
MONK & ASSOCIATES
Environmental Consultants

June 3, 2024

Townsend Capital Partners LLC &
7515 Alder Avenue, LLC
1101 Fifth Avenue, Suite 300
San Rafael, California 94901

Attention: Collin Monahan

**RE: Biological Resources at
Cotati Village II
Cotati, California**

Dear Mr. Monahan:

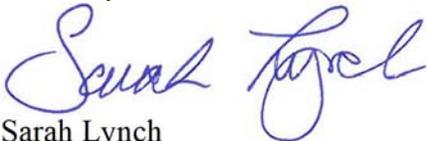
On October 11, 2022, Monk & Associates (M&A) prepared a CEQA level Biological Resources Analysis (BRA) for the Cotati Village II project site (at that time we were still referring to the project site as Reds Residential).

To update baseline conditions and past floristic surveys conducted on the project site, in the spring of 2024, I conducted protocol level special-status plant surveys on the project site (dates of surveys: April 8, April 30, and May 14, 2024). A stand-alone report was prepared at the completion of those surveys and provided to you. No special-status plants were identified onsite. All other baseline information and survey findings contained in the 2022 Biological Resources Analysis remains accurate today.

I do not see a reason to update the 2022 BRA as it remains valid today. While federal regulations governing waters of the U.S. have changed since the 2022 BRA was prepared, the U.S. Army Corps of Engineers has stated that the Jurisdictional Determination prepared for the project site is still valid today and they are honoring the existing map. This federal agency is in the process of preparing a Section 404 Nationwide Permit for the current project (i.e., Cotati Village Phase II) (an application package was submitted to the Corps in April 2024).

If you have any questions, please do not hesitate to contact me.

Sincerely,



Sarah Lynch
Principal Biologist

**BIOLOGICAL RESOURCES ANALYSIS
REDS RESIDENTIAL
(APNs 144-040-11 and 21)
CITY OF COTATI, SONOMA COUNTY, CALIFORNIA**

October 11, 2022

Prepared for

7515 Alder Avenue, LLC
1101 Fifth Avenue, Suite 150
San Rafael, California 94901
Attention: Mr. Collin Monahan

Prepared by

Monk & Associates, Inc.
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ATTACHMENTS

Attachment A. Formal Consultation on the Proposed Sterling Senior Community Project, Santa Rosa, Sonoma County, California (Corps File Number: 2007-400822N)

Attachment B. Email from Mr. Jason Hanni on September 19, 2022, Approving Use of Existing BO for Sterling Senior Communities Project for Proposed Red's Residential Project

Attachment C. Stamped Jurisdictional Map for the Reds Project Site in Cotati, California dated May 21, 2018, from the U.S. Army Corps of Engineers.

Attachment D. Letter of Jurisdiction Determination dated May 21, 2018, from the U.S. Army Corps of Engineers.

Attachment E. Reds residential 126 unit residential development exhibit. Prepared by Design, Draw Build, August 17, 2022.

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1. INTRODUCTION

On behalf of 7515 Alder Avenue, LLC (the applicant), Monk & Associates (M&A) has prepared this Biological Resources Analysis (report) for the proposed Reds Residential Project (hereinafter the proposed project or project) in Cotati, California (formerly known as the Monahan Reds Project and later known as the Sterling Senior Communities Project) (Figures 1, 2, and 3). The project is proposed to be constructed on a 5.63-acre site located west of Highway 101 in the City of Cotati (herein referred to as the project site).

The project site is already partially developed with a retail/commercial building and a parking lot with some landscaping fronting Highway 116 and a now-abandoned home at the rear. The abandoned home would be removed to accommodate the remainder of this redevelopment project.

Biological resources include common plant and animal species, and special-status plants and animals as designated by the U.S. Fish and Wildlife Service (USFWS), California Department of Fish and Wildlife (CDFW), National Marine Fisheries Service (NMFS), and other resource organizations including the California Native Plant Society. Biological resources also include waters of the United States (U.S.) and State, as regulated by the U.S. Army Corps of Engineers (Corps), California Regional Water Quality Control Board (RWQCB), and CDFW.

The USFWS has already issued a Biological Opinion (BO) for the project site under a different project (Corps File Number: 2007-00822N, USFWS File No. 81420-2008-F-2061) dated December 10, 2019 (Attachment A). As the USFWS made it clear that this existing BO could be used for the Reds Residential project and it was not necessary to reinitiate Section 7 consultation solely for an updated project description, ***M&A believes that initiation of Section 7 is not warranted for this project.*** Mr. Mark Jasper (M&A) has been in contact with Mr. Jason Hanni (USFWS and author of the BO) about whether or not the BO would remain valid under the Reds Residential Project and a new Nationwide Permit (NWP). Per Mr. Hanni's email on September 19, 2022 (Attachment B), the USFWS confirmed with M&A that the *"effects of this project remain the same, while the project description would be the only part of the proposed action that would change. Based on those assumptions this would not trigger reinitiation, as it doesn't fit the reinitiation criteria as identified at the end of the Biological Opinion."* Note that the impacts to wetlands, federally listed species, and their habitats will be **identical** to the previously proposed project, the Sterling Senior Communities Project, for which the existing BO was issued.

This biological resources analysis also provides mitigation measures for "potentially significant" and "significant" impacts that could occur to biological resources. Whenever possible, upon implementation, the prescribed mitigation measures would reduce impacts to levels considered less than significant pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code §§ 21000 et seq.; 14 Cal. Code Regs §§ 15000 et seq). Accordingly, this report is suitable for review and inclusion in any review being conducted by the City of Cotati for the proposed project pursuant to the CEQA.

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2. PROJECT LOCATION AND SETTING

The 5.63-acre project site is located at the northwest corner of Gravenstein Highway (Hwy 116) and Alder Avenue (Figures 2 and 3). Cotati Large Animal Hospital lies directly to the west of the project site. To the south of the project site, on the opposite side of Gravenstein Hwy, is Shamrock Materials, Inc., a commercial business specializing in stone and concrete building supplies. Ruderal (weedy) vegetation and annual grassland with ranchette style housing occurs to the north of the project site. Beyond Alder Avenue to the northeast is a recently built residential townhouse development called the Cotati Cottages subdivision, a vacant lot east of the project site is being reviewed by the City for final approval for a residential development.

North of the existing retail/commercial building is a ruderal field that was previously farmed and that is now disked annually for fire control practices. The former residence sits to the east of this disked field along Alder Avenue. Additionally, there are scattered native oaks that occur on the project site (*Quercus garryana* and *Q. lobata*).

3. PROPOSED PROJECT

The proposed project includes updating the existing commercial buildings on the southern side of the site along Gravenstein Highway frontage (formerly a bar/night club which is currently undergoing renovations). To the north of the existing commercial space, the proposed project includes the construction of a mixed-use apartment development, featuring 126 units across four buildings, on a 5.63-acre site. Additionally, a 3,410 square foot community center will be constructed at the center of the project site with residential amenities. Thirteen of the 126 units are intended to be rented as affordable units for families in the very low-income bracket at 50% of area median income.

The northern portion of the project site is currently a large field and the master plan aims to maintain maximum open space with unobstructed sight lines across the site. The building aesthetic will be a modern craftsman style, to remain consistent with the character of the surrounding neighborhood and the City of Cotati.

4. ANALYSIS METHODS

4.1 Background Research

Prior to preparing this Biological Resource Analysis, M&A researched the most recent version of the California Department of Fish and Wildlife (CDFW) Natural Diversity Database (CNDDDB), RareFind 5 application (CNDDDB 2022) for historical and recent records of special-status plants and wildlife known to occur in the region of the project site. All special-status species records were compiled in tables. M&A examined all known record locations for special-status species to determine if special-status species could occur on the project site or within an area of affect.

4.2 Site Investigation

M&A biologists have a long history working on this project site. M&A biologists conducted a general survey of the project site on July 15, 2016 (Geoff Monk and Christy Owens) and on May 31, 2022 (Sam Stewart and Sarah Lynch), to record biological resources and to assess the

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likelihood of resource agency regulated areas on the project site. Other surveys of the site were also conducted as reported in the Wetland Delineation and Rare Plant Survey Methods sections below. During all surveys of the project site M&A recorded all plant and wildlife species observed. M&A then cross-referenced the habitats found on the project site against the habitat requirements of local or regionally known special-status species to determine if the proposed project could directly or indirectly impact such species.

4.3 Wetland Delineation

On July 25, 2008, the U.S. Army Corps of Engineers (Corps) confirmed the extent of its jurisdiction on the project site (Corps File No. SPN-2007-400822-N). This jurisdictional map remained valid until July 25, 2010. On July 15, 2016, and April 24, 2017, M&A biologists Mr. Monk and Ms. Owens visited the project site to re-examine potential Corps-regulated areas. Delineation fieldwork was conducted in 2016 and again in 2017 after the wettest winter on record in more than 50 years. Mapped features on the project site were determined to meet jurisdictional criteria presented in the Corps' 1987 *Wetlands Delineation Manual* (Corps 1987) and the Corps' Regional Supplement for the Arid West Region (Corps 2008). A Request for a Preliminary Jurisdictional Determination (PJD) and the Preliminary Aquatic Resources Map were submitted to the Corps on August 18, 2017. On September 8, 2017, Ms. Roberta Morganstern from the Corps confirmed the extent of the Corps' jurisdiction on the project site.

On March 20, 2018, M&A biologist, Ms. Christy Owens, visited the project site again to examine potential Corps-regulated areas within potential offsite impact areas associated with City-required improvements to Highway 116 including acceleration and deceleration lanes. Ms. Owens mapped all features within the potential offsite impact areas that were determined to meet jurisdictional criteria presented in the Corps' 1987 *Wetlands Delineation Manual* (Corps 1987) and the Corps' Regional Supplement for the Arid West Region (Corps 2008). An amended Request for a Preliminary Jurisdictional Determination and the Preliminary Aquatic Resources Map were submitted to the Corps on August 18, 2018, and confirmed by Ms. Roberta Morganstern of the Corps on May 21, 2018, verifying the extent of the Corps' jurisdiction within the expanded limits of delineation which includes the project site (Attachments C and D). The issued PJD is still valid today.

4.4 Formal Special-Status Plant Surveys

Formal special-status plant surveys were conducted on the project site in 2015 by Mr. Roy Buck, Senior Botanist with California Environmental Services, LLC. The surveys followed the rare plant survey methods required then by California Department of Fish and Game [now the CDFW] (CDFG 2000), California Native Plant Society (CNPS) published survey guidelines (CNPS 2001), and the USFWS' guidelines for the Santa Rosa Plain (USFWS 2005a). Plant phenology (flowering periods) reference site surveys conducted by Mr. Buck confirmed that targeted rare plants were visible and in flower at the reference site on the dates of project site surveys. Specifically, Mr. Buck confirmed that Sonoma Sunshine (*Blennosperma bakeri*), Burke's goldfields (*Lasthenia burkei*), and Sebastopol meadowfoam (*Limnanthes vinculans*) were visible and in flower during the period that rare plant surveys were conducted on the project site. These plant phenology reference site surveys were conducted by Mr. Buck on March 28,

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April 18, and May 3, 2015, at the Alton Lane Conservation Area. *No special-status plants were identified on the project site in 2015.*

On July 15, 2016; April 24, May 26, and June 15, 2017; and April 9, April 30 and May 23, 2019, M&A biologists Ms. Owens and Mr. Monk conducted formal special-status plant surveys on the project site. Surveys conducted in 2016 were targeted for early and mid-summer blooming special-status plant taxa. All surveys were conducted according to USFWS-published survey guidelines for the Santa Rosa Plain as well as the CDFW- and CNPS-published survey guidelines. Following these guidelines, all surveys in 2017 were conducted in a timeframe when listed plants known from the Santa Rosa Plain were confirmed to be visible and in flower. Ms. Owens and Mr. Monk conducted reference site visits to confirm that Sonoma Sunshine (*Blennosperma bakeri*), Burke's goldfields (*Lasthenia burkei*), and Sebastopol meadowfoam (*Limnanthes vinculans*) were visible and in flower at the reference site during the period that special-status plant surveys were conducted on the project site in 2017. These plant phenology reference site surveys were conducted by Mr. Monk and Ms. Owens on April 24, May 26, and June 15, 2017, at Alton Lane Conservation Area. During all special-status plant surveys of the project site, all plants observed were identified to a level necessary to determine rarity status. *No special-status plants were identified on the project site in 2016 or 2017.* All species observed during M&A's 2016, 2017, 2019 and 2022 surveys are included in Table 1.

One additional year of special-status plant surveys were conducted in spring and early summer of 2019 by M&A biologist Christy Owens on April 9, April 30, and May 23, 2019. Surveys were conducted according to USFWS-published survey guidelines for the Santa Rosa Plain as well as the CDFW- and CNPS-published survey guidelines. These surveys were conducted in accordance with newly published-CDFW survey guidelines released as of March 18, 2018, and serve to bring the previous year's surveys up to date with new survey guidelines and fulfill the CDFW recommendation for yearly surveys of annual and short-lived perennial special-status plants in herbaceous plant communities to accurately document baseline conditions for the purposes of impact assessment.

4.5 California Tiger Salamander Surveys

Circa 1995, M&A's Principal Biologist, Mr. Monk, confirmed that the California tiger salamander (*Ambystoma californiense*) was breeding in two seasonal pools on the now mostly-developed Sonoma Business Park project site located immediately east of the project site. Sonoma Business Park was mass-graded, and a master drainage plan was installed in 2001. At that time, the California Department of Fish and Game (CDFG) (now CDFW) designated the California tiger salamander as a "species of special concern." This salamander was not federally listed until July 22, 2002, and it was not state listed until August 19, 2010. All California tiger salamander habitat was removed by that grading project in 2001. All impacts to California tiger salamander were fully mitigated to the satisfaction of the USFWS and CDFG (now CDFW) by the Sonoma Business Park developer as part of the mass grading permit conditions from these agencies.

As part of the Sonoma Business Park development project, in a subsequent phase of the development in 2003/2004, the developer was required to salvage California tiger salamander

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presumed to be migrating from adjacent properties, including the project site, to the former (now developed) breeding pools on the Sonoma Business Park project site. This salvage was conducted under the assumption that all adult California tiger salamanders and their breeding habitat had been removed from the Sonoma Business Park project site when it was mass graded in June 2002. The recovery/salvage project was implemented under expectation that the balance of the Sonoma Business Park and the parcel to the north (then called the Nibe project site) and the project site would be developed under a master development project.

Mr. Jim Browning of the USFWS reviewed and approved the California tiger salamander salvage plan. On November 5, 2003, Mr. Dan Buford of the USFWS provided an email approval for M&A to construct and operate the California tiger salamander drift fence/pitfall trapping arrays as part of the salvage operation. The USFWS approved the translocation of salvaged (captured) California tiger salamanders under the condition that it would be completed under the direct supervision of Mr. Liam Davis and Mr. Bill Cox of the CDFW.

During the 2003/2004 trapping season, to conduct California tiger salamander salvage, M&A installed drift fence/trapping arrays prior to the onset of heavy seasonal rains. Approximately 4,220 linear feet of drift fence was constructed immediately to the west and the north of the Sonoma Business Park Project Site boundaries. One array was installed on the Nibe site to the north and one on the Reds site (on the project site) to the west of the Business Park project site. These arrays were expected to catch California tiger salamanders that could still be migrating to the two now developed pools on the Sonoma Business Park project site that had been removed in June of 2002. A total of 141 pitfall traps were installed in the drift fence arrays. A total of 82 adult California tiger salamanders were captured and about one third of these were translocated under the supervision and direction of Mr. Bill Cox of the CDFW to the Gobbi Bank site. The rest of the California tiger salamanders were likely located to the Alton Lane Conservation Preserve per information in an email of December 9, 2003, from Mr. Jim Browning to Wayne White, Cay Goude and Dan Buford at USFWS. In this email, Mr. Browning stated that he had just talked to Mr. Carl Wilcox (of the CDFW) and told him that USFWS was okay with CDFW's proposal to relocate the captured California tiger salamander to the Alton Lane Preserve (now known as the Alton Lane Conservation Site).

In September 2007, M&A prepared and submitted a report to the USFWS and CDFW summarizing the salvage trapping effort titled *California Tiger Salamander (Ambystoma californiense) Survey and Salvage Summary of the "Nibe" and "Red's" Project Sites Santa Rosa, California September 20, 2007*. That report indicates that 12 of the adult California tiger salamanders that were captured on the Reds Project Site in 2003/2004 winter and were surrendered to the CDFW for translocation.

5. RESULTS OF RESEARCH AND PROJECT SITE ANALYSES

5.1 Topography and Hydrology

The project site is relatively flat with slight undulating topography. There is a topographic depression located on the project site's northern edge (W1 on Attachment C). This low area remains inundated and/or saturated throughout the winter and early spring months. During large (episodic) storm events, W1 overflows and conveys water overland eastward where these flows enter a City of Cotati storm drain inlet along Alder Avenue that eventually conveys stormwaters into the Laguna de Santa Rosa, that drains into Mark West Creek, which flows into the Russian River.

Offsite, just beyond the project site's western boundary, there is an incised drainage ditch. This ditch receives large storm event sheet flows off surrounding properties including the western portion of the project site. This drainage ditch will not be modified by the proposed project. Large storm event sheet flows that collect in the offsite drainage ditch flow southward to a roadside ditch along the north side of Highway 116, that then conveys these large storm event (flashy) flows *westward* of the project site. The parallel roadside ditch was originally excavated in uplands when Highway 116 was constructed decades ago.

The segment of roadside ditch along the frontage of the project site and in the offsite improvement areas along Highway 116 were investigated as part of both the 2016/2017 and the 2018 wetland delineations conducted by M&A of the project site and potential offsite impact areas, respectively. *The roadside ditch along the project site's frontage does not support wetland features and showed no evidence of standing water or flow patterns and thus likely only conveys water during large storm events. It also does not drain from wetlands.* Thus, it was determined by the Corps on September 8, 2017, and again on May 21, 2018 (Attachments C and D), that the small roadside ditch along Highway 116 within the proposed limits of the project including offsite improvement areas, does not support any jurisdictional "wetlands" or "other waters."

5.2 Soils

The Soils Conservation Service (SCS), now called the Natural Resource Conservation Service (NRCS), mapped one soil type for the project site. The mapped soil unit is Haire Fine Sandy Loam, Hummocky, 0 to 5 percent slopes. The Haire Soil series consists of moderately well-drained soils that occur on nearly level to moderately steep hills, on old terraces, and alluvial fans. Slope ranges from 0 to 30 percent, and elevation ranges from 20 to 300 feet. These soils formed from alluvium derived from sedimentary rock. The vegetation in uncultivated areas consists of annual grasses and forbs. Permeability is very slow, and the hazard of erosion is slight. Haire soils are mainly used for dryland and irrigated pasture, but some areas are used for vineyards and rangeland. Typically, Haire soils have gray and grayish brown, neutral or slightly acid, light clay loam upper horizons. Haire fine sandy loam is found on undulating or hummocky terrain, with a clay subsurface layer. Soils typically have low fertility with an available water capacity at 6 to 8 inches. *Haire Fine Sandy Loam, Hummocky, 0 to 5 percent slopes is not a hydric ("wetland") soil.*

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The project site soils have been heavily altered by a combination of historical development and farming that occurred on the project site over past decades. While the northern half of the project site exhibits soils that meet the NRCS soil profile, the southern half of the project site exhibit gravelly loams that range from a few inches thick to greater than 12 inches. These currently or formerly developed soils overlay the Haire Soils that the NRCS mapped on the project site.

5.3 Plant Communities and Associated Wildlife Habitats

The majority of the project site is undeveloped. However, there is a small, abandoned residence in the northeastern corner, and two refurbished retail buildings fronting Highway 116. There is also a small shed surrounding a well/water tank.

The majority of the northern side of the project site is an undeveloped field with scattered native oaks (*Quercus garryana* and *Q. lobata*). Due to the history of intensive site disturbance, only two distinct plant communities were identified on the project site: ruderal herbaceous and seasonal wetland.

Nomenclature used for plant names follows *The Jepson Manual, 2nd edition* (Baldwin 2012) and changes made to this manual as published on the Jepson Interchange Project website (<http://ucjeps.berkeley.edu/interchange/index.html>). A complete list of plant species observed on the project site is presented in Table 1. Nomenclature for wildlife follows the CDFW's *Complete list of amphibian, reptile, bird, and mammal species in California* (CDFW 2016) and any changes made to species nomenclature as published in scientific journals since the publication of the CDFW's list. A complete list of wildlife species observed on the project site is presented in Table 2.

5.3.1 RUDERAL HERBACEOUS COMMUNITY

Ruderal (weedy) communities are assemblages of plants that thrive in waste areas, roadsides and other sites that have been disturbed by human activity. This community is typically dominated by introduced annual grasses and forbs that are highly adapted to high-intensity ongoing disturbance. The native, perennial bunchgrasses that dominated the native grassland prior to European settlement have now been largely displaced by these ruderal species.

A ruderal herbaceous community comprises the majority of the project site. Some of these non-native grass dominants found on the project site include Harding grass (*Phalaris aquatica*), wild oats (*Avena barbata*), soft chess (*Bromus hordeaceus*), ripgut brome (*Bromus diandrus*), Italian ryegrass (*Festuca perennis*), brome fescue (*Festuca bromoides*), hare barley (*Hordeum murinum* ssp. *leporinum*) and tall oatgrass (*Arrhenatherum elatius*). Common non-native forbs found on the project site include bristly ox-tongue (*Helminthotheca echioides*), bindweed (*Convolvulus arvensis*), Italian thistle (*Carduus pycnocephalus* ssp. *pycnocephalus*), purple salsify (*Tragopogon porrifolius*), Queen Ann's lace (*Daucus carota*), fennel (*Foeniculum vulgare*), prickly lettuce (*Lactuca serriola*), rough cat's ear (*Hypochaeris radicata*), spring vetch (*Vicia sativa*), wild radish (*Raphanus sativus*), cutleaf geranium (*Geranium dissectum*), mustards (*Brassica nigra*, *Hirschfeldia incana* and *Sisymbrium altissimum*) and clovers (*Trifolium incarnatum*, *Trifolium subterraneum*, *Trifolium dubium* and *Trifolium hirtum*). Due to past cultivation of lavender fields and grading disturbance, very few native, herbaceous taxa remain

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on the project site. The few native plant species found in the ruderal community includes California poppy (*Eschscholzia californica*), Spanish clover (*Acemisson americanus* ssp. *americanus*), willow herb (*Epilobium brachycarpum*), cleavers (*Galium aparine*), summer cottonweed (*Epilobium brachycarpum*) and creeping wildrye (*Elymus triticoides* ssp. *triticoides*).

Animals observed or expected to occur in ruderal habitats are typically those species adapted to human disturbance such as the following species observed on the project site: northern mockingbird (*Mimus polyglottos*), European starling (*Sturnus vulgaris*), mourning dove (*Zenaida macroura*), house sparrow (*Passer domesticus*), house finch (*Haemorrhous mexicanus*), and black phoebe (*Sayornis nigricans*).

5.3.2 SEASONAL WETLAND

Seasonal wetlands are habitats that may appear dry in the summer and fall months but following the first winter rains, become saturated or hold water for a period of several weeks to months at a time. Seasonal wetlands may remain inundated for a prolonged period typically due to the presence of impervious soils and/or confining topography such as topographic low areas. Typically, these wetlands are dominated by a mix of native and non-native, hydrophytic plant species.

One seasonal wetland occurs in a slight topographic low area in the northern portion of the project site. M&A examined this wetland in the winter months in 2003/04. It pooled to a few inches deep before drying/draining and then refilling with successive larger storm events. M&A examined this wetland again over the years, between 2016 through 2022. A mix of common non-native and native upland and hydrophytic(wetland) herbaceous species were observed within this seasonal wetland. Dominant species included annual semaphore grass (*Pleuropogon californicus*), Italian ryegrass, Mediterranean barley (*Hordeum marinum* ssp. *gussoneanum*), meadow foxtail (*Alopecurus pratensis*), pennyroyal (*Mentha pulegium*) and hawkbit (*Leontodon saxatilis*). Other associated species include brown-headed rush (*Juncus phaeocephalus* ssp. *paniculatus*), English plantain (*Plantago lanceolata*), prickly little sedge (*Carex echinata* ssp. *echinata*), tall flatsedge (*Cyperus eragrostis*), foothill clover (*Trifolium ciliolatum*), velvet grass (*Holcus lanatus*), curly leaved dock (*Rumex crispus*) and hairy cat's ear (*Hypochaeris radicata*).

Seasonal wetlands provide wildlife with a seasonal water source that allows animals to drink and forage in the water during the winter and spring months; however, the shallow, highly disturbed and highly ephemeral nature of the seasonal wetland on the project site make them nearly unavailable for wildlife use.

5.4 Wildlife Corridors

Wildlife corridors are linear and/or regional habitats that provide connectivity to other natural vegetation communities within a landscape fractured by urbanization and other development. Wildlife corridors have several functions: 1) they provide avenues along which wide-ranging animals can travel, migrate, and breed, allowing genetic interchange to occur; 2) populations can move in response to environmental changes and natural disasters; and 3) individuals can recolonize habitats from which populations have been locally extirpated (Beier and Loe 1992). All three of these functions can be met if both regional and local wildlife corridors are accessible

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to wildlife. Regional wildlife corridors provide foraging, breeding, and retreat areas for migrating, dispersing, immigrating, and emigrating wildlife populations. Local wildlife corridors also provide access routes to food, cover, and water resources within restricted habitats.

The proposed project will not interfere with the movement of native wildlife. The project site is immediately north of Gravenstein Highway (Hwy 116) and west of Alder Avenue, both of which are pre-existing barriers to wildlife movement. Gravenstein Highway, in particular, is a heavily used commuter route providing access from/to Highway 101 to the surrounding residential and commercial areas as well as being the primary commuter route to/from Sebastopol.

Cotati Large Animal Hospital lies directly to the west of the project site. To the south of the property, across the Gravenstein Hwy, is Shamrock Materials, Inc., a business specializing in stone and concrete building supplies. Ruderal (weedy) vegetation and annual grassland with ranchette style housing occurs to the north of the project site. As such, development of the project site will not impact any significant or regional wildlife corridor. The project site is a formerly developed parcel that has been subjected to intense uses over the past 20 years. Overall, the project site is highly disturbed by grading and horticultural cultivation, developed with buildings or hard-packed, gravel-impregnated roadways and parking areas around buildings with the remaining areas cultivated as lavender fields. The project site does not have regional context between other open spaces and there virtually is nowhere that wildlife could be moving to/from except developed areas. While the project site may provide movement habitat for local mammals, most of these mammals are associated with development, such as house cats. The development of the project site will not adversely impact any significant or regional wildlife movement corridor.

6. SPECIAL-STATUS SPECIES DEFINITION

6.1 Definitions

For purposes of this analysis, special-status species are plants and animals that are legally protected under the California and Federal Endangered Species Acts (CESA and FESA, respectively) or other regulations, and species that are considered rare by the scientific community (for example, the CNPS). Special-status species are defined as:

- plants and animals that are listed or proposed for listing as threatened or endangered under the CESA (Fish and Game Code §2050 *et seq.*; 14 CCR §670.1 *et seq.*) or the FESA (50 CFR 17.12 for plants; 50 CFR 17.11 for animals; various notices in the Federal Register [FR] for proposed species);
- plants and animals that are candidates for possible future listing as threatened or endangered under the FESA (50 CFR 17; FR Vol. 64, No. 205, pages 57533-57547, October 25, 1999); and under the CESA (California Fish and Game Code §2068);
- plants and animals that meet the definition of endangered, rare, or threatened under the CEQA (14 CCR §15380) that may include species not found on either CESA or FESA lists;

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- plants occurring on Ranks 1A, 1B, 2A, 2B, 3, and 4 of CNPS' electronic *Inventory* (CNPS 2001). The CDFW recognizes that Ranks 1A, 1B, 2A and 2B of the CNPS inventory contain plants that, in the majority of cases, would qualify for State listing, and CDFW requests their inclusion in EIRs. Plants occurring on CNPS Ranks 3 and 4 are "plants about which more information is necessary," and "plants of limited distribution," respectively (CNPS 2022). Such plants may be included as special-status species on a case-by-case basis due to local significance or recent biological information (more on CNPS Rank species below);
- migratory nongame birds of management concern listed by the USFWS (Migratory Nongame Birds of Management Concern in the United States: The list 1995; Office of Migratory Bird Management; Washington D.C.; Sept. 1995);
- animals that are designated as "species of special concern" by CDFW (2022);
- animal species that are "fully protected" in California (Fish and Game Codes 3511, 4700, 5050, and 5515).
- bat Species that are designated on the Western Bat Working Group's (WBWG) Regional Bat Species Priority Matrix as: "RED OR HIGH." This priority is justified by the WBWG as follows: "Based on available information on distribution, status, ecology, and known threats, this designation should result in these bat species being considered the highest priority for funding, planning, and conservation actions. Information about status and threats to most species could result in effective conservation actions being implemented should a commitment to management exist. These species are imperiled or are at high risk of imperilment."

In the paragraphs below, we provide further definitions of legal status as they pertain to the special-status species discussed in this report or in the attached tables.

Federal Endangered or Threatened Species. A species listed as endangered or threatened under the FESA is protected from unauthorized "take" (that is, harass, harm, pursue, hunt, shoot, trap) of that species. If it is necessary to take a federally listed endangered or threatened species as part of an otherwise lawful activity, it would be necessary to receive permission from the USFWS prior to initiating the take.

State Threatened Species. A species listed as threatened under the state CESA (§2050 of California Fish and Game Code) is protected from unauthorized "take" (that is, harass, pursue, hunt, shoot, trap) of that species. If it is necessary to "take" a State listed threatened species as part of an otherwise lawful activity, it would be necessary to receive permission from CDFW prior to initiating the "take."

California Species of Special Concern. These are species in which their California breeding populations are seriously declining and extirpation from all or a portion of their range is possible.

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This designation affords no legally mandated protection; however, pursuant to the CEQA Guidelines (14 CCR §15380), some species of special concern could be considered “rare.” Pursuant to its rarity status, any unmitigated impacts to rare species could be considered a “significant effect on the environment” (§15382). Thus, species of special concern must be considered in any project that will, or is currently, undergoing CEQA review, and/or that must obtain an environmental permit(s) from a public agency.

CNPS Rank Species. The CNPS maintains an “Inventory” of special status plant species. This inventory has four lists of plants with varying rarity. These lists are: Rank 1, Rank 2, Rank 3, and Rank 4. Although plants on these lists have no formal legal protection (unless they are also State or federally listed species), CDFW requests the inclusion of Rank 1 species in environmental documents. In addition, other State and local agencies may request the inclusion of species on other lists as well. The Rank 1 and 2 species are defined below:

- Rank 1A: Presumed extinct in California;
- Rank 1B: Rare, threatened, or endangered in California and elsewhere;
- Rank 2A: Plants presumed extirpated in California, but more common elsewhere;
- Rank 2B: Rare, threatened, or endangered in California, but more common elsewhere.

All of the plants constituting Rank 1B meet the definitions of Section 1901, Chapter 10 (Native Plant Protection Act) or Sections 2062 and 2067 (California Endangered Species Act) of the Fish and Game Code, and are eligible for state listing (CNPS 2001). Rank 2 species are rare in California, but more common elsewhere. Ranks 3 and 4 contain species about which there is some concern, and are reviewed by CDFW and maintained on “watch lists.”

Additionally, in 2006, the CNPS updated their lists to include “threat code extensions” for each list. For example, Rank 1B species would now be categorized as Rank 1B.1, Rank 1B.2, or Rank 1B.3. These threat codes are defined as follows:

- .1 is considered “seriously endangered in California (over 80% of occurrences threatened/high degree and immediacy of threat)”;
- .2 is “fairly endangered in California (20-80% of occurrences threatened)”;
- .3 is “not very endangered in California (less than 20% of occurrences threatened or no current threats known).”

Under the CEQA review process only CNPS Rank 1 and 2 species are considered since these are the only CNPS species that meet CEQA’s definition of “rare” or “endangered.” Impacts to Rank 3 and 4 species are not regarded as significant pursuant to CEQA.

Fully Protected Birds. Fully protected birds, such as the White-tailed Kite (*Elanus leucurus*) and Golden Eagle (*Aquila chrysaetos*), are protected under California Fish and Game Code (§3511). Fully protected birds may not be “taken” or possessed (i.e., kept in captivity) at any time.

6.2 Potential Special-Status Plants on the Project Site

Figure 4 provides a graphical illustration of the known records of special-status plant species within three miles of the project site and helps readers visually understand the number of sensitive species that occur in the vicinity of the project site. Based on a record search of the CDFW's CNDDDB (2022) for special-status plant records occur within three miles of the project site, and the CNPS Inventory (CNPS 2022) for a list of special-status plant species from the same U.S. Geological Survey quadrangle as the project site (Cotati Quadrangle), M&A compiled a list of 12 special status plant species that are known from the region of the project site (Table 3).

Formal special-status plant surveys were conducted on the project site in 2015 by Mr. Roy Buck, Senior Botanist with California Environmental Services, LLC, and by staff at M&A in 2016, 2017 and 2019. No special-status plants were found during the required two years of special-status plant surveys conducted at appropriate times when the targeted listed plants were identified in flower at reference population sites. Similarly, M&A conducted a mid-summer special-status plant survey on July 15, 2016, and further special-status plant surveys on April 24, May 26 and June 15, 2017, and on, April 9, April 30, and May 23, 2019 for late-blooming species and identified no special-status plants. In compliance with the (then) newly published-CDFW survey guidelines released on March 18, 2018, one additional year of surveys was conducted on the project site in 2019 to bring the previous year's surveys up to date and to demonstrate the absence of special-status plants on the project site under the most current and up to date survey guidelines. No special-status plants have been identified on the project site during surveys conducted in 2015, 2016, 2017, and 2019. *Thus, pursuant to the CEQA, development of the project site will not result in significant impacts on federally, state-listed plants, or other plants that have special status species designations.*

Regardless, pursuant to the existing BO issued in 2019, even when two years of surveys proves absence of endangered listed plants, due to the potential for a seedbank being present, impacts to "Suitable Habitat"¹ must nonetheless be mitigated for by purchase of conservation credits providing 1.5:1 occupied or established habitat (any combination) with success criteria met prior to groundbreaking at the project site. Thus, if the project requires a Corps permit, even with two years of formal rare plant surveys that were negative for rare plants, to obtain a Corps permit, 1.5:1 replacement to impacts of vernal pool listed plant mitigation credit must be obtained by the project, if mitigation occurs in the same core area as impacts; and, if mitigation occurs in a different core area as impacts, then a 3:1 replacement to impacts of vernal pool listed plant mitigation credit must be obtained. See Section 13.2 below for further details on mitigation proposed to offset impacts to suitable habitat for Burke's goldfields, Sebastopol meadowfoam, and Sonoma sunshine.

¹ in this case suitable habitat falls under the 2020 Programmatic BO definition of a "seasonal wetland located within a Core or Management Area"

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6.3 Potential Special-Status Animals on the Project Site

Based on a record search of the CDFW's CNDDDB (2022) for special-status wildlife records within three miles of the project site, M&A compiled a list of nine special-status wildlife species that are known from the vicinity of the project site (Table 4). The project site does not provide suitable habitat for eight of these nine species, and as such, these species are summarily dismissed from further consideration. An additional species to those listed in Table 4 which could occur onsite is the regionally occurring pallid bat (*Antrozous pallidus*) (there is an occurrence from 1997 approximately 9 miles southeast of the project site (Occurrence #50).

As the California tiger salamander has been captured on the site during a salvage project that was approved and implemented in 2003/2004, and as there is suitable habitat for the pallid bat (*Antrozous pallidus*), which are known to occur in the region of the project site, we discuss these species further below. Figure 4 provides a visual representation of the known records of special-status wildlife species within three miles of the project site.

6.3.1 CALIFORNIA TIGER SALAMANDER

The project site is located within the known range of the Sonoma County "Distinct Population Segment" (DPS) of the California tiger salamander. Under the FESA, the USFWS emergency listed the Sonoma County DPS as endangered on July 22, 2002. The USFWS formalized the listing of the Sonoma County DPS of the California tiger salamander as endangered on March 19, 2003 (USFWS 2003b). The USFWS determined that this population is significantly and immediately imperiled by a variety of threats including habitat destruction, degradation, and fragmentation due to urban development, road construction, pesticide drift, collection, and inadequate regulatory mechanisms. In addition, it was determined that this population could face extinction because of naturally occurring events (e.g., fires, droughts) due to the small and isolated nature of the remaining breeding sites combined with the small number of individuals in the population.

Finally, in 2011, the USFWS designated revised critical habitat for the Sonoma County DPS. In total, approximately 47,383 acres (19,175 hectares) of land were designated as critical habitat for the Sonoma County DPS of the California tiger salamander under the revised Final Rule (USFWS 2011). *The project site is within this mapped critical habitat (Figure 5).*

On March 4, 2010, the California tiger salamander was also state listed as a threatened species under the CESA. Proposed projects may not impact the California tiger salamander without incidental take authority from both the USFWS and the CDFW. Prior to impacting habitat that supports the California tiger salamander, the USFWS must prepare an incidental take permit pursuant to either Section 7 or Section 10 of the Federal Endangered Species Act. Similarly, projects that impact the California tiger salamander also require incidental take authority from the CDFW.

CTS occur in grasslands and open oak woodlands that provide suitable over-summering and/or breeding habitats. M&A has worked with populations that are almost at sea level (Catellus Site in the City of Fremont) to almost 2,900 feet above sea level (Kammerer Ranch, East Santa Clara County). California tiger salamanders spend most their lives underground. They typically only

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emerge from their subterranean refugia for a few nights each year during the rainy season to migrate to breeding ponds. While 1.3 miles is typically considered the maximum migration distance of California tiger salamanders to/from their breeding pools to upland over-summering habitat, there is literature suggesting that California tiger salamanders could migrate up to 1.5 miles from their breeding pools. This migration distance is reported by the USFWS' Recovery Plan for the Santa Rosa Plain (USFWS 2016) where it states: *Based on distances travelled per night, Searcy and Shaffer (2011) estimated that Central California tiger salamanders are physiologically capable of moving up to 2.4 km (1.5 mi) each breeding season, with an average dispersal distance estimated to be 0.56 km (1,840 ft). Orloff (2007) found that the majority of California tiger salamanders dispersed at least 0.5-mile (0.8 km) from the breeding site, with a smaller number of salamanders appearing to move even farther—from 1.2 to 2.2 km (0.75 to 1.3 mi) between breeding ponds and upland habitat.* M&A biologists, Mr. Geoff Monk and Ms. Sarah Lynch have observed California tiger salamanders migrating up to 0.6-mile and further from their underground refugia to breeding ponds (personal data from Livermore, California; Monk & Lynch 1997). As such, unobstructed migration corridors are important component of California tiger salamander habitat.

In Sonoma County, California tiger salamanders emerge during the first heavy, warm rains of the year, typically in late November and early December. In most instances, larger movements of California tiger salamanders do not occur unless it has been raining hard and continuously for several hours. Typically, for larger movements of California tiger salamanders to occur, nighttime temperatures also must be above 48° F (G. Monk and S. Lynch pers. observations). Other factors that encourage larger movements of California tiger salamanders to their breeding ponds include flooding of refugia (observed by G. Monk in Springtown, east Alameda County in 1997) as occurs after significant rainfall events.

During the spring, summer, and fall months, most known populations of the California tiger salamander throughout this species range in California predominately use California ground squirrel (*Spermophilus beechyi*) burrows as over summering habitat. However, in Sonoma County where California ground squirrel populations are scarce to non-existent, subterranean refugia likely include Botta's pocket gopher (*Thomomys bottae*) burrows, deep fissures in desiccated clay soils, and debris piles (e.g., downed wood, rock piles) (G. Monk personal observation).

Stock ponds, seasonal wetlands, and deep vernal pools typically provide most of the breeding habitat used by California tiger salamanders. In such locations, California tiger salamander attach their eggs to rooted, emergent vegetation, and other stable filamentous objects in the water column. Eggs are gelatinous and are laid singly or occasionally in small clusters. Eggs range in size from about $\frac{3}{4}$ the diameter of a dime to the full diameter of a dime.

Occasionally, California tiger salamanders are found breeding in slow moving streams or ditches. In 1997, Mr. G. Monk observed California tiger salamanders breeding in large, still ditches in Fremont, California. Similarly, in 2001/2002, Mr. D. Wooten observed California tiger salamanders breeding in a roadside ditch in Cotati, California (D. Wooten, formerly of USFWS, pers. comm. w/ Mr. G. Monk). Ditches and/or streams that are subject to rapid flows, even if only on occasion, typically will not support or sustain California tiger salamanders egg

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attachment through hatching, and thus, are not usually used successfully by California tiger salamanders for breeding (G. Monk and S. Lynch, pers. observations). Similarly, streams and/or ditches that support predators of California tiger salamanders or their eggs and larvae such as fish, bullfrogs (*Rana catesbeiana*), red swamp crayfish (*Procambarus clarkii*), or signal crayfish (*Pacifastacus leniusculus*), almost never constitute suitable breeding habitat.

In most of the range of the California tiger salamander, seasonal wetlands that are used for breeding typically must hold water into the month of May to allow enough time for larvae to fully metamorphose. Typically, in Sonoma County, pools that are 16 inches or deeper in the peak winter months will remain inundated long enough to provide good breeding conditions for California tiger salamanders. In dry years, seasonal wetlands, especially shallower pools, may dry too early to allow enough time for California tiger salamander larvae to successfully metamorphose. Under such circumstances, desiccated California tiger salamander larvae are often found in dried pools. In addition, as pools dry down to very small areas of inundation, California tiger salamander larvae become concentrated and are very susceptible to predation.

On the project site, there is a single seasonal wetland that M&A inspected in the winter of 2003/2004 (W1 on Attachment C) and again in multiple survey years. This seasonal wetland does not pool water deeper than three to four inches deep and it fills and drains/dries throughout the winter months in accordance with the frequency of large storm events. No wetland on the project site is deep enough or has sufficient ponding duration to support breeding California tiger salamanders; hence, no impacts to California tiger salamander *breeding and larval development habitat* is expected from the proposed project.

In 2003/2004 the Sonoma Business Park development project that is located immediately east of the Reds Residential project site was underway. The developer was required by USFWS and CDFG (now CDFW) to salvage California tiger salamanders presumed to be migrating from their upland retreats on adjacent properties, including the Reds project site, to a breeding pool that occurred on the now-developed Sonoma Business Park. This California tiger salamander salvage project was supervised by the CDFW and the USFWS under the assumption that all adult California tiger salamanders and their breeding habitat had been removed from the Sonoma Business Park project site when it was mass-graded in June 2002. The recovery/salvage project was implemented under expectation that the balance of the Sonoma Business Park and the parcel to the north (then called the Nibe project site) and the project site (then referred to as the Reds project site) would be developed under a master development project. Thus, California tiger salamanders' salvage occurred in the winter of 2003/2004 via use of drift fences and pitfall traps installed on the Reds, Nibe, and Sonoma Business Park properties.

In September 2007, M&A prepared and submitted a report to the USFWS and CDFW summarizing the salvage trapping effort titled *California Tiger Salamander (Ambystoma californiense) Survey and Salvage Summary "Nibe" and "Red's" Project Sites Santa Rosa, California September 20, 2007*. That report indicates that 12 adult California tiger salamanders were captured on the Reds Project Site (the project site under review herein) in the winter of 2003/2004 and were surrendered to the CDFW. Thus, there is an assumption that California tiger salamanders were removed from the project site, and in the absence of potential breeding habitat removed from the area in 2002, that this salamander likely no longer occupies the Reds site (the

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project site under discussion herein). Regardless, there is an assumption that the proposed project *could* impact the California tiger salamander, and thus it will mitigate these impacts as detailed below in the Impacts and Mitigation section of this report.

The project site is in an area of the Santa Rosa Plain that is designated in Figure 3 of the USFWS' Conservation Strategy (USFWS 2005b) (see Conservation Strategy Section below) as within "Sonoma County Incorporated Areas" in a "Development Area." Accordingly, the USFWS anticipated that this project site would be developed when it prepared the Conservation Strategy. In addition, the project site is *not* within 500 feet of a known and extant California tiger salamander breeding pond/pool. While not believed to still be a viable record location, the closest known record for California tiger salamander is located 0.1-mile north of the project site (Occurrence No. 82) within a drainage ditch alongside Alder Avenue.

The possibility of California tiger salamanders migrating across the project site today, under the considerations that the population was regarded as "salvaged" or removed, and that the breeding pools are no longer present, is very low. Regardless, the presence of this salamander cannot be dismissed entirely. Accordingly, the applicant will be required to acquire permits from the USFWS and the CDFW for project impacts to the California tiger salamander. Please review the FESA and CESA regulatory considerations. Also, please review the Impacts and Mitigation Section of this report for a full discussion on mitigation requirements.

6.3.2 PALLID BAT

The pallid bat is a California "species of special concern." It has no federal status. The "species of special concern" status designation does not provide any special legally mandated protection for this bat species. However, this status designation meets the definition of "rare" pursuant to the CEQA (14 CCR §15380(2)(A)).

The pallid bat is a locally common species of low elevations in California. It occurs throughout California except for the high Sierra Nevada from Shasta to Kern Counties, and the northwestern corner of the state from Del Norte and western Siskiyou counties to northern Mendocino County. It occurs in a wide variety of habitats. It is most common in open, dry habitats with rocky areas for roosting. Day roosts are in caves, crevices, mines, and occasionally in hollow trees and buildings. Roosts must protect bats from high temperatures. Night roosts may be in more open sites such as porches and open buildings. A social bat, the pallid bat roosts in groups of 20 or more.

This species is known from the region of the project site. The nearest CNDDDB occurrence was a 1997 record roughly 9.0 miles southeast of the project site (Occurrence #50). As abandoned buildings and trees on the project site provide suitable roosting habitat for this species, impacts to pallid bat cannot be ruled out. Prior to building demolition or construction, bat surveys must be conducted to confirm or negate this species presence on the project site. The Impacts and Mitigation sections below address these impacts.

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7. REGULATORY FRAMEWORK FOR NATIVE WILDLIFE, FISH AND PLANTS

This section provides a discussion of those laws and regulations that are in place to protect native wildlife, fish, and plants. Under each law we discuss their pertinence to the proposed development.

7.1 Federal Endangered Species Act

The FESA forms the basis for the federal protection of threatened or endangered plants, insects, fish, and wildlife. FESA contains four main elements, they are as follows:

Section 4 (16 USCA §1533): Species listing, Critical Habitat Designation, and Recovery Planning: outlines the procedure for listing endangered plants and wildlife.

Section 7 (§1536): Federal Consultation Requirement: imposes limits on the actions of federal agencies that might impact listed species.

Section 9 (§1538): Prohibition on Take: prohibits the "taking" of a listed species by anyone, including private individuals, and State and local agencies.

Section 10: Exceptions to the Take Prohibition: non-federal agencies can obtain an incidental take permit through approval of a Habitat Conservation Plan (HCP).

In the case of salt water fish and other marine organisms, the requirements of FESA are enforced by the National Marine Fisheries Service (NMFS). The USFWS enforces all other cases. Below, Sections 9, 7, and 10 of FESA are discussed since they are the sections most relevant to the proposed project.

Section 9 of FESA as amended, prohibits the "take" of any fish or wildlife species listed under FESA as endangered. Under Federal regulation, "take" of fish or wildlife species listed as threatened is also prohibited unless otherwise specifically authorized by regulation. "Take," as defined by FESA, means "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." "Harm" includes not only the direct taking of a species itself, but the destruction or modification of the species' habitat resulting in the potential injury of the species. As such, "harm" is further defined to mean "an act which kills or injures wildlife; such an act may include significant habitat modification or degradation where it kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering" (50 CFR 17.3). A December 2001 decision by the 9th Circuit Court of Appeals (Arizona Cattle Growers' Association, Jeff Menges, vs. the U.S. Fish and Wildlife Service and Bureau of Land Management, and the Southwest Center for Biological Diversity) ruled that the USFWS must show that a threatened or endangered species is present on a project site and that it would be taken by the project activities. According to this ruling, the USFWS can no longer require mitigation based on the probability that the species could use the site. Rather they must show that it is "reasonably certain to occur."

Section 9 applies to any person, corporation, federal agency, or any local or State agency. If "take" of a listed species is necessary to complete an otherwise lawful activity, this triggers the

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need to obtain an incidental take permit either through a Section 7 Consultation as discussed further below (for federal actions or private actions that are permitted or funded by a federal agency such as the Corps), or through Section 10 of FESA which requires preparation of an HCP (for State and local agencies, or individuals, and projects without a federal “nexus”; for example, projects that do not need a Corps permit).

Section 7(a)(2) of the Act requires that each federal agency consult with the USFWS to ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of an endangered or threatened species or result in the destruction or adverse modification of critical habitat for listed species. Critical habitat designations mean: (1) specific areas within a geographic region currently occupied by a listed species, on which are found those physical or biological features that are essential to the conservation of a listed species and that may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by a listed species that are determined essential for the conservation of the species.

The Section 7 consultation process only applies to actions taken by federal agencies that are considering authorizing discretionary projects. Section 7 is by and between the NMFS and/or the USFWS and the federal agency contemplating a discretionary approval (that is, the “federal nexus agency,” for example, the Corps or the Federal Highway Administration). Private parties, cities, counties, etc. (i.e., applicants) may participate in the Section 7 consultation *at the discretion of the federal agencies conducting the Section 7 consultation*. The Section 7 consultation process is triggered by a determination of the “action agency” – that is, the federal agency that is carrying out, funding, or approving a project - that the project “may affect” a listed species or critical habitat. If an action is likely to adversely affect a listed species or designated critical habitat, formal consultation between the nexus agency and the USFWS/NMFS is required. As part of the formal consultation, the USFWS/NMFS may resolve any issues informally with the nexus agency or may prepare a formal Biological Opinion assessing whether the proposed action would be likely to result in “jeopardy” to a listed species or if it could adversely modify designated critical habitat. If the USFWS/NMFS prepares a Biological Opinion, it will contain either a “jeopardy” or “non-jeopardy” decision. If the USFWS/NMFS concludes that a proposed project would result in adverse modification of critical habitat or would jeopardize the continued existence of a federally listed species (that is, it will issue a jeopardy decision), the nexus federal agency would be most unlikely to authorize its discretionary permit. If the USFWS/NMFS prepares a “non-jeopardy” Biological Opinion, the nexus federal agency may authorize the discretionary permit making all conditions of the Biological Opinion conditions of its discretionary permit. A non-jeopardy Biological Opinion constitutes an “incidental take” permit that allows applicants to “take” federally listed species while otherwise carrying out legally sanctioned projects.

For non-federal entities, for example private parties, cities, counties that are considering a discretionary permit, Section 10 provides the mechanism for obtaining take authorization. Under Section 10 of FESA, for the applicant to obtain an ITP, the applicant is required to submit a "conservation plan" to the USFWS or NMFS that specifies the impacts that are likely to result to federally listed species, and the measures the applicant will undertake to minimize and mitigate such impacts, and the funding that will be available to implement those steps. Conservation plans

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under FESA have come to be known as "habitat conservation plans" or "HCPs" for short. The terms incidental take permit, Section 10 permit, and Section 10(a)(1)(B) permit are used interchangeably by the USFWS. Section 10(a)(2)(B) of FESA provides statutory criteria that must be satisfied before an ITP can be issued.

7.1.1 RESPONSIBLE AGENCY

FESA gives regulatory authority to the USFWS for federally listed terrestrial species and non-anadromous fish. The NMFS has regulatory authority over federally listed marine mammals and anadromous fish.

7.1.2 APPLICABILITY TO THE PROPOSED PROJECT

The project site does not provide fisheries habitat; thus, the project would not result in impacts to federally listed fish species. As such, consultation with the NMFS for the proposed project is not warranted.

Several federally listed plant and wildlife species are known to occur in the region of the project site (Tables 3 and 4). *No federally listed plants were found during special-status plant surveys conducted on the project site in 2015, 2016, 2017, and 2019.*

Regardless of the fact that special-status plant surveys dismissed presence of state and federally listed vernal pool plants in 2015, 2016, 2017, and 2019, the existing BO requires mitigation for impacts to Suitable Habitat², due to the potential for a seedbank being present. Mitigation is the purchase of conservation credits providing 1.5:1 occupied or established habitat (any combination) with success criteria met prior to groundbreaking at the project site. Thus, if the project requires a Corps permit, even with two years of formal rare plant surveys that were negative for rare plants, to obtain a Corps permit, 1.5:1 replacement to impacts of vernal pool listed plant mitigation credit must be obtained by the project, if mitigation occurs in the same core area as impacts; and, if mitigation occurs in a different core area as impacts, then a 3:1 replacement to impacts of vernal pool listed plant mitigation credit must be obtained.

7.2 Federal Migratory Bird Treaty Act

The Migratory Bird Treaty Act of 1918 (16 U.S.C. §§ 703-712, July 3, 1918, as amended 1936, 1960, 1968, 1969, 1974, 1978, 1986 and 1989) makes it unlawful to “take” (kill, harm, harass, shoot, etc.) any migratory bird listed in Title 50 of the Code of Federal Regulations, Section 10.13, including their nests, eggs, or young. Migratory birds include geese, ducks, shorebirds, raptors, songbirds, wading birds, seabirds, and passerine birds (such as warblers, flycatchers, swallows, etc.).

Executive Order 13186 for conservation of migratory birds (January 11, 2001) requires that any project with federal involvement address impacts of federal actions on migratory birds. The order is designed to assist federal agencies in their efforts to comply with the MBTA and does not constitute any legal authorization to take migratory birds. The order also requires federal

² in this case suitable habitat falls under the BO 2020 definition of a “seasonal wetland located within a Core or Management Area”

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agencies to work with the USFWS to develop a memorandum of understanding (MOU). Protocols developed under the MOU must promote the conservation of migratory bird populations through the following means:

- avoid and minimize, to the extent practicable, adverse impacts on migratory bird resources when conducting agency actions;
- restore and enhance habitat of migratory birds, as practicable; and prevent or abate the pollution or detrimental alteration of the environment for the benefit of migratory birds, as practicable.

7.2.1 APPLICABILITY TO THE PROPOSED PROJECT

No take (i.e., to kill) of birds listed under the Migratory Bird Treaty Act is legal. Passerine (perching) birds or raptors could nest in trees, on abandoned buildings, or in the grassland of the project site. While birds are adept at flying out of harm's way, bird nests, eggs, and nestlings are stationary and subject to construction related impacts. To comply with the Migratory Bird Treaty Act, preconstruction surveys would have to be conducted for nesting bird species to ensure that there is no direct take of these birds including their eggs or young. Non-disturbance buffers would have to be established around any active nesting site and would have to be of sufficient size to protect the nesting birds from harm. Upon completion of nesting the buffers could be removed, and the project could commence as otherwise planned. Please review specific requirements for avoidance of nest sites for nesting bird species in the Impacts and Mitigations section below.

7.3 California Endangered Species Act

7.3.1 SECTION 2081 OF THE STATE ENDANGERED SPECIES ACT

In 1984, the state legislated the CESA (Fish and Game Code §2050). The basic policy of CESA is to conserve and enhance endangered species and their habitats. State agencies will not approve private or public projects under their jurisdiction that would impact threatened or endangered species if reasonable and prudent alternatives are available. Because CESA does not have a provision for "harm" (see discussion of FESA, above), the CDFW considerations pursuant to CESA are limited to those actions that would result in the direct take of a listed species.

If the CDFW determines that a proposed project could impact a State-listed threatened or endangered species, the CDFW will provide recommendations for "reasonable and prudent" project alternatives. The CEQA lead agency can only approve a project if these alternatives are implemented, unless it finds that the project's benefits clearly outweigh the costs, reasonable mitigation measures are adopted, there has been no "irreversible or irretrievable" commitment of resources made in the interim, and the resulting project would not result in the extinction of the species. In addition, if there would be impacts to threatened or endangered species, the lead agency typically requires project applicants to demonstrate that they have acquired "incidental take" permits from the CDFW and/or USFWS (if it is a federally listed species) prior to allowing/permitting impacts to such species.

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If proposed projects would result in impacts to a State-listed species, an "incidental take" permit pursuant to §2081 of the Fish and Game Code would be necessary (versus a federal ITP for federally listed species). The CDFW will issue an incidental take permit only if:

- 1) The authorized take is incidental to an otherwise lawful activity;
- 2) the impacts of the authorized take are minimized and fully mitigated;
- 3) measures required to minimize and fully mitigate the impacts of the authorized take:
 - a) are roughly proportional in extent to the impact of the taking on the species;
 - b) maintain the project applicant's objectives to the greatest extent possible; and,
 - c) capable of successful implementation; and,
- 4) adequate funding is provided to implement the required minimization and mitigation measures and to monitor compliance with, and the effectiveness of, the measures.

If an applicant is preparing an HCP as part of the federal 10(a) permit process, the HCP might be incorporated into the §2081 permit if it meets the substantive criteria of §2081(b). To ensure that an HCP meets the mitigation and monitoring standards in Section 2081(b), an applicant should involve the CDFW staff in development of the HCP. If a final Biological Opinion (federal action) has been issued for the project pursuant to Section 7 of the FESA, it might also be incorporated into the §2081 permit if it meets the standards of §2081(b).

No §2081 permit may authorize the take of a species for which the Legislature has imposed strict prohibitions on all forms of "take." These species are listed in several statutes that identify "fully protected" species and "specified birds." *See* Fish and Game Code §§ 3505, 3511, 4700, 5050, 5515, and 5517. If a project is planned in an area where a "fully protected" species or a "specified bird" occurs, an applicant must design the project to avoid all take.

Fish and Game Code §2080.1 allows an applicant who has obtained a "non-jeopardy" federal Biological Opinion pursuant to Section 7 of the FESA, or who has received a federal 10(a) permit (federal incidental take permit) pursuant to the FESA, to submit the federal opinion or permit to CDFW for a determination as to whether the federal document is "consistent" with CESA. If after 30 days CDFW determines that the federal incidental take permit is consistent with state law, and that all state listed species under consideration have been considered in the federal Biological Opinion, then no further permit or consultation is required under CESA for the project. However, if CDFW determines that the federal opinion or permit is not consistent with CESA, or that there are state listed species that were not considered in the federal Biological Opinion, then the applicant must apply for a state CESA permit under Section 2081(b). Section 2081(b) is of no use if an affected species is state listed, but not federally listed.

State and federal ITPs are issued on a discretionary basis and are typically only authorized if applicants can demonstrate that impacts to the listed species in question are unavoidable and can be mitigated to an extent that the reviewing agency can conclude that the proposed impacts would not jeopardize the continued existence of the listed species under review. Typically, if there would be impacts to a listed species, mitigation that includes habitat avoidance, preservation, and creation of endangered species habitat is necessary to demonstrate that projects would not threaten the continued existence of a species. In addition, management endowment fees are usually collected as part of the agreement for the incidental take permit(s). The

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endowment is used to manage any lands set-aside to protect listed species, and for biological mitigation monitoring of these lands over (typically) a five-year period.

7.3.2 APPLICABILITY TO PROPOSED PROJECT

Several State-listed plant and wildlife species are known to occur in the region of the project site (Tables 3 and 4). No State-listed plants were found during special-status plant surveys conducted on the project site in 2015, 2016, 2017, and 2019. Therefore, it can safely be concluded that the proposed project will not impact state listed plant species. Thus, an Incidental Take Permit is not required for the project for state-listed plants.

7.4 California Fish and Game Code §§ 3503, 3503.5, 3511, and 3513

California Fish and Game Code §3503, 3503.5, 3511, and 3513 prohibit the “take, possession, or destruction of birds, their nests or eggs.” Disturbance that causes nest abandonment and/or loss of reproductive effort (killing or abandonment of eggs or young) is considered “take.” Such a take would also violate federal law protecting migratory birds (Migratory Bird Treaty Act).

All raptors (that is, hawks, eagles, owls) their nests, eggs, and young are protected under California Fish and Game Code (§3503.5). Additionally, “fully protected” birds, such as the White-tailed Kite (*Elanus leucurus*) and Golden Eagle (*Aquila chrysaetos*), are protected under California Fish and Game Code (§3511). “Fully protected” birds may not be taken or possessed (that is, kept in captivity) at any time.

7.4.1 APPLICABILITY TO THE PROPOSED PROJECT

Passerine (perching) birds or raptors could nest in trees, on abandoned buildings, or in the grassland of the project site. These birds while nesting would be protected by the Fish and Game Codes that protect nesting birds. As long as there is no direct mortality of species protected pursuant to these codes caused by development of the site, there should be no constraints to development of the site. To comply with the Fish and Game Codes that protect nesting birds, preconstruction surveys would have to be conducted for nesting bird species to ensure that there is no direct take or these birds including their eggs or young. Non-disturbance buffers would have to be established around any active nesting sites and would have to be of sufficient size to protect the nesting birds from harm. Upon completion of nesting the buffers could be removed, and the project could commence as otherwise planned. Please review specific requirements for avoidance of nest sites in the Impacts and Mitigations section below.

7.5 Santa Rosa Plain Conservation Strategy

The Federal listing of California tiger salamander resulted in uncertainty for many local jurisdictions, landowners, and developers about its effects on their current and proposed activities. Because of this uncertainty, local private and public interest groups met with the USFWS to discuss a cooperative approach to protecting California tiger salamander, while allowing currently planned and future land uses to occur within its range. The result of these discussions was the creation of the *Final Santa Rosa Plain Conservation Strategy* (“*Conservation Strategy*”) (USFWS 2005).

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The purpose of the *Conservation Strategy* is threefold: (1) to establish a long-term conservation program sufficient to mitigate potential adverse effects of future development on the Santa Rosa Plain, and to conserve and contribute to the recovery of the listed species and the conservation of their sensitive habitat; (2) to accomplish the preceding in a fashion that protects stakeholders' (both public and private) land use interests, and (3) to support issuance of an authorization for incidental take of Sonoma County California tiger salamander and listed plants that may occur in the course of carrying out a broad range of activities on the Santa Rosa Plain. The *Conservation Strategy* establishes interim and long-term mitigation requirements and designates conservation areas where mitigation will occur. It describes how habitat preserves will be established and managed. It also includes guidelines for translocation, management plans, adaptive management, and funding.

The *Conservation Strategy* identifies areas within the Santa Rosa Plain that should be conserved to benefit the listed plants and Sonoma County California tiger salamander. Their designation was based upon the following factors: 1) known distribution of the California tiger salamander; 2) the presence of suitable habitat; 3) presence of large blocks of natural or restorable land; 4) proximity to existing Preserves; and 5) known location of the listed plants. The designation of conservation areas also generally attempted to avoid future development areas established by urban growth boundaries and city general plans. The objective of these conservation areas is to ensure that preservation occurs throughout the distribution of the species.

The goal of the *Conservation Strategy* is to preserve a large enough area of suitable habitat to ensure the conservation of California tiger salamander and listed plants and contribute to their recovery. In order to do this, areas are identified within the Santa Rosa Plain that currently or potentially support California tiger salamander and listed plants, as well as the areas that currently or likely will support development. This information was used to develop appropriate "conservation areas" and requirements as well as mitigation guidelines and requirements, in order to "provide consistency, timeliness and certainty for permitted activities."

Proposed projects within the potential California tiger salamander range will fall into one of three categories:

- a.) Projects within 1.3 miles of a known California tiger salamander breeding site, and likely to impact California tiger salamander breeding and/or upland habitat; or
- b.) Projects beyond 1.3 miles from a known California tiger salamander breeding site, but within the "Potential for Presence of California tiger salamander" or "Potential for Presence of California tiger salamander and Plants"; or
- c.) Projects where "Presence of California tiger salamander is Not Likely."

Different mitigation ratios are recommended for each of these categories.

The *Conservation Strategy* recommends that projects filling *potential* listed plant habitat should mitigate these impacts via the preservation of existing occupied habitat at a 1:1 ratio, and projects filling *known* listed plant habitat should mitigate these impacts via the preservation of existing occupied habitat at a 2:1 ratio, as per a Programmatic Biological Opinion (USFWS 1998) in effect at the time of the *Conservation Strategy* was prepared in 2005. The USFWS'

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2020 Programmatic Biological Opinion (USFWS 2020) has since superseded the 2007 and 1998 Programmatic Biological Opinions and the mitigation ratios have changed as discussed below and in the 2020 Programmatic Biological Opinion.

The *Conservation Strategy* recommends that projects filling wetlands should mitigate these impacts via the preservation of wetlands at a minimum of a 1:1 replacement ratio, depending on the quality of the filled wetlands, as per a Programmatic Biological Opinion (USFWS 1998) in effect at the time of the *Conservation Strategy* was prepared in 2005. The 1998 Programmatic Biological Opinion was superseded by a Programmatic Biological Opinion prepared by the USFWS for the Corps in 2007 (USFWS 2007) and again in 2020 (USFWS 2020).

7.5.1 APPLICABILITY TO THE PROPOSED PROJECT

The project site is in an area of the Santa Rosa Plain that is designated in Figure 3 of the USFWS' Conservation Strategy (USFWS 2005b) (see Conservation Strategy Section below) as within "Sonoma County Incorporated Areas" in a "Development Area." In the USFWS' 2016 Recovery Plan (USFWS 2016), the project site is shown on Figure 1 of that plan (See M&A Figure 6 in this report) as not being within a designated "Conservation Area." Accordingly, the USFWS anticipated in 2005 that this project site would be developed when it prepared the Conservation Strategy.

Per the existing BO issued in 2019 for the Sterling Senior Communities Project, which Jason Hanni (USFWS and author of the BO) confirmed remains valid for this project, the applicant will purchase listed plant preservation or establishment credits at a 1.5:1 ratio from a USFWS approved mitigation bank(s). Additionally, per the existing BO, to mitigate for impacts to 3.64 acres of California tiger salamander habitat, the applicant shall secure 7.28 acres of California tiger salamander mitigation credit from a USFWS (and CDFW) approved Conservation Bank.

7.6 Santa Rosa Plain 2020 Programmatic Biological Opinion

The *Programmatic Biological Opinion* (USFWS 2020) is based on the biological framework presented in the *Conservation Strategy*. This *Programmatic Biological Opinion* replaces (supersedes) the July 17, 1998 *Programmatic Formal Consultation for U.S. Army Corps of Engineers 404 Permitted Projects that May Affect Four Endangered Plant Species on the Santa Rosa Plain* (USFWS 1998), as well as the revisions made in 2007 (USFWS 2007), which were prepared for listed plant species on the Santa Rosa Plain. Projects that require a Corps permit and that remain consistent with objectives stated in the *Conservation Strategy* can be appended to the *Programmatic Biological Opinion* at the discretion of the USFWS. Projects that are appended to the *Programmatic Biological Opinion* will be provided individual take authorization for impacts to federally listed species.

7.6.1 APPLICABILITY TO THE PROPOSED PROJECT

As the existing BO issued in 2019 for the Sterling Senior Communities Project remains valid for this proposed project, reinitiation of Section 7 consultation between the Corps and the USFWS is not required, and this project does not need to be appended to the 2020 Programmatic Biological Opinion.

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In accordance with the project's existing BO, although federally and state-listed plants were not observed on the project site during years of formal rare plant surveys conducted in 2015, 2016, 2017, and 2019, seasonal wetlands on the site are still regarded by USFWS to be "suitable habitat." Consequently, impacted seasonal wetlands on the project site would still be required to be mitigated as "suitable" listed plant habitats.

Per the existing BO, prior to any earthmoving activities the applicant shall be required to purchase preservation or establishment credits for Sebastopol meadowfoam at a 1.5:1 ratio from a USFWS-approved mitigation bank(s) located in a Core or Management Area as defined in the 2016 Recovery Plan (unless otherwise approved by the USFWS). Since the proposed project will directly impact approximately a 0.06-acre wetland (W1 on Attachment C) that is suitable habitat for Sebastopol meadowfoam, the applicant has proposed to offset the loss of 0.06 acre of suitable listed plant habitat by purchasing 0.09 acre (0.06 acre x 1.5) of Sebastopol meadowfoam preservation or establishment credits.

Additionally, per the existing BO, to mitigate for impacts to 3.64 acres of California tiger salamander habitat, the applicant shall secure 7.28 acres of California tiger salamander mitigation credit from a USFWS (and CDFW) approved Conservation Bank within the West Cotati Core California tiger salamander area in accordance with the USFWS' Recovery Plan (USFWS 2016). Currently, the applicant is proposing to purchase California tiger salamander credits from the Margaret West and/or Alton Lane Conservation Banks. The applicant could use other conservation banks as well as approved by the USFWS (and CDFW).

7.7 USFWS Recovery Plan for the Santa Rosa Plain (USFWS 2016)

In December 2016, the USFWS adopted a formal Recovery Plan for the Santa Rosa Plain addressing recovery efforts necessary to protect and otherwise eventually recover the federally listed Sonoma County Distinct Population Segment of the California tiger salamander (*Ambystoma californiense*) and three vernal pool plants: Sonoma sunshine (*Blennosperma bakeri*); Burke's goldfields (*Lasthenia burkei*); and Sebastopol meadowfoam (*Limnanthes vinculans*) (USFWS 2016). All four species are confined almost entirely to the Santa Rosa Plain. The Recovery Plan and its objectives are implemented through cooperative CEQA lead agencies, and through federal nexus agency consultations (e.g., Corps consultations) with the USFWS via Section 7 of the FESA. Any federal nexus agency that consults with the USFWS pursuant to Section 7 will obtain a letter of no effect or a Biological Opinion that provides or denies "incidental take authority." Pursuant to the FESA, Incidental take would include loss of a listed species habitat or harm that could occur to a federally listed species. An Incidental Take Permit allows an otherwise legally sanctioned activity to proceed even if there is a collateral impact to a federally listed species. Similarly, any Section 10 FESA consultation with the USFWS, which is allowed for in the FESA for all non-federal entities, which results in Incidental Take authority granted by the USFWS to the non-federal entities, would otherwise include provisions for compliance with the objectives of the Recovery Plan.

The USFWS has determined that the primary threats to the three listed vernal pool plants and the California tiger salamander on the Santa Rosa Plain is the reduction and fragmentation of habitat due to urban development, agricultural land conversion, and habitat degradation that modifies

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vernal pool hydrology, and colonization of seasonal wetlands by competitive invasive plants. Consequently, the Recovery Plan focuses on these threats. To downlist or delist the four species that are imperiled in the Santa Rosa Plain, the threats to the species' habitat must be reduced or eliminated. The USFWS criteria for downlisting are based upon preservation of extant vernal pools systems and attending uplands that support wetland complexes. The USFWS has segmented the Santa Rosa Plain into "Core" and "Management Areas" (Exhibits A and B) where species preservation, and habitat enhancement and management must occur to recover these four listed species.

[The following information has been obtained from various personal communications in 2016 and 2017 between Mr. G. Monk and Mr. Vincent Griego and/or Mr. Ryan Olah of the Sacramento Endangered Species Office of the USFWS]: The USFWS is now requiring that projects that impact federally listed plant species in Core habitats, and/or California tiger salamander Core habitat (Exhibits A and B), mitigate through preservation and enhancement of extant listed species habitats in the same Core Area where the impacts will occur. Mitigation for Core area species always takes precedence over Management area species. The USFWS is also now requiring that impacts to specific federally listed species' Management Areas, be mitigated in the affected species Core Areas or its Management Areas as designated in the USFWS' 2016 Santa Rosa Plain Recovery Plan (USFWS 2016). Impacts to California tiger salamander outside of Core and Management Areas may be mitigated in any Core or Management Area designated in the Santa Rosa Plain (Ryan Olah pers. Comm. With G. Monk, January 18, 2017).

7.7.1 APPLICABILITY TO PROPOSED PROJECT

The project site is within the Sebastopol meadowfoam (*Limnanthes vinculans*) Core Area. Accordingly, vernal pool plant mitigation that is implemented to offset impacts to "suitable vernal pool plant species habitat" must be obtained within this Core Area to meet the objectives of the Recovery Plan (USFWS 2016). Regarding impacts that would occur to the California tiger salamander from the implementation of the proposed project, these impacts would occur within the West Cotati Core California tiger salamander area. Thus, compensation for these impacts must be obtained from this Core Area. The applicant is currently proposing to purchase California tiger salamander credits from the Margaret West and/or Alton Lane Conservation Banks, and to purchase 0.09 acre (0.06 acre x 1.5) of Sebastopol meadowfoam preservation or establishment credits from a USFWS approved mitigation bank(s) located in a Core or Management Area as defined in the 2016 Recovery Plan (unless otherwise approved by the USFWS).

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7.8 City of Cotati Tree Ordinance - Chapter 17.54 Tree Preservation and Protection

Below are key provisions of the City of Cotati's Tree Ordinance. Since the project will impact both native and non-native (i.e. landscape) trees, this ordinance will apply.

7.8.1 APPLICABILITY (17.54.020)

A. Applicability of Requirements. The provisions of this chapter shall apply in all zoning districts to the removal or relocation of any tree with a circumference of twelve inches or more, measured at fifty-four inches above natural grade.

B. Tree Permit Required.

1. Activities Requiring a Permit. A tree permit shall be required prior to:
 - a. The relocation, removal, cutting-down, or other act that causes the destruction of a tree;
 - b. Prior to any grading, paving, or other ground-disturbing activity within the protected zone of a tree; and
 - c. The approval of a use permit, minor use permit, variance, minor variance, or subdivision, hereafter referred to as "discretionary projects."
2. Permit Issuance. The procedure and review authority for a tree permit is as follows:
 - a. Developed Parcel. A tree permit for the removal of other than a native oak from a developed parcel shall be issued as follows:
 - i. A permit for a parcel developed with one single-family dwelling may be issued by the director after a site inspection. In this case, the director may waive the prior submittal of a site plan.
 - ii. A permit for a parcel developed with multiple dwellings or a nonresidential structure may be issued by the director after the review of a complete tree permit application in compliance with Section 17.54.030 (Tree permit application requirements) of this chapter.
 - b. Vacant Parcel. A tree permit for the removal of other than a native oak from a vacant parcel shall require commission approval, and shall not be granted except in conjunction with:
 - i. The approval of a discretionary project for the same site;
 - ii. The approval of a building permit for the same site; or
 - iii. The approval of improvement plans for a subdivision of the same property.

C. Native Oak Removal. The removal of a native oak with a trunk circumference of twelve inches measured at fifty-four inches above natural grade shall be prohibited, except where approved by the council after a public hearing in compliance with Chapter 17.88 (Public Hearings) of this title, in conjunction with the approval of a subdivision or other specific development project.

D. Timing of Removal of Large-Stature Trees. The removal of a tree with a height of fifty feet or more shall not occur between April 15 and June 15 of any year, to provide for the nesting and stopover patterns of raptors, migratory birds, and other bird species.

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E. Exceptions. The removal or relocation of a tree that would otherwise require a tree permit is exempt from the provisions of this chapter only in case of emergency, where the director, city engineer, a member of a law enforcement agency, or the fire district determines that a tree poses an imminent threat to the public safety, or general welfare. (Ord. 766 § 2 Exh. A (part), 2004).

7.8.2 TREE PERMIT APPLICATION REQUIREMENTS (17.54.030)

A. Application Contents. Each tree permit application shall include the information and materials required by the department, and:

1. Shall be accompanied by the application fee required by the city fee schedule;
2. The application may be required to include an arborist's report, at the discretion of the director; and
3. If the site is subject to conditions, covenants, and restrictions (CC&Rs) that address tree removal and are administered by an active homeowners' association, the application shall include a letter from the homeowners' association authorizing the tree removal.

B. Application Filing. An application for a tree permit involving a discretionary project shall be included as part of the application for the discretionary project. An application for a tree permit not associated with a discretionary project shall be filed with the department separately. (Ord. 766 § 2 Exh. A (part), 2004).

7.8.2.1 Protection of Trees to Be Retained

A. Purpose. The purpose of this section is to define procedures necessary to protect the health of affected protected trees. Great care must be exercised when work is conducted upon or around trees that are not authorized for removal.

B. Applicability. The requirements of this section shall apply to all encroachments into the protected zone of a tree that is not authorized for removal from a site when approved grading or other construction is to occur. All tree permits shall be deemed to incorporate the requirements of this section except as a tree permit may otherwise specifically provide.

C. Trenching Procedure. Trenching within the protected zone of a protected tree, when permitted, may only be conducted with hand tools or as otherwise directed by the city, to avoid root injury.

D. Cutting Roots.

1. Minor roots less than one inch in diameter may be cut, but damaged roots shall be traced back and cleanly cut behind any split, cracked or damaged area.
2. Major roots over one inch in diameter may not be cut without the director's approval. Depending upon the type of improvement being proposed, bridging techniques or a new site design may need to be employed to protect the root and the tree.

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E. Irrigation Systems. An independent low-flow drip irrigation system may be used for establishing drought-tolerant plants within the protected zone of a tree to be protected.

F. Plant Materials Under Oaks. Planting live material under native oak trees is generally discouraged, and it will not be permitted within six feet of the trunk of a native oak tree with a circumference of less than twelve inches measured at fifty-four inches above natural grade, or within ten feet of the trunk of a native oak tree with a circumference of twelve inches or more measured at fifty-four inches above natural grade. Only drought-tolerant plants will be permitted within the protected zone of native oak trees.

G. Protective Fencing.

1. Type of Fencing. A minimum five-foot high chain link or substitute fence approved by the director shall be installed at the outermost edge of the protected zone of each protected tree or groups of protected trees. Exceptions to this policy may occur in cases where protected trees are located on slopes that will not be graded. However, approval must be obtained from the department to omit fences in any area of the project.

2. Fence Installation. The fences shall be installed in accordance with the approved fencing plan prior to the commencement of any grading operations or such other time as determined by the review authority. The developer shall call the city engineer for an inspection of the fencing prior to grading operations.

3. Signing. Signs shall be installed on the fence in four equidistant locations around each individual protected tree. The size of each sign must be a minimum of two feet by two feet and must contain the following language: "WARNING, THIS FENCE SHALL NOT BE REMOVED OR RELOCATED WITHOUT WRITTEN AUTHORIZATION FROM THE COTATI PLANNING AND BUILDING DEPARTMENT." Signs placed on fencing around a grove of protected trees, shall be placed at approximately fifty-foot intervals.

4. Fence Removal. Once approval has been obtained, the fences shall remain in place throughout the entire construction period and shall not be removed without obtaining written authorization from the department.

H. Retaining Walls and Root Protection. Where a tree permit has been approved for construction of a retaining wall within the protected zone of a protected tree, the developer shall provide for the immediate protection of exposed roots from moisture loss during the time prior to completion of the wall. The retaining wall shall be constructed within seventy-two hours after completion of grading.

I. Preservation Devices. If required, preservation devices such as aeration systems, oak tree wells, drains, special foundation systems, special paving and cabling systems must be installed per approved plans.

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J. Grading.

1. Every effort shall be made to avoid cut and/or fill slopes within or in the vicinity of the protected zone of any protected tree.
2. No grade change shall cause water to drain into an area around a protected tree equal to twice the longest radius of the protected zone.
3. No grade changes are permitted that will lower or raise the ground on any side of the tree.

K. Chimney Locations. A chimney for a wood burning fireplace or stove shall not be located within the canopy of a tree or in any location that sparks emitted from the chimney may damage a tree.

L. On-site Information. The following information shall be on-site while any construction activity is ongoing for a project requiring a tree permit:

1. Any applicable arborist's report and any subsequent modifications to the arborist's report;
2. Tree location map with a copy of the tree fencing plan;
3. Tree permit and approved construction plans;
4. Approved planting and irrigation drawings.

M. Information on Standards. The developer shall be responsible for informing all subcontractors and individuals who will be performing work around protected trees of the requirements of this section for working around trees and conditions of approval for the project. This information shall be provided in writing to the subcontractors and employees by the general contractor or applicant.

N. Utility Trenching Pathway Plan. In the event trenching is proposed, the tree permit application shall include a utility trenching pathway plan for approval following approval of the project improvement or civil plans.

1. Contents. The trenching-pathway plan shall depict all of the following systems: storm drains, sewers, easements, water mains, area drains, and underground utilities. Except in lot sale subdivisions, the trenching-pathway plan must show all lateral lines serving buildings. To be completely effective, the trenching-pathway plan must include the surveyed locations of all protected trees on the project as well as an accurate plotting of the protected zone of each protected tree.
2. Standards for Plan. The trenching-pathway plan shall be developed considering the following general guidelines:

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- a. The trenching-pathway plan shall be developed to avoid trenching in the protected zone of any protected tree on its path from the street to the building.
- b. Where it is impossible to avoid the protected zone, the design shall minimize the extent of trenching within the protected zone. The required arborist’s report shall include mitigation measures for any trenching within the protected zone.

O. Final Certification of Tree Work. All of the tree preservation measures required by the conditions of the discretionary project approval, and/or the tree permit, as applicable, shall be completed, and certified by an arborist selected by the director prior to city issuance of a final building inspection or certificate of occupancy. (Ord. 766 § 2 Exh. A (part), 2004).

7.8.3 TREE PLANTING AND REPLACEMENT (17.54.050)

The city’s principal objective for the tree permit process is the preservation of native oaks and other significant trees, particularly in groves. Where the review authority determines that preservation is infeasible, replacement plantings may be allowed in compliance with this section.

A. Extent of Replacement Required. The review authority may condition any tree permit for the removal of a tree to require tree replacement, as shown in Table 5-2. The review authority may approve a replacement program using one of the methods identified in subsection B or C of this section, or any combination of the methods.

Table 5-2

Minimum Required Replacement Trees

Species of Tree to be Removed	Circumference of Tree to be Removed⁽¹⁾	Mitigation Value (required number of replacement trees)	Required Size and Species of Replacement Trees for Mitigation Value
Oaks (Black, Valley, Live)	12 to 49 inches	5	15-gallon, oak of the same species removed
	50 to 79 inches	10	
	80 or more inches	20	
Other	12 to 49 inches	2	15-gallon, of species determined by city
	50 to 79 inches	4	
	80 or more inches	6	

Notes:

- (1) Circumference shall be measured at a point fifty-four inches above the natural grade at the base of the tree.

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B. Location and Specifications for Replacement Trees. The replacement trees required by Table 5-2 shall be planted on-site (the city's preferred method of mitigation), except that the review authority may authorize other areas where maintenance to ensure survival of the trees will be guaranteed.

1. All replacement trees shall be of the same species as the trees being replaced, propagated from locally gathered seeds, except in the case where a replacement tree is approved in a location characterized by nonnative species (for example, within a narrow roadway median where existing trees are ornamental non-natives), or where the review authority otherwise determines that native species are inappropriate.
2. The review authority may allow up to fifty percent of the required replacement trees to have a five-gallon container size, where it determines that long-term tree health and survival will be improved by starting with a smaller container size, and that each tree with a container size less than fifteen gallons will not be planted where it will be subject to damage while becoming established.
3. The review authority may require fewer and/or larger replacement trees than required by Table 5-2 where it determines that fewer but significantly larger trees are appropriate because of the size of the site, or on-site environmental resources or terrain constraints.
4. Replacement trees shall be in addition to any trees required by provisions of this land use code other than this chapter (e.g., required parking lot landscaping or street trees).

C. In-lieu Mitigation Fee. The review authority may determine that the remedies described above are not feasible or desirable and may instead require the payment of an in-lieu fee for the cost of purchasing, planting, irrigating, and maintaining each tree for a period of ten years. The in-lieu fee shall be as required by the city fee schedule. The in-lieu fee shall be deposited into the city's tree fund. (Ord. 766 § 2 Exh. A (part), 2004).

7.8.4 TREE PERMIT APPROVAL FINDINGS AND CONDITIONS (17.54.060)

A. Required Findings. The approval of a tree permit shall require that the review authority first make all the following findings:

1. The approval of the tree permit will not be detrimental to the public health, safety or welfare, and approval of the tree permit is consistent with the provisions of this chapter;
2. Measures have been incorporated into the project or permit to mitigate impacts to remaining trees or to replace the trees removed in compliance with this chapter;
3. The removal of a healthy tree cannot be avoided by:
 - a. Reasonable redesign of the site plan prior to construction, or

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- b. Trimming, thinning, tree surgery, or other reasonable treatment, as determined by the director;
- 4. Adequate provisions for drainage, erosion control, land stability, windscreen, buffers along the road and between neighbors have been made where these problems are anticipated as a result of the removal; and,
- 5. The tree to be removed does not contain an active nest that has been identified through the environmental process or is otherwise known to the review authority as the nest of a migratory bird, except where a qualified professional has determined that the nest can be relocated without damage to the nestlings.

B. Conditions of Approval. The approval of a tree permit shall include conditions of approval as necessary to ensure compliance with Section 17.54.050 (Tree planting and replacement) of this chapter. (Ord. 766 § 2 Exh. A (part), 2004).

7.8.5 APPLICABILITY TO THE PROPOSED PROJECT

The project will impact both native and non-native trees subject to the City of Cotati's Tree Protection Ordinance. An Arborist Report has been prepared by Mr. John Meserve (Meserve 2017) that details tree impacts for the proposed project. M&A used this report and identified tree impacts to prepare Table A (presented in the Mitigation Measures section below), which states which trees would be impacted that require replacement mitigation. It should be noted that pursuant to the City of Cotati's Tree Ordinance, the City has the discretion to set a different number of replacement trees depending on the desired character for the post developed project site. *The applicant shall submit the arborist's report and an application for a tree permit as part of the application for the development project. In compliance with the Tree Protection Ordinance, tree replacement species and numbers are presented in Table A or as otherwise required by the City of Cotati.*

8. REGULATORY REQUIREMENTS PERTAINING TO WATERS OF THE UNITED STATES AND STATE

This section presents an overview of the criteria used by the Corps, the RWQCB, the State Water Resources Control Board (SWRCB), and the CDFW to determine those areas within a project area that would be subject to their regulation.

8.1 U.S. Army Corps of Engineers Jurisdiction and Permitting

Congress enacted the Clean Water Act "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters" (33 U.S.C. §1251(a)). Pursuant to Section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344), the Corps regulates the disposal of dredged or fill material into "waters of the United States" (33 CFR Parts 328 through 330). This requires project applicants to obtain authorization from the Corps prior to discharging dredged or fill materials into any water of the United States.

On November 18, 2021, the U.S. EPA and the Corps (the "agencies") announced the signing of a proposed rule to revise the definition of "waters of the United States." On December 7, 2021, the

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proposed rule was published in the Federal Register. The agencies propose to put back into place the pre-2015 definition of “waters of the United States,” (40 CFR 230.3(s)). This proposal redefining wetlands is not final at this time. The agencies are interpreting “waters of the United States” consistent with the pre-2015 regulatory regime until further notice.

In the published proposed rule from the Federal Register, the term “waters of the United States” is defined as:

1. All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide
2. All interstate waters including interstate wetlands
3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds:
 - (i) That are relatively permanent, standing or continuously flowing bodies of water with a continuous surface connection to the waters identified in paragraph (1), (2), (5)(i), or (6) of this section; or
 - (ii) That either alone or in combination with similarly situated waters in the region, significantly affect the chemical, physical, or biological integrity of waters identified in paragraph (1), (2), or (6) of this section
4. All impoundments of waters otherwise defined as waters of the United States under the definition, other than impoundments of waters identified under 3 of this section
5. Tributaries of waters identified in (1), (2), (4), or (6) of this section
 - (i) That are relatively permanent, standing or continuously flowing bodies of water; or
 - (ii) That either alone or in combination with similarly situated waters in the region, significantly affect the chemical, physical, or biological integrity of waters identified in (1), (2), or (6) of this section
6. The territorial seas
7. Wetlands adjacent to the following waters (other than waters that are themselves wetlands):
 - (i) Waters identified in (1), (2), or (6) of this section; or
 - (ii) Relatively permanent, standing or continuously flowing bodies of water identified in paragraph (4) or (5)(i) of this section and with a continuous surface connection to such waters; or
 - (iii) Waters identified in (4) or (5)(ii) of this section when the wetlands either alone or in combination with similarly situated waters in the region, significantly affect the chemical, physical, or biological integrity of waters identified in paragraph (1), (2), or (6) of this section

Waters of the United States do not include:

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8. Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States.
9. Prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other Federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

Limits of Corps' jurisdiction:

(a) Territorial Seas. The limit of jurisdiction in the territorial seas is measured from the baseline in a seaward direction a distance of three nautical miles. (See 33 CFR 329.12)

(b) Tidal Waters of the United States. The landward limits of jurisdiction in tidal waters:

- (1) Extends to the high tide line, or
- (2) When adjacent non-tidal waters of the United States are present, the jurisdiction extends to the limits identified in paragraph (c) of this section.

(c) Non-Tidal Waters of the United States. The limits of jurisdiction in non-tidal waters:

- (1) In the absence of adjacent wetlands, the jurisdiction extends to the ordinary high water mark ("OHWM"), or
- (2) When adjacent wetlands are present, the jurisdiction extends beyond the ordinary high water mark to the limit of the adjacent wetlands.
- (3) When the water of the United States consists only of wetlands the jurisdiction extends to the limit of the wetland.

The OHWM on a non-tidal water is:

- the "line on shore established by the fluctuations of water and indicated by physical characteristics such as a clear natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter or debris; or other appropriate means that consider the characteristics of the surrounding areas" (33 CFR Section 328.3[e]).

Wetlands are defined as: "...those areas that are inundated or saturated by surface or ground water at a frequency and duration to support a prevalence of vegetation adapted for life in saturated soil conditions" (33 CFR Section 328.8 [b]). Wetlands usually must possess hydrophytic vegetation (i.e., plants adapted to inundated or saturated conditions), wetland hydrology (e.g., topographic low areas, exposed water tables, stream channels), and hydric soils (i.e., soils that are periodically or permanently saturated, inundated or flooded) to be regulated by the Corps pursuant to Section 404 of the Clean Water Act.

One of the Supreme Court rulings that will likely remain under the new rule, once it is finalized, was established in 2001 in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*. In this case, the U.S. Supreme Court [148 L. Ed. 2d 576 (2001) (SWANCC)] ruled

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that the Corps exceeded its authority under the Clean Water Act when it regulated discharges of fill material into "isolated" waters used as habitat by migratory birds. Accordingly, waters (including wetlands) that are not connected hydrologically to navigable waters are not subject to regulation by the Corps.

Another Supreme Court decision also significantly changes how the Corps defines waters of the United States. On June 19, 2006, the United States Supreme Court, in a "four-one-four" decision, addressed the extent of Clean Water Act jurisdiction over wetlands adjacent to tributaries of navigable waters. In two consolidated cases, *Rapanos v. United States* and *Carabell v. U.S. Army Corps of Engineers*, a five-Justice majority of the Court remanded the case to the Sixth circuit for further consideration. The Court was unable to produce a majority vote in favor of any one jurisdictional standard for the Sixth Circuit to apply (or for the regulated community to follow). Instead, Justice Scalia authored a plurality opinion that would significantly narrow the reach of federal wetlands jurisdiction, while Justice Kennedy, concurring in the judgment only, concluded that the appropriate test for jurisdiction over wetlands was the presence of a "significant nexus" between wetlands and "navigable waters" in the traditional sense. The remaining four Justices, in a dissenting opinion by Justice Stevens, would have upheld the Corps of Engineers' assertion of jurisdiction and would have affirmed the Sixth Circuit's decision. When no opinion garners at least five votes, lower courts follow the concurrence that reached the result on the narrowest grounds. Here, that is Justice Kennedy's opinion. Unfortunately, Justice Kennedy did not provide specific guidance about the extent of federal jurisdiction over wetlands that are adjacent to tributaries of navigable waters.

Justice Kennedy concluded that the Clean Water Act applies only to those wetlands with a "significant nexus" to "navigable waters in the traditional sense." A significant nexus exists when a wetland, "either alone or in combination with similarly situated lands in the region, significantly affect[s] the chemical, physical, and biological integrity" of factually navigable waters. Under Supreme Court precedent, wetlands adjacent to navigable waters meet this test. For wetlands located near tributaries of navigable waters, however, each wetland demands a case-by-case jurisdictional inquiry. We know that a "mere hydrological connection" is not enough in all cases, and that "speculative or insubstantial" effects on water quality will not suffice to satisfy the test. [Preceding text excerpted from a newsletter prepared by Briscoe, Ivester, and Bazel LLP]. The Corps of Engineers and the Environmental Protection Agency jointly prepared an Instructional Guidebook to aid Corps field staff in completing the new "Approved Jurisdictional Determination Form," and is intended to be used as the U.S. Army Corps of Engineers Regulatory National Standard Operating Procedures for conducting an approved jurisdictional determination.

8.2 Permitting Corps Jurisdictional Areas

To remain in compliance with Section 404 of the CWA, project proponents and property owners (applicants) are required to be permitted by the Corps prior to discharging or otherwise impacting waters of the United States. In many cases, the Corps must visit a proposed project area (to conduct a "jurisdictional determination") to confirm the extent of area falling under their jurisdiction prior to authorizing any permit for that project area. Typically, at the time the jurisdictional determination is conducted, applicants (or their representative) will discuss the

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appropriate permit application that would be filed with the Corps for permitting the proposed impact(s) to “waters of the United States.”

Pursuant to Section 404, the Corps normally provides two alternatives for permitting impacts to the type of waters of the United States found in the project area. The first alternative would be to use Nationwide Permit(s) (NWP). The second alternative is to apply to the Corps for an Individual Permit (33 CFR Section 235.5(2)(b)). The application process for Individual Permits is extensive and includes public interest review procedures (i.e., public notice and receipt of public comments) and must contain an “alternatives analysis” that is prepared pursuant to Section 404(b) of the Clean Water Act (33 U.S.C. 1344(b)). The alternatives analysis is also typically reviewed by the federal EPA and thus brings another resource agency into the permitting framework. Both the Corps and EPA take the initial viewpoint that there are practical alternatives to the proposed project if there would be impacts to waters of the U.S., and the proposed permitted action is not a water dependent project (e.g., a pier or a dredging project). Alternative analyses therefore must provide convincing reasons that the proposed permitted impacts are unavoidable. Individual Permits may be available for use in the event that discharges into regulated waters fail to meet conditions of NWP(s).

NWPs are a type of general permit administered by the Corps and issued on a nationwide basis that authorize minor activities that affect Corps regulated waters. Under NWP, if certain conditions are met, the specified activities can take place without the need for an individual or regional permit from the Corps (33 CFR, Section 235.5[c][2]). In order to use NWP(s), a project must meet 27 general nationwide permit conditions, and all specific conditions pertaining to the NWP being used (as presented at 33 CFR Section 330, Appendices A and C). It is also important to note that pursuant to 33 CFR Section 330.4(e), there may be special regional conditions or modifications to NWPs that could have relevance to individual proposed projects. Finally, pursuant to 33 CFR Section 330.6(a), Nationwide permittees may, and in some cases must, request from the Corps confirmation that an activity complies with the terms and conditions of the NWP intended for use (i.e., must receive “verification” from the Corps).

Prior to finalizing design plans, the applicant needs to be aware that the Corps maintains a policy of “no net loss” of wetlands (waters of the United States) from project area development. Therefore, it is incumbent upon applicants that propose to impact Corps regulated areas to submit a mitigation plan that demonstrates that impacted regulated areas would be recreated (i.e., impacts would be mitigated). Typically, the Corps requires mitigation to be “in-kind” (i.e., seasonal wetlands would be filled, mitigation would include seasonal wetland mitigation), and at a minimum of a 1:1 replacement ratio (i.e., one acre or fraction thereof recreated for each acre or fraction thereof lost). Often a 2:1 replacement ratio is required if the Permittee is responsible for the mitigation. In some cases, the Corps allows “out-of-kind” mitigation if the compensation site has greater value than the impacted site. Finally, there are many Corps approved wetland mitigation banks where wetland mitigation credits can be purchased by applicants to meet mitigation compensation requirements. Mitigation banks have defined service areas and the Corps may only allow their use when a project would have minimal impacts to wetlands.

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8.2.1 APPLICABILITY TO THE PROPOSED PROJECT

On July 25, 2008, the Corps confirmed the extent of its jurisdiction on the project site (Corps File No. SPN-2007-400822-N). This jurisdictional map remained valid until July 25, 2010. On July 15, 2016, and April 24, 2017, M&A biologists Mr. Monk and Ms. Owens conducted a wetland delineation on the project site to update the expired map. A Request for Preliminary Jurisdictional Determination and the Preliminary Aquatic Resources Map was submitted to the Corps on August 18, 2017. On September 8, 2017, Ms. Roberta Morganstern from the Corps confirmed the extent of the Corps' jurisdiction on the project site.

On March 20, 2018, M&A biologist, Ms. Christy Owens, conducted additional wetland delineation work of potential offsite impact areas associated with the improvement of Highway 116 along the frontage of the project site. An amended Request for Preliminary Jurisdictional Determination and a Preliminary Aquatic Resources Map was submitted to the Corps on August 18, 2018. On May 21, 2018, Ms. Morganstern of the Corps confirmed jurisdiction over 0.06-acre of seasonal wetland within the expanded limits of delineation which includes the project site (Attachments C and D).

The proposed project will result in the fill of approximately 0.06-acre of jurisdictional seasonal wetland regarded as a waters of the U.S. pursuant to the CWA. As impacts to waters of the U.S. will be less than 0.5-acre, the threshold for the Corps to authorize use of a Nationwide Permit, this project will require a Nationwide Permit(s) authorization from the Corps. Similarly, as no Corps Clean Water Act permit is operable without a Permit from the RWQCB, the applicant shall obtain a permit from both the Corps and the RWQCB prior to impacting waters of the U.S. and State on the project site.

8.3 State Water Resources Control Board (SWRCB)/California Regional Water Quality Control Board (RWQCB)

8.3.1 SECTION 401 OF THE CLEAN WATER ACT

The SWRCB and RWQCB regulate activities in "waters of the State" (which includes wetlands) through Section 401 of the Clean Water Act. While the Corps administers a permitting program that authorizes impacts to waters of the U.S., including wetlands and other waters, any Corps permit authorized for a proposed project would be inoperative unless it is a NWP that has been certified for use in California by the SWRCB, or if the RWQCB has issued a project specific certification of water quality. Certification of NWPs requires a finding by the SWRCB that the activities permitted by the NWP will not violate water quality standards individually or cumulatively over the term of the permit (the term is typically for five years). Certification must be consistent with the requirements of the federal Clean Water Act, the CEQA, the CESA, and the SWRCB's mandate to protect beneficial uses of waters of the State. Any denied (i.e., not certified) NWPs, and all Individual Corps permits, would require a project specific RWQCB certification of water quality. Where a project will result in dredge or fill of non-federal waters of the State, the RWQCB will authorize those fills through waste discharge requirements issued under the Porter Cologne Water Quality Control Act.

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On April 2, 2019, the SWRCB adopted a State-level definition of “wetlands,” which definition is broader than the federal definition in that unvegetated areas may be considered a wetland water of the State. As a part of the same policy, the SWRCB adopted permit procedures and standards governing the discharge of dredged or fill material into wetlands and other waters of the State. The policy includes, among other things, requirements for analyses to identify the least environmentally damaging practicable alternative (LEDPA) and compensatory mitigation standards including a minimum 1:1 ratio for wetlands and streams, and full functional replacement of all waters on top of this minimum where applicable. The policy, which will govern both Section 401 certifications and Waste Discharge Requirements (WDRs), is scheduled to become effective nine months following the completion of review by the California Office of Administrative Law.

8.3.2 APPLICABILITY TO THE PROPOSED PROJECT

The Corps’ confirmed Aquatic Resources Map is provided as Attachment C. Since the RWQCB does not have a formal method for technically defining what constitutes waters of the state, M&A expects that the RWQCB should remain consistent with the Corps’ determination. The proposed project will result in impacts to a 0.06-acre seasonal wetland that is regarded as a water of the U.S. and State.

Any proposed impact to waters of the State would have to be mitigated pursuant to Section 401 of the CWA and/or pursuant to the Porter-Cologne Water Quality Control Act. The RWQCB will require mitigation that replaces the functions and services of the impacted wetland(s) as a condition of issuing a permit for impacts to wetlands. The RWQCB requirements for issuance of a “401 Permit” typically parallel the Corps requirements for permitting impacts to Corps regulated areas pursuant to Section 404 of the Clean Water Act. Please refer to the Corps Applicability Section above for likely mitigation requirements for impacts to RWQCB regulated waters. Also, please refer to the applicability section of the Porter-Cologne Water Quality Control Act below for other applicable actions that may be imposed on the project by the RWQCB prior to the time any certification of water quality is authorized for the project.

8.3.3 PORTER-COLOGNE WATER QUALITY CONTROL ACT

The uncontrolled discharge of pollutants into impaired water bodies is considered particularly detrimental. According to the EPA, sediment is one of the most widespread pollutants contaminating U.S. rivers and streams. Sediment runoff from construction sites is 10 to 20 times greater than from agricultural lands and 1,000 to 2,000 times greater than from forest lands (EPA 2005). Consequently, the discharge of stormwater from large construction sites is regulated by the RWQCB under the Clean Water Act and California’s Porter-Cologne Water Quality Control Act.

The Porter-Cologne Water Quality Control Act, Water Code § 13260, requires that “any person discharging waste, or proposing to discharge waste, that could affect the waters of the State to file a report of discharge” with the RWQCB through an application for waste discharge (Water Code Section 13260(a)(1)). The term “waters of the State” is defined as any surface water or groundwater, including saline waters, within the boundaries of the State (Water Code § 13050(e)). It should be noted that pursuant to the Porter-Cologne Water Quality Control Act, the

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RWQCB also regulates “isolated wetlands,” or those wetlands considered to be outside of the Corps’ jurisdiction (see Corps Section above).

The RWQCB generally considers filling in waters of the State to constitute “pollution.” Pollution is defined as an alteration of the quality of the waters of the State by waste that unreasonably affects its beneficial uses (Water Code §13050(1)). The RWQCB litmus test for determining if a project should be regulated pursuant to the Porter-Cologne Water Quality Control Act is if the action could result in any “threat” to water quality.

The RWQCB requires complete pre- and post-development Best Management Practices (BMPs) for any portion of the project site that is developed. This means that a water quality treatment plan for the pre- and post-developed project site must be prepared and implemented. Preconstruction requirements must be consistent with the requirements of the National Pollutant Discharge Elimination System (NPDES). That is, a *Stormwater Pollution Prevention Plan* (SWPPP) must be developed prior to the time that a site is graded (see NPDES section below). In addition, a post construction BMPs plan, or a Stormwater Management Plan (SWMP) must be developed and incorporated into any site development plan.

8.3.4 APPLICABILITY TO PROPOSED PROJECT

Since any “threat” to water quality could conceivably be regulated pursuant to the Porter-Cologne Water Quality Control Act, care will be required when constructing the proposed project to be sure that adequate pre-and post-construction Best Management Practices Plan (BMPs) are incorporated into the project implementation plans. Please note that any isolated wetlands defined by the Corps on the project site, that are not regulated by the Corps pursuant to the SWANCC decision, would still be regulated by the RWQCB pursuant to the Porter-Cologne Water Quality Control Act.

It should also be noted that prior to issuance of any permit from the RWQCB this agency will require submittal of a Notice of Determination from the City of Cotati indicating that the proposed project has completed a review conducted pursuant to CEQA. The pertinent sections of the CEQA document (typically the biology section) are often submitted to the RWQCB for review prior to the time this agency will issue a permit for a proposed project.

Much of the stormwater runoff currently flows into the City’s existing stormdrain system. It is expected that project development will utilize the existing stormdrain system; however, pre-treatment of stormwater in accordance with Provision C.3 (discussed in the section below) prior to release into the City stormdrain system will be necessary. Additionally, during project construction, it is important for the project proponent to have the components of a Storm Water Pollution Prevention Plan (SWPPP) and Storm Water Management Plan (SWMP) in place; these documents are typically prepared by the project’s civil engineer.

8.3.5 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)

In 1972 the Clean Water Act was amended to state that the discharge of pollutants to waters of the United States from any point source is unlawful unless the discharge is in compliance with an NPDES permit. The 1987 amendments to the Clean Water Act added Section 402(p) which

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establishes a framework for regulating municipal and industrial stormwater discharges under the NPDES Program.

While federal regulations allow two permitting options for stormwater discharges (individual permits and General Permits), the SWRCB has elected to adopt only one statewide Construction General Permit at this time that will apply to all stormwater discharges associated with construction activity, except from those on Tribal Lands, in the Lake Tahoe Hydrologic Unit, and those performed by the California Department of Transportation (CalTrans).

The Construction General Permit requires all dischargers where construction activity disturbs greater than one acre of land or those sites less than one acre that are part of a common plan of development or sale that disturbs more than one acre of land surface to:

1. Develop and implement a SWPPP which specifies Best Management Practices (BMPs) that will prevent all construction pollutants from contacting stormwater with the intent of keeping all products of erosion from moving off site into receiving waters.
2. Eliminate or reduce non-stormwater discharges to storm sewer systems and other waters of the nation. Achieve quantitatively-defined (i.e., numeric) pollutant-specific discharge standards, and conduct much more rigorous monitoring based on the project's projected risk level.
3. Perform inspections of all BMPs.

This Construction General Permit is implemented and enforced by the nine California Regional Water Quality Control Boards (RWQCBs). It is also enforceable through citizens' suits and represents a dramatic shift in the State Water Board's approach to regulating new and redevelopment sites, imposing new affirmative duties and fixed standards on builders and developers.

Types of Construction Activity Covered by the Construction General Permit

- clearing,
- grading,
- disturbances to the ground such as stockpiling, or excavation that results in soil disturbances of at least one acre or more of total land area.

Construction activity that results in soil disturbances to a smaller area would still be subject to this General Permit if the construction activity is part of a larger common plan of development that encompasses greater than one acre of soil disturbance, or if there is significant water quality impairment resulting from the activity.

Construction activity does not include:

- routine maintenance to maintain original line and grade,
- hydraulic capacity, or original purpose of the facility,

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- nor does it include emergency construction activities required to protect public health and safety.

Project proponents (landowners) should confirm with the local RWQCB whether or not a particular routine maintenance activity is subject to this General Permit.

The State Water Board's new quantitative standards (Order 2009-0009-DWQ) take a two-tiered approach, depending on the risk level associated with the site in question. Exceedance of a benchmark Numeric Action Level ("NAL") measured in terms of pH and turbidity (a measure related to both the amount of sediment in and the velocity of site runoff) triggers an additional obligation to implement additional BMPs and corrective action to improve SWPPP performance. New minimum BMPs include Active Treatment Systems, which may be necessary where traditional erosion and sediment controls do not effectively control accelerated erosion; where site constraints inhibit the ability to construct a correctly sized sediment basin; where clay and/or highly erosive soils are present; or where the site has very steep or long slope lengths.

In addition, the Construction General Permit includes several "post-construction" requirements. These requirements entail that site designs provide no net increase in overall site runoff and match pre-project hydrology by maintaining runoff volume and drainage concentrations. To achieve the required results where impervious surfaces such as roofs and paved surfaces are being increased, developers must implement non-structural off-setting BMPs, such as landform grading, site design BMPs, and distributed structural BMPs (bioretention cells, rain gardens, and rain cisterns). This "runoff reduction" approach is essentially a State Water Board-imposed regulatory requirement to implement Low Impact Development ("LID") design features. Volume that cannot be addressed using non-structural BMPs must be captured in structural BMPs that are approved by the RWQCB.

Improving the quality of site runoff is necessary to improve water quality in impaired and threatened streams, rivers, and lakes (that is, water bodies on the EPA's 303(d) list). The RWQCB prioritizes the water bodies on the 303(d) list according to potential impacts to beneficial uses. Beneficial uses can include a wide range of uses, such as nautical navigation; wildlife habitat; fish spawning and migration; commercial fishing, including shellfish harvesting; recreation, including swimming, surfing, fishing, boating, beachcombing, and more; water supply for domestic consumption or industrial processes; and groundwater recharge, among other uses. The State is required to develop action plans and establish Total Maximum Daily Loads (TMDLs) to improve water quality within these impaired water bodies. The TMDL is the quantity of a pollutant that can be safely assimilated by a water body without violating the applicable water quality standards.

Pursuant to the CWA, the RWQCB regulates construction discharges under the National Pollutant Discharge Elimination System (NPDES). The project sponsor of construction or other activities that disturb more than 1 acre of land must obtain coverage under NPDES Construction General Permit Order 2009-0009-DWQ, administered by the RWQCB³.

³ CGP Order 2009-0009-DWQ remains in effect, but has been amended by CGP Order 2009-0014-DWQ, effective February 14, 2011, and CGP Order 2009-0016-DWQ, effective July 17, 2012. The first amendment merely provided

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8.3.6 APPLICABILITY TO THE PROPOSED PROJECT

To obtain coverage under the General Storm Water Permit the applicant must electronically file a number of permit-related compliance documents (Permit Registration Documents (PRDs)), including a Notice of Intent (NOI), a risk assessment, site map, signed certification, Stormwater Pollution Prevention Plan (SWPPP), Notice of Termination (NOT), NAL exceedance reports, and other site-specific PRDs that may be required. The PRDs must be prepared by a Qualified SWPPP Practitioner (QSP) or Qualified SWPPP Developer (QSD) and filed by a Legally Responsible Person (LRP) on the RWQCB's Stormwater Multi-Application Report Tracking System (SMARTS). QSDs are typically civil engineers, professional hydrologists, engineering geologists, or landscape architects. Once filed, these documents become immediately available to the public for review and comment. At a minimum, the SWPPP shall identify Best Management Practices (BMPs) for implementation during project construction that are in accordance with the applicable guidance and procedures contained in the California Stormwater Quality Association's *California Stormwater Best Management Practices Handbook* (2015).

Construction stormwater BMPs are intended to minimize the migration of sediments offsite. They can include:

- covering soil stockpiles,
- sweeping soil from streets or other paved areas,
- performing site-disturbing activities in dry periods,
- planting vegetation or landscaping quickly after disturbance to stabilize soils.

Other typical stormwater BMPs include erosion reduction controls such as:

- hay bales, water bars, covers, sediment fences, sensitive area access restrictions, vehicle mats in wet areas, geotextile blankets, fiber rolls, temporary slope drains, mulching of exposed areas, vehicle mats in wet areas, and other erosion-reducing features, and retention/settlement ponds.

Excavation and other soil-disturbing activities associated with the project could potentially affect water quality as a result of erosion of sediment. In addition, leaks from construction equipment; accidental spills of fuel, oil, or hazardous liquids used for equipment maintenance; and accidental spills of construction materials are all potential sources of pollutants that could degrade water quality.

9. STORM WATER LOW IMPACT DEVELOPMENT (SWLID)

The SWRCB and RWQCB adopted new design requirements and an updated LID Manual effective May 3rd, 2017. The 2017 Storm Water Low Impact Development (SWLID) guidelines are provided to better facilitate the processing of Clean Water Act permits. California's North Coast RWQCB routinely uses the SWLID Design Manual as an example program on how post-construction BMPs should be implemented.

additional clarification to Order 2009-0009-DWQ, while Order 2009-0016-DWQ eliminated numeric effluent limits on pH and turbidity (except in the case of active treatment systems), in response to a legal challenge to the original order.

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The 2017 SWLID provides technical guidance for project designs that require the implementation of permanent storm water BMPs. This 2017 SWLID supersedes both the 2005 SUSMP guidelines and the 2011 version of the SWLID manual. To reduce storm water pollution, protect water quality of local waterways, and promote groundwater recharge, SWLID integrates specialized landscape features into an urban environment and directs runoff into these features where it can soak into the ground. This design approach mimics the storm water benefits of the natural environment. Specialized swales, planters, and raingardens provide beauty while also slowing runoff and removing pollutants. Plants and microbes that live in healthy soil use pollutants as nutrients, removing them from runoff.

The SWLID is formally defined as:

A development site design strategy with a goal of maintaining or reproducing the predevelopment hydrologic system through the use of design techniques to create a functionally equivalent hydrologic setting. Hydrologic functions of storage, infiltration, and groundwater recharge, as well as the volume and frequency of discharges are maintained through the use of integrated and distributed small-scale storm water retention and detention areas, reduction of impervious surfaces, and the lengthening of flow paths, and runoff time.

The SWLID Design Manual is intended to satisfy the specific requirements of “Order No. R1-2015-0030, NPDES No. CA-0025054 NPDES permit and waste discharge requirements for discharges from the municipal separate storm sewer systems.” Additional design requirements imposed by governing agencies, such as local grading ordinances, CAL Green, CEQA, 401 permitting, and hydraulic design for flood control still apply as appropriate.

The intention of the Design Manual is to promote the following SWLID goals:

- Minimize the adverse impacts from storm water runoff on water quality, the biological integrity of receiving waters, and the beneficial uses of water bodies.
- Minimize the percentage of impervious surfaces on land development projects and implement mitigation measures to mimic the pre-development water balance through infiltration, evapotranspiration, and capture and reuse of storm water.
- Minimize pollutant loadings from impervious surfaces such as roof tops, parking lots, and roadways through the use of properly designed, technically appropriate BMPs, including source control BMPs or good housekeeping practices, SWLID planning and design strategies, and treatment control BMPs.
- Proper selection, design and maintenance of treatment control BMPs, and hydromodification control BMPs to address pollutants generated by land development, minimizing post-development surface flows and velocities, assuring long-term functionality of BMPs, and avoiding the breeding of vectors.

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9.1 Projects That Trigger Requirements

Geographic Areas

The requirements set forth in this SWLID Design Manual apply to projects within the jurisdiction of City of Santa Rosa, City of Healdsburg, Town of Windsor, City of Cotati, City of Sebastopol, City of Cloverdale, City of Ukiah, and City of Rohnert Park as well as the portions of the County of Sonoma as shown in Attachment C of the NPDES MS4 Permit Order No. R1-2015-0030.

This SWLID manual does not apply to the areas south of the Russian River/Laguna De Santa Rosa watershed boundary, including portions of Petaluma, Sonoma, and the southern portion of the County of Sonoma as they are outside the jurisdiction of the North Coast RWQCB and have distinct design requirements.

Project Triggers and Exemptions

Since SWLID features are designed to mitigate for the permanent impacts caused by impervious surfaces, the total amount of impervious surface must be considered when determining whether or not a project triggers SWLID requirements. This evaluation must include the built-out project condition (including homes or structures that will be completed under separate building permits) as well as all phases of a phased project. Note that tributary areas where no impervious surface will be added or replaced are not required to install BMPs.

Impervious Surface

Impervious surfaces are defined as an area that has been modified such that storm water percolation into underlying soils is reduced or prevented. Examples of surfaces include concrete, asphalt, and roof tops. Existing gravel on a project site prior to the proposed project is considered to be pervious unless documentation is provided that demonstrates that it is impervious. Gravel placed as part of the proposed project is considered to be impervious unless documentation is provided to verify that it is pervious.

Site Determination

For the purposes of this Manual, the impacts that must be accounted for in the SWLID design includes everything within the project site of all improved parcels as well as all offsite or associated public improvements, such as trenching and repaving for utility connections.

9.1.1 APPLICABILITY TO THE PROPOSED PROJECT

The City of Cotati will require that a SWLID Plan be submitted that integrates the 2017 SWLID Design Manual guidelines. The proposed project will create more than one acre of impervious surface and will therefore be conditioned to meet treatment and hydromodification control requirements. The hydromodification control design goal requires the project to capture and/or infiltrate and/or reuse one hundred percent of the post project volume.

The proposed project will be designed to implement permanent water quality treatment and hydro-modification control BMPs set forth in the 2017 SWLID; such as treatment of all runoff generated by a one-inch rainfall event in a 24-hour time period falling on all impermeable surfaces, and the exit off the project site of all such storm water at flow rates similar to predevelopment conditions.

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10. CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE PROTECTIONS

10.1 Section 1602 of California Fish and Game Code

Pursuant to Section 1602 of the California Fish and Game Code: “An entity may not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless all of the following occur:

- (1) CDFW receives written notification regarding the activity in the manner prescribed by CDFW. The notification shall include, but is not limited to, all of the following:
 - (A) A detailed description of the project’s location and a map.
 - (B) The name, if any, of the river, stream, or lake affected.
 - (C) A detailed project description, including, but not limited to, construction plans and drawings, if applicable.
 - (D) A copy of any document prepared pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.
 - (E) A copy of any other applicable local, State, or federal permit or agreement already issued.
 - (F) Any other information required by CDFW” (Fish & Game Code 2014).

Please see Section 1602 of the current California Fish and Game Code for further details.

Please also note that while not stated in the regulations above, the CDFW typically considers its jurisdiction to include riparian vegetation (that is, the trees and bushes growing along the stream). Thus, any proposed activity in a natural stream channel that would substantially adversely affect an existing fish and/or wildlife resource, including its riparian vegetation, would require entering into a Streambed Alteration Agreement (SBAA) with the CDFW prior to commencing with work in the stream. However, prior to authorizing such permits, the CDFW typically reviews an analysis of the expected biological impacts, any proposed mitigation plans that would be implemented to offset biological impacts and engineering and erosion control plans.

10.2 Applicability to Proposed Project

There are no streams, tributaries, or creeks on or adjacent to the project site that would be impacted by the proposed project. Accordingly, no Section 1602 permit is required for this project from the CDFW.

11. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) REGULATIONS

A CEQA lead agency must determine if a proposed activity constitutes a project requiring further review pursuant to the CEQA. Pursuant to CEQA, a lead agency would have to determine if there could be significant adverse impacts to the environment from a proposed project. Typically, if within the city limits, the city would be the CEQA lead agency. If a discretionary permit (i.e., conditional use permit) would be required for a project (e.g., an occupancy permit must be issued), the lead agency typically must determine if there could be significant environmental impacts. This is usually accomplished by an “Initial Study.” If there could be

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significant environmental impacts, the lead agency must determine an appropriate level of environmental review prior to approving and/or otherwise permitting the impacts. In some cases, there are “Categorical Exemptions” that apply to the proposed activity; thus, the activity is exempt from CEQA. The Categorical Exemptions are provided in CEQA. There are also Statutory Exemptions in CEQA that must be investigated for any proposed project. If the project is not exempt from CEQA, the lowest level of review typically reserved for projects with no significant effects on the environment would be for the lead agency to prepare a “Negative Declaration.” If a proposed project would have only minimal impacts that can be mitigated to a level of no significance pursuant to the CEQA, then a “Mitigated Negative Declaration” (MND) is typically prepared by the lead agency. Finally, those projects that may have significant effects on the environment, or that have impacts that can’t be mitigated to a level considered less than significant pursuant to the CEQA, typically must be reviewed via an Environmental Impact Report (EIR). All CEQA review documents are subject to public circulation, and comment periods.

Section 15380 of CEQA defines “endangered” species as those whose survival and reproduction in the wild are in immediate jeopardy from one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, disease, or other factors. “Rare” species are defined by CEQA as those who are in such low numbers that they could become endangered if their environment worsens; or the species is likely to become endangered within the foreseeable future throughout all or a significant portion of its range and may be considered “threatened” as that term is used in FESA. The CEQA Guidelines also state that a project will normally have a significant effect on the environment if it will “substantially affect a rare or endangered species of animal or plant or the habitat of the species.” The significance of impacts to a species under CEQA, therefore, must be based on analyzing actual rarity and threat of extinction to that species despite its legal status or lack thereof.

11.1.1 APPLICABILITY TO THE PROPOSED PROJECT

This report has been prepared as a Biology section that is suitable for incorporation by the CEQA lead agency (in this case the City of Cotati) into a CEQA review document such as a MND or an Environmental Impact Report. This document addresses potential impacts to species that would be defined as endangered or rare pursuant to Section 15380 of the CEQA.

12. IMPACTS ANALYSIS

Below the criteria used in assessing impacts to Biological Resources is presented.

12.1 Significance Criteria

A significant impact is determined using CEQA and CEQA Guidelines. Pursuant to CEQA §21068, a significant effect on the environment means a substantial, or potentially substantial, adverse change in the environment. Pursuant to CEQA Guideline §15382, a significant effect on the environment is further defined as a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historical or aesthetic significance. Other Federal, State, and local agencies’ considerations and regulations are also used in the evaluation of significance of proposed actions.

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Direct and indirect adverse impacts to biological resources are classified as “significant,” “potentially significant,” or “less than significant.” Biological resources are broken down into four categories: vegetation, wildlife, threatened and endangered species, and regulated “waters of the United States” and/or stream channels.

12.1.1 THRESHOLDS OF SIGNIFICANCE

12.1.1.1 Plants, Wildlife, Waters

In accordance with Appendix G (Environmental Checklist Form) of the CEQA Guidelines, implementing the project would have a significant biological impact 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 CDFW or USFWS.
- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the CDFW or USFWS.
- Have a substantial adverse effect on federally protected “wetlands” as defined by Section 404 of the Clean Water Act (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.

12.1.1.2 Waters of the United States and State.

Pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344), the U.S. Army Corps of Engineers regulates the discharge of dredged or fill material into waters of the United States, which includes wetlands, as discussed in the bulleted item above, and also includes “other waters” (stream channels, rivers) (33 CFR Parts 328 through 330). Substantial impacts to Corps regulated areas on a project site would be considered a significant adverse impact. Similarly, pursuant to Section 401 of the Clean Water Act, and to the Porter-Cologne Water Quality Control Act, the RWQCB regulates impacts to waters of the state. Thus, substantial impacts to RWQCB regulated areas on a project site would also be considered a significant adverse impact.

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12.1.1.3 Stream Channels

Pursuant to Section 1602 of the California Fish and Game Code, the CDFW regulates activities that divert, obstruct, or alter stream flow, or substantially modify the bed, channel, or bank of a stream which the CDFW typically considers to include riparian vegetation. Any proposed activity that would result in substantial modifications to a natural stream channel would be considered a significant adverse impact.

13. IMPACT ASSESSMENT AND PROPOSED MITIGATION

In this section, we discuss potential impacts to sensitive biological resources including special-status plant and animal species and waters of the United States and/or State. We follow each impact with a mitigation prescription that when implemented would reduce impacts to a level regarded as less than significant pursuant to CEQA. This impact analysis is based on the Reds Residential Project Site Plan prepared by Design, Draw, Build, dated June 2, 2022 (Attachment E)

13.1 **Impact BIO-1: Development of the Proposed Project May Have a Potentially Significant Impact on Suitable Habitat for State and Federally listed Vernal Pool Plants (Potentially Significant)**

Formal special-status plant surveys were conducted on the project site in 2015 by Mr. Roy Buck, Senior Botanist with California Environmental Services, LLC and by M&A on July 15, 2016; April 24, May 26 and June 15, 2017; and on, April 9, April 30, and May 23, 2019. No special-status plants were found during the required two years of rare plant surveys conducted at appropriate times when the targeted listed plants were identified in flower at reference population sites. Thus, development of the project site will not impact any special-status plant species. However, in compliance with new published-CDFW survey guidelines released on March 18, 2018, one additional year of surveys was conducted in 2019 to bring the previous year's surveys up to date and demonstrate the absence of State-listed plants, and other special-status plants, on the project site under the most current and up to date survey guidelines.

Special-status plant surveys conducted in 2015, 2016, 2017 and 2019 were negative and established that the seasonal wetland on the project site is not "occupied" with listed endangered vernal pool plants. Regardless, the single seasonal wetland is still regarded as "suitable vernal pool plant habitat" (even when two years of surveys proves absence) per the existing BO for this project site. Impacts to suitable listed plant habitat must be mitigated by purchase of Sebastopol meadowfoam preservation or establishment credits. As a federal permit will be obtained for this project from the Corps, a federal nexus agency to the USFWS, pursuant to the USFWS' formal Recovery Plan for the Santa Rosa Plain (USFWS 2016), and current mitigation policy implemented by the USFWS, mitigation that will compensate for impacts to "suitable seasonal wetland habitat" must be obtained for Sebastopol meadowfoam (*Limnanthes vinculans*) from a conservation bank located in the Sebastopol meadowfoam Core Area (Exhibit A). ***Thus, pursuant to the CEQA, the proposed project may result in significant impacts to suitable vernal pool plant species habitat.*** Such impacts could be mitigated to a level considered less than significant pursuant to the CEQA.

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13.2 Mitigation Measure BIO-1. For Impacts to Federally Listed Vernal Pool Plant Suitable Habitat

Appropriately timed special-status plant surveys conducted between 2015 and 2019 demonstrated that the project site does not support federally listed or state listed vernal pool plants. Thus, in accordance with agency regulations and per the existing BO that remains valid for the proposed project, the applicant shall be required to purchase vernal pool conservation credits for Sebastopol meadowfoam at 1.5:1 habitat ratio.

Accordingly, the project will impact 0.06-acre of “suitable vernal pool rare plant habitat.” Thus, in consideration of these mitigation ratios, the applicant shall secure 0.09 acre of credits for Sebastopol meadowfoam (or as otherwise allowed by the Corps/USFWS) from the Sebastopol meadowfoam Core Area. Any rare plant conservation credits purchased for the project shall be approved by the USFWS prior to the purchase of the credits. The applicant shall be required to provide proof to the City of Cotati that these conservation credits have been purchased prior to commencement of grading on the project site.

When implemented, the above mitigation measure would reduce project impacts to federally listed vernal pool plant suitable habitat to a level considered less than significant pursuant to CEQA.

13.3 Impact BIO-2. Development of the Proposed Project Would Have a Potentially Significant Adverse Impact on the State and Federally Listed California Tiger Salamander

In 2003/2004, construction of the Sonoma Business Park development project that is located immediately east of the Reds Residential project site was underway. The developer was required by USFWS and CDFW to salvage California tiger salamanders presumed to be migrating from adjacent properties, including the project site (then called the Sterling Senior project site), to the former (now developed) breeding pools on the Sonoma Business Park project site. This salvage project was supervised by the CDFW and the USFWS under the assumption that all adult California tiger salamanders and their breeding habitat had been removed from the Sonoma Business Park project site when it was mass-graded in June 2002. The recovery/salvage project was implemented under expectation that the balance of the Sonoma Business Park and the parcel to the north (then called the Nibe project site) and project site would be developed under a master development project. In September 2007, M&A prepared and submitted a report to the USFWS and CDFW (now the CDFW) summarizing the salvage trapping effort titled *California Tiger Salamander (Ambystoma californiense) Survey and Salvage Summary “Nibe” and “Red’s” Project Sites Santa Rosa, California September 20, 2007*. That report indicates that 12 adult California tiger salamanders were captured on the Reds Project Site in the winter of 2003/2004 and were surrendered to the CDFW. Since California tiger salamanders were captured on the project site during the 2003/2004 salvage effort, the project site is regarded as habitat that could continue to support California tiger salamanders. From a practical standpoint, the breeding ponds that were being used by this local population of California tiger salamander were removed by development in 2002. Thus, the possibility of California tiger salamanders migrating across the project site today, under the considerations that the population was regarded as “salvaged” or removed, and that the breeding pools are no longer present, is very low. Regardless, the presence

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of this salamander cannot be dismissed entirely. Thus, there will be an assumption that the proposed project will impact the California tiger salamander. ***Thus, pursuant to the CEQA, the proposed project could result in significant impacts to the California tiger salamander and its habitat.*** Such impacts could be mitigated to a level considered less than significant.

13.4 Mitigation BIO-2. California Tiger Salamander

The closest known breeding location record for California tiger salamander is located 0.1-mile (510 feet) north of the project site (Occurrence No. 82) within a drainage ditch alongside Alder Avenue (Figure 7); however, no breeding habitat occurs on the project site. In 2002, two known California tiger salamander breeding pools were impacted within 500 feet of the project site. These pools are now developed under a condominium complex. California tiger salamanders were salvaged as part of that development project from the breeding pool on that project site, the Nibe project site immediately to the north, and the project site under consideration herein immediately to the west (see California tiger salamander section of this report). For California tiger salamander mitigation calculations derived from the Conservation Strategy (USFWS 2005), the closest breeding pool is regarded as greater than 500 feet but less than 2,200 feet from the project site.

Per the existing BO, the portions of the 5.63-acre project that constitutes over summering or migration habitat of the California tiger salamander that are greater than 500 feet and within 2,200 feet of a known breeding site, and for projects beyond 2,200 feet from a known breeding site, but within 500 feet of an adult occurrence, would be mitigated at a 2:1 replacement to impacts ratio (see Figure 7 for calculation of mitigation ratio acreages). Approximately 1.99 acres of the 5.63-acre project site is currently developed with buildings or hard-packed, gravel-impregnated roadways and parking areas around buildings. These developed surfaces do not constitute California tiger salamander habitat that warrants mitigation. In consideration of these mitigation ratios and the already developed surfaces that do not constitute California tiger salamander habitat on the project site, to compensate for impacts to 3.64 acres of California tiger salamander habitat that would occur from development of the project site (as shown in Figure 7), the existing BO requires that the applicant purchase 7.28 acres of California tiger salamander mitigation credit from a USFWS (and CDFW) approved Conservation Bank. Currently, the applicant is proposing to purchase California tiger salamander credits from the Margaret West and/or Alton Lane Conservation Banks. The applicant could use other conservation banks as well as approved by the USFWS (and CDFW). The applicant shall be required to provide proof to the City of Cotati that these California tiger salamander conservation credits have been purchased prior to commencement of grading on the project site. In lieu of conservation bank credits, the applicant may preserve extant occupied California tiger salamander habitat in the West Cotati Core California tiger salamander area or other geographic area as approved by the agencies via recordation of a perpetual conservation easement. Any preservation plan would have to be approved by the USFWS and the CDFW.

Per the existing BO, to ensure that migrating California tiger salamanders do not end up within the project site while under construction where they could be killed, prior to grading the project site, the developer shall surround the project site with California tiger salamander exclusion fencing. This fencing shall be inspected daily by a qualified biologist or a trained construction

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manager for the duration of the grading and construction project. If a California tiger salamander is found trapped up against the fence and must be moved, it shall only be moved by a qualified 10(a)(1)(A) federally and State-permitted California tiger salamander biologist. Any such relocation would be as permitted by the USFWS (per the existing BO) and CDFW in their Incidental Take Permits issued to the project that address impacts to the California tiger salamander. Copies of the existing BO (Incidental Take Permit) and of the CDFW's 2081 Incidental Take Permit shall be provided to the City of Cotati prior to the commencement of grading on the project site.

When implemented, these mitigation measures would reduce significant impacts to the California tiger salamander to a level regarded as less than significant pursuant to CEQA.

13.5 Impact BIO-3. Development of the Proposed Project Could Have a Potentially Significant Impact on Special-status Bats

The trees and abandoned buildings on the project site provide suitable roosting habitat for the pallid bat. This bat species is designated by the State as "species of special concern." In accordance with the CEQA Guidelines (Section 15380) which protects "rare" and "endangered" species as defined by CEQA, CDFW determined that species of special concern meet this CEQA definition. Accordingly, "take" (i.e., to harm or kill) of these bats resulting from the project would be regarded as significant. The project proponent can avoid impacts to special-status bats by conducting preconstruction surveys and implementing avoidance measures. ***As such, pursuant to the CEQA, development of the proposed project could result in potentially significant impacts to special-status bats.*** Such impacts could be mitigated to a level considered less than significant.

13.6 Mitigation Measure BIO-3. Special-Status Bats

To avoid impacts to special-status bats, a qualified biologist should conduct a preconstruction survey of the structures and trees that would be impacted by the project 15 days prior to removal or commencement of groundwork. All bat surveys should be conducted by a biologist with experience surveying for bats. If no special-status bats are found during the surveys, then building demolition and tree removal may commence. Per the recommendation of the CDFW, trees should be trimmed and/or removed in a two-phased removal system conducted over two consecutive days. The first day (in the afternoon), limbs and branches would be removed by a tree cutter using chainsaws only. Limbs with cavities, crevices or deep bark fissures would be avoided, and only branches or limbs without those features would be removed. On the second day, the entire tree would be removed.

If special-status bat species are found roosting on the project site, the biologist should determine if there are young present (i.e., the biologist should determine if there are maternal roosts). If young are found roosting in any tree or structure that will be impacted by the project, such impacts should be avoided until the young are flying and feeding on their own. A non-disturbance buffer installed with orange construction fencing should also be established around the maternity site. The size of the buffer zone should be determined by a qualified bat biologist at the time of the surveys. If adults are found roosting in a tree or structure on the project site but no maternal sites are found, then the adult bats can be flushed, or one-way eviction doors can be

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placed over any tree cavity (or structure access opening) supporting bat access for a 48-hour period prior to the time the tree or structure in question would be removed or disturbed. At that point, no other mitigation compensation would be required.

When implemented, these mitigation measures would reduce project impacts to special-status bats to a level considered less than significant pursuant to CEQA.

13.7 Impact BIO-4. Development of the Proposed Project Would Have a Potentially Significant Impact on Nesting Raptors and Passerine Birds.

Nesting raptors (birds of prey) and passerine (perching) birds are protected pursuant to California Fish and Game Code (Sections 3503, 3503.5, 3513), and the Federal Migratory Bird Treaty Act. The oaks present on the project site provide suitable nesting habitat for raptors and passerines. In addition, the grassland on the project site provides suitable nesting habitat for ground-nesting birds. Finally, birds could nest in or on the abandoned buildings on the project site. Since, typically, most birds can fly out of harm's way, development of the project site would not be expected to harm adult birds. However, nesting birds are susceptible to take through disturbance that harms eggs or young. The project proponent can avoid impacts to nesting birds by conducting preconstruction nesting bird surveys and implementing avoidance measures. ***As such, pursuant to the CEQA, development of the proposed project could result in potentially significant impacts to nesting birds.*** Such impacts could be mitigated to a level considered less than significant.

13.8 Mitigation Measure BIO-4. Nesting Birds

To avoid impacts to nesting raptors and passerines, a nesting bird survey shall be conducted within 15 days prior to commencing with construction work if this work would begin between February 1 and August 31. The nesting bird survey shall be conducted on the project site and within a zone of influence around the project site. The zone of influence includes those areas off the project site where raptors could be disturbed by earth-moving vibrations or noise. The nesting bird survey should include examination of all suitable nesting habitats within 300 feet of the entire project site. A nesting bird survey report shall be prepared upon completion of the survey and provided to the City of Cotati with any recommendations required for establishment of protective buffers as necessary to protect nesting birds.

If birds are identified nesting on or within the zone of influence of the construction project, a qualified biologist shall establish a temporary protective buffer around the nest(s). The buffer must be of sufficient size to protect the nesting site from construction-related disturbance and shall be established by a qualified ornithologist or biologist with extensive experience working with nesting birds near and on construction sites. Typically, adequate nesting buffers are 75 feet from the nest site or nest tree dripline for small birds and up to 300 feet for sensitive nesting birds that include several raptor species known from the region of the project site. The nest buffer should be staked with orange construction fencing or orange lath staking.

No construction or earth-moving activity shall occur within any established nest protection buffer prior to September 1 unless it is determined by a qualified ornithologist/biologist that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project

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construction zones, or that the nesting cycle is otherwise completed. In the region of the project site, most species complete nesting by mid-July. This date can be significantly earlier or later and would have to be determined by the qualified biologist. At the end of the nesting cycle, and abandonment of the nest by its occupants, as determined by a qualified biologist, temporary nest buffers may be removed, and construction may commence in established nesting buffer areas without further regard for the nest site.

When implemented, these mitigation measures would reduce project impacts to nesting raptors and passerine birds to a level considered less than significant pursuant to CEQA.

13.9 Impact BIO-5. Development of the Proposed Project Would Have a Significant Impact on Waters of the United States and/or State.

On May 21, 2018, the Corps confirmed jurisdiction over 0.06-acre of seasonal wetland within the expanded limits of delineation which includes the project site (Attachments C and D). Consequently, the proposed project will impact approximately 0.06-acre of jurisdictional seasonal wetland regarded as waters of the U.S. and State subject to regulation by the Corps and the RWQCB. ***As such, pursuant to the CEQA, development of the proposed project would result in significant impacts to waters of the U.S. and State.*** Such impacts could be mitigated to a level considered less than significant.

13.10 Mitigation Measure BIO-5. Waters of the United States and/or State

Impacts to waters of the United States and/or State can be reduced to less-than-significant levels with incorporation of mitigation that includes avoidance, minimization of impacts, and/or mitigation compensation.

The applicant shall compensate for the loss of wetlands via the purchase of wetland credits from a Corps- and RWQCB-approved wetland mitigation bank. The applicant shall mitigate for project-related impacts to 0.06-acre of waters of U.S./State via the purchase of 0.10-acre of wetland credit, or as otherwise necessary to mathematically round upwards in acreage to the smallest wetland credit available that compensates at no less than a 1:1 impacts to mitigation ratio. This is the minimum mitigation acreage. As proposed currently, the applicant will purchase credits from the Hazel Mitigation Bank. A different mitigation bank may be used as approved by the Corps (and RWQCB). Wetland credits will be purchased at the Corps' required mitigation ratio in compliance with the terms and conditions of the "permit" authorized for the project. Proof of the purchase of wetland mitigation credits shall be provided to the City of Cotati, the Corps, and the RWQCB in advance of grading activities on the project site. This credit acreage may be modified by the Corps and/or RWQCB and will appear as a condition of issued permits from these agencies. Should the mitigation requirements differ in the conditions of issued Corps and RWQCB permits, these conditions must be implemented by the project.

When implemented, these mitigation measures would reduce project impacts to waters of the U.S./State to a level considered less than significant pursuant to CEQA.

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13.11 Impact BIO-6. Development of the Proposed Project Would Have a Significant Impact on Protected Trees

In accordance with Appendix G (Environmental Checklist Form) of the CEQA Guidelines, implementing the project would have a significant biological impact if it would: conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

Trees present on the project site are comprised of a mix of non-native, native and protected trees, such as valley oak, Garry oak, and several non-native (ornamental) tree species. Pursuant to the City of Cotati Tree Ordinance, mitigation is required for impacts to protected trees. ***As such, pursuant to the CEQA, development of the proposed project could result in significant impacts to protected trees.*** Such impacts could be mitigated to a level considered less than significant.

13.12 Mitigation BIO-6. Protected Trees

The project will impact both native and non-native trees subject to the City of Cotati's Tree Protection Ordinance. Tree replacement mitigation measures are derived from the City of Cotati's *Tree Impact and Mitigation Policy Derived from City of Cotati Tree Mitigation and Protection Ordinance, Article 5, Chapter 17.54 of the City of Cotati Municipal Code Title 17 Land Use Code. Tree mitigation replacement numbers derived from Section 17.54.050 (Tree Required Replacement Trees. Planting and Replacement) Table 5-2.* An arborist report has been prepared by Mr. John Meserve that details tree impacts from the proposed project. The applicant shall submit the arborist report with a tree permit application as part of the application for the development project. The applicant shall mitigate impacts to trees as suggested in Table A below, or as otherwise required/modified by the City of Cotati.

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Table A. Impacted Trees ¹ and Mitigation Schedule per City of Cotati Tree Ordinance ²

Species	Circumference³	Oak Tree Mitigation Replacement Numbers	Other Tree Species Mitigation Replacement Numbers ⁴	Tree Replacement Size (Gallons)
<i>Quercus lobata</i>	109	20		15
<i>Populus fremontii</i>	60		4	15
<i>Quercus lobata</i>	85	20		15
<i>Quercus lobata</i>	25	5		15
<i>Quercus lobata</i>	69	10		15
<i>Quercus lobata</i>	36	5		15
<i>Quercus lobata</i>	28	5		15
<i>Sequoia sempervirens</i>	239		6	15
<i>Washingtonia robusta</i>	53		4	15

¹ Trees being removed within development footprint

² Tree Impact and Mitigation Policy Derived from City of Cotati Tree Mitigation and Protection Ordinance, Article 5, Chapter 17.54 of the City of Cotati Municipal Code Title 17 Land Use Code. Tree mitigation replacement numbers derived from Section 17.54.050 (Tree Required Replacement Trees. Planting and Replacement) Table 5-2.

³ Multiple trunks diameter at "Breast Height" have been summed to then calculate circumference.

⁴ Replacement tree species to be determined by the City of Cotati.

⁵ The review of authority may allow up to fifty percent of the required replacement trees to be a five-gallon container size, where it determines that long-term tree health and survival will be improved by starting with a smaller container size.

Planting replacement tree species as required by the Tree Ordinance with City of Cotati discretion that ensures tree replacement numbers and species are commensurate with suitability of the project site would mitigate impacts to impacted trees to a level regarded as less than significant pursuant to the CEQA.

Biological Resources Analysis
 Reds Residential
 City of Cotati, Sonoma County, California

14. LITERATURE CITED

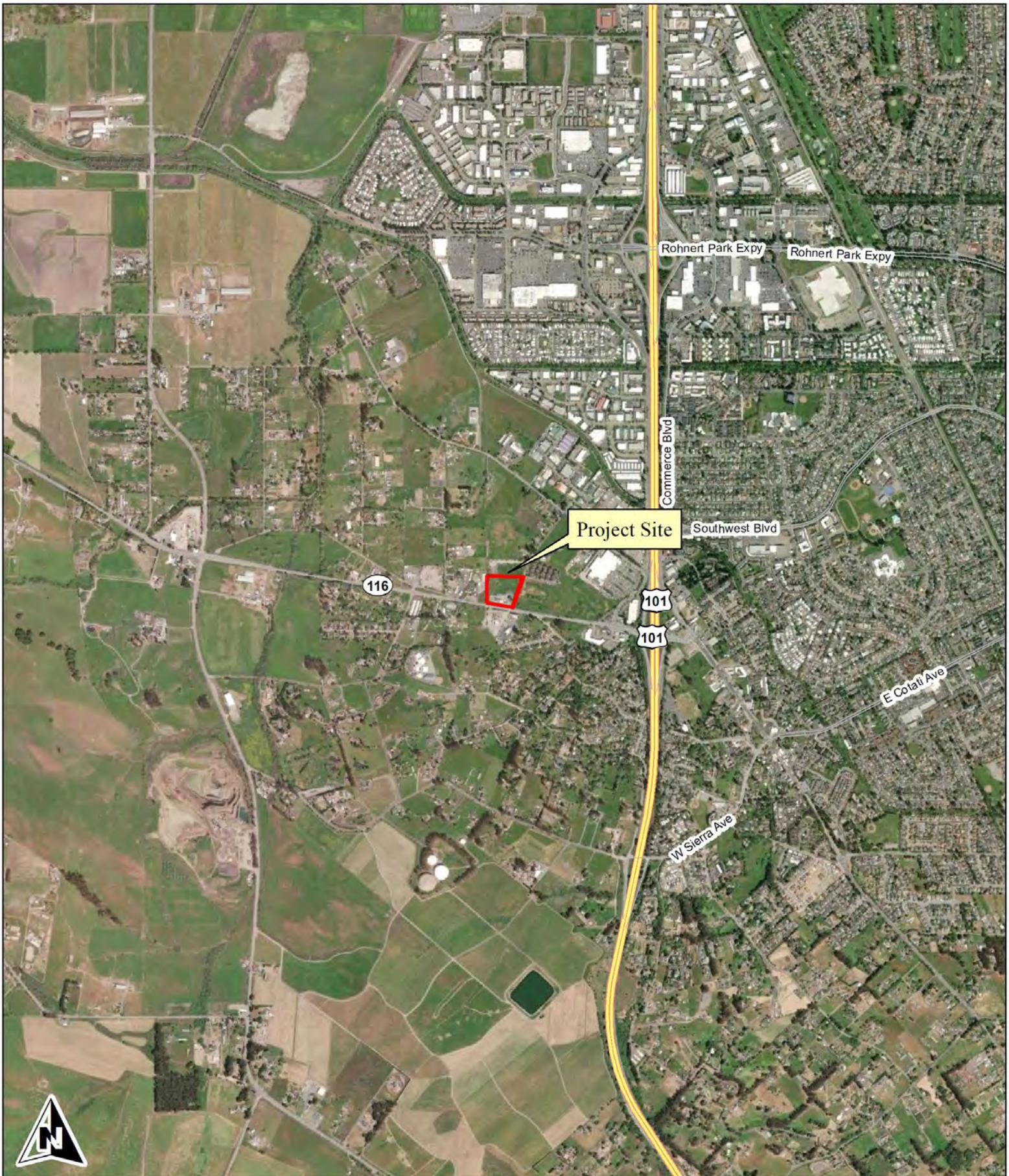
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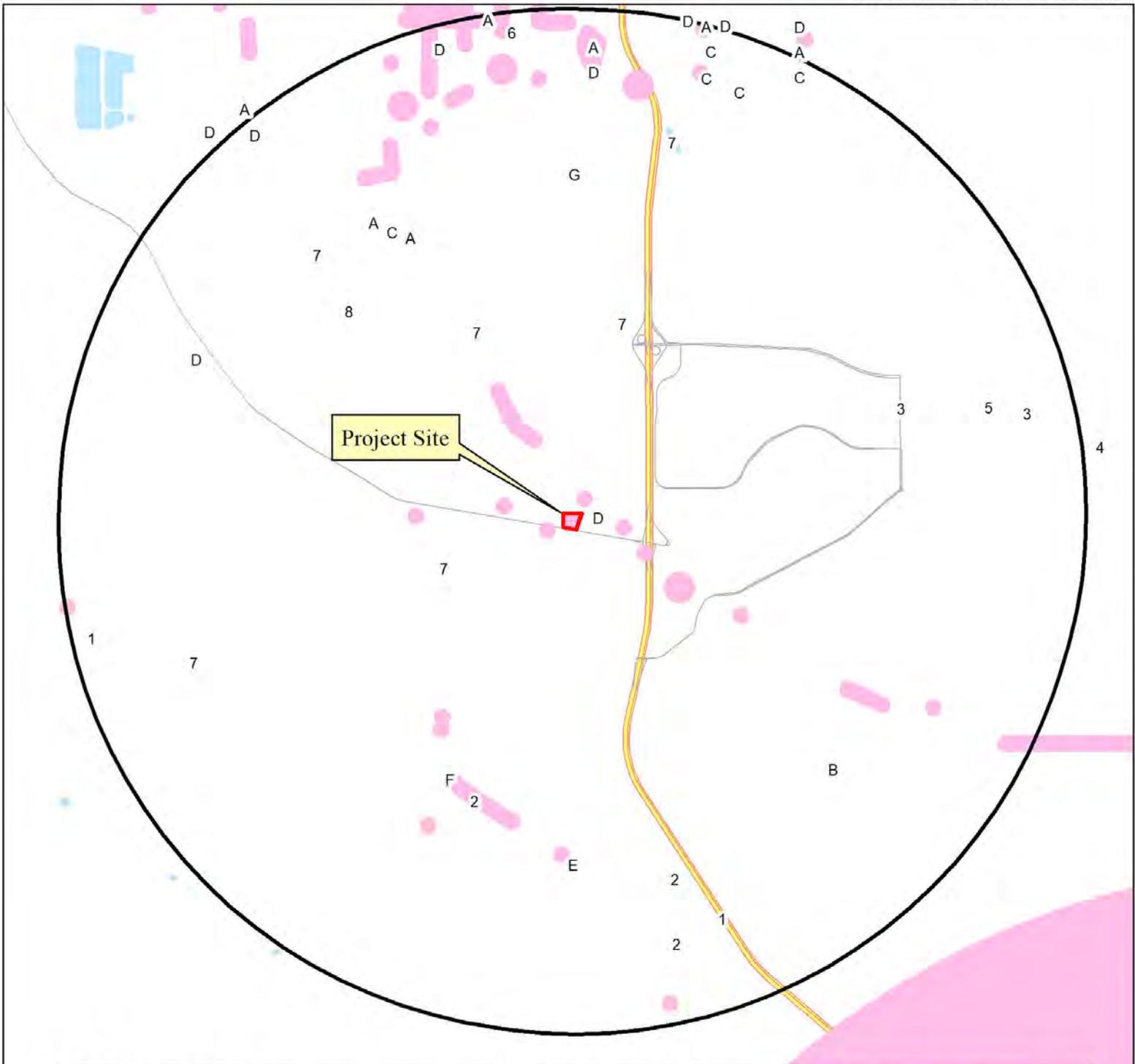


Figure 2. Red's Residential Project Site
Location Map
City of Cotati, California

38.333158 -122.721363
Section 26; T6N R8W
7.5-Minute Cotati quadrangle
Aerial Photograph Source: ESRI
Map Preparation Date: May 31, 2022



Figure 3. Aerial Photograph of the
Red's Residential Project Site
City of Cotati, California



1 American badger	6 Western bumble bee	C <i>Lasthenia burkei</i>
2 California red-legged frog	7 Western pond turtle	D <i>Limnanthes vinculans</i>
California tiger salamander	8 Western Yellow-billed Cuckoo	E <i>Microseris paludosa</i>
3 Foothill yellow-legged frog	A <i>Blennosperma bakeri</i>	F <i>Trifolium amoenum</i>
4 Steelhead - central California coast DPS	B <i>Hemizonia congesta ssp. congesta</i>	G <i>Trifolium hydrophilum</i>
5 Tricolored Blackbird		



Figure 4. Known Special-Status CNDDDB Species Within 3 Miles of the Red's Residential Project Site

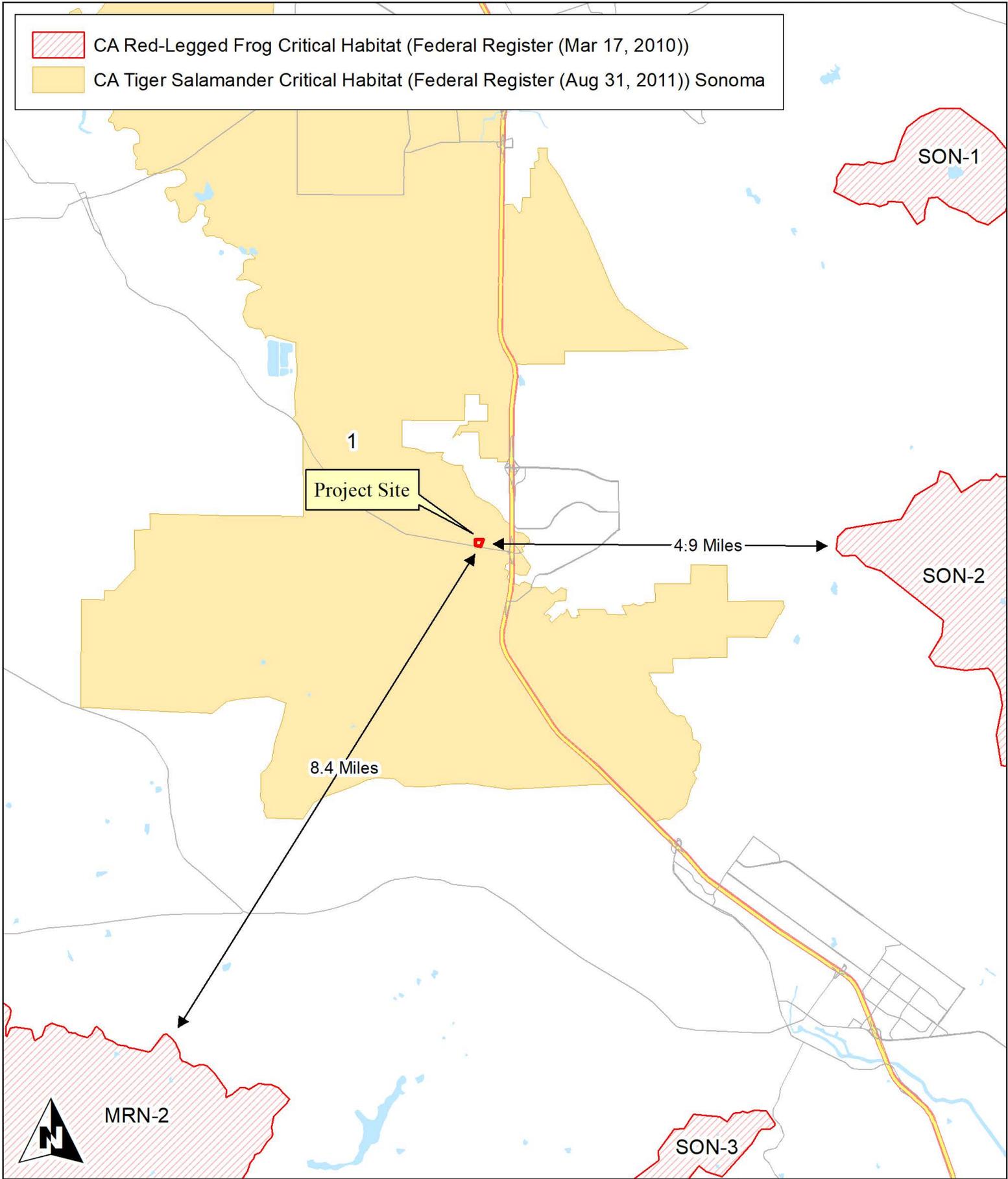
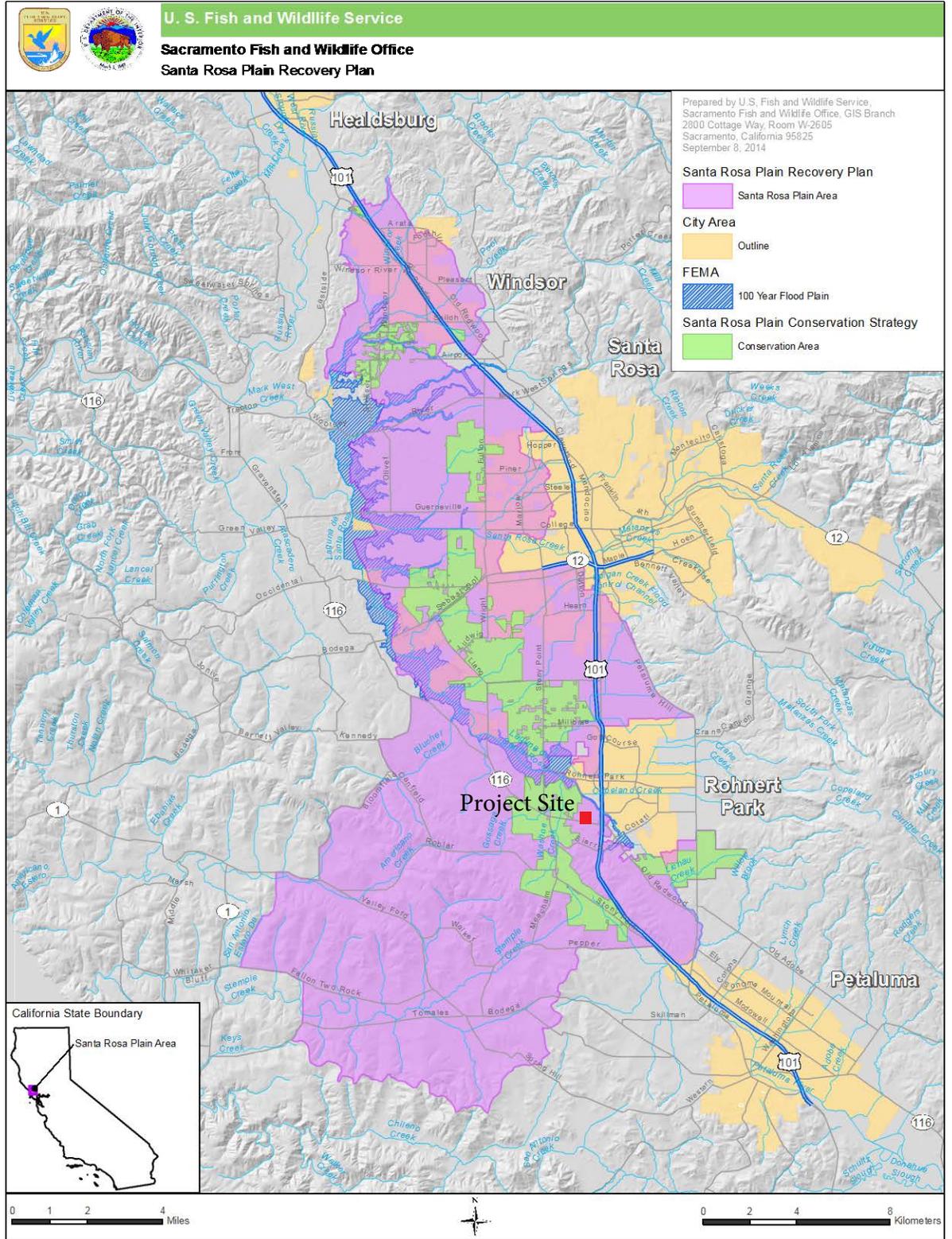


Figure 5. USFWS Critical Habitat in the Vicinity of the Red's Residential Project Site Cotati, California

Figure 6. Santa Rosa Plain Portion of Recovery Planning Area



- CTS Occurrence
- Built Area Exclusion (graveled/hardpack surface) (1.99 Acre)
- 2:1 Mitigation area (3.64 Acres) (>500 feet to 2,200 feet from breeding pond)
- Project Site (5.63 Acres)

	Sq Ft	Acres	Acres
Red's Residence Project Site	245,242	5.63	
Built Area Exclusion	86,684	1.99	
Mitigation Area	158,558	3.64	
2:1 Mitigation Ratio			7.28



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Figure 7. California Tiger Salamander Mitigation Requirement
 Red's Residential Project Site
 Cotati, California

Aerial Photograph Source: ESRI
 Map Preparation Date: October 11, 2022

Table 1
Plant Species Observed on the Project Site.

Gymnosperms

Cupressaceae

<i>Juniperus sp.</i>	Juniper
<i>Sequoia sempervirens</i>	Redwood

Pinaceae

* <i>Cedrus deodara</i>	Deodar cedar
* <i>Pinus halepensis</i>	Aleppo pine

Angiosperms - Dicots

Amaranthaceae

* <i>Amaranthus albus</i>	Tumble pigweed
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Apiaceae

* <i>Ammi majus</i>	Greater ammi
* <i>Conium maculatum</i>	Poison hemlock
* <i>Daucus carota</i>	Queen Anne's lace
* <i>Foeniculum vulgare</i>	Sweet fennel
* <i>Scandix pecten-veneris</i>	Venus' needle

Apocynaceae

* <i>Vinca major</i>	Periwinkle
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Araliaceae

* <i>Hedera helix</i>	English ivy
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Asteraceae

* <i>Anthemis cotula</i>	Mayweed
<i>Baccharis pilularis subsp. consanguinea</i>	Coyote brush
* <i>Calendula arvensis</i>	Field-marigold
* <i>Carduus pycnocephalus subsp. pycnocephalus</i>	Italian thistle
<i>Centromadia pungens subsp. pungens</i>	Common spikeweed
* <i>Cichorium intybus</i>	Chicory
* <i>Cirsium vulgare</i>	Bull thistle
<i>Erigeron canadensis</i>	Horseweed
* <i>Helminthotheca echioides</i>	Bristly ox-tongue
* <i>Hypochaeris radicata</i>	Rough cat's-ear
* <i>Lactuca saligna</i>	Willow lettuce
* <i>Lactuca serriola</i>	Prickly lettuce
* <i>Leontodon saxatilis</i>	Long-beaked hawkbit
* <i>Leontodon saxatilis subsp. saxatilis</i>	Long-beaked hawkbit
<i>Madia sativa</i>	Coast tarweed
* <i>Matricaria chamomilla</i>	German chamomile
* <i>Matricaria discoidea</i>	Pineapple-weed
* <i>Pseudognaphalium luteoalbum</i>	Everlasting cudweed
* <i>Senecio vulgaris</i>	Common groundsel
* <i>Silybum marianum</i>	Milk thistle
* <i>Sonchus asper subsp. asper</i>	Prickly sow-thistle

* Indicates a non-native species

Table 1
Plant Species Observed on the Project Site.

* <i>Sonchus oleraceus</i>	Common sow-thistle
* <i>Tragopogon porrifolius</i>	Common salsify
<i>Xanthium strumarium</i>	Cocklebur
Brassicaceae	
* <i>Brassica nigra</i>	Black mustard
* <i>Capsella bursa-pastoris</i>	Shepherd's purse
<i>Cardamine oligosperma</i>	Few-seed bittercress
* <i>Hirschfeldia incana</i>	Short-podded mustard
* <i>Lepidium didymum</i>	Wart cress
* <i>Raphanus raphanistrum</i>	Jointed charlock
* <i>Raphanus sativus</i>	Wild radish
* <i>Sisymbrium altissimum</i>	Tumble mustard
Cactaceae	
* <i>Opuntia sp.</i>	Prickly pear
Caryophyllaceae	
* <i>Cerastium fontanum subsp. vulgare</i>	Common mouse-ear chickweed
* <i>Cerastium glomeratum</i>	Mouse-ear chickweed
* <i>Spergularia rubra</i>	Ruby sand-spurrey
* <i>Stellaria media</i>	Common chickweed
Chenopodiaceae	
* <i>Atriplex prostrata</i>	Hastate orache
* <i>Chenopodium album</i>	White pigweed
Convolvulaceae	
* <i>Convolvulus arvensis</i>	Bindweed
Euphorbiaceae	
<i>Croton setiger</i>	Turkey mullein
* <i>Euphorbia pepulus</i>	Petty spurge
Fabaceae	
* <i>Acacia melanoxydon</i>	Blackwood acacia
<i>Acmispon americanus var. americanus</i>	Spanish-clover
* <i>Lathyrus hirsutus</i>	Caley pea
* <i>Lotus corniculatus</i>	Birdfoot trefoil
<i>Lupinus bicolor</i>	Bicolored lupine
<i>Lupinus nanus</i>	Sky lupine
<i>Lupinus succulentus</i>	Arroyo lupine
* <i>Medicago polymorpha</i>	California burclover
* <i>Robinia pseudoacacia</i>	Black locust
* <i>Trifolium cernuum</i>	Nodding clover
<i>Trifolium ciliolatum</i>	Foothill clover
* <i>Trifolium dubium</i>	Little hop clover
* <i>Trifolium hirtum</i>	Rose clover
* <i>Trifolium incarnatum</i>	Crimson clover
* <i>Trifolium subterraneum</i>	Subterranean clover
* <i>Vicia benghalensis</i>	Purple vetch
* <i>Vicia sativa</i>	Common vetch

* Indicates a non-native species

Table 1
Plant Species Observed on the Project Site.

* <i>Vicia sativa</i> subsp. <i>nigra</i>	Narrow-leaved vetch
* <i>Vicia sativa</i> subsp. <i>sativa</i>	Spring vetch
Fagaceae	
<i>Quercus garryana</i> var. <i>garryana</i>	Garry oak
<i>Quercus kelloggii</i>	California black oak
<i>Quercus lobata</i>	Valley oak
Geraniaceae	
* <i>Erodium botrys</i>	Broad-leaf filaree
* <i>Erodium cicutarium</i>	Red-stem filaree
* <i>Erodium moschatum</i>	White-stem filaree
* <i>Geranium dissectum</i>	Cut-leaf geranium
Juglandaceae	
<i>Juglans hindsii</i>	Northern California black walnut
Lamiaceae	
* <i>Lamium amplexicaule</i>	Deadnettle
* <i>Lamium purpureum</i>	Purple deadnettle
* <i>Mentha pulegium</i>	Pennyroyal
Lythraceae	
* <i>Lythrum hyssopifolia</i>	Hyssop loosestrife
Malvaceae	
* <i>Malva nicaeensis</i>	Bull mallow
* <i>Malva parviflora</i>	Cheeseweed
Montiaceae	
<i>Claytonia perfoliata</i>	Miner's lettuce
Myrsinaceae	
* <i>Lysimachia arvensis</i>	Scarlet pimpernel
Onagraceae	
<i>Epilobium brachycarpum</i>	Summer cottonweed
<i>Epilobium ciliatum</i>	Hairy willow-herb
<i>Epilobium ciliatum</i> subsp. <i>ciliatum</i>	Hairy willow-herb
Orobanchaceae	
* <i>Parentucellia viscosa</i>	Yellow glandweed
Oxalidaceae	
<i>Oxalis pilosa</i>	Hairy wood-sorrel
Papaveraceae	
<i>Eschscholzia californica</i>	California poppy
Plantaginaceae	
* <i>Kickxia spuria</i>	Round-leaved toadflax
* <i>Plantago lanceolata</i>	English plantain
<i>Veronica peregrina</i> subsp. <i>xalapensis</i>	Purslane speedwell

Table 1
Plant Species Observed on the Project Site.

Polygonaceae	
* <i>Polygonum aviculare</i>	Common knotweed
* <i>Rumex acetosella</i>	Sheep sorrel
<i>Rumex californicus</i>	California willow dock
* <i>Rumex crispus</i>	Curly dock
* <i>Rumex pulcher</i>	Fiddle dock
Ranunculaceae	
* <i>Ranunculus muricatus</i>	Spiny-fruit buttercup
Rosaceae	
* <i>Rosa sp.</i>	Wild rose
* <i>Rubus armeniacus</i>	Himalayan blackberry
Rubiaceae	
<i>Galium aparine</i>	Goose grass
* <i>Galium murale</i>	Tiny bedstraw
Salicaceae	
<i>Populus sp.</i>	Cottonwood
Theaceae	
* <i>Camellia japonica</i>	Camellia
Angiosperms -Monocots	
Amaryllidaceae	
* <i>Agapanthus orientalis</i>	Lilly-of-the-Nile
Araceae	
* <i>Arum italicum</i>	Italian arum
* <i>Zantedeschia aethiopica</i>	Calla-lily
Arecaceae	
<i>Washingtonia filifera</i>	California fan palm
Cyperaceae	
<i>Carex echinata subsp. echinata</i>	Prickly little sedge
<i>Cyperus eragrostis</i>	Tall flatsedge
Iridaceae	
<i>Sisyrinchium bellum</i>	Western blue-eyed grass
Juncaceae	
<i>Juncus bufonius</i>	Toad rush
<i>Juncus patens</i>	Spreading rush
<i>Juncus phaeocephalus</i>	Brown-headed rush
<i>Juncus phaeocephalus var. paniculatus</i>	Panicled rush
<i>Juncus phaeocephalus var. phaeocephalus</i>	Brownheaded rush
Poaceae	
* <i>Alopecurus pratensis</i>	Meadow foxtail
* <i>Arrhenatherum elatius</i>	Tall oatgrass
* <i>Arundo donax</i>	Giant reed

* Indicates a non-native species

Table 1
Plant Species Observed on the Project Site.

* <i>Avena barbata</i>	Slender wild oat
* <i>Avena fatua</i>	Wild oat
* <i>Briza minor</i>	Small quaking grass
<i>Bromus carinatus</i> var. <i>carinatus</i>	California brome
* <i>Bromus catharticus</i> var. <i>elatus</i>	Chilean brome
* <i>Bromus diandrus</i>	Ripgut grass
* <i>Bromus hordeaceus</i>	Soft chess
* <i>Bromus madritensis</i> subsp. <i>madritensis</i>	Foxtail chess
* <i>Cortaderia selloana</i>	Pampas grass
* <i>Cynodon dactylon</i>	Bermudagrass
* <i>Dactylis glomerata</i>	Orchard grass
* <i>Ehrharta erecta</i>	Panic veldt grass
<i>Elymus glaucus</i>	Blue wildrye
<i>Elymus triticoides</i>	Creeping wildrye
* <i>Festuca arundinacea</i>	Tall fescue
* <i>Festuca bromoides</i>	Brome fescue
* <i>Festuca myuros</i>	Rattail sixweeks grass
* <i>Festuca perennis</i>	perennial ryegrass
* <i>Holcus lanatus</i>	Common velvet grass
<i>Hordeum brachyantherum</i>	Meadow barley
* <i>Hordeum marinum</i> subsp. <i>gussoneanum</i>	Mediterranean barley
* <i>Hordeum murinum</i> subsp. <i>leporinum</i>	Hare barley
* <i>Pennisetum villosum</i>	Feathertop
* <i>Phalaris aquatica</i>	Harding grass
<i>Pleuropogon californicus</i> var. <i>californicus</i>	Annual semaphore grass
* <i>Poa annua</i>	Annual bluegrass
* <i>Polypogon monspeliensis</i>	Annual beard grass

Table 2
Wildlife Species Observed on the Project Site.

Birds

Eurasian collared-dove	<i>Streptopelia decaocto</i>
Mourning dove	<i>Zenaida macroura</i>
Black phoebe	<i>Sayornis nigricans</i>
Ash-throated flycatcher	<i>Myiarchus cinerascens</i>
Bushtit	<i>Psaltriparus minimus</i>
Western bluebird	<i>Sialia mexicana</i>
Northern mockingbird	<i>Mimus polyglottos</i>
European starling	<i>Sturnus vulgaris</i>
California towhee	<i>Melospiza crissalis</i>
Brewer's blackbird	<i>Euphagus cyanocephalus</i>
Brown-headed cowbird	<i>Molothrus ater</i>
House finch	<i>Haemorhous mexicanus</i>
Lesser goldfinch	<i>Spinus psaltria</i>
House sparrow	<i>Passer domesticus</i>

Table 3
Special-Status Plant Species Known to Occur within 3 Miles of the Red's Residential Project

Family Taxon Common Name	Status*	Flowering Period	Habitat	Area Locations	Probability on Project Site
Asteraceae					
<i>Blennosperma bakeri</i> Sonoma sunshine	Fed: FE State: CE CNPS: Rank 1B.1	February-April	Valley and foothill grassland (mesic); vernal pools.	Record for this species located 2.0 mile northwest from the project site (Occurrence No. 20).	None. Seasonal wetland habitat onsite but not detected during appropriately timed surveys conducted in 2015, 2017 and 2019.
<i>Hemizonia congesta congesta</i> White seaside tarplant	Fed: - State: - CNPS: Rank 1B.2	April-November	Valley and foothill grassland. 20 to 560 meters. Clay soils	Record for this species located 1.2 mile northeast from the project site (Occurrence No. 12).	None. Marginal habitat present. Not detected during appropriately timed surveys conducted in 2015, 2016 and 2017.
<i>Lasthenia burkei</i> Burke's goldfields	Fed: FE State: CE CNPS: Rank 1B.1	April-June	Meadows and seeps (mesic); vernal pools.	Record for this species located 2.0 mile northwest from the project site (Occurrence No. 29).	None. Seasonal wetland habitat onsite but not detected during appropriately timed surveys conducted in 2015, 2017 and 2019.
<i>Microseris paludosa</i> Marsh microseris	Fed: - State: - CNPS: Rank 1B.2	April-July	Closed-cone coniferous forest; cismontane woodland; coastal scrub; valley and foothill grassland. 5-300 m.	Record for this species located 1.8 mile south from the project site (Occurrence No. 18).	None. No suitable habitat present. Not detected during appropriately timed surveys conducted in 2015, 2016, 2017 and 2019.
Fabaceae					
<i>Trifolium amoenum</i> Showy Indian clover	Fed: FE State: - CNPS: Rank 1B.1	April-June	Valley and foothill grassland (sometimes serpentinite)	Record for this species located 1.8 mile south from the project site (Occurrence No. 18).	None. No suitable habitat present. Not detected during appropriately timed surveys conducted in 2015, 2017 and 2019.
<i>Trifolium hydrophilum</i> Saline clover	Fed: - State: - CNPS: Rank 1B.2	April-June	Marshes and swamps; valley and foothill grassland (mesic, alkaline); vernal pools. 0-300 m.	Record for this species located 1.3 mile northeast from the project site (Occurrence No. 49).	None. No suitable habitat present. Not detected during appropriately timed surveys conducted in 2015, 2017 and 2019.

Table 3

Special-Status Plant Species Known to Occur within 3 Miles of the Red's Residential Project

Family Taxon Common Name	Status*	Flowering Period	Habitat	Area Locations	Probability on Project Site
Limnanthaceae					
<i>Limnanthes vinculans</i> Sebastopol meadowfoam	Fed: FE State: CE CNPS: Rank 1B.1	April-May	Meadows (mesic); vernal pools.	Record for this species located 0.1 mile east from the project site (Occurrence No.352).	None. Seasonal wetland habitat onsite but not detected during appropriately timed surveys conducted in 2015, 2017 and 2019.

***Status**

- Federal:
 FE - Federal Endangered
 FT - Federal Threatened
 FPE - Federal Proposed Endangered
 FPT - Federal Proposed Threatened
 FC - Federal Candidate
- State:
 CE - California Endangered
 CT - California Threatened
 CR - California Rare
 CC - California Candidate
 CSC - California Species of Special Concern
- CNPS:
 Rank 1A - Presumed extinct in California
 Rank 1B - Plants rare, threatened, or endangered in California and elsewhere
 Rank 1B.1 - Seriously endangered in California (over 80% occurrences threatened/ high degree and immediacy of threat)
 Rank 1B.2 - Fairly endangered in California (20-80% occurrences threatened)
 Rank 1B.3 - Not very endangered in California (<20% of occurrences threatened or no current threats known)

- CNPS Continued:
 Rank 2 - Plants rare, threatened, or endangered in California, but more common elsewhere
 Rank 2A - Extirpated in California, common elsewhere
 Rank 2B.1 - Seriously endangered in California, but more common elsewhere
 Rank 2B.2 - Fairly endangered in California, but more common elsewhere
 Rank 2B.3 - Not very endangered in California, but more common elsewhere
 Rank 3 - Plants about which we need more information (Review List)
 Rank 3.1 - Plants about which we need more information (Review List)
 Rank 3.2 - Plants about which we need more information (Review List)
 Rank 3.2 - Fairly endangered in California
 Rank 4 - Plants of limited distribution - a watch list

Table 4
Special-Status Wildlife Species Known to Occur in the Vicinity of the Project Site

Species	*Status	Habitat	Closest Locations	Probability on Project Site
Insects				
Western bumble bee <i>Bombus occidentalis</i>	Fed: FT State: CC Other:	Confined to high elevation sites and north coast. Inhabits grassland with select food plants: Melilotus, Cirsium, Trifolium, Centaurea, Chrysothamnus, and Eriogonum. Typically nests underground in abandoned rodent burrows or other cavities.	1986 record for this species located 2.9 miles north from the project site (Occurrence No. 167).	Likelihood of occurrence is low due to ongoing disturbance which includes annual disking. No impact expected
Fish				
Steelhead - Central California Coast DPS <i>Oncorhynchus mykiss irideus</i>	Fed: FT State: - Other:	From Russian River south to Soquel Creek, and to Pajaro River. Also found in San Francisco & San Pablo Bay Basins. Spawn in clear, cool, well oxygenated streams greater than 18 cm deep.	2002 record for this species located 3.0 miles east from the project site (Occurrence No. 37).	None. No suitable habitat. No creeks/streams on or near the project site.
Amphibians				
California tiger salamander (So Co DPS) <i>Ambystoma californiense</i>	Fed: FE State: CT Other:	Found in grassland habitats of the valleys and foothills. Requires burrows for aestivation and standing water until late spring (May) for larvae to metamorphose.	2001 record for this species located 0.1 mile north from the project site (Occurrence No. 82).	Low. CTS known to be present in 2003/2004 but removed from site. See text for further detail.
California red-legged frog <i>Rana draytonii</i>	Fed: FT State: CSC Other:	Occurs in lowlands and foothills in deeper pools and streams, usually with emergent wetland vegetation. Requires 11-20 weeks of permanent water for larval development.	2004 record for this species located 1.7 miles south from the project site (Occurrence No. 779).	None. No suitable habitat (e.g. creeks, streams) anywhere near the project site.
Foothill yellow-legged frog ** <i>Rana boylei</i>	Fed: -- State: CE Other:	Found in partially shaded, shallow streams with rocky substrates. Requires perennial pools or flowing water. Needs some cobble-sized rocks as a substrate for egg laying. Requires water for 15 weeks for larval transformation.	2017 record for this species located 2.0 miles east from the project site (Occurrence No. 1836).	None. No suitable habitat. No creeks anywhere near the project site.

Table 4
Special-Status Wildlife Species Known to Occur in the Vicinity of the Project Site

Species	*Status	Habitat	Closest Locations	Probability on Project Site
Reptiles				
Western pond turtle <i>Emys marmorata</i>	Fed: - State: CSC Other:	Uncommon to common in suitable aquatic habitat throughout CA, west of the Sierra-Cascade crest and absent from desert regions, except the Mojave River. Associated with permanent or nearly permanent water in a wide variety of habitat types.	1992 record for this species located 0.8 mile west from the project site (Occurrence No. 402).	None. No suitable habitat. No ponds anywhere near the project site.
Birds				
Western yellow-billed cuckoo <i>Coccyzus americanus occidentalis</i>	Fed: State: CE Other:	Riparian forest nester along broad, lower flood-bottoms of larger river systems. Nests in riparian jungles of willow, often mixed with cottonwoods w/ lower story of blackberry, nettles, or wild grape.	1923 record for this species located 1.8 miles northwest from the project site (Occurrence No. 97).	None. No riparian habitat anywhere near the project site.
Tricolored blackbird <i>Agelaius tricolor</i>	Fed: - State: CT Other: -	Colonial nester in dense cattails, tules, brambles or other dense vegetation. Requires open water, dense vegetation, and open grassy areas for foraging.	1976 record for this species located 2.2 mile east from the project site (Occurrence No. 325).	None. No suitable habitat (e.g. creeks, ponds) anywhere near the project site.
Mammals				
Pallid bat <i>Antrozous pallidus</i>	Fed: - State: CSC Other:	Occurs in deserts, grasslands, shrublands, woodlands, and forests. Most common in dry habitats with rocky areas for roosting. Roosts in caves, crevices, mines, and occasionally hollow trees. Night roosts in open areas such as porches and open buildings.	1997 record for this species located 9.0 mile southeast from the project site (Occurrence No. 50).	Low. Abandoned buildings on site provide suitable roost site. Pre-demolition surveys warranted.
American badger <i>Taxidea taxus</i>	Fed: - State: CSC Other:	Most abundant in drier open stages of most shrub, forest, and herbaceous habitats, with friable soils. Need sufficient food, friable soils & open, uncultivated ground. Prey on burrowing rodents. Dig burrows.	2007 record for this species located 2.5 miles south from the project site (Occurrence No. 407).	None. Too developed in the area. Very unlikely occurrence in the area.

Table 4

Special-Status Wildlife Species Known to Occur in the Vicinity of the Project Site

Species	*Status	Habitat	Closest Locations	Probability on Project Site
*Status				
Federal:		State:	State:	
FE - Federal Endangered	CE - California Endangered		WL - Watch List. Not protected pursuant to CEQA	
FT - Federal Threatened	CT - California Threatened		S1 - Critically Imperiled	
FPE - Federal Proposed Endangered	CR - California Rare		S2 - Imperiled	
FPT - Federal Proposed Threatened	CC - California Candidate		Global:	
FC - Federal Candidate	CSC - California Species of Special Concern		G2 - Imperiled	
FPD - Federally Proposed for delisting	FP - Fully Protected		G4 - Apparently Secure	

** This frog is listed as "endangered" in the Southern Sierra, central, and southern California coasts and "threatened" in the Northern Sierra and Feather River. This frog is not protected pursuant to CESA on the northern coast of California (all counties north of Marin and Solano Counties north to Oregon boarder).



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Suite W-2605
Sacramento, California 95825-1846



In Reply Refer to:
08ESMF00-
2019-F-2181-1

DEC 10 2019

Regulatory Division Chief
San Francisco District
U.S. Army Corps of Engineers
450 Golden Gate Avenue, 4th Floor, Suite 0134
San Francisco, California 94102-3406

Subject: Formal Consultation on the Proposed Sterling Senior Community Project, Santa Rosa, Sonoma County, California (Corps File Number: 2007-00822N)

Dear Regulatory Division Chief:

This letter is in response to the U.S. Army Corps of Engineers' (Corps) March 21, 2019, request for formal consultation with the U.S. Fish and Wildlife Service (Service) on the proposed Sterling Senior Community Project (proposed project), in Cotati, Sonoma County, California. Your request was received by the Service on March 25, 2019. At issue are the proposed project's effects on the federally-listed as endangered Sonoma County Distinct Population Segment of the California tiger salamander (*Ambystoma californiense*) (salamander) and its critical habitat, Sonoma Sunshine (*Blennosperma bakeri*), Burke's goldfields (*Lasthenia burkei*), and Sebastopol meadowfoam (*Limnathes vinculans*) (collectively, listed plants). This response is provided under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), and in accordance with the implementing regulations pertaining to interagency cooperation (50 CFR 402).

The federal action we are consulting on is the issuance of a Clean Water Act, Section 404 permit by the Corps to Townsend Capital Partners, LLC (applicant) for the fill of wetlands associated with the construction of the proposed project. Pursuant to 50 CFR 402.12(j), you submitted the March 8, 2019, *Biological Assessment- Sterling Senior Communities* (biological assessment) for our review and requested concurrence with the findings presented therein. The findings presented in the biological assessment conclude that the proposed project may affect, and is likely to adversely affect the salamander, critical habitat for the salamander, and the listed plants.

In considering your request, we based our evaluation on the following: (1) your March 21, 2019, letter initiating consultation; (2) the March 8, 2019, biological assessment, prepared by Monk and Associates (consultant); (3) email and telephone correspondence between the Service, the Corps, and the consultant; and (4) other information available to the Service.

The remainder of this document provides our biological opinion on the effects of the proposed project on salamander, its critical habitat and the listed plants.

Consultation History

- March 25, 2019: The Service received the Corps' March 21, 2019, letter initiating consultation on the proposed project with the biological assessment enclosed.
- July 17, 2019: The Service attended a site visit with the consultant for the proposed project.
- July 24, 2019: The Service received an email from the Corps changing the determinations for the listed plants and the salamander.
- September 12, 2019: The Service received an email from the consultant with an updated project description that included newly proposed conservation measures.

BIOLOGICAL OPINION

Description of the Action

The proposed project is the construction of a Senior Living Facility on 5.63 acres located at the northwest corner of Gravenstein Highway and Alder Avenue in Cotati, Sonoma County. The proposed project includes the construction of the 101,377 square foot Sterling Senior Community development and an additional 4,000 square foot commercial building. The Sterling Senior Communities will be comprised of two buildings: an assisted living facility and a memory care facility, which encompasses most of the project site. In addition, the proposed project includes 116 parking spaces, 16 bicycle parking spaces and 2 motorcycle spaces along with associated infrastructure and landscaping for the proposed development.

The Corps has determined that there is a total of 0.06 acre of jurisdictional Waters of the United States within the action area of the proposed project. This includes one seasonal wetland that occurs on the northern portion of the project site. The 0.06 acre wetland that is proposed to be filled occurs within the action area of the proposed project and is suitable habitat for the listed plants and will be directly affected. The proposed project also provides 3.64 acres of suitable upland habitat for the salamander. The remainder of the footprint of the proposed project (1.99 acres) is not considered suitable upland habitat for the salamander. This portion of the 5.63 acre parcel is currently developed with existing buildings or hardscaped, gravel roadways and parking areas around the existing buildings.

Salamander and Plant Conservation Measures

The following is a summary of the proposed conservation measures, as outlined in the biological assessment, to minimize effects on the salamander and the listed plants. The conservation measures proposed below are considered part of the proposed action evaluated by the Service in this biological opinion.

1. Prior to any earthmoving activities, the applicant has proposed to purchase salamander upland habitat preservation credits at a 2:1 ratio associated with the proposed project. Therefore, the applicant has proposed to offset the loss of 3.64 acres of salamander upland habitat by proposing to purchase 7.28 acres of salamander upland habitat preservation credits from Service approved mitigation bank(s) that are located in a California tiger salamander Conservation Area as defined in the Santa Rosa Plain Conservation Strategy (Conservation Strategy Team, 2005) (Conservation Strategy) and within a California tiger salamander Core Area as defined in the 2016 Recovery Plan (unless otherwise approved by the Service).

2. Prior to any earthmoving activities, the applicant has proposed to purchase listed plant preservation or establishment credits at a 1:1.5 ratio from a Service approved mitigation bank(s). Therefore, the applicant has proposed to offset the loss of 0.06 acre of suitable listed plant habitat by proposing to purchase 0.09 acre (0.09 acre x 1.5) of Sebsastopol meadowfoam preservation or establishment credits from a Service approved mitigation bank(s) located in a Core or Management Area as defined in the 2016 Recovery Plan (unless otherwise approved by the Service).
3. Training Program. A qualified biological monitor will conduct a training session for all construction workers before work is started on the proposed project. The training program is for all construction personnel including contractors and subcontractors. The training will include, at a minimum, a description of the salamander, and the applicable listed plants and their habitat within the action area; an explanation of the species' status and protection under state and federal laws; the avoidance and minimization measures to be implemented to reduce loss of these species; and communication and work stoppage procedures in case a listed species is observed within the action area. A fact sheet conveying this information will be prepared and distributed to all construction personnel. The applicant shall provide interpretation for non-English speaking workers.
4. Environmentally Sensitive Areas. Access routes, number and size of staging areas, and work areas, will be limited to the minimum necessary to achieve the project goals. Boundaries of the construction work area will be clearly marked prior to initiating construction/grading. Environmentally Sensitive Areas (ESAs) containing sensitive habitats adjacent to or within construction work areas for which physical disturbance is not allowed will be clearly delineated using high visibility orange fencing. The ESA fencing will remain in place throughout the duration of the proposed action, while construction activities are ongoing, and will be regularly inspected and fully maintained at all times. The final project plans will depict all locations where ESA fencing will be installed and will provide installation specifications. The bid solicitation package special provisions will clearly describe acceptable fencing material and prohibited construction-related activities including vehicle operation, material and equipment storage, access roads and other surface-disturbing activities within ESAs.
5. Equipment. All equipment will be maintained such that there will be no leaks of automotive fluids such as gasoline, oils, or solvents.
6. Hazardous Materials. Hazardous materials such as fuels, oils, solvents, etc., will be stored in sealable containers in a designated location that is at least 200 feet from aquatic habitats. All fueling and maintenance of vehicles and other equipment and staging areas will occur at least 200 feet from any aquatic habitat.
7. Implementation of Biological Opinion. The applicant shall ensure the Onsite Project Manager or their designee shall have full authority to implement and enforce all onsite Conservation Measures and Terms and Conditions of this Biological Opinion. The Onsite Foreman/Manager or their designee shall maintain a copy of this Biological Opinion onsite whenever construction is in progress. Their name(s) and telephone number(s) shall be provided to the Service at least 30 calendar days prior to groundbreaking at the proposed project.
8. Biological Monitors. Qualified biological monitor(s) will be on site each day during all earth moving activities including initial grading. The biological monitor(s) shall conduct clearance surveys at the beginning of each day and regularly throughout the workday when

construction activities are occurring that may result in take of salamanders. All suitable aquatic and upland habitat including refugia habitat such as small woody debris, refuse, burrow entries, etc., shall be duly inspected. The Service will consider the implementation of specific project activities without the oversight of an on-site biological monitor on a case-by-case basis.

Before the start of work each day, the biological monitor will check for animals under any equipment such as vehicles and stored pipes. The biological monitor will check all excavated steep-walled holes or trenches greater than one foot deep for any salamanders. Salamanders will be removed by the biological monitor and relocated according to the Relocation Plan (see number 12 below). To prevent inadvertent entrapment of animals during construction, all excavated, steep-walled holes or trenches more than 6 inches deep will be covered with plywood (or similar materials) that leave no entry gaps at the close of each working day or provided with one or more escape ramps constructed of earth fill or wooden planks. The Service-approved biologist shall inspect all holes and trenches at the beginning of each workday and before such holes or trenches are filled. All replacement pipes, culverts, or similar structures stored in the action area overnight will be inspected before they are subsequently moved, capped, and/or buried.

9. Biological Monitor Approval and Stop Work Authority. Qualified biological monitor(s) will possess a working wireless/mobile phone whose number will be provided to the Service prior to the start of construction and ground disturbance. The biological monitor(s) shall keep a copy of this Biological Opinion in his/her possession when onsite. Through the Onsite Project Manager or his/her designee, the biological monitor(s) shall be given the authority to communicate verbally, by telephone, email, or hardcopy with the applicant, project personnel, and any other person(s) at the project Site or otherwise associated with the proposed project to ensure that the Terms and Conditions of this biological opinion are met. The biological monitor(s) shall have oversight over implementation of the Terms and Conditions in this Biological Opinion, and shall have the authority to stop project activities if they determine any of the associated requirements are not being fulfilled. If the biological monitor exercises this authority, the Service shall be notified by telephone and email within 24 hours. The Service contact is the Coast Bay Division Chief of the Endangered Species Program, Sacramento Fish and Wildlife Office (SFWO) at telephone number (916) 414-6623.
10. Biological Monitoring Records. The biological monitor(s) shall maintain monitoring records that include: (1) the beginning and ending time of each day's monitoring effort; (2) a statement identifying the listed species encountered, including the time and location of the observation; (3) the time the specimen was identified and by whom and its condition; (4) the capture and release locations of each individual; (5) photographs and measurements (snout to vent and total length) of each individual; and (6) a description of any actions taken. The biological monitor(s) shall maintain complete records in their possession while conducting monitoring activities and shall immediately provide records to the Service upon request. All monitoring records shall be provided to the Service within 30 days of the completion of monitoring work.
11. Vegetation Removal. A Service-approved biologist will be present during all vegetation clearing and grubbing activities. Grasses and weedy vegetation should be mowed to a height no greater than 6 inches prior to ground-disturbing activities. All cleared vegetation will be removed from the project footprint to prevent attracting animals to the project site. Prior to vegetation removal, the Service-approved biologist shall thoroughly survey the area for

salamanders. Once the qualified biologist has thoroughly surveyed the area, clearing and grubbing may continue without further restrictions on equipment; however, the qualified biologist shall remain onsite to monitor for salamanders until all clearing and grubbing activities are complete.

12. Wildlife Exclusion Fencing (WEF). Prior to the start of construction, WEF will be installed at the edge of the Project footprint in all areas where salamanders could enter the construction area. WEF with exit ramps may be required to allow any salamander onsite to move into an adjacent habitat offsite. The location of the fencing shall be determined by the onsite project manager and the Service-approved biologist in cooperation with the Service prior to the start of staging or surface disturbing activities. A conceptual fencing plan shall be submitted to the Service for review and approval prior to WEF installation. The location, fencing materials, installation specifications, and monitoring and repair criteria shall be approved by the Service prior to start of construction. The applicant shall include the WEF specifications on the final project plans. The applicant shall include the WEF specifications including installation and maintenance criteria in the bid solicitation package special provisions. The WEF shall remain in place throughout the duration of the proposed project and shall be regularly inspected and fully maintained. Repairs to the WEF shall be made within 24 hours of discovery. Upon completion of the proposed project, the WEF shall be completely removed, the area cleaned of debris and trash, and returned to natural conditions.
13. Relocation Plan. The Corps through its applicant shall prepare and submit a Relocation Plan for the Service's written approval. The Relocation Plan shall contain the name(s) of the Service-approved biologist(s) to relocate salamanders, method of relocation (if different than number 13 below), a map, and description of the proposed release site(s) and burrow(s), and written permission from the landowner to use their land as a relocation site. At various times, a mitigation or conservation bank may be a desired location to relocate salamanders from a salvage site, however no mitigation or conservation bank may receive relocated salamanders until all the bank's credits have been sold to prevent interfering with their performance criteria and credit release schedule.
14. Protocol for Species Observation, Handling, and Relocation. Only Service-approved biologists shall participate in activities associated with the capture, handling, relocation, and monitoring of salamanders. If a salamander is encountered in the action area, work activities within 50 feet of the individual shall cease immediately and the Onsite Project Manager and Service-approved biologist shall be notified. Based on the professional judgment of the Service-approved biologist, if project activities can be conducted without harming or injuring the individual(s), it may be left at the location of discovery and monitored by the Service-approved biologist. All project personnel shall be notified of the finding and at no time shall work occur within 50 feet of the salamander without a Service-approved biologist present. If relocation of the species to another site has been approved by the Service and CDFW prior to the start of the Project, the following steps shall be followed:
 - a. Prior to handling and relocation, the Service-approved biologist will take precautions to prevent introduction of amphibian diseases in accordance with the Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander (Service 2003). Disinfecting equipment and clothing is especially important when biologists are coming to the action area to handle amphibians after working in other aquatic habitats. Salamanders shall also be handled and assessed according to the Restraint and Handling of Live Amphibians (USGS National Wildlife Health Center 2001).

- b. Salamanders shall be captured by hand, dipnet, or other Service-approved methodology, transported, relocated and released as soon as practicable the same day of capture. Individuals should be relocated to areas with one or more potential breeding pools and an active burrow system (unless otherwise with written approved by the Service). The Service shall be notified within 24 hours of all capture, handling, and relocation efforts.
 - c. If an injured salamander is encountered and the Service-approved biologist determines the injury is minor or healing and the salamander is likely to survive, the salamander shall be released as soon as possible, in accordance with the Service-approved Relocation Plan. The relocated salamander shall be monitored until it is determined that it is not imperiled by predators or other dangers.
 - d. If the Service-approved biologist determines that the salamander has major or serious injuries as a result of project-related activities the Service-approved biologist shall immediately take it to a licensed veterinarian, the Sonoma County Wildlife Rescue, or another Service-approved facility. If taken into captivity the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by the Service. The applicant shall bear any costs associated with the care or treatment of such injured individuals. The circumstances of the injury, the procedure followed and the final disposition of the injured animal shall be documented in a written incident report.
 - e. Notification to the Service of an injured or dead salamander in the action area will be made within 2 calendar days of the finding. Written notification to the Service shall include the following information: the species, number of animals taken or injured, sex (if known), date, time, location of the incident or of the finding of a dead or injured animal, how the individual was taken, photographs of the specific animal, the names of the persons who observe the take and/or found the animal, and any other pertinent information. Dead specimens will be preserved, as appropriate, and held in a secure location until instructions are received from the Service regarding the disposition of the specimen.
15. Stormwater Pollution Prevention Plan (SWPPP). An erosion and sediment control plan will be implemented to prevent impacts of wetland restoration and construction on habitat outside the work areas. An SWPPP prepared in full accordance with the State Water Resources Control Board, National Pollutant Discharge Elimination System Construction General Permit. The SWPPP would include Best Management Practices (BMPs) for controlling sediment, turbidity and the release of other pollutants into water courses during construction. The SWPPP would also include a rainy season erosion prevention and monitoring plan to ensure that surface runoff from the construction site meets RWQCB water quality standards and objectives for the Hydrologic Unit and Hydrologic Subunit in which the proposed project is located. The SWPPP would be subject to the approval of the RWQCB prior to the start of work.
16. Work Windows. Ground disturbance will commence between April 15 and October 15, of any given year, depending on the level of rainfall and/or site conditions. However, grading and other disturbance in pools and ponds, if unavoidable, shall be conducted only when dry, typically between July 15 and October 15. Work within a pool or wetland may begin prior to July 15 if the pool or wetland has been dry for a minimum of 30 days prior to initiating work. Work would be limited to periods of low rainfall (less than 0.08 inches per 24-hour period and less than 40 percent chance of rain). Construction activities shall cease 24 hours prior to a 40 percent or greater forecast of rain from the National Weather Service (NWS).

Construction may continue 24 hours after the rain ceases if no precipitation is in the 24-hour forecast. Any work in pools and wetlands that are holding water shall be subject to approval of the Service. If work must continue when rain is forecast (greater than 40 percent chance of rain), a Service-approved biologist(s) shall survey the Project Site before construction begins each day rain is forecast. If rain exceeds 0.5 inches during a 24-hour period, work shall cease until NWS forecasts no further rain. This restriction is not applicable for areas within 1.3 miles of potential or known salamander breeding sites once the applicant encircles the site with WEF.

17. Agency Access. If verbally requested before, during, or upon completion of ground disturbance and construction activities, the applicant will ensure the Service can immediately and without delay, access and inspect the Project Site for compliance with the Project description, Conservation Measures, and reasonable and prudent measures of this biological opinion, and to evaluate Project effects to the salamander and its habitat.
18. Proper Use of Erosion Control Devices. To prevent salamanders from becoming entangled, trapped, or injured, erosion control materials that use plastic or synthetic monofilament netting will not be used within the action area. This includes products that use photodegradable or biodegradable synthetic netting, which can take several months to decompose. Acceptable materials include natural fibers such as jute, coconut, twine or other similar fibers. Following site restoration, any materials left behind as part of the restoration, such as straw wattles, should not impede movement of this species.
19. Pest Control. No rodenticides will be used at the proposed project during construction or long-term operational maintenance in areas that support suitable upland habitat for the salamander. Larval mosquito abatement efforts should be avoided in occupied breeding habitat for the species.
20. Nighttime Activities. Construction and ground disturbance will occur only during daytime hours, and will cease no less than 30 minutes before sunset and will not begin again prior to no less than 30 minutes after sunrise. Night lighting of ESAs should be avoided.
21. Reduce Spread of Invasive Species. A qualified biologist shall ensure that the spread or introduction of invasive non-native plant species, via introduction by arriving vehicles, equipment, and other materials, by thoroughly cleaning equipment and vehicles prior to start of use. Any new piece of equipment brought in, or any piece of equipment taken off site and then returned to the site, will also be washed. When practicable, invasive non-native plants in the project area shall be removed and properly disposed of in a manner that will not promote their spread. Areas subject to invasive non-native weed removal or disturbance will be replanted with appropriate mix of fast-growing native species. Invasive non-native plant species include those identified in the California Invasive Plant Council's (Cal-IPC) Inventory Database, accessible at: www.cal-ipc.org/ip/inventory/index.php.
22. Trash. All foods and food-related trash items will be enclosed in sealed trash containers at the end of each day, and removed from the site every three days.
23. Pets. No pets will be allowed on the proposed project.
24. Speed Limit. No more than a maximum speed limit of 15 mph will be permitted.

Action Area

The action area is defined in 50 CFR §402.02, as “all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action.” For the proposed action, the Service considers the action area to be the footprint of the proposed project which is approximately 5.63 acres.

Analytical Framework for the Jeopardy Determination

Section 7(a)(2) of the Endangered Species Act requires that federal agencies ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of listed species. “Jeopardize the continued existence of” means to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species (50 CFR § 402.02).

The jeopardy analysis in this biological opinion considers the effects of the proposed federal action, and any cumulative effects, on the rangewide survival and recovery of the listed species. It relies on four components: (1) the *Status of the Species*, which describes the rangewide condition of the species, the factors responsible for that condition, and its survival and recovery needs; (2) the *Environmental Baseline*, which analyzes the condition of the species in the action area, the factors responsible for that condition, and the relationship of the action area to the survival and recovery of the species; (3) the *Effects of the Action*, which determines the direct and indirect impacts of the proposed Federal action and the effects of any interrelated or interdependent activities on the species; and (4) the *Cumulative Effects*, which evaluates the effects of future, non-federal activities in the action area on the species.

Analytical Framework Adverse Modification

Section 7(a)(2) of the Act requires that federal agencies insure that any action they authorize, fund, or carry out is not likely to destroy or to adversely modify designated critical habitat. A final rule revising the regulatory definition of “destruction or adverse modification” (DAM) was published on August 27, 2019 (84 FR 44976). The final rule became effective on October 28, 2019. The revised definition states:

“*Destruction or adverse modification* means a direct or indirect alteration that appreciably diminishes the value of critical habitat as a whole for the conservation of a listed species.”

The DAM analysis in this biological opinion relies on four components: (1) the *Status of Critical Habitat*, which describes the current rangewide condition of the critical habitat in terms of the key components (i.e., essential habitat features, primary constituent elements, or physical and biological features) that provide for the conservation of the listed species, the factors responsible for that condition, and the intended value of the critical habitat overall for the conservation/recovery of the listed species; (2) the *Environmental Baseline*, which analyzes the current condition of the critical habitat in the action area without the consequences to designated critical habitat caused by the proposed action, the factors responsible for that condition, and the value of the critical habitat in the action area for the conservation/recovery of the listed species; (3) the *Effects of the Action*, which determines all consequences to designated critical habitat that are caused by the proposed federal action on the key components of critical habitat that provide for the conservation of the listed species, and how those impacts are likely to influence the conservation value of the affected critical habitat; and (4) *Cumulative Effects*, which evaluate the effects of future non-federal activities that are reasonably certain to occur in the action area on the key components of critical habitat that provide

for the conservation of the listed species and how those impacts are likely to influence the conservation value of the affected critical habitat. The *Effects of the Action* and *Cumulative Effects* are added to the *Environmental Baseline* and in light of the status of critical habitat, the Service formulates its opinion as to whether the action is likely to destroy or adversely modify designated critical habitat. The Service's opinion evaluates whether the action is likely to impair or preclude the capacity of critical habitat in the action area to serve its intended conservation function to an extent that appreciably diminishes the rangewide value of critical habitat for the conservation of the listed species. The key to making that finding is understanding the value (i.e., the role) of the critical habitat in the action area for the conservation/recovery of the listed species based on the *Environmental Baseline* analysis.

Status of the Species

Salamander and the listed plants

For the most recent comprehensive assessment of the species' range-wide status, please refer to the Recovery Plan (Service 2016). Threats evaluated and discussed in the Recovery Plan have continued to affect the species since these species were listed as endangered, with loss of habitat being the most significant effect. While there have been continued losses of the salamander and the listed plants habitat throughout the various Core and Management Areas, to date no project has proposed a level of effects for which the Service has issued a biological opinion of jeopardy for these species.

Status of Critical Habitat

Salamander

On August 31, 2011, the Revised Designation of Critical Habitat for the Sonoma County Distinct Population Segment of California Tiger Salamander; Final Rule was published (76 FR 54346 54372) (Service 2011). Approximately 47,383 acres were designated as critical habitat.

Critical habitat is defined in Section 3 of the Act as: (1) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (a) essential to the conservation of the species and (b) that may require special management considerations or protection and; (2) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. In determining which areas to designate as critical habitat, the Service considers those physical and biological features that are essential to a species' conservation and that may require special management considerations or protection (50 CFR 424.12(b)). The Service is required to list the known PCEs together with the critical habitat description. Such physical and biological features include, but are not limited to, the following: (1) space for individual and population growth, and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for breeding, reproduction, rearing of offspring, or dispersal and; (5) generally, habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

Based on the above needs and our current knowledge of the life history, biology, and ecology of the species, and the habitat requirements for sustaining the essential life-history functions of the species, the Service determined that the following PCEs are essential to the conservation of the salamander:

- PCE 1: standing bodies of fresh water (including natural and manmade (e.g., stock) ponds, vernal pools and other ephemeral or permanent water bodies that typically support

inundation during winter/early spring and hold water for a minimum of 12 consecutive weeks in a year of average rainfall);

- PCE 2: upland habitats adjacent and accessible to and from breeding ponds that contain small mammal burrows or other underground refugia that Salamanders depend upon for food, shelter, and protection from the elements and predation; and
- PCE 3: accessible upland dispersal habitat between occupied locations that allow for movement between such sites.

A single unit was designated as critical habitat for the Salamander (Service 2011). The Santa Rosa Plains Unit is located in Central Sonoma County and contains approximately 47,383 acres, which includes 745 acres of State lands, 744 acres of city lands, 498 acres of county lands, 9 acres of individually owned tribal trust land, and 45,387 acres of private lands. No Federal lands were included in this unit. The unit is partially bordered on the west by the generalized eastern boundary of the 100-year Laguna de Santa Rosa floodplain, on the southwest by Hensley Road, on the south by Pepper Road (northwest of Petaluma), on the east generally by and near Petaluma Hill Road or by the urban centers of Santa Rosa and Rohnert Park, and on the north by the Town of Windsor.

A segment of the 100-year floodplain that is located between the Stony Point Conservation Area (near Wilfred Avenue) and the Northwest Cotati Conservation Area (near Nahmens Road) is included within the final designation to prevent fragmentation of the northern and southern breeding concentrations within the unit, by allowing for potential dispersal and genetic exchange. Designated critical habitat excludes the urbanized centers of Santa Rosa, Bennett Valley, Rohnert Park, and Cotati. These urban centers consist almost exclusively of hardened, developed landscapes. These developed areas are not included in the final rule because developed areas (lands covered by buildings, pavement, and other structures) lack the physical or biological features essential to the conservation of the species.

We also do not consider the remnant open space within these city centers as essential for the conservation of the salamander. However some of these areas have been left inside the critical habitat boundaries shown on the maps of the final rule due to the mapping methodology, but have been excluded by text in this rule, and are not designated as critical habitat. This includes approximately 636 acres east of Stony Point Road and following the urban growth boundary east along Bellevue Avenue and south along Juniper Avenue to the intersection of Scenic Avenue and Highway 101.

The recovery role of critical habitat in the action area includes opportunities for providing suitable aquatic and upland habitat that supports or can support one or more life stages of the salamander. With the revised designation of critical habitat, the Service intends to conserve the geographic areas containing the physical and biological features that are essential to the conservation of the species, through the identification of the appropriate quantity and spatial arrangement of the PCEs sufficient to support the life-history functions of the species. Not all life-history functions require all the PCEs and not all areas designated as critical habitat will contain all the PCEs. Refer to the final designation of critical habitat for the salamander for additional information.

Environmental Baseline

General

The project site is relatively flat with slight undulating topography. Just beyond the western border, an incised drainage ditch receives large storm event sheet flows off surrounding properties including

the western portion of the project site. The topography and slope on the north and eastern portion of the site gently slopes eastward to a roadside ditch alongside Alter Avenue. The action area primarily consists of non-native annual grassland habitat and seasonal wetland habitat. The proposed project is adjacent to development on the south and the west sides, while there is open grassland habitat occurring to the east and to the north of the project site. The Service is unaware of any projects that have recently undergone Section 7 consultation around the action area. Approximately 1.99 acres of the 5.63 acres parcel is currently developed with existing buildings or hardscaped with gravel roadways and parking areas that surround the existing buildings. These disturbed areas do not provide any suitable upland dispersal habitat for the salamander. The remainder of the project footprint (3.64 acres) provides suitable upland habitat for the salamander.

Salamander

The proposed project occurs within the West Cotati Core Area for the salamander. The West Cotati Core Area contains the Northwest (1,309 acres) and Southwest Cotati Conservation Areas (1,647 acres), where 350- 400 acres between these two Conservation Areas is targeted for habitat acquisition and protection as described in the Recovery Plan. According to the California Natural Diversity Database (CNDDDB), the nearest known occurrences of the salamander are an adult sighting and a breeding occurrence approximately 510 feet to the northwest of the proposed project in a drainage ditch on along Alder Avenue. This breeding occurrence is likely more closely associated with a known historic breeding pool that was adjacent to this identified occurrence (CNDDDB Occurrence Number 648). This historic breeding pool was filled as a result of the Sonoma Business Park Project which was built in 2002. No suitable breeding habitats occur on the proposed project; however, there are three known breeding sites within approximately one mile of the proposed project and there are areas of suitable upland habitat that provide upland refugia that the salamanders can utilize between the proposed project and breeding ponds. Therefore, based on the known breeding occurrences of the salamander within one mile of the action area, the presence of suitable upland habitat within the action area, and the ecology and biology of the species, the Service believes that salamanders are reasonably likely to utilize the upland areas within the proposed project for foraging, cover, and dispersal habitat.

Listed Plants

The proposed project occurs within the Sothern Core Area for Sebastopol meadowfoam as described in the Recovery Plan. The proposed project does not occur within a Core Area or Management Area for either Burke's goldfield or Sonoma Sunshine. Guideline rare plant surveys were conducted on the project site in 2015 by Mr. Roy Buck, with California Environmental Services, LLC. No listed plant species were detected in these surveys. In addition, Monk and Associates conducted rare plant surveys in 2017 and 2019 at the proposed project site. No listed plants were detected in those surveys either. There are no CNDDDB occurrences of any of the listed plants on any adjacent parcels; however, the nearest occurrence of the listed plants is a Sebastopol meadowfoam occurrence, which is located approximately 0.25 mile east of the proposed project. Burke's goldfield and Sonoma Sunshine have a shared occurrence, which is located approximately 2 miles to the north of the proposed project. While the surveys did not detect any of the listed plant species on site; historically, the surrounding areas likely supported large undisturbed wetlands that provided suitable habitat and likely supported populations of the listed plants. However, since that time the surrounding areas have become more fragmented and disturbed due to development, agricultural land conversion and habitat degradation as a result of modification to the vernal pool landscape. The wetlands within the action area likely contain a dormant seedbank that has likely persisted over time due to these wetlands historically connecting to larger wetland complexes that were previously undeveloped. Therefore, based on the presence of suitable habitat and distance

from known occurrences, the Service believes that the listed plants are likely to occur within the proposed project.

Salamander Critical Habitat

The proposed project occurs within the Critical Habitat Unit for the Sonoma County Distinct Population Segment of the California tiger salamander. The proposed project also provides 3.64 acres that support the PCEs of the salamander. The remainder of the action area (1.99 acres) does not contain any of the PCEs for the salamander. This portion of the 5.63 acre parcel is currently developed with existing buildings or hardscaped, gravel roadways and parking areas around the existing buildings. The 3.64 acres that support the PCEs affected by the proposed project provide suitable upland refugia (PCE 2) and suitable upland dispersal habitat (PCE 3) which allows salamander movements between occupied sites. The action area represents a small area of the overall unit. The 3.64 acres of the proposed project compromise only 0.00007 percent of the entire critical habitat designated for the salamander.

Effects of the Action

Salamander

The proposed project will result in direct effects to 3.64 acres of suitable upland dispersal habitat for the salamander. The project related activities, such as grading, placement of fill, and the use of earth moving equipment, will result in the permanent loss of upland habitat that is utilized by the salamander. This loss of upland habitat will further fragment and reduce the amount of habitat available to the salamander in the area for foraging and dispersing and individual salamanders that may be underground may be killed during the construction of the proposed project. Construction of the proposed project will destroy 3.64 acres of upland salamander habitat used by the salamander for feeding, sheltering, and dispersal.

The conservation measures proposed by the proposed project include fencing the entire project footprint, and relocating individual salamanders if found during project construction. These two specific conservation measures will reduce the likelihood of injury and mortality to the salamanders that may be caused by ground disturbing activities. However, the capturing and handling of the salamanders from the project site may cause harm to these individuals. Stress, injury and mortality may occur as a result of improper handling and the transport of the individuals.

As noted previously in the Description of the Action section, the project proponent has proposed a set of conservation measures, including the commitment to provide compensatory habitat as a condition of the action. This compensatory habitat is intended to minimize the effect on the species of the proposed project's anticipated permanent loss and degradation of habitat described above. Compensatory habitat proposed includes the preservation, management, and monitoring of 7.28 acres of salamander habitat. The 7.28 acres of salamander compensation will occur within the Core or Management Area as defined in the 2016 Recovery Plan (unless otherwise approved by the Service).

The compensation will have the effect of protecting and managing lands for the species' conservation in perpetuity. The compensatory lands will provide suitable habitat for breeding, feeding, sheltering, and dispersing, commensurate with or better than habitat lost as a result of the proposed project. Providing this compensatory habitat as part of a relatively large, contiguous block of conserved land is expected to contribute to other recovery efforts for this species.

Listed Plants

The proposed project will result in direct effects to 0.06 acre of suitable wetland habitat for the listed plants. The project related activities, such as grading, placement of fill, and the use of earth moving equipment, will result in the permanent loss of 0.06 acre of seasonal wetland habitat that provides suitable habitat for all life stages of the listed plants. In addition, the proposed project will further fragment and reduce available suitable habitat for these species.

As noted previously in the Description of the Action section, the project proponent has proposed a set of conservation measures, including the commitment to provide compensatory habitat as a condition of the action. This compensatory habitat is intended to minimize the effect on the species of the proposed project's anticipated permanent loss and degradation of habitat described above. Compensatory habitat proposed includes the preservation, management, and monitoring of 0.09 acre of endangered plant habitat. The 0.09 acre of endangered plant compensation will be within the listed plants Core or Management Area as defined in the 2016 Recovery Plan (unless otherwise approved by the Service).

This component of the action will have the effect of protecting and managing lands for the species' conservation in perpetuity. The compensatory lands will provide suitable and/or occupied habitat for at least one of the three listed plants commensurate with or better than habitat lost as a result of the proposed project. Providing this compensatory habitat as part of a relatively large, contiguous block of conserved land is expected to contribute to other recovery efforts for these species.

Salamander Critical Habitat

The proposed project will remove 3.64 acres of designated salamander critical habitat. The project related activities, such as grading, placement of fill, and the use of earth moving equipment, will result in the loss of all PCEs present within the action area. This includes 3.64 acres of suitable upland salamander refugia (PCE 2) and dispersal habitat (PCE 3). However, the loss of this portion of critical habitat represents a very small portion (0.00007 percent) of the overall critical habitat unit. Although development of the proposed project will result in additional fragmentation of the critical habitat unit, other lands within the critical habitat unit will remain undeveloped that provide upland and dispersal habitat (PCEs 2 and 3) for this species. In addition, the proposed includes the preservation, management, and monitoring of 7.28 acres of salamander habitat. The 7.28 acres of salamander compensation will occur within the designated critical habitat.

Cumulative Effects

Cumulative effects include the effects of future State, Tribal, local, or private actions that are reasonably certain to occur in the action area considered in this biological opinion. Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the Act: During this consultation, the Service did not identify any future non-federal actions that are reasonably certain to occur in the action area of the proposed project.

Conclusion

After reviewing the current status of the salamander and the listed plants, the environmental baseline for the action area, the effects of the proposed project, and the cumulative effects, it is the Service's biological opinion that the Sterling Senior Community Project, as proposed, is not likely to jeopardize the continued existence of the salamander and the listed plants. The Service reached this conclusion because the project-related effects to the salamander and the listed plants, when added to

the environmental baseline and analyzed in consideration of the lack of cumulative effects, will not rise to the level of precluding recovery or reducing the likelihood of survival of the species. The salamander and listed plants habitat affected by the proposed project represents a small proportion of habitat available to the salamander and the plants, and the loss will be minimized by the proposed purchase of salamander and listed plants conservation credits at a Service-approved conservation bank.

After reviewing the current status of designated critical habitat for the salamander, the environmental baseline for the action area, the effects of the proposed project, and the cumulative effects, it is the Service's biological opinion that the Sterling Senior Community Project, as proposed, is not likely to destroy or adversely modify designated critical habitat. The Service reached this conclusion because the project-related effects to the designated critical habitat, when added to the environmental baseline and analyzed in consideration of all potential cumulative effects, will not rise to the level of precluding the function of the salamander critical habitat to serve its intended conservation role for the species. The effects to salamander critical habitat are small and discrete, relative to the entire area designated, and are not expected to appreciably diminish the value of the critical habitat or prevent it from sustaining its role in the conservation of the salamander. In addition, new areas that occur within critical habitat will be protected in perpetuity, which will maintain and enhance the conservation role for the salamander.

INCIDENTAL TAKE STATEMENT

Section 9 of the Act and Federal regulation pursuant to section 4(d) of the Act prohibit the take of endangered and threatened species, respectively, without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harass is defined by Service regulations at 50 CFR 17.3 as an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering. Harm is defined by the same regulations as an act which actually kills or injures wildlife. Harm is further defined to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavior patterns, including breeding, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the Act provided that such taking is in compliance with the terms and conditions of this Incidental Take Statement.

The measures described below are non-discretionary, and must be undertaken by the Corps so that they become binding conditions of any grant or permit issued to the applicant, as appropriate, for the exemption in section 7(o)(2) to apply. The Corps has a continuing duty to regulate the activity covered by this incidental take statement. If the Corps (1) fails to assume and implement the terms and conditions or (2) fails to require the applicant to adhere to the terms and conditions of the incidental take statement through enforceable terms that are added to the permit or grant document, the protective coverage of section 7(o)(2) may lapse. In order to monitor the impact of incidental take, the Corps or the applicant must report the progress of the action and its impact on the species to the Service as specified in the incidental take statement [50 CFR §402.14(i)(3)].

Sections 7(b)(4) and 7(o)(2) of the Act generally do not apply to listed plant species. However, limited protection of listed plants from take is provided to the extent that the Act prohibits the removal and reduction to possession of federally-listed endangered plants or the malicious damage of such plants on areas under federal jurisdiction, or the destruction of endangered plants on non-

federal areas in violation of State law or regulation or in the course of any violation of a State criminal trespass law.

Amount or Extent of Take

Salamander

The Service anticipates that incidental take of salamanders will be difficult to detect or quantify due to the salamanders life history and ecology. Specifically, when salamanders are not in their breeding ponds, foraging, migrating, or conducting other surface activity, they spend the majority of the year under the ground in small animal burrows or fissures in the soil. Finding an injured or dead salamander is unlikely due to their relatively small body size, rapid deterioration, and likelihood that the remains will be removed by a scavenger or indistinguishable amongst the disturbed soil and debris. In addition, losses of the salamander may be difficult to quantify due to seasonal fluctuations in their numbers, random environmental events, changes in hydrology or other characteristics of breeding ponds, or other environmental disturbances. However, the Service expects the number of salamanders that either occur in their burrows or encountered dispersing across the proposed project to be low based on the distance from known locations and the size of the action area.

Therefore, the Service anticipates take incidental to the proposed project as the injury or mortality of one (1) adult or juvenile salamander, and the non-lethal harm of any number of salamanders that are moved as part of the Service-approved relocation plan. No other forms of take are exempted under this opinion. Exceeding take beyond this amount during construction including any mortality or injury associated with salvage and relocation will require reinitiation of consultation.

Effect of the Take

In the accompanying biological opinion, the Service determined that this level of anticipated take is not likely to result in jeopardy to the salamander or destruction or adverse modification of critical habitat.

Reasonable and Prudent Measures

All necessary and appropriate measures to avoid or minimize effects on the salamander resulting from implementation of this project have been incorporated into the project's proposed conservation measures. Therefore, the Service believes the following reasonable and prudent measure is necessary and appropriate to minimize incidental take of the salamander:

- 1) All conservation measures, as described in the Project Description section of this biological opinion, shall be fully implemented and adhered to. Further, this reasonable and prudent measure shall be supplemented by the terms and conditions below.

Terms and Conditions

In order to be exempt from the prohibitions of section 9 of the Act, the Corps must ensure compliance with the following terms and condition, which implement the reasonable and prudent measure described above. These terms and conditions are nondiscretionary.

- a. The Corps shall include full implementation and adherence to the conservation measures as a condition of any permit or contract issued for the project.

Salvage and Disposition of Individuals:

Injured listed species must be cared for by a licensed veterinarian or other qualified person(s), such as the Service-approved biologist. Dead individuals must be sealed in a resealable plastic bag containing a paper with the date and time when the animal was found, the location where it was found, and the name of the person who found it, and the bag containing the specimen frozen in a freezer located in a secure site, until instructions are received from the Service regarding the disposition of the dead specimen. The Service contact person is the Coast Bay Division Chief of the Endangered Species Program at the SFWO at (916) 414-6623.

CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the Act directs Federal agencies to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information. The Service recommends the following actions:

1. The Corps should assist the Service in implementing recovery actions for the salamander and the listed plants.

In order for the Service to be kept informed of actions minimizing or avoiding adverse effects or benefiting listed species or their habitats, the Service requests notification of the implementation of any conservation recommendations.

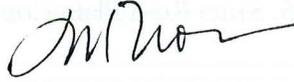
REINITIATION—CLOSING STATEMENT

This concludes formal consultation on Sterling Senior Community Project. As provided in 50 CFR §402.16, reinitiation of formal consultation is required and shall be requested by the Federal agency or by the Service where discretionary federal agency involvement or control over the action has been retained or is authorized by law and:

- (a) If the amount or extent of taking specified in the incidental take statement is exceeded;
- (b) If new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered;
- (c) If the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion; or
- (d) If a new species is listed or critical habitat designated that may be affected by the identified action.

If you have any questions regarding this biological opinion, please contact Jason Hanni (Jason_Hanni@fws.gov) or Ryan Olah (Ryan_Olah@fws.gov), at the letterhead address or at (916) 414-6656.

Sincerely,



Jennifer M. Norris, Ph.D.
Field Supervisor

cc:

Geoff Monk, Monk and Associates Inc., Walnut Creek, California

LITERATURE CITED

- California Natural Diversity Database (CNDDDB). 2019. Biogeographic Data Breach, Department of Fish and Wildlife. Sacramento, California. Accessed September 12, 2019.
- Conservation Strategy Team. 2005. Santa Rosa Plain Conservation Strategy. Final. December 1, 2005.
- U.S. Fish and Wildlife Service (Service). 2005a. Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the California Tiger Salamander in Sonoma County. Federal Register 70: 44301-44322.
- _____ 2005b. Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Sonoma County Distinct Population Segment of the California Tiger Salamander; Final Rule. Federal Register 70: 74137-74163.
- _____ 2007. Programmatic Biological Opinion (Programmatic) for U.S. Army Corps of Engineers (Corps) Permitted Projects that May Affect California Tiger Salamander and Three Endangered Plant Species on the Santa Rosa Plain, California (Corps File Number 223420N); Service file number 81420-2008-F-0261), dated November 9, 2007
- _____ 2009. Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Sonoma County Distinct Population Segment of California Tiger Salamander (*Ambystoma californiense*). Federal Register 74(158): 41662 41673
- _____ 2011. Endangered and threatened wildlife and plants; revised designation of critical habitat for the Sonoma County distinct population segment of California tiger salamander. Federal Register 76(169): 54345 - 54372.
- _____ 2016. Recovery Plan for the Santa Rosa Plain: *Blennosperma bakeri* (Sonoma sunshine); *Lasthenia burkei* (Burke's goldfields); *Limnanthes vinculans* (Sebastopol meadowfoam); California Tiger Salamander Sonoma County Distinct Population Segment (*Ambystoma californiense*). U.S. Fish and Wildlife Service, Pacific Southwest Region, Sacramento, California. vi + 128 pp.

Sarah Lynch

From: Hanni, Jason <jason_hanni@fws.gov>
Sent: Monday, September 19, 2022 6:04 AM
To: Mark Jasper
Cc: Sarah Lynch
Subject: Re: [EXTERNAL] Question about BO you issued for project that is being modified (08ESMF00-2019-F-2181)

Hi Mark. It sounds like from your email that the effects of this project remain the same, while only the project description would be the part of the proposed action that would change. Based on those assumptions this would not trigger reinitiation, as it doesn't fit the reinitiation criteria as identified at the end of the biological opinion. However, if the effects to either the salamander, salamander critical habitat, or the listed plants are greater than what was analyzed in the biological opinion then reinitiation would be necessary.

Best,

Jason Hanni
Fish and Wildlife Biologist
Coast Bay Division
2800 Cottage Way, Room W-2605
Sacramento, California 95825
(916) 414-6656 (phone)
(916) 414-6712 (fax)

"working with others to conserve, protect and
enhance fish, wildlife, and plants and
their habitats for the continuing benefit of the American people"

From: Mark Jasper <mark@monkassociates.com>
Sent: Thursday, September 15, 2022 2:14 PM
To: Hanni, Jason <jason_hanni@fws.gov>
Cc: Sarah Lynch <Sarah@monkassociates.com>
Subject: [EXTERNAL] Question about BO you issued for project that is being modified (08ESMF00-2019-F-2181)

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Dear Jason,

I am assisting the applicant with a NWP application for a newly proposed residential development project in Cotati, CA that is actually a modified version of the project you issued the attached BO for. It was formerly going to be a senior center (formerly known as the Sterling Senior Community Project; Corps File Number: 2007-00822N) but is now being proposed as a residential development.

We think that this BO should still be valid as the effects of the action on CTS and wetlands (the same single 0.06-acre wetland will be filled) will be the same. The only change is the type of development (residential housing as opposed to senior housing). Do you agree?

Please let me know when you can. Thank you.

Mark Jasper
Project Biologist II
Monk & Associates
1136 Saranap Avenue Suite Q
Walnut Creek CA 94595
(925) 947-4867 x 223
mark@monkassociates.com
www.monkassociates.com

- Control Points
- Data Points
- Confirmed Wetland (2,670 Sq. Ft., 0.06 Acre)
- Reinforced Concrete Pipe
- Corrugated Metal Pipe
- Drain Inlet
- Firehydrant
- Limits of Delineation (275,935 Sq. Ft., 6.33 Acres)

Wetland #	Sq. Ft.	Acres
W1	2,670	0.06



U. S. Army Corps
of Engineers
San Francisco District
Regulatory Branch

Preliminary Jurisdictional Determination
Pursuant to Section 404 of Clean Water Act
and Section 10 of the Rivers and Harbors Act.

**Highway 116 west Alder Avenue
Cotati, Sonoma County**

38.332737°N, -122.72277°W
APNs 999-999-ROW, 144-040-008, 144-040-021,
144-040-006, 144-050-009 and 144-110-ROW
Map accurately presents jurisdiction.
File #2007-00822N May 21, 2018



Monk & Associ.
Environmental Consultants
1136 Saranap Avenue, Suite Q
Walnut Creek, California 94595
(925) 947-4867



Sheet 1. Aquatic Resources Map
Reds Project Site and Highway 116 Offsite Improvement Area
Cotati, California

Delineation Date: July 15, 2016, April 24, 2017 and March 20, 2018
Delineation Conducted by: Geoff Monk & Christy Owens
Verification by: Roberta Morganstern, US Army Corps of Engineers
Aerial Photograph Source: ESRI
Map Preparation Date: May 15, 2018



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
1455 MARKET STREET, 16TH FLOOR
SAN FRANCISCO, CALIFORNIA 94103-1398
MAY 21, 2018

Regulatory Division

Subject: File No. 2007-00822N

Ms. Christy Owens
c/o Monk & Associates
1136 Saranap Avenue Suite 0
Walnut Creek, California 94595

Dear Ms. Owens:

This correspondence is in reference to your submittal of May 10, 2018 on behalf of Townsend Capital Partners, LLC requesting a preliminary jurisdictional determination of the extent of navigable waters of the United States (U.S.) and waters of the U.S. occurring on a parcel located on Gravenstein Highway / Highway 116 west of the intersection with Alder avenue in Cotati, Sonoma County, California. Coordinates for the location are 38.332737°N, -122.72277°W; APNs 999-999-ROW, 144-040-008, 144-040-021, 144-040-006, 144-050-009 and 144-110-ROW.

All proposed discharges of dredged or fill material occurring below the plane of ordinary high water in non-tidal waters of the U.S.; or below the high tide line in tidal waters of the U.S.; or within the lateral extent of wetlands adjacent to these waters, typically require Department of the Army authorization and the issuance of a permit under Section 404 of the Clean Water Act of 1972, as amended (33 U.S.C. § 1344 *et seq.*). Waters of the U.S. generally include the territorial seas; all traditional navigable waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including waters subject to the ebb and flow of the tide; wetlands adjacent to traditional navigable waters; non-navigable tributaries of traditional navigable waters that are relatively permanent, where the tributaries typically flow year-round or have continuous flow at least seasonally; and wetlands directly abutting such tributaries. Where a case-specific analysis determines the existence of a "significant nexus" effect with a traditional navigable water, waters of the U.S. may also include non-navigable tributaries that are not relatively permanent; wetlands adjacent to non-navigable tributaries that are not relatively permanent; wetlands adjacent to but not directly abutting a relatively permanent non-navigable tributary; and certain ephemeral streams in the arid West.

The enclosed delineation map titled "Highway 116 west Alder Avenue" certified May 21, 2018, depicts the extent and location of wetlands within the boundary area of the site that **may be** subject to U.S. Army Corps of Engineers' regulatory authority under Section 404 of the Clean Water Act. This preliminary jurisdictional determination is based on the current conditions of the site, as verified during a field investigation of September 8, 2017, a review of available digital photographic imagery, and a review of other data included in your submittal. While this preliminary jurisdictional determination was conducted pursuant to Regulatory Guidance Letter

No. 16-01, *Jurisdictional Determinations*, it may be subject to future revision if new information or a change in field conditions becomes subsequently apparent. The basis for this preliminary jurisdictional determination is fully explained in the enclosed *Preliminary Jurisdictional Determination Form*. You are requested to sign and date this form and return it to this office within two weeks of receipt.

You are advised that the preliminary jurisdictional determination may **not** be appealed through the U.S. Army Corps of Engineers' *Administrative Appeal Process*, as described in 33 C.F.R. § 331 (65 Fed. Reg. 16,486; Mar. 28, 2000). Under the provisions of 33 C.F.R. § 331.5(b)(9), non-appealable actions include preliminary jurisdictional determinations since they are considered to be only advisory in nature and make no definitive conclusions on the jurisdictional status of the water bodies in question. However, you may request this office to provide an approved jurisdictional determination that precisely identifies the scope of jurisdictional waters on the site; an approved jurisdictional determination may be appealed through the *Administrative Appeal Process*. If you anticipate requesting an approved jurisdictional determination at some future date, you are advised not to engage in any on-site grading or other construction activity in the interim to avoid potential violations and penalties under Section 404 of the Clean Water Act. Finally, you may provide this office new information for further consideration and request a reevaluation of this preliminary jurisdictional determination.

You may refer any questions on this matter to Roberta A Morganstern of the Regulatory staff by telephone at 415-503-6782 or by e-mail at Roberta.A.Morganstern@usace.army.mil. All correspondence should be addressed to the Regulatory Division North Branch referencing the file number at the head of this letter.

The San Francisco District is committed to improving service to our customers. The Regulatory staff seeks to achieve the goals of the Regulatory Program in an efficient and cooperative manner, while preserving and protecting our nation's aquatic resources. If you

would like to provide comments on our Regulatory Program, please complete the Customer Service Survey Form available on our website: <http://www.spn.usace.army.mil/regulatory/>.

Sincerely,

Roberta Morganstern, M.A.
Regulatory Project Manager

Enclosure

Copy Furnished (**electronically**):

Stephen.Bargsten@waterboards.ca.gov
christy@monkassociates.com

CF:
CESPN-R Rdg File
CESPN-R-N (Morganstern)

MORGANSTERN
CESPN-R-N
415-503-6782
18 MAY 2018

MALAMUD-ROAM
CESPN-R.S

RED'S RESIDENTIAL

JUNE 2, 2022
COTATI, CA

SB330 APPLICATION

1. THE COPYRIGHT OF THIS DRAWING IS VESTED IN DESIGN DRAW BUILD INC. AND IT MAY NOT BE REPRODUCED IN WHOLE OR PART OR USED FOR THE WITHOUT THE EXPRESS PERMISSION OF THE COPYRIGHT HOLDERS.
2. THIS DRAWING IS TO BE READ IN CONJUNCTION WITH ALL RELEVANT ARCHITECTS, ENGINEER'S DRAWINGS AND SPECIFICATIONS

RED'S RESIDENTIAL

126 Unit Residential Development

EXHIBIT B TO SB 330 APPLICATION

8239 HIGHWAY 116, COTATI, CA 94931



PROJECT DESCRIPTION	PROJECT TEAM	DRAWING INDEX
<p>Red's Residential is a mixed-use apartment development featuring 126 units across four buildings on 5.62 acres. There is also a proposed 3410 square foot community center at the center with residential amenities. 13 of these units are intended to be rented as affordable units for families in the very low-income bracket at 50% of area median income. Retail space at 8125, 8145 and 8165 Gravenstein Highway establish the commercial character along the Gravenstein Highway frontage as planned in the Cotati General Plan.</p> <p>The density of the site is based on GC - Gravenstein Corridor zoning which gives a maximum of 15 dwelling units per acre. The site is 5.62 acres which brings the total to 84.3 dwelling units. By providing 15% of the units to very low-income households (13 units total), the developer triggers a California state density bonus of 50% to reach the total 126 allowable units. The state code also states that the development holds up three concessions to Cotati Municipal Code Requirements.</p> <p>The site is currently a large field and the master plan aims to maintain maximum open space with a large central courtyard and unobstructed sight lines across the site. The buildings feature a modern craftsman style in order to fit in with the character of the surrounding neighborhood and the City of Cotati at large.</p>	<p>OWNER: Townsend Capital Partners LLC and 7515 Alder LLC</p> <p>ARCHITECT: Design Draw Build Inc. Tyler Kobick, AIA 2866 Webster Street, Oakland, CA, 94609</p> <p>STRUCTURAL ENGINEER:</p> <p>CIVIL ENGINEER:</p> <p>SOILS ENGINEER:</p> <p>LANDSCAPE ARCHITECT:</p>	<p>ARCHITECTURAL</p> <p>A0 TITLE SHEET A1 PROJECT CALCULATION A2 MASTER PLAN A3 SITE PLAN - SOUTH A4 SITE PLAN - NORTH A5 TYPICAL UNIT LAYOUT A6 TYPICAL ELEVATIONS A7 TYPICAL PLANS</p>



DESIGN DRAW BUILD

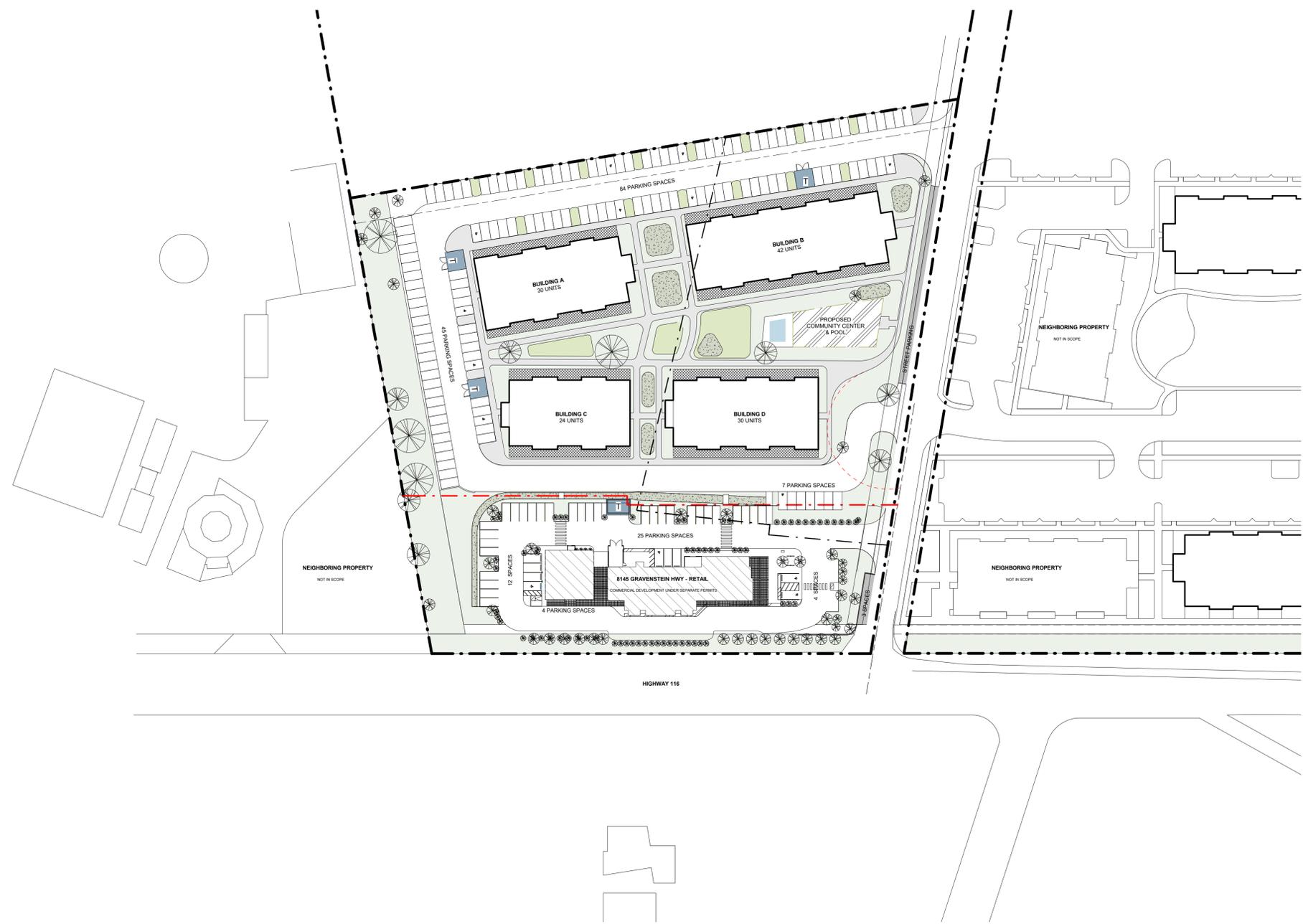
**RED'S
RESIDENTIAL**

JUNE 2, 2022
COTATI, CA

SB330 APPLICATION

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DEVELOPMENT INFORMATION

APN	144-040-021, 144-040-011
ZONE	CG - GRAVENSTEIN CORRIDOR
OCCUPANCY TYPE	RESIDENTIAL + COMMERCIAL
NUMBER OF BUILDINGS	8
NUMBER OF STORIES	3 @ MAIN BUILDINGS 1 @ COMMUNITY CENTER & RETAIL
BUILDING HEIGHT	32'-6" FEET
CONSTRUCTION TYPE	V-B

SITE AREA

BUILDING	FOOTPRINT	GROSS SF
BUILDING A	9,846 SF	29,538 SF
BUILDING B	13,312 SF	39,936 SF
BUILDING C	8,030 SF	24,090 SF
BUILDING D	9,720 SF	29,160 SF
COMMUNITY CENTER	3,410 SF	3,410 SF
8125 GRAVENSTEIN HWY	2,123 SF	2,123 SF
8145 GRAVENSTEIN HWY	3,520 SF	3,520 SF
8165 GRAVENSTEIN HWY	2,179 SF	2,179 SF
TOTALS	52,140 SF	133,956 SF

LOT COVERAGE

BUILDING AREA	52,140 SF	21.3%
PAVED AREA	104,914 SF	42.9%
BUILDING + PAVED	157,054 SF	64.2%
LANDSCAPED AREA	87,753 SF	35.8%
TOTAL SITE AREA	244,807 SF	100%
	5.62 ACRES	

PARKING COUNT

BASE REQUIRED PARKING	182 SPACES
RESIDENTIAL	150
1 PER 1BR = 78*1	78
1.5 PER 2BR = 48*1.5	72
NON-RESIDENTIAL	32
4/1000 SF FOR 7822 SF RETAIL	32
SUPPLIED PARKING	184 SPACES
NON-RESIDENTIAL	45
RESIDENTIAL	129
HANDICAPPED	13

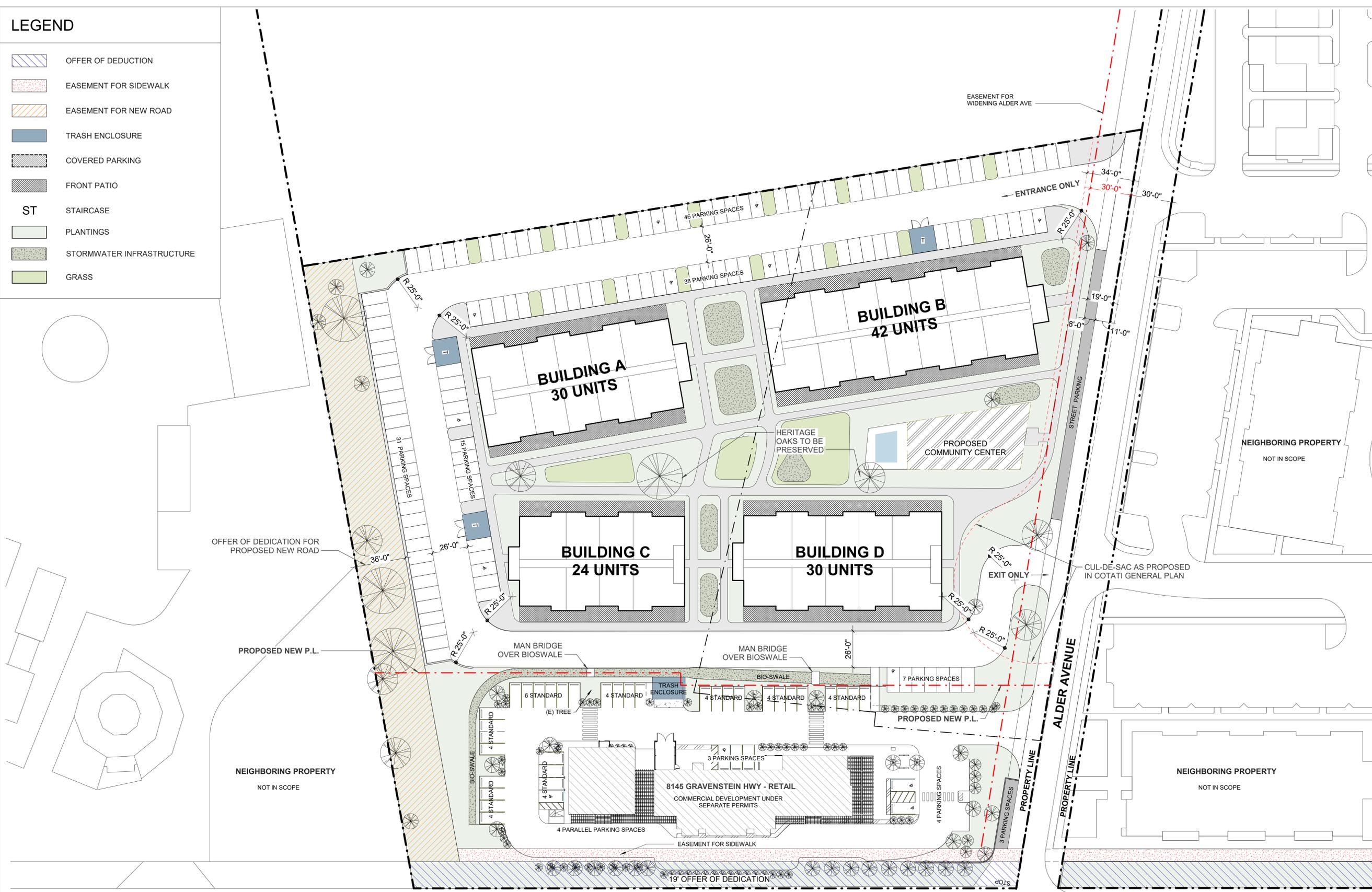
UNIT COUNT

BUILDING	1-BED	2-BED	TOTAL
BUILDING A	18	12	30
BUILDING B	30	12	42
BUILDING C	12	12	24
BUILDING D	18	12	30
TOTALS	78	48	126
AFFORDABLE	8	5	13

PROJECT CALCULATIONS

LEGEND

-  OFFER OF DEDICATION
-  EASEMENT FOR SIDEWALK
-  EASEMENT FOR NEW ROAD
-  TRASH ENCLOSURE
-  COVERED PARKING
-  FRONT PATIO
- ST** STAIRCASE
-  PLANTINGS
-  STORMWATER INFRASTRUCTURE
-  GRASS



DESIGN DRAW BUILD

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COTATI, CA

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MASTER PLAN



1 MASTER PLAN
1/32" = 1'-0"

A2



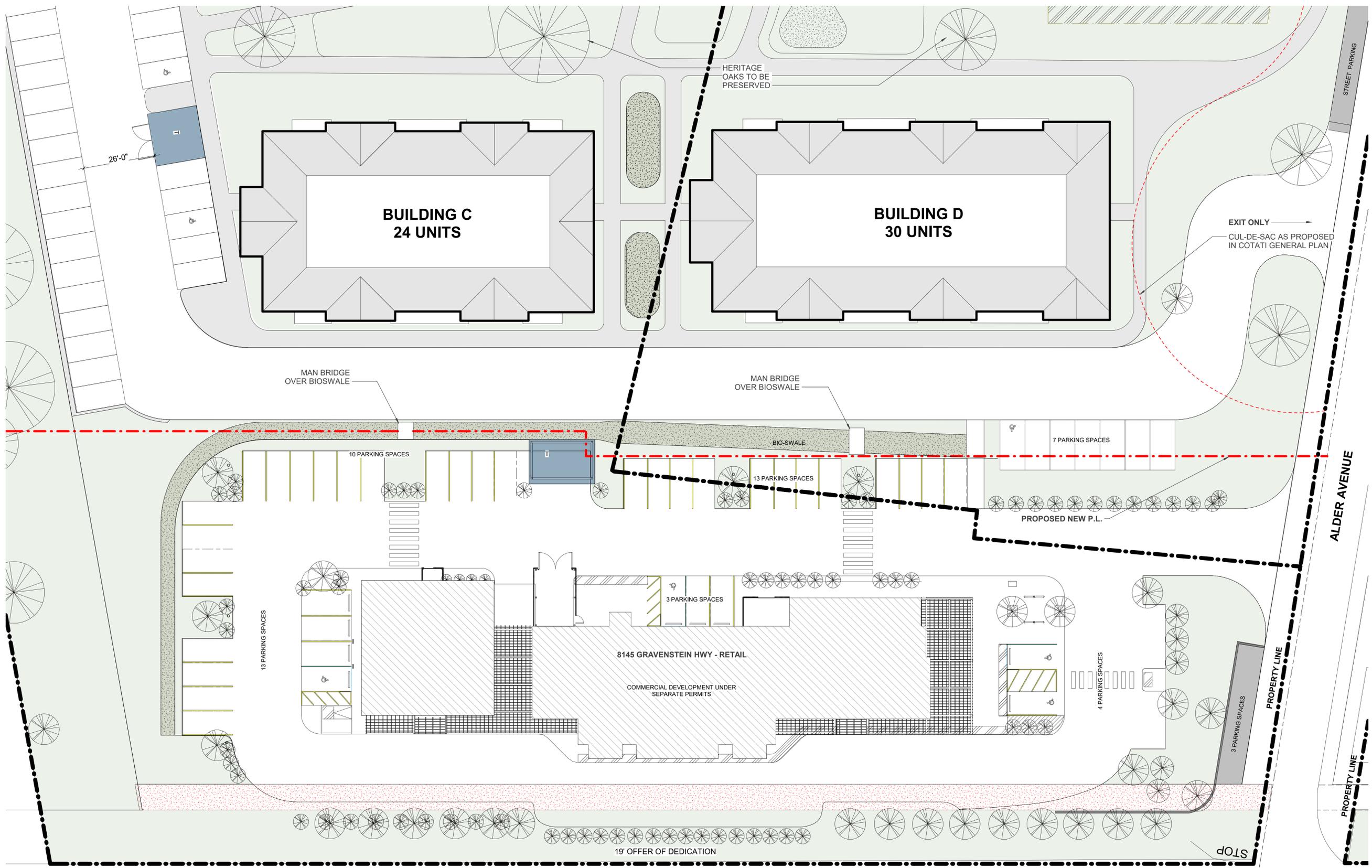
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2 SITE PLAN - SOUTH

1/16" = 1'-0"

LEGEND

TRASH ENCLOSURE	GRASS	STORMWATER INFRASTRUCTURE
FRONT PATIO	PLANTINGS	

SITE PLAN - SOUTH



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1 SITE PLAN - NORTH
1/16" = 1'-0"

LEGEND		
	TRASH ENCLOSURE	
	FRONT PATIO	
		STORMWATER INFRASTRUCTURE
		PLANTINGS

SITE PLAN - NORTH

A4



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COTATI, CA

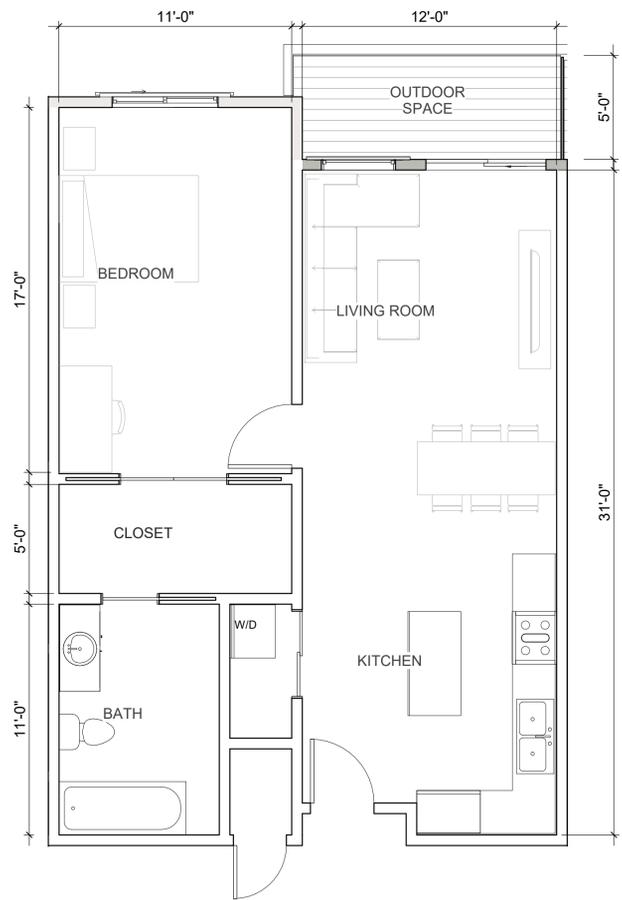
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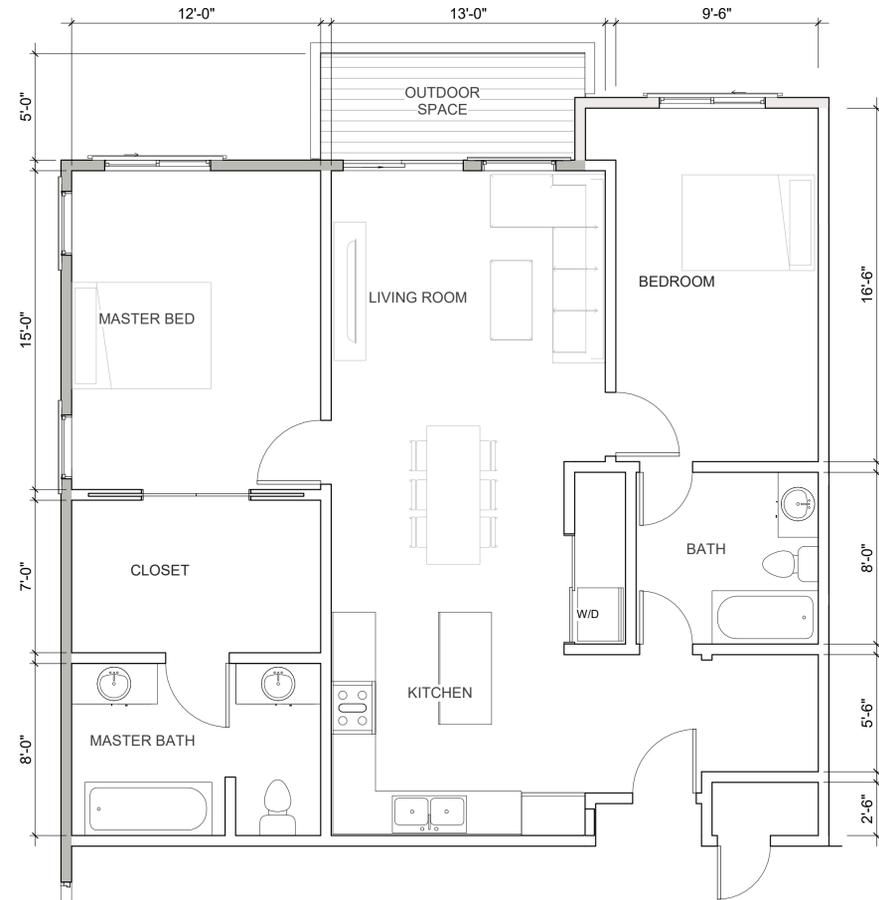


LEGEND	
	ONE BEDROOM TYPE 1A/1C
	TWO BEDROOM TYPE 2A/2C
	TWO BEDROOM TYPE 2B/2D

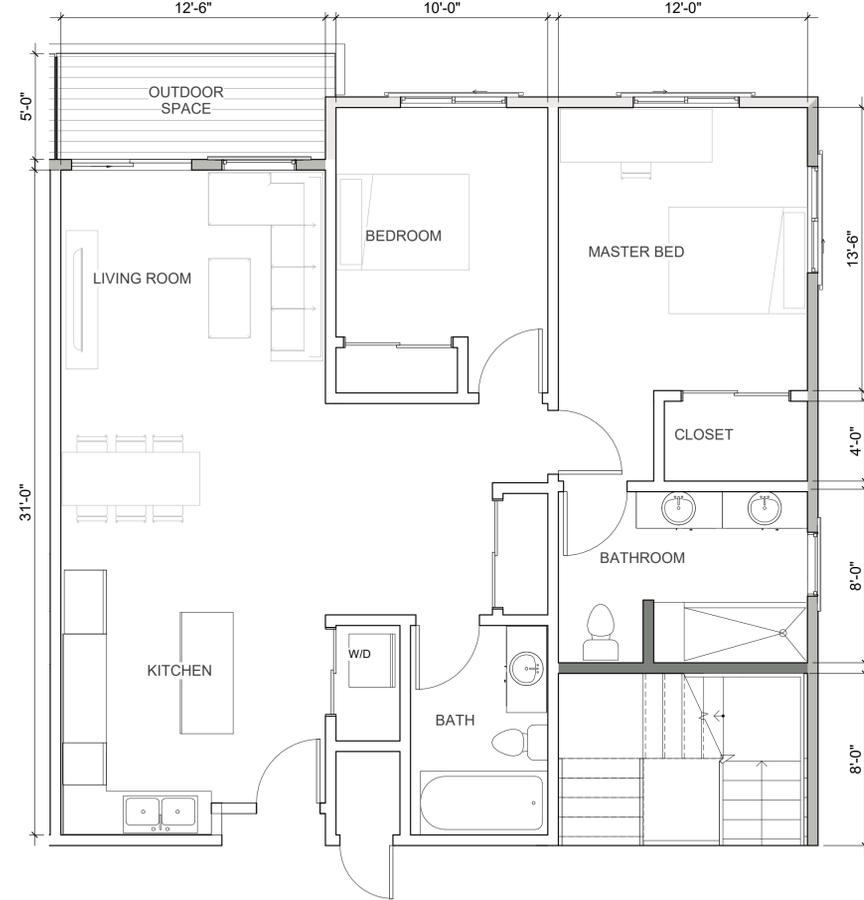
1 UNIT LAYOUT
1" = 30'-0"



2 UNIT TYPE 1A
1/4" = 1'-0"



3 UNIT TYPE 2A
1/4" = 1'-0"



4 UNIT TYPE 2B
1/4" = 1'-0"

TYPICAL UNIT LAYOUTS



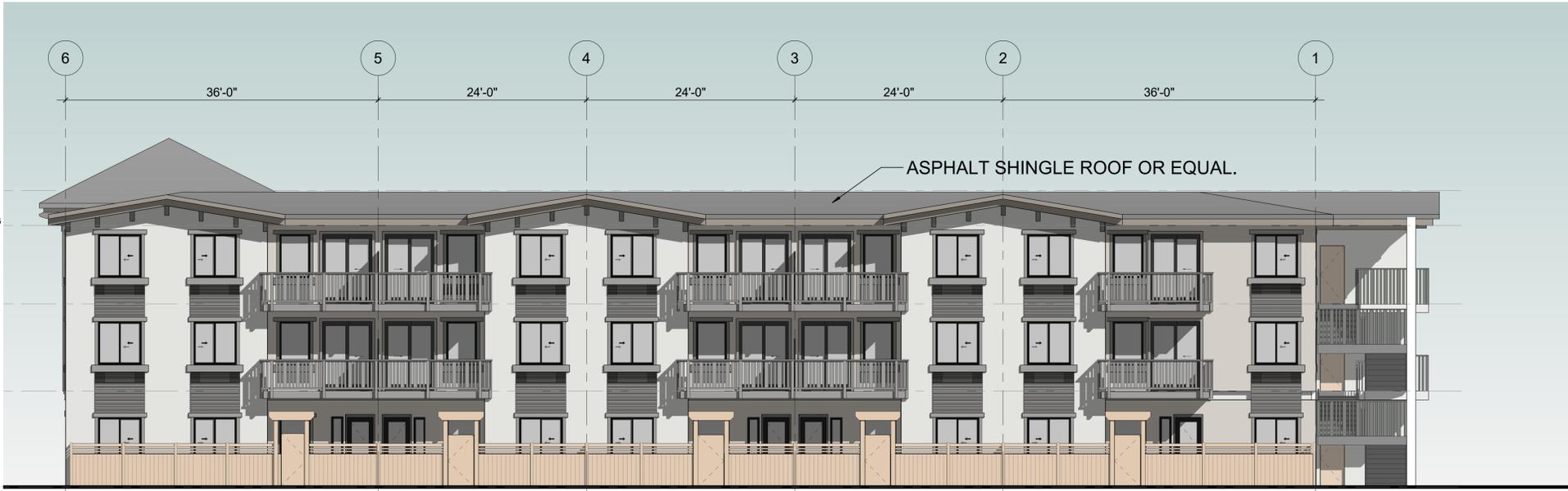
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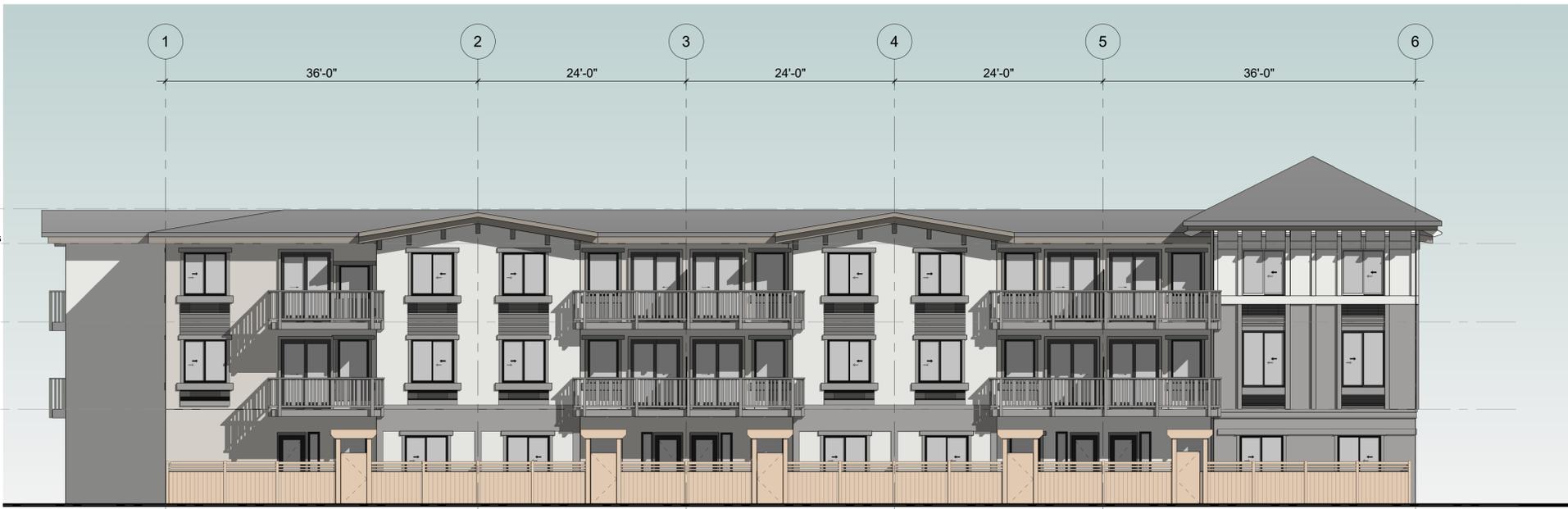
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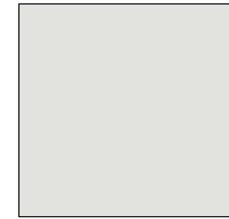
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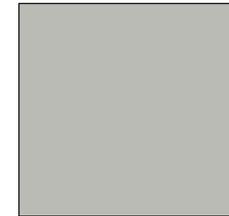
1 NORTH ELEVATION
1/8" = 1'-0"



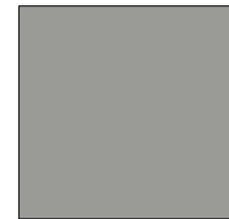
2 SOUTH ELEVATION
1/8" = 1'-0"



PRIMARY COLOR
BEHR SILVER POLISH
STUCCO



SECONDARY COLOR
BEHR WEATHERED MOSS
STUCCO



ACCENT COLOR
BEHR DOLPHIN GRAY
STUCCO



TRIM COLOR
BEHR FROST PAINTED
WOOD

TYPICAL ELEVATIONS



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BUILDING D

- ONE BEDROOM TYPE 1A/1C
- TWO BEDROOM TYPE 2A/2C
- TWO BEDROOM TYPE 2B/2D



1 FIRST FLOOR PLAN
1" = 10'-0"



2 SECOND FLOOR PLAN (THIRD FLOOR SIM.)
1" = 10'-0"



TYPICAL PLANS
BUILDING D