LIVE OAK ASSOCIATES, INC.
an Ecological Consulting Firm

December 9, 2020

Mr. Bud Elam
Elam Family Trust-A
14195 Shannon Road
Los Gatos, CA 95032

RE: Biological Evaluation of the approximately 28.61-acre 14195 Shannon Road (Elam Subdivision) project (APN 537-27-047), Town of Los Gatos, Santa Clara County, California (PN 2518-01).

Dear Mr. Elam,

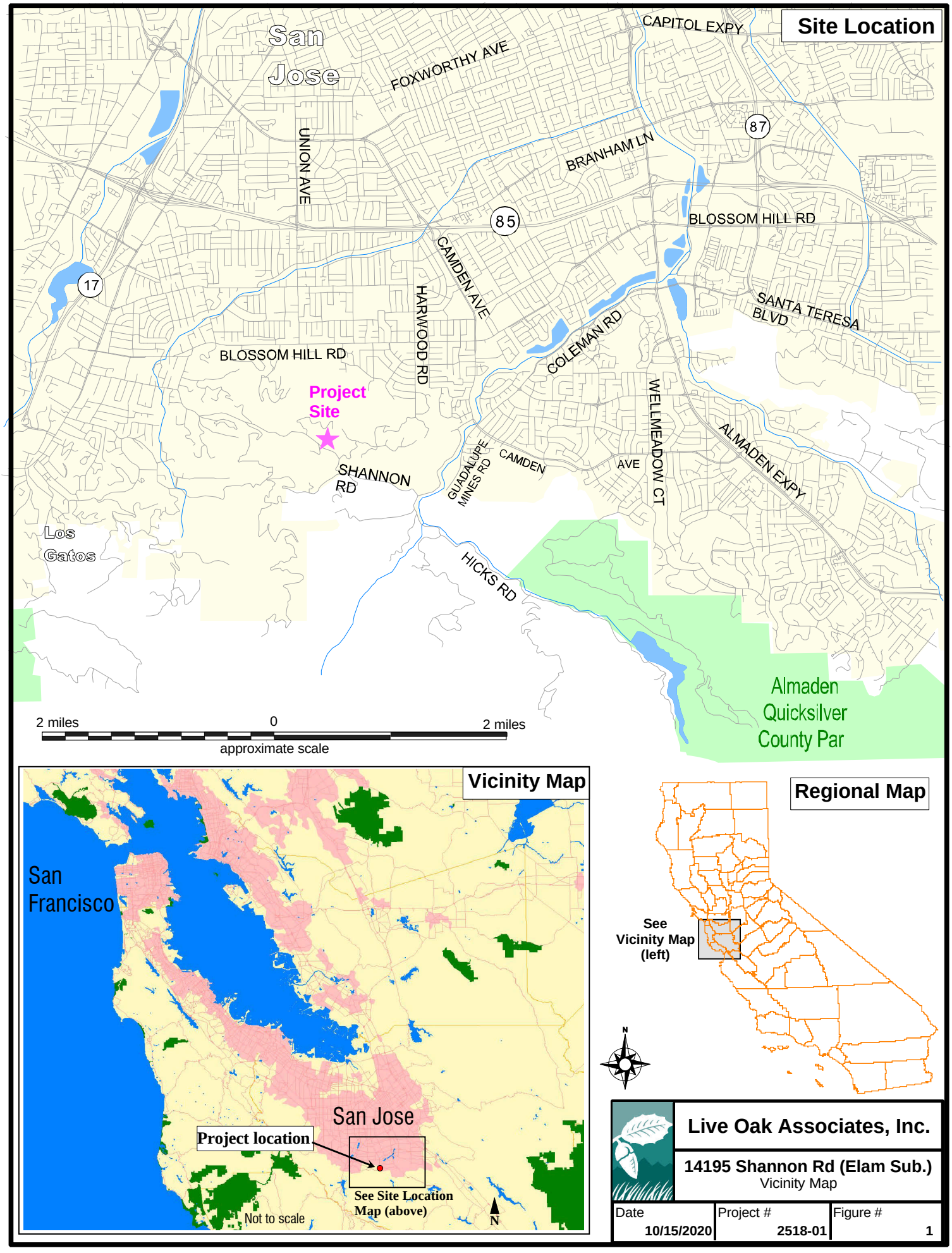
At your request, Live Oak Associates, Inc. (LOA) completed a biological evaluation for the approximately 28.61-acre Elam Subdivision project site, most of which occurs to the northeast of the intersection of Sky Lane and Shannon Road in the Town of Los Gatos. As we understand it, the project includes the rezoning of the site to Hillside Residential (HR) and the subdivision of the single parcel into nine single family home parcels with a visual open space easement to be preserved including wildlife corridors.

LOA plant and wetland ecologist Pamela Peterson and wildlife ecologist Katrina Krakow conducted a reconnaissance-level survey on October 13, 2020, and Ms. Peterson made a secondary site visit on November 10, 2020. The primary objectives of these site visits was to 1) identify the constituent species and habitats of the site and 2) assess the potential of the site to support sensitive habitats (e.g., wetland and riparian habitats) or suitable habitat for special status plant or animal species. Background sources of information reviewed in the preparation of this analysis included the Natural Resource Conservation Service's (NRCS) websoil survey (accessed on-line on October 7, 2020), the on-line National Wetlands Inventory (accessed on-line on October 7, 2020), the *California Natural Diversity Data Base* (accessed on-line on October 7, 2020), special status species lists prepared by the California Department of Fish and Wildlife (CDFW 2020), U.S. Fish and Wildlife Service (USFWS 2020), and California Native Plant Society (CNPS 2020), and manuals and references related to plants and animals found in and around Santa Clara County.

EXISTING CONDITIONS

Regional Setting

The project site occurs on the north side of Shannon Road, approximately one-mile east of the more developed environs of the Town of Los Gatos and approximately 0.5-mile south of the



Live Oak Associates, Inc.		
14195 Shannon Rd (Elam Sub.) Vicinity Map		
Date 10/15/2020	Project # 2518-01	Figure # 1

developed environs of the City of San Jose, in the Los Gatos 7.5" U.S. Geological Survey (USGS) quadrangle (Figure 1). The site occurs on a generally southerly-facing slope with elevations ranging from a high of approximately 875 feet (267 meters) National Geodetic Vertical Datum (NGVD) in the northeastern portion of the site to a low of approximately 570 feet (174 meters) NGVD near the southeastern corner of the site near Shannon Road. The surrounding land uses include primarily rural homes on large acreages to the north, west and south, and open space to the east.

The southwestern portion of the site is developed with a single-family home, and various outbuildings and horse facilities including, but not limited to, a workshop, stalls, corrals, paddocks, arena, and round pen.

Soils

Three soil types occur on the site (NRCS 2020; accessed on-line on October 5, 2020). Most of the site is underlain by Zeppelin-Alumrock Complex, 30 to 50 percent slopes (well drained; residuum weathered from sandstone). Alo-Altamont Complex, 15 to 30 percent slopes (well-drained; residuum weathered from calcareous shale) occurs in the southeast portion of the site and a small area of Alumrock Fine Sandy Loam, 15 to 30 percent slopes (well drained; residuum weathered from sandstone) occurs along the site boundary in the northeastern portion of the site.

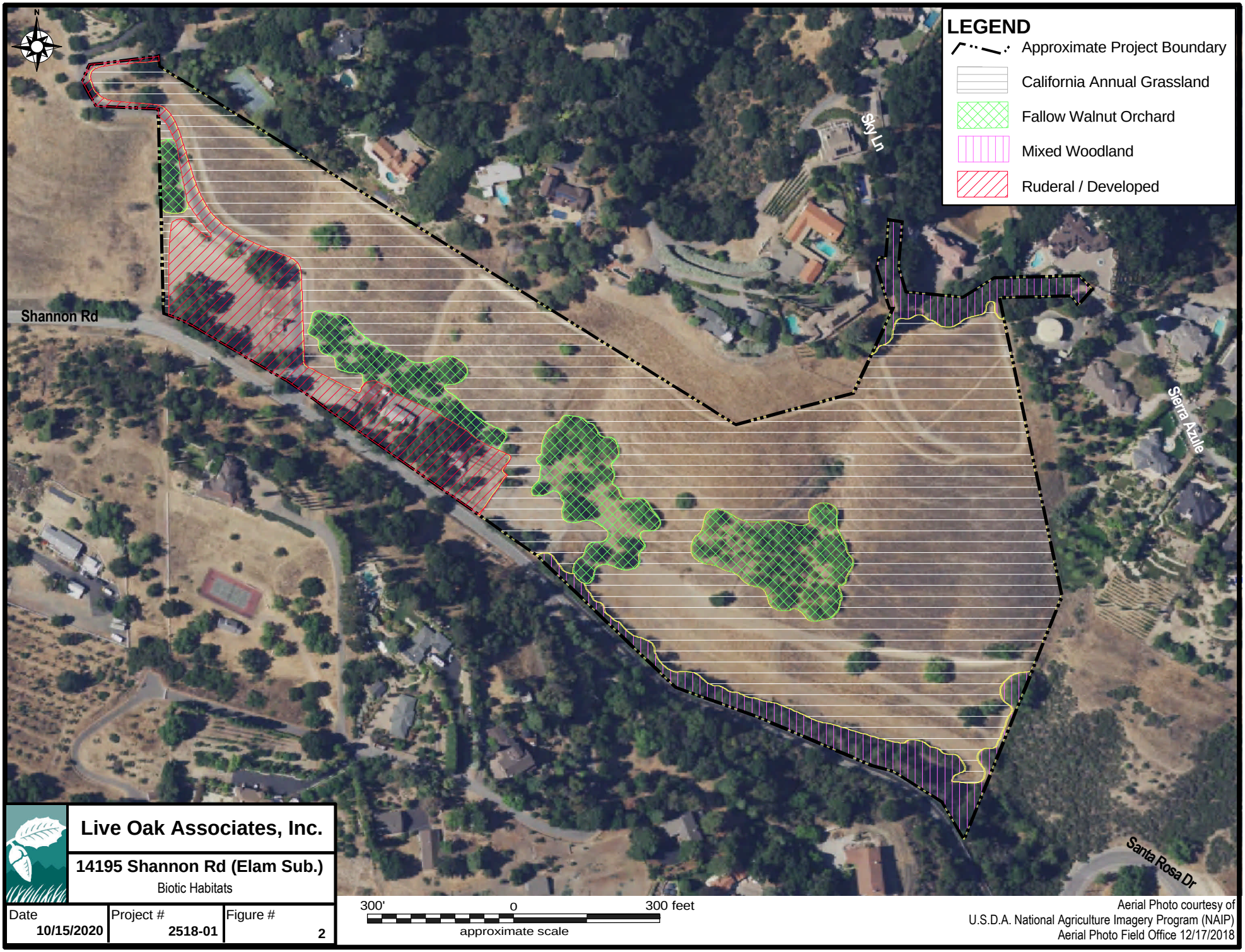
None of the soils of the site are considered to be hydric soils. A hydric soil is a soil that formed under conditions of saturation, flooding or ponding long enough during the growing season to develop anaerobic conditions in the upper part, and which may support hydrophytic (wetland) vegetation. While none of the soils of the site are considered to be hydric, hydric inclusions may occur.

None of the soils of the site are considered to be serpentine or alkaline soils, therefore, special status plant species that only occur on serpentine or alkaline soils are considered absent from the site.

Habitats

The site supports developed land uses, as well as three habitat types. These are described in greater detail below and depicted in Figure 2. Representative photos of these habitats are provided in Appendix B.

Developed/Ruderal. As indicated above, the southwestern portion of the site is developed with a home and various outbuildings including horse facilities (stalls, corrals, paddocks, arena, and round pen), as well as the paved Sky Lane roadway that bisects the western portion of the site. Currently, no horses are being kept on the site. Areas within the paddocks and corrals were heavily impacted and mostly barren of vegetation, although ruderal species adapted to disturbance were present in small numbers, including stinkwort (*Dittrichia graveolens*) and horehound (*Marrubium vulgare*). In the vicinity of the home, some landscape plants and shrubs were observed including juniper shrubs (*Juniper* sp.), privet (*Ligustrum* sp.) and cotoneaster (*Cotoneaster* sp.).


N
LEGEND
Approximate Project Boundary
California Annual Grassland
Fallow Walnut Orchard
Mixed Woodland
Ruderal / Developed
Shannon Rd
Sky Ln
Sierra Azule
Santa Rosa Dr
Live Oak Associates, Inc.
14195 Shannon Rd (Elam Sub.)
Biotic Habitats
Date 10/15/2020
Project # 2518-01
Figure # 2
300' 0 300 feet
approximate scale
Aerial Photo courtesy of
U.S.D.A. National Agriculture Imagery Program (NAIP)
Aerial Photo Field Office 12/17/2018

Wildlife observed in the developed/ruderal habitat during the October 13, 2020 site visit include the western fence lizard (*Sceloporus occidentalis*), California scrub jay (*Aphelocomacalifornica*), mourning dove (*Zenaida macroura*), Anna's hummingbird (*Calypte anna*), barn swallow (*Hirundo rustica*) nest, Botta's pocket gopher (*Thomomys bottae*) sign, California ground squirrel (*Otospermophilus beecheyi*), and domestic cat (*Felis catus*). Other migratory bird species are likely to occur and nest in this habitat, and animals such as bats, raccoon (*Procyon lotor*), opossum (*Didelphis virginiana*), and domestic dogs (*Canis lupus familiaris*), and species occurring in adjacent habitats are also expected to occur in this habitat.

California Annual Grassland. The most prevalent land cover type on the site is California annual grassland, which, at the time of the October site visit, was densely vegetated/matted with primarily senesced wild oats (*Avena* sp.) and yellow star thistle (*Centaurea solstitialis*). Other herbaceous species observed within these grasslands included mostly non-native forbs such as wild radish (*Raphanus sativa*), and field bindweed (*Convolvolus arvensis*). A significant native plant component was absent from this habitat, likely due to the dense cover by annual grasses, and the almost complete dominance by annual grasses would tend to make this habitat unsuitable for most rare plant species that occur in the project vicinity. Northern California black walnut trees (*Juglans hindsii*) that appeared to have recruited from the fallow orchards on the site were widely scattered within the annual grassland habitat.

A large, wide upland grassy swale traverses the southern, lower portion of the project site near Shannon Road. This feature has no defined bed and bank and supported upland vegetation that was mostly undifferentiated from the adjacent annual grasslands, i.e. no hydrophytic vegetation was observed within this feature. Just on the other side of the fence along the eastern boundary of the property, this feature appeared to connect to an off-site wetland and channel with a defined bed and bank and some associated riparian and scrub vegetation. We understand from the project's civil engineer that the swale may have occurred along the Shannon Fault.

Wildlife observed in the California annual grassland habitat during the October 13, 2020 site visit include the western fence lizard, turkey vulture (*Cathartes aura*), wild turkey (*Meleagris gallopavo*) feathers, California scrub jay, California towhee (*Melozone crissalis*), mourning dove, Anna's hummingbird, Botta's pocket gopher sign, California ground squirrel, domestic cat, black-tailed deer (*Odocoileus hemionus columbianus*). Other migratory bird species are likely to occur and nest in this habitat, and animals such as raccoon, opossum, and domestic cats and dogs; species occurring in adjacent habitats are also expected to occur in this habitat.

Fallow Walnut Orchard. Fallow walnut orchards are present on the site to the north of the developed and ruderal environs of the site. These orchards had been fallow for at least several decades and the Northern California black walnut root stocks had taken over the non-native black walnuts (*Juglans nigra*) that were once grafted to them.

Wildlife observed in the fallow walnut orchard habitat during the October 13, 2020 site visit include the western fence lizard, California scrub jay, California towhee, Nuttall's woodpecker (*Picoides nuttallii*), acorn woodpecker (*Melanerpes formicivorus*), northern flicker (*Colaptes auratus*), Anna's hummingbird, Botta's pocket gopher sign, California ground squirrel, and black-tailed deer. Other migratory bird species are likely to occur and nest in this habitat, and

animals such as bats, raccoon, opossum, and domestic dogs, and species occurring in adjacent habitats are also expected to occur in this habitat.

Mixed Woodland. A narrow strip of mixed woodland habitat occurs along the southeastern boundary of the property along Shannon Road, as well as occurs in the very northeast corner of the site within the driveway right-of-ways for two of the proposed lots. The dominant trees observed within this habitat included coast live oak (*Quercus agrifolia*) and Northern California black walnut. The shrub layer was mostly dominated by species such as coyote brush (*Baccharis pilularis*), blue elderberry (*Sambucus nigra ssp. cerulea*), and common snowberry (*Symphorocarpus albus*). Plant species observed in the herbaceous understory of this habitat included non-native forbs such as fennel (*Foeniculum vulgare*) and serrated lettuce (*Lactuca serriola*). This habitat type also occurs on the other side of Shannon Road from the project site, in areas that may be impacted by road widening as a result of the project.

Wildlife observed in the mixed woodland habitat during the October 13, 2020 site visit included the California scrub jay, California towhee, Nuttall's woodpecker (*Picoides nuttallii*), acorn woodpecker (*Melanerpes formicivorus*), northern flicker (*Colaptes auratus*), Anna's hummingbird, dark-eyed junco (*Junco hyemalis*), chestnut-backed chickadee (*Poecile rufescens*), and San Francisco dusky-footed woodrat (*Neotoma fuscipes annectens*) nests. Other migratory bird species are likely to occur and nest in this habitat, and animals such as bats, raccoon and opossum and species occurring in adjacent habitats are also expected to occur in this habitat.

Jurisdictional Waters

Jurisdictional waters include rivers, creeks, and drainages that have a defined bed and bank and which, at the very least, carry ephemeral flows. Jurisdictional waters also include lakes, ponds, reservoirs, and wetlands. Such waters may be subject to the regulatory authority of the U.S. Army Corps of Engineers (USACE), the California Department of Fish and Wildlife (CDFW), and the California Regional Water Quality Control Board (RWQCB).

The National Wetland Inventory identifies two areas on the site that they classify as "Freshwater Emergent Wetland". One of the latter areas is at the very eastern boundary of the site at the lowest point of the large upland swale described previously. This area was surveyed during the October site survey and was not observed to support wetland vegetation, although off-site it appears that there may be a wetland channel with associated riparian and scrub vegetation. This area was observed from the site's fence line and vegetation in that area was extremely dense, so it was difficult to determine the extent of this potential off-site wetland and channel. The other area identified by the NWI is at the top of a small upland swale in the eastern portion of the site. The location of the NWI-mapped wetland is on a steep slope above the swale and above a grouping of Northern California black walnut trees. This area supported upland vegetation including poison oak (*Toxicodendron diversilobum*), coyote brush, and a dense patch of Italian thistle (*Carduus pycnocephalus*). No evidence of hydrology or hydrophytic vegetation was observed in this location and, again, the area in question occurs on steep slope.

There were no other areas of the site that were observed to support wetlands or other jurisdictional waters, therefore, jurisdictional waters are confirmed absent from the site.

Special Status Species

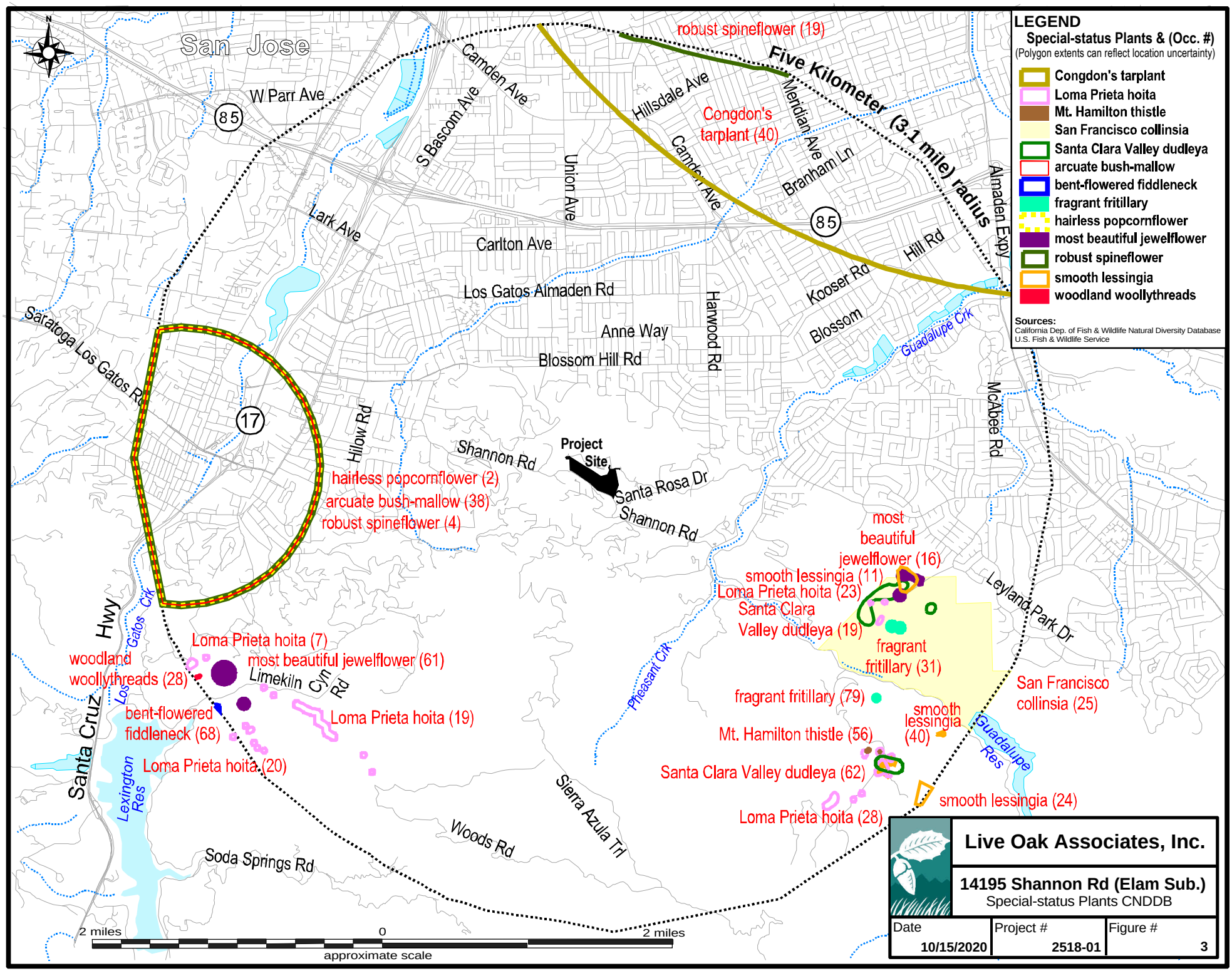
Special status species include plants and animals that are listed as threatened or endangered under the state and federal Endangered Species Acts (ESA); other plant and animal species considered to be species of concern or fully protected species in California; and plants maintained on lists compiled by CDFW and the California Native Plant Society (CNPS).

A search of published accounts for all relevant special status plant and animal species was conducted for the Los Gatos USGS 7.5" quadrangle in which the project site occurs and for the eight surrounding quadrangles (Cupertino, San Jose West, San Jose East, Santa Teresa Hills, Castle Rock Ridge, Loma Prieta, Laurel, and Felton) using the California Natural Diversity Data Base (CNDDB) Rarefind (CDFW 2020; accessed on-line on October 5, 2020). Special status species documented as occurring, or historically occurring, within a five-kilometer (approximately three-mile) radius of the project site are depicted in Figure 3 (plants) and Figure 4 (animals).

Special status plants and animals known to occur, or to once have occurred, in the project vicinity, and their likelihood of occurrence on the site, are included in Table 1A and 1B, respectively.

Certain special status plant species have been eliminated from consideration in Table 1A as these species are endemic on serpentine or alkaline soils and the soils of the site are not serpentine or alkaline. Serpentine species eliminated from consideration include: Coyote ceanothus (*Ceanothus ferrisiae*), Mt. Hamilton fountain thistle (*Cirsium fontinale var. campylon*), San Francisco collinsia (*Collinsia multicolor*), Santa Clara Valley dudleya (*Dudleya abramsii ssp. setchellii*), Loma Prieta hoita (Hoita strobilina), smooth lessingia (*Lessingia micradenia var. glabrata*), woodland woollythreads (*Monolopia gracilens*), white-rayed pentachaeta (*Pentachaeta bellidiflora*), Metcalf Canyon jewelflower (*Streptanthus albidus ssp. albidus*), and most beautiful jewelflower (*Streptanthus albidus ssp. peremoenus*). Special status plants adapted to alkaline soils which have been eliminated from consideration include: Congdon's tarplant (*Centromadia parryi ssp. congdonii*), hairless popcorn flower (*Plagiobothrys glaber*), chaparral ragwort (*Senecio aphanactis*), and saline clover (*Trifolium hydrophilum*).

Animals with a range that occurs outside of the site's immediate vicinity or in habitats not present on the site (e.g., serpentine, redwoods, marshes, coastal scrub, etc.) are considered absent from the site, and these species and are also eliminated from consideration in Table 1B. These species include Ohlone tiger beetle (*Cicindela ohlone*), Mount Hermon June beetle (*Polyphylla barbata*), Zayante band-winged grasshopper (*Trimerotropis infantilis*), Smith's blue butterfly (*Euphilotes enoptes smithi*), Bay checkerspot butterfly (*Euphydryas editha bayensis*), coho salmon (*Oncorhynchus kisutch*), steelhead (*Oncorhynchus mykiss*), marbled murrelet (*Brachyramphus marmoratus*), and black swift (*Cypseloides niger*).


LEGEND
Special-status Plants & (Occ. #)
(Polygon extents can reflect location uncertainty)
Congdon's tarplant
Loma Prieta hoita
Mt. Hamilton thistle
San Francisco collinsia
Santa Clara Valley dudleya
arcuate bush-mallow
bent-flowered fiddleneck
fragrant fritillary
hairless popcornflower
most beautiful jewelflower
robust spineflower
smooth lessingia
woodland woollythreads
Sources:
California Dep. of Fish & Wildlife Natural Diversity Database
U.S. Fish & Wildlife Service
Five Kilometer (3.1 mile) radius
Project Site
San Jose
W Parr Ave
Camden Ave
S Bascom Ave
Union Ave
Hillsdale Ave
Meridian Ave
Branham Ln
Almaden Expy
Hill Rd
Kooser Rd
Blossom
Lark Ave
Carlton Ave
Los Gatos Almaden Rd
Harwood Rd
Anne Way
Blossom Hill Rd
Saratoga Los Gatos Rd
Hillow Rd
Shannon Rd
Santa Rosa Dr
McAbee Rd
Guadalupe Crk
Leyland Park Dr
Hwy 17
Santa Cruz
Los Gatos Crk
Limekiln Cyn Rd
Pheasant Crk
Lexington Res
Guadalupe Res
Sierra Azula Trl
Woods Rd
Soda Springs Rd
robust spineflower (19)
Congdon's tarplant (40)
hairless popcornflower (2)
arcuate bush-mallow (38)
robust spineflower (4)
most beautiful jewelflower (16)
smooth lessingia (11)
Loma Prieta hoita (23)
Santa Clara Valley dudleya (19)
fragrant fritillary (31)
San Francisco collinsia (25)
fragrant fritillary (79)
smooth lessingia (40)
Mt. Hamilton thistle (56)
Santa Clara Valley dudleya (62)
smooth lessingia (24)
Loma Prieta hoita (28)
Loma Prieta hoita (7)
most beautiful jewelflower (61)
woodland woollythreads (28)
bent-flowered fiddleneck (68)
Loma Prieta hoita (19)
Loma Prieta hoita (20)
2 miles
0
2 miles
approximate scale
Live Oak Associates, Inc.
14195 Shannon Rd (Elam Sub.)
Special-status Plants CNDDB
Date
10/15/2020
Project #
2518-01
Figure #
3

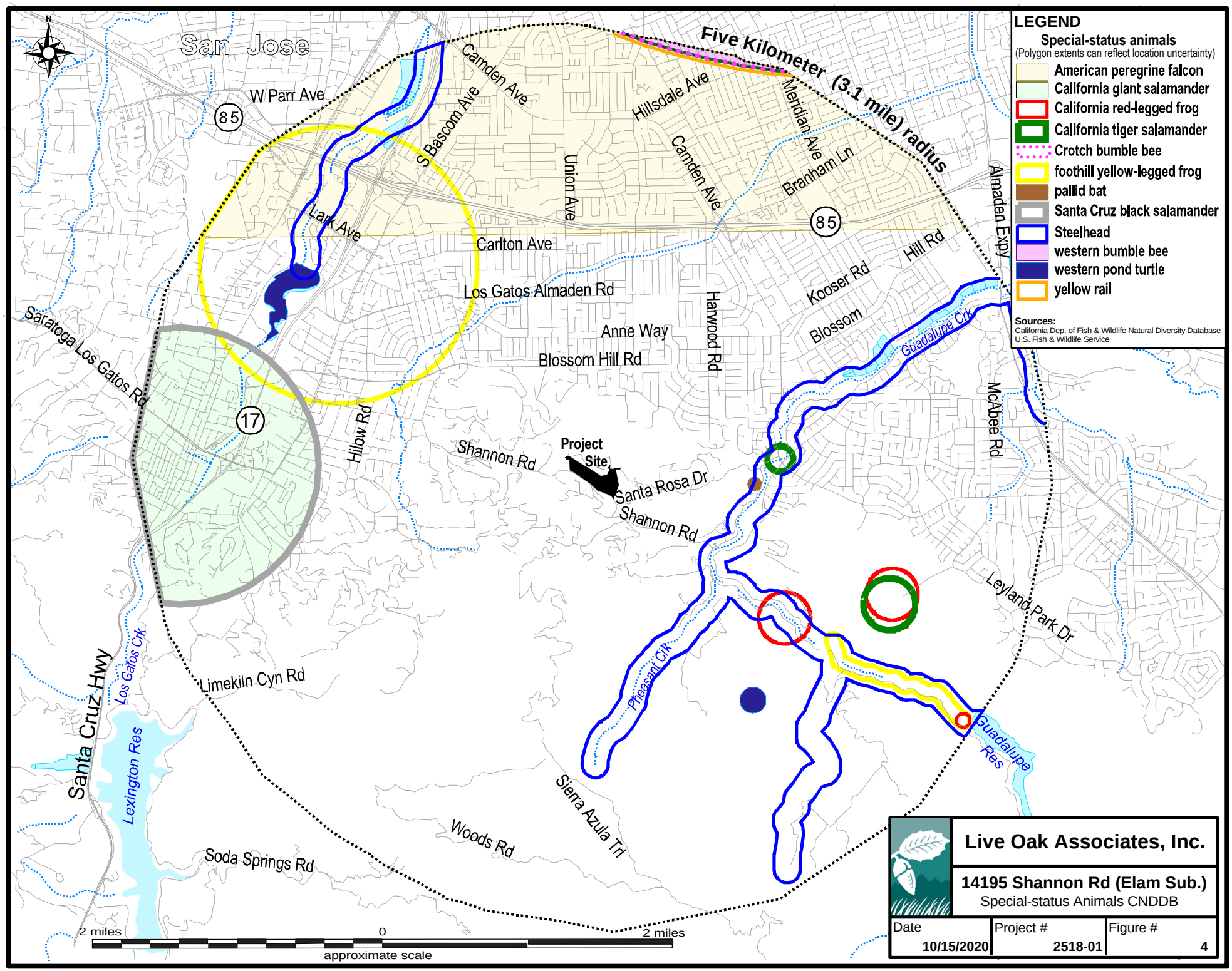

San Jose
Five Kilometer (3.1 mile) radius
W Parr Ave
Camden Ave
S Bascom Ave
Hillsdale Ave
Meridian Ave
Branham Ln
Union Ave
Lark Ave
Carlton Ave
Los Gatos Almaden Rd
Harwood Rd
Kooser Rd
Hill Rd
Almaden Expy
Blossom
Anne Way
Blossom Hill Rd
Saratoga Los Gatos Rd
Hilow Rd
Shannon Rd
Project Site
Santa Rosa Dr
Guadalupe Crk
McAbee Rd
Leyland Park Dr
Pheasant Crk
Guadalupe Res
Santa Cruz Hwy
Los Gatos Crk
Limekiln Cyn Rd
Lexington Res
Sierra Azula Trl
Woods Rd
Soda Springs Rd
85
17
2 miles
0
2 miles
approximate scale
LEGEND
Special-status animals
(Polygon extents can reflect location uncertainty)
American peregrine falcon
California giant salamander
California red-legged frog
California tiger salamander
Crotch bumble bee
foothill yellow-legged frog
pallid bat
Santa Cruz black salamander
Steelhead
western bumble bee
western pond turtle
yellow rail
Sources:
California Dep. of Fish & Wildlife Natural Diversity Database
U.S. Fish & Wildlife Service
Live Oak Associates, Inc.
14195 Shannon Rd (Elam Sub.)
Special-status Animals CNDDB
Date
10/15/2020
Project #
2518-01
Figure #
4

TABLE 1A: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY

PLANTS (adapted from CDFW 2020 and CNPS 2020)

Species Listed as Threatened or Endangered under the State and/or Federal Endangered Species Act

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Marsh Sandwort (*Arenaria paludicola*)	FE, CE, CRPR 1B	Habitat: Freshwater wetlands. Elevation: 3-170 m. Blooms: Perennial herb; May-August.	**Absent.** Habitat is absent from the site for this species.
Ben Lomond Spineflower (*Chorizanthe pungens var. hartwegiana*)	FE, CRPR 1B	Habitat: Maritime ponderosa pine sandhills. Elevation: 90-610 m. Blooms: Annual herb; April-July.	**Absent.** Habitat is absent from the site for this species. Not known from Santa Clara County.
Monterey Spineflower (*Chorizanthe pungens* var. *pungens*)	FT, CRPR 1B	Habitat: Sandy soils within chaparral, cismontane woodland, coastal dunes, coastal scrub and valley and foothill grassland. Elevation: 3-450 m. Blooms: Annual herb; April-June.	**Absent.** Habitat is absent from the site for this species. Not known from Santa Clara County.
Scott's Valley Spineflower (*Chorizanthe robusta var. hartwegii*)	FE, CRPR 1B	Habitat: Sandy soils in meadows and seeps; mudstone and Purisima outcrops in valley and foothill grassland. Elevation: 230-245 m. Blooms: Annual herb; April–July.	**Absent.** Habitat is absent from the site for this species. This species is not known to occur in Santa Clara County and there are no observations of this species within a three-mile radius of the site.
Robust spineflower (*Chorizanthe robusta* var. *robusta*)	FE, CRPR 1B	Habitat: Occurs in sandy or gravelly soils within cismontane woodland, coastal dunes, and coastal scrub. Elevation: 3-300 m. Blooms: Annual herb; April-September.	**Unlikely.** Soils appropriate for this species are limited to some barren gravelly soils in the very northwestern corner of the site adjacent to Sky Lane near its terminus. Although the site visit occurred just outside the latter part of the blooming season for this species, senescent skeletons of this species would likely have been still observable and it was not observed. Additionally, there are only two documented observances of this species in the project vicinity: Occurrence #19 is approximately 2.5 to 3 miles west on the Sierra Azul Open Space Preserve; and Occurrence #4 was last observed in 1888 approximately 3 miles north and is likely extirpated.
Santa Cruz wallflower (*Erysimum teretifolium*)	FE, CE, CRPR 1B	Habitat: Inland marine sands within chaparral and lower montane coniferous forest. Elevation: 120-610 m. Blooms: Perennial herb; March-July	**Absent.** Habitat is absent from the site for this species. This species is not known to occur in Santa Clara County and there are no observations of this species within a three-mile radius of the site.

TABLE 1A: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY

PLANTS (adapted from CDFW 2020 and CNPS 2020)

Species Listed as Threatened or Endangered under the State and/or Federal Endangered Species Act

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Santa Cruz cypress (*Hesperocyparis abramsiana var. abramsiana*)	FE, CE, CRPR 1B	Habitat: Sandstone or granitic soils in chaparral or coniferous forest. Elevation: 280-800 m. Blooms: Evergreen tree.	**Absent.** Habitat is absent from the site for this species. This species is not known to occur in Santa Clara County and there are no observations of this species within a three-mile radius of the site. nty.
Santa Cruz tarplant (*Holocarpha macradenia*)	FT, CE, CRPR 1B	Habitat: Often clay and sandy soils in coastal prairie and scrub, and valley and foothill grassland. Elevation: 10-220 m. Blooms: Annual herb; June-October.	**Absent.** Habitat is absent from the site for this species.
Contra Costa Goldfields (*Lasthenia conjugens*)	FE, CRPR 1B	Habitat: Vernal pools and mesic areas within cismontane woodland, alkaline playas, and valley and foothill grasslands. Elevation: 0-470 m. Blooms: Annual herb; March-June.	**Absent.** Habitat is absent from the site for this species.
San Francisco popcornflower (*Plagiobothrys diffusus*)	CE, CRPR 1B	Habitat: Coastal prairie and valley and foothill grasslands. Elevation: 60-360 m. Blooms: Annual herb; March-June.	**Unlikely.** Habitat is extremely marginal on the site for this species as a result of tall, dense annual grasses and the closest known populations are more than 10 miles west of the site in Santa Cruz County.
Scott's Valley polygonum (*Polygonum hickmanii*)	FE, CE, CRPR 1B	Habitat: Mudstone and sandstone soils in valley and foothill grassland. Elevation: 210-250 m. Blooms: Annual herb; May-October.	**Absent.** Habitat is absent from the site for this species.

TABLE 1B: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY.

PLANTS (adapted from CDFW 2020 and CNPS 2020)

Other special status plants listed by the CDFW and CNPS

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Bent-flowered fiddleneck (*Amsinckia lunaris*)	CRPR 1B	Habitat: Coastal bluff scrub, cismontane woodland, valley and foothill grassland. Elevation: 3-500 m. Blooms: Annual herb; March-June.	**Possible.** This species has been documented in the Sierra Azul Open Space Preserve approximately three miles west of the site and woodlands and grasslands of the site provide potential habitat for this species.
Slender silver moss (*Anomobryum julaceum*)	CRPR 4	Habitat: Damp rocks and soil in broadleaved upland forest, lower montane coniferous forest, North Coast coniferous forest. Elevation: 100-1000 m. Blooms: Moss.	**Absent.** Habitat is absent from the site for this species. Not known from Santa Clara County.

TABLE 1B: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY.

PLANTS (adapted from CDFW 2020 and CNPS 2020)
Other special status plants listed by the CDFW and CNPS

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Anderson's manzanita (*Arctostaphylos andersonii*)	CRPR 1B	Habitat: Occurs in openings and at edges of broadleaved upland forest, chaparral, and North Coast coniferous forest. Elevation: 60-730 meters. Blooms: Evergreen shrub; November–May.	**Absent.** Manzanita species are absent from the project site.
Bonny Doon manzanita (*Arctostaphylos silvicola*)	CRPR 1B	Habitat: Inland marine sands within chaparral and coniferous forest. Elevation: 120-600 m. Blooms: Evergreen shrub; February-March.	**Absent.** Manzanita species are absent from the project site. Species is not known from Santa Clara County.
Big-scale balsamroot (*Balsamorhiza macrolepis* var. *macrolepis*)	CRPR 1B	Habitat: Chaparral, cismontane woodlands, and valley and foothill grasslands (sometimes on serpentine) Elevation: 90-1400 m. Blooms: Perennial herb; March-June	**Absent**. Although marginally suitable habitat occurs on the site for this species, this perennial plant would have been observable during the October survey if present and it was not observed.
Round-leaved filaree (*California macrophylla*)	CRPR 1B	Habitat: Occurs on clay soils within cismontane woodlands and valley and foothill grasslands. Elevation: 15-1200 meters. Blooms: Annual herb; March-May.	**Absent.** Clay soils are absent from the site.
Santa Cruz Mountains pussypaws (*Calyptridium parryi var. hesseae*)	CRPR 1B	Habitat: Chaparral and cismontane woodland in sandy or gravelly, openings. Elevation: 305-1105 m. Blooms: Annual herb; May-July.	**Absent.** Habitat is absent from the site for this species.
Swamp harebell (*Campanula californica*)	CRPR 1B	Habitat: Wetlands and mesic areas within coniferous forest and coastal prairie. Elevation: 1-405 m. Blooms: Perennial herb; June-October.	**Absent.** Habitat is absent from the site for this species.
Bristly sedge (*Carex comosa*)	CRPR 2	Habitat: Mesic areas, including lake margins, within coastal prairie and valley and foothill grassland. Elevation: 0-425 m. Blooms: Perennial herb; May-September.	**Absent.** Habitat is absent from the site for this species.

TABLE 1B: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY.

PLANTS (adapted from CDFW 2020 and CNPS 2020)
Other special status plants listed by the CDFW and CNPS

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Deceiving sedge (*Carex saliniformis*)	CRPR 1B	Habitat: Mesic areas in coastal prairie, coastal scrub, meadows and seeps, and marshes and swamps (coastal salt). Elevation: 3-230 m. Blooms: Perennial herb; May-September.	**Absent.** Habitat is absent from the site for this species.
Santa Clara red ribbons (*Clarkia concinna ssp. automixa*)	CRPR 4	Habitat: Chaparral and cismontane woodland, on slopes and near drainages. Elevation: 90-1500 m. Blooms: Annual herb; April-July.	**Possible.** Woodlands of the site provide potentially suitable habitat for this species. There are several recorded observations of this species within two to three miles southwest of the site recorded in CNDDB or by CalFlora.
Tear drop moss (*Dacryophyllum falcifolium*)	CRPR 1B	Habitat: Carbonate soils in North Coast coniferous forest. Elevation: 50-275 Blooms: Moss.	**Absent.** Habitat is absent from the site for this species.
Western leatherwood (*Dirca occidentalis*)	CRPR 1B	Habitat: Broadleaved upland forest, coniferous forest, riparian habitats and chaparral. Elevation: 50-395 m. Blooms: Deciduous shrub; January-April.	**Absent.** Habitat is marginal on the site for this species, limited to the small areas of mixed woodland along Shannon Road and in the northwestern corner of the site; and, this shrub species would have been observed during the October site visit in this habitat if present and it was not observed. Additionally, the closest known occurrence of this species is in the vicinity of Lexington Reservoir more than three miles southwest of the site (information from Midpeninsula Regional Open Space and not documented in the CNDDB).
Ben Lomond buckwheat (*Eriogonum nudum var. decurrens*)	CRPR 1B	Habitat: Sand hill soils of Santa Cruz County within chaparral, cismontane woodland and coniferous forest. Elevation: 50-800 m. Blooms: Perennial herb; June-October.	**Absent.** Habitat is absent from the site for this species.
Minute pocket moss (*Fissidens pauperculus*)	CRPR 1B	Habitat: Damp soils within North Coast coniferous forest. Elevation: 10-100 m. Blooms: Moss.	**Absent.** Habitat is absent from the site for this species.

TABLE 1B: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY.

PLANTS (adapted from CDFW 2020 and CNPS 2020)
Other special status plants listed by the CDFW and CNPS

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Fragrant fritillary (*Fritillaria liliacea*)	CRPR 1B	Habitat: Occurs on clay soils within coastal prairie, and scrub, and valley and foothill grasslands, often on serpentine. Elevation: 3-410 m. Blooms: Bulbiferous; February-April	**Absent.** Habitat is absent from the site for this species.
Kellogg's horkelia (*Horkelia cuneata var. sericea*)	CRPR 1B	Habitat: Sandy or gravelly openings in coniferous forest, chaparral, and coastal scrub. Elevation: 10-200 m. Blooms: Perennial herb; April-September.	**Absent.** Habitat is absent from the site for this species. Species is not known from Santa Clara County.
Point Reyes horkelia (*Horkelia marinensis*)	CRPR 1B	Habitat: Coastal prairie, dune and scrub habitats. Elevation: 5-350 m. Blooms: Perennial herb; May-September.	**Absent.** Habitat is absent from the site for this species. Species is not known from Santa Clara County.
Arcuate bush mallow (*Malacothamnus arcuatus*)	CRPR 1B	Habitat: Occurs on gravelly soils within chaparral. Elevation: 15-355 meters. Blooms: Evergreen shrub; April-September.	**Absent.** Habitat is absent from the site for this species.
Hall's bush mallow (*Malacothamnus hallii*)	CRPR 1B	Habitat: Occurs within chaparral and coastal scrub. Elevation: 10-760 meters. Blooms: Evergreen shrub; May-October.	**Absent.** Habitat is absent from the site for this species.
Marsh microseris (*Microseris paludosa*)	CRPR 1B	Habitat: Coniferous forest, cismontane woodland, coastal scrub and valley and foothill grassland. Elevation: 5-300 m. Blooms: Perennial herb; April-June.	**Unlikely.** Although potentially suitable habitat occurs on the site, this species is not known in Santa Clara County and there are no documented occurrences in the CNDDB within a three-mile radius of the site. The closest documented occurrences are along the coast in Santa Cruz County.
Northern curly-leaved monardella (*Monardella sinuata ssp. nigrescens*)	CRPR 1B	Habitat: Sandy soils within ponderosa pine sandhills, coastal scrub, dunes, and chaparral. Elevation: 0-300 m. Blooms: Annual herb; April-September.	**Absent.** Habitat is absent from the site for this species.
Dudly's lousewort (*Pedicularis dudleyi*)	CRPR 1B	Habitat: Maritime chaparral, North Coast coniferous forest, and valley and foothill grassland. Elevation: 60-900 m. Blooms: Perennial herb; April-June.	**Absent.** Habitat is absent from the site for this species.

TABLE 1B: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY.

PLANTS (adapted from CDFW 2020 and CNPS 2020)
Other special status plants listed by the CDFW and CNPS

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Santa Cruz Mountains beardtongue (*Penstemon rattanii* var. *kleei*)	CRPR 1B	Habitat: Occurs in chaparral, lower montane coniferous forest, and north coast coniferous forest. Elevation: 400-1100 meters. Blooms: Perennial herb; May-June.	**Absent.** Habitat is absent from the site for this species.
White-flowered rein orchid (*Piperia candida*)	CRPR 1B	Habitat: Broadleaved upland forest and coniferous forests, sometimes on serpentine. Elevation: 30-1310 m. Blooms: Perennial herb; May-September.	**Absent.** Habitat is absent from the site for this species
Choris' popcorn-flower (*Plagiobothrys chorisianus var. chorisianus*)	CRPR 1B	Habitat: Mesic soils in chaparral, coastal prairie, and coastal scrub. Elevation: 15-100 m. Blooms: March-June.	**Absent.** Habitat is absent from the site for this species.
Santa Cruz microseris (*Stebbinsoseris decipiens*)	CRPR 1B	Habitat: Open areas within broadleafed upland forest, closed-cone coniferous forest, chaparral, coastal prairie, coastal scrub, valley and foothill grassland. Sometimes on serpentine. Elevation: 10-500 m. Blooms: Annual herb; April-May.	**Unlikely.** Habitat is extremely marginal on the site for this species, serpentine soils are absent, and there are no known occurrences within three miles of the site.
Santa Cruz clover (*Trifolium buckwestiorum*)	CRPR 1B	Habitat: Moist grasslands and gravelly margins of broadleaved upland forest, cismontane woodland, coastal prairie. Elevation: 105-610 m. Blooms: Annual herb; April-October.	**Absent.** Habitat is absent from the site for this species.
Pacific Grove clover (*Trifolium polyodon*)	CRPR 1B	Habitat: Mesic and sometimes granitic areas within closed cone coniferous forest, coastal prairie, and valley and foothill grassland. Elevation: 5-425 m. Blooms: Annual herb; April-June (July).	**Absent.** Habitat is absent from the site for this species.

TABLE 2A: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY.

ANIMALS (adapted from CDFW 2020 and USFWS 2020)

Species Listed as Threatened or Endangered under the State and/or Federal Endangered Species Acts

Common and scientific names	Status	General habitat description	*Occurrence in the study area
California tiger salamander (*Ambystoma californiense*)	FT, CT	Breeds in stagnant pools with continuous inundation for a minimum of three months, which may include vernal pools and stock ponds of central California; adults aestivate in grassland habitats adjacent to the breeding sites.	**Absent.** Habitat is absent from the site for this species. The closest recorded location of this species is just over one mile to the east of the site (CDFW 2020).
Foothill yellow-legged frog (*Rana boylii*)	CE	Occurs in swiftly flowing streams and rivers with rocky substrate with open, sunny banks in forest, chaparral, and woodland habitats, and can sometimes be found in isolated pools and ponds.	**Absent.** This species needs perennial water which does not occur onsite. The closest recorded location of this species is approximately two miles to the south of the site near Guadalupe Reservoir in Guadalupe Creek and a proximity polygon to the northwest of the site centered near Vasona Reservoir (CDFW 2020).
California red-legged frog (*Rana draytonii*)	FT, CSC	Dense, shrubby riparian vegetation such as arroyo willow, cattails, and bulrushes with still or slow-moving water. Perennial streams or ponds are preferred, and a salinity of no more than 4.5‰.	**Absent.** Suitable habitat for this species is absent from the site. The closest recorded location of this species is approximately 1.5 miles to the southeast of the site (CDFW 2020).
Swainson's hawk (*Buteo swainsonii*)	CT	Breeds in stands with few trees in juniper-sage flats, riparian areas, and in oak savannah. Requires adjacent suitable foraging areas such as grasslands or alfalfa fields supporting rodent populations.	**Unlikely.** Habitat for foraging and nesting is present onsite, however, the only known pair breeding in Santa Clara County breeds annually near the intersection of Bailey Avenue and Highway 101, which is more than 12 miles to the southeast of the site. Therefore, it is unlikely this pair would fly over the site and is also unlikely they would breed onsite.
Tricolored blackbird (*Agelaius tricolor*)	CT, CSC	Breeds near fresh water, primarily emergent wetlands, with tall thickets. Forages in grassland and cropland habitats.	**Absent.** Breeding habitat is absent from the site for this species.

TABLE 2B: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY.

ANIMALS (adapted from CDFW 2020 and USFWS 2020)

California Species of Special Concern and Protected Species

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Santa Cruz black salamander (*Aneides niger*)	CSC	Occurs in deciduous woodland, coniferous forests, and coastal grasslands around the Santa Cruz Mountains and foothills. This species is also known to occur on the developed flats in pockets within older developments. They can be found under rocks near streams, in talus, under damp logs, rotting wood, and other objects.	**Possible.** The site supports suitable habitat for this species within the woodland habitat along the frontage of Shannon Road which is adjacent to contiguous woodland habitat off-site. The onsite structures are old and may support this species under foundations and within rotting wood of the structures themselves. The closest recorded location of this species is a proximity buffer which was generally mapped to the Town of Los Gatos approximately two miles to the southwest of the site (CDFW 2020).
California giant salamander (*Dicamptodon ensatus*)	CSC	Wet coastal forests near streams and lakes. Larvae occur in cold, clear streams or occasionally in ponds and lakes. Adults found under rocks and logs in wet forests near streams and lakes.	**Absent.** Suitable habitat is absent from the site and its immediate vicinity. The closest recorded location of this species is a proximity buffer which was generally mapped to the Town of Los Gatos approximately two miles to the southwest of the site (CDFW 2020).
Northern California legless lizard (*Anniella pulchra*)	CSC	The NCLL (previously called silvery legless lizard) occurs mostly underground in warm moist areas with loose soil and substrate. The NCLL occurs in habitats including sparsely vegetated areas of beach dunes, chaparral, pine-oak woodlands, desert scrub, sandy washes, and stream terraces with sycamores, cottonwoods, or oaks.	**Absent.** The site is not within the range of the Northern California legless lizard.
Coast horned lizard (*Phrynosoma blainvillii*)	CSC	Occur in grasslands, scrublands, oak woodlands, etc. of central California. Common in sandy washes with scattered shrubs. Prefers open areas for sunning, bushes for cover, patches of loose soil for burial, and an abundant supply of ants and other insects.	**Absent.** Habitat is absent from the site and surrounding areas for this species.
Western pond turtle (*Actinemys marmorata*)	CSC	Intermittent and permanent waterways including streams, marshes, rivers, ponds and lakes. Open slow-moving water of rivers and creeks of central California with rocks and logs for basking.	**Absent.** Habitat for the western pond turtle is not available on the site. The closest recorded locations of this species are approximately two miles from the site (CDFW 2020).

TABLE 2B: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY.

ANIMALS (adapted from CDFW 2020 and USFWS 2020)

California Species of Special Concern and Protected Species

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Yellow rail (*Coturnicops noveboracensis*)	CSC	Frequents grassy meadows and sedge marshes with dense cover; breeds in marshes.	**Absent.** Suitable habitat for the yellow rail is absent from the site. The closest recorded location of this species is a proximity polygon approximately three miles from the site which was generally mapped to San Jose (CDFW).
White-tailed kite (*Elanus leucurus*)	CP	Rolling foothills and valley margins with scattered oaks & river bottomlands or marshes next to deciduous woodland. Prefers open grasslands, meadows, or marshes for foraging close to isolated, dense-topped trees for nesting and perching.	**Possible.** Suitable foraging and breeding habitat are present onsite.
American peregrine falcon (*Falco peregrinus anatum*)	CP	Individuals breed on cliffs in the Sierra or in coastal habitats or in humanmade structures; occurs in many habitats of the state during migration and winter.	**Absent.** Suitable habitat for nesting and foraging is absent from the site and surrounding areas for this species, however this species may pass through the area during migration, as it is known to nest in tall buildings of downtown San Jose and is mapped to the quadrangle in which San Jose sits (CDFW 2020).
Golden eagle (*Aquila chrysaetos*)	CP	Rolling foothills, mountain areas, sage-juniper flats, and deserts. Prefers cliff-walled canyons or large trees for provide nesting and forages in open areas.	**Possible.** Although breeding habitat is absent from the site, foraging habitat is present onsite.
Burrowing owl (*Athene cunicularia*)	CSC	Frequents open, dry annual or perennial grasslands, deserts, and scrublands characterized by low growing vegetation. Dependent upon burrowing mammals, most notably the California ground squirrel, for nest burrows.	**Absent.** Burrowing owls are not known to occur in these foothills or in the vicinity of the site, as they are known to occur near the San Francisco Bay and within grasslands of the valleys of Santa Clara County.
Purple martin (*Progne subis*)	CSC	Inhabits woodlands, low elevation coniferous forest of Douglas fir, ponderosa pine, and Monterey pine. Nests in old woodpecker cavities, also in human-made structures and nests widely in human-made birdhouses. Nests often located in tall, isolated trees or snags.	**Unlikely.** Tree cavities occur onsite, so potential nesting habitat occurs onsite, however, there have been no records in the vicinity of the site and the majority of nesting for this species largely occurs within human-made birdhouses which are absent from the site, therefore, it is not likely that nesting would take place in the project area.

TABLE 2B: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY.

ANIMALS (adapted from CDFW 2020 and USFWS 2020)

California Species of Special Concern and Protected Species

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Pallid bat (*Antrozous pallidus*)	CSC	Occurs in grasslands, chaparral, woodlands, and forests; most common in dry rocky open areas providing roosting opportunities. Roost sites include caves, mines, rock crevices, and large cavities of trees.	**Possible.** Suitable habitat is present for the pallid bat within the barn and outbuilding next to the residence onsite. The closest recorded location of this species is approximately 1.5 miles to the east of the site (CDFW 2020).
Townsend's big-eared bat (*Corynorhinus townsendii*)	CSC	Primarily a cave-dwelling bat that may also roost in buildings, bridges, rock crevices, and hollow trees. Occurs in a variety of habitats.	**Possible.** Suitable habitat is present for the Townsend's big-eared bat within the barn and outbuilding next to the residence onsite. The closest recorded location of this species more than three miles from the site (CDFW 2020).
San Francisco dusky-footed woodrat (*Neotoma fuscipes annectens*)	CSC	Found in hardwood forests, oak riparian and shrub habitats.	**Present.** Woodrat nests were observed in the mixed woodland habitat along Shannon Road.
American badger (*Taxidea taxus*)	CSC	Found in drier open stages of most shrub, forest and herbaceous habitats with friable soils, specifically grassland environments. Natal dens occur on slopes.	**Possible.** Suitable habitat is present onsite in the form of grasslands which is connected with other grasslands which provide suitable habitat for this species.

Explanation of Occurrence Designations and Status Codes

Present: Species observed on the sites at time of field surveys or during recent past.
Likely: Species not observed on the site, but it may reasonably be expected to occur there on a regular basis.
Possible: Species not observed on the sites, but it could occur there from time to time.
Unlikely: Species not observed on the sites, and would not be expected to occur there except, perhaps, as a transient.
Absent: Species not observed on the sites, and precluded from occurring there because habitat requirements not met.

FE	Federally Endangered	CE	California Endangered
FT	Federally Threatened	CT	California Threatened
FPE	Federally Endangered (Proposed)	CR	California Rare
FC	Federal Candidate	CP	California Protected
CSC	California Species of Special Concern		
CNPS	California Native Plant Society Listing		
1A	Plants Presumed Extinct in California	3	Plants about which we need more information – a review list
1B	Plants Rare, Threatened, or Endangered in California and elsewhere	4	Plants of limited distribution – a watch list
2	Plants Rare, Threatened, or Endangered in California, but more common elsewhere		

BIOLOGICAL IMPACTS AND MITIGATIONS

The following analysis of biological impacts is based on the proposed project, as described previously. CEQA significance criteria, as well as an explanation of the legal framework, including the local, state, and federal laws for biological resources is included in Appendix A.

Jurisdictional Waters

Potential Impact. Jurisdictional waters of the U.S. and state are absent from the project site. Therefore, the project will have no impact on jurisdictional waters.

Mitigation. None required.

Special Status Plants

Potential Impact. Most special status plants known to occur, or to have once occurred, in the project vicinity are considered absent from or unlikely to occur on the site as a result of a lack of suitable habitat, because the species is a perennial that would have been identifiable if present during the October site visit, or because habitat on the site is marginal for the species and it has not been documented in the project vicinity (i.e. within three miles of the site). However, there are two special status species that could not be ruled out as occurring on the site as the site provides potential habitat for these species, the species is known to occur in the vicinity of the site, and the October site visit occurred outside of the blooming period for these two annual species and therefore they would not have been observable if present. These latter two species include Santa Clara red ribbons (CRPR 4; blooms April – July) and bent-flowered fiddleneck (CRPR 1B; blooms March – June). Woodlands of the site occurring in the northeast corner where two lots are proposed as well as along both sides of Shannon Road that could be impacted by the development including the widening of the road provide potentially suitable habitat for both of these species, while grasslands of the site provide potentially suitable habitat for bent-flowered fiddleneck.

Neither of these species that have potential to occur on the site are listed as threatened or endangered under the federal or state ESA; however, they both are listed as rare and protected by CDFW and impacts to these species could be considered significant under CEQA.

Mitigation. The following mitigation when implemented would reduce impacts to special status plants to a less-than-significant level.

Focused Botanical Surveys. Focused botanical surveys should be conducted in areas of the site providing potential habitat for Santa Clara red ribbons (woodlands) and bent-flowered fiddleneck (woodlands and grasslands) that will be potentially impacted by the project. Surveys should be conducted to conform to the CNPS survey protocol (CNPS 1983, revised 2001) and the CDFW-recommended protocols for botanical resource surveys (CDFW 2018). These protocols include surveying areas providing potential habitat on foot in such a way as to provide 100% visual coverage of the area. Two surveys, one conducted in April and one in June, would be sufficient to confirm the presence or absence of these species on the site.

Should populations of special status plant species be found present on the site, a qualified botanist or plant ecologist will determine whether impacts to these populations would be considered a significant impact of the project. If project impacts to special status plants is determined to be less-than-significant, then no mitigation would be required. However, if impacts to special status plants is determined to represent a significant impact of the project, the following mitigation measures will be implemented.

Avoidance and Minimization. Avoidance of a sensitive resource is considered the preferred strategy. Avoidance measures would include revising the project to avoid a special status plant population with an appropriate buffer to allow for expansion of the population, as determined by a qualified botanist or plant ecologist. Minimization measures would include revising the project to minimize impacts to a less-than-significant level. If significant impacts to a special status plant population cannot be reduced to a less-than-significant level, the compensatory measures, as described below, may be required to reduce impacts to a less-than-significant level.

Compensation. Compensation for impacts to special status plants would take the form of establishing new populations on the site or at an off-site location via a Resource Management Plan (RMP) developed by a qualified biologist.

At a minimum, an RMP would include the following:

- Location of suitable on-site or off-site areas to establish new populations.
- Means by which established populations will be conserved in-perpetuity.
- Methods of site preparation, seed/plant procurement, and plant establishment.
- A monitoring plan that includes the length of monitoring (typically at least five years), monitoring interval (typically annually), interim and final success criteria, and an adaptive management plan to describe measures that will be taken in the case that interim or final success criteria goals are not met.

The implementation of the above Avoidance, Minimization and Compensation measures would reduce impacts to special status plants to a less-than-significant level.

Special Status Wildlife

Most special status animal species would not occur on the site, or would be unlikely to occur on the site, because habitats on the site are not suitable for them, the site is located outside of the species' known range, and/or there are no known occurrences in the vicinity of the site. However, some special status species may occur onsite, including Santa Cruz black salamander, white-tailed kite, golden eagle, pallid bat, Townsend's big-eared bat, San Francisco dusky-footed woodrat, and American badger. Of these species, the golden eagle would only be expected to forage over the site. The remaining species which have potential to occur on the site and any potential project impacts to these species are discussed further below.

Santa Cruz Black Salamander

Potential Impact. Due to presence of woodland habitat along the frontage of Shannon Road and the proximity of the site to contiguous woodland habitat and the age of the structures onsite, the

site may support suitable refugia for this species in rotting wood and under foundations. Construction activities could result in harm to individual Santa Cruz black salamanders. This would be considered a significant impact under CEQA.

Mitigation. Project-related activities that occur within the woodland habitat and during demolition of buildings onsite may impact Santa Cruz black salamanders, therefore, the following mitigation measures shall be followed.

- Preconstruction surveys shall occur within the woodland habitat and prior to any work within this habitat and shall occur prior to demolition of onsite buildings.

- Workers working in the woodland habitat and workers demolishing buildings onsite shall attend a tailgate training that includes a description of the species, a brief summary of its biology, and minimization measures and instructions on what to do if a Santa Cruz black salamander is observed.

- Demolition of structures and work in the woodland will be monitored by a qualified biologist.

Nesting Raptors and Other Nesting Migratory Birds

Potential Impact. Suitable nesting habitat exists throughout the project site, including on the ground, in shrubs and trees, and on buildings. These suitable nesting areas, as well as those adjacent to the site, could be used by nesting raptors and other migratory birds for breeding. Construction activities (i.e., grading, building demolition, and tree/vegetation removal) could result in harm to individual nesting raptors and migratory birds. This would be considered a significant impact under CEQA.

Mitigation. Project-related activities that occur during the breeding season could be constrained in the vicinity of any active nests. If tree removal or ground disturbance activities are scheduled to commence during the breeding season (February 1st through August 31st), pre-construction nesting bird surveys should be conducted by a qualified biologist to identify possible nesting activity within 15 days prior to such activities. A construction-free buffer of suitable dimensions as determined by a qualified biologist must be established around any active raptor or migratory bird nest for the duration of the project, or until it has been determined that the chicks have fledged and are foraging independently from their parents.

Bat Species

Potential Impact. The pallid bat, Townsends big-eared bat, and other bat species have the potential to occur onsite within the barn, garage/outbuilding, as well as several trees onsite such as walnut trees and elderberry trees that support cavities potentially suitable for roosting bats. Tree removal and demolition activities could result in harm to individual roosting bat. This would be considered a significant impact under CEQA.

Mitigation. The project applicant will implement the following measures to ensure that bat mortality from project construction is avoided.

- A detailed bat habitat assessment should be conducted prior to removal of onsite trees and the garage and barn. If a non-breeding bat colony is found, the individuals should be

humanely evicted via two-step removal under the direction of a qualified biologist to ensure that no harm or "take" would occur to any bats as a result of tree removal or structure demolition activities. Two-step removal can only occur during March 1-April 15 and September 1-October 15 in order to avoid harm to maternity and overwintering colonies.

- If a maternity colony is detected, then a construction-free buffer should be established around the tree and remain in place until it has been that the nursery is no longer active. Tree removal should preferably be done between March 1 and April 15 or August 15 and October 15 to avoid interfering with an active nursery. Mitigation would not be required for the loss of roosting or foraging habitat for bats, as such habitat is abundantly available regionally.

San Francisco Dusky-Footed Woodrat

Potential Impact. San Francisco dusky-footed woodrat nests were observed within the woodland habitat onsite along the frontage of Shannon Road. Should work occur in this habitat, construction activities could result in harm to individual woodrats while in their nests. This would be considered a significant impact under CEQA.

Mitigation. Implementation of the following mitigation measures would reduce impacts to the San Francisco dusky-footed woodrat to a less-than-significant level.

- A qualified biologist should conduct a pre-construction survey for San Francisco dusky-footed woodrat nests no more than 30 days prior to the onset of construction activities. The survey should encompass all construction zones within the riparian habitat and developed areas, and surrounding lands within 50 feet.
- Identified nests should be avoided, where possible. If avoidance is not possible, the nest(s) should be manually deconstructed when helpless young are not present, typically during the non-breeding season (October through January).
- If it is determined that young may be present during the pre-construction survey, a suitable buffer should be established around the nest until the young are independent enough to successfully move from the deconstructed nest.

American Badger

Potential Impact. Suitable habitat for the American badger exists onsite in the form of the grassland and orchard habitats. Construction activities could result in harm to individual badgers. This would be considered a significant impact under CEQA.

Mitigation. Implementation of the following measures prior to construction activities will reduce impacts to American badgers from direct mortality to a less-than-significant level.

- During the course of the preconstruction surveys for other species, a qualified biologist shall also determine the presence or absence of badgers prior to the start of construction. If badgers are found to be absent, no other mitigations for the protection of badgers shall be warranted.
- If an active badger den is identified during pre-construction surveys within or immediately adjacent to an area subject to construction, a construction-free buffer of up

to 300 feet shall be established around the den. Once the biologist has determined that badger has vacated the burrow, the burrow can be collapsed or excavated, and ground disturbance can proceed. Should the burrow be determined to be a natal or reproductive den, and because badgers are known to use multiple burrows in a breeding burrow complex, a biological monitor shall be present onsite during construction activities in the vicinity of the burrows to ensure the buffer is adequate to avoid direct impact to individuals or natal/reproductive den abandonment. The monitor will be required to be present until it is determined that young are of an independent age and construction activities would not harm individual badgers.

- All workers shall attend a tailgate training that includes a description of the species, a brief summary of its biology, and minimization measures and instructions on what to do if an American badger is observed.

Impacts to Movement Corridors or Nursery Sites

Potential Impact. The site is not within an identified regional movement corridor or landscape linkage and does not support any nursery sites, aside from the potential to support breeding birds as previously discussed. Additionally, the project includes the preservation of land for a movement corridor in the northern portion of the site; therefore, local animals moving through this site currently are expected to continue to move through this site after it is built out utilizing the preserved hillside corridor.

Mitigation. None required.

Loss of Protected Trees

Potential Impact. The Town of Los Gatos has a tree protection ordinance (see Appendix A for a description).

Most of the trees that will be impacted or removed on the site are walnut trees that are part of the now fallow walnut orchards. Walnut trees would not be considered a protected tree under the Town's ordinance unless they have a trunk diameter of 18 inches or more. Some walnut trees do occur on the site that may meet the definition of a protected tree.

Other trees potentially being considered protected trees under the Town's ordinance includes oak trees and other native and non-native trees, with the exception of any fruit or nut trees that have a trunk diameter of less than 18 inches, occurring within the mixed woodland habitat of proposed Lots 1 and 2, and within the mixed woodland habitat along the southern boundary of the project site on both sides of Shannon Road. Because the project seeks a re-zoning of the site, native and non-native trees which have a trunk diameter of at least four inches and are not species specifically excluded under the ordinance, may be considered protected trees under the Town's ordinance.

We understand that a tree survey will be conducted on the site to determine the number of protected trees that will be removed or otherwise impacted by the project.

Mitigation. Should the tree survey determine that protected trees occur on the site and will be impacted by the project, then the applicant will obtain a tree removal permit and comply with the Town's tree replacement requirements (see table in Appendix A) and other tree removal permit requirements.

Compliance with the Town's tree protection ordinance and permit requirements will reduce impacts on protected trees to a less-than-significant level.

Degradation of Water Quality in Downstream Waters

Impact. Proposed construction activities may result in soils left barren in the development footprint. Additionally, extensive grading often leaves the soils of construction zones barren of vegetation and, therefore, vulnerable to sheet, rill, or gully erosion. Furthermore, runoff is often polluted with grease, oil, pesticide and herbicide residues, heavy metals, etc. These pollutants may eventually be carried to sensitive riparian and wetland habitats used by a diversity of native wildlife species.

The applicant is expected to comply with the provisions of a grading permit, including standard erosion control measures that employ best management practices (BMPs). Projects involving the grading of large tracts of land must also be in compliance with provisions of a General Construction permit (a type of NPDES permit) available from the California Regional Water Quality Control Board. Compliance with the above permit(s) should result in no impact to water quality in seasonal creeks, reservoirs, and downstream waters from the proposed project and should not result in the deposition of pollutants and sediments in sensitive riparian and wetland habitats.

Mitigation. None required.

CONCLUSIONS

In summary, the proposed project could result in significant impacts to special status plants, including Santa Clara red ribbons and bent-flowered fiddleneck (if present), as well as to special status wildlife species including the Santa Cruz black salamander, white-tailed kite, San Francisco dusky-footed woodrat, pallid bat, Townsend's big-eared bat, and American badger. The project could also result in significant impacts to active bird nests or to non-special status bats. In all cases, mitigations are provided that would reduce these potential impacts to a less-than-significant level.

Additionally, the project is likely to result in the removal of trees considered protected trees under the Town's tree protection ordinance, including walnut trees with a trunk diameter of 18 inches or greater, and other native and non-native trees having a trunk diameter of four inches or more. Therefore, the project would be required to obtain a tree removal permit from the Town and comply with permit conditions.

The project is not expected to have an impact on wildlife movement corridors, wildlife nursery sites (with the exception of nesting birds), or on any waters of the U.S. or state.

Should you wish to discuss our report or any of our conclusions, please feel free to reach out to me at ppeterson@loainc.com or Rick Hopkins at rhopkins@loainc.com.

Sincerely,

Pamela E. Peterson
Senior Project Manager
Plant and Wetland Ecologist

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APPENDIX A:

SIGNIFICANCE CRITERIA AND RELEVANT GOALS, POLICIES, AND LAWS

Significance Criteria

General plans, area plans, and specific projects are subject to the provisions of the California Environmental Quality Act. The purpose of CEQA is to assess the impacts of proposed projects on the environment before they are constructed. For example, site development may require the removal of some or all existing vegetation. Animals associated with this vegetation could be destroyed or displaced. Animals adapted to humans, roads, buildings, pets, etc., may replace those species formerly occurring on a site. Plants and animals that are state and/or federally listed as threatened or endangered may be destroyed or displaced. Sensitive habitats such as wetlands and riparian woodlands may be altered or destroyed. These impacts may be considered significant. According to *2019 CEQA Status and Guidelines* (2019), "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic interest. Specific project impacts to biological resources may be considered "significant" if they will:

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

Relevant Goals, Policies, and Laws

Town of Los Gatos Tree Protection Ordinance. The Town of Los Gatos has a tree protection ordinance (Section Sec. 29.10.0950) that requires a permit for the removal of protected trees. The trees protected by this ordinance include:

(1) All trees which have a twelve-inch or greater diameter (thirty-seven and one-half-inch circumference) of any trunk or in the case of multi-trunk trees, a total of eighteen inches or greater diameter (fifty-six and one-half inch circumference) of the sum of all trunks, where such trees are located on developed residential property.

(2) All trees which have an eight-inch or greater diameter (twenty-five-inch circumference) of any trunk or in the case of multi-trunk trees, a total of eight inches or greater diameter (twenty-five inch circumference) of the sum of all trunks, where such trees are located on developed Hillside residential property.

(3) All trees of the following species which have an eight-inch or greater diameter (twenty-five-inch circumference) located on developed residential property:

a. Blue Oak (*Quercus douglasii*)

b. Black Oak (*Quercus kellogii*)

c. California Buckeye (*Aesculus californica*)

d. Pacific Madrone (*Arbutus menziesii*)

(4) All trees which have a four-inch or greater diameter (twelve and one half-inch circumference) of any trunk, when removal relates to any review for which zoning approval or subdivision approval is required.

Exceptions. Section 29.10.0970 of the Town's tree ordinance includes the following exceptions:

(1) A fruit or nut tree that is less than eighteen (18) inches in diameter (fifty-seven-inch circumference).

(2) Any of the following trees that are less than 24 inches in diameter (75 inches in circumference):

a. Black Acacia (*Acacia melanoxylon*)

b. Tulip Tree (*Liriodendron tulipifera*)

c. Tree of Heaven (*Ailanthus altissima*)

d. Blue Gum Eucalyptus (*E. globulus*)

e. Red Gum Eucalyptus (*E. camaldulensis*)

f. Other Eucalyptus (*E. spp.*)—Hillsides only

g. Palm (except *Phoenix canariensis*)

h. Privet (*Ligustrum lucidum*)

Replacement Trees. According to the Town of Los Gatos's tree ordinance Section 29.10.0985, if the tree removal permit is approved, the following replacement standards shall be followed with approved tree species:

CANOPY REMOVAL TO REPLACEMENT TREE RATIOS	
Canopy Size of Removed Tree	**Replacement Requirement**
10 feet or less	Two 24-inch box trees
More than 10 feet to 25 feet	Three 24-inch box trees
More than 25 feet to 40 feet	Four 24-inch box trees; or Two 36-inch box trees
More than 40 feet to 55 feet	Six 24-inch box trees; or Three 36-inch box trees

Town of Los Gatos Riparian Setbacks and Native Plant Removal within the Riparian Setback. The Town of Los Gatos has adopted a set of Standards and Guidelines for Land Use Near Streams developed by Valley Water (Santa Clara Valley Water Resources Protection Collaborative 2005). The Standards and Guidelines indicate that development of single residences should provide a minimum Slope Stability Protection Area based on the type of stream (i.e. ephemeral or perennial) and based on the steepness of the stream banks. However, the guidelines also indicate that an exception to the minimum setbacks may be granted if the applicant is able to provide a site-specific technical report that confirms that a lesser setback will not result in either compromised slope stability or in potential damage to the structure.

According to the Standards and Guidelines for Land Use Near Streams, native riparian vegetation is not allowed to be removed unless there is a threat to public health and safety including an imminent danger of induced flooding and/or a biologist/arborist confirms that it will improve the stream ecology or habitat. If vegetation is proposed for removal in conjunction with a development project, mitigation will be provided as defined through the CEQA process and as agreed to by the local agencies and appropriate regulatory agencies.

As no riparian areas occur on the project site, the above standards and guidelines do not apply to the project.

Habitat Conservation Plans. The Santa Clara Valley HCP/NCCP Study Area does not cover the Town of Los Gatos, and there are no other HCPs or NCCPs known to cover the area.

Threatened and Endangered Species. State and federal “endangered species” legislation has provided the California Department of Fish and Wildlife (CDFW) and the U.S. Fish and Wildlife Service (USFWS) with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations. Species listed as threatened or endangered under provisions of the state and federal endangered species acts, candidate species

for such listing, state species of special concern, and some plants listed as endangered by the California Native Plant Society are collectively referred to as "species of special status." Permits may be required from both the CDFW and USFWS if activities associated with a proposed project will result in the "take" of a listed species. "Take" is defined by the state of California as "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill" (California Fish and Game Code, Section 86). "Take" is more broadly defined by the federal Endangered Species Act to include "harm" (16 USC, Section 1532(19), 50 CFR, Section 17.3). Furthermore, the CDFW and the USFWS are responding agencies under the California Environmental Quality Act (CEQA). Both agencies review CEQA documents in order to determine the adequacy of their treatment of endangered species issues and to make project-specific recommendations for their conservation.

Migratory Birds. The Federal Migratory Bird Treaty Act (FMBTA: 16 USC 703-712) prohibits killing, possessing, or trading in any bird species covered in one of four international conventions to which the United States is a party, except in accordance with regulations prescribed by the Secretary of the Interior. The name of the act is misleading, as it actually covers almost all birds native to the United States, even those that are non-migratory. The FMBTA encompasses whole birds, parts of birds, and bird nests and eggs.

Native birds are also protected under California state law. The California Fish and Game Code makes it unlawful to take or possess any non-game bird covered by the FMBTA (Section 3513), as well as any other native non-game bird (Section 3800), even if incidental to lawful activities. Moreover, the California Migratory Bird Protection Act, enacted in September 2019, clarifies native bird protection and increases protections where California law previously deferred to federal law.

Birds of Prey. Birds of prey are protected in California under provisions of the State Fish and Game Code, Section 3503.5, which states that it is "unlawful to take, possess, or destroy any birds in the order *Falconiformes* or *Strigiformes* (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto." Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered "taking" by the CDFW.

Additionally, the Bald and Golden Eagle Protection Act (16 U.S.C., scc. 668-668c) prohibits anyone from taking bald or golden eagles, including their parts, nests, or eggs, unless authorized under a federal permit. The act prohibits any disturbance that directly affects an eagle or an active eagle nest as well as any disturbance caused by humans around a previously used nest site during a time when eagles are not present such that it agitates or bothers an eagle to a degree that interferes with or interrupts normal breeding, feeding, or sheltering habits, and causes injury, death or nest abandonment.

Bats. Section 2000 and 4150 of the California Fish and Game Code states that it is unlawful to take or possess a number of species, including bats, without a license or permit, as required by Section 3007. Additionally, Title 14 of the California Code of Regulations states it is unlawful to harass, herd, or drive a number of species, including bats. To harass is defined as "an intentional

act which disrupts an animal's normal behavior patterns, which includes, but is not limited to, breeding, feeding or sheltering." For these reasons, bat colonies in particular are considered to be sensitive and therefore, disturbances that cause harm to bat colonies are unlawful.

Wetlands and Other Jurisdictional Waters

Jurisdictional waters include waters of the United States subject to the regulatory authority of the U.S. Army Corps of Engineers (USACE) and waters of the State of California subject to the regulatory authority of the California Department of Fish and Wildlife (CDFW) and the California Regional Water Quality Control Board (RWQCB).

Clean Water Act, Section 404. The USACE regulates the filling or grading of Waters of the U.S. under the authority of Section 404 of the Clean Water Act. Drainage channels and adjacent wetlands may be considered "waters of the United States" or "jurisdictional waters" subject to the jurisdiction of the USACE. The extent of jurisdiction has been defined in the Code of Federal Regulations and clarified in federal courts.

The definition of waters of the U.S. have changed several times in recent years. In January 2020, the Environmental Protection Agency (EPA) and USACE jointly issued the Navigable Waters Protection Rule. The new rule was published in the Federal Register on April 21, 2020, and took effect on June 22, 2020.

The Navigable Waters Protection Rule (33 CFR §328.3(a)) defines waters of the U.S. as:

Territorial Seas and Traditional Navigable Waters (TNWs)

- The territorial seas and traditional navigable waters include large rivers and lakes and tidally influenced waterbodies used in interstate or foreign commerce.

Tributaries

- Tributaries include perennial and intermittent rivers and streams that contribute surface flow to traditional navigable waters in a typical year. These naturally occurring surface water channels must flow more often than just after a single precipitation event—that is, tributaries must be perennial or intermittent.
- Tributaries can connect to a traditional navigable water or territorial sea in a typical year either directly or through other "waters of the United States," through channelized non-jurisdictional surface waters, through artificial features (including culverts and spillways), or through natural features (including debris piles and boulder fields).
- Ditches are to be considered tributaries only where they satisfy the flow conditions of the perennial and intermittent tributary definition and either were constructed in or relocate a tributary or were constructed in an adjacent wetland and contribute perennial or intermittent flow to a traditional navigable water in a typical year.

Lakes, Ponds, and Impoundments of Jurisdictional Waters

- Lakes, ponds, and impoundments of jurisdictional waters are jurisdictional where they contribute surface water flow to a traditional navigable water or territorial sea in a typical year either directly or through other waters of the United States, through channelized non-jurisdictional surface waters, through artificial features (including culverts and spillways), or through natural features (including debris piles and boulder fields).

- Lakes, ponds, and impoundments of jurisdictional waters are also jurisdictional where they are flooded by a water of the United States in a typical year, such as certain oxbow lakes that lie along the Mississippi River.

Adjacent Wetlands

- Wetlands that physically touch other jurisdictional waters are "adjacent wetlands."
- Wetlands separated from a water of the United States by only a natural berm, bank or dune are also "adjacent."
- Wetlands inundated by flooding from a water of the United States in a typical year are "adjacent."
- Wetlands that are physically separated from a jurisdictional water by an artificial dike, barrier, or similar artificial structure are "adjacent" so long as that structure allows for a direct hydrologic surface connection between the wetlands and the jurisdictional water in a typical year, such as through a culvert, flood or tide gate, pump, or similar artificial feature.
- An adjacent wetland is jurisdictional in its entirety when a road or similar artificial structure divides the wetland, as long as the structure allows for a direct hydrologic surface connection through or over that structure in a typical year.

The Navigable Waters Protection Rule also outlines what do not constitute waters of the United States. The following waters/features are not jurisdictional under the rule:

- Waterbodies that are not included in the four categories of waters of the United States listed above.
- Groundwater, including groundwater drained through subsurface drainage systems, such as drains in agricultural lands.
- Ephemeral features, including ephemeral streams, swales, gullies, rills, and pools.
- Diffuse stormwater run-off and directional sheet flow over upland.
- Many farm and roadside ditches.
- Prior converted cropland retains its longstanding exclusion, but is defined for the first time in the final rule. The agencies are clarifying that this exclusion will cease to apply when cropland is abandoned (i.e., not used for, or in support of, agricultural purposes in the immediately preceding five years) and has reverted to wetlands.
- Artificially irrigated areas, including fields flooded for agricultural production, that would revert to upland should application of irrigation water to that area cease.
- Artificial lakes and ponds, including water storage reservoirs and farm, irrigation, stock watering, and log cleaning ponds, constructed or excavated in upland or in non-jurisdictional waters.
- Water-filled depressions constructed or excavated in upland or in non-jurisdictional waters incidental to mining or construction activity, and pits excavated in upland or in non-jurisdictional waters for the purpose of obtaining fill, sand, or gravel.

- Stormwater control features excavated or constructed in upland or in non-jurisdictional waters to convey, treat, infiltrate, or store stormwater run-off.
- Groundwater recharge, water reuse, and wastewater recycling structures, including detention, retention and infiltration basins and ponds, that are constructed in upland or in non-jurisdictional waters.
- Waste treatment systems have been excluded from the definition of waters of the United States since 1979 and will continue to be excluded under the final rule. Waste treatment systems include all components, including lagoons and treatment ponds (such as settling or cooling ponds), designed to either convey or retain, concentrate, settle, reduce, or remove pollutants, either actively or passively, from wastewater or stormwater prior to discharge (or eliminating any such discharge).

All activities that involve the discharge of dredge or fill material into waters of the U.S. are subject to the permit requirements of the USACE under Section 404 of the Clean Water Act. Such permits are typically issued on the condition that the applicant agrees to provide mitigation that result in no net loss of wetland functions or values. No permit can be issued without a CWA Section 401 Water Quality Certification (or waiver of such certification) verifying that the proposed activity will meet state water quality standards (Section 3.6.2).

Porter-Cologne Water Quality Act/Clean Water Act, Section 401. There are nine Regional Water Quality Control Boards statewide; collectively, they oversee regional and local water quality in California. The RWQCB administers Section 401 of the Clean Water Act and the Porter-Cologne Water Quality Control Act. The RWQCB for a given region regulates discharges of fill or pollutants into waters of the State through the issuance of various permits and orders. Pursuant to Section 401 of the Clean Water Act, the RWQCB regulates waters of the State that are also waters of the U.S. Discharges into such waters require a Section 401 Water Quality Certification from the RWQCB as a condition to obtaining certain federal permits, such as a Clean Water Act Section 404 permit (Section 3.6.1). Discharges into all Waters of the State, even those that are not also Waters of the U.S., require Waste Discharge Requirements (WDRs), or a waiver of WDRs, from the RWQCB.

The Porter-Cologne Water Quality Control Act, Water Code Section 13260, requires that "any person discharging waste, or proposing to discharge waste, within any region that could affect the 'waters of the State' to file a report of discharge" with the RWQCB. Waters of the State as defined in the Porter-Cologne Act (Water Code Section 13050[e]) are "any surface water or groundwater, including saline waters, within the boundaries of the state." This gives the RWQCB authority to regulate a broader set of waters than the Clean Water Act alone; specifically, in addition to regulating waters of the U.S. through the Section 401 Water Quality Certification process, the RWQCB also claims jurisdiction and exercises discretionary authority over "isolated waters," or waters that are not themselves waters of the U.S. and are not hydrologically connected to waters of the U.S.

The RWQCB also administers the Construction Stormwater Program and the federal National Pollution Discharge Elimination System (NPDES) program. Projects that disturb one or more acres of soil must obtain a Construction General Permit under the Construction Stormwater Program. A prerequisite for this permit is the development of a Stormwater Pollution Prevention Plan (SWPPP) by a certified Qualified SWPPP Developer. Projects that discharge wastewater, stormwater, or other pollutants into a Water of the U.S. may require a NPDES permit.

California Department of Fish and Game Code, Section 1602. The CDFW has jurisdiction over the bed and bank of natural drainages and lakes according to provisions of Section 1602 of the California Fish and Game Code. Activities that may substantially modify such waters through the diversion or obstruction of their natural flow, change or use of any material from their bed or bank, or the deposition of debris require a Notification of Lake or Streambed Alteration. If the CDFW determines that the activity may adversely affect fish and wildlife resources, a Lake or Streambed Alteration Agreement will be prepared. Such an agreement typically stipulates that certain measures will be implemented to protect the habitat values of the lake or drainage in question.

APPENDIX B:

PHOTOS OF THE PROJECT SITE

Photo 1. Horse facilities, including stalls and paddocks, in the developed/ruderal areas of the site.

Photo 2. Horse facilities, including stalls and paddocks, in the developed/ruderal areas of the site.

Photo 3. Fallow walnut orchards on the site.

Photo 4. California annual grassland habitat and large, upland swale, looking east.

Photo 5. California annual grassland habitat of the site at the top of the slope (Proposed Lots 1 and 2).

Photo 6. Mixed woodland habitat along the southern boundary of the site near Shannon Road.

Photo 7. Taken above an area that is defined as a wetland in the National Wetlands Inventory. This area is on a steep southerly-facing hillside and supports California annual grassland habitat. No wetland is present.