



THE CITY OF SAN DIEGO

Date of Notice: June 22, 2022

# NOTICE OF PREPARATION FOR AN ENVIRONMENTAL IMPACT REPORT AND PUBLIC NOTICE OF A SCOPING MEETING

DEVELOPMENT SERVICES DEPARTMENT

SAP No. 24009082

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**NOTICE OF PREPARATION:** The City of San Diego as the Lead Agency has determined that the project described below will require the preparation of an Environmental Impact Report (EIR) in compliance with the California Environmental Quality Act (CEQA), which requires that public agencies consider the potentially significant adverse environmental effects of projects over which they have discretionary approval authority before taking action on those projects (Public Resources Code [PRC] Section 21000 et. seq.). According to California Code of Regulations (CCR) Title 14, Section 15064(f)(1), preparation of an EIR is required whenever a project may result in a significant adverse environmental effect. An EIR is an informational document used to inform public agency decision makers and the general public of the significant environmental effects of a project, identify possible ways to mitigate or avoid the significant effects, and describe a range of reasonable alternatives to the project that could feasibly attain most of the basic objectives of the project while substantially lessening or avoiding any of the significant environmental impacts. Public agencies are required to consider the information presented in the EIR when determining whether to approve a project.

Thereby, this Notice of Preparation of an EIR and Scoping Meeting is publicly noticed and distributed on June 22, 2022. This notice was published in the SAN DIEGO DAILY TRANSCRIPT and placed on the City of San Diego CEQA website at: <https://www.sandiego.gov/ceqa> under "Notice of Preparation and Scoping Meetings" tab.

**PUBLIC NOTICE OF SCOPING MEETING:** Consistent with Section 21083.9 of the CEQA Statutes, a public scoping meeting will be held to solicit comments regarding the scope and analysis of the EIR. During the current State of Emergency and in the interest of public health and safety, and in accordance with the Office of Planning and Research guidance, the City is not currently conducting in-person scoping meetings. Instead, a pre-recorded presentation is being provided.

Therefore, in lieu of a public scoping meeting to be held in person, a pre-recorded presentation has been made accessible to the public and available for viewing from June 22, 2022 through July 22, 2022.

**HOW TO REVIEW THE PRESENTATION:** Members of the public will be able to access the link to watch a pre-recorded presentation via livestream at <https://www.sandiego.gov/ceqa/meetings>. The link and pre-recorded presentation will remain available for viewing between June 22, 2022 at 12:00AM through July 22, 2022 at 12:00PM.

**HOW TO SUBMIT COMMENTS:** Comments on this Notice of Preparation document will be accepted for 30 days following the issuance of this notice and **must be received no later than July 22, 2022**. When submitting comments, please reference the project name and number (Palm Hollister Apartments / 698277). Responsible agencies are requested to indicate their statutory responsibilities in connection with this project when responding. Upon completion of the scoping process, all public comments will be organized and considered in the preparation of the draft environmental document.

Comment letters may be submitted electronically via e-mail at: [DSDEAS@sandiego.gov](mailto:DSDEAS@sandiego.gov). Due to the COVID-19 pandemic and State orders, non-essential City staff are working remotely. The City requests that all comments be provided electronically, however if a hard copy submittal is necessary, it may be submitted to:

Morgan Dresser  
Development Services Department  
1222 First Avenue, MS-501  
San Diego, CA 92101

**GENERAL PROJECT INFORMATION:**

- **Project Name / Number:** Palm Hollister Apartments / 698277
- **Community Area:** Otay Mesa-Nestor
- **Council District:** 8

**PROJECT DESCRIPTION:** A COMMUNITY PLAN AMENDMENT (CPA), REZONE from AR-1-2, RM-1-1, and RS-1-7 to RM-2-6, a NEIGHBORHOOD DEVELOPMENT PERMIT (NDP) for deviations to base zone regulations, and a VESTING TENTATIVE MAP (VTM) to demolish a vacant residential structure and out-buildings to construct a total of 198 residential units, including eight affordable units, in 13 buildings. The project would require an amendment to the Otay Mesa-Nestor Community Plan to change the existing land use from Open Space to Medium-High Density (30 - 44 du/ac) and a Rezone to change the existing zone from AR-1-2, RM-1-1, and RS-1-5 to RM-2-6. The project is also requesting a Multi-Habitat Planning Area (MHPA) Boundary Line Adjustment. Residential amenities would be provided in a separate stand-alone building in the western portion of the project site and would feature a pool, spa, fire pit, patio/bar-b-que areas, fitness center, co-working spaces, and the leasing office. An additional resident amenity area would be provided in the central portion of the project site, incorporated as an open courtyard in the center of the largest building to take advantage of views into the Otay Valley Regional Park located north of the project site. A pedestrian landscaped walkway along the top of the northern slope provides views of the River Valley and a continuous connection from the residential buildings to the project amenity areas. The 5.92-acre site is located at 555 Hollister Street. Additionally, the site is within Multiple Habitat Planning Area; Airport Influence Area (Brown Field, Imperial Beach NOLF, and NAS North Island/Review Area 2); Airport Land Use Compatibility Overlay Zone; FAA Part 77 Review Area (NOLF Imperial Beach); Parking Standards Transit Priority Area; Transit Area Overlay Zone; and Transit Priority Area within the Otay Mesa-Nestor Community Plan Area. (LEGAL DESCRIPTION: The north quarter of the west half of the southwest quarter and the north 5 acres of the east half of the southwest quarter of Section 22, Township 18 South, Range 2 West, San Bernardino Meridian, in the City of San Diego, County of San Diego, State of California). **The site is not included on any Government Code listing of hazardous waste sites.**

**APPLICANT:** Ambient Communities

**RECOMMENDED FINDING:** Pursuant to Section 15060(d) of the CEQA Guidelines, it appears the proposed project could result in significant environmental effects in the following areas: Land Use, Transportation/Circulation, Visual

Quality/Neighborhood Character, Biological Resources, Historical Resources, Tribal Cultural Resources, Air Quality, Greenhouse Gas Emissions, Energy, Geologic Conditions, Noise, Hydrology, Water Quality, Public Services and Facilities, Public Utilities, and Health and Safety.

**AVAILABILITY IN ALTERNATIVE FORMAT:** To request this Notice or any additional information in an alternative format, please email the Development Services Department at [DSDEASNoticing@sandiego.gov](mailto:DSDEASNoticing@sandiego.gov). Your request should include the suggested recommended format that will assist with the review of documents.

**ADDITIONAL INFORMATION:** For environmental review information, contact Morgan Dresser at (619) 446-5404. For information regarding public meetings/hearings on this project, contact Development Project Manager, Oscar Galvez III, at (619) 446-5237. This Notice was published in the SAN DIEGO DAILY TRANSCRIPT and distributed on June 22, 2022.

Raynard Abalos  
Deputy Director  
Development Services Department

**ATTACHMENTS:** Distribution List  
Figure 1: Project Location  
Figure 2: Site Plan

## **NOP Distribution:**

### **Federal**

U.S. Fish and Wildlife Service (23)

### **State of California**

California Department of Fish and Wildlife (32)

State Clearing House (46)

California Transportation Commission (51)

California Department of Transportation (51A)

California Department of Transportation (51B)

California Native American Heritage Commission (56)

### **City of San Diego**

Mayor's Office (91)

Councilmember LaCava, District 1

Councilmember Campbell, District 2

Councilmember Whitburn, District 3

Council President Pro Tem Montgomery Steppe, District 4

Councilmember von Wilpert, District 5

Councilmember Cate, District 6

Councilmember Campillo, District 7

Councilmember Moreno, District 8

Council President Elo-Rivera, District 9

Development Services Department

    EAS Analyst

    EAS Senior

Transportation Development (78)

Fire and Life Safety (79)

San Diego Fire - Rescue Department Logistics (80)

Library Department - Gov. Documents (81)

Otay Mesa Nestor Branch Library (81W)

Historical Resources Board (87)

City Attorney (93C)

### **Other Interested Organizations, Groups, and Individuals**

SANDAG (108)

San Diego Metropolitan Transit System (112)

Metropolitan Transit Systems (115)

Rancho Santa Ana Botanic Garden at Claremont (161)

Sierra Club (165)

San Diego Natural History Museum (166)

San Diego Audubon Society (167)

Mr. Jim Peugh (167A)

California Native Plant Society (170)

Endangered Habitats League (182)

Endangered Habitats League (182A)

Carmen Lucas (206)

**Other Interested Organizations, Groups, and Individuals (continued)**

South Coastal Information Center (210)

San Diego History Center (211)

San Diego Archaeological Center (212)

Save Our Heritage Organisation (214)

Ron Christman (215)

Clint Linton (215B)

Frank Brown - Inter-Tribal Cultural Resources Council (216)

Campo Band of Mission Indians (217)

San Diego County Archaeological Society, Inc. (218)

Native American Heritage Commission (222)

Kumeyaay Cultural Heritage Preservation (223)

Kumeyaay Cultural Repatriation Committee (225)

Native American Distribution (225A-S)

Lisa Cumper - Jamul Indian Village (lcumper@jiv-nsn.gov)

Clint Linton - Lipay Nation of Santa Ysabel (cjlinton73@aol.com)

Angelina Gutierrez - San Pasqual Tribe (angelinag@sanpasqualtribe.org)

Otay Mesa Nestor (Nestor.comm@aol.com)

California Department of Parks and Rec., Tijuana River (229)

Otay Mesa Chamber of Commerce (231A)

Otay Mesa Planning Committee (235)

Richard Drury (richard@lozandrury.com)

Molly Greene (molly@lozandrury.com)

John Stump (mrjohnstump@cox.net)

Jeff Modrzejewski, SEED SD (sdseed@sdseed.net)

Max Argoud (emargoud@cox.net)

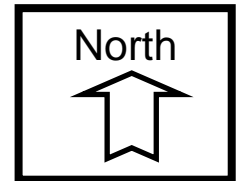
Consultant, Karen Ruggels (karen@klrplanning.com)



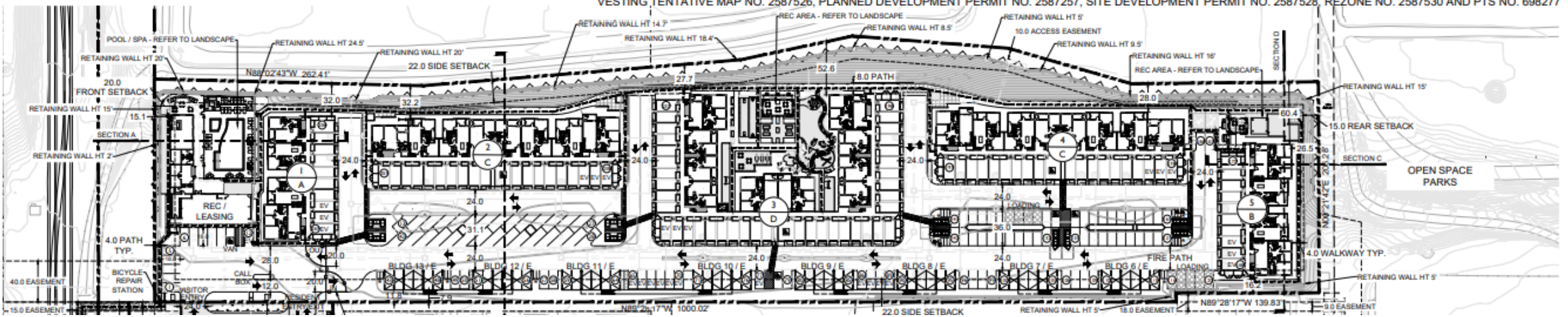
# Project Location Map

Palm Hollister Apartments - 555 Hollister Street

PROJECT NO. 698277

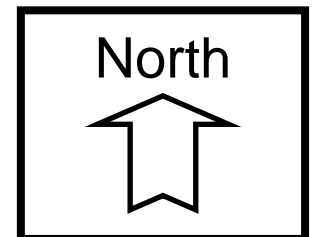


VESTING TENTATIVE MAP NO. 2587526, PLANNED DEVELOPMENT PERMIT NO. 2587257, SITE DEVELOPMENT PERMIT NO. 2587528, REZONE NO. 2587530 AND PTS NO. 698277



# Site Plan

**Palm Hollister Apartments - 555 Hollister Street**  
**PROJECT NO. 698277**



Fostering the protection and appreciation



of birds, other wildlife, and their habitats...

July 22, 2022

Morgan Dresser  
Development Services Department  
1222 First Avenue, MS-501  
San Diego, CA 92101

**RE: Palm & Hollister Apartment No. 698277**

To Whom It May Concern,

We are writing out of concern regarding the proposed development that may take place at Palm Hollister Apartments / 698277, as it is in MHPA subarea 113, designated by the City of San Diego. The San Diego Audubon Society (SDAS) has a vested interest in this area as this proposed project is next to Otay Regional Valley Park where we regularly work collaboratively with the park rangers at the City of San Diego to perform native plant rehabilitation in the area, trash pick-up, and provide opportunities to teach the public about nature.

Last Saturday, July 16th at 11:15 am, during our Latino Conservation Week event SDAS hosted at Otay Regional Valley Park, several of us heard a federally threatened and City of San Diego MSCP target species, the California Gnatcatcher *Polioptila californica* vocalizing nearby in a habitat that we helped rehabilitate. The California Gnatcatcher is geographically restricted to a narrow range in Southern California and is vulnerable to the dramatic reduction in suitable habitat from the fires across chaparral habitat. With predictions of climate change anticipating the increase in frequencies of fire across the state of California, we must plan for enough habitat for this species and others now, as existing habitats may be lost to fire in the future.

We strongly urge you to consider the impact of this proposed project as it may reduce badly needed MHPA that could be rehabilitated to native habitats for MSCP target species such as the California Gnatcatcher. The California Gnatcatcher vocalizing 500 meters away from the proposed project site in an area we helped rehabilitate demonstrates that rehabilitating areas can provide much-needed habitat for declining species. Thank you for your time and consideration. Please continue to keep us updated with this project.

Respectfully,

Lesley Handa  
Lead Ornithologist & Conservation Committee Member  
San Diego Audubon Society



## Alexandra Owens

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**From:** Sanchez Rangel, Rogelio@DOT <roger.sanchez-rangel@dot.ca.gov>  
**Sent:** Tuesday, August 2, 2022 2:00 PM  
**To:** MDresser@sandiego.gov  
**Cc:** DSDEAS@sandiego.gov; OPR State Clearinghouse  
**Subject:** (Palm Hollister Apartments / 698277) I-5 Palm Ave NOP (SCH 2022060468)

**Categories:** Purple Category

Hi Morgan,

Caltrans has the following comments for the proposed Palm Hollister Apartments NOP.

- Please provide a copy of the local mobility analysis and/or a VMT Analysis if one is prepared.
- Caltrans views all transportation improvements as opportunities to improve safety, access and mobility for all travelers in California and recognizes bicycle, pedestrian and transit modes as integral elements of the transportation network. The proposed project is in close proximity to the Palm Avenue Trolley Station, therefore, Caltrans supports improved transit connectivity and integration with this development.
- Please continue to coordinate with Caltrans and provide a copy of the Draft Environmental Document when available.

Thank you

[Rogelio Sanchez](#)

Associate Transportation Planner

California Department of Transportation

[roger.sanchez-rangel@dot.ca.gov](mailto:roger.sanchez-rangel@dot.ca.gov)

Tel (619) 987-1043



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](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



July 18, 2022

**Governor's Office of Planning & Research**

Morgan Dresser  
 City of San Diego  
 1222 First Avenue, MS 501  
 San Diego, CA 92101  
[MDresser@sandiego.gov](mailto:MDresser@sandiego.gov)  
[DSDEAS@sandiego.gov](mailto:DSDEAS@sandiego.gov)

**Jul 18 2022**

**STATE CLEARINGHOUSE**

**Subject: Palm Hollister Apartments (Project), Notice of Preparation (NOP),  
 SCH #2022060468**

Dear Ms. Dresser:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) from the City of San Diego (City) for the Palm Hollister Apartments (Project) pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

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 also administers the Natural Community Conservation Planning (NCCP) program (Fish & G. Code, § 2800 *et seq.*). The City participates in the NCCP program by implementing its approved Multiple Species Conservation Program (MSCP) Subarea Plan (SAP) and Implementing Agreement (IA). The NOP for the proposed Project must ensure that all requirements and conditions of the SAP and IA are met. The NOP should also address any biological issues that are not addressed in the SAP and IA, such as specific impacts to and mitigation requirements for sensitive species that are not covered by the SAP and IA.

<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 *et seq.* The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 1500.

Morgan Dresser  
City of San Diego  
July 18, 2022  
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## PROJECT DESCRIPTION SUMMARY

**Proponent:** City of San Diego

**Project Location:** The 5.92-acre Project site is located east of Interstate 5 and Hollister Street, west of Beyer Boulevard, north of Palm Avenue, south of Main Street, within the City's Otay Mesa-Nestor Community Planning Area (CPA). The Project site is partially developed with an abandoned single-family residence, small storage structure, canopy, and unpaved roadway on-site. The Project site is within the City's MSCP SAP, and the northern portion of the site is within the City's Multi-Habitat Planning Area (MHPA) established by the SAP. Surrounding land uses include mixed residential to the west and south and active agriculture to the north and east. The Otay Valley Regional Park is located further north of the site.

**Project Description/Objectives:** The Project proposes to demolish the existing structures on-site and develop 13 buildings (198 residential units) with associated community buildings and outdoor amenities. Project-related activities would include grading, landscaping, utilities, and construction of a retaining wall and pedestrian walkway along the northern border of the site. The proposed Project would require a CPA Amendment to change the existing land use from Open Space to Medium-High Density and Rezone. The Project is also requesting a MHPA Boundary Line Adjustment (BLA).

**Biological Setting:** As mentioned above, the Otay Valley Regional Park is located north of the site and this area is within the City's MHPA. CNDDDB aerial imagery indicates that the Project's development area consists of agricultural, disturbed, and urban/developed land. Special-status species known to occur within or adjacent to the Project area include coast horned lizard (*Phrynosoma blainvillii*; California Species of Special Concern (SSC)) and singlewhorl burrobrush (*Ambrosia monogyra*; California Rare Plant Rank (CRPR) 2B.2) (CNDDDB 2022).

## COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources.

- 1) Multi-Habitat Planning Area (MHPA) Boundary Line Adjustment (BLA). CDFW recommends that the City consult with the Wildlife Agencies (CDFW and United States Fish and Wildlife Service (USFWS)) early in the CEQA process to resolve the Project's proposed BLA prior to the circulation of the DEIR. To ensure consistency with the MSCP's conservation goals and objectives, the DEIR should provide full disclosure and functional equivalency analysis of the proposed BLA per Sections 1.1.1 and 5.42 of the MSCP SAP (City of San Diego 1997). The Wildlife Agencies will need to agree and provide written concurrence for the requested BLA after we have had the opportunity to review all information provided by the City. When evaluating a proposed BLA and habitat equivalency assessment, the Wildlife Agencies generally consider the following biological goals:
  - No net loss of MHPA acreage;
  - No net reduction of higher sensitivity vegetation communities (i.e., Tier I, II, IIIa and IIIb);
  - Net impacts/conservation of covered listed species resulting from the BLA;
  - Net impacts/conservation of covered non-listed sensitive species resulting from the BLA; and

Morgan Dresser  
City of San Diego  
July 18, 2022  
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- Landscape configuration to maintain connectivity of the MHPA (i.e., net effects to 'Preserve Design')
- 2) Lighting. Per the NOP, the Project proposes to construct a retaining wall and landscaped walkway along the northern border of the Project site. To minimize light pollution spillover into zoned open space area, CDFW recommends that all Project-related artificial lighting installed on the northern border and/or utilized during construction should be anti-glare, shielded, and directed toward the Project impact area and away from the Otay Valley Regional Park.
  - 3) Fire Buffers. Project activities may include fuel modification within and around the Project boundary. CDFW requires that all fuel modification zones be included in the development footprint and be considered and mitigated as a permanent impact.
  - 4) Nesting Birds. To avoid impacts to nesting birds, CDFW recommends that clearing of vegetation occur outside of the peak avian breeding season, which generally runs from February 1 through September 1 (as early as January 1 for some raptors). If Project construction is necessary during the bird breeding season, a qualified biologist with experience in conducting bird breeding surveys should conduct weekly bird surveys for nesting birds, within three days prior to the work in the area, and ensure no nesting birds in the Project area would be impacted by the Project. If an active nest is identified, a buffer shall be established between the construction activities and the nest so that nesting activities are not interrupted. For the given Project site, CDFW generally recommends a 100-foot buffer from common avian species, 300 feet for listed or highly sensitive species (that are otherwise not addressed by the MSCP), and 500 feet for raptors. The buffer should be delineated by temporary fencing and remain in effect as long as construction is occurring. No Project construction shall occur within the fenced nest zone until the young have fledged, are no longer being fed by the parents, have left the nest, and will no longer be impacted by the project. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.

## Environmental Data

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a data base which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: [Submitting Data to the CNDDDB \(ca.gov\)](#). The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: [CNDDDB - Plants and Animals \(ca.gov\)](#).

## FILING FEES

The Project, as proposed, would 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 Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee

Morgan Dresser  
City of San Diego  
July 18, 2022  
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is required for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.).

## CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Alison Kalinowski, Environmental Scientist, by email at [Alison.Kalinowski@wildlife.ca.gov](mailto:Alison.Kalinowski@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
  
D700B4520375406...

David Mayer  
Environmental Program Manager  
South Coast Region

ec: CDFW

David Mayer, San Diego – [David.Mayer@wildlife.ca.gov](mailto:David.Mayer@wildlife.ca.gov)

Karen Drewe, San Diego – [Karen.Drewe@wildlife.ca.gov](mailto:Karen.Drewe@wildlife.ca.gov)

Alison Kalinowski, San Diego – [Alison.Kalinowski@wildlife.ca.gov](mailto:Alison.Kalinowski@wildlife.ca.gov)

Jessie Lane, San Diego – [Jessie.Lane@wildlife.ca.gov](mailto:Jessie.Lane@wildlife.ca.gov)

Cindy Hailey, San Diego – [Cindy.Hailey@wildlife.ca.gov](mailto:Cindy.Hailey@wildlife.ca.gov)

Office of Planning and Research

State Clearinghouse, Sacramento – [State.Clearinghouse@opr.ca.gov](mailto:State.Clearinghouse@opr.ca.gov)

USFWS

Jonathan Snyder – [Jonathan\\_D\\_Snyder@fws.gov](mailto:Jonathan_D_Snyder@fws.gov)

## References

California Department of Fish and Wildlife. 2022. California Natural Diversity Database (CNDDDB). Available from: <https://wildlife.ca.gov/Data/CNDDDB>.

California Department of Fish and Wildlife. 2022. CNDDDB – Plants and Animals. Available from: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

California Department of Fish and Wildlife. 2022. Submitting Data to the CNDDDB. Available from: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.

California Environmental Quality Act (CEQA). California Public Resources Code in section 21000 et seq. The “CEQA Guidelines” are found in Title 14 of the California Code of Regulations, commencing with section 15000.

California Invasive Plant Council (Cal-IPC). 2022. Responsible Landscaping. Available from: <https://www.cal-ipc.org/plants/inventory/>.

California Office of Planning and Research. 2009 or current version. CEQA: California Environmental Quality Act. Statutes and Guidelines, § 21081.6 and CEQA Guidelines, §15097, §15126.4(2).

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



# County of San Diego

**BRIAN ALBRIGHT**  
DIRECTOR  
(858) 966-1301

**DEPARTMENT OF PARKS AND RECREATION**  
5500 OVERLAND AVENUE, SUITE 410, SAN DIEGO, CA 92123  
Administrative Office (858) 694-3030  
[www.sdparks.org](http://www.sdparks.org)

July 22, 2022

Morgan Dresser  
Development Services Division, City of San Diego  
1222 First Avenue  
San Diego, CA 92101

Delivered via e-mail to: [DSDEAS@sandiego.gov](mailto:DSDEAS@sandiego.gov)

## **COMMENTS ON NOTICE OF PREPARATION FOR AN ENVIRONMENTAL IMPACT REPORT FOR THE PALM HOLLISTER APARTMENTS PROJECT**

Dear Morgan Dresser:

Thank you for providing the opportunity to review the Notice of Preparation and Scoping Meeting for the Palm Hollister Apartments Projects (698277). The County of San Diego, Department of Parks and Recreation (DPR) has reviewed the notice and offers the following comments for your consideration:

- Please continue coordinating with DPR on any project features within or adjacent to Otay Valley Regional Park to determine the need for potential permits for the proposed project.
- Please share any data collected from environmental resource surveys conducted for the project, especially surveys related to biological or cultural resources, with DPR.
- The northern boundary of the project site is adjacent to trails included in the Otay Valley Regional Park (OVRP) concept plan and a planned active recreation site, as found at [Otay Valley Regional Park \(sdparks.org\)](http://sdparks.org). The County of San Diego is in the process of designing the active recreation site. Please coordinate with all OVRP partners, including the County of San Diego, and include trail connections to the adjacent recreational facilities from this property for all visitors to enjoy.
- The proposed project is part of the Otay Valley Regional Park. Please ensure the proposed project is consistent with the OVRP Concept Plan, the OVRP Design Standards and Guidelines, and the OVRP Trail Guidelines, as found at Otay Valley Regional Park (sdparks.org).



- Please analyze any potential impacts from the project, including stormwater and hydrology changes from existing conditions, and ensure the project does not result in negative impacts to DPR property, planned active recreation facilities, adjacent vegetation, or nearby sensitive resources. Specifically, please analyze impacts from concentrated runoff of existing stable slopes and potential issues that might arise from that concentration of runoff such as ponding, flooding, scouring, or erosion of trail surfaces, slopes, fences, or other existing open space amenities. DPR requests a copy of the hydrology and hydraulic studies for the proposed project.
- Please analyze all impacts to public lands, including stormwater runoff in the event that site Best Management Practices (BMPs) fail during high storm events.
- The project includes retaining walls surrounding the west, north, and east sides of the project, some over 15 feet tall and up to 24.5 feet tall. These walls have the potential to create a significant visual impact as seen from the regional trail system adjacent to the property. The walls would be within 30 feet of the existing trail, for a length of up to 800 feet. Please analyze the potential visual impact of the proposed project retaining walls, particularly where they are adjacent to the OVRP trails and planned recreational facilities. While the site currently is not naturally vegetated open space, the proposed retaining walls may highly contrast with the existing sparsely placed buildings, trees, and vegetated slopes. The project walls would potentially be tall, plain, linear features with little natural relief. Additionally, because the trail is located north of the site, the walls have a high potential to shade the trail during winter months when sun access is desirable. The shadowed, cold, empty zone on the north side of the wall, between the wall and the trail, could attract undesirable activities and create potential safety hazard along the public trail. The height and design of the wall, and the viability of planting and screening vegetation on the north-facing segments should be analyzed. Please also address the long-term management responsibilities of this vegetation.
- Please consider impacts on future development for public lands including but not limited to include nighttime sport field lighting, trail development and pedestrian connectivity adjacent to north and east of proposed developed property, increased public use such as a community building and zipline. These facilities, or similar active recreation facilities, are planned immediately adjacent to the project site. Please consider these facilities while determining the layout and circulation of the proposed project.
- Please consider emergency and fire ingress and egress requirements for the public lands, and how the proposed development may impact those requirements on the adjacent public lands.
- DPR has an access easement on the northern portion of this site so please ensure to coordinate directly with DPR prior to any project elements that may the potential to impact that easement.

July 22, 2022

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The County appreciates the opportunity to comment on the project. We look forward to continuing to work with the City of San Diego on the project. If you have any questions regarding these comments, please contact me at (858) 966-1374 or [Deborah.Mosley@sdcounty.ca.gov](mailto:Deborah.Mosley@sdcounty.ca.gov).

Sincerely,

Deborah  
Mosley

Digitally signed by  
Deborah Mosley  
Date: 2022.07.22  
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Chief, Resource Management Division  
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# NATIVE AMERICAN HERITAGE COMMISSION

June 24, 2022

Governor's Office of Planning &amp; Research

Morgan Dresser  
City of San Diego  
1222 First Avenue MS 501  
San Diego, CA 92101

Jun 27 2022

## STATE CLEARINGHOUSE

**Re: 2022060468, Palm Hollister Apartments Project, San Diego County**

Dear Morgan Dresser:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b))). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1))). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

**Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.**

[AB 52](#)



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AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

**1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:**

Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

- a. A brief description of the project.
- b. The lead agency contact information.
- c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
- d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).

**2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:** A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subs. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1 (b)).

- a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).

**3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

- a. Alternatives to the project.
- b. Recommended mitigation measures.
- c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).

**4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:

- a. Type of environmental review necessary.
- b. Significance of the tribal cultural resources.
- c. Significance of the project's impacts on tribal cultural resources.
- d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).

**5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).

**6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

- a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
- b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- a.** The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
  - b.** A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
- 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
- 9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- a.** Avoidance and preservation of the resources in place, including, but not limited to:
    - i.** Planning and construction to avoid the resources and protect the cultural and natural context.
    - ii.** Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
  - b.** Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
    - i.** Protecting the cultural character and integrity of the resource.
    - ii.** Protecting the traditional use of the resource.
    - iii.** Protecting the confidentiality of the resource.
  - c.** Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
  - d.** Protecting the resource. (Pub. Resource Code §21084.3 (b)).
  - e.** Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
  - f.** Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- a.** The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
  - b.** The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
  - c.** The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: [http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation\\_CalEPAPDF.pdf](http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf)

## SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: [https://www.opr.ca.gov/docs/09\\_14\\_05\\_Updated\\_Guidelines\\_922.pdf](https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf).

Some of SB 18's provisions include:

1. **Tribal Consultation**: If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation**. There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality**: Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation**: Consultation should be concluded at the point in which:
  - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
  - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

### NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center ([https://ohp.parks.ca.gov/?page\\_id=30331](https://ohp.parks.ca.gov/?page_id=30331)) for an archaeological records search. The records search will determine:
  - a. If part or all of the APE has been previously surveyed for cultural resources.
  - b. If any known cultural resources have already been recorded on or adjacent to the APE.
  - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
  - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
  - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
  - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
  - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
  
4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
  - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, § 15064.5(f) (CEQA Guidelines § 15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
  - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
  - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code § 7050.5, Public Resources Code § 5097.98, and Cal. Code Regs., tit. 14, § 15064.5, subdivisions (d) and (e) (CEQA Guidelines § 15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address:  
[Cody.Campagne@nahc.ca.gov](mailto:Cody.Campagne@nahc.ca.gov).

Sincerely,

*Cody Campagne*

Cody Campagne  
Cultural Resources Analyst

cc: State Clearinghouse



07/22/2022

**VIA EMAIL ONLY**

Morgan Dresser  
Development Services Department  
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San Diego, CA 92101  
[DSDEAS@sandiego.gov](mailto:DSDEAS@sandiego.gov)

**RE: NOP Comments for Palm & Hollister Apartments Project (No. 698277)**

Dear Ms. Dresser,

San Diegans for Sustainable Economic and Equitable Development (“SD SEED”) appreciates the opportunity to comment on the Notice of Preparation (“NOP”) for environmental review of the Palm & Hollister Apartments Project (the “Project”). The Project applicant is Ambient Communities.

The proposed Project consists of the demolition of a vacant residential structure and out-buildings to construct a total of 198 residential units, including eight affordable units, in 13 buildings.

The NOP identifies the Project’s potentially significant impacts under CEQA to include Land Use, Transportation/Circulation, Visual Quality/Neighborhood Character, Biological Resources, Historical Resources, Tribal Cultural Resources, Air Quality, Greenhouse Gas Emissions, Energy, Geologic Conditions, Noise, Hydrology, Water Quality, Public Services and Facilities, Public Utilities, and Health and Safety. SD SEED respectfully requests, under CEQA complete analysis of these impacts, imposition of all feasible mitigation and study of a reasonable range of alternatives, including at least two environmentally superior alternatives to the Project.

**I. General Comments**

After reviewing the information provided, the following comments are being submitted for consideration as part of the EIR process.

a) **Project Description & Baseline:** An erroneous project description and baseline can lead to masking potentially significant impacts. Therefore, in order to reflect a good faith effort at full disclosure, the DEIR must provide a detailed description of the “real conditions on the ground” and use these physical conditions as the baseline to assess the significance of the Project’s impacts. The California Supreme Court, in *Communities for a Better Environment v. South Coast Air Quality Management District*, recognized that “the baseline ‘normally’ consists of ‘the physical environmental conditions in the vicinity of the project, as they exist at the time ... environmental analysis is commenced.... *CBE v. SCAQMD*, supra, 48 Ca.4th 310, 327–328, citing Guidelines, § 15125, subd. (a).

In addition, the Project objectives should not be crafted in a manner that limits the range of alternatives considered.

b) **Air Quality:** Estimates of the significance of air quality impacts on public health must be consistent with current epidemiological studies regarding the effects of pollution and various kinds of environmental stress on public health. The DEIR must therefore include a Health Risk Assessment (HRA). The HRA should account for operational phase emission sources such as backup generators, and on-site diesel-powered equipment.

c) **Mitigation measures:** Mitigation measures must be effective and enforceable and go beyond what is required by law to minimize impacts to the fully extent possible. Every effort must be made to incorporate modern technology in the mitigation measures and MMRP.

- For example, to mitigate air quality impacts during construction phase, the City should require that all off-road equipment and trucks using the site during construction and operations be zero emissions (ZE), near-zero emissions (NZE) or alternative-fueled vehicle would both reduce and/or eliminate air pollution impacts and CO2 emissions. The City can also limit the daily number of fuel-fueled trucks allowed at the Project during construction.

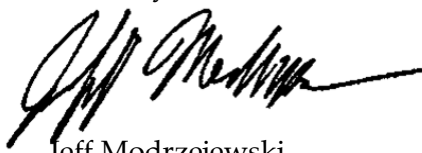
D) **Full Disclosure:** Provide all sources and referenced materials when the DEIR is made available.

## II. Conclusion

Thank you for the opportunity to submit NOP comments. Again, SD SEED respectfully requests under CEQA full analysis of the environmental impacts, feasible mitigation, and reasonable alternatives to the Project.

We look forward to reviewing and commenting on subsequent environmental review documents when these documents are released for public review.

Sincerely,



Jeff Modrzejewski  
*Interim Director of Outreach*