Section 3.3
Biological Resources

This section evaluates the existing biological resources setting and the potential effects caused by implementation of the proposed project, including impacts on sensitive species and habitat. The following discussion addresses the existing biological resources conditions of the affected environment, identifies and analyzes environmental impacts, and identifies measures to reduce or avoid adverse impacts anticipated from implementation of the project, as applicable.

The analysis in this section is substantially based on the *Biological Technical Report* prepared by ECORP Consulting, Inc. (2022; Appendix D). Third-party technical reports have been peer-reviewed by Michael Baker International and the City of Encinitas.

ENVIRONMENTAL SETTING

The project site is currently vacant and comprises two parcels located directly east of Interstate 5 (I-5) between Leucadia Boulevard and La Costa Avenue in the Leucadia community of Encinitas. The project site ("development area") would be developed with the proposed residential townhome uses and amenities. An off-site preserve area adjacent to the north would be preserved in perpetuity and left in its current state in order to mitigate for impacts resulting with future development of the project site.

The proposed "development area" considered, or project footprint, includes the proposed residential development and amenity area (on-site impacts), off-site improvements (i.e., off-site impacts) required by the City adjacent to the property along Piraeus Street and Plato Place, and the fuel modification zone (FMZ) which totals approximately 6.78 acres. The area where the residential uses are proposed lies entirely within the southern parcel (APN 254-144-01-00). The proposed off-site preserve area comprises the northern parcel (APN 216-110-35-00) and a small northern portion of the project site (APN 254-144-01-00), and totals approximately 5.51 acres. Refer also to Figure 3.3-1, Biological Study Area/Impacts.

Surrounding land uses include single-family residences to the east and south; Plato Place to the south; and Piraeus Street and I-5 to the west. Vacant land and La Costa Avenue are present to the north. Sky Loft Road traverses the off-site preserve area in an east-west direction.

The project site is approximately 0.9 miles east of California coastline and is located within the Coastal Zone. Topography of the site is relatively flat within the development area with slopes present along the western and northern edges. There is a steep drop where the development area meets the off-site preserve area. Within the preserve area, a steep slope occurs in a northeasterly direction. Elevation ranges from 15 feet to 175 feet above mean sea level across the project site.

Additionally, the project site is located within a Very High Fire Hazard Severity Zone (Caltrans n.d). As such, the establishment and maintenance of a FMZ to the north of the townhomes would be required as part of the project. The FMZ would include clearing/modifying trees and shrubs within 80 feet of the proposed habitable structures as a wildland fire safety measure.

Appendix D documents the biological surveys completed within and along the boundaries of the subject property. The biological assessment revealed that a number of special-status species have been previously recorded in the project vicinity. More detailed discussion of the potential presence of sensitive habitat, plants, and animal species on-site is provided below.

Literature Review

Project-related documentation was reviewed to collect site-specific data regarding habitat suitability for special-status species. Additional information was obtained from a variety of outside data sources. Preliminary database searches were performed on the following websites to identify special-status species with the potential to occur in the area (ECORP 2022; refer to Appendix D for additional details):

- U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS) *Web Soil Survey;*
- State and Federally Listed Endangered and Threatened Animals of California;
- Special Animals List;
- California Department of Fish and Wildlife's (CDFW) Vegetation Classification and Mapping Program;
- *The Jepson Manual: Vascular Plants of California;*
- *The Manual of California Vegetation, 2nd Edition;*
- US Fish and Wildlife Service (USFWS) Critical Habitat Portal and Information for Planning and Consultation (IPaC) Trust Resource List;
- USFWS National Wetland Inventory;
- North County Multiple Habitat Conservation Program (MHCP) (San Diego Association of Governments (SANDAG);
- Draft Encinitas Subarea Plan;
- Various online websites.

Field Reconnaissance

On March 10, 2022, the entire project site, as well as adjacent natural areas, were surveyed on foot by ECORP. Focused, protocol-level surveys were not conducted as part of the site visit due to the developed conditions of the site and results of the literature review. Plant and wildlife species observed during the survey were recorded, and representative photographs of the property were taken. The individuals who conducted the surveys, the date and time of the surveys, and survey conditions are available in the *Biological Technical Report*; refer to Appendix D.

Protocol Surveys

Focused surveys for rare plants and vegetation mapping were conducted from spring through summer of 2022. Four special-status plant species (California adolphia, wart-stemmed ceanothus, Engelmann oak, and ashy spike-moss) were identified within the project site and the 100-foot wide study are buffer. Refer to Attachment A of Appendix D.

Focused breeding season surveys for the coastal California gnatcatcher were conducted in the spring of 2022. The surveys confirmed the presence of this species on the project site. A total of five CAGN territories (two pair within the proposed development area, one territorial male within the off-site preserve area, and two pairs within the 500-foot survey buffer east of the property boundary and north of Sky Loft Road. A small portion of one of the gnatcatcher territories overlaps the northern preserve area; refer to Attachment B of Appendix D.

Additionally, focused surveys for Pacific pocket mouse were conducted in the summer of 2022 Results of the survey were negative. Refer to Attachment C of Appendix D.

Existing Conditions

Biological Setting

Vegetation Communities

The vegetation communities observed on the project site are characteristic of coastal sage scrub, chaparral, and grassland communities. The vegetation communities and land cover types present on-site in both the development area and the preserve area are depicted on Figure 3.3-2, Vegetation Communities and Land Cover Types within the Project Site, and described in further detail below. Refer to Appendix D for a complete list of plant species observed within the project site during the field surveys. Table 3.3-1 provides the acreage of each vegetation community/land use on-site in the development area and the off-site preserve area, with each discussed in detail following the table.

Table 3.3-1: Vegetation Communities and Land Covers within the Survey Area

Vegetation Communities and Land Covers (Oberbauer/MCV)	Development Area (Impact) (Acres)			Development Area (Impact) Total (Acres)	Preserve Area (No Impact) (Acres)		SDG&E Easement	Total (Acres)
	On-site	Off-site Improvements	FMZ		On-site (Acres)	Off-site Adjacent (Acres)		
Diegan Coastal Sage Scrub/ California Sagebrush-California Buckwheat Scrub	0.77	0.16	-	0.93	-	-	-	0.93
Diegan Coastal Sage Scrub/Brittle Bush Scrub	-	-	-	-	-	2.43	-	2.43
Diegan Coastal Sage Scrub/ Lemonade Berry Scrub1	-	-	-	-	-	0.71	-	0.71
Southern Mixed Chaparral/ Chamise-Mission Manzanita Chaparral1	0.65	<0.01	0.48	1.13	0.56	0.25	0.02	1.97
Coastal Scrub/ Deerweed Scrub	1.38	0.06	-	1.44	-	-	-	1.44
Nonnative Grassland/Annual Brome Grassland	-	-	-	-	-	1.38	-	1.38
Nonnative Riparian/Giant Reed Break	-	-	-	-	-	0.18	-	0.18
Disturbed/ Disturbed	2.96	0.27	0.05	3.28	<0.01	-	-	3.28
			Total	**6.78**	**0.56**	**4.95**	**0.02**	**12.32**

[1] Sensitive vegetation community

Source: ECORP 2022 (see Appendix D).

Plants

Plant species observed on the project site were generally characteristic of coastal sage scrub, chaparral, and grassland communities; refer to Figure 3.3-3, Biological Survey Results - Plants. Non-native plant species observed on the project site were dominant within the grassland and disturbed areas, intermittently found within native vegetation communities. A full list of plant species observed on the project site is included in Attachment E of Appendix D.

Service Layer Credits: Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community Photo Source: NAIP

Michael Baker INTERNATIONAL

File: 189273Figures.indd

Source: ECORP Consulting, 10/25/2022

PIRAEUS POINT
ENVIRONMENTAL IMPACT REPORT

Biological Study Area/Impacts

Figure 3.3-1

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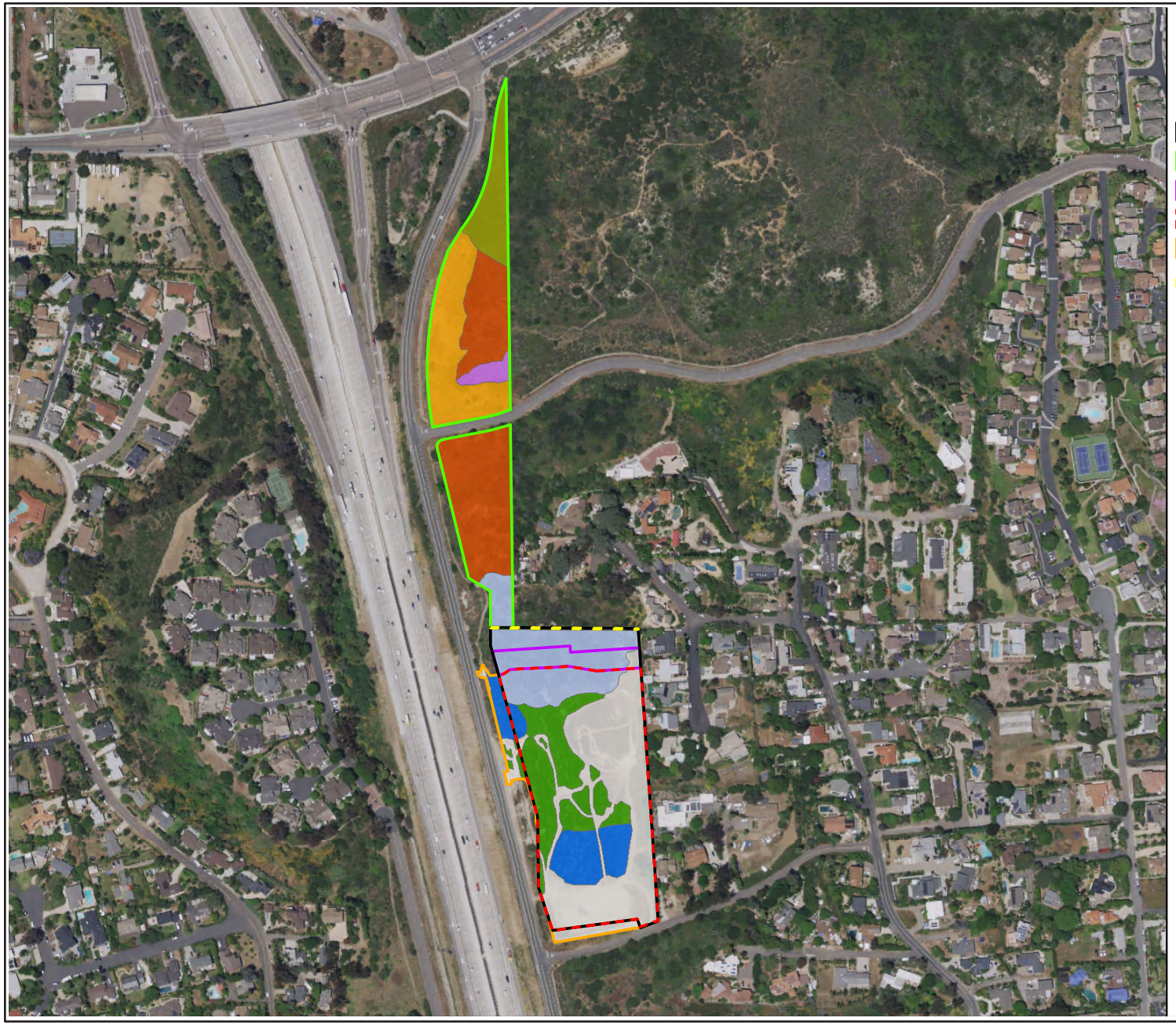

Map Content

- Project Boundary
- Offsite Adjacent Preserve Area
- FMZ
- Onsite Impacts
- Offsite Impacts
- SDGE Easement

Vegetation Communities and Land Cover Types

- MCV - Annual Brome Grasslands (*Bromus* [*diandrus*, *hordeaceus*]-*Brachypodium distachyon* Semi-Natural Herbaceous Stand) Oberbauer - Non-native Grassland (42200) **1.380 acres**
- MCV - California Brittle Bush Scrub (*Encelia californica* Shrubland Alliance) Oberbauer - Diegan Coastal Sage Scrub (32500) **2.430 acres**
- MCV - California sagebrush -California buckwheat scrub (*Artemisia californica-Eriogonum fasciculatum* Shrubland Alliance) Oberbauer - Diegan Coastal Sage Scrub (32500) **0.930 acres**
- MCV - Chamise-mission manzanita chaparral (*Adenostoma fasciculatum-Xylococcus bicolor* Shrubland Alliance) Oberbauer – Southern Mixed Chaparral (37120) **1.968 acres**
- MCV - Deerweed Scrub (*Lotus scoparius* Shrubland Alliance) Oberbauer - Coastal Scrub (32000) **1.441 acres**
- MCV - Giant Reed Break (*Arundo donax* Semi-Natural Herbaceous Stand) Oberbauer - Non-Native Riparian (65000) **0.176 acres**
- MCV - Lemonade Berry Scrub (*Rhus integrifolia* Shrubland Alliance) Oberbauer - Diegan Coastal Sage Scrub (32500) **0.713 acres**
- Disturbed **3.282 acres**

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Scale in Feet
0 300

Source: ECORP Consulting, Inc. 2022

PIRAEUS POINT
ENVIRONMENTAL IMPACT REPORT

Vegetation Communities and Land Cover Types

Figure 3.3-2

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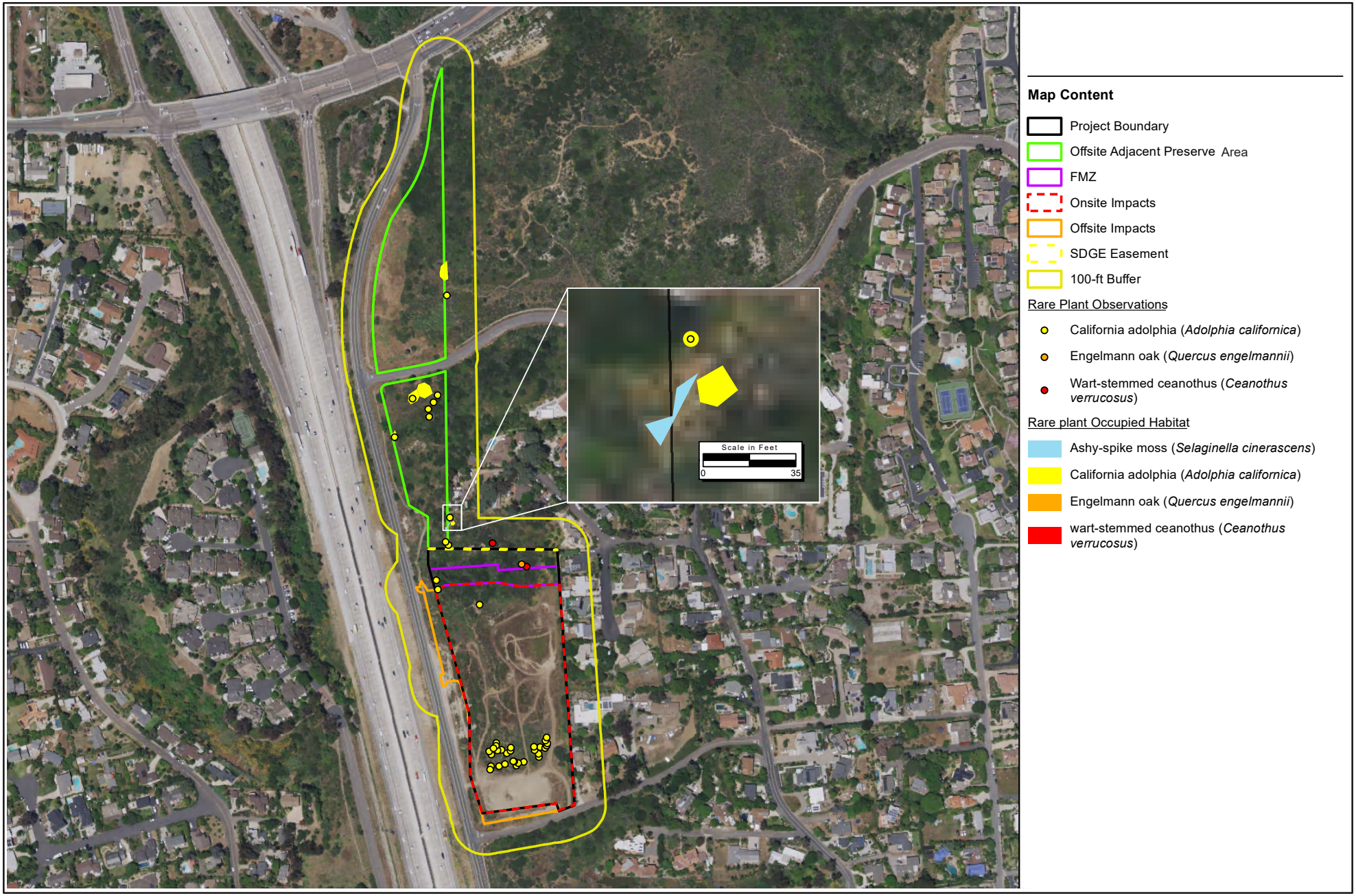

Michael Baker INTERNATIONAL

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Scale in Feet
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Source: ECORP Consulting, Inc. 2022

PIRAEUS POINT
ENVIRONMENTAL IMPACT REPORT

Biological Survey Results - Plants

Figure 3.3-3

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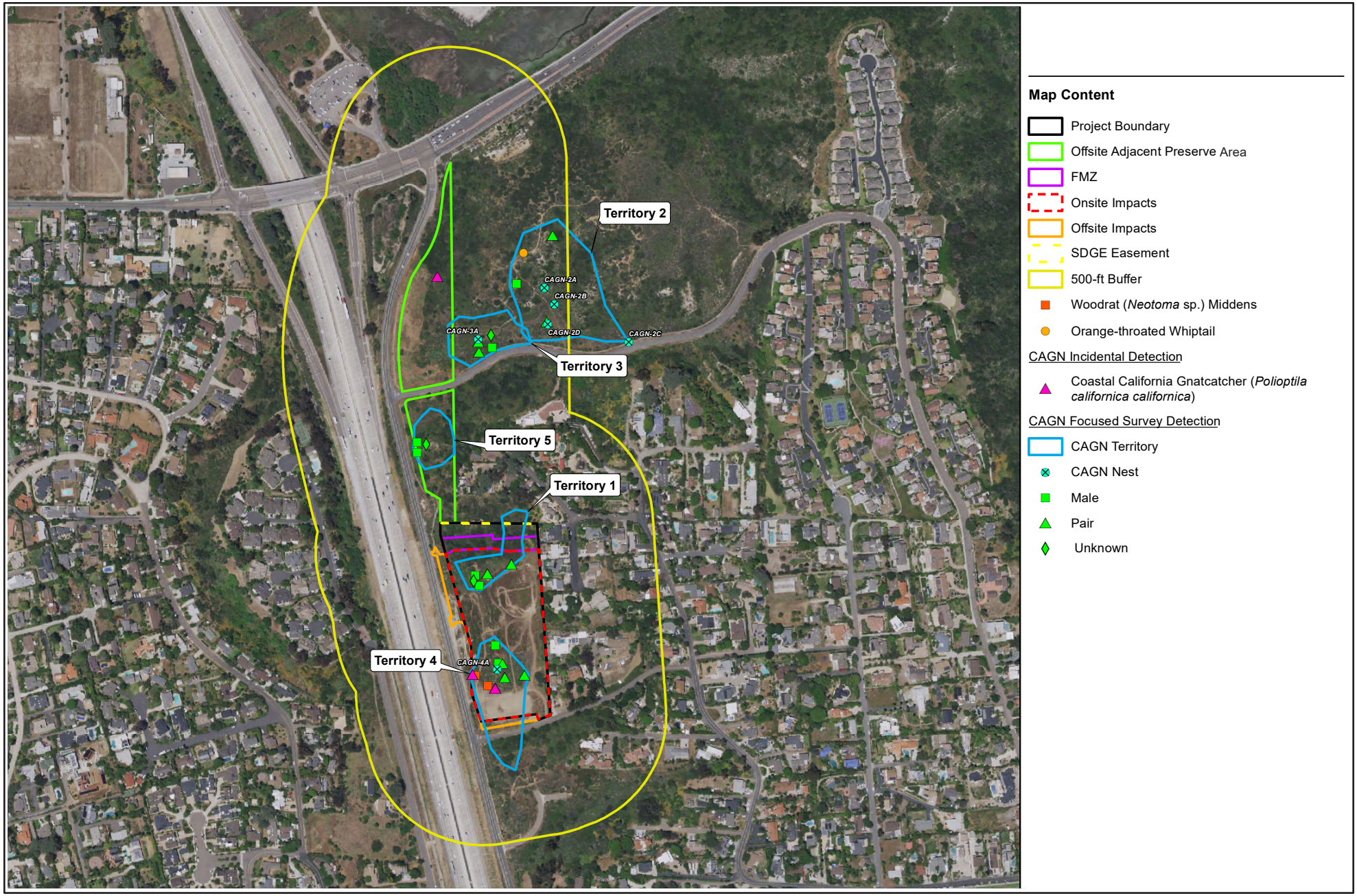

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Scale in Feet
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Source: ECORP Consulting, Inc. 2022

PIRAEUS POINT
ENVIRONMENTAL IMPACT REPORT

Biological Survey Results - Wildlife

Figure 3.3-4

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Development Area

The dominant vegetation community present throughout the Development Area is coastal scrub and disturbed land cover. Large trees are not present within the Development Area and a patch of coastal scrub is located within the center which transitions into Diegan coastal sage scrub along the slopes to the northwest and south. Southern mixed chaparral occupies the northern area and transitions into the preserve area. The majority of the off-site preserve area contains Diegan coastal sage scrub but also contains smaller portions of nonnative riparian and nonnative grassland communities. The FMZ to the north of the proposed development area is comprised of southern mixed chaparral. It should be noted that impacts occurring to southern mixed chaparral within the FMZ are included in the impact calculations.

Diegan Coastal Sage Scrub

The three MCV vegetation communities documented within the project site are California sagebrush-California buckwheat scrub, brittle bush scrub, and lemonade berry scrub. However, to consider the mitigation ratios of the MHCP and the Draft Subarea Plan (SAP), all three can be converted to Oberbauer's Diegan coastal sage scrub. Within the project area, this community was co-dominated with California sagebrush and California buckwheat.

Other species such as deerweed, lemonade berry, and coastal prickly pear were also present. Most shrubs were less than 2 meters tall on southern and western facing slopes. This vegetation community is located in the southern and northwestern portions of the Development Area, and within the middle and northern portions of the preserve area. Diegan coastal sage scrub is included in the Group C: coastal sage scrub habitat group under the MHCP and Draft SAP. Within the FPA, Diegan coastal sage scrub is required to be mitigated at a 2:1 ratio. (ECORP 2022). California sagebrush-California buckwheat scrub, one of the three MCV vegetation communities considered as Diegan coastal sage scrub, is not considered a sensitive natural community by CDFW, with a global rarity rank of G4 and state rarity rank of S4. The second MCV equivalent, brittle bush scrub, is also not considered a sensitive natural community with a global rarity rank of G5 and state rarity rank of S4. Finally, the last MCV equivalent, lemonade berry scrub, is considered a sensitive vegetation community with a global and state rarity rank of G3 and S3, respectively (ECORP 2022).

Southern Mixed Chaparral

Chamise-Mission Manzanita Chaparral an MCV classification, can be converted to Oberbauer's Southern Mixed Chaparral. It was found within the Development Area and preserve area. It is a chaparral community, which consists of mostly hard-woody shrubs less than 3 meters tall with an intermittent to continuous canopy. Dominant species within this community consisted of chamise and mission manzanita as a subdominant, but also consisted of laurel sumac, toyon, lemonade berry, and black sage. This vegetation community is located in the northern portion of

the development area and southern portions of the preserve area. Southern mixed chaparral is included in the Group D: Chaparral habitat group under the Draft SAP and MHCP. Within the FPA, southern mixed chaparral must be mitigated at a 1:1 ratio. CDFW considers chamise-mission manzanita chaparral as a sensitive vegetation community as this community has a global rarity rank of G4 and a state rank of S3 (ECORP 2022).

Coastal Scrub

Deerweed Scrub, an MCV classification, can be converted to Oberbauer's coastal scrub. This community is associated with moderate to dense scrub and was primarily dominated by deerweed within the development area. Other species included California sagebrush, coyote brush, and scattered individuals of California everlasting. Deerweed scrub/coastal scrub is included in the Group C: coastal scrub habitat group under the Draft SAP and MHCP. Within the FPA, coastal scrub must be mitigated at a 2:1 ratio. CDFW does not consider Deerweed Scrub a sensitive community, it has a global rarity rank of G5 and a state rarity rank of S5 (ECORP 2022).

Disturbed

The classification disturbed is a land cover type and not a vegetation classification. Areas mapped as disturbed were heavily altered due to human disturbance and were dominated by open areas, dirt paths, and nonnative weedy and ruderal vegetation. Dominant plant species of the disturbed areas of the Development Area were nonnative herbs including red-stemmed filaree, hottentot fig, and crystalline ice plant. Disturbed land cover type is included in the Group F: Other group under the Draft SAP and MHCP (ECORP 2022). CDFW does not consider disturbed as a vegetation community.

Off-site Preserve Area

Additional vegetation communities are present within the off-site preserve area. Southern mixed chaparral is the only vegetation community found within both the Development Area and preserve area and occurs at the boundary line between the two areas. Similarly, a small, disturbed area exists at the eastern boundary line between the two areas. The dominant vegetation communities present throughout the off-site preserve area are the Diegan coastal sage scrub community California brittle bush scrub and annual brome grassland. Multiple northern California black walnut trees and a few Mexican fan palms are present within the preserve area. In the northernmost portion of the off-site preserve area is Diegan coastal sage scrub. A patch of nonnative riparian occurs just north of Skyloft Road. Southern mixed chaparral occupies the southern-most area.

Nonnative Riparian

Giant reed break, an MCV classification, can be converted to Oberbauer's nonnative riparian community. This community is associated with a continuous canopy and usually associated with

riparian areas. Within the project area, this community was dominated by giant reed but also included castor bean and hottentot fig within a small portion of the preserve area. Nonnative riparian is included in the Group A: Wetland/Riparian under the Draft SAP and MHCP (ECORP 2022). CDFW considers nonnative riparian a semi-natural stand and a global and state rarity rank is not applicable (ECORP 2022). The water source for this vegetation community appears to be from urban runoff and this community would not be impacted by the project.

Nonnative Grassland

Annual brome grassland, an MCV classification, can be converted to Oberbauer's nonnative Grassland. This community is only present within the preserve area and was primarily dominated by ripgut brome. Other species included black mustard, foxtail brome, and red-stemmed filaree. nonnative grassland is included in the Group E: annual grassland habitat group under the Draft SAP and MHCP. CDFW considers nonnative grassland a semi-natural stand and a global and state rarity rank is not applicable (ECORP 2022).

Wildlife

The project site provides habitat for species adapted to coastal scrub environments. ECORP biologists observed 18 bird species during the reconnaissance survey and an additional 22 were observed over the course of focused wildlife surveys. Sign or presence of 10 mammal species, four reptile species, and eight insect species were also observed. Woodrat middens were identified within the Development Area that could potentially belong to the San Diego desert woodrat. San Diego desert woodrat is a special-status species that was confirmed during focused Pacific pocket mouse surveys. A full list of wildlife species observed on the project site is included in Attachment F of Appendix D.

Sensitive Habitats

Sensitive habitats include the following:

- Areas of special concern to resource agencies
- Areas that provide habitat for rare or endangered species which meet the definition of Section 15380 of the California Environmental Quality Act (CEQA) Guidelines
- Areas designated as sensitive natural communities by the CDFW
- Areas outlined in California Fish and Game Code (FGC) Section 1600
- Areas regulated under Clean Water Act Section 404
- Areas protected under Clean Water Act Section 401

- Areas protected under local regulations and policies

There are no Coastal Act designated Environmentally Sensitive Habitat Areas (ESHA) on the subject site. Further, *critical habitat* is a term from the federal Endangered Species Act (ESA) designed to guide actions by federal agencies (as opposed to state, local, or other agency actions) and defined as an area occupied by a species listed as threatened or endangered within which are found physical or geographical features essential to the conservation of the species, or an area not currently occupied by the species which is itself essential to the conservation of the species. Critical habitat is designated by the USFWS. There is no USFWS critical habitat for special-status plants mapped within or adjacent to the project area (see Appendix D).

Special-Status Species

Candidate, sensitive, or special-status species are commonly characterized as species that are at potential risk or actual risk to their persistence in a given area or across their native habitat. These species have been identified and assigned a status ranking by governmental agencies such as the CDFW or the USFWS and private organizations such as the CNPS. The degree to which a species is at risk of extinction is the determining factor in the assignment of a status ranking. Some common threats to a species' or population's persistence include habitat loss, degradation, and fragmentation, as well as human conflict and intrusion. For the purposes of the biological review, special-status species are defined by the following codes:

- Listed, proposed, or candidates for listing under the federal ESA (50 Code of Federal Regulations [CFR] 17.11 – listed; 61 Federal Register 7591, February 28, 1996, candidates)
- Listed or proposed for listing under the California ESA (FGC 1992 Section 2050 et seq.; 14 California Code of Regulations [CCR] Section 670.1 et seq.)
- Designated as Species of Special Concern by the CDFW
- Designated as Fully Protected by the CDFW (FGC Sections 3511, 4700, 5050, and 5515)
- Species that meet the definition of rare or endangered under CEQA (14 CCR Section 15380) including CNPS List Rank 1b and 2

Sensitive Plants

The literature review and database search identified 56 special-status plant species that have the potential to occur on or near the project site; refer to Appendix D. Additionally, one special-status plant species, California adolphia, was observed during the reconnaissance survey. Focused rare plant surveys confirmed number and locations of California adolphia populations and detected three additional special-status plant species: wart-stemmed ceanothus, Engelmann oak, and ashy spike-moss. All rare plant species observed within the Survey Area are designated as rare by the

CNPS. Wart-stemmed ceanothus and Engelmann oak are covered by the MHCP and Draft SAP. None of the rare plant species found within the survey area are state or federally listed. Refer also to Appendix D.

California Adolphia (CRPR 2B.1)

California adolphia is a dicot, a spiny shrub in the Rhamnaceae family that is native to California. Adolphia has a CNPS California Rare Plant Rank (CRPR) rating of 2B.1, 2B meaning that the species' distribution is "rare, threatened, or endangered in California but common elsewhere", and its threat rank of 0.1 defined as "seriously threatened in California." California adolphia is not covered by the Draft SAP or MHCP. This species was observed in the Southern Mixed Chaparral and Diegan Coastal Sage Scrub vegetation communities. Based on extent of occupied habitat, this was the most prevalent rare plant species within the Survey Area. Approximately 154 individuals were documented within the Development Area (inclusive of 9 individuals within the FMZ) and 17 individuals within its 100-ft buffer. The off-site preserve area contains 103 individuals of California adolphia, and 53 individuals within its 100-foot buffer (ECORP 2022).

Wart-Stemmed Ceanothus (CRPR 2B.2, MHCP Covered)

Wart-stemmed ceanothus is a dicot, a shrub in the Rhamnaceae family that is native to California. Wart-stemmed ceanothus has a CRPR rating of 2B.2, with the same distribution description as California adolphia, and 0.2 threat rank described as "moderately threatened in California." Wart-stemmed ceanothus is a proposed covered species for the Draft SAP and is a MHCP covered species, which is subject to species-specific permit conditions outlined in Section 4, Volume II of the Final MHCP. This species was observed in the Southern Mixed Chaparral vegetation community. One wart-stemmed ceanothus was observed in the off-site preserve area and one other individual was documented within the 100-foot buffer of the preserve area (ECORP 2022).

Engelmann Oak (CRPR 4.2, MHCP Covered)

Engelmann oak is a dicot, a deciduous tree in the Fagaceae family that is native to California. Engelmann oak has a CRPR rating of 4.2, 4.0 meaning that the species distribution is limited and is referred to as a "watch list," and the same threat rank of wart-stemmed ceanothus. Engelmann oak is a proposed covered species for the Draft SAP and is a MHCP covered species, which is subject to species-specific permit conditions outlined in Section 4, Volume II of the Final MHCP. A single Engelmann oak was documented in the southern portion of the off-site preserve area, within Southern Mixed Chapparal (ECORP 2022).

Ashy Spike-Moss (CRPR 4.1)

Ashy spike-moss is a lycopod, a perennial rhizomatous herb in the Selaginellaceae family that is native to California. Ashy spike-moss has a CRPR rating of 4.1, with the same distribution description as Engelmann oak, and its threat rank of 0.1 defined as "seriously threatened in

California." Ashy spike-moss is not covered by the Draft SAP or MHCP. Approximately 500 individuals of ashy spike-moss were documented within the off-site preserve area and 250 individuals were documented within the 100-foot buffer of the proposed preserve area, in southern mixed chaparral (ECORP 2022).

Sensitive Wildlife

Results of the literature search and the reconnaissance-level survey identified 32 special-status wildlife species as having potential to occur on or in the vicinity of the project site. Five special-status wildlife species were determined present based on detections during the biological surveys; refer to Figure 3.3-4, Biological Survey Results - Wildlife. One special-status wildlife species was determined to have a high potential to occur, six species were determined to have a moderate potential to occur, and the remaining 20 species were determined to have a low potential to occur or were presumed absent. The special-status wildlife species observed or found to have a high or moderate potential to occur within the project site are listed below.

Coastal California Gnatcatcher

Coastal California gnatcatcher is a federally listed (threatened) species, a CDFW Species of Special Concern (SSC), and a covered species under the North County MHCP. Final designated critical habitat comprises the entirety of the project site. Several recent occurrences in the CNDDB have been recorded within 5 miles of the site; the most recent occurrence is approximately 0.8 miles southeast of the site in 2005. Additionally, this species was observed during previous studies of the site. The coastal sage scrub and chaparral habitats provide highly suitable habitat for this species. A pair of Coastal California gnatcatchers were observed within the coastal sage scrub community in the center of the development area during the reconnaissance survey. A single male was also observed in the coastal sage scrub of the preserve area during the reconnaissance survey (ECORP 2022).

Cooper's Hawk

Cooper's hawk is a CDFW Watch List species and is a covered species under the North County MHCP. It inhabits a variety of habitats from wooded areas of deep forests to leafy subdivisions. One individual was observed flying over the development area during the reconnaissance survey. Nesting habitat associated with this species occurs within the 500-foot buffer of the project site and to a lesser degree within the project site itself. Foraging habitat is present throughout the project site and buffer. No active nests for this species were observed within the area (ECORP 2022).

Monarch Butterfly

The California overwintering population of monarch butterfly is a candidate species for listing under the federal ESA. This species inhabits a variety of habitats and has a reliance on milkweeds

as its obligate larval host plant. No milkweed plants were observed within the project site. The overwintering population is known to have a preference for and dependency on non-native trees planted in the mild coastal zone. This species was observed within the preserve area of the project site but likely during a migratory effort as the project site does not contain overwintering habitat.

San Diego Desert Woodrat

San Diego desert woodrat is a CDFW SSC. This species inhabits a variety of habitats including chaparral, coastal sage scrub, Riversidean alluvial fan sage scrub, and desert scrubs. Their range includes southern California and the Great Basin, Mojave and Colorado deserts. Woodrats build large dens known as middens which consist of vegetation and woody materials. A midden was observed within the Development Area during the reconnaissance survey that could be occupied by this species. This species was incidentally captured, identified, and safely released during focused 2022 Pacific pocket mouse trapping surveys (ECORP 2022).

Orange-throated Whiptail

Orange-throated whiptail is a CDFW Watch List (WL) species and an MHCP covered species. This species inhabits semi-arid brushy areas typically with loose soil and rocks, including washes, stream sides and coastal chaparral. Its range extends from the southern edges of Orange and San Bernardino Counties to coastal areas of San Diego County. This species was observed adjacent to the preserve area during the focused coastal California gnatcatcher surveys for the project (ECORP 2022).

Migratory Birds

Potential nesting habitat for migratory birds and raptors protected by the Migratory Bird Treaty Act (MBTA) and California FGC, including the special-status bird species present or with potential to occur on the project site (i.e., coastal California gnatcatcher, Cooper's hawk, southern California rufous-crowned sparrow, and Bell's sage sparrow), is present on the project site and adjacent areas in the larger shrubs and nearby anthropogenic structures (e.g., wooden utility poles, nearby buildings). Additionally, suitable habitat for ground-nesting species, such as mourning dove, is present throughout the site. The coastal sage scrub and chaparral habitats provide suitable nesting habitat for bird species. Raptors typically breed between February and August, and songbirds and other passerines generally nest between March and August. While suitable nesting habitat for raptors is limited on the project site due to the lack of large solitary trees or other perching and nesting structures, nearby buildings and wooden utility poles are present in the areas surrounding the project site. An active red-tailed hawk nest was identified just outside of the 500-foot buffer of the project site to the south (see Appendix D).

Jurisdictional Waters

Jurisdictional waters of the State and waters of the United States, along with isolated wetlands, serve a variety of functions for plants and wildlife. Wetlands and other water features provide habitat, foraging, cover, and migration and movement corridors for both special-status and common species. In addition to habitat functions, these features physically convey surface water flows and are capable of handling large stormwater events. Based on the field survey and literature review, no jurisdictional wetlands and/or waterways occur within the project site.

Wildlife Movement Corridors, Linkages, and Significant Ecological Areas

The concept of habitat corridors addresses the linkage between large blocks of habitat that allow the safe movement of mammals and other wildlife species between habitat areas. The definition of a corridor varies; however, corridors may include areas such as greenbelts, refuge systems, underpasses, and biogeographic land bridges. In general, a corridor is described as a linear habitat, embedded in a dissimilar matrix, which connects two or more large blocks of habitat. Wildlife movement corridors are critical for the survivorship of ecological systems for several reasons. Corridors can connect water, food, and cover sources, spatially linking these three resources with wildlife in different areas. In addition, wildlife movement between habitat areas provides for the potential of genetic exchange between wildlife species populations, thereby maintaining genetic variability and adaptability to maximize the success of wildlife responses to changing environmental conditions. This is especially critical for small populations subject to loss of variability from genetic drift and effects of inbreeding. The nature of corridor use and wildlife movement patterns varies greatly among species.

The project site is within an identified Biological Core and Linkage Area (BCLA) under the MHCP but not within a defined wildlife corridor The project site is located within the La Costa *softline* Focused Planning Area (FPA), a planning area delineated by the City of Encinitas as part of their Draft Subarea Plan. The Draft Subarea Plan is based on policies outlined in the North County MHCP. The FPAs consist of a combination of *hardline* preserves (i.e., lands that will be conserved and managed for biological resources) and *softline* planning areas (i.e., within which preserve areas will ultimately be delineated based on further data and planning). The City of Encinitas specifies: “For softlined areas, which do not have development approvals, development and conservation standards and criteria will be applied to achieve the projected conservation” (ECORP 2022).

The project site was assessed for its ability to function as a wildlife corridor. The preserve area provides unlimited wildlife movement opportunities due to its connectivity to open space to the northeast and adjacency to Batiquitos Lagoon. The off-site preserve area contains vegetation structure and topography that does provide unique or additional vegetative cover or shelter from adjacent areas, which is a characteristic of wildlife corridor areas. The development area’s value

as a corridor is lower because a majority of the development area is sparse, disturbed land cover bordered by residential development. The coastal sage scrub within the center of the development area provides a noncontiguous connection to the dense chaparral habitat at the north end of the development area, which transitions into the preserve area; therefore south–north movement is established. The presence of I-5 west of the project site and residential development to the east and southeast likely block east-west movement through the area.

REGULATORY FRAMEWORK

Federal

Endangered Species Act

The federal Endangered Species Act provides the legal framework for the listing and protection of species (and their habitats) identified as being endangered or threatened with extinction. Actions that jeopardize endangered or threatened species and the habitats upon which they rely are considered a "take" under the ESA. Take of a federally listed threatened or endangered species is prohibited without a special permit. The ESA allows for take of a threatened or endangered species incidental to development activities once a habitat conservation plan has been prepared to the satisfaction of the USFWS and an incidental take permit has been issued. The ESA also allows for the take of threatened or endangered species after consultation has deemed that development activities will not jeopardize the continued existence of the species. The federal ESA also provides for a Section 7 consultation when a federal permit is required, such as a Clean Water Act Section 404 permit.

Clean Water Act

Section 401 of the federal Clean Water Act (CWA) requires any applicant for a federal license or permit that is conducting any activity that may result in a discharge of a pollutant into waters of the United States to obtain a certification that the discharge will comply with the applicable effluent limitations and water quality standards. The appropriate Regional Water Quality Control Board (RWQCB) regulates Section 401 requirements.

CWA Section 404 prohibits the discharge of dredged or fill material into waters of the United States without a permit from the US Army Corps of Engineers (USACE). The USACE and the US Environmental Protection Agency administer the act. In addition to streams with a defined bed and bank, the definition of waters of the United States includes wetland areas "that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically

adapted for life in saturated soil conditions" (33 CFR 328.3 7b). The lateral extent of non-tidal waters is determined by delineating the ordinary high-water mark (33 CFR Section 328.4[c][1]).

Substantial impacts to jurisdictional wetlands may require an individual permit. Small-scale projects may require a nationwide permit, which typically has an expedited process compared to the individual permit process. Mitigation of wetland impacts is required as a condition of the 404 permit and may include on-site preservation, restoration, and/or enhancement and/or off-site restoration or enhancement. The characteristics of restored or enhanced wetlands must be equal to or better than those of the affected wetlands to achieve no net loss of wetlands.

Migratory Bird Treaty Act

The MBTA implements international treaties between the United States and other nations devised to protect migratory birds, their parts, eggs, and nests from activities such as hunting, pursuing, capturing, killing, selling, and shipping, unless expressly authorized in the regulations or by permit. The State of California has incorporated the protection of birds of prey in FGC Sections 3800, 3513, and 3503.5.

All raptors and their nests are protected from take or disturbance under the MBTA (16 United States Code [USC] Section 703 et seq.) and California statute (FGC Section 3503.5).

State

California Endangered Species Act

The California ESA establishes the state's policy to conserve, protect, restore, and enhance threatened or endangered species and their habitats. The California ESA mandates that state agencies not approve projects that would jeopardize the continued existence of threatened or endangered species if reasonable and prudent alternatives are available that would avoid jeopardy. There are no state agency consultation procedures under the California ESA. For projects that affect both a state and federal listed species, compliance with the federal ESA will satisfy the California ESA if the CDFW determines that the federal incidental take authorization is "consistent" with the California ESA under Fish and Game Code Section 2080.1. For projects that will result in a take of a state-only listed species, the project proponent must apply for a take permit under Section 2081(b).

State Water Resources Control Board/Regional Water Quality Control Board

For Waters of the State that are federally regulated under the Clean Water Act, the State Water Resources Control Board (through its RWQCBs) must provide state water quality certification pursuant to CWA Section 401 for activities requiring a federal permit or license that may result in discharge of pollutants into Waters of the United States. Where no federal jurisdiction exists

over Waters of the State, the State Water Resources Control Board (through its RWQCBs) retains regulatory authority to protect water quality through provisions of the Porter-Cologne Water Quality Control Act through application for or waiver of waste discharge requirements.

California Fish and Game Code

Native Plant Protection Act

The Native Plant Protection Act (FGC Sections 1900–1913) prohibits the take, possession, or sale within the state of any plants with a state designation of rare, threatened, or endangered (as defined by the CDFW). An exception in the act allows landowners, under specified circumstances, to take listed plant species, provided that the owners first notify the CDFW and give that State agency at least 10 days to retrieve the plants before they are plowed under or otherwise destroyed (FGC Section 1913). Impacts to these species are not considered significant unless the species are known to have a high potential to occur within the area of disturbance associated with construction of a proposed project.

Birds of Prey

Under FGC Section 3503.5, it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto.

Sensitive Vegetation Communities

Sensitive vegetation communities are natural communities and habitats that are unique, of relatively limited distribution in the region, or of particularly high wildlife value. These resources have been defined by various federal, state, and local conservation plans, policies, or regulations. The CDFW ranks sensitive communities as threatened or very threatened and keeps records of their occurrences in the California Natural Diversity Database. The CDFW also identifies sensitive vegetation communities on its List of California Natural Communities Recognized by the CNDDB. Impacts to sensitive natural communities and habitats identified in local or regional plans, policies, and regulations, or by federal or state agencies, must be considered and evaluated under CEQA.

Species of Special Concern

Species of special concern are broadly defined as animals not listed under the California ESA, but which are nonetheless of concern to the CDFW because they are declining at a rate that could result in listing, or historically occurred in low numbers and known threats to their persistence currently exist. This designation is intended to result in special consideration for these animals by the CDFW, land managers, consulting biologists, and others, and is intended to focus attention

on the species to help avert the need for listing under the California ESA and recovery efforts that might ultimately be required. This designation also is intended to stimulate collection of additional information on the biology, distribution, and status of poorly known at-risk species and to focus research and management attention on them. Although these species generally have no special legal status, they are given special consideration under CEQA during project review. Species of special concern are included in the list of Special Animals List tracked by the CNDDB.

Porter-Cologne Water Quality Control Act

The Porter-Cologne Water Quality Control Act defines waters of the State as any surface water or groundwater, including saline waters, within the boundaries of the state. The RWQCBs protect all waters in their regulatory scope, but have special responsibility for isolated wetlands and headwaters. These water bodies have high resource value, are vulnerable to filling, and may not be regulated by other programs, such as CWA Section 404. The RWQCBs regulate waters of the State under the Water Quality Certification Program, which regulates discharges of dredged and fill material under CWA Section 401 and the Porter-Cologne Water Quality Control Act.

Projects that require a USACE permit, or fall under other federal jurisdiction, and have the potential to impact waters of the State are required to comply with the terms of the Water Quality Certification Program. If a proposed project does not require a federal license or permit, but involves activities that may result in a discharge of harmful substances to waters of the State, the applicable RWQCB has the option to regulate such activities under its state authority in the form of waste discharge requirements or certification of waste discharge requirements.

Lake and Streambed Alteration Program

FGC Section 1602 requires any person, state, or local governmental agency to notify the CDFW prior to initiating any activity that would: (1) divert or obstruct the natural flow of or substantially change or remove material from the bed, channel, or bank of any river, stream, or lake; or (2) result in the disposal or deposition of debris, waste, or other material into any river, stream, or lake. The state definition of “lakes, rivers, and streams” includes all rivers or streams that flow at least periodically or permanently through a well-defined bed or channel with banks that support fish or other aquatic life, and watercourses with surface or subsurface flows that support or have supported riparian vegetation.

Natural Community Conservation Planning Act

The Natural Community Conservation Planning Act (1991) is aimed at conservation of natural communities at the ecosystem scale while allowing for compatible land uses. The CDFW is primarily responsible for implementation of the act, which is intended to allow comprehensive

protection and management of wildlife species and provides for regional protection of natural wildlife diversity while allowing appropriate land development.

California Native Plant Society Rare or Endangered Plant Species

Vascular plants listed as rare or endangered by the CNPS, but which have no designated status under state or federal endangered species legislation, are defined as follows:

- List 1B: Plants rare, threatened, or endangered in California and elsewhere
- List 2: Plants rare, threatened, or endangered in California, but more numerous elsewhere
- List 3: Plants about which more information is needed (a review list)
- List 4: Plants of limited distribution (a watch list)

Local

Multiple Habitat Conservation Program

The MHCP is a comprehensive, multiple jurisdictional planning program designed to develop an ecosystem preserve in northern San Diego County. Implementation of the regional preserve system is intended to protect viable populations of key sensitive plant and animal species and their habitats while accommodating continued economic development and quality of life for residents of the North County region. The MHCP is one of several large multiple-jurisdictional habitats planning efforts in San Diego County, each of which constitutes a subregional plan under the California Natural Community Conservation Planning Act of 1991. The MHCP includes seven incorporated cities in northwestern San Diego County: Carlsbad, Encinitas, Escondido, Oceanside, San Marcos, Solana Beach, and Vista. These jurisdictions will implement their respective portions of the MHCP through "subarea" plans, which describe the specific implementing mechanisms each city will institute for the MHCP. The goal of the MHCP is to conserve approximately 19,000 acres of habitat, of which roughly 8,800 acres (46 percent) are already in public ownership and contribute toward the habitat preserve system for the protection of more than 80 rare, threatened, or endangered species.

City of Encinitas Draft Subarea Plan

The City's Draft Subarea Plan addresses how the City would conserve natural biotic communities and sensitive plant and wildlife species under the MHCP framework. The Draft Subarea Plan would provide regulatory certainty to landowners in the City and aid in conserving the region's biodiversity and enhancing the quality of life. The Draft Subarea Plan addresses potential impacts

to natural habitats and rare, threatened, or endangered species caused by development planned within the City. The Draft Subarea Plan also forms the basis for Implementing Agreements, which act as legally binding agreements between the City and the wildlife agencies that ensure implementation of the Subarea Plan and provide the City with state and federal take authority.

City of Encinitas General Plan

The City of Encinitas General Plan is the primary source of long-range planning and policy direction used to guide growth and preserve the quality of life in Encinitas. The General Plan states that a goal of the City is to analyze proposed land uses to ensure that the designations would contribute to a proper balance of land uses within the community. Relevant goals and policies pertaining to biological resources include the following:

Resource Management Element

GOAL 3: **The City will make every effort possible to preserve significant mature trees, vegetation and wildlife habitat within the Planning Area.**

Policy 3.1: Mature trees of community significance cannot be removed without City authorization.

Policy 3.2: Mature trees shall not be removed or disturbed to provide public right-of-way improvements if such improvements can be deferred, redesigned, or eliminated. This policy is not meant to conflict with establishment of riding/hiking trails and other natural resource oaths for the public good, or with the preservation of views.

Policy 3.6: Future development shall maintain significant mature trees to the extent possible and incorporate them into the design of development projects.

GOAL 10: **The City will preserve the integrity, function, productivity, and long-term viability of environmentally sensitive habitats throughout the City, including kelp-beds, ocean recreational areas, coastal water, beaches, lagoons and their up-lands, riparian areas, coastal strand areas, coastal sage scrub, and coastal mixed chaparral habitats.**

Policy 10.1: The City will minimize development impacts on coastal mixed chaparral and coastal sage scrub environmentally sensitive habitats by preserving within the inland bluff and hillside systems, all native vegetation on natural slopes of 25 percent grade and over other than manufactured slopes. A deviation from this policy may be permitted only upon a finding that strict application thereof would preclude any reasonable use of the property

(one dwelling unit per lot). This policy shall not apply to construction of roads of the City's circulation element, except to the extent that adverse impacts on habitat should be minimized to the degree feasible.

Policy 10.5: The City will control development design on Coastal Mixed Chaparral and Coastal Sage Scrub environmentally sensitive habitats by including all parcels containing concentrations of these habitats within the Special Sturdy Overlay designation. The following guidelines will be used to evaluate projects for approval.

- Conservation of as much existing contiguous area of Coastal Mixed Chaparral or Coastal Sage Scrub as feasible while protecting the remaining areas from highly impacting uses;
- Minimize fragmentation or separation of existing contiguous natural areas;
- Connection of existing natural areas with each other or other open space areas adjacent to maintain local wildlife movement corridors;
- Maintenance of the broadest possible configuration of natural habitat area to aid dispersal of organisms within the habitat;
- Where appropriate, based on community character and design, clustering of residential or other uses near edges of the natural areas rather than dispersing such uses within the natural areas;
- Where significant, yet isolated habitat areas exist, development shall be designed to preserve and protect them;
- Conservation of the widest variety of physical and vegetational conditions on site to maintain the highest habitat diversity;
- Design of development, with adjacent uses given consideration, to maximize conformance to these guidelines; and
- Preservation of rare and endangered species on site rather than by transplantation off-site.

Policy 10.6: The City shall preserve and protect wetlands within the City's planning area. "Wetlands" shall be defined and delineated consistent with the

definitions of the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, the Coastal Act and the Coastal Commission Regulations, as applicable, and shall include, but not be limited to, all lands which are transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water.

There shall be no net loss of wetland acreage or resource value as a result of land use or development, and the City's goal is to realize a neat gain in acreage and value whenever possible.

Within the Coastal Zone, the diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted where there is no feasible less environmental damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following newly permitted uses and activities:

- Incidental public service projects.
- Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.
- Restoration purposes.
- Nature study, aquaculture, or other similar resource dependent activities.

Identification of wetland acreage and resource value shall precede any consideration of use or development on sites where wetlands are present or suspected. With the exception of development for the primary purpose of the improvement of wetland resource value, all public and private use and development proposals which would intrude into, reduce the resource value of wetlands shall be subject to alternatives and mitigation analyses consistent with Federal EPA 404(b) (1) findings and procedures under the U.S. Army Corps permit process. Practicable project and site development alternatives which involve no wetland intrusion or impact shall be preferred over alternatives which involve intrusion or impact. Wetland mitigation, replacement or compensation shall not be used to offset impacts or intrusion avoidable through other practicable project or site development alternatives. When wetland intrusion or impact is unavoidable, replacement of the lost wetland shall be required through

the creation of new wetland of the same type lost, at a ratio determined by regulatory agencies with authority over wetland resources, but in any case, at a ratio of greater than one acre provided for each acre impacted so as to result in a net gain. Replacement of wetland on-site or adjacent, within the same wetland system, shall be given preference over replacement off-site or within a different system.

The City shall also control use and development in surrounding areas of influence to wetlands with the application of buffer zones. At a minimum, 100-foot wide buffers shall be provided upland of saltwater wetlands, and a 50-foot wide buffers shall be provided upland of riparian wetlands. Unless otherwise specified in this plan, use and development within buffer areas shall be limited to minor passive creational uses with fencing, desiltation or erosion control facilities, or other improvements deemed necessary to protect the habitat, to be located in the upper (upland) half of the buffer area when feasible.

City of Encinitas General Plan Housing Element 2019

In March 2019, the City Council adopted the General Plan Housing Element Update (HEU), which provides the City with a coordinated and comprehensive strategy for promoting the production of safe, decent, and affordable housing for all within the City. The purpose of the HEU is to ensure that the City establishes policies, procedures, and incentives to increase the quality and quantity of the housing supply in the City. The Housing Element Update 2019 includes the 2013–2021 HEU and a series of discretionary actions to update and implement the City's Housing Element. The City received Local Coastal Program Amendment approval for the HEU from the California Coastal Commission in September 2019, and certification from the California Department of Housing and Community Development in October 2019. Relevant policies and goals related to biological resources are provided below:

GOAL 2: **Sound housing will be provided in the City of Encinitas for all persons.**

Policy 2.4: Coordinate the provision of open areas in adjoining residential developments to maximize the benefit of the open space.

Policy 2.5: Encourage street planting, landscaping, and undergrounding of utilities.

Policy 2.7: Discourage residential development of steep slopes, canyons, and floodplains.

STANDARDS OF SIGNIFICANCE

An evaluation of the significance of potential impacts on biological resources must consider both direct effects to the resource and indirect effects in a local or regional context. Potentially significant impacts would generally result in the loss of a biological resource or obvious conflict with local, state, or federal agency conservation plans, goals, policies, or regulations. Actions that would potentially result in a significant impact locally may not be considered significant under CEQA if the action would not substantially affect the resource on a population-wide or region-wide basis.

Thresholds of Significance

The following thresholds of significance are based on CEQA Guidelines Appendix G. For purposes of this EIR, the proposed project may have a significant adverse impact on biological resources if it would:

- Have a substantial adverse 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 the California Department of Fish and Wildlife or US Fish and Wildlife Service.
- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the California Department of Fish and Wildlife or US Fish and Wildlife Service.
- Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.
- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites.
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.
- Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.

PROJECT IMPACTS AND MITIGATION

HAVE A SUBSTANTIAL ADVERSE EFFECT ON CANDIDATE, SENSITIVE, OR SPECIAL-STATUS SPECIES

Impact 3.3-1	**The project would have a potentially adverse 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 the California Department of Fish and Wildlife or US Fish and Wildlife Service. Impacts would be less than significant with mitigation incorporated.**

Results of the 2022 focused rare plant surveys identified four special-status plant species (California adolphia, wart-stemmed ceanothus, Engelmann oak, and ashy spike-moss) within the project area and its 100-foot buffer; refer to Figure 3.3-3, Biological Survey Results - Plants. Based on the Development Area boundaries, the project would directly impact 154 California adolphia individuals, nine of which occur within the FMZ. California adolphia has a CRPR rating of 2B.1. In addition, direct project-related impacts would remove 0.02 acre of occupied California adolphia habitat. Indirect impacts to rare or special-status plant species may occur due to habitat degradation and increased dust if present in the areas adjacent to the Development Area. The project has potential to indirectly impact 26 individuals of California adolphia, 1 wart-stemmed ceanothus, and 1 Engelmann oak if mitigation measures are not enacted. Both wart-stemmed ceanothus and Engelmann oak are covered by the MHCP and Draft SAP and have a CRPR rating of 2B.2 and 4.2 respectively. Impacts to rare plant species would be reduced to less than significant with the implementation of mitigation measures **BIO-1, BIO-2, BIO-3A** to **BIO-3B, BIO-5, BIO-6, BIO-7,** and **BIO-9~~7BIO-3, BIO-4,~~** and **~~BIO-7~~**.

As discussed previously, the results of the literature review and reconnaissance-level survey identified five special-status wildlife species present (monarch butterfly, orange-throated whiptail, coastal California gnatcatcher, Cooper's hawk, and San Diego desert woodrat), one species (southern California rufous crowned sparrow) was found to have a high potential to occur, and six species (southern California legless lizard, coastal whiptail, coast patch-nosed snake, Bell's sage sparrow, San Diego black-tailed jackrabbit, and northwestern San Diego pocket mouse) were found to have a moderate potential to occur (ECORP 2022). Refer also to Figure 3.3-4, Biological Survey Results - Wildlife.

If present, direct impacts to rare or special-status wildlife species may occur as a result of project in the form of mortality or injury due to ground-disturbing and vegetation removal activities within the Development Area. Indirect impacts to rare or special-status wildlife species may occur due to habitat degradation, edge effects, construction noise, and other associated construction activities if present in the areas adjacent to the Development Area. Impacts to special-status

wildlife species would be reduced to less than significant with implementation of mitigation measures **BIO-1**, BIO-2, BIO-4A to 4E, BIO-5, BIO-6, BIO-7, and BIO-9~~BIO-3, BIO-6, and BIO-7~~**.**

Additionally, migratory birds and raptors have the potential to nest and forage on and around the project site due to the presence of on-site vegetation and infrastructure (e.g., utility poles and existing buildings) adjacent to the project site. As such, the potential for project construction activities to indirectly affect migratory bird or raptor nesting cycles within and adjacent to the project site does exist. Such impacts would be considered potentially significant.

To reduce project effects, mitigation measure **BIO-5** would be implemented to require the project applicant to conduct a preconstruction survey for nesting birds and special-status ~~avian~~ species prior to the start of ground-disturbing activities. Since several bird species that nest year round were identified as having potential to occur on-site, regardless of time of year, preconstruction surveys for nesting birds and special-status avian species would be conducted if activities with the potential to disrupt these species are scheduled to occur. If active nests are identified in the construction area, a non-disturbance buffer (typically 300 feet for songbirds and 500 feet for raptors) would be established limiting construction activities within those areas. Impacts to special-status bird species would be less than significant with implementation of mitigation measure **BIO-5**.

The project provides nesting and foraging habitat for the federally listed threatened coastal California gnatcatcher. This species was observed within both the project site and the off-site preserve area during the reconnaissance survey. Focused protocol-level surveys determined two pairs occupying the project site, one territorial male occupying the preserve area south of Sky Loft Road, and two pair mostly within the 500-foot buffer east of the preserve area and north of Sky Loft Road. Direct impacts resulting from the project could occur to the coastal California gnatcatcher in the form of vegetation removal, and the loss of occupied Critical Habitat. Indirect impacts could occur to the species in the form of noise, ground vibrations, habitat degradation, increased human and pet activity and visual disturbances, and dust. The primary reasons for coastal California gnatcatcher population decline are habitat loss, degradation, and fragmentation due to urban development of coastal sage scrub habitats. Properties located in the Coastal Zone shall conserve a minimum of 75 percent of the coastal California gnatcatchers on-site. Conservation of gnatcatchers shall be determined in consultation with the wildlife agencies (ECORP 2022).

Impacts to coastal California gnatcatcher would be significant under CEQA. With implementation of mitigation measures **BIO-1**, BIO-2, BIO-4A to BIO-4E~~to BIO-3~~, and **BIO-5** to **BIO-9**, impacts would be reduced to less than significant.

Additionally, the project site provides only low-quality habitat for the federally listed endangered and state species of special concern Pacific pocket mouse. Focused survey results for this species were negative. Therefore, there would be no impact to this species due to project implementation (ECORP 2022).

Implementation of mitigation measures **BIO-1** through **BIO-9** would reduce the potential for the project to have a substantial adverse 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 the CDFW or USFWS. Impacts would be **less than significant with mitigation incorporated**.

Mitigation Measures:

BIO-1 **On- and Off-site Preservation of Sensitive Habitat.** The majority of preservation goals and required mitigation ratios for impacted vegetation communities (see Tables 3-3, 4-1, and 6-1 of the Biological Technical Report; ECORP Consulting, Inc., November 2022) shall be met through establishment of the on-site and off-site adjacent preserve area. Prior to grading, establishment of the preserve area shall preserve in place 5.51 acres (on-site/off-site), including 100% (0.71-acre) of California Department of Fish and Wildlife sensitive Diegan Coastal Sage Scrub/Lemonade Berry Scrub and 72% (0.81-acre) of California Department of Fish and Wildlife sensitive Southern Mixed Chaparral/Chamise-Mission Manzanita Chaparral (Table 3-4 of the Biological Technical Report; ECORP Consulting, Inc., November 2022). Preservation in perpetuity of the vegetation and habitat within the aforementioned preserve area shall occur and be set aside as an open space conservation easement in favor of the City of Encinitas. No trails shall be permitted within the open space conservation easement. In addition, prior to any grading, a long-term management plan shall be prepared for the mitigation areas, to the satisfaction of the City~~,~~ and the ~~wildlife~~ Wildlife A~~a~~gencies. The preserve management plan shall provide an entity and endowment funding to maintain the biological open space in perpetuity. Such entity shall approve the endowment amount based on a Property Analysis Record or similar cost estimation method. Additionally, the long-term management plan shall include provisions stating that any planting stock planned to be brought onto the project site shall first be inspected by a qualified pest inspector to ensure that it is free of pest species that could invade natural areas of the adjacent preserve area. Stock determined to be infested with pests shall be quarantined, treated, or disposed of according to best management practices provided by the pest inspector to prevent invasions into the adjacent preserve area.

All permanent lighting for the project adjacent to the preserve area shall be directed away from the preserve area, and lighting from the proposed residences adjacent to the preserve area shall be shielded with vegetation, as necessary.

BIO-2 **Biological Monitoring.** A qualified biologist (biological monitor) with experience monitoring for and identifying sensitive biological resources known to occur in the area shall be present during all staging, fencing, site preparation, vegetation clearing, and ground-disturbing activities related to the project ~~regardless of permit association~~to the satisfaction of the City, permit requirements, and other environmental commitments made.

~~A biological monitor shall be present to ensure wildlife species are relocated out of the impact area.~~ The biological monitor, with assistance from crews when necessary, shall ~~also~~ deconstruct woodrat middens prior to vegetation clearing within the Development Area. Woodrat middens within the Fire Management Zone shall be protected in place to the maximum extent practicable, but may be deconstructed if deemed a fire hazard.

Biological monitoring duties include, but are not limited to, conducting worker education training, verifying compliance with the project's biological resources protection requirements, and periodically monitoring the work area to ensure that work activities do not generate excessive amounts of dust and that impacts are restricted to the designation work areas. ~~ensuring project activities stay within designated work areas. The biologist~~ The biological monitor shall be responsible for providing a Worker Environmental Awareness Training program with required elements to the project prior to the start of staging and construction activities, and be responsible for verifying that the Worker Environmental Awareness Training program has been provided to all personnel working on the project prior to the start of staging or construction activities. ~~to all personnel working on the project prior to the start of ground-disturbing activities.~~ The training shall include: ~~,~~(i) the purpose for resource protection; (ii) a description of the gnatcatcher and its habitat; (iii) the compliance measures that should be implemented during project construction to conserve the sensitive resources, including strictly limiting activities, vehicles, equipment, and construction materials to the fenced project footprint to avoid sensitive resource areas in the field (i.e., avoided areas delineated on maps or on the project site by fencing); (iv) best management practices developed specifically for this project; (v) the protocol to resolve conflicts that may arise at any time during the construction process; and (vi) the general provisions of the environmental regulations that apply to the project, the need to adhere to the provisions of the Endangered Species Act, and the penalties

associated with noncompliance with the Act and other regulations. The project shall maintain documentation on the implementation of The Worker Environmental Awareness Training. This documentation shall include education program materials and a record of workers that received the materials and information~~but not be limited to, discussions of the sensitive biological resources associated with the project, project-specific measures to avoid or eliminate impacts to these resources, consequences for not complying with project permits and agreements, and contact information for the lead biologist. Attendees shall sign a sign-in sheet documenting their attendance at the training~~.

During ground-disturbing activities, including any vegetation removal within the Development Area and Fire Management Zone, the biological monitor shall have the right to halt all activities in the area affected if a special-status wildlife species is identified in a work area and is in danger of injury or mortality. If work is halted in the area affected as determined by the biological monitor, work shall proceed only after the hazard(s) to the individual is removed and the animal is no longer at risk, or the individual has been removed from harm's way in accordance with the project's permits and/or management/translocation plans. The biological monitor shall take representative photographs of the ~~daily~~ monitored activities and maintain a ~~daily~~ monitoring log that documents general project activities and compliance with the project's biological resources protection requirements. The biologist shall document non-compliances in the ~~daily~~ log, including any measures that were implemented to rectify the issue.

In order to ensure that the biological monitoring occurred during the grading phase of the project, a final biological monitoring report shall be prepared. The project biologist shall prepare the final biological monitoring report. The report shall substantiate the supervision of the grading activities, and confirm that grading or construction activities did not impact any additional areas or any other sensitive biological resources.

The report shall include the following items:

a. Photos of the fencing or temporary flagging that was installed during the trenching, grading, or clearing activities.

b. Monitoring logs showing the date and time that the monitor was on site.

c. Photos of the site after the grading and clearing activities.

The project biologist shall prepare the final report and submit it to the City for review and approval.

BIO-3A **Rare Plant Salvage and Avoidance.** Establishment of the off-site preserve area (mMitigation mMeasure **BIO-1**) shall result in avoidance and protection of 103 California adolphia in place. Nine California adolphia individuals identified within the fuel modification zoneFMZ shall be flagged prior to fuel reduction activities and avoided in place. Project-related impacts to 145 California adolphia individuals and 0.02-acre of California adolphia occupied habitat are anticipated to be unavoidable, therefore salvage of seed and donation to a City refuge or preserve, donation to a local native plant nursery, or propagation within an off-site mitigation area shall be required to the satisfaction of the City. A qualified biologist shall collect seed from the California adolphia during the appropriate time, store under appropriate conditions, and coordinate with the appropriate personnel to facilitate propagation of the seed. California adolphia individuals within the fuel modification zone (9 individuals) shall be flagged for avoidance by a qualified botanist prior to development and thinning of the fuel modification zone and a qualified botanist shall be present during vegetation thinning of the fuel modification zone to ensure avoidance is properly achieved. Run-off from the project shall be directed away from the off-site preserve area. Dust control measures shall be implemented during construction to minimize impacts to rare plants within the adjacent preserve area. (see mitigation measure **BIO-1**) as an ongoing requirement for long-term maintenance activities associated with the project, including annual maintenance of the fuel modification zone.

BIO-3B **Project Landscaping Best Management Practices.** Project landscaping shall be limited to the development area and shall not include nonnative plant species that may be invasive to adjacent native habitats. The California Invasive Plant Council's (IPC) "Invasive Plant Inventory" list shall be consulted to determine such nonnative plant species that are not to be included in project landscaping. Project landscaping adjacent to the preserve area shall not include species that require intensive irrigation, fertilizers, or pesticides, and run-off from the project shall be directed away from the offsite preserve area. The Applicant shall submit a draft list of species to be included in the landscaping to the Service at least 45 working days prior to initiating project landscaping and will allow the US Fish and Wildlife Service an opportunity to verify that no Cal-IPC invasive plants are proposed for use. The Applicant shall submit to the US Fish and Wildlife Service the final list of species to be included in the landscaping within 30 days of receiving concurrence on the draft list of species, if any changes are necessary. A list of prohibited

invasive species shall also be provided in the Homeowner Association's Covenants, Conditions, and Restrictions to the satisfaction of the US Fish and Wildlife Service.

BIO-4A **Coastal California Gnatcatcher Protection and Pre-Construction Breeding Season Surveys.** Focused surveys determined presence of this species on the project site. Project-related impacts to two pair~~s~~ (4 individuals) and their territories are unavoidable, therefore the project applicant shall obtain US Fish and Wildlife Service ~~FWS~~ approval pursuant to Section 10 of the federal Endangered Species Act for the impacts to the coastal California gnatcatcher prior to the issuance of any grading permits. The on-site preservation of sensitive habitat (see mitigation measure **BIO-1**) would preserve one single male coastal California gnatcatcher territory in place and a small portion of one additional breeding pair's territory. The preserve area would allow for the safe passage of the two displaced pairs of coastal California gnatcatchers to preserved habitat north of the project site and continuous with open space areas to the north, northeast (which includes at least one additional breeding pair of coastal California gnatcatchers within 500 feet of the off-site preserve area), and to Batiquitos Lagoon State Marine Conservation Area which functions to preserve important coastal-inland wildlife movement. If construction activities are planned within 500 feet of coastal sage scrub habitat during gnatcatcher breeding season, at least three pre-construction surveys shall be conducted a maximum of seven days prior to construction activities, one of which is to be performed the day immediately before beginning construction activities. The project shall require development of a Low-Effect Habitat Conservation Plan under Section 10 of the Endangered Species Act.

BIO-4B **Construction Best Management Practices.** During construction, best management practices shall be implemented to minimize impacts to the coastal California gnatcatcher and avoid attracting its predators. The project site shall be kept clear of debris, including food-related trash items, and pets of project personnel shall not be permitted on the project site.

BIO-4C **Coastal California Gnatcatcher Compliance Monitoring.** Due to the displacement of two pairs of coastal California gnatcatchers and the presence of suitable breeding habitat adjacent to the development, weekly compliance monitoring surveys shall be conducted by a 10(a)(1)(A) permitted gnatcatcher biologist throughout the coastal California gnatcatcher nesting season (February 15 to August 31) when initial vegetation removal, fence installation activities, and heavy construction activities are scheduled to occur within 500 feet of the preserve area(s) in order to avoid unanticipated impacts to this federally listed species

during the breeding season. Should an active coastal California gnatcatcher nest (e.g., nest with eggs or potential to hold eggs within one week, chicks, or fledglings still dependent on the nest) be found to occur within 500 feet of the project impact area, the Project Biologist shall establish a 500-foot buffer around the nest and will visibly flag the limits of the nest buffer in areas that overlap the project impact area. The contractor shall be immediately notified to stop work within the buffer and/or shift heavy construction activities to areas outside the 500-foot buffer until US Fish and Wildlife Service has been notified and noise monitoring measures below (mitigation measure **BIO-4D**) have been implemented.

Nest updates shall occur on a weekly basis to update the nest status (active/inactive) and stage (incubation, nestlings, etc.). If no nesting behavior is observed after two hours of continuous observation and the 10(a)(1)(A) permitted gnatcatcher biologist has significant reason to believe that the nest is no longer active, the nest shall be approached to determine the state of the nest. Binoculars shall be used to the greatest extent practical to confirm gnatcatchers are no longer exhibiting breeding behaviors or tending to the nest prior to approaching the nest directly to determine the nest's fate. The Project Biologist shall use the distance to the project impact area and local topography to determine if construction activities are likely to significantly disturb nesting activities. The Project Biologist shall implement further measures to alleviate disturbance, including establishment of a noise monitoring station, turning off vehicle engines and other equipment whenever possible to reduce noise, recommendations for deployment of a temporary sound/visual barrier, and, if minimization measures are insufficient, temporarily halting construction activities within 500 feet during critical nest stages when abandonment is most likely to occur (i.e., egg incubation). During this time, construction activities shall be directed to other areas farther than 500 feet from the active nest(s). Unrestricted construction activities may resume, with weekly compliance monitoring as described above, when the nest is deemed no longer active and no other active nests are found within 500 feet of the impact area.

BIO-4D **Coastal California Gnatcatcher Noise Monitoring.** Construction noise levels shall not exceed an hourly limit of 60 A-weighted decibel units (dBA) equivalent noise level or ambient level (whichever is greater) when construction is within 500 feet of an active nest. Noise monitoring shall be conducted daily when construction activities are scheduled to occur within 500 feet of an active coastal California gnatcatcher nest. Noise levels shall be monitored by a qualified biological monitor under the authority of the 10(a)(1)(A) permitted gnatcatcher biologist at a pre-

established noise meter station that has been selected by the 10(a)(1)(A) permitted gnatcatcher biologist (no closer than 30 feet from the nest and that replicates the distance, topography, and vegetative screening of the nest location in proximity to the project impact area). Measurements of noise levels shall be conducted in 1 minute intervals for at least 60 minutes per each measurement. Results of the noise monitoring shall be documented in the daily monitoring log and charted in a graph. Construction activities that exceed the 60-dB hourly threshold shall be halted by the noise monitor until effective noise reduction measures have been implemented or until the nest is deemed no longer active by the Project Biologist.

BIO-4E **Coastal California Gnatcatcher Resident Education Program.** Prior to occupation of the project site, a resident education program shall be developed to advise residents of the occurrence of coastal California gnatcatchers in the project area how to prevent adverse impacts to gnatcatchers resulting from insect pests or free-roaming pets; and potential penalties for killing, injuring, or harming the species. Informational pamphlets shall be distributed to each residence. The Applicant shall develop the resident education program in coordination with the US Fish and Wildlife Service as part of the Low-Effect Habitat Conservation Plan and Section 10 consultation process.

BIO-5 **Pre-Construction Survey for Nesting Birds and Special-Status ~~Avian~~ Species.** Where feasible, ground-disturbing activities, including vegetation removal, shall be conducted during the non-breeding season (approximately September 1 through ~~January~~ February 14) to avoid violations of the Migratory Bird Treaty Act and California Fish and Game Code §§3503, 3503.5 and 3513. Several species were identified as having potential to occur nest year-round; therefore, regardless of time of year, a pre-construction survey for nesting birds and special-status ~~avian~~ species shall be conducted by a qualified biologist (experienced in the identification of special-status ~~avian~~ species and conducting nesting bird surveys) if activities with the potential to disrupt nesting birds or impacting special-status avian species are scheduled to occur. The survey shall include the project and adjacent areas where project activities have the potential to cause nest failure or directly impact native wildlife. The pre-construction survey shall be conducted no more than three days prior to the start of ground-disturbing activities (including vegetation removal and fuel modification zone thinning) and repeated as necessary whenever these activities are scheduled to occur within the bird breeding season (February 15 through August 31 annually). ~~within the bird breeding season.~~ Site preparation and construction activities may begin if no

nesting birds or special-status ~~avian~~ species are observed during the survey. If nesting birds or raptors or special-status ~~avian~~ species are found to be present, biological monitoring in accordance with mitigation measure **BIO-~~3~~ 2** in addition to nest avoidance and minimization measures shall be implemented to avoid potential project-related impacts to the species. Avoidance and minimization measures shall be developed by the qualified biologist and may include seasonal work restrictions, additional nesting bird survey and nest monitoring requirements, and/or establishment of non-disturbance buffers around active nests until the biologist has determined that the nesting cycle is completed. The width of non-disturbance buffers established around active nests shall be determined by the qualified biologist (typically 300 feet for songbirds and 500 feet for raptors and listed species). The qualified avian biologist shall consider and have the authority to reduce or increase non-disturbance buffers based on vertical distances, species life history, sensitivity to disturbances, individual behavior and sensitivity to disturbances, nest stage (incubation, feeding nestlings, etc.), location of nest and site conditions, presence of screening vegetation or other features, ambient and ongoing construction activities at the time of nest establishment, and remaining project activities in the immediate area when determining non-disturbance buffers. Once nesting is deemed complete by the qualified biologist as determined through periodic nest monitoring, the non-disturbance buffer shall be removed by the qualified biologist and project work may resume in the area. The Pre-Construction Nesting Bird Survey shall be an ongoing requirement for long-term maintenance activities associated with the project, including annual maintenance of the fuel modification zone.

BIO-6 **Construction Fencing.** The limits of project impacts (including construction staging areas and access routes) shall be clearly delineated by the construction contractor under the direct supervision of a qualified biological monitor with bright orange plastic fencing, stakes, flags, or markers that shall be installed in a manner that does not impact habitats to be avoided, and such that they are clearly visible to personnel on foot and operating heavy equipment. Silt fence barriers shall be installed as required to prevent the spread of silt from the construction zone into adjacent habitats and aquatic features. Temporary construction fencing and markers shall be maintained in good repair until the completion of project construction. The applicant shall submit the final plans for project construction to the City for approval at least 30 days prior to initiating project impacts. The applicant shall also submit to the US Fish and Wildlife Service, at least 5 working days prior to initiating project impacts, the final plans for initial vegetation clearing

and project construction. These final plans shall include photographs that show the fenced limits of impact and areas to be impacted or avoided.

The construction team shall strictly limit their activities, vehicles, equipment, and construction materials to the fenced area (development footprint). All equipment maintenance, staging, and dispensing of fuel, oil, coolant, or any other such activities shall occur in designated areas within the fenced project impact limits. These designated areas shall be located in previously compacted and disturbed areas to the maximum extent practicable in such a manner as to prevent any runoff from entering adjacent open space and shall be shown on the construction plans. Equipment fueling shall take place within existing disturbed areas. Contractor equipment shall be checked for leaks prior to operation and repair, as necessary. "No-fueling" zones shall be designated on construction plans. If work occurs beyond the fenced limits of impact, all work shall cease until the problem has been remedied to the satisfaction of the US Fish and Wildlife Service. Temporary construction fencing and sediment trapping devices shall be removed upon project completion.

BIO-7 **Off-site Mitigation.** Prior to any grading, off-site mitigation shall be required for an additional 1.92 acres of impacts to sensitive and/or mitigated habitats not achieved within the preserve area including 1.60 acres of coastal sage scrub within the Coastal Zone and 0.32 acre of Southern Mixed Chaparral/Chamise-Mission Manzanita Chaparral. This can be achieved through purchasing of mitigation credits or acquiring additional land within the Coastal Zone. Because available land and established mitigation banks within the Coastal Zone are not available, and because the City of Encinitas Subarea Plan is still in draft form, purchasing of mitigation credits within a North County Multiple Habitat Planning Area mitigation bank (https://www.sandiegocounty.gov/content/sdc/pds/mitbnks.html) or at another City-approved preserve area in the process of being established shall be negotiated to the satisfaction of the City, California Department of Fish and Wildlife, and US Fish and Wildlife Service.

BIO-8 **Limited Building Zone Easement.** A Limited Building Zone Easement shall be granted to prohibit the building of structures that would require vegetation clearing within the protected biological open space for fuel management purposes. The easement must extend at least 100 feet from the Biological Open Space Boundary.

Grant to the City of Encinitas a limited building zone easement to the satisfaction of the City. The only exceptions to this prohibition are structures that do not

require fuel modification/vegetation management. The limited building zone easement shall also include language that rare plant avoidance within the limited building zone shall be required by requiring a biologist on site prior to any fuel management activities.

Prior to recordation of the Final Map, the applicant shall show the easement on the Final Map with the appropriate granting language on the title sheet concurrent with Final Map review.

BIO-9 **Open Space Signage.** In order to protect the proposed open space easement from entry, or disturbance, permanent fencing and signage shall be installed along the easement boundary as follows. Such fencing and signage shall be installed prior to any occupancy, final grading release, or use of the premises in reliance of the approved project permit.

Open space signage shall be placed every 500 feet along the southern and western portion of the biological open space boundary.

- Evidence shall be site photos and a statement from a California Registered Engineer, or licensed surveyor that the permanent walls or fences, and open space signs have been installed.
- The sign must be corrosion resistant, a minimum of 6 inches by 9 inches in size, on posts not less than three feet in height from the ground surface, and must state the following:

  Sensitive Environmental Resources Area Restricted by Easement

  Entry without express written permission from the City of Encinitas is prohibited. To report a violation or for more information about easement restrictions and exceptions contact the City of Encinitas, Development Services Department.

  Reference: MULTI-005158-2022

The applicant shall install the signage as indicated above and provide site photos and a statement from a California Registered Engineer, or licensed surveyor that the open space signage has been installed at the open space easement boundary.

The City of Encinitas Development Services Department shall review the photos and statement for compliance with this condition.

Level of Significance: Less than significant with mitigation incorporated.

HAVE A SUBSTANTIAL ADVERSE EFFECT ON RIPARIAN HABITAT OR SENSITIVE NATURAL COMMUNITY

Impact 3.3-2 **The project would have a potentially substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the California Department of Fish and Wildlife or US Fish and Wildlife Service. Impacts would be less than significant with mitigation incorporated.**

The project site supports coastal sage scrub and chaparral vegetation communities, which are considered sensitive by the city, county, and state agencies. The site does not contain riparian habitat. Additionally, there are no Coastal Act designated Environmentally Sensitive Habitat Areas (ESHA) on site.

As the proposed off-site preserve area would be left in its current state and preserved as open space, no impacts to riparian habitat or other sensitive natural community would occur. Table 3.3-2 provides the anticipated impact acreages of vegetation communities and land cover types resulting from the project.

Table 3.3-2: Impact Acreages of Vegetation Communities and Land Cover Types within the Project Site

Oberbauer Vegetation Communities	MCV Vegetation Communities	Development Area (Impact) (Acres)			Development Area (Impact) Total (Acres)	Required Mitigation Ratio	Total (Acres)
		Site	Off-site Improvements	FMZ			
Diegan Coastal Sage Scrub (32500)	California Sagebrush – California Buckwheat Scrub	0.77	0.16	-	0.93	2:1	1.86
Southern Mixed Chaparral (37120)	Chamise-Mission Manzanita Chaparral[1]	0.65	<0.01	0.48	1.13	1:1	1.13
Coastal Scrub (32000)	Deerweed Scrub	1.38	0.06	-	1.44	2:1	2.88
Disturbed	Disturbed	2.96	0.27	0.05	3.28	-	3.28
				Total	**6.78**	**-**	**9.15**

[1]Sensitive vegetation community

[2]Excludes San Diego Gas and Electric (SDG&E) easement

Notes: MCV = Manual of California Vegetation; FMZ = Fuel Modification Zone

Source: ECORP 2022 (see Appendix D).

Direct impacts could occur to three vegetation communities: Diegan coastal sage scrub/California - California buckwheat scrub, coastal scrub/deerweed scrub, and southern mixed chaparral/chamise-mission manzanita chaparral. Of these, Southern mixed chaparral/chamise-mission manzanita chaparral is the only sensitive natural community that would be impacted; however, all three communities have specific mitigation ratios according to the MHCP and Draft

SAP (ECORP 2022). Furthermore, the project could indirectly impact additional acreages of Diegan coastal sage scrub/California sagebrush – California buckwheat scrub and southern mixed chaparral/chamise-mission manzanita chaparral if mitigation measures are not employed. Both communities have specific mitigation ratios according to the MHCP and Draft SAP (ECORP 2022). Impacts to sensitive and/or mitigated natural communities would result from the development of the project within the proposed development area, which includes the residential use and amenity development area (on-site impacts), off-site improvements required by the City adjacent to the property along Piraeus Street and Plato Place (off-site impacts), and the associated FMZ. Such impacts are considered significant and mitigation is required. Implementation of mitigation measures **BIO-1**, **BIO-2**, **BIO-3**A to BIO-3B, and **BIO-**6 ~~7, BIO-8, and~~to **BIO-9** would reduce such impacts to a **less than significant level**.

Table 3.3-3: Summary of Existing Sensitive Natural Communities, Impacts, and Mitigation

General Habitat Type	Preserve Area[1] (Acres)		Development Area (Acres)	Total[1] (Acres)	Mitigation Ratio Required	Percent Conserved[2]	Mitigation Ratio Achieved?	Total
	On-Site	Off-site Adjacent						
Coastal Sage Scrub[2,3]	~~3.14~~--	--3.14	2.37	5.51	2:1	57	No	-1.60
Chaparral	0.56	0.25	1.13	1.95	1:1	42	No	-0.32
TOTAL	**~~3~~0.56~~.70~~**	**~~0.25~~3.39**	**3.50**	**7.45**	**--**	**53**	**--**	**-1.92**

Source: ECORP 2022 (see Appendix D).

[1] Preserve area and total acreage does not include 0.02 acre SDG&E easement.

[2] California Coastal Commission requires conservation of 67 percent of coastal sage scrub for properties within Coastal Zone.

[3] Includes Diegan coastal sage scrub and coastal scrub

Implementation of mitigation measures as indicated above would reduce the potential for the project to have a substantial adverse effect on any sensitive natural community identified in local or regional plans, policies, or regulations, or by the CDFW or USFWS. Impacts would be **less than significant with mitigation incorporated**.

Mitigation Measures: Implement mitigation measures **BIO-1**, **BIO-2, BIO-3**A to BIO-3B**,** and **BIO-**~~7~~6 to ~~, BIO-8 and~~ **BIO-9**.

Level of Significance: Less than significant with mitigation incorporated.

HAVE A SUBSTANTIAL ADVERSE EFFECT ON WETLANDS

Impact 3.3-3	**The project would not have a potentially substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means. Impacts would be less than significant.**

The project site does not support any state or federally protected wetlands (i.e., marsh, vernal pool, or coastal). There are no jurisdictional wetlands and/or waterways in the project area that would be affected by direct removal, filling, or hydrological interruption during the project construction phase. One detention basin mapped as freshwater pond, freshwater emergent wetland, and riverine habitat occurs northwest of the off-site preserve area. Estuary and marine wetlands are located north of the project site, north of La Costa Avenue within the Batiquitos Lagoon State Marine Conservation Area. However, these off-site areas would not be affected with project development as proposed (ECORP 2022).

As indicated in Section 3.8, Hydrology and Water Quality, of this EIR, stormwater runoff would be treated and stored on-site via the proposed biofiltration basin located along Plato Place, prior to being conveyed to the existing storm drain system along Piraeus Street. Runoff from the site would therefore not adversely affect any off-site wetlands or waterbodies located on adjacent lands.

Therefore, the project would not have a potentially substantial adverse effect on state or federally protected wetlands through direct removal, filling, hydrological interruption, or other means. Impacts would be **less than significant**.

Mitigation Measures: None required.

Level of Significance: Less than significant.

INTERFERE SUBSTANTIALLY WITH THE MOVEMENT OF ANY NATIVE RESIDENT OR MIGRATORY FISH OR WILDLIFE SPECIES OR WITH ESTABLISHED NATIVE RESIDENT OR MIGRATORY WILDLIFE CORRIDORS

Impact 3.3-4	**The project would have the potential to interfere with the movement of native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites. Impacts would be less than significant with mitigation incorporated.**

Overall, the project site does not function as a wildlife corridor; however, the preserve area does function as a significant ecological area of open space habitat. The project site is located within

a softline FPA area, which means the area is biologically significant and projects in this area are subject to higher scrutiny in order to adhere to and achieve the goals set forth in the MHCP and Draft Encinitas Subarea Plan. Development of the project could encroach on important habitat, which would block the movements of wildlife within their natural range. The project would be required to adhere to the relevant adjacency guidelines under Section 4.2.2, Land Uses Planned Adjacent to the Preserve, of the Draft Encinitas Subarea Plan related to drainage and toxics; erosion and sedimentation; lighting; barriers; landscaping restrictions; and fire and brush management. Adherence to existing guidelines would minimize potential impacts to the significant ecological area. Additionally, mitigation measure **BIO-1** would require the applicant to preserve the sensitive habitat in the off-site preserve area to the north of the project site.

Migratory birds and raptors have the potential to nest and forage on and around the project site due to the presence of on-site vegetation and infrastructure (e.g., utility poles and existing buildings) adjacent to the project site. Mitigation measure **BIO-5** would require the project applicant to conduct a preconstruction survey for nesting birds and special-status avian species prior to the initiation of ground-disturbing activities.

The project site also provides suitable nesting and foraging habitat for the federally listed threatened coastal California gnatcatcher. Implementation of mitigation measures **BIO-1**, **BIO-2**, **BIO-4A** to **BIO-4E** ~~to **BIO-3**~~ and **BIO-5** to **BIO-9** would be required to reduce potential impacts to this species to less than significant.

Therefore, the project would have potential to interfere with the movement of native resident or migratory fish or wildlife species, or with established native resident or migratory wildlife corridors. Adherence to existing guidelines under the Draft Encinitas Subarea Plan and implementation of mitigation measures **BIO-1**, **BIO-2**, **BIO-4A** to **BIO-4E**, ~~to **BIO-3**~~ and **BIO-5** to **BIO-9** would be required. Impacts would be **less than significant with mitigation incorporated**.

Mitigation Measures: Implement mitigation measures **BIO-1**, **BIO-2**, ~~to~~ **BIO-4A** to **BIO-4E**, ~~**3**~~ and **BIO-5** to **BIO-9.**

Level of Significance: Less than significant with mitigation incorporated.

CONFLICT WITH ANY LOCAL POLICIES OR ORDINANCES PROTECTING BIOLOGICAL RESOURCES

Impact 3.3-5	**The project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. No impact would occur.**

The planting, maintenance, and removal of public and mature trees within the public right-of-way or on public property are regulated by the City's General Plan Resource Management Element (Policies 3.1, 3.2, and 3.6) and Chapter 15.02 of the City's Municipal Code. As stated

under Policy 3.1, mature trees of community significance cannot be removed without City authorization.

As discussed in the Existing Conditions subsection above, there are no large trees present within the development area of the project site. Any off-site improvements for access would occur within the existing right-of-way and would not require the removal of any mature trees (e.g., within a median). As such, no public or mature trees would be removed as part of the project. The project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. **No impact** would occur in this regard.

Mitigation Measures: None required.

Level of Significance: No impact.

CONFLICT WITH THE PROVISIONS OF AN ADOPTED HABITAT CONSERVATION PLAN, NATURAL COMMUNITY CONSERVATION PLAN, OR OTHER APPROVED LOCAL, REGIONAL, OR STATE HABITAT CONSERVATION PLAN

Impact 3.3-6	**The project would ~~not~~ have the potential to conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan. Impacts would be less than significant with mitigation incorporated.**

The project site is located within the areas covered by the MHCP and Draft Encinitas Subarea Plan. The MHCP serves as an umbrella document to guide the preparation of subarea plans by each participating city and does not itself receive any permits. To be approved, subarea plans must be consistent with the conservation and policy guidelines of the MHCP. Although the Encinitas Subarea Plan is still in draft form, guidelines should be followed as it is planned to be finalized in the future and projects will need to adhere to commitments made in the MHCP. As previously discussed, the project would be required to adhere to the relevant adjacency guidelines under Section 4.2.2, Land Uses Planned Adjacent to the Preserve, of the Draft Encinitas Subarea Plan related to drainage and toxics; erosion and sedimentation; lighting; barriers; landscaping restrictions; and fire and brush management. Adherence to existing guidelines would ensure that the project would be consistent with the MHCP.

Therefore, with adherence to the existing relevant guidelines of the Draft Encinitas Subarea Plan, the project would not conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan. Adherence to existing guidelines under the Draft Encinitas Subarea Plan and implementation of mitigation measures **BIO-1** through **BIO-9** would be required. Impacts would be **less than significant with mitigation incorporated**.

Mitigation Measures: ~~None required~~Implement mitigation measures **BIO-1** through **BIO-9**~~-~~.

Level of Significance: Less than significant with mitigation incorporated.

CUMULATIVE IMPACTS

Impact 3.3-7	**The project would not have the potential to result in a significant cumulative impact related to biological resources. Impacts would be less than cumulatively considerable.**

Geographic Scope

Cumulative projects that would have the potential to be considered in a cumulative context with the proposed project, and that are included in the analysis of cumulative impacts relative to biological resources, are identified in Table 3.0-1 in Section 3.0, Environmental Analysis, of this EIR; refer also to Figure 3.0-1, Cumulative Projects Map. Generally, in instances where a potential impact could occur, the CDFW and the USFWS have promulgated regulatory procedures that limit impacts to sensitive habitat and wildlife species. It is anticipated that potential effects of cumulative projects considered would be rendered less than significant through mitigation that requires compliance with applicable regulations that protect plant, fish, and animal species, as well as waters of the United States and waters of the State. Other cumulative projects in the study area would also be required to avoid impacts to special-status species and/or mitigate to the satisfaction of the CDFW and USFWS, as applicable, for any potential loss of habitat.

Additionally, to be conservative, the cumulative analysis is based on the "worst-case" assumption that all 2019 HEU sites develop under maximum density bonus unit allowances. The cumulative impact analysis includes all 2019 HEU sites to the extent that they may contribute to certain issue-specific cumulative effects and conservatively assumes the remaining HEU sites would apply the density bonus allowance to achieve a maximum density of residential units (see Table 3.0-2).

Potential Cumulative Impact

Encinitas is an urbanized city surrounded by other urbanized cities. The protection of biological resources in the City is generally enforced through the City of Encinitas Draft Subarea Plan. The Draft Subarea Plan addresses how the City would conserve natural biotic communities and sensitive plant and wildlife species under the larger MHCP framework. As stated under Impact 3.3-6, the project site is located within the boundaries of the Draft Subarea Plan. Additionally, the project site contains suitable habitat for special-status plant and wildlife species, including coastal California gnatcatcher. No wetlands or riparian habitat are present on the project site.

Cumulative projects located within the City's Draft Subarea Plan area would be subject to the goals and policies outlined in the plan, and would be required to implement mitigation measures if a significant impact would occur as a result of project implementation. As such, direct and indirect effects to special-status species would be evaluated on a case-by-case basis.

Project impacts would be limited to construction impacts on coastal sage scrub and chapparal vegetation communities within the development area, and special-status plant and wildlife species, including migratory avian species and coastal California gnatcatcher. Impacts would be reduced to less than significant with implementation of mitigation measures **BIO-1** through **BIO-9**. Therefore, with implementation of the mitigation measures proposed, the project's contribution to a cumulative impact on biological resources would be **less than cumulatively considerable**.

Mitigation Measures: Implement mitigation measures **BIO-1** through **BIO-9**.

Level of Significance: Less than cumulatively considerable.

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