4.2 Biological Resources

4.2.1 Summary

Table 13 summarizes the identified environmental impacts, proposed Mitigation Measures, and residual impacts of the proposed project with regard to biological resources. Additional detail related to potential impacts to biological resources is provided in Section 4.2.4 (Impact Analysis).

Table 13 Impact and Mitigation Summary: Biological Resources

Impact	Mitigation Measures	Residual Impact
Impact B-1. Implementation of the proposed project has the potential to impact special status animal species, specifically California red-legged frogs. Impacts would be significant but mitigable.	**B-1(a) Worker Environmental Awareness Program (WEAP)** ▪ Prior to issuance of Building or Grading permits, all personnel associated with project construction shall attend WEAP training, conducted by a qualified biologist, to aid workers in recognizing special status species and sensitive biological resources that may occur on-site. The program shall include identification of the special status species and their habitats, a description of the regulatory status and general ecological characteristics of sensitive resources, and review of the limits of construction and Mitigation Measures required to reduce impacts to biological resources within the work area. A fact sheet conveying this information shall also be prepared for distribution to all contractors, their employers, and other personnel involved with construction of the project. All employees shall sign a form documenting that they have attended the WEAP and understand the information presented to them. **Monitoring Action:** The WEAP form(s) shall be submitted to the Chief of Planning for review and approval prior to issuance of building or grading permits and prior to commencement of any construction activities. **B-1(b) CRLF Pre-construction Survey and Impact Avoidance** Measures shall be taken to identify, and if possible, avoid impacts California Red legged frogs (CRLF). ▪ Measures for identification of CRLF shall include: Within 48 hours prior to the start of construction activities, including staging and mobilization, a qualified biologist shall conduct pre-construction surveys in accordance with the 2005 Guidance on Site Assessments and Field Surveys for California Red-legged Frog, within suitable upland habitat (areas with small mammal burrows, blackberry brambles, or dense vegetation) on-site. **Monitoring Action:** The results of this survey shall be submitted to the Chief of Planning for review and approval prior to the initiation of construction activities. If no CRLFs are observed, ongoing measures described below shall be implemented but Mitigation Measure B-1 (c) may not be necessary. If CRLFs are observed, Mitigation Measure B-1 (c) shall be implemented. Ongoing during all construction activities, measures taken to avoid impacts to CRLF shall include: ▪ Ongoing monitoring by construction personnel pursuant to Mitigation Measure B-1 (a). ▪ Water shall not be allowed to pool in a manner that may	Implementation of Mitigation Measures B-1(a) through B-1(c) would reduce impacts to special status animals to a less than significant level.

Impact	Mitigation Measures	Residual Impact
	attract CRLF. ▪ All food-related garbage shall be placed in tightly sealed containers at the end of each workday to avoid attracting predators. Containers shall be emptied and garbage removed from the construction site at the end of each workweek. If sealed containers are not available, garbage shall be removed from the construction site upon completion of daily activities. All garbage removed from the construction site shall be disposed of at an appropriate off-site refuse location ▪ Pets shall be prohibited at the construction site. If, at any time during construction, federally and/or state protected species are inadvertently harmed, construction activities shall cease and Mitigation Measure B-1 (c) shall be implemented. All incidences of harm shall be reported to the CDFW and USFWS within 48 hours. **Monitoring Action:** Prior to final inspection of grading and building permits, the applicant shall demonstrate to the satisfaction of the Chief of Planning that avoidance measures were implemented during construction. Evidence shall include photos of the site during construction and a written statement from a qualified biologist. **B-1(c) USFWS Consultation** If, at any time during project implementation, CRLFs, during any life stages, are identified within the work area and impacts to individuals cannot be avoided, construction and grading in these areas shall be halted, and the County and USFWS shall be contacted immediately to initiate Federal Endangered Species Act consultation. No CRLFs shall be captured or relocated without expressed written permission from the USFWS. If CRLF are observed, the following additional measures shall be implemented: ▪ All areas where this species occurs shall be avoided until the approved biologist has determined that this species is no longer present. No life stages of this species shall be relocated without a take authorization from the USFWS and/or CDFW. If relocation is authorized, the species shall be taken to an approved relocation site prior to initiation of construction activities. ▪ A biologist approved by the USFWS and CDFW shall be present on-site during all ground disturbing activities, including vegetation removal, and grading. Once these activities have been completed, the approved biologist shall conduct periodic inspections of the work site of not less than once per week when construction activities are occurring in/adjacent to suitable habitat. Additional site visits should occur during rain events when special-status amphibians are likely to be mobile to ensure that they are not entering work areas. Work activities in or adjacent to suitable habitat shall be completed between April 1 and November 1 to the greatest extent feasible. Monitoring Action: If at any time prior to construction activities or during construction activities, potential impacts to CRLF are identified, construction activities shall not resume until authorized by a qualified biologist and, if applicable, USFWS and CDFW. Authorization from the qualified biologist,	

Impact	Mitigation Measures	Residual Impact
	and if applicable CDFW and USFWS, shall be submitted to the Chief of Planning for review and approval prior to commencing or recommencing construction activities.	
Impact B-2. Construction of the proposed project could directly impact nesting raptors and other avian species protected under existing regulations by causing injury, death, or nest failure. Potential impacts to nesting birds would be significant but mitigable.	**B-2 Pre-construction Surveys for Nesting Birds and Raptors** The nesting season generally occurs from February 1 to September 15. For tree removal or construction activities occurring during the nesting season, surveys for nesting birds and raptors covered by the CFGC and the MBTA shall be conducted by a qualified biologist no more than 14 days prior to tree removal or initiation of any construction activities. Construction activities include any initial work onsite, such as construction staging and vegetation removal. The surveys shall include the entire project site plus a 100-foot buffer for non-raptors and 250-foot buffer for raptors. If active nests are located, the qualified biologist shall establish avoidance buffers based on the species, nest location and observed behavior. Buffer shall be a minimum of 25 feet for non-raptor bird species and a minimum of 100 feet for raptor species. All construction work shall be conducted outside any designated avoidance zones. Larger than minimum buffers may be required depending upon the status of the nest and the construction activities occurring in the vicinity of the nest. The biologist shall have full discretion for establishing a suitable buffer. The buffer area(s) shall be closed to all construction personnel and equipment until the young are no longer reliant on the nest site. A qualified biologist shall confirm that breeding/nesting is completed and young have fledged the nest prior to removal of the avoidance buffer. Monitoring Action: No more than 14 day prior to removal of trees or initiation of construction activities, the applicant shall submit a written statement from a qualified biologist, to the satisfaction of the Chief of Planning describing how the Mitigation Measure has been complied with.	Implementation of Mitigation Measure B-2 would reduce impacts to nesting bird species to a less than significant level.
Impact B-3. Construction of the proposed project would require removal of native trees, which are protected under CVMP policy CV-3.11 and Monterey County Code Section 21.64.260. Pursuant to required receipt of a tree removal permit before proceeding with removals, the project would not conflict with either policy or ordinance. Therefore, potential impacts would be less than significant.	No mitigation is required.	Impacts would be less than significant.

4.2.2 Setting

a. Regional Setting

The project site is located in unincorporated Monterey County, within the mouth of the Carmel Valley. The Carmel Valley is drained by the Carmel River, which originates in the Santa Lucia Mountains and flows into the Pacific Ocean. Common habitats within the Carmel Valley include oak and riparian woodlands, chaparral and other shrublands, and grasslands. Natural habitats have been altered by development and agriculture, but intact corridors of habitat exist in the valley, most commonly associated with the Carmel River riparian corridor.

b. Project Site Setting

Vegetation Communities

Vegetation community mapping for the site is based on aerial imagery, a reconnaissance survey completed by Rincon Consultants, Inc. on August 31, 2017, and desktop review of available biological information summarized in Appendix C, *Special Status Species and Natural Communities*. Vegetation classification was based on *A Manual of California Vegetation, Second Edition* (Sawyer et al., 2009) and *Preliminary Descriptions of the Terrestrial Communities of California* (Holland, 1986); however, classifications have been modified as needed to accurately describe the existing habitats observed on-site.

The project site contains two vegetation communities, non-native annual grassland and Mixed Woodland, and one land cover type, landscaped/developed/disturbed (see Figure 2 and Table 14), each of which are discussed in greater detail below. Six natural communities (Figure 18) considered sensitive by the California Department of Fish and Wildlife (CDFW), as part of the Natural Heritage program and tracked in the CDFW California Natural Diversity Database (CNDDB), occur within five miles of the project site: Monterey pine forest, Monterey cypress forest, central dune scrub, central maritime chaparral, Monterey Pygmy cypress forest, and northern bishop pine forest (CDFW 2017a). Federally designated critical habitat for steelhead (*Oncorhynchus mykiss*), western snowy plover (*Charadrius alexandrinus nivosus*), California red-legged frog (*Rana draytonii*), and Yadon's piperia (*Piperia yadonii*) are mapped within five miles of the project site (USFWS 2017). Neither of the two vegetation communities or land cover type present on site is considered sensitive, and no federally designated critical habitat overlaps the site.

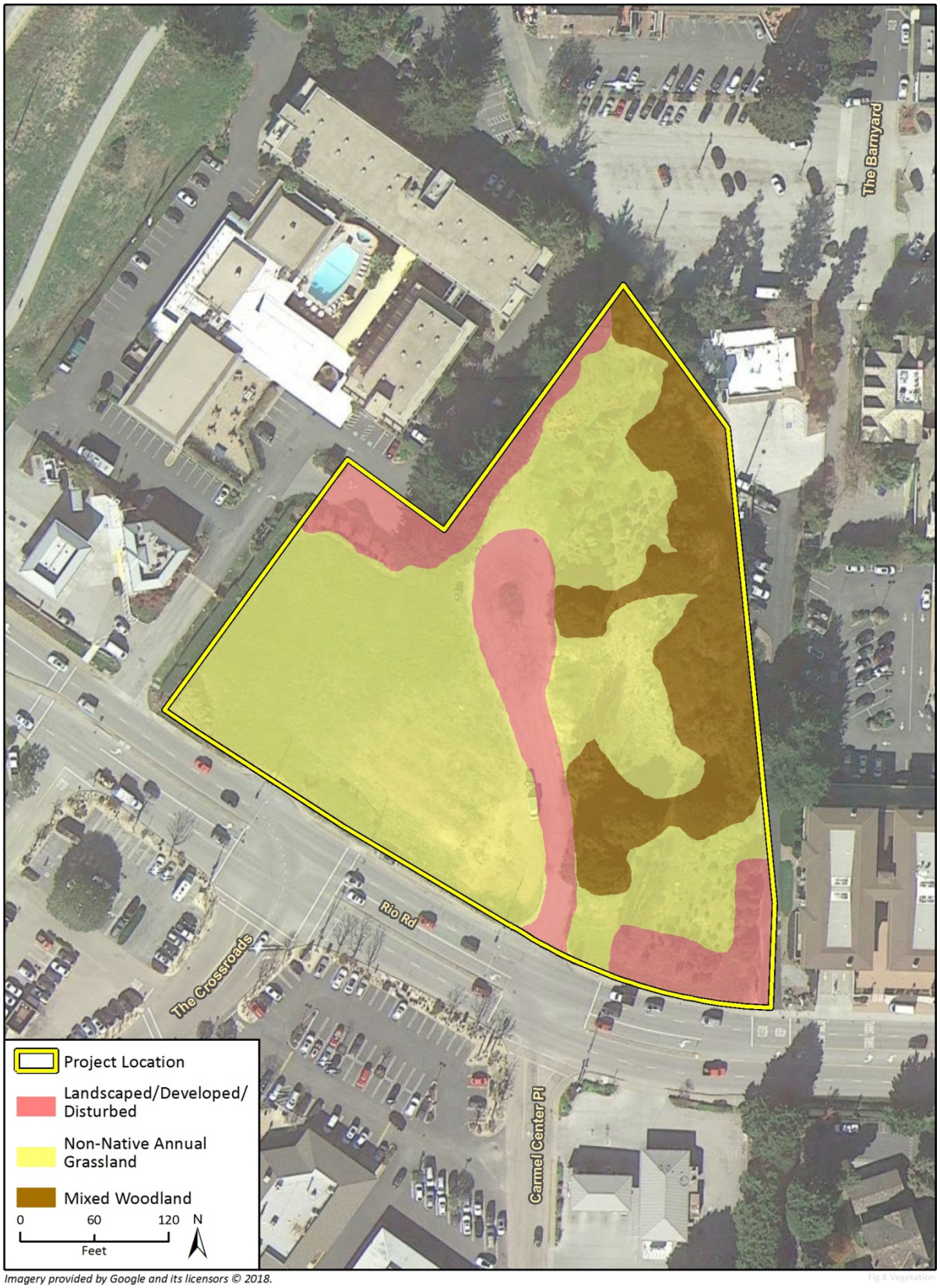
Table 14 On-Site Vegetation Communities and Land Cover Type

Vegetation Community/Land Cover Type	Acres (approx.)[1]
Mixed Woodland	0.8
Non-native Annual Grassland	2.2
Landscape/Developed/Disturbed	0.7

[1]These figures sum to approximately 3.7 acres. Based on the County's parcel data, the project site is approximately 3.8 acres. This mapping discrepancy is the result of different data sets with varying levels of accuracy.

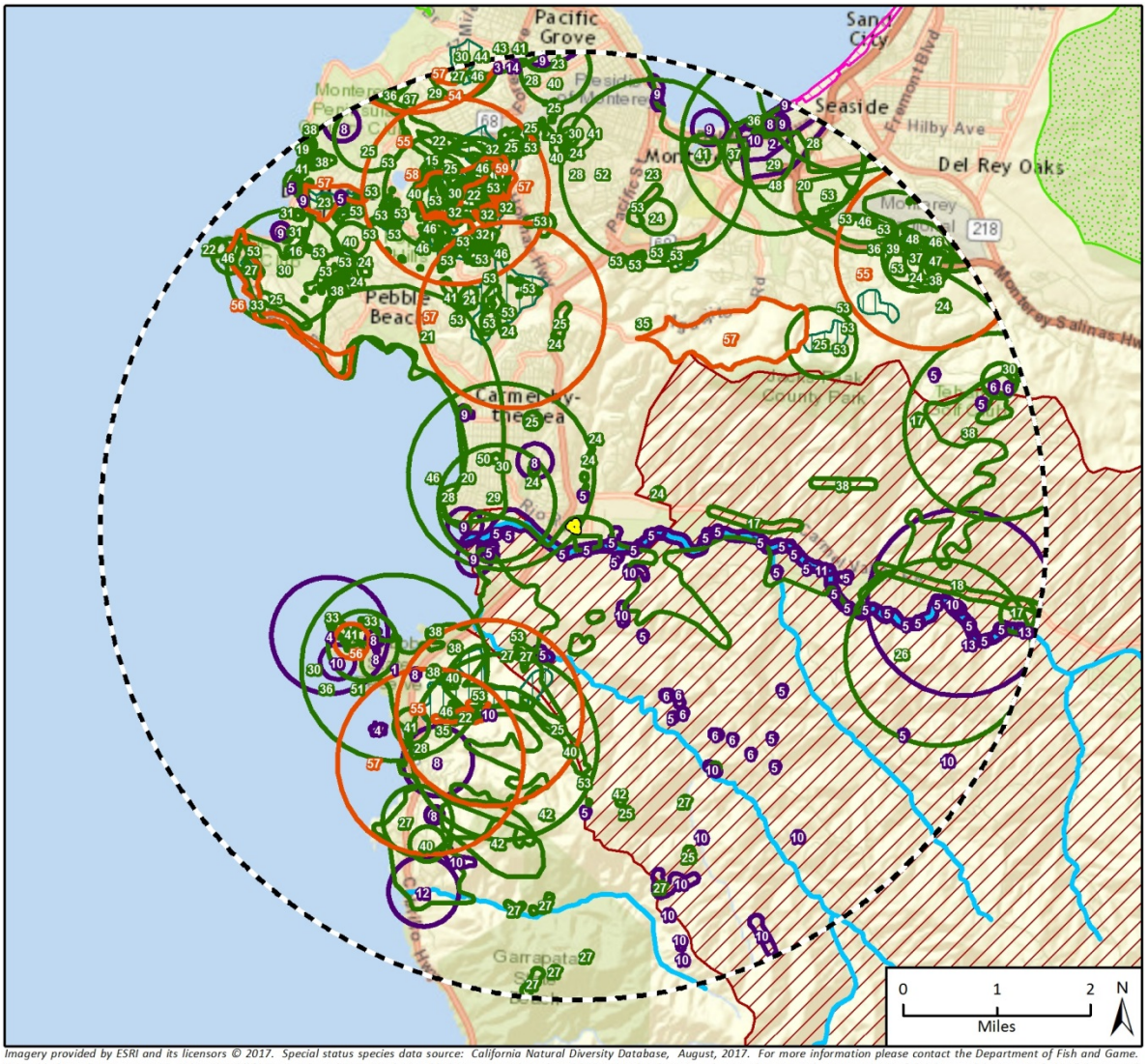
Each of the on-site vegetation communities and land cover types, shown in Figure 17, are described below:

Figure 17 Vegetation Communities and Biological Resources



Imagery provided by Google and its licensors © 2018.

Figure 18 Sensitive Species, Natural Communities, and Designated Critical Habitats



Imagery provided by ESRI and its licensors © 2017. Special status species data source: California Natural Diversity Database, August, 2017. For more information please contact the Department of Fish and Game. Critical habitat data source: U.S. Fish and Wildlife Service, June, 2017. Final critical habitat acquired via the USFWS Critical Habitat Portal. It is only a general representation of the data and does not include all designated critical habitat. Contact USFWS for more specific data.

Project Location
5-Mile Buffer

CNDDB

Animals
Plants
Natural Communities

Critical Habitat

California red-legged frog
Monterey spineflower
Western snowy plover
Yadon's piperia
Steelhead

1 - black swift
2 - burrowing owl
3 - California black rail
4 - California brown pelican
5 - California red-legged frog
6 - California tiger salamander
7 - Coast Range newt
8 - monarch - California overwintering population
9 - northern California legless lizard
10 - Smith's blue butterfly
11 - steelhead - south-central California coast DPS
12 - Townsend's big-eared bat
13 - western pond turtle
14 - western snowy plover
15 - angel's hair lichen
16 - beach layia
17 - Carmel Valley bush-mallow
18 - Carmel Valley malacothrix
19 - coastal dunes milk-vetch
20 - Eastwood's goldenbush
21 - fragrant fritillary
22 - Gowen cypress
23 - Hickman's cinquefoil
24 - Hickman's onion
25 - Hooker's manzanita
26 - Hospital Canyon larkspur
27 - Hutchinson's larkspur
28 - Jolon clarkia
29 - Kellogg's horkelia
30 - marsh microseris
31 - Menzies' wallflower
32 - Monterey clover
33 - Monterey cypress
34 - Monterey gilia
35 - Monterey pine
36 - Monterey spineflower
37 - northern curly-leaved monardella
38 - Pacific Grove clover
39 - Pajaro manzanita
40 - pine rose
41 - pink Johnny-nip
42 - Pinnacles buckwheat
43 - saline clover
44 - San Francisco collinsia
45 - sand-loving wallflower
46 - sandmat manzanita
47 - Santa Cruz clover
48 - seaside bird's-beak
49 - Tidestrom's lupine
50 - Toro manzanita
51 - twisted horsehair lichen
52 - woodland woollythreads
53 - Yadon's rein orchid
54 - Central Dune Scrub
55 - Central Maritime Chaparral
56 - Monterey Cypress Forest
57 - Monterey Pine Forest
58 - Monterey Pygmy Cypress Forest
59 - Northern Bishop Pine Forest

FigX CNDDB

Mixed Woodland

This vegetation community is not described in either the Holland (1986) or Sawyer et al. (2009) classification systems, and occurs on the east-northeast side of the site. It is likely a remnant of a tributary that used to run through the property, as discussed in *Drainages and Wetlands* below. This vegetation type covers approximately 0.8 acres of the site. Species observed in this area include a mixture of native and non-native species, including coast live oak (*Quercus agrifolia*), ornamental redwoods (*Sequoia sempervirens*), Hollywood juniper (*Juniperus chinensis*), willow (*Salix* sp.), English ivy (*Hedera helix*), and California buckeye (*Aesculus californica*).

Non-native Annual Grassland

This vegetation community occurs primarily in the southwest quarter of the project site, where vegetation has been cleared. This community most closely corresponds to Non-native Grassland in Holland (1986) and Avena (barbata, fatua) Semi-Natural Stands (Unranked, 775) in Sawyer et al. (2009). Species observed in this area include Italian rye grass (*Festuca perennis*), wild oats (*Avena* sp.), Kikuyu grass (*Pennisetum clandestinum*), and foxtail barley (*Hordeum murinum*). Herbaceous plants (i.e., forbs) such as mustards (*Brassica* spp.), wild radish (*Raphanus sativus*), and fennel (*Foeniculum vulgare*), as well as coyote brush (*Baccharis pilularis*), were also observed. This community covers approximately 2.2 acres of the site.

Landscaped/Disturbed/Developed

This land cover type is not naturally occurring and, therefore, is not described in either the Holland (1986) or Sawyer et al. (2009) classification systems. Developed areas include a paved driveway entrance, a gravel driveway, a section of the Carmel Mission Inn parking lot, and landscaped areas. Vegetation in landscaped areas include ornamental junipers (*Juniperus* sp.), oleander (*Nerium oleander*), and planted trees such as Monterey cypress (*Cupressus macrocarpa*), Monterey pine (*Pinus radiata*), black poplar (*Populus nigra*), and California sycamore (*Platanus racemose*). Associated shrubs include coyote brush (*Baccharis pilularis*) and ornamental ceanothus (*Ceanothus* sp.). This land cover type covers approximately 0.7 acres of the site.

Drainage and Wetlands

The project site is located within the Carmel River watershed. The portion of the Carmel River approximately 1,000 feet south of the site is a perennial drainage. Flows from the Carmel River ultimately drain into the Pacific Ocean, approximately 1.1 miles west of the site. The Carmel River and its tributaries are of biological importance, and are utilized by species such as south-central California coast (S-CCC) steelhead Distinct Population Segment (DPS) and California red-legged frog. The Carmel River is classified as critical habitat for the S-CCC DPS of steelhead (NMFS 2005).

Historical topographic maps show a tributary of the Carmel River running though the east side of the site, connecting to the Hatton Canyon drainage to the north. This unnamed tributary was diverted to an underground culvert north of the Barnyard Shopping Village (the adjacent property to the north), and discharging at the Carmel River south of the Crossroads Carmel shopping center (on the south side of Rio Road opposite the site). A swale was observed during the site visit in the alignment of the historic tributary, on the east side of the project site (within mixed woodland); however, there was no evidence of water flow, ordinary high water mark, or hydrophytic vegetation. No drainages, wetlands, other features subject to U.S. Army Corps of Engineers (USACE) jurisdiction under the federal Clean Water Act, or which fall under CDFW or Regional Water Quality Control Board (RWQCB) jurisdiction, occur within the project site.

Special Status Species

For the purpose of this EIR, special status species are those plants and animals listed, proposed for listing, or candidates for listing as threatened or endangered by the USFWS or National Marine Fisheries Service (NMFS) under the federal Endangered Species Act (FESA); those listed or proposed for listing as rare, threatened, or endangered by the CDFW under the California Endangered Species Act (CESA); animals designated as "Species of Special Concern," "Fully Protected," or "Watch List" by the CDFW; and plants with a California Rare Plant Rank (CRPR) of 1 or 2 which are defined as:

- **CRPR 1A** = Plants presumed extinct in California;
- **CRPR 1B.1** = Rare or endangered in California and elsewhere; seriously endangered in California (over 80% of occurrences threatened/high degree and immediacy of threat);
- **CRPR 1B.2** = Rare or endangered in California and elsewhere; fairly endangered in California (20-80% occurrences threatened);
- **CRPR 1B.3** = Rare or endangered in California and elsewhere, not very endangered in California (<20% of occurrences threatened or no current threats known);
- **CRPR 2A** = Plants Presumed Extirpated in California, But Common Elsewhere;
- **CRPR 2B** = Plants Rare, Threatened, or Endangered in California, But More Common Elsewhere

Literature Review

Queries of the USFWS Information for Planning and Consultation (IPaC) (USFWS 2017), CDFW CNDDB (CDFW 2017a), and California Native Plant Society (CNPS) Online Inventory of Rare and Endangered Plants of California (CNPS 2017) were conducted to obtain comprehensive information regarding special status species known to occur or considered to have potential to occur within the project site and/or the surrounding vicinity, which is defined to be the area otherwise within the Monterey, California United States Geological Survey (USGS) 7.5- minute topographic quadrangle and the surrounding four quadrangles of Marina, Seaside, Soberanes Point, and Mt. Carmel. Twenty-one special status animal species were evaluated for their potential to occur within the project site. Of those, one species has the potential to occur within the project site: California red-legged frog (CRLF). Special status species are unlikely to occur within the developed and non-native grassland areas of the site because of a lack of natural habitat; however, the mixed woodland areas on-site may provide marginal habitat for CRLF, nesting birds, and roosting bats.

The CNDDB records within a five-mile radius of the project site were reviewed for this analysis and are shown in Figure 18. Thirty-eight (38) special status plant species, one special status lichen, and 14 special status animal species are documented by the CNDDB within five miles of the project site. One CNDDB record of an unspecified location for Jolon clarkia (*Clarkia jolonensis*), sandmat manzanita (*Arctostaphylos pumila*), Kellogg's horkelia (*Horkelia cuneata* var. *sericea*), and Eastwood's goldenbush (*Ericameria fasciculate*) overlaps with the project site. The full results of these queries are provided in Appendix C, for the purpose of evaluating potential to occur and indirect off-site impacts. Species with a potential to be impacted are discussed in more detail blow.

California Red-legged Frog

The CRLF is federally Threatened and a California species of special concern. Critical habitat for the CRLF is mapped to the south, east, and northeast of the project site, as shown in Figure 18. The closest critical habitat unit to the project site, MNT2, is adjacent to the Carmel River, approximately 1,064 feet south of the project site. No CRLFs were observed within the project site. There are 34

CNDDB records of CRLF within five miles of the site. The closest CRLF occurrence is approximately 870 feet to the southeast of the site. No suitable aquatic breeding habitat occurs within the project site. Suitable aquatic habitat is present within the Carmel River approximately 1,000 feet from the project site. However, the project site is substantially disturbed with limited amount of cover and no small mammal burrows, and as such, the site is unlikely to provide suitable upland habitat for CRLF. CRLF has a low potential to be present on-site, and that potential is during dispersal (moving between habitat areas) only.

Nesting Birds and Raptors

The trees and shrubs throughout the site provide suitable nesting and foraging habitat for migratory birds and raptors. During the reconnaissance survey, western scrub-jay (*Aphelocoma californica*), dark-eyed junco (*Junco hyemalis*), and American crow (*Corvus brachyrhynchos*) were observed onsite. Other species with the potential to nest in similarly developed areas (i.e., residential neighborhoods or landscaped commercial areas) include house finch (*Haemorhous mexicanus*), brewers blackbird (*Euphagus cyanocephalus*), and Cooper's hawk (*Accipiter cooperii*).

Wildlife Movement Corridors

Wildlife movement corridors, or habitat linkages, are generally defined as connections between habitat patches that allow for physical and genetic exchange between otherwise isolated animal populations. Such linkages may serve a local purpose, such as providing a linkage between foraging and denning areas, or they may be regional in nature. Some habitat linkages may serve as migration corridors, wherein animals periodically move away from an area and then subsequently return. Other corridors may be important as dispersal corridors for young animals. A group of habitat linkages in an area can form a wildlife corridor network.

Habitats within habitat linkages do not necessarily need to be identical to those habitats being linked. Rather, the linkage need only contain sufficient cover and forage to allow temporary utilization by species moving between core habitat areas. Habitat linkages are typically contiguous strips of natural areas, though dense plantings of landscape vegetation can be used by certain disturbance-tolerant species. Some species may require specific physical resources, such as rock outcroppings, vernal pools, or oak trees, within the habitat link for the linkage to serve as an effective movement corridor, while other more mobile or aerial species may only require discontinuous patches of suitable habitat to permit effective dispersal and/or migration. Wildlife movement corridors may occur at either large or small scales. The mountainous regions of the County may support wildlife movement on a regional scale, while riparian corridors and waterways may provide local small-scale dispersal corridors for wildlife movement among habitat patches throughout the County.

Rincon biologists reviewed the CDFW Biogeographical Information and Observation Systems BIOS (2017b) and the *California Essential Habitat Connectivity Project: A Strategy for Conserving a Connected California* (Spencer et al. 2010) for information on wildlife corridors in the region. *Missing Linkages: Restoring Connectivity to the California Landscape and Critical Linkages: Bay Area & Beyond* (Penrod et al. 2013) identify movement corridors throughout California, including specific details on corridors in Monterey County. These reports were also reviewed for information on regional wildlife movement and known wildlife corridors. No Essential Habitat Connectivity Areas (ECAs) are mapped within the project site. ECAs represent principle connections between Natural Landscape Blocks. ECAs are regions in which land conservation and management actions should be prioritized to maintain and enhance ecological connectivity. ECAs are mapped based on coarse

ecological condition indicators, rather than the needs of particular species and thus serve the majority of species in each region. The project site is bordered on all sides by development and paved parking lots and does not connect with any natural habitats; therefore, it does not contain regional wildlife corridors.

The southern end of Hatton Canyon State Park (Marathon Flats), approximately 222.8 feet to the west, likely does provide a corridor for wildlife movement between Hatton Canyon and the Carmel River riparian zone. The section of the park near the site, however, is very narrow (165 feet) and consists primarily of open grassland with scattered trees, and a paved bicycle trail. The mixed woodland within the site does include wildlife corridor characteristics, such as cover, but does not provide a link between natural habitats. In summary, the project site does not contribute to any mapped ECAs and does not provide a wildlife corridor in either a local or a regional context.

4.2.3 Regulatory Setting

Federal, state, and local authorities under a variety of statutes and guidelines share regulatory authority over biological resources. The primary authority for general biological resources lies within the land use control and planning authority of a local jurisdiction, which in this instance is Monterey County. The CDFW is a trustee agency for biological resources throughout the State as defined in CEQA, and also has direct jurisdiction under the California Fish and Game Code (CFGC), which includes, but is not limited to, resources protected by the State of California under the CESA, as discussed more fully below.

Federal and State

United States Fish and Wildlife Service

The USFWS implements the Migratory Bird Treaty Act (MBTA, 16 United States Code [USC] Section 703-711) and the Bald and Golden Eagle Protection Act (16 USC Section 668). The USFWS and National Marine Fisheries Service (NMFS) share responsibility for implementing the FESA (16 USC § 153 et seq.). The USFWS generally implements the FESA for terrestrial and freshwater species, while the NMFS implements the FESA for marine and anadromous species. Projects that would result in "take" of any federally listed threatened or endangered species are required to obtain permits from the USFWS or NMFS through either Section 7 (interagency consultation with a federal nexus) or Section 10 (Habitat Conservation Plan) of FESA, depending on the involvement by the federal government in permitting and/or funding of the project. The permitting process is used to determine if a project would jeopardize the continued existence of a listed species and what measures would be required to avoid jeopardizing the species. "Take" under the federal definition means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. "Harm" is further defined by the USFWS to include the killing or harming special-status species due to significant obstruction of essential behavior patterns (i.e., breeding, feeding, or sheltering) through significant habitat modifications or degradation. Proposed or candidate species do not have the full protection of FESA; however, the USFWS and NMFS advise project applicants that they could be elevated to listed status at any time.

California Department of Fish and Wildlife (formerly California Department of Fish and Game)

The CDFW derives its authority from the California Fish and Game Code (CFGC). The California Endangered Species Act (CESA), Fish and Game Code Section 2050 et seq.) prohibits take of state listed species. Take under CESA is restricted to direct mortality of a listed species and does not

expressly prohibit indirect harm by way of habitat modification. The CDFW prohibits take for species designated as Fully Protected under the CFGC.

The CFGC sections 3503, 3503.5, and 3511 describe unlawful take, possession, or destruction of birds, nests, and eggs. Fully protected birds (Section 3511) may not be taken or possessed except under specific permit. Section 3503.5 of the CFGC protects all birds-of-prey and their eggs and nests against take, possession, or destruction of nests or eggs. Species of Special Concern (SSC) is a category used by the CDFW for those species, which are considered indicators of regional habitat changes or are considered potential future protected species. Species of Special Concern do not have any special legal status except that which may be afforded by the CFGC as noted above. The SSC category is intended by the CDFW for use as a management tool to include these species into special consideration when decisions are made concerning the development of natural lands. The CDFW also has authority to administer the Native Plant Protection Act (NPPA) (Fish and Game Code Section 1900 et seq.). The NPPA requires the CDFW to establish criteria for determining if a species, subspecies, or variety of native plant is endangered or rare. Under Section 1913(c) of the NPPA, the owner of land where a rare or endangered native plant is growing is required to notify the department at least 10 days in advance of changing the land use to allow for salvage of the plant(s).

Local

Monterey County 2010 General Plan

The 2010 General Conservation and Open Space Element provide goals, policies, and objectives pertaining to biological resources applicable to this project. Goal OS-5 is focused on the avoidance, minimization and mitigation of significant impacts to biological resources. The associated policies with this goal include the promotion of conservation of listed species; conservation and maintenance of critical habitat; and avoidance, minimization, and mitigation of impacts to listed species, critical habitat, and sensitive natural communities. The General Plan requires consistency with the California Public Resources Codes Section 21083.4, to mitigate the loss of oak woodlands. The public resources code requirement is that Counties must evaluate whether conversion of oak woodlands will have a significant effect on the environment. If effects are found to be significant, then mitigation is required. Mitigation may include conservation easements, conurbation to Oak Woodlands Conservation Funds, or other Mitigation Measures developed by the County.

Monterey County Ordinances

The County of Monterey Zoning Ordinance 21.64.260 calls for the protection and preservation of oaks and other types of native trees. This ordinance applies to all unincorporated areas outside of the Coastal Zone. Under this ordinance, a permit is required for the removal of any oak, madrone or redwood tree six inches or more in diameter two feet above ground level, or any landmark oak tree. A landmark oak tree is defined as; 24 inches or more in diameter when measured two feet above the ground, or trees which are visually significant, historically significant, or exemplary of their species. This permit requirement also applies to activities which may kill or destroy protected trees, such as poisoning or pruning more than one-third of living foliage. The Director of Planning may approve removal of up to three protected trees per lot in a one-year period, and the Planning Commission may approve removal of more than three protected trees with a Use Permit. In applying for a tree removal permit, the applicant must submit a complete tree report; including species, diameter two feet above ground level, estimated height, general health of the trees to be removed, as well as methods proposed for removal, protection measures for trees that are to remain, proposed replacement trees (at a one-to-one ratio) and locations.

If more than three protected trees are proposed for removal, a Forest Management Plan prepared by a professional forester (selected from the County's list of Consulting Foresters) is required. The continent and requirements of the Forest Management Plan are described in the Zoning Ordinance (Title 21, Section 21.64.260.

Carmel Valley Master Plan (CVMP)

CVMP biological policies are intended to protect natural habitats and biological resources within the Plan Area. Policy CV-3.4 requires the minimizing the alteration or disturbance of natural landforms, though the preservation of existing vegetation and habitat restoration. Policy CV-3.7 requires the preservation of areas of biological significance such as redwood forests, wetlands, native vegetation communities, and wildlife corridors. Policy CV-3.8 requires development to protect riparian vegetation, minimize erosion. Policy CV-3.10 requires landscaping and erosion control material to be comprised of plants native to Carmel Valley that are similar in habitat, form, and water requirements; and weedy species should be eradicated. Policy CV-3.11 discourages the removal of native oak, madrone and redwood trees in the Plan Area, and requires a permit for the removal of these species.

4.2.4 Impact Analysis

a. Methodology and Significance Thresholds

The evaluation of biological resources is based on a reconnaissance survey conducted by a Rincon Consultants, Inc. biologist on August 31, 2017, and a review of existing literature and sensitive species occurrence databases as described in Section 4.2.2 (Setting, Special Status Species), and summarized in Appendix C, *Special Status Species and Natural Communities*.

Evaluation Criteria

The following thresholds are based on Appendix G of the *CEQA Guidelines*. Impacts would be significant if the project would result in any of the following:

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 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;
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; and/or
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.

As discussed above, sensitive vegetation communities, including riparian habitat, are not present and do not have the potential to occur on-site; no federal wetlands or other jurisdictional features are present on-site; no wildlife corridors are present on-site; and the proposed project is not located within the boundaries of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved conservation agreement within the County. Therefore, no impacts to these resources would occur and therefore, thresholds 2, 3, 4, and 6 are not discussed in this section. Refer to Section 4.9, *Effects Found Not to be Significant*.

b. Project Impacts and Mitigation Measures

Threshold 1:	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?

Impact B-1 IMPLEMENTATION OF THE PROPOSED PROJECT HAS THE POTENTIAL TO IMPACT SPECIAL STATUS ANIMAL SPECIES, SPECIFICALLY CALIFORNIA RED-LEGGED FROGS. IMPACTS WOULD BE SIGNIFICANT BUT MITIGABLE.

Of the special status species considered, only one species, the California Red-Legged Frog (CRLF), has the potential to occur within the project site. As mentioned in Section 4.2.2 (Setting), CRLF has a low potential to occur on-site, and only while they are dispersing from breeding ponds and wetlands, in search of upland habitat. If present, individuals could be injured or killed during construction and grading activity. Impacts to CRLF habitat are not significant due to the isolated nature of the site and surrounding urban land uses. These impacts would be potentially significant but mitigable with implementation of measures outlined below.

Mitigation Measures

To reduce impacts to special status animal species, the following Mitigation Measures shall be implemented:

B-1(a) Worker Environmental Awareness Program (WEAP)

Prior to issuance of Building or Grading permits, and prior to initiation of construction activities, including staging and mobilization, all personnel associated with project construction shall attend WEAP training, conducted by a qualified biologist, to aid workers in recognizing special status species and sensitive biological resources that may occur on-site. The program shall include identification of the special status species and their habitats, a description of the regulatory status and general ecological characteristics of sensitive resources, and review of the limits of construction and Mitigation Measures required to reduce impacts to biological resources within the work area. A fact sheet conveying this information shall also be prepared for distribution to all contractors, their employers, and other personnel involved with construction of the project. All employees shall sign a form documenting that they have attended the WEAP and understand the information presented to them.

MONITORING ACTION

The WEAP form(s) shall be submitted to the Chief of Planning for review and approval prior to issuance of building or grading permits and prior to commencement of any construction activities.

B-1(b) CRLF Pre-construction Survey and Impact Avoidance

Measures shall be taken to identify, and if possible, avoid impacts California Red legged frogs (CRLF).

Measures for identification of CRLF shall include:

- Within 48 hours prior to the start of construction activities, including staging and mobilization, a qualified biologist shall conduct pre-construction surveys in accordance with the 2005 Guidance on Site Assessments and Field Surveys for California Red-legged Frog, within suitable upland habitat (areas with small mammal burrows, blackberry brambles, or dense vegetation) on-site.

MONITORING ACTION

The results of this survey shall be submitted to the County Chief of Planning for review and approval prior to the initiation of construction activities. If no CRLFs are observed, ongoing measures described below shall be implemented but Mitigation Measure B-1 (c) may not be necessary. If CRLFs are observed, Mitigation Measure B-1 (c) shall be implemented.

- Ongoing during all construction activities, measures taken to avoid impacts to CRLF shall include:
- Ongoing monitoring by construction personnel pursuant to Mitigation Measure B-1 (a).
- Water shall not be allowed to pool in a manner that may attract CRLF.
- All food-related garbage shall be placed in tightly sealed containers at the end of each workday to avoid attracting predators. Containers shall be emptied and garbage removed from the construction site at the end of each workweek. If sealed containers are not available, garbage shall be removed from the construction site upon completion of daily activities. All garbage removed from the construction site shall be disposed of at an appropriate off-site refuse location.
- Pets shall be prohibited at the construction site.
- If, at any time during construction, federally and/or state protected species are inadvertently harmed, construction activities shall cease and Mitigation Measure B-1 (c) shall be implemented. All incidences of harm shall be reported to the CDFW and USFWS within 48 hours.

MONITORING ACTION

Prior to final inspection of grading and building permits, the applicant shall demonstrate to the satisfaction of the Chief of Planning that avoidance measures were implemented during construction. Evidence shall include photos of the site during construction and a written statement from a qualified biologist.

B-1(c) USFWS Consultation

If, at any time during project implementation, CRLFs, during any life stages, are identified within the work area and impacts to individuals cannot be avoided, construction and grading in these areas shall be halted, and the County and USFWS shall be contacted immediately to initiate Federal Endangered Species Act consultation. No CRLFs shall be captured or relocated without expressed written permission from the USFWS. If CRLF are observed, the following additional measures shall be implemented:

- All areas where this species occurs shall be avoided until the approved biologist has determined that this species is no longer present. No life stages of this species shall be relocated without a

take authorization from the USFWS and/or CDFW. If relocation is authorized, the species shall be taken to an approved relocation site prior to initiation of construction activities.

- A biologist approved by the USFWS and CDFW shall be present on-site during all ground disturbing activities, including vegetation removal, and grading. Once these activities have been completed, the approved biologist shall conduct periodic inspections of the work site of not less than once per week when construction activities are occurring in/adjacent to suitable habitat. Additional site visits should occur during rain events when special-status amphibians are likely to be mobile to ensure that they are not entering work areas. Work activities in or adjacent to suitable habitat shall be completed between April 1 and November 1 to the greatest extent feasible.

MONITORING ACTION

If at any time prior to construction activities or during construction activities, potential impacts to CRLF are identified, construction activities shall not resume until authorized by a qualified biologist and, if applicable, USFWS and CDFW. Authorization from the qualified biologist, and if applicable CDFW and USFWS, shall be submitted to the Chief of Planning for review and approval prior to commencing or recommencing construction activities.

Significance After Mitigation

With implementation of the above Mitigation Measures, potential direct and indirect impacts to sensitive animal species would be reduced to a less than significant level.

Threshold 1:	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?

Impact B-2 CONSTRUCTION OF THE PROPOSED PROJECT COULD DIRECTLY IMPACT NESTING RAPTORS AND OTHER AVIAN SPECIES PROTECTED UNDER EXISTING REGULATIONS BY CAUSING INJURY, DEATH, OR NEST FAILURE. POTENTIAL IMPACTS TO NESTING BIRDS WOULD BE SIGNIFICANT BUT MITIGABLE.

If active migratory raptor or other bird nests are located on-site during vegetation removal or construction, individuals (eggs or nestlings) may be injured or killed due to impacts to the nest and interference with normal nesting behavior. This may be caused directly through removal of vegetation with a nest in it, or through disturbance related to noise that may cause nest abandonment.

Implementation of the proposed project would require vegetation clearing prior to construction, including the removal of thirty-five (35) trees. If tree removal, land clearing, construction, and grading of the project site occurs within the nesting bird season (February 1 through August 31), the proposed project could potentially impact nesting birds protected under MBTA and CFGC. Nesting birds present within the grading footprint during grading activities would be directly and indirectly impacted by the proposed project. Listed MBTA bird species may nest on or near the project site, and may be disturbed by noise, human presence, lighting, or grading activities associated with the proposed project, which could cause nesting failure and the loss of eggs or nestlings. Disruption of nesting and loss of active bird nests from construction and site preparation would be a potentially significant but mitigable with implementation of the Mitigation Measure below.

Mitigation Measures

To reduce impacts to nesting birds, the following Mitigation Measure shall be implemented.

B-2 Pre-construction Surveys for Nesting Birds and Raptors

The nesting season generally occurs from February 1 to September 15. For tree removal or construction activities occurring during the nesting season, surveys for nesting birds and raptors covered by the CFGC and the MBTA shall be conducted by a qualified biologist no more than 14 days prior to tree removal or initiation of any construction activities. Construction activities include any initial work onsite, such as construction staging and vegetation removal. The surveys shall include the entire project site plus a 100-foot buffer for non-raptors and 250-foot buffer for raptors. If active nests are located, the qualified biologist shall establish avoidance buffers based on the species, nest location and observed behavior. Buffer shall be a minimum of 25 feet for non-raptor bird species and a minimum of 100 feet for raptor species. All construction work shall be conducted outside any designated avoidance zones. Larger than minimum buffers may be required depending upon the status of the nest and the construction activities occurring in the vicinity of the nest. The biologist shall have full discretion for establishing a suitable buffer. The buffer area(s) shall be closed to all construction personnel and equipment until the young are no longer reliant on the nest site. A qualified biologist shall confirm that breeding/nesting is completed and young have fledged the nest prior to removal of the avoidance buffer.

Monitoring Action: No more than 14 day prior to removal of trees or initiation of construction activities, the applicant shall submit a written statement from a qualified biologist, to the satisfaction of the Chief of Planning describing how the Mitigation Measure has been complied with.

Significance After Mitigation

With implementation of the above Mitigation Measure, potential impacts to nesting bird species would be reduced to a less than significant level.

Threshold 5:	Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Impact B-3 CONSTRUCTION OF THE PROPOSED PROJECT WOULD REQUIRE REMOVAL OF NATIVE TREES, WHICH ARE PROTECTED UNDER CVMP POLICY CV-3.11 AND MONTEREY COUNTY CODE SECTION 21.64.260. PURSUANT TO REQUIRED RECEIPT OF A TREE REMOVAL PERMIT BEFORE PROCEEDING WITH REMOVALS AND THE PREPARATION OF A FOREST MANAGEMENT PLAN, THE PROJECT WOULD NOT CONFLICT WITH EITHER POLICY OR ORDINANCE. THEREFORE, POTENTIAL IMPACTS WOULD BE LESS THAN SIGNIFICANT.

The Monterey County General Plan requires consistency with the California Public Resources Code Section 21083.4 to mitigate the loss of oak woodlands. Although oaks and associated oak woodland species are present in the Mixed Woodland, the number of non-native species is not consistent with a natural oak woodland community. Additionally, the lack of connectivity to a natural vegetation community and the level of disturbance make the quality of this habitat poor. The removal of these remnant oak trees would not result in a significant impact.

CVMP Policy CV-3.11 discourages the removal healthy native oak, madrone, and redwood trees within the CVMP Area. This policy is codified in Monterey County Code Section 21.64.260(C). Native oaks, cottonwood, willow and sycamore trees occur within the project site, primarily along the

eastern border. The project would involve the removal of trees along the eastern border of the project site to construct the Market, Store A, and Store B.

Pursuant to Section 21.64.260(C)(2) of the Monterey County Code, oak, madrone, or redwood trees six inches or more in diameter may be removed within the CVMP area with approval of a tree removal permit. Therefore, a tree removal permit, as outlined in Section 21.64.260(D), would be required. This would include a description of the purpose for the tree removal and identification of the size, location, and species of replacement trees. A Tree Plan, including all existing trees, indicating trees to be removed and including tree protection measures has been prepared in submittal of a permit. Additionally, since more than three trees are proposed for removal (35 total), a Forest Management Plan prepared by a County approved Forester is also required. Upon approval of the Forest Management Plan and Use Permit for tree removal, the project would not conflict with local policies or ordinances related to tree preservation or removal. Therefore, impacts would be less than significant.

Mitigation Measures

No mitigation is required.

Cumulative Impacts

The geographic scope of this cumulative impact analysis is the Carmel Valley. This geographic extent is appropriate for biological resources as it represents a generally similar composition of plants and wildlife**.**

The majority of the project site has been previously developed (including currently landscaped areas), which removed the majority of natural habitat. The remainder of the site consists of non-native annual grassland and Mixed Woodland. California red-legged frog, as described above, have a low potential to occur within the project site, and impacts to this species in conjunction with expected development throughout the Carmel Valley could be significant given the already reduced distribution and abundance of this species as a result of habitat loss. However, Mitigation Measures to avoid and minimize impacts to CRLF and nesting birds are required and would reduce impacts to a less than significant level. In combination with similar measures to protect sensitive biological resources on other development projects in the Carmel Valley, it is anticipated that cumulative impacts on special status species would not be cumulatively considerable and the project's contribution would be less than significant.

Although implementation of the project would remove a small amount of marginal wildlife foraging habitat and native trees, the Mixed Woodland contained within the site has been completely surrounded by development and urban areas, and is too small to function as habitat for sensitive species. The project is not expected to contribute significantly to cumulative impacts to biological resources, when combined with other expected development in the area, and cumulative impacts would be less than significant.

Compliance with applicable federal, state, and local regulations relating to preservation of sensitive species in these areas, and adherence to the proposed Mitigation Measures outlined above for each of the specific potential impacts to biological resources, would reduce cumulative biological impacts to a less than significant level. The site is located in a developed area, and is not connected to larger natural habitats. Development of the site including the disturbed areas and coast live oak woodland would not further fragment surrounding habitat. The proposed project would not fragment off-site Carmel River or Hatton Canyon habitats, either on a project specific basis or cumulatively.

Large areas of open space are identified in the 2010 General Plan to protect and preserve a wide variety of habitats and wildlife corridors. The project site is designated for light commercial use and is surrounded by developed areas.