4.3 BIOLOGICAL RESOURCES

This section describes the existing biological resources of the project site and off-site improvement areas, identifies associated regulatory requirements, evaluates potential impacts, and identifies mitigation measures related to implementation of the proposed Cypress Point project (proposed project). The following analysis is based on the Biological Resources Impact Analysis Report prepared for the proposed project by Merkel & Associates, Inc. (M&A) in June 2021. The Biological Resources Impact Analysis Report is included as Appendix C of this environmental impact report (EIR).

4.3.1 Existing Conditions

The project site is a vacant rectangular shaped lot that is bordered on the north and west by the San Luis Rey River Valley and on the south and east by existing residential developments. The San Luis Rey River channel is managed by the ACOE for flood control and habitat management (Appendix C). Based on the field survey described below, as well as historical and more recent aerial photographs, the project site appears to have been disked regularly since at least 2003 and possibly earlier. The entire site is heavily disturbed by regular disking as well as public use by people walking through the site and domestic pet use as evident by the dog waste throughout the site. In addition, two roadway conveyance swales occur within the project site. The project site ranges in elevations from approximately 38 to 58 feet above mean sea level. Underlying geology for the study area is mapped as Pliocene to Holocene, rock type alluvium terrace, and soils on site are mapped as Tujunga sand (0% to 5% slope) (Appendix C).

The City of Oceanside is located within the Multiple Habitat Conservation Plan (MHCP) planning area, a subregional plan for northwestern San Diego County under the California Natural Community Conservation Planning (NCCP) Act and section 10(a) of the federal ESA (AMEC et al. 2003a and 2003b). The MHCP established guidelines designed to create, manage, and monitor an ecosystem preserve in the subregional planning area through implementation of citywide "subarea" plans to be adopted by the individual jurisdictions. These subarea plans (SAPs) will describe the specific policies each city will institute for the MHCP. In exchange for these conservation actions, the participating cities will receive "take" authorization for listed species under the federal ESA and the California Endangered Species Act (CESA), as well as covered species that are not presently listed under either Act. The City of Oceanside has a draft SAP, dated 2009 that has yet to be adopted; nonetheless it is the being implemented by the City. The proposed project site is located directly adjacent to and partially within the City's Draft SAP Hardline Preserve and Wildlife Corridor Planning Zone (WCPZ) along San Luis Rey River in the northwestern corner of the project site (Figure 4.3-1).

4.3.1.1 Methodology

The biological report prepared for the project was based on a review of pertinent literature, aerial photographs, and through a field investigation. Literature review included California Department of Fish and Wildlife (CDFW) California Natural Diversity Database (CNDDB), U.S. Fish and Wildlife Service (USFWS) GIS Division species occurrences data and designated critical habitat data for the project vicinity, regional vegetation data for the project site, and geological substrates and soil types mapped on the project site (Appendix C). In addition, the review included examination of the following reports on the project site and/or in proximity to the project site: 1) Concordia Homes-Los Arbolitos Project report prepared by Merkel & Associates, Inc., dated August 28, 2020 in support of the project's application to the Federal Emergency Management Agency for a Conditional Letter of Map Revisions Based on Fill conducted on the proposed project property; 2) Biological Resources Constraints Analysis report for the City of Oceanside's Condition Assessment and Access Improvements Project prepared by Helix Environmental Planning, dated October 5, 2017; and 3) San Luis Rey Flood Control Project Whelan Mitigation Site Habitat Restoration Action Draft Supplemental Environmental Assessment and Mitigated Negative Declaration prepared by U.S. Army Corps of Engineers, dated January 2014.

Merkel & Associates, Inc. biologists conducted general biological surveys within the proposed project study area on August 7, 2020, January 8, 2021, and April 20, 2021 (Table 4.3-1). The project biological study area consisted of the proposed project site (7.3 acres) and an off-site area directly south of the project site, plus a habitat mapping buffer area of 25 feet beyond the proposed project boundary and off-site elements. Any portions of the study area that extended beyond the project site were visually surveyed from areas of public access.

Table 4.3-1
Summary of Survey Dates, Times, Conditions, and Staff

Survey	Date	Time	Weather Conditions	Biologist
General Biological Survey	August 7, 2020	1100-1600	Weather: 0%cc-0%cc Wind: BS 0-1 Temp.: 75°F -77°F	Gina M Krantz
General Biological Survey-Southern Area	January 8, 2021	1115-1215	Weather: 0%cc-0%cc Wind: BS 0-0 Temp.: 61°F-63°F	Adam H Behle
Updated General Biological Survey/ Rare Plant Survey	April 20, 2021	1000-1215	Weather: 0%cc-0%cc Wind: BS 0-1 Temp.: 66°F-66°F	Gina M Krantz/ Kyle L Ince

Notes: cc=cloud cover; BS=Beaufort Scale; F=Fahrenheit

Biological inventories are generally subject to various survey limitations. Depending on the season and time of day during which field surveys are conducted, some species may not be detected due

to temporal species variability. The biological surveys conducted for the project were performed during daylight hours and during the spring, summer and winter months; thus, some nocturnal wildlife species that were not detected by sign (e.g., tracks, scat) during day surveys may not have been detected. However, based on the data/literature review performed, as well as professional knowledge of local species-specific habitat requirements, it is anticipated that any additional species potentially present on the project site can be accurately assessed, and that the surveys conducted would be sufficient in obtaining a thorough review of the biological resources present on the project site (Appendix C).

4.3.1.2 Existing Biological Resources

Botanical Resources-Flora

Four vegetation/habitat types were identified within the project biological study area that includes the project property parcel, proposed off-site project elements, and a 25-foot habitat mapping buffer. These four vegetation/habitat types include southern willow scrub, non-native grassland, disturbed habitat and urban/developed land (Table 4.3-2; Figure 4.3-2). A description of each habitat type is provided further below. In addition, a complete list of the floral species observed within the study area and representative photographs of the project site are included in Appendix C.

MHCP habitat groups include natural or naturalized vegetation communities in the region that provide habitat for a number of native and some sensitive species of plants and animals. These habitat groups are ranked in order of sensitivity from highest (Group A) to lowest (Group F). Group A habitats are composed of wetlands and riparian habitats being the most sensitive; Group B habitats represent rare uplands; Group C represents native coastal habitats; Group D represents chaparral habitats; Group E habitats represent annual grasslands; and Group F represents all other vegetation types, including disturbed (ruderal), agricultural, and eucalyptus habitats. Habitat groups are identified for each vegetation type in Table 4.3-2 below.

Table 4.3-2
Habitats/Vegetation Communities

Vegetation Type	Holland/ Oberbauer Code	MHCP Wetland/ Upland Habitat Group	Project Property (APN:158-301-46-00) (acres)	Off-site Project Elements + 25-foot Habitat Mapping Buffer (acres)	Total Biological Study Area (acres)
Southern Willow Scrub	63320	Wetland, Habitat Group A	0.0	0.1*	0.1*
Non-native Grassland	42200	Upland, Habitat Group E	6.5	1.4	7.9
Disturbed Habitat	11300	Upland, Habitat, Group F	0.8	0.5	1.3

Table 4.3-2
Habitats/Vegetation Communities

Vegetation Type	Holland/ Oberbauer Code	MHCP Wetland/ Upland Habitat Group	Project Property (APN:158-301-46-00) (acres)	Off-site Project Elements + 25-foot Habitat Mapping Buffer (acres)	Total Biological Study Area (acres)
Urban/developed land	12000	Upland, Habitat F	0.0	1.3	1.3
		Total:	**7.3**	**3.3**	**10.6**

Source: Appendix C
* Limited to the 25-foot habitat mapping buffer only; not located within the proposed off-site project element area.

Southern Willow Scrub

This wetland habitat is not located within the project site or study area but rather is limited to the 25-foot habitat mapping buffer provided for context (Figure 4.3-2). Southern willow scrub occurs throughout the San Luis Rey river within the flood berm limits as well as the expanded riparian area on the east side of the berm that is located off site and directly southwest of the project site. This habitat in proximity to the project site is dominated by arroyo willow (*Salix lasiolepis*), mule fat (*Baccharis salicifolia*), and narrow-leaved willow (*Salix exigua*), as well as non-native species such as tamarisk (*Tamarix* sp.) and mustards (i.e., *Brassica nigra*, *Hirschfeldia incana*).

Non-native Grassland

The majority of the project site was mapped as non-native grassland (Figure 4.3-2). The entire site has been historically and recently disked, as evident by the general pattern of rows in the vegetation. This habitat was dominated by non-native grass and forb species including slender wild oat (*Avena barbata*), ripgut grass (*Bromus diandrus*), garland (*Glebionis coronaria)*, black mustard (*Brassica nigra*), and flax-leaf fleabane (*Erigeron bonariensis*), as well as weedy native species such as telegraph weed (*Heterotheca grandiflora*) and western ragweed (*Ambrosia psilostachyia*).

Disturbed Habitat

Several dirt access paths occur either across or along the property boundaries and are mapped as disturbed habitat due to the lack of vegetation (Figure 4.3-2). One linear area that bisects the site in the northern portion where a moderate sized ditch occurs is mapped as disturbed habitat since the ditch bottom is sandy with some weedy non-native vegetation cover (e.g., cut-leaf goosefoot, (*Dysphania multifida*), filaree (*Erodium* spp.), cheeseweed (*Malva parviflora*).

Urban/Developed

Areas of roadways, concrete brow ditches, adjacent residential homes, and the San Luis Rey bike trail that occur within the biological study area (not necessarily within the project property parcel) are mapped as urban/developed land.

General Wildlife Species

Common urban adapted bird species such as Say's phoebe (*Sayornis saya*), house finch (*Haemorhous mexicanus)*, and Cassin's kingbird (*Tyrannus vociferans)* were observed and/or detected on site. Many harvester ant (*Pogonomyrme* sp.) and Botta's gopher (*Thomomys bottae*) mounds occur throughout the site, as well as burrows that likely are occupied by California ground squirrel (*Spermophilus beecheyi nudipes*).

Two raptor species, American kestrel (*Falco sparverius*) and Cooper's hawk (*Accipiter cooperii*), were observed off site either perched or flying over the general area including the surrounding residential developments. The American kestrel was observed perching on a light post located on the southern border of the study area while the Cooper's hawk was observed flying over the site near the SLR as well as perched within larger palms trees within the adjacent residential area to the south of the project site. No potential raptor nesting habitat occurs within the project site. Although no raptor foraging was observed on site during field surveys, the on-site non-native grassland may function as potential raptor foraging habitat since it supports raptor prey such as gophers and squirrels, and likely a variety of common herpetofauna.

The only reptile species observed on site was the side-blotched lizard (*Uta stansburiana*); however, other common reptile species, such as the western fence lizard (*Sceloporus occidentalis*) and southern alligator lizard (*Elgaria multicarinata*) may potentially be present on site. No amphibians were observed within the project site during the field surveys; however, a few common and urban adapted amphibian species may be present in small numbers, such as the garden slender salamander (*Batrachoseps major major*). Further, the Baja California treefrog (*Pseudacris hypochondriaca)* was detected by call in the off-site adjacent riparian habitat; this species is a common amphibian that is not expected to occur on site due to the lack of potentially suitable habitat.

The complete list of faunal species observed or detected on site during the field surveys as well as representative photographs of the project site are included in Appendix C.

Special Status Species

Special status species are those considered sensitive by the City or any state or federal agency. For the purposes of this report, species listed as endangered or threatened under the federal Endangered Species Act (ESA) and California Endangered Species Act (CESA); species designated as

California Special Concern species or Fully Protected species by the CDFW; and species listed as MHCP narrow endemics by the City of Oceanside (2009) are considered "sensitive". Species considered rare by the California Native Plant Society as California Rare Plant Rank (CRPR) species (2020) or as Special Plants or Animals in the CNDDB (CDFW 2021b; 2020a), may be considered "sensitive" if they meet the CEQA Guidelines §15380 (Title 14, Chapter 3, Article 20) definition for "endangered, rare or threatened species".

Floral Species

No special status plant species were identified on the project site during the biological surveys conducted on site and none have at least a moderate potential to occur on site based on a lack of potentially suitable habitat, soils, and/or other conditions; as well as the lack of known records in the project area (Appendix C).

Fauna Species

No special status fauna species were identified based on the field surveys conducted on site and none have at least a moderate potential to occur on site based on a lack of potentially suitable habitat and/or conditions and the lack of known records on site (Appendix C).

Further, there is no suitable habitat within the project site to support any federally listed species including least Bell's vireo (vireo), southwestern willow flycatcher (flycatcher), and/or light-footed Ridgway's rail (rail). These federally listed species only occur off site within the adjacent riparian habitat in the San Luis Rey River channel to the west and north of the project site and are well documented within the flood control channel that is separated from the property by an elevated levee hosting a public bikeway, except in one distinct area to the southwest of the project site. Several USFWS records of the vireo occur off site within the San Luis Rey River channel at least 100 feet from the Project site and one USFWS record of the flycatcher as well as one USFWS record of rail occurs within the San Luis Rey River located at least 800 feet and 650 feet, respectively to the northeast of the proposed project site. In addition, no sign (i.e., scat, pellets, feathers) or other evidence of burrowing owl (*Athene cunicularia*) was identified within the project site.

Jurisdictional Wetlands Resources

During the general biological surveys, the project site was evaluated by qualified wetland biologists to identify potential jurisdictional wetlands and/or non-wetland resources on the project site, and their potential connection to any off-site hydrological resources within San Luis Rey River. In addition, the overall landforms, slopes, soils, and climatic/hydrological conditions present on the project site were assessed on site in relation to the presence of potential wetland resources. Based on the field surveys, no wetland hydrophytic vegetation or wetland hydrology were observed on site and thus no wetland resources are expected to be located within the project

site or proposed project footprint; however, jurisdictional wetland habitat mapped as southern willow scrub occurs off site in close proximity to the existing and proposed Pala Road ditch storm water outfall in the southern portion of the study area (Figure 4.3-2). The existing storm water pipe outfall is not located within a jurisdictional wetland habitat; however, approximately 8-10 feet of the existing outlet pipe is located within a CDFW streambank that supports disturbed habitat, a jurisdictional non-wetland resource. Appendix C provides representative project site photos.

Further, there are two roadside ditches within uplands on site that drain storm water runoff from the adjacent residential roadways (i.e., Aspen Road and Pala Road) mapped as disturbed habitat based on the dominance of bare ground and/or weedy upland species. No wetland hydrophytic vegetation or naturally occurring hydrology was observed to be associated with these man-made ditches. Although there was evidence or observation of hydrology in a portion of the Pala Road ditch closest to Pala Road, the source of water was from the road surface either from urban runoff or as a result of a storm event as thus would not be considered wetland hydrology. The existing manmade storm water drainage system collects overland flow from the surrounding streets which is conveyed into the ditches. The Pala Road ditch is conveyed to an undersized inlet structure and storm drain pipe that discharges through an existing undersized outlet in the southern portion. The Aspen road ditch does not have an associated storm drain pipe or outlet. Based on the lack of dominant wetland vegetation, wetland hydrology and the conveyance of these roadside ditches are not jurisdictional wetland or non-wetland resources (Appendix C).

Wildlife Corridors

Wildlife corridors are important in preserving species diversity. In the absence of corridors, habitats become isolated islands surrounded by development. Fragmented habitats support lower numbers of species and increase the likelihood of extinction for species restricted to small areas. Connections between areas of open space are integral to maintaining biological diversity and population viability. For the purposes of this report, wildlife corridor is defined as, a linear landscape feature utilized by resident or transient wildlife for movement between two blocks of habitat.

The proposed project site is located adjacent to the San Luis Rey (SLR) River, a regional wildlife habitat corridor known to support a large population of vireo. The adjacent SLR habitat regional corridor overlaps with a portion of the gnatcatcher regional corridor within the WCPZ in the project area to the west (Figure 4.3-1). The SLR flood control berm and bike trail on top of the berm physically separates the proposed project site from the SLR river corridor (Figure 4.3-2). The project site is part of a narrow configuration of undeveloped lands east of the river between the SLR flood control berm and existing residential developments to the east and south. Although the project site may facilitate wildlife movement of urban adapted wildlife species due to the flat and open terrain and proximity to SLR river habitat, its proximity to existing urban development, narrow configuration, regular human and dog use, and separation from the SLR river by the large flood control berm/bike trail limits its function and value as a part of the adjacent regional wildlife corridor.

4.3.2 Regulatory Setting

Federal

Endangered Species Act

The federal Endangered Species Act (ESA) of 1973 designates threatened and endangered animals and plant species and provides measures for their protection and recovery. Under the ESA, "take" of listed animal and plant species in areas under federal jurisdiction is prohibited without obtaining a federal permit. The ESA defines "take" as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct" (16 USC 1531). Harm includes any act that actually kills or injures fish or wildlife, including significant habitat modification or degradation that significantly impairs essential behavioral patterns of fish or wildlife. Activities that damage (i.e., harm) the habitat of listed wildlife species require approval from USFWS for terrestrial species. If critical habitat has been designated under the ESA for listed species, impacts to areas that contain the primary constituent elements identified for the species, whether or not it is currently present, is also prohibited without obtaining a federal permit. ESA, Sections 7 and 10, provide two pathways for obtaining permission to take listed species.

Clean Water Act

The CWA is intended to restore and maintain the quality and biological integrity of the nation's waters. Section 402 of the CWA prohibits the discharge of pollutants to "waters of the United States" from any point source unless the discharge is in compliance with a National Pollutant Discharge Elimination System Permit. The CWA, Section 402, requires a National Pollutant Discharge Elimination System Permit for the discharge of stormwater from municipal separate storm sewer systems serving urban areas with a population greater than 100,000, construction sites that disturb one acre or more, and industrial facilities. The RWQCB administers these permits with oversight provided by the State Water Resources Control Board and U.S. Environmental Protection Agency Region IX.

Section 404 of the CWA authorizes the Secretary of the Army, acting through ACOE, to issue permits regulating the discharge of dredged or fill materials into the "navigable waters at specified disposal sites." CWA Section 502 further defines "navigable waters" as "waters of the United States, including territorial seas." Waters of the United States are broadly defined in the Code of Federal Regulations (CFR), Title 33, Section 328.3, Subdivision (a), to include navigable waters; perennial and intermittent streams, lakes, rivers, and ponds; and wetlands, marshes, and wet meadows.

Section 401 of the CWA requires that an applicant for a federal license or permit to discharge into navigable waters provide the federal agency with a water quality certification declaring that the discharge would comply with water quality standard requirements of the CWA. ACOE is prohibited from issuing a CWA permit until the applicant receives a CWA, Section 401, water quality certification or waiver from the RWQCB.

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) (16 USC 703 et seq.) is a federal statute that implements treaties with several countries on the conservation and protection of migratory birds. The number of bird species covered by the MBTA is extensive and is listed in 50 CFR 10.13. The regulatory definition of "migratory bird" is broad and includes any mutation or hybrid of a listed species and includes any part, egg, or nest of such bird (50 CFR 10.12). Migratory birds are not necessarily federally listed endangered or threatened birds under the ESA. The MBTA, which is enforced by USFWS, makes it unlawful "by any means or in any manner, to pursue, hunt, take, capture, [or] kill" any migratory bird or attempt such actions, except as permitted by regulation. The applicable regulations prohibit the take, possession, import, export, transport, sale, purchase, barter, or offering of these activities, except under a valid permit or as permitted in the implementing regulations (50 CFR 21.11).[1]

Jurisdictional Waters of the United States, Including Wetlands

Pursuant to Section 404 of the Clean Water Act, the U.S. Army Corps of Engineers (ACOE) regulates the discharge of dredged and/or fill material into "waters of the United States." The ACOE regulates traditional navigable waters, adjacent wetlands, and relatively permanent waters tributary to traditional navigable waters and adjacent wetlands. For impacts to wetlands or waters under ACOE jurisdiction, either an Individual Permit or a Nationwide Permit will be required in accordance with Section 404 of the Clean Water Act.

State

California Department of Fish and Wildlife

Under Section 1602 of the California Fish and Game Code, the CDFW regulates activities that would divert or obstruct the natural flow or substantially change the bed, channel, or bank of any river, stream, or lake that supports fish or wildlife. CDFW has jurisdiction over riparian habitats (e.g., mulefat scrub) associated with watercourses. Jurisdictional waters are delineated by the outer edge of riparian vegetation or at the top of the bank of streams or lakes, whichever is wider. CDFW jurisdiction does not include tidal areas or isolated resources.

Per Section 3503 of the California Fish and Game Code, CDFW also regulates nesting birds and their nests. This code specifically states it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant

[1] In December 2017, Department of Interior Principal Deputy Solicitor Jorjani issued a memorandum (M-37050) that interprets the MBTA to only prohibit intentional take (DOI 2017). Similarly, the Ninth Circuit Court of Appeals, like the Fifth Circuit and the Eighth Circuit, has held that the MBTA applies only to intended takes. *See Seattle Audubon Soc'y v. Evans*, 952 F.2d 297, 303 (9th Cir. 1991). Due to challenges to these findings, the MBTA information is included herein to be conservative.

thereto. Per Section 3503.5 of the California Fish and Game Code, it is also specifically unlawful to take nests of Falconiformes or Strigiformes (birds-of-prey).

California Endangered Species Act

CDFW administers the California ESA (California Fish and Game Code, Section 2050 et seq.), which prohibits the take of plant and animal species designated by the Fish and Game Commission as endangered or threatened in California. Under the California ESA, Section 86, take is defined as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." California ESA, Section 2053, stipulates that state agencies may not approve projects that would "jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat essential to the continued existence of those species, if there are reasonable and prudent alternatives available consistent with conserving the species or its habitat which would prevent jeopardy."

California ESA, Sections 2080 through 2085, address the taking of threatened, endangered, or candidate species by stating, "No person shall import into this state, export out of this state, or take, possess, purchase, or sell within this state, any species, or any part or product thereof, that the Commission determines to be an endangered species or a threatened species, or attempt any of those acts, except as otherwise provided in this chapter, the Native Plant Protection Act (California Fish and Game Code, Sections 1900–1913), or the California Desert Native Plants Act (Food and Agricultural Code, Section 80001)."

Regional Water Quality Control Board

The Regional Water Quality Control Boards (RWQCBs) administer permits pursuant to the Clean Water Act. The RWQCBs also play a role in review of water quality and wetland issues, including avoidance and minimization of impacts. Section 401 certification is required prior to the issuance of a Section 404 permit. Permits requiring Section 401 certification include ACOE Section 404 permits and National Pollutant Discharge Elimination System permits issued by the Environmental Protection Agency (EPA) under Section 402 of the Clean Water Act. National Pollutant Discharge Elimination System permits are issued by the applicable RWQCB. The City of Oceanside is within the jurisdiction of the San Diego RWQCB (Region 9).

Local

North County Multiple Habitat Conservation Program

The Multiple Habitat Conservation Program (MHCP) is a comprehensive, long-term regional habitat conservation plan established to protect sensitive species and habitats in northern San Diego County. The MHCP is one of three, large multiple-jurisdictional habitat planning efforts in

San Diego County; those being the South County Plan, the North County Plan, and the East County Plan. Each of these constitutes a subregional plan under the State of California's Natural Community Conservation Planning (NCCP) Act of 1991. The MHCP encompasses the Cities of Carlsbad, Encinitas, Escondido, Oceanside, San Marcos, Solana Beach, and Vista. The program goals are to conserve approximately 19,000 acres of habitat, of which roughly 8,800 acres (46%) are already in public ownership and contribute toward the habitat preserve system for the protection of more than 80 rare, threatened, or endangered species (SANDAG 2003). The MHCP sets forth general and subarea conditions of coverage that must be met for each covered species in order for the cities to obtain take authorization.

Oceanside Subarea Habitat Conservation Plan/Natural Communities Conservation Plan

The overall goal of the Oceanside Subarea Plan is to contribute to regional biodiversity and the viability of rare, unique or sensitive biological resources throughout the City of Oceanside and the larger region while allowing public and private development to occur consistent with the City's General Plan and Capital Improvement Program. In addition, the plan calls for the conservation of 90% to 100% of all hardline conservation areas, conservation of a minimum of 2,511 acres of existing native habitats as a biological preserve in the City of Oceanside, conservation of a minimum of 95% of rare and narrow endemic species populations within the preserve and a minimum of 80% throughout the City as a whole, and restoration of a minimum of 164 acres of coastal sage scrub habitat within the City, of which 145 acres will be within a wildlife corridor planning zone. Parcels within the wildlife corridor planning zone contribute to the north–south regional coastal California gnatcatcher (*Polioptila californica californica*) steppingstone corridor. Although the Oceanside Subarea Plan is used as a guidance document for development projects in the City of Oceanside, the Subarea Plan has yet to be approved by the city council, and incidental take authority has therefore not been transferred to the City of Oceanside from USFWS and CDFW.

The Oceanside Subarea Plan identifies undeveloped lands within the City where conservation and management will achieve the Subarea Plan biological goals while minimizing adverse effects on lands uses, economics, or private property rights. In addition, the Subarea Plan establishes preserve planning zones, the existing biological conditions and goals of which were used as foundations for their designation. However, the zones are defined for effective implementation of the Subarea Plan.

In addition to preserve planning zones, the Subarea Plan also identifies specific "hardline" and "softline" preserves. Generally, hardline preserves are areas that are already preserved to Subarea Plan standards and softline preserves are areas specifically targeted for preservation through application of Subarea Plan standards and policies.

City of Oceanside General Plan

The City's General Plan Land Use Element contains environmental resource management objectives and policies pertaining to biological resources (City of Oceanside 2002). Applicable objectives and policies include the following:

> **Vegetation and Wildlife Habitats, Objective:** Recognition and preservation of significant areas with regard to vegetation and wildlife habitats.
>
> > **Policy 3.11A:** A biological survey report, including a field survey, shall be required for a proposed project site if the site is largely or totally in a natural state or if high interest specifies of plants or animals have been found on nearby properties.
> >
> > **Policy 3.11B:** Where appropriate, the City shall apply open space land use designations and open space zoning to areas of significant scenic, ecological, or recreational value.
> >
> > **Policy 3.11C:** In areas where vegetation or wildlife habitat modification if inevitable, mitigation and/or compensatory measures such as native plant restoration, land reclamation, habitat replacement, or land interest donation would be considered.
> >
> > **Policy 3.11D:** Areas containing unique vegetation or wildlife habitats shall receive a high priority for preservation.
> >
> > **Policy 3.11E:** Specific plans shall be developed in conjunction with regional and County agencies where appropriate, for areas where there is occurrence of endangered or threatened species.

The Environmental Resource Management Element of the City's General Plan also contain long-range policy direct and action programs with respect to biological resources. The Environmental Resource Management Element contains a workable program designed to conserve natural resources and preserve open space. The long-range policy direction for biological resources is:

Vegetation and Wildlife Habitats, Long-Range Objective: Conserve and enhance vegetation and wildlife habitats, especially areas of rare, endangered, or threatened species.

4.3.3 Thresholds of Significance

The significance criteria used to evaluate the project impacts to biological resources are based on Appendix G of the CEQA Guidelines. According to Appendix G of the CEQA Guidelines, a significant impact related to biological resources would occur if the proposed project would:

1. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?
2. 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 California Department of Fish and Game or U.S. Fish and Wildlife Service.
3. Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.
4. 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.
5. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.
6. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

4.3.4 Impacts Analysis

For the purposes of biological resources impact analysis, direct, indirect, and cumulative impacts are defined as the following:

Direct impacts refer to the permanent loss of on-site habitat and the plant and wildlife species that it contains. All biological resources within the direct permanent impact area are considered 100% lost. Direct impacts were quantified by overlaying the project footprint (including off-site areas) onto the biological resources map of the site. The proposed development of the entire site is considered to be a direct permanent impact.

Indirect Impacts refer to off-site and on-site "edge effects" that are short-term (i.e., not permanent) as a result of project construction or long-term (i.e., permanent) due to the design of the proposed project and the effects it may have to adjacent resources. For the proposed project, it is assumed that the potential indirect impacts would result from construction activities such as

dust, noise, and general human presence that may temporarily disrupt species and habitat vitality and construction-related soil erosion and runoff. With respect to these latter factors, however, project grading would be subject to the typical restrictions (e.g., best management practices) and requirements that address erosion and runoff, including the federal Clean Water Act, National Pollution Discharge Elimination System (NPDES), and preparation of a Stormwater Pollution Prevention Plan (SWPPP).

Cumulative Impacts refer to incremental individual environmental effects of two or more projects when considered together. These impacts taken individually may be minor but collectively significant as they occur over a period of time.

Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

As described in Section 4.3.1.1 above, potential project impacts were evaluated based on examination of the proposed project plans within the context of the biological resources documented during the field surveys, and those biological resources known to occur or assessed as having a likely potential to occur in the project area. Direct impacts were determined by overlaying the project plans on the mapped vegetation communities/habitats in GIS ESRI software platforms. Indirect impacts were determined based on the design, intended use, and location of the proposed project elements relative to biological resources.

Direct Impacts

Habitats and Vegetation Communities

Implementation of the proposed project would result in 7.0 acres of direct impacts to non-native grassland (MHCP/SAP Habitat Group E) due to vegetation clearing, grubbing, and grading construction activities, as shown in Table 4.3-3 below.

Table 4.3-3
Habitat/Vegetation Community Project Direct Impacts and Proposed Mitigation

Vegetation Type	MHCP Wetland/ Upland Habitat Group	Total Biological Study Area (acres)	Proposed Direct Permanent Impacts (acres)			City of Oceanside Mitigation Ratio	Proposed Mitigation (acres)
			On-site Property Parcel	*Off site*	*Total*		
Southern Willow Scrub	Wetland, Habitat Group A	0.1[1]	0.0	0.0	0.0	3:1	0.0
Non-native Grassland	Upland, Habitat Group E	7.9	6.3	0.7	7.0	0.5:11	3.5

Table 4.3-3
Habitat/Vegetation Community Project Direct Impacts and Proposed Mitigation

Vegetation Type	MHCP Wetland/ Upland Habitat Group	Total Biological Study Area (acres)	Proposed Direct Permanent Impacts (acres)			City of Oceanside Mitigation Ratio	Proposed Mitigation (acres)
			On-site Property Parcel	*Off site*	*Total*		
Disturbed Habitat	Upland, Habitat Group F	1.3	0.5	0.2	0.7	None[2]	0.0
Urban/ Developed Land	Upland, Habitat Group F	1.3	0.0	0.2	0.2	None	0.0
	Total:	**10.3**	**6.8**	**1.1**	**7.9**		**3.5**

[1] Impacts within the City's WCPZ should be avoided as much as possible and minimize any unavoidable impacts. Upland habitat that is conserved and managed on site in this zone may be used to satisfy in-kind mitigation obligations associated with impacts to upland habitats located on site.
[2] May be subject to Habitat Development Fee.

Although the on-site non-native grassland, as described in Section 4.3.1 above, has limited biological function and value, it is considered to be a sensitive habitat type; therefore, project impacts to non-native grassland would be considered **potentially significant** and would require mitigation measures to reduce impacts to a level below significance. Implementation of mitigation measure **MM-BIO-1** outlined in Section 4.3.5 below would be required.

Additional impacts to disturbed habitat and urban/developed areas would not be significant under CEQA since these habitats do not support special status species on site, and regionally, are not considered to have high conservation value requiring mitigation.

Special-Status Plant Species

No special status plant species or narrow endemic species were identified on site, and none have at least a moderate potential to occur on site based predominately on the lack of potentially suitable habitat, soil, and/or other conditions. In addition, no other special status plant species were determined to have at least a moderate potential to occur within the project site. Therefore, project impacts to special-status plant species are determined to be **less than significant**.

Special-Status Wildlife Species

No special status wildlife species were observed and/or detected within the proposed project site and none have at least a moderate potential to occur on site predominately based on the lack of potentially suitable habitat and/or conditions on site. Therefore, implementation of the project is not expected to impact any special status wildlife species on site.

The three federally listed species (i.e., vireo, rail, and flycatcher) that occur off site within the adjacent riparian habitat in the San Luis Rey River channel are well documented within the flood control channel that is separated from the project property by an elevated levee hosting a public bikeway. The proposed project would be required to incorporate measures to control elevated noise or fugitive dust during the vireo, rail, and flycatcher breeding season to avoid any adverse effects to breeding vireo, rail, and flycatcher within the San Luis Rey River habitat located adjacent to the project site. The following proposed avoidance actions would be implemented by the project and are consistent with the following conditions of coverage and measures for these species from the City of Oceanside MHCP Draft SAP (Appendix A; Section 5.2.8):

- Construction activities that may result in elevated noise levels and/or fugitive dust shall be avoided during the breeding season for vireo and flycatcher (March 15 to September 15; May 1 to September 15, respectively), if feasible;
- If avoidance of construction activities during the breeding season is not feasible, then construction noise levels at the riparian canopy edge shall be kept below 60 dBA Leq from 5am to 11am during the peak nesting period of March 15 to July 15 (vireo) and May 1 to September 15 (flycatcher). For the balance of the day/season, the noise levels shall not exceed 60 decibels, averaged over a 1-hour period on an A- weighted decibel (i.e., 1 hour Leq/dBA). Noise levels shall be monitored and monitoring reports shall be provided to the City of Oceanside, USFWS, and CDFW. Noise levels in excess of this threshold shall require written concurrence from the USFWS and CDFW and may require additional minimization/mitigation measures;
- If avoidance of construction activities during the breeding season is not feasible, then fugitive dust will be minimized through watering and other appropriate measures; and
- The project applicant shall retain a City-approved biologist to be present on site during project construction within 500 feet of preserved habitats to ensure compliance with all applicable measures.

In addition to the avoidance measures listed above, avoidance of inadvertent direct impacts to sensitive habitat outside the proposed project footprint would be ensured by implementation of MM-BIO-2 and MM-BIO-3 outlined in Section 4.3.5 below. Without implementation of these mitigation measures, project impacts to sensitive habitat outside the proposed project footprint would be **potentially significant**.

No raptor nesting activities or potential raptor nests of any sensitive raptor species including Cooper's hawk were observed on site. No potential nesting habitat for sensitive raptor species including Cooper's hawk is located on site and thus no raptor nesting habitat or nesting raptors would be impacted as a result of the project. Further, no indirect impacts such as construction elevated noise levels during the breeding season would affect nesting sensitive raptors since none

are expected to nest on site and the project proposes to avoid the majority of the breeding season, as described above. However, since the project would result in the loss of 7 acres of non-native grassland that may function as potential raptor foraging habitat, impacts to potential raptor foraging habitat would be considered a **potentially significant** impact. Implementation of mitigation measures MM-BIO-1 and MM-BIO-4 would be required.

Indirect Impacts

In association with direct impacts to native vegetation communities, there are usually indirect impacts to the remaining native vegetation and wildlife communities. Many of these are related to habitat fragmentation, which occurs when a native vegetation community is not entirely altered or developed, but what remains has a diminished wildlife habitat value due to edge effects and lack of connectivity. Edge effects may include increased predation pressure, increased brood parasitism, increased competition for nesting cavities from non-native species, and increased floral competition from weedy species. Outside of those effects associated with fragmentation, indirect impacts may include elevated noise above 60 dBA Leq, increased artificial night lighting within wildlife habitat, increased human disturbance, change in duration and amount of surface water within a floodplain, and increased erosion or sedimentation. These types of indirect impacts can affect vegetation communities or alter habitat use by sensitive species. Although there is already a substantial amount of edge effects from the surrounding existing residential developments to the adjacent Preserve (e.g., increased domestic pet predation pressure, human disturbance, elevated noise levels, increased artificial night lighting), the proposed project may exacerbate existing edge effects such as increased artificial night lighting and increased competition from weedy species. The proposed project includes the following design features to avoid and/or minimize these potential indirect impacts and as such is not expected to be significant under CEQA:

- Placement of 6-foot-high masonry walls at the top of slope along the project perimeter in the northwest corner to minimize potential lighting and noise impacts and avoid human access to the SLR River buffer;
- Planting, maintenance, and monitoring of several western sycamore trees along the northern and western project property boundaries (outside and setback from the existing SLR River levee and sewer mains in proximity) to minimize potential lighting and noise impacts; placement of 6-foot-high fencing along remainder of proposed project northern and western boundaries to avoid or minimize human access to the SLR River buffer;
- No streetlights are required throughout the interior project streets and therefore none are proposed (one exception along Pala Road where one streetlight is proposed for safety reasons);
- Proposed lighting on homes would be directed downward and shielded to avoid light spill into the adjacent Preserve/WCPZ. Further, proposed lighting on homes would use the lowest

intensity lighting appropriate for the task and use lights with little to no blue wavelengths and warmer color temperatures (e.g., low-pressure sodium lights) where feasible.

- The project Concept Landscape Plan prepared by McCullough dated March 23, 2021 (Figure 3-2) includes a proposed plant palette that does not include invasive non-native plant species on the California Exotic Pest Plant Council List of Exotic Pest Plants of Greatest Ecological Concern in California and the Subarea Plan that could spread into the adjacent Preserve. Due to the project size and proximity to the Preserve (within 500 feet), all proposed project landscaping consists of native plant species appropriate for the project area and consistent with Subarea Plan. Further, the Landscape Plan includes an irrigation plan that demonstrates how the proposed project irrigation shall be contained to the project development and shall not drain or overspray resulting in potential spread of invasive plant species, erosion, and/or non-native species such as Argentine ants.

With implementation of these proposed design features, indirect impacts are determined to be **less than significant**.

Would the project 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 California Department of Fish and Game or U.S. Fish and Wildlife Service?

Direct Impacts

The proposed project impact footprint is in close proximity to only one area (i.e., Pala Road extension) near riparian habitat that supports least Bell's vireo and other known special status species. It is in this area that there is a potential to inadvertently directly impact habitat of known special species in this area. Although this potential direct impact is not expected, it may occur inadvertently during construction and would be considered a **potentially significant impact**. Mitigation Measures **MM-BIO-2** and **MM-BIO-3** outlined in Section 4.3.5 below would be required to ensure potential impacts are reduced.

Implementation of the project would not result in significant impacts to designated critical habitat for vireo or any other listed species since the proposed project development footprint is located outside although in close proximity to the adjacent critical habitat. Critical habitat designation only affects federal actions and does not have a bearing on actions undertaken by private parties or non-federal agencies where there is no controlling federal nexus (e.g. funding, regulatory, land ownership, etc.). The proposed project does not propose any federal actions or activities such as dredge/fill that would require acquisition of a Clean Water Act, section 404 permit; thus, it is not expected that critical habitat designations would be applicable to the proposed project.

Indirect Impacts

As outlined in response to Threshold 1, *Indirect Impacts*, above, there is already a substantial amount of edge effects from the surrounding existing residential developments to the adjacent Preserve (e.g., increased domestic pet predation pressure, human disturbance, elevated noise levels, increased artificial night lighting). The proposed project may exacerbate existing edge effects such as increased artificial night lighting and increased competition from weedy species. However, implementation of the design features outlined above would avoid and/or minimize these potential indirect impacts to riparian habitat or sensitive natural communities off-site. Therefore, indirect impacts are determined to be **less than significant** with incorporation of project design features.

Would the project have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

Implementation of the proposed project would avoid impacts to jurisdictional wetland habitat (i.e., southern willow scrub) located in close proximity to the proposed off-site stormwater outfall and dissipator in the southwestern portion of the project study area (Figure 4.3-3). The proposed project impact footprint of the storm water outfall/dissipator is in close proximity to only one small area of southern willow scrub, a jurisdictional wetland resource. It is in this area that there is a potential to inadvertently directly impact adjacent jurisdictional habitat. Although this potential direct impact is not expected, it may occur inadvertently during construction and would be considered **potentially significant**, and therefore would require mitigation. The proposed storm water outfall/dissipator would only impact jurisdictional CDFW streambank, and not ACOE and/or RWQCB jurisdictional wetland habitat. Therefore, project notification to CDFW and the potential completion of a Streambed Alteration Agreement with CDFW may be required for regulatory compliance. Implementation of mitigation measures MM-BIO-2 and MM-BIO-3 outlined in Section 4.3.5 below would be required.

Would the project 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?

The proposed project site is located adjacent to the San Luis Rey River, a regional wildlife habitat corridor known to support a large population of vireo that is included in the City's SLR Hardline Preserve (Preserve) as well as a portion of the gnatcatcher regional corridor within the WCPZ (a planning zone for a regional stepping stone corridor, SAP Figure 3-6) that overlaps with the SLR River corridor in the project area (Figure 4.3-1).

Although the project site may facilitate wildlife movement of urban adapted wildlife species due to the flat and open terrain and proximity to SLR river habitat, its proximity to existing urban development, narrow configuration, regular human and dog use, and separation from the SLR river by the large flood control berm/bike trail limits its function and value as a part of the adjacent regional wildlife corridor.

The project proposes to avoid the northwestern corner of the project property to accommodate the encroachment of the Preserve/WCPZ within the 100-foot riparian habitat buffer that also includes the existing flood berm/trail and brow ditch in this area. The project also proposes appropriate retaining walls and fencing along this boundary to restrict human access into the corridor and to ensure that project fuel management requirements would not directly impact the adjacent wildlife corridor. Further, several western sycamore trees would be planted along the northern and western project property boundaries to minimize potential lighting and noise impacts to the adjacent riparian corridor, and proposed lighting on homes would be directed downward and shielded to avoid light spill into the adjacent wildlife corridor.

The project site is not expected to substantially limit access to potential foraging or breeding habitat, or water sources necessary for the successful reproduction of resident wildlife species within the SLR regional corridor predominately since the project retains a setback and access to the SLR habitat corridor for wildlife through the riparian corridor, the existing flood berm/trail and lands adjacent to the berm that remain relatively open and accessible. Although the proposed project would reduce the amount of undeveloped lands adjacent to the SLR regional corridor, it is not expected to significantly impact the function and value of the adjacent SLR corridor predominately due the urban tolerant nature of the wildlife species that are expected to use the project site to access the SLR corridor and the existing urban conditions that will not substantially change after implementation of the project.

However, although the proposed project would avoid any direct impacts to migratory birds and/or raptors protected under the federal Migratory Bird Treaty Act and California Fish and Game Code Sections 3503 and 3513, removal of habitat that supports active nests on the proposed area of disturbance may result in potential impacts. If removal of habitat on the proposed area of disturbance doesn't occur during the breeding season (breeding season is defined as January 15–August 31 for raptor species and February 15–August 15 for other non-raptor birds (excluding listed species)), then impacts would be **potentially significant**. Implementation of MM-BIO-4 would ensure potential impacts would be reduced.

Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

The City's General Plan biological policies are identified in Section 4.3.2, as well as Table 4.10-1 in Chapter 4.10 of this EIR. In accordance with General Plan Policy 3.11A, a biological survey report was completed for the project (Appendix C), and the result of its analysis has been incorporated into this EIR. The biological report includes field surveys, jurisdictional delineation, and literature review to assess potential impacts to sensitive biological resources that would result from implementation of the proposed project. The report and associated surveys conducted were performed in accordance with applicable plans, policies, and ordinances set forth by the Wildlife Agencies and the City, as well as current industry standards. Thus, the project is in compliance with General Plan Policy 3.11A.

General Plan Policy 3.11C requires the preservation of biological resources or, where vegetation and habitat modification is inevitable, appropriate mitigation for potential impacts. As described in Appendix C and in this section, the proposed project would have potentially significant impacts to sensitive biological resources (nesting birds, raptor foraging, non-native grassland and sensitive habitat outside the project boundary). Appropriate mitigation measures in compliance with the Oceanside Subarea Plan and applicable federal, state, and local codes are required and incorporated into this EIR. With implementation of MM-BIO-1through MM-BIO-4 outlined in Section 4.3.5 below, the project would be in compliance with General Plan Policy 3.11C.

The site does not constitute unique vegetation or wildlife habitats; or significant scenic, ecological, or recreational value; or contain endangered or threatened species that are addressed in the General Plan Policies 3.11B, 3.11D and 3.11E. Therefore, the project would not conflict with General Plan Policies 3.11B, 3.11D and 3.11E.

The City of Oceanside Landscape regulations require a Tree Survey showing all existing trees on a project site to be relocated or removed, labeled with tree type, quantities, and diameter at breast height (DBH) for canopy trees and/ or brown trunk height (BTH) for palms. The city requires a 1:1 replacement ratio for all DBH and BTH removed. As previously described, the project site as it exists is heavily disturbed and does not include any trees on-site. As shown in Figure 3-2 in Chapter 3 of this EIR, the project proposes a detailed landscape plan for the site, including trees along the eastern boundary, along access frontage, and throughout the development. As no trees would need to be removed from the site as a result of project construction, the project would not conflict with the City's Landscape regulations and a Tree Survey would not be required. Furthermore, as described above, the project Concept Landscape Plan (Figure 3-2) includes a proposed plant palette that does not include invasive non-native plant species on the California Exotic Pest Plant Council List of Exotic Pest Plants of Greatest Ecological Concern in California that could spread into the adjacent Preserve. Due to the project size and proximity to the Preserve

(within 500 feet), all proposed project landscaping consists of native plant species appropriate for the project area and consistent with the Subarea Plan. Additionally, the Landscape Plan includes an irrigation plan that demonstrates how the proposed project irrigation shall be contained to the project development and shall not drain or overspray resulting in potential spread of invasive plant species, erosion, and/or non-native species such as Argentine ants.

Overall, with implementation of proposed mitigation, the proposed project would not conflict with any local policies or ordinances protecting biological resources. Therefore, impacts would be **potentially significant** prior to mitigation.

Would the project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

The proposed project was assessed to ensure consistency with the City of Oceanside MHCP Draft SAP by reviewing the applicable SAP standards against the proposed project. The proposed project is located adjacent to the City's SAP Hardline Preserve and WCPZ that includes the SLR River corridor that supports a variety of native wildlife including listed bird species; the project site does not support narrow endemic species or wetlands but is located adjacent to wetland habitat. Therefore, the following SAP Standards are applicable to the proposed project.

- *Section 5.2.4, Wetlands Mitigation Standards, Conservation and Buffer Requirements along the San Luis Rey River* states "Wherever development or other discretionary actions are proposed in or adjacent to riparian habitats along the San Luis Rey River, the riparian area and/or other wetlands and associated natural habitats shall be designated as biological open space and incorporated into the Preserve. In addition, a minimum 100-foot biological buffer shall be established for upland habitats, beginning at the outer edge of riparian vegetation. The following uses are prohibited in the 100-foot biological buffer: (1) new development, (2) new pedestrian and bike trails or passive recreational uses not already planned, and (3) fuel modification activities for new development. In the event that natural habitats do not currently (at the time of proposed action) cover the 100-foot buffer area, native habitats appropriate to the location and soils shall be restored as a condition of project approval. In most cases, coastal sage scrub vegetation shall be the preferred habitat to restore within the biological buffer."

The proposed project would be consistent with this standard through the avoidance of a portion of the northwestern corner of the project property to include the required 100-foot riparian habitat buffer as well as the proposed encroachment and habitat enhancement of the Preserve/WCPZ (Figure 4.3-4).

- *Section 5.2.8, Project Implementation Guidelines*. The guidelines in this section provide minimization measures and BMPs such as the need for a construction monitoring biologist,

temporary fencing of project limits, active bird nest buffers, and dust control during construction, to prevent inadvertent impacts to sensitive biological resources on site or directly adjacent to the proposed projects.

The proposed project would implement the mitigation measures outlined in Section 4.3.5 below, which include the avoidance of the breeding season and the need for a qualified monitoring biologist that would monitor project construction activities including the installation of BMPs, conducting pre-construction active nest surveys and establishing appropriate nest buffers, and where applicable.

- *Section 5.3.1, WCPZ General Development Standards.* These standards state that properties within the WCPZ must be developed such that wildlife habitat value is maintained and enhanced. Connectivity of natural habitat throughout this zone must also be maintained for wildlife movement, particularly to allow continued connectivity of gnatcatcher and other bird species populations across the City. Further, the removal of native habitats shall be avoided to the maximum extent feasible, without precluding reasonable use of the property.

The proposed project is located predominately adjacent to the WCPZ and primarily avoids the WCPZ, except in the northwestern portion of the project property where the project WCPZ encroachment is proposed. Within this area, the project would impact disturbed habitat and non-native grassland that is currently heavily used by humans and domestic pets and does not support any special status species. The proposed project would maintain connectivity to the adjacent SLR regional corridor/Preserve as well as the remaining WCPZ.

- *Section 7.2.1, Prohibited and Allowed Uses Within the Preserve Areas.* This section of the larger Preserve Management portion of the SAP includes a discussion regarding land uses conditionally allowed upon Wildlife Agency approval within Preserve areas, provided that they can be demonstrated to have minimal impacts on resource values within the Preserve. Specifically applicable to the project, one of the compatible allowed uses states that "Utility projects, including construction, replacement, or maintenance of electrical transmission lines, gas pipelines, water lines, sewer lines, or other linear facilities which require temporary impacts to natural habitats, provided that habitats are restored to pre-impact or better condition following the impact."

The project proposes to remove and replace a portion of a storm water pipeline and associated outfall within a relatively small area along the eastern edge of the adjacent Preserve. This has the potential to disturb habitat along a CDFW non-wetland jurisdictional streambank. However, project construction would include incorporation of BMPs outlined in the Biological Resources Technical Report, Geotechnical Report, and Drainage Study; construction activities would be

monitored by a qualified biologist; the area would be revegetated to pre-impact condition following construction; and mitigation measures MM-BIO-1 through MM-BIO-4 outlined below would be implemented. With incorporation of these measures, the project is expected to be consistent with this conditionally allowed use in the adjacent Preserve.

The MHCP was designed to compensate for the loss of biological resources throughout the program's region; therefore, projects that conform to the MHCP as specified by the City of Oceanside SAP and implementing ordinances would not result in cumulatively considerable impacts for those biological resources adequately covered. Although the proposed project would result in impacts to 3.5 acres of non-native grassland, project implementation of proposed mitigation measures MM-BIO-1 through MM-BIO-4 outlined in Section 4.3.5 below would ensure project and cumulative impacts would be reduced, and conflict with the City's MHCP SAP would not occur.

Overall, with implementation of proposed mitigation project implementation would not conflict with an applicable conservation plan. Therefore, impacts are considered to be **potentially significant**, prior to mitigation.

4.3.5 Mitigation Measures

Implementation of the following proposed project mitigation measures (MMs) would reduce potentially significant impacts to biological resources to a level below significance, and ensure conformance to the draft City SAP. In addition, project compliance with the federal MBTA and California Fish and Game Code Sections 3503 and 3513 is provided below.

Significant direct impacts to sensitive upland habitat consisting of non-native grassland that supports a limited amount of potential raptor foraging habitat would be mitigated with the implementation of MM-BIO-1:

MM-BIO-1 Prior to issuance of a grading permit, the Applicant shall submit documentation to the City demonstrating conservation of 3.5 acres of non-native grassland (0.5:1 mitigation to impact ratio, as provided in the City SAP) within an approved habitat mitigation bank located within the City of Oceanside (or comparable as approved by the City and Wildlife Agencies) for unavoidable project impacts to non-native grassland.

Avoidance of inadvertent direct impacts to sensitive habitat outside the proposed project footprint would be ensured by implementation of MM-BIO-2 and MM-BIO-3:

MM-BIO-2 Prior to initiation of construction related activities including clearing and grubbing or prior to vegetation/ground disturbance or prior to site mobilization activities or issuance of a grading permit, the Applicant shall submit documentation to the City

demonstrating that the Applicant has contracted with a qualified biologist(s) to monitor the project construction activities and avoid any inadvertent impacts to sensitive biological and ensure complete avoidance of adjacent jurisdictional resources. Each qualified biologist shall have demonstrated expertise with the sensitive habitats, special status species of the project region. The qualified biologist(s) shall monitor the installation of the construction temporary fencing and/or flagging, silt fencing, and other best management practices (BMPs) along the construction limits prior to construction activities. The qualified biologist shall be present during the initial vegetation clearing and grubbing activities, and potentially on a less frequent basis during grading activities to ensure construction remains within the approved project development area. The Applicant shall report results of biological monitoring activities to the City on a regular basis through the preparation and submission of summary monitoring reports.

MM-BIO-3 Prior to initiating any construction related activities requiring a clearing and grubbing or grading permit, the Applicant shall demonstrate how the project would avoid or minimize applicable inadvertent impacts during construction. To ensure the avoidance and minimization of impacts to biological resources during construction, typical construction BMPs shall be implemented including but not limited to the following: Prior to ground disturbance, all permanent and temporary disturbance areas shall be clearly delineated by orange construction fencing and the identification of environmentally sensitive areas with flagging and/or fencing.

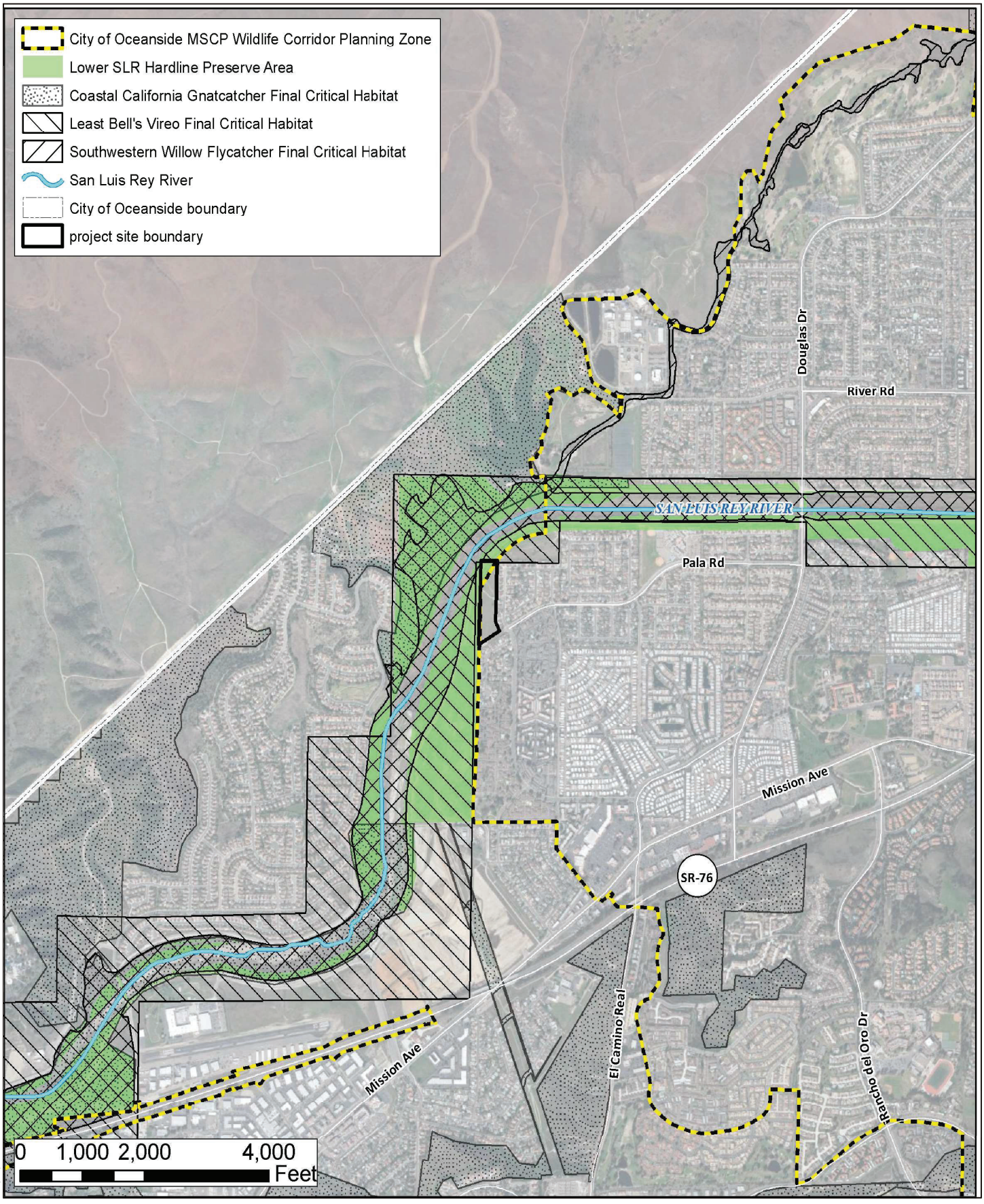
Implementation of MM-BIO-4 would ensure project compliance with the Federal MBTA and CDFG Code Sections 3503 and 3513:

MM-BIO-4 The proposed project would avoid any direct impacts to migratory birds and/or raptors protected under the federal Migratory Bird Treaty Act and California Fish and Game Code Sections 3503 and 3513, removal of habitat that supports active nests on the proposed area of disturbance should occur outside of the breeding season for these species. The breeding season is defined as January 15–August 31 for raptor species and February 15–August 15 for other non-raptor birds (excluding listed species). If removal of habitat on the proposed area of disturbance must occur during the breeding season, then prior to initiating any construction related activities requiring a clearing and grubbing or grading permit, the Applicant shall retain a City-approved biologist to conduct a pre-construction survey to determine the presence or absence of nesting birds on the proposed area of disturbance. The pre-construction survey must be conducted within 10 calendar days prior to the start of construction, and the results must be submitted to the City for review and approval prior to initiating any construction activities. If nesting birds are detected,

a letter report or mitigation plan, as deemed appropriate by the City, shall be prepared and include proposed measures to be implemented to ensure that disturbance of breeding activities are avoided. The report or mitigation plan shall be submitted to the City for review and approval and implemented to the satisfaction of the City. The City's mitigation monitor shall verify and approve that all measures identified in the report or mitigation plan are in place prior to and/or during construction.

4.3.6 Level of Significance After Mitigation

With incorporation of Mitigation Measures **MM-BIO-1** through **MM-BIO-4** outlined above, potentially significant impacts to biological resources would be reduced to a level of **less than significant**.



SOURCE: Bing Maps, Merkel & Associates, Inc. 2021

FIGURE 4.3-1

Regional Setting

Cypress Point Project Draft Environmental Impact Report

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SOURCE: Bing Maps, Merkel & Associates, Inc. 2021

FIGURE 4.3-2

Biological Resources

Cypress Point Project Draft Environmental Impact Report

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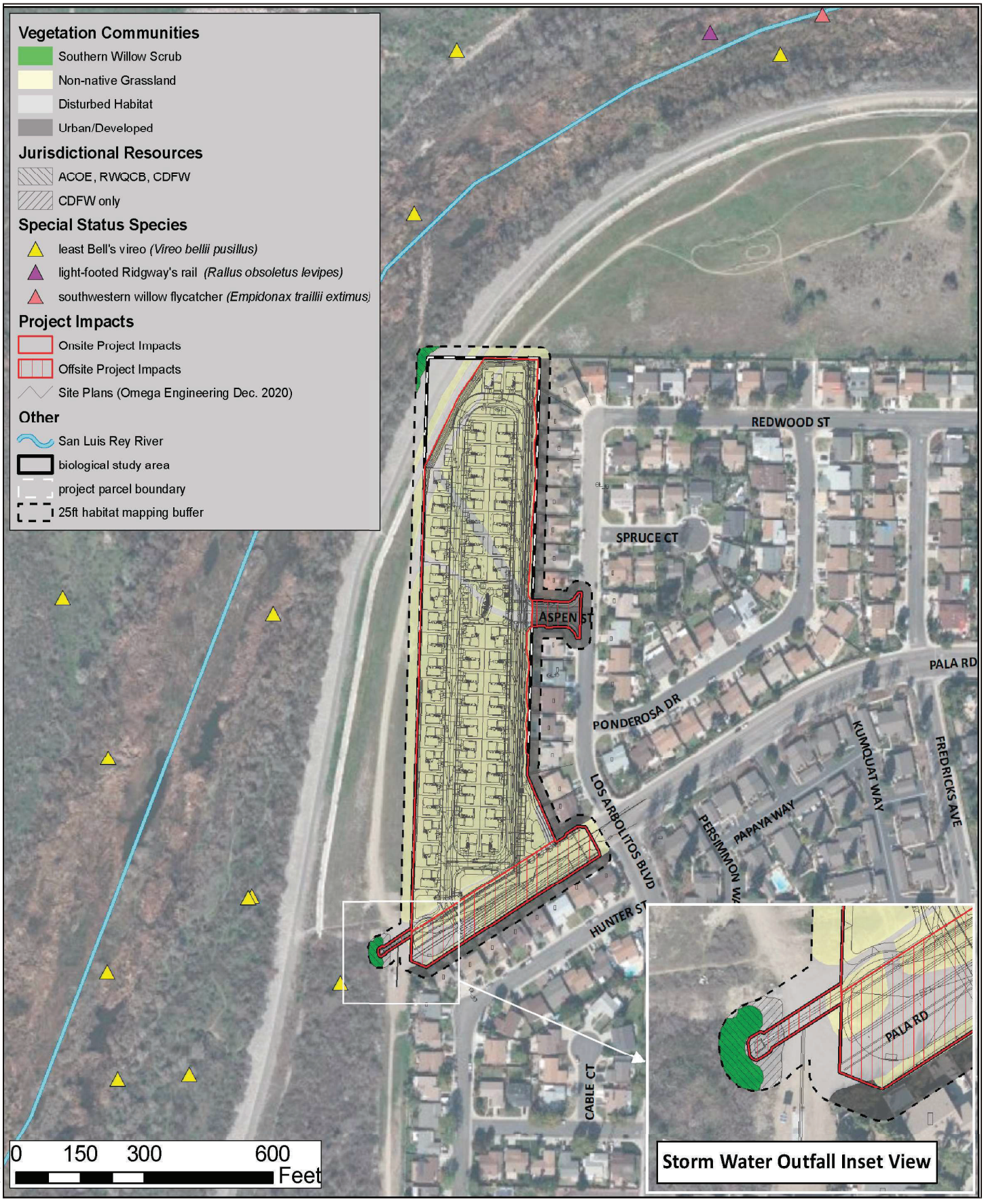

SOURCE: Bing Maps, Merkel & Associates, Inc. 2021

FIGURE 4.3-3

Biological Impacts

Cypress Point Project Draft Environmental Impact Report

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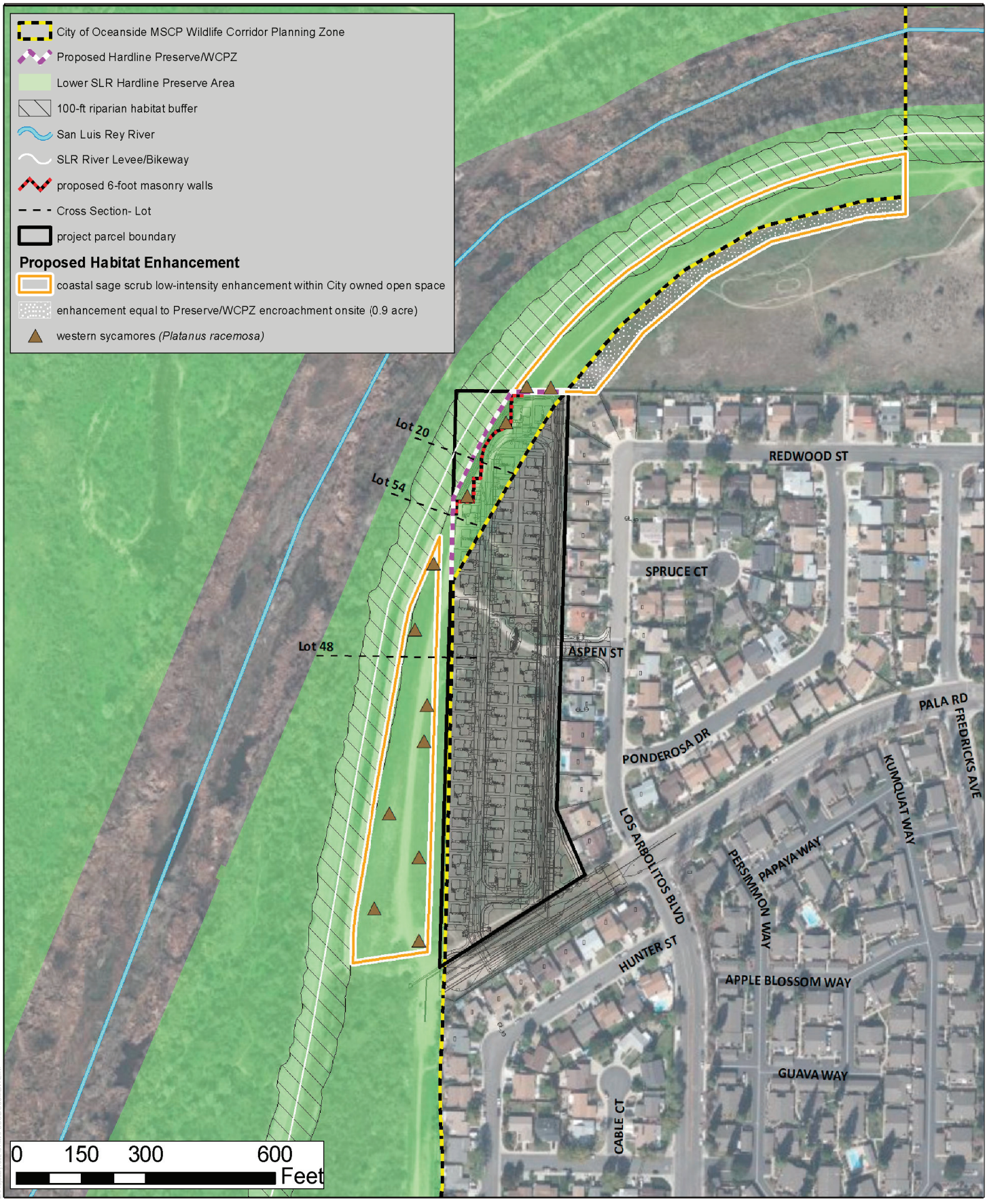

SOURCE: Bing Maps, Merkel & Associates, Inc. 2021

FIGURE 4.3-4

Proposed Habitat Enhancement

Cypress Point Project Draft Environmental Impact Report

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