation would be required. For example, if a special status plant survey is conducted on a particular lot and 8 intermediate mariposa lily (*Calochortus weedii* var. *intermedius*) individuals are observed, but there are 350 individuals of this species known from a nearby population that is still present, then the loss of those few individuals would not warrant mitigation. However, if a special status plant survey is conducted on a lot and 8 individual Greata’s aster² (*Symphyotrichum greatae*) are observed, but only 20 Greata’s aster are known from the Project region, the loss of those few individuals would be a significant impact that should be avoided or fully mitigated. As CRPR species are not formally listed by the State, CDFW does not have the jurisdictional authority to determine the threshold of significance; the threshold of significance is determined by the Lead Agency (i.e., the City). The City finds that the criteria included in MM BIO-2 are reasonable for assessing significance. The City does not want individual homeowners burdened with carrying out complicated and costly mitigation requirements for an impact that is below the threshold of significance. However, per the requirements of MM BIO-2, impacts will be avoided and minimized to the extent possible depending on the location of the special status plants with respect to proposed homeowner activities.

In summary, the comment is noted and will be provided to the City Planning Commission and City Council. Given that the comment does not relate to the content or accuracy of the Draft IS/MND, no further response is required.

² This species is not expected to occur in the BSA, but was used in this example because this species occurs in lower population numbers than the other species with potential to occur.

A-3C: The commentor states that the mitigation measure proposes the option of collecting seeds of rare plants and donating them to the California Botanic Garden. Handing seeds or bulbs to a local organization for future use does not guarantee that Project impacts in that particular area would be appropriated mitigated.

Collecting seeds of rare plants and providing them to a local organization for future use is one of three mitigation approaches included as potential options. This approach would only be considered suitable in certain circumstances, such as when the number of individuals impacted is limited and the species grows well from seed/bulbs. The seeds/bulbs could provide genetic diversity to the seed bank maintained by a botanic garden, or other suitable organization. MM BIO-2 requires City approval of the mitigation option selected.

A-3D: The commentor states that impacts on rare flora could be considered a significant effect on the environment. The commentor states that impacts to CRPR 1 and 2 plant species and their habitat meet the definition of endangered, rare, or threatened species (CEQA Guidelines, § 15380). The commentor states that some CRPR 3 and 4 species meet the definitions of endangered, rare, or threatened under CEQA. The commentor states that impacts to CRPR 1 and 2 plant species and their habitat may result in a mandatory finding of significance because the Project would have the potential to threaten to eliminate a plant community and substantially reduce the number or restrict the range of an endangered, rare, or threatened species (CEQA Guidelines, § 15065). The commentor states that insufficient mitigation may result in unmitigated temporal or permanent impacts to a rare plant species. Subsequently, the commentor states that the Project would continue 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.

See CDFW-3B above.

A-3E: The commentor provides suggested edits to MM BIO-2.

The comment is noted. Some of the commentor's suggested wording revisions to MM BIO-2, related to federally and State listed species, have been incorporated to clarify the process related to impacts to listed species. However, the City prefers to retain a range of possible mitigation approaches in the measure, rather than deleting them as suggested by the commentor, to help guide homeowners and future City staff on the implementation of MM BIO-2.

Similarly, some of the commentor's suggested wording revisions to MM BIO-2, related to CRPR 1 and 2 species, have been incorporated to clarify the process related to impacts on these species. However, some of the revisions incorrectly give authority to CDFW in the approval of mitigation for CRPR 1 and 2 species, which CDFW does not have jurisdiction over. Additionally, the commentor's revisions related to mitigation ratios are unclear with how the impact would be defined (based on individuals, the amount of habitat they occupy, or suitable habitat present on the lot). Therefore, the mitigation approval for CRPR 1 and 2 species will be retained by the City; however, wording has been added to MM BIO-2 to

suggest that CDFW could be consulted in an advisory role. As described above, the City prefers to retain a range of possible mitigation approaches in the measure, rather than deleting them as suggested by the commentor, to help guide homeowners and future City staff on the implementation of MM BIO-2.

Revisions to text for MM BIO-2 have been incorporated into the MMRP that is provided as Appendix D.

A-4A: The commentor states that the Recirculated Draft IS/MND did not provide avoidance or minimization measures to reduce Project impacts on Species of Special Concern. The commentor states that direct impacts to Species of Special Concern could result from Project 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.

The Recirculated IS/MND discusses the potential impact to suitable habitat for wildlife Species of Special Concern on pages 4-66 through 4-70. As discussed, the worst-case scenario (i.e., that all homeowners would fully develop their lots), would result in impacts on 22.527 acres. As discussed above (CDFW-1C), the projects of individual homeowners would occur staggered over time, with some of the homeowners likely not proposing any improvements on their lots, or only impacting a portion of their lots, which differs from development of a new community where the entire project site is mass graded at the same time. Most lots (i.e., 31 out of 36 lots), contain less than one acre of habitat, while the largest lot contains less than four acres of habitat that could be impacted. Meanwhile, the habitat area within the Conservation Easement would continue to provide 53.182 acres available to wildlife for breeding, foraging, and sheltering. The Conservation Easement is located along the bottom of the slope for all lots, so it is immediately adjacent to all areas that would be impacted.

Additionally, because homeowner projects would be contained within a single lot, the construction crew for each project is expected to be small, likely consisting of only one or two pieces of equipment at a time. The small scale and slower pace of small-scale construction would allow most wildlife time to escape, triggered by the vibration of the approaching equipment and/or human activity, from the impact area to the Conservation Easement on the same lot. On most lots, the Conservation Easement is only a few hundred feet away from the edge of development. While some individuals of low mobility could be killed by construction activities, especially if construction begins during the cold winter season when herpetofauna are aestivating. The loss of a few individuals of these species is not expected to substantially reduce their population numbers or restrict their range (Section 15065 of the State CEQA Guidelines).

While Section 15380 of CEQA allows some Species of Special Concern to be treated as if they are listed for CEQA purposes, the application of this treatment is not appropriate for all Species of Special Concern. The species listed by the commentor (i.e., Southern California legless lizard, California glossy snake, Blainville's horned lizard, coastal whiptail, red diamond rattlesnake, and San Diego desert woodrat) do not currently trigger focused

surveys and mitigation. A recent court case, *Nassiri v. City of Lafayette, et al.* (2024), addressed the use of Section 15380 of CEQA, in which the courts clarified that the designation of a species as a “species of conservation concern” is not equivalent to being deemed “rare.” For the species to be treated as listed under Section 15380 of CEQA, a species should be considered rare or unique in the area or imminently at risk of endangerment (Allen Matkins 2024).

A-4B: The commentor recommends the addition of a mitigation measure requiring that a preconstruction wildlife survey be conducted within all parcels.

See Response A-4A. Because impacts on these species would not be considered significant, no mitigation would be necessary. The City would like to simplify the process for homeowners as much as possible and would like to minimize the surveys to those absolutely needed in order to minimize costly requirements for homeowners. Also, because of the configuration of the impacts in relation to the nearby Conservation Easement on each lot, wildlife would be expected to move away from the work area on their own as the construction equipment and human activity approach. Additionally, when the work area is this close to the Conservation Easement (i.e., within a few hundred feet in most cases), it is expected that wildlife that are relocated would move back to the work area within a few hours of being relocated, so if relocated more than a few hours prior to the work, they would likely return to their home territory. In this case, with this configuration of habitat within the Conservation Easement on each lot, this measure would likely not be effective at achieving the purpose. Therefore, it has not been added to the mitigation program. However, MM BIO-1 has been revised to require construction plans to include a note to allow wildlife to escape from the work area unharmed (e.g., no killing of snakes) and that no wildlife shall be handled. Revisions to text for MM BIO-2 will be incorporated into the Final Recirculated IS/MND and are shown in Section 4.1.

A-4C: The commentor states that a mitigation measure should be added requiring compensatory mitigation for impacts to Species of Special Concern.

See Response A-4A. As explained above, the impact on Species of Special Concern would not be considered significant under Section 15380 of CEQA; therefore, no mitigation would be required. It is important to note that when this community was originally constructed, a Conservation Easement was placed over the canyon bottoms, requiring protection of habitat on each lot. The Conservation Easement contains 53.182 acres of habitat that will remain in perpetuity with long-term protection granted. The areas at the bottom of the canyons are the areas of woodland that are most valuable for wildlife movement. In this case, one main reason that the loss of habitat is not considered significant for wildlife Species of Special Concern is that a limited amount of habitat would be impacted on each lot, while the habitat in the Conservation Easement would remain.

A-5: The commentor states that the City should change MM BIO-3 related to Crotch’s bumble bee as they have marked up in their comment.

The majority of the commentor's suggested text has been incorporated into MM BIO-3 for Crotch's bumble bee. The introductory text to the measure will be retained; the text states that if CDFW determines that Crotch's bumble bee listing is not warranted, then the measure will not be applicable. If CDFW determines that listing is not warranted, then Crotch's bumble bee would have been determined to be not at risk of endangerment in the foreseeable future; in this case, additional protections would not be warranted. The other suggested text change that has not been incorporated is to change "qualified Biologist" to "qualified Entomologist". If a Biologist is qualified to do the survey, they would have the appropriate qualifications to conduct the survey (e.g., a Memorandum of Understanding [MOU] to net and handle the species). Not all Biologists that hold this MOU are considered Entomologists; use of the term Biologist allows someone with multiple specialties (not just insects) to conduct the survey as long as they have the appropriate qualifications. However, text has been added following "qualified Biologist" to explain the qualification, "(i.e., one with a Memorandum of Understanding to handle the species)".

A-6: The commentor states that the Recirculated Draft IS/MND did not include any compensatory mitigation in the event of unavoidable impacts to sensitive vegetation communities. The commentor states that the Recirculated Draft IS/MND should be amended to include a discussion of compensatory mitigation for coastal sage scrub, coast prickly pear scrub, and/or California walnut groves, including a mitigation measure or measures that provide specific requirements to meet mitigation obligations for these sensitive communities

The comment is noted; however, the Recirculated IS/MND explains the reasoning for the finding of less than significant on these vegetation types on pages 4-71 to 4-73. As detailed in the analysis, the worst-case scenario would impact less than 10 percent of coast prickly pear scrub in the BSA, totaling a maximum of 0.329 acre, while 90 percent of coast prickly pear habitat would remain in the Conservation Easement. Considering the small amount of coast prickly pear that could be impacted, the amount remaining in the Conservation Easement, the impact would be considered less than significant. Additionally, projects that would affect coast prickly pear scrub (as well as projects that would affect other coastal sage scrub habitat types) would require focused surveys for coastal California gnatcatcher per MM BIO-4. Impacts to habitat occupied by coastal California gnatcatcher would require compensatory mitigation, including securing long-term protections. Also, MM BIO-1 encourages that homeowners avoid and minimize impacts on this vegetation type.

A larger percentage of coastal sage scrub habitat types would be affected under the worst-case scenario (i.e., approximately one-third with 2.395 acres impacted and 5.012 remaining in the Conservation Easement). Other than coast prickly pear scrub, none of the other coastal sage scrub vegetation types are considered sensitive according to the California Sensitive Natural Communities (CDFW 2023). As explained above, projects that would affect coastal sage scrub would require focused surveys for coastal California gnatcatcher per MM BIO-4. Impacts to habitat occupied by coastal California gnatcatcher would require compensatory mitigation, including securing long-term protections. Also, MM BIO-1 encourages that homeowners avoid and minimize impacts on these vegetation types.

The Recirculated IS/MND states that the impact on California walnut woodlands and California walnut woodlands (disturbed) would be considered potentially significant, and

requires MM BIO-1 to avoid and minimize impacts on this woodland, and MM BIO-10 to require obtaining a permit for any mature trees that would be removed. The City's permitting process requires that mature trees (including both California walnut [*Juglans californica*] and coast live oak [*Quercus agrifolia*]) removed be mitigated at a 2:1 ratio. Therefore, mitigation is included for the loss of California walnut woodland and coast live oak woodland.

Additionally, the City of San Dimas Municipal Code related to Tree Protection (Section 18.162.100 (C) and (D)) requires the following long-term protection:

"Where applicable, a bond or cash deposit as determined by the director of development services shall be furnished by the developer for the management and protection of each existing, replanted or relocated tree(s). Said bond or cash deposit shall be refunded upon the successful completion of a tree maintenance program as required by the director of development services."

"Any tree removal and/or replacement permit granted by the director of development services pursuant to Section 18.162.030 and the development plan review board pursuant to Section 18.162.050 shall include a condition requiring an objectively observable maintenance and care program to be initiated to insure the continued health and care of mature significant tree(s) on the property. Such program shall specify length of maintenance program, maintenance plan and method of inspection. Said tree maintenance program and plan is not required of the applicant when trees are to be relocated to an approved off-site location pursuant to the provisions of this chapter."

Further, an information brochure on the topic of Tree Preservation (City of San Dimas 2021) on the City's website summarizes the above measures as follows:

"If said conditions are imposed, the owner will be responsible for all replacement and relocated trees for a minimum period of two years. If during this time the tree(s) is (are) declared unhealthy by a certified arborist as set forth in Section 18.162.090, the diseased trees shall be removed and replaced at the cost of the applicant, as set forth in Section 18.162.100.

A maintenance agreement shall be submitted by the applicant and established for each replaced and relocated tree. The maintenance agreement and maintenance responsibility shall be transferred with the sale of the property if title to the property is transferred within the specified maintenance' period."

Therefore, MM BIO-10, by requiring compliance with the existing tree preservation ordinance, requires compensatory mitigation and long-term protection of mature native woodlands. As mentioned for other issue areas, the City prefers to minimize the additional requirements for homeowners; preferring to rely on the existing procedures where they would accomplish the necessary protective measures.

A-7: The commentor states that the Recirculated Draft IS/MND notes that within each lot there is a conservation easement area that would remain as open space and could not be impacted by future homeowner projects. CDFW recommends that the City clarifies whether the conservation easement area, as depicted in Figure 4.4-4, has already been protected or whether the conservation easement will be granted through a formal protection mechanism.

The comment is noted. Page 4-63 of the Recirculated IS/MND states “The green areas in Figure 4.4-4 represent the *existing* conservation easement; these areas would not change following the text amendment; they would remain as open space and could not be impacted by future home-owner projects.”

The Project Description (Section 2.2) does not currently mention the Conservation easement because it is already in place; it is not part of the proposed Project.

A-8: The commentor states that CDFW appreciates the conversation to discuss the updated biological resources and welcomes an additional meeting prior to adoption of the Draft IS/MND to lessen significant impacts to the maximum extent feasible. The commentor states that they are available to continue the discussion of how to best avoid, minimize, and mitigate impacts of Project to biological resources, and look forward to future coordination with the City.

The City appreciates CDFW’s comments and welcomes the cooperative spirit in the implementation of the Municipal Text Code Amendment. Several of the lots have drainages that are potentially under the jurisdiction of CDFW; although not all of CDFW’s suggestions have been incorporated into the Final Recirculated IS/MND, CDFW will have the opportunity review project activities that may affect drainages and would require a Streambed Alteration Agreement.

A-9: The commentor states that CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database [i.e., CNDDDB], which may be used to make subsequent or supplemental environmental determinations [Public Resources Code, Section 21003, subdivision (e)]. Accordingly, the commentor requests that the City report any special status species detected by completing and submitting CNDDDB Online Field Survey Form (CDFW 2024). The Project proponent should ensure that data was submitted data properly, with all data fields applicable filled out, prior to finalizing/adopting the environmental document. The data entry should also list pending development as a threat and then update this occurrence after impacts have occurred. The commentor states that the Project proponent should provide CDFW with confirmation of data submittal.

Psomas’ fieldwork was limited to one survey visit in July 2023. The only special status plant species observed was California walnut; California Natural Diversity Database (CNDDDB) forms are generally not submitted for CRPR 4 species. No special status wildlife species were observed during the fieldwork; therefore, no CNDDDB forms were needed for Psomas’ survey. Ultrasystems (2022) reported monarch butterfly (*Danaus Plexippus*; foraging, not overwintering) and Cooper’s hawk (*Accipiter cooperii*; foraging, not nesting). As the observations of these species were during foraging and not their protected states (i.e., overwintering and nesting, respectively), no CNDDDB forms would be needed for these species either.

A-10: The commentor states that they recommend that the City incorporate the new and revised mitigation measures that CDFW has presented in their comment letter.

The Final Recirculated IS/MND has incorporated many of the suggested revisions recommended by CDFW. These measures are provided in the MMRP that is attached as Appendix D.

A-11: The commentor states that the Project, as proposed, could have an impact on fish and/or wildlife, and assessment of filing fees is necessary.

This comment is noted.

A-12: The commentor states that CDFW appreciates 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)].

The comment is noted. The Final Draft IS/MND has incorporated many of the suggested revisions recommended by CDFW. These measures are provided in the MMRP that is attached as Appendix D.

Comment Letter 1 from John Davis:

From: john@jwd2.com
To: [Luis Torrico](#)
Cc: [Kimberly Neustice](#)
Subject: MCTA & EIR for SP 11 Area 1
Date: Thursday, July 18, 2024 8:06:36 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. Report phish using Phish Alert Button.

Hi Luis,

I am responding to the EIR and proposed MCTA as a homeowner in the affected area. The following should be taken into consideration by the planning commission and city council:

My understanding is that the grading for new home construction including driveways, garages and a pool would not require implementation of the mitigations included in the EIR. Historically, for 30 plus years, the DPRB allowed an additional 200 cubic yards of grading without any mitigations. It seems reasonable that this amount of grading should still be allowed and that this exception be included in the language of the MCTA. If not 200 cubic yards, then at least some reasonable amount of grading should be allowed without triggering the biological mitigations.

1-1

My lot and almost all other lots in this area have a substantial amount of land designated as natural or scenic and this part of my property cannot be touched or developed. Most of the area that is of concern to the author of the EIR is this natural and scenic area. The requirement to now hire a consultant to monitor and opine on the property we are allowed to develop seems to me to be a very unreasonable request for individual single family homeowners. For instance, without this exception, it appears that any grading that would occur in the front yard or landscaped backyard that has already been fenced off and improved (potentially for over 30 years) would require expensive surveys to be conducted.

1-2

My recommendation is that 200 cubic yards of additional grading continue to be allowed, but if not, then it seems that it would be appropriate that grading in already improved, landscaped and/or fenced in areas should not trigger surveys and mitigations.

1-3

Thanks,

John Davis
Homeowner
1526 Calle Cristina

Response to Comment Letter 1 from John Davis:

1-1: The commentor states that they believe that grading for new home construction including driveways, garages, and a pool would not require implementation of the mitigation measures identified in the Draft IS/MND. The commentor states that the City has historically allowed for up to 200 cubic yards of grading.

The comment is noted and will be provided to the City Planning Commission and City Council. The mitigation measures would not apply to development/grading necessary for the primary residence, driveway, and garage. A pool would trigger the mitigation measures. Given that the comment does not relate to the content or accuracy of the Draft IS/MND, no further response is required.

1-2: The commentor states that the parcel that they own as well as many others in the areas contain land designated as natural or scenic and cannot be developed. The commentor states that these areas of the parcels seem to be of most interest to the IS/MND's preparer. The commentor states that the mitigation measures are not reasonable and are too expensive for a single-family homeowner to implement.

The comment is noted and will be provided to the City Planning Commission and City Council. As indicated in this comment, many of the parcels in the Project Site are partially covered by a Scenic Easement which already limits development within these areas of the parcels. The mitigation measures have been divided in Table 7.0-1 of the Recirculated Draft IS/MND for those measures that would need to be implemented for each parcel, regardless of where the improvements would occur in that parcel, as well as measures that are only required if work in that parcel were to extend into the Scenic Easement area of the parcel.

1-3: The commentor states that they believe that development that involves less than 200 cubic yards of grading and/or areas that are already improved, landscaped, and/or fenced in should not trigger surveys and other mitigation measures.

The comment is noted and will be provided to the City Planning Commission and City Council. See response to comment 1-2 above.

Comment Letter 2 from John Begin:

7-19-2024

City of San Dimas
245 E. Bonita Ave.
San Dimas, CA. 91773

Att: Luis Torrico
Re: Sp-11 MCTA

Dear Luis,

Thank you for taking the time to answer my questions and explain how the new peer reviewed Initial Study / Environmental report will affect area 1's custom lot residents. As you explained, CEQA rules have changes dramatically since this housing tract was approved 38 years ago and the City is required to enforce these rules. I also agree that this current peer reviewed report from Ultra System's is a reasonable way for area 1 home owners to add additional grading to their property to allow improvements. The MCTA if passed will also make it possible for the remaining vacant lot owners to design and build custom homes that will enhance the neighborhood.

2-1

This letter is to support the revised 13 peer reviewed mitigation measures and environmental report for SP-11 Municipal Code Text Amendment.

Respectfully Yours,
John Begin
John Begin
1539 Calle Cristina
San Dimas, CA. 91773

Response to Comment Letter 2 from John Begin:

2-1: The commentor states that they support the Project, and the commentor expresses gratitude to City staff for answering their questions related to the Project.

The comment is noted and will be provided to the City Planning Commission and City Council. Given that the comment does not relate to the content or accuracy of the Draft IS/MND, no further response is required.

Comment Letter 3 from Riener Nielsen:

From: [Riener Nielsen](#)
To: [Luis Torrico](#)
Subject: RE: Case No. MCTA 20-0005 Adoption of MND - LETTER OF SUPPORT
Date: Friday, July 19, 2024 4:49:03 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe. Report phish using Phish Alert Button.

Good afternoon Luis,

I am writing to **voice my strong support in the adoption of the referenced Case No. MCTA 20-0005 MND for Specific Plan No. 11 which will allow homeowners in Area I of the Via Verde Ridge HOA to grade up to 1,000 CY of grading cut and fill outside of the home, garage, and driveway.** I am appreciative of the City of San Dimas over the last four years in continuing with the effort to allow reasonable grading that will allow homeowners in Area I to have appropriate back yards to their houses; something that every other resident of San Dimas enjoys.

3-1

With my support however, I request the City of San Dimas consider that the 18 Mitigation Measures (Bio 1-13, CUL 1-3, GEO-1, MMHYD-1) are discriminatory against the specific 36 homes in Area I and that with adoption of the MND, there should also be a separate piece of legislation to place these same restrictions upon every piece of land in the City, both Residential and Commercial, which will highlight how unfair these Mitigation Requirements are. For instance, any home which wants to install a pool has an equal chance of uncovering archaeological or paleontological remains, or the potential to disturb nesting birds or burrowing owls, altering hydrology, or creating bird strikes. The effect of these Mitigation Measures can easily cost a homeowner over \$60,000 in hiring all the monitoring professionals in order to install a \$60,000 swimming pool. If there is a way for the City to drop as many of these Mitigation Requirements as possible, it would be much more sensible and less discriminatory.

3-2

I am a homeowner and resident in this HOA, but not in Area I, and it is important to highlight that Area I has 7 empty lots which have never had a home built on them due to the excessive restrictions on grading of already disturbed land which created the single-family lots. The resulting vacant lots have been a detriment and eyesore to our community for over 35 years!

Thank you,

Riener Nielsen, A.I.A.
Via Verde Ridge HOA, Board Member
1126 Camino Del Cerritos
San Dimas, CA 91773
rielsen@amapm.com

From: Luis Torrico <ltorrico@sandimasca.gov>
Sent: Thursday, July 18, 2024 5:12 PM

Response to Comment Letter 3 from Riener Nielsen:

3-1: The commentor states that they are in support of the Project.

The comment is noted and will be provided to the City Planning Commission and City Council. Given that the comment does not relate to the content or accuracy of the Draft IS/MND, no further response is required.

3-2: The commentor states that although they support the Project, they believe that the required mitigation measures for this one area of the City is discriminatory. The commentor states that the mitigation measures should be reduced or eliminated, or otherwise they should be applied to all other parcels in the City.

The comment is noted and will be provided to the City Planning Commission and City Council. Given that the comment does not relate to the content or accuracy of the Draft IS/MND, no further response is required.

3.0 REFERENCES

Allen Matkins. 2024. California Court of Appeal Clarifies What Constitutes a “Rare” Species Under CEQA. <https://www.allenmatkins.com/real-ideas/california-court-of-appeal-clarifies-what-constitutes-a-rare-species-under-ceqa.html>

City of San Dimas. 2021. Tree Preservation Pamphlet. https://files.sandimasca.gov/Document_Center/Department/Community%20development/Tree%20Preservation.pdf

Appendix A
Previously Circulated Draft IS/MND
November 2022

Appendix B
Updated Biological Technical Report
January 2024

Appendix C
Recirculated Draft IS/MND
June 2024

Appendix D
Mitigation Monitoring and Reporting Program
October 2024