LIVE OAK
ASSOCIATES, INC.

10857 LINDA VISTA DRIVE PROJECT
TECHNICAL BIOLOGICAL REPORT
CUPERTINO, SANTA CLARA COUNTY, CALIFORNIA

Prepared by

LIVE OAK ASSOCIATES, INC.

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1 INTRODUCTION

This technical biological evaluation report, prepared by Live Oak Associates, Inc. (LOA) in support of California Environmental Quality Act (CEQA) review, describes the biological resources of the project site located at 10857-10887 Linda Vista (hereafter referred to as the "study area" or "project site") and evaluates possible impacts to those resources resulting from developing the project site from a low-density land use to a medium-high density land use, including the possibility of adding a pedestrian trail alignment which would connect to the existing Stevens Creek Trail. The site is comprised of four APNs (356-06-001, -002, -003, and -004), in the City of Cupertino, Santa Clara County, California (Figure 1).

In general, the development of parcels can damage or modify biotic habitats used by sensitive plant and wildlife species. In such cases, site development may be regulated by state or federal agencies, subject to provisions of CEQA, and/or covered by local policies and ordinances. Therefore, this report addresses: 1) sensitive biotic resources potentially occurring in the study area; 2) the federal, state, and local laws regulating such resources, 3) possible significant impacts to these resources that could result from the project; and 4) mitigation measures that would reduce these impacts to a less-than-significant level as defined by CEQA.

The analysis of impacts, as discussed in Section 3.0 of this report, was based on the known and potential biotic resources of the study area discussed in Section 2.0. Sources of information used in the preparation of this analysis included: 1) the *California Natural Diversity Data Base* (CDFW 2024); 2) the *Online Inventory of Rare and Endangered Vascular Plants of California* (CNPS 2024); 3) manuals and references related to plants and animals of the Santa Clara County region; and 4) the City of Cupertino policies and ordinances.

A field survey of the study area was conducted on June 18, 2024, by LOA ecologist Cristal Romero.

1.1 PROJECT LOCATION

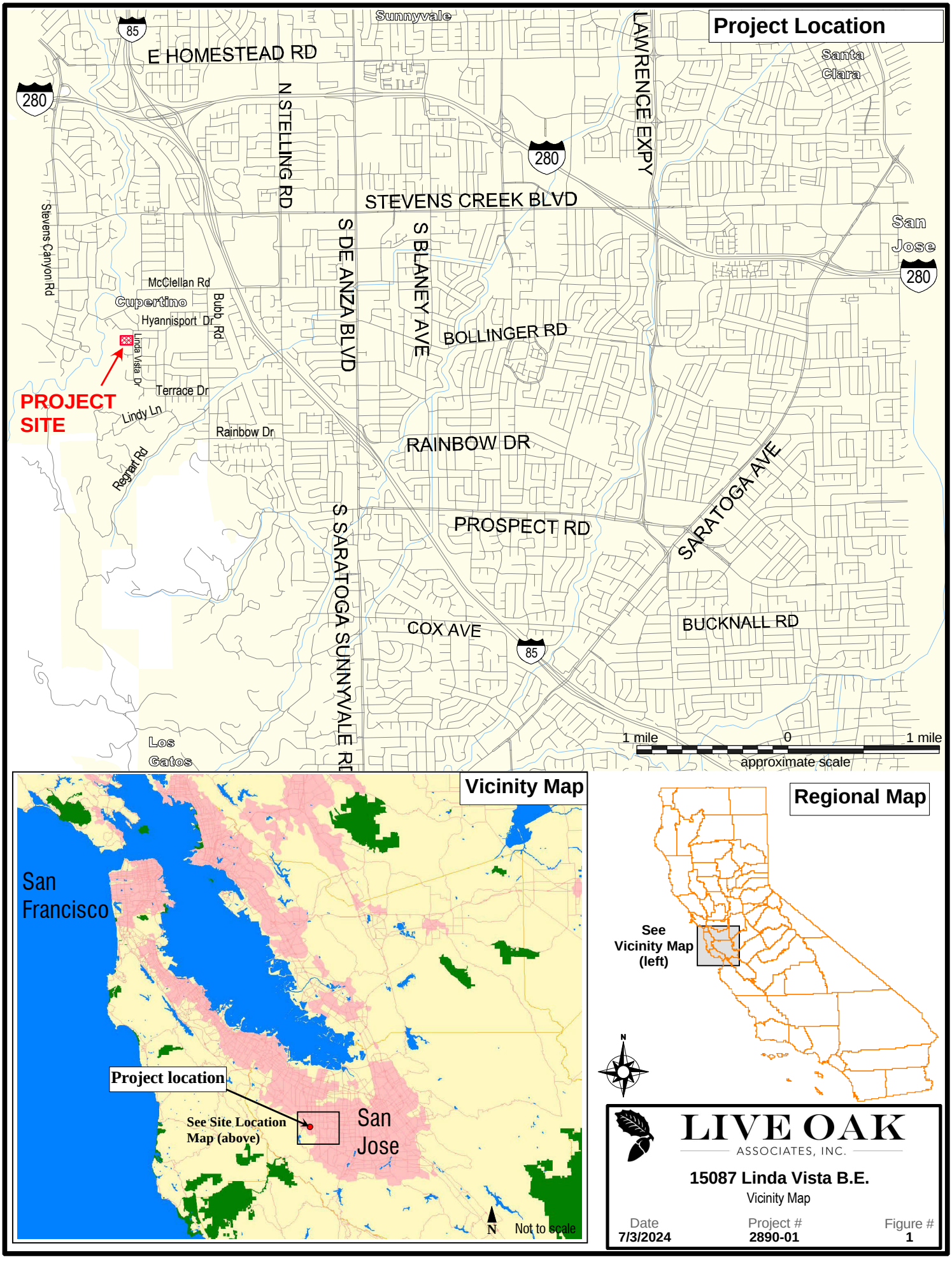
The approximately 2.48-acre project site is comprised of four APNS (356-06-001, -002, -003, and -004) located at 10857-10887 Linda Vista Drive. This site is in the City of Cupertino, Santa Clara

County (Figure 1) and is bounded by Cupertino Hills Swim and Racquet Club to the north, Linda Vista Drive to the east, residential homes to the south, and a golf course to the west.

The site can be found on the Cupertino U.S.G.S. 7.5' quadrangle in Section 22, Township 7 South, Range 2 West.

1.2 PROJECT DESCRIPTION

SummerHill Homes is exploring plans to re-develop the approximately 2.48-acre site, which currently contains four single-family homes, with 51 townhomes and associated infrastructure as shown in the illustrative site plan (Appendix A). Additionally, this project evaluates the possibility of adding a pedestrian trail alignment which would connect to the existing Stevens Creek Trail.


Project Location
Sunnyvale
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E HOMESTEAD RD
N STELLING RD
LAWRENCE EXPY
STEVENS CREEK BLVD
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BOLLINGER RD
RAINBOW DR
PROSPECT RD
SARATOGA AVE
COX AVE
BUCKNALL RD
S SARATOGA SUNNYVALE RD
Stevens Canyon Rd
McClellan Rd
Cupertino
Hyannisport Dr
Bubb Rd
Linda Vista Dr
Terrace Dr
Lindy Ln
Rainbow Dr
Regnart Rd
Los Gatos
PROJECT SITE
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approximate scale
Vicinity Map
San Francisco
Project location
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San Jose
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LIVE OAK
ASSOCIATES, INC.
15087 Linda Vista B.E.
Vicinity Map
Date
7/3/2024
Project #
2890-01
Figure #
1

2 EXISTING CONDITIONS

On June 18, 2024, a field survey was conducted by LOA ecologist Cristal Romero. At the time of the survey, the approximately 2.48-acre project site is currently developed with four single-story, single family residence buildings and four dilapidated storage structures (old stables, sheds, etc.). The site is more or less hairpin shaped as there is an existing "right of way" called Evulich Court that provides vehicle access to residences from the east. The site has a relatively flat topography with elevations ranging from approximately 386-392 feet.

Annual precipitation in the general vicinity of the project site is about 15-20 inches, almost 85% of which falls between the months of October and March. Virtually all precipitation falls in the form of rain.

Two soil map units occur on the site (NRCS 2024): Urban land-Still complex, 0 to 2 percent slopes (Well drained; very low runoff; moderately high permeability, not hydric) and Urban Land-Flaskan complex, 0 to 2 percent slopes (Well drained; low runoff; moderately high permeability, not hydric). Neither of these soils is alkaline or serpentine; therefore, special status plants adapted to alkaline and serpentine soils are not expected to occur on the site. Neither of these soils are considered hydric soils, which are soils defined as saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions such that under sufficiently wet conditions they support hydrophytic vegetation.

2.1 BIOTIC HABITATS

Two land cover types are present on the approximately 2.48-acre property: 1) Developed/Landscaped and 2) California annual grassland. The details of these land cover types are described in greater detail below.

2.1.1 Developed/Landscaped

Most of the site consists of developed habitat with four single-family residences and four small dilapidated stand-alone structures (previously functioned as stables/sheds). This site supports landscaped vegetation typical of urban residential development with both planted and weedy

varieties, including, but not limited to trees such as Acacia (*Acacia* sp.), oak (*Quercus* sp.), and landscaped plants such as oleander (*Nerium oleander*).

Wildlife observed within or flying over the property during the January 2024 site visit included the American crow (*Corvus brachyrhynchos*), Northern mockingbird (*Mimus polyglottos*), California towhee (*Melozone crissalis*), house finch (*Haemorhous mexicanus*), and Botta's pocket gopher (*Thomomys bottae*) sign.

2.1.2 California Annual Grassland

The southeastern section of the project consists of California annual grassland. It previously functioned as pasture for horses; currently it is unfenced and largely unmanaged or landscaped, except for mowing. Dominant vegetation is ruderal in nature and includes but is not limited to wild oats (*Avena* sp.), wild barley (*Hordeum spontaneum*), bristly oxtongue (*Helminthotheca echioides*), and prickly lettuce (*Lactuca serriola*).

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15087 Linda Vista B.E.

Biotic Habitats / Land Cover

Date	Project #	Figure #
7/8/2024	**2890-01**	**2**

MOVEMENT CORRIDORS

General Discussion- Landscape linkages are defined as "areas that allow for the movement of species from one area of suitable habitat to another. A linkage can vary from a narrow strip of habitat that only functions as a conduit for movement (i.e., a corridor) or a large area of intact habitat that is used for movement, dispersal, and other life functions such as foraging and breeding" (ICF International 2012). Many wildlife linkages are broad areas of regional movement corridors for wildlife that generally includes a wide swath of land used for movement between two or more core areas for multiple regional species.

Habitat corridors are vital to terrestrial animals for connectivity between core habitat areas (i.e., larger intact habitat areas where species make their living). Connections between two or more core habitat areas help ensure that genetic diversity is maintained, thereby diminishing the probability of inbreeding depression and geographic extinctions.

The quality of habitat within the corridors is important. In general, "better" habitat has less human interference (e.g., roads, homes, etc.) and is more desirable to more species than areas with sparse vegetation and high-density roads. Movement corridors in California are typically associated with valleys, rivers and creeks supporting riparian vegetation, and ridgelines. With increasing encroachment of humans on wildlife habitats, it has become important to establish and maintain linkages, or movement corridors, for animals to be able to access locations containing different biotic resources that are essential to maintaining their life cycles.

Healthy riparian areas (supporting structural diversity, i.e., understory species to saplings to mature riparian trees) not only support a rich and diverse wildlife community but have also been shown to facilitate regional wildlife movement. Riparian areas can vary from tributaries winding through scrubland to densely vegetated riparian forests.

Local Discussion- The site is not a part of any landscape-level linkage corridors identified as important for wildlife movement and linkage by the Conservation Lands Network. Stevens Creek does occur west of the site but the distance between the Project Site edge and the creek is approximately 200 meters, and the potential pedestrian trail would connect to the existing Stevens Creek Trail, which is already in use. The area between the Project Site and the creek

consists of an active golf course and public trail; additionally, the terrain has steep topography a well as fences in this area. This creek likely supports movement of wildlife through the developed environs of the City of Cupertino, as the site and the surrounding landscape is fully built out. However, the species for which the creek supports movement, are not likely to disperse from the creek into the developed areas on either side of the creek due to the fencing and land uses of this area. Therefore, the site likely plays a minimal role in the movement of wildlife species, and species moving through the site are likely limited to common species occurring in urban areas such as raccoons, opossums, and skunks.

2.2 SPECIAL STATUS PLANTS AND ANIMALS

Several species of plants and animals within the state of California have low populations, limited distributions, or both. Such species may be considered "rare" and are vulnerable to extirpation as the state's human population grows and the habitats these species occupy are converted to agricultural and urban uses. As described more fully in Section 3.2, state and federal laws have 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 the diversity of plant and animal species native to the state. A sizable number of native plants and animals have been formally designated as threatened or endangered under state and federal endangered species legislation. Others have been designated as "candidates" for such listing. Still others have been designated as "species of special concern" by the CDFW. The California Native Plant Society (CNPS) has developed its own set of lists of native plants considered rare, threatened, or endangered (CNPS 2001). Collectively, these plants and animals are referred to as "special status species."

A number of special status plants and animals occur in the vicinity of the project site. These species, and their potential to occur in the project site, are listed in Table 1. Sources of information for this table included *California Natural Diversity Data Base* (CDFW 2024), *Listed Plants* and *Listed Animals* (USFWS 2024), *State and Federally Listed Endangered and Threatened Animals of California* (CDFW 2024), *The California Native Plant Society's Inventory of Rare and Endangered Vascular Plants of California* (CNPS 2024), *California Bird Species of Special Concern* (Shuford and Gardall 2008), and *California Amphibian and Reptile Species of Special Concern* (Thompson et al.

2016). This information was used to evaluate the potential for special status plant and animal species that occur on the site.

A search of published accounts for all of the relevant special status plant and animal species was conducted for the Cupertino USGS 7.5-minute quadrangle in which the project site occurs, and for the eight surrounding quadrangles (Palo Alto, Mountain View, Milpitas, Mindego Hill, San Jose West, Big Basin, Castle Rock Ridge, and Los Gatos) using the CNDDB Rarefind 5 Program (CDFW 2024). All species listed as occurring in these quadrangles on CNPS Lists 1A, 1B, 2, or 4 were also reviewed.

As the site is currently fully developed and serpentine and alkaline soils are absent from the site, all special status plants are considered absent from the site.

Animals occurring in habitats not present on the site (e.g., redwoods, chaparral, marshes, coastal scrub, etc.) such as Bay checkerspot (*Euphydryas editha bayensis*), Zayante band-winged grasshopper (*Trimerotropis infantilis*), vernal pool tadpole shrimp (*Lepidurus packardi*), steelhead (*Oncorhynchus mykiss irideus*), longfin smelt (*Spirinchus thaleichthys*), southern coastal roach (*Hesperoleucus venustus subditus*), California giant salamander (*Dicamptodon ensatus*), California Ridgway's rail (*Rallus obsoletus obsoletus*), California black rail (*Laterallus jamaicensis coturniculus*), yellow rail (*Coturnicops noveboracensis*), saltmarsh common yellowthroat (*Geothlypis trichas sinuosa*), salt-marsh harvest mouse (*Reithrodontomys raviventris*), salt-marsh wandering shrew (*Sorex vagrans halicoetes*), and San Joaquin kit fox (*Vulpes macrotis mutica*) are considered absent from the site.

Animal species having some potential to occur on the project site or immediate vicinity because suitable habitats are present, and the site is located in or near their known distributions are included in Tables 1 and 2 below.

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

ANIMALS (adapted from CDFW 2024 and USFWS 2024)
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
Western bumble bee *Bombus occidentalis*	CCE	Mainly occurring within the coastal and Sierra Nevada ranges, within meadows and grasslands and some natural areas within urban environments. Indication of recent population potentially being restricted to high elevation and coastal areas. Historically occurred from the Channel Islands to the northern California border. The flight period is February to late November, peaking in late June and late September. Tends to construct nests underground in animal burrows on west and south-west facing slopes. Overwintering sites are likely in friable soils or in debris or leaf litter.	**Absent.** Suitable nesting habitat was not observed during the site survey and the site supports a limited growth of flowering plants on which this species can forage. Therefore, this species is considered absent from the site.
Crotch bumble bee *Bombus crotchii*	CCE	In California, inhabits open grassland and scrub habitats of the southern 2/3 of California. Historically in, but largely extirpated from the Central Valley. Flight period for queens is late February to late October peaking in April and July; flight period for males and workers is March through September peaking in early July. Constructs nests underground in animal burrows. Overwintering sites are likely in soft soils or in debris or leaf litter.	**Absent.** Suitable nesting habitat was not observed during the site survey and the site supports a limited growth of flowering plants on which this species can forage. Therefore, this species is considered absent from the site.
California tiger salamander *Ambystoma californiense*	FT, CT	Breeds in vernal pools and stock ponds of central California and aestivates in grassland habitats adjacent to the breeding sites. Orloff (2011) found that CTS are capable of traveling up to 1.3 miles from their breeding sites to aestivate.	**Absent.** Suitable breeding habitat for this species in the form of vernal pools or stagnant pools with continuous inundation for a minimum of three months is absent from the site and the vicinity of the site. Therefore, this species is considered to be absent from the site.

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

ANIMALS (adapted from CDFW 2024 and USFWS 2024)
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
Foothill yellow-legged frog (FYLF) *Rana boylii*	FT, CT	Frequents partly shaded, shallow, swiftly flowing streams and riffles with rocky substrate in a variety of habitats.	**Absent.** The nearest occurrence of this species is approximately 4.5km km from the project site and occurred in the 1930s (CDFW 2024) The adjacent reach of Steven's Creek is considered marginal habitat as it runs through the middle of a golf course. The site itself does not support suitable habitat. Therefore, this species is not expected to occur on the site.
California red-legged frog (CRLF) *Rana draytonii*	FT, CSC	Rivers, creeks and stock ponds of the Sierra foothills and coast range, preferring pools with overhanging vegetation.	**Absent.** The nearest occurrence of this species is almost 2km away from the project site and occurred in the 1930s (CDFW 2024). The nearby reach of Stevens Creek is considered marginal habitat as it runs through the middle of a golf course. The site itself does not support suitable habitat. Therefore, this species is not expected to occur on the site.
Northwestern pond turtle (WPT) (*Actinemys marmorata*)	FPT, 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.** Suitable habitat for the WPT is absent from the site. Additionally, there are no recorded observations of this species within 5km of the project site (CDFW 2024).

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

ANIMALS (adapted from CDFW 2024 and USFWS 2024)
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
Burrowing owl (BUOW) Athene cunicularia	CCE, CSC	Open, dry grasslands, deserts, and ruderal areas. Requires suitable burrows. Often associated with California ground squirrels. BOUWs may disperse between breeding habitats up to mean distance of 546 m (Riding and Belthoff 2018).	**Absent.** Ground squirrel burrows and other suitable burrows are absent from the site at the time of the 2024 site visit. However, ground squirrel burrows detected in 2025 (H.T Harvey & Associates 2025) indicated a recent colonization of the site. There are no recorded observations of this species by CDFW within 5km of the site (CDFW 2024). However, there is an eBird (2025) record from 2005 approximately 0.5km from the site at McClellan Ranch Preserve. Burrowing owls are not expected to occur on site, as recent regional records (e,g., within the last 20 years) of them are. Additionally, potentially suitable habitat onsite and the surrounding area is limited or lacking; as such, burrowing owls are not expected to breed or forage onsite.
Western snowy plover *Charadrius alexandrines nivosus*	FT, CSC	Uses man-made agricultural wastewater ponds and reservoir margins. Breeds on barren to sparsely vegetated ground at alkaline or saline lakes, reservoirs, ponds, and riverine sand bar.	**Absent.** Breeding and foraging habitat is absent from the site. The nearest recorded observation of this species is more than three miles from the site (CDFW 2024).
Western yellow-billed cuckoo *Coccyzus americanus occidentalis*	FC, CE	Breed in large blocks of riparian habitats, particularly cottonwoods and willows.	**Absent.** Dense riparian habitat required by the western yellow-billed cuckoo is absent from the site and vicinity of the site.
Tricolored blackbird *Agelaius tricolor*	CT, CSC	Breeds near fresh water, primarily emergent wetlands, with tall thickets. Forages in nearby grassland and cropland habitats.	**Absent.** The site and nearby riparian habitat does not support breeding and nesting habitat. Additionally, the are no recorded observation of this species within 5km of the project site (CDFW 2024). Therefore, tricolored blackbirds are considered to be absent from the site.

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

ANIMALS (adapted from CDFW 2024 and USFWS 2024)

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
Swainson's hawk (SWHA) *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.	**Absent.** During the last several years, a SWHA pair has been documented breeding in Coyote Valley. For the past several years, they have nested by the charter school of Morgan Hill that is 500 feet north of the site and immediately north of the intersection of Bailey Avenue and Monterey Highway along Coyote Creek (CDFW 2024). Therefore, as Coyote Valley is more than 10 miles from the site, this species is considered to be absent from the site.

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

ANIMALS (adapted from CDFW 2024 and USFWS 2024)

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 occasionally found in the yards of older homes with mature live oaks and shrubs in the San Francisco Bay Area (Stebbins et al. 2014). This species can typically be found under rocks near streams, in talus, under damp logs, rotting wood, and other objects.	**Absent.** The nearest occurrence of this species is approximately 2km away from the project site and occurred in 1989 (CDFW 2024). The site itself does not support suitable habitat. Therefore, this species is not expected to occur on the site.
Red-bellied newt *(Taricha rivularis)*	CSC	This species lays eggs in running water and can be found in coastal woodlands and redwood forest along the coast of northern California north of San Francisco except a small population occurring in the Stevens Creek watershed near the San Francisco Bay.	**Unlikely.** The only location this species is known to occur in the vicinity of the site is the Stevens Creek watershed, which is within the vicinity of the site. There are no recorded observations of this species within 5km of the project site (CDFW 2024).

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

ANIMALS (adapted from CDFW 2024 and USFWS 2024)

California Species of Special Concern and Protected Species

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Northern California legless lizard *Anniella pulchra*	CSC	Occurs mostly underground in warm moist areas with loose soil and substrate. 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 project site does not support suitable habitat for this species. Additionally, there are no recorded observations of this species within 5km of the site (CDFW 2024).
Coast horned lizard *Phrynosoma blainvillii*	CSC	Occur in grasslands, scrublands, oak woodlands, etc. of central California. Common in sandy washes with scattered shrubs.	**Absent.** Habitats required by coast horned lizards are absent from the site, as the site lacks sandy soils. Additionally, there are no recorded observations of this species within 5km of the site (CDFW 2024).
White-tailed kite (WTK) *Elanus leucurus*	CP	Open grasslands and agricultural areas throughout central California.	**Possible.** The WTK may nest in large on and off-site trees. The nearest recorded observation of this species is approximately 1km from 2005, the observation was of a nesting pair and fledging (CDFW 2024).
Northern harrier (*Circus cyaneus*)	CSC	Frequents meadows, grasslands, open rangelands, freshwater emergent wetlands; uncommon in wooded habitats.	**Unlikely.** The site does not provide suitable foraging or nesting habitat; however, this species may fly over the site from time to time. There are no recorded observations of this species within 5km of the project site (CDFW 2024).
Golden Eagle *Aquila chrysaetos*	CP	Typically frequents rolling foothills, mountain areas, sage-juniper flats, and desert.	**Absent.** Suitable breeding and foraging habitat for the golden eagle is absent from the site.
Black swift *Cypseloides niger*	CSC	Migrants found in many habitats of state; in Sierra nests are often associated with waterfalls.	**Absent.** The site does not provide suitable breeding or foraging habitat for this species.
Alameda song sparrow *Melospiza melodia pusillula*	CSC	Found in tidal salt marsh habitat with exposed ground for foraging with no more than 2-5 cm between bases of plants. Current range is generally only along the San Francisco Bay.	**Absent.** Tidal salt marsh habitat is absent from the site. There are no recorded observations of this species within 5km of the project site.
Grasshopper sparrow *Ammodramus savannarum*	CSC	Occurs in California during spring and summer in open grasslands with scattered shrubs.	**Unlikely.** Breeding habitat is absent onsite, and foraging habitat is marginal on the site. There are no recorded observations of this species within 5km of the project site (CDFW 2024).

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

ANIMALS (adapted from CDFW 2024 and USFWS 2024)

California Species of Special Concern and Protected Species

Common and scientific names	Status	General habitat description	*Occurrence in the study area
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.	**Absent.** The site does not support manmade bird houses suitable for this species and trees of the site appear to be unsuitable with few to no cavities. Additionally, these birds are known to nest near open water, which is not present onsite or in the vicinity of the site. The purple martin may be expected to fly over or forage on the site from time to time.
Yellow-breasted chat (YBC) *Icteria virens*	CSC	Frequently breeds in dense shrubs and blackberry thickets and uses areas of dense vegetation during migration.	**Absent.** Dense vegetation suitable for nesting is absent from the site. There are no recorded observations of this species within 5km of the project site.
Loggerhead Shrike *Lanius ludovicianus*	CSC	Frequents open habitats with sparse shrubs and trees, other suitable perches, bare ground, and low herbaceous cover. Nests in tall shrubs and dense trees. Forages in grasslands, marshes, and ruderal habitats. Can often be found in cropland.	**Unlikely.** The site is developed and lacks dense bushes used by loggerhead shrikes for breeding and is not expected to forage on the site. There are no recorded observations of this species within 5km of the project site in CNDDB, however, the closest recorded observation in eBird is from 2019 approximately 0.6km to the north of the site along Stevens Creek.
Townsend's big-eared bat *Corynorhinus townsendii*	CSC	Primarily a cave-dwelling bat that may also roost in buildings. Occurs in a variety of habitats of the state.	**Possible.** The site provides suitable foraging habitat for this species. Additionally, the detached structures support potentially marginal roosting habitat for this species. The nearest recorded observation of this species was in 2000 approximately 3km away.
Pallid Bat *Antrozous pallidus*	CSC	Grasslands, chaparral, woodlands, and forests; most common in dry rocky open areas providing roosting opportunities.	**Possible.** The site provides suitable foraging habitat for this species. Additionally, the detached structures support potentially marginal roosting habitat for this species. There are no recorded observations of this species within 5km of the project site.
San Francisco dusky-footed woodrat *Neotoma fuscipes annectens*	CSC	Hardwood forests, oak riparian and shrub habitats. This species is known to build terrestrial stick houses around logs or near trees in areas that are cool and shaded.	**Absent.** The site did not support woodrat nests at the time of the June 2024 site visit.

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

ANIMALS (adapted from CDFW 2024 and USFWS 2024)

California Species of Special Concern and Protected Species

Common and scientific names	Status	General habitat description	*Occurrence in the study area
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.	**Absent.** Suitable habitat for the American badger is absent from the site.

*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.

STATUS CODES

FE	Federally Endangered	CE	California Endangered
FT	Federally Threatened	CT	California Threatened
FPE	Federally Endangered (Proposed)	CPT	California Threatened (Proposed)
FPT	Federally Threatened (Proposed)	CR	California Rare
FC	Federal Candidate	CP	California Protected
SCVHP	Santa Clara Valley Habitat Plan Focal Species	CCE	`California Candidate (Endangered)
CSC	California Species of Special Concern		

2.3 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), CDFW, and the Regional Water Quality Control Board (RWQCB). See Section 3.2.5 of this report for additional information.

The site does not support jurisdictional waters.

3 IMPACTS AND MITIGATIONS

3.1 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 of its 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 *2024 CEQA Status and Guidelines* (2024), "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.

3.2 RELEVANT GOALS, POLICIES, AND LAWS

3.2.1 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. To "take" a listed species, as defined by the state of California, is "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill" said species (California Fish and Game Code, Section 86). "Take" is more broadly defined by the federal Endangered Species Act to include "harm" of a listed species (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.

3.2.2 Migratory Birds

State and federal laws also protect most bird species. The State of California signed Assembly Bill 454 into law in 2019, which clarifies native bird protection and increases protections where California law previously deferred to Federal law. The Federal Migratory Bird Treaty Act (FMBTA: 16 U.S.C., scc. 703, Supp. I, 1989) prohibits killing, possessing, or trading in migratory birds, except

in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs.

3.2.3 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.

3.2.4 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.

3.2.5 Wetlands and Other "Jurisdictional Waters"

Section 404 of the federal Clean Water Act (CWA) regulates the discharge of dredged or fill material into "navigable waters" (33 U.S.C. §1344), defined in the CWA as "the waters of the

United States, including the territorial seas" (33 U.S.C. §1362(7)). The CWA does not supply a definition for waters of the U.S., and that has been the subject of considerable debate since the CWA's passage in 1972. A variety of regulatory definitions have been promulgated by the two federal agencies responsible for implementing the CWA, the Environmental Protection Agency (EPA) and USACE. These definitions have been interpreted, and in some cases, invalidated, by federal courts.

Waters of the U.S. are presently defined by the EPA and USACE's joint 2023 Revised Definition of 'Waters of the U.S.' Rule (2023 WOTUS Rule), with certain interpretive modifications imposed by the U.S. Supreme Court's May 25, 2023, decision in the case of *Sackett v. Environmental Protection Agency*. These waters include:

- Waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
- The territorial seas.
- Interstate waters, including interstate wetlands.
- Impoundments of waters otherwise defined as waters of the United States under the definition.
- Tributaries to other waters of the U.S. that are relatively permanent, standing or continuously flowing bodies of water.
- Wetlands adjacent to other waters of the U.S. that have a continuous surface connection to those waters.

The 2023 WOTUS Rule also defines a number of exclusions from the definition of waters of the U.S., many of which are longstanding exclusions from earlier regulatory regimes. These generally include:

- Waste treatment systems.
- Prior converted cropland.

- Ditches excavated wholly in and draining only dry land that do not carry a relatively permanent flow of water.
- Certain artificial features, e.g., irrigation basins, swimming pools, borrow pits, and artificially irrigated areas.
- Swales and erosional features characterized by low volume, infrequent, or short duration flow.

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. Such permits are typically issued on the condition that the applicant agrees to provide mitigation that results in no net loss of wetland functions or values.

Under the Porter-Cologne Water Quality Control Act of 1969, the State Water Resources Control Board has regulatory authority to protect the water quality of all surface water and groundwater in the State of California ("waters of the State"). Nine RWQCBs oversee water quality at the local and regional level. 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. Discharges into waters of the State that are also waters of the U.S. require a Section 401 Water Quality Certification from the RWQCB as a prerequisite to obtaining a Section 404 Clean Water Act permit. Discharges into waters of the State that are not also waters of the U.S. require Waste Discharge Requirements (WDRs), or waivers of WDRs, from the RWQCB.

The RWQCB also administers the Construction Storm Water 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 Storm Water Program. A prerequisite for this permit is the development of a Storm Water Pollution Prevention Plan (SWPPP) by a certified Qualified SWPPP Developer. Projects that discharge wastewater, storm water, or other pollutants into a water of the U.S. may require a NPDES permit.

CDFW has jurisdiction over the bed and bank of natural drainages and lakes according to provisions of Section 1601 and 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 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.

3.2.6 City Tree Ordinance

The City of Cupertino has a tree ordinance (Chapter 14.18 of the Municipal Code) that requires a tree removal permit for removal of "protected trees." "Removal" is defined by the ordinance as both the complete removal of the tree and also the severe pruning of a protected tree (i.e. the removal of more than one-fourth of the functioning leaf and stem area of a protected tree in any twelve-month period as determined by the Community Development Director). Per the ordinance, a "protected tree" is defined as any of the following:

Heritage Trees in All Zones. "Heritage tree" is defined by the ordinance as any tree or grove of trees which, because of factors including but not limited to, its historic value, unique quality, girth, height or species, has been found by the Planning Commission to have a special significance to the community.

Mature Specimen Trees on Private Property. "Mature specimen tree" is defined by the ordinance as a tree with a minimum single-trunk of 12 inches diameter-at-breast height (DBH) (38-inch circumference), or multi-trunk DBH of 24 inches (75-inch circumference) or greater, of the following species:

- *Quercus* sp. (any native oak tree);
- *Aesculus californica* (California buckeye);
- *Acer macrophyllum* (big leaf maple);
- *Cedrus deodara* (deodar cedar);
- *Cedrus atlantica* 'Glauca' (blue Atlas cedar);
- *Umbellularia californica* (bay laurel or California bay); and
- *Platanus racemosa* (western sycamore).

Approved Development Tree(s). "Approved development tree(s)" means any class of tree required to be planted or retained as part of an approved development application, building permit, tree removal permit or code enforcement action in all zoning districts.

Approved Privacy Protection Planting in R-1 Zoning Districts. "Privacy planting" means any privacy protection planting, including trees and/or shrubs, required pursuant to Chapter 19.28 of the Municipal Code.

3.2.7 City of Cupertino's General Plan: Community Vision 2015 – 2040

Chapter 6 (Environmental Resources and Sustainability) of the City's General Plan (adopted in 2014) sets forth goals, policies and strategies aimed at protecting the City's environmental resources and promoting sustainability. The following goals, policies, and strategies contained in Chapter 6 of the General Plan would be applicable to development projects.

GOAL ES-5: Protect the City's urban and rural ecosystems.

POLICY ES-5.1: URBAN ECOSYSTEM Manage the public and private development to ensure the protection and enhancement of its urban ecosystem.

STRATEGIES:

ES-5.1.1: Landscaping. Ensure that the City's tree planting, landscaping and open space policies enhance the urban ecosystem by encouraging medians, pedestrian crossing curb-extensions planting that is native, drought-tolerant, treats stormwater and enhances urban plant, aquatic and animal resources in both, private and public development.

ES-5.1.2: Built Environment. Ensure that sustainable landscaping design is incorporated in the development of City facilities, parks and private projects with the inclusion of measures such as tree protection, stormwater treatment and planting of native, drought tolerant landscaping that is beneficial to the environment.

POLICY ES-5.2: DEVELOPMENT NEAR SENSITIVE AREAS Encourage the clustering of new development away from sensitive areas such as riparian corridors, wildlife habitat and corridors, public open space preserves and ridgelines. New developments in these areas must have a harmonious landscaping plan approved prior to development.

STRATEGY:

ES-5.2.1: Riparian Corridor Protection. Require the protection of riparian corridors through the development approval process.

POLICY ES-5.3: LANDSCAPING IN AND NEAR NATURAL VEGETATION Preserve and enhance existing natural vegetation, landscape features and open space when new development is proposed within existing natural areas. When development is proposed near natural vegetation, encourage the landscaping to be consistent with the palate of vegetation found in the natural vegetation.

STRATEGIES:

ES-5.3.1: Native Plants. Continue to emphasize the planting of native, drought tolerant, pest resistant, non-invasive, climate appropriate plants and ground covers, particularly for erosion control and to prevent disturbance of the natural terrain.

ES-5.3.2: Hillsides. Minimize lawn area in the hillsides.

POLICY ES-5.4: HILLSIDE WILDLIFE MIGRATION Confine fencing on hillside property to the area around a building, rather than around an entire site, to allow for migration of wild animals.

POLICY ES-5.5: RECREATION AND NATURAL VEGETATION Limit recreation in natural areas to activities compatible and appropriate with preserving natural vegetation, such as hiking, horseback riding, mountain biking and camping.

POLICY ES-5.6: RECREATION AND WILDLIFE Provide open space linkages within and between properties for both recreational and wildlife activities, most specifically for the benefit of wildlife that is threatened, endangered or designated as species of special concern.

STRATEGIES:

ES-5.6.1: Creek and Water Course Identification. Require identification of creeks, water courses and riparian areas on site plans and require that they be protected from adjacent development.

ES-5.6.2: Trail Easements. Consider requiring easements for trail linkages if analysis determines that they are needed.

GOAL ES-7: Ensure protection and efficient use of all water resources.

POLICY ES-7.1: NATURAL WATER BODIES AND DRAINAGE SYSTEMS In public and private development, use Low Impact Development (LID) principles to manage stormwater by mimicking natural hydrology, minimizing grading and protecting or restoring natural drainage systems.

STRATEGIES:

ES-7.1.1: Development Plans. Continue to require topographical information; identification of creeks, streams and drainage areas; and grading plans for both public and private development proposals to ensure protection and efficient use of water resources.

POLICY ES-7.2: REDUCTION OF IMPERVIOUS SURFACES Minimize stormwater runoff and erosion impacts resulting from development and use low impact development (LID) designs to treat stormwater or recharge groundwater.

STRATEGIES:

ES-7.2.1: Lot Coverage. Consider updating lot coverage requirements to include paved surfaces such as driveways and on grade impervious patios to incentivize the construction of pervious surfaces.

ES-7.2.2: Pervious Walkways and Driveways. Encourage the use of pervious materials for walkways and driveways. If used on public or quasi-public property, mobility and access for the disabled should take precedence.

ES-7.2.3: Maximize Infiltration. Minimize impervious surface areas and maximize on-site filtration and the use of on-site retention facilities.

POLICY ES-7.3: POLLUTION AND FLOW IMPACTS Ensure that surface and groundwater quality impacts are reduced through development review and voluntary efforts.

STRATEGY:

ES-7.3.1: Development Review. Require LID designs such as vegetated stormwater treatment systems and green infrastructure to mitigate pollutant loads and flows.

POLICY ES-7.8: NATURAL WATER COURSES Retain and restore creek beds, riparian corridors, watercourses and associated vegetation in their natural state to protect wildlife habitat and recreation potential and assist in groundwater percolation. Encourage land acquisition or dedication of such areas.

STRATEGY:

ES-7.8.1: Inter-Agency Coordination. Work with the Santa Clara Valley Water District and other relevant regional agencies to enhance riparian corridors and provide adequate flood control by use of flow increase mitigation measures, such as hydromodification controls as established by the Municipal Regional Permit.

3.3 IMPACTS SPECIFIC TO THE PROJECT

The project consists of re-developing the approximately 2.48-acre site with 51 townhomes and associated infrastructure. As discussed above, activities resulting in impacts to biotic resources may be regulated by local, state, and federal laws. The natural resource issues specific to this project are discussed in detail below.

3.3.1 Potential Project Impacts to Special Status Plants

Potential Impact. The project site is currently developed; adjacent areas are also developed, therefore, most special status plant species known to occur, or to once have occurred, in the project region are considered absent from the site due to an absence of potential habitat for these species (i.e. an absence of serpentine soils, vernal pools, chaparral, and/or because the site is substantially below the elevations at which these species occur, etc.) and because the site is fully developed. Therefore, the project as proposed is expected to have no impact on special status plants.

Mitigation. None warranted.

3.3.2 Loss of Habitat for Special Status Animals

Potential Impact. Twenty-eight special status animal species occur, or once occurred, regionally (see Table 1). Of these, twenty-five species would be absent or unlikely to occur on the site due to a lack of suitable habitat for these species. The species considered to be absent or unlikely to occur on the site include the western bumble bee, Crotch bumble bee, California tiger salamander, California red-legged frog, foothill yellow-legged frog, Santa Cruz black salamander, red-bellied newt, northwestern pond turtle, northern California legless lizard, coast horned lizard, western snowy plover, golden eagle, northern harrier, Swainson's hawk, burrowing owl, black swift, western yellow-billed cuckoo, tricolored blackbird, grasshopper sparrow, Alameda song sparrow, loggerhead shrike, yellow-breasted chat, purple martin, San Francisco dusky-footed woodrat, and American badger.

The remaining three special status animal species from Table 1 potentially occur more frequently as potential foragers or transients, may be resident to the site, or may occur within areas adjacent to the site. These include the white-tailed kite, Townsend's big-eared bat, and pallid bat.

Although no evidence of bats was observed during the June 2024 survey, the detached structures onsite could provide potential bat roosting habitat. Whether or not roosting occurs onsite for the Townsend's big-eared bat and pallid bat, these species as well as other bat species are expected to forage within the site from time to time.

The loss of the four single-family residences and associated garages and yards, which does not contain regionally important habitat for the white-tailed kite, Townsend's big-eared bat, or pallid bat, will not result in a significant loss of habitat for the species listed in Table 1.

The project does have the potential to result in an impact to individual species due to construction-related injury or mortality of nesting migratory birds and raptors, including the white-tailed kite, and roosting bats as discussed below in Sections 3.3.5 through 3.3.6.

Mitigation. No mitigation warranted for loss of habitat for special status animal species.

3.3.3 Loss of Habitat for Native Wildlife

Potential Impact. The developed habitat of the site comprises only a small portion of the regionally available habitat for plant and animal species that are expected to use the project site. The proposed project would result in the redevelopment of developed habitat. This is not expected to result in a significant loss of habitat for local wildlife. Therefore, impacts due to the loss of habitats for native wildlife resulting from the proposed project are considered less-than-significant.

Mitigation. No mitigation would be warranted for the loss of habitat for native wildlife.

3.3.4 Interference with the Movement of Native Wildlife

Potential Impact. Stevens Creek occurs within the vicinity of the site; however, the project site is currently developed, and the project will be a redevelopment, therefore, the project is not expected to result in significant interference with movement of native wildlife. Animals currently moving across the site would be expected to continue to move across the site post-build-out.

Mitigation. No mitigation warranted.

3.3.5 Impacts to Nesting Migratory Birds Including White-tailed Kite and other Nesting Raptors and Protected Birds

Potential Impacts. Trees and buildings of the project site may support nesting birds and raptors. Buildout of the project during the nesting period for migratory birds (i.e., typically between February 1 to August 31), including initial site grading, soil excavation, and/or tree and vegetation removal, poses a risk of nest abandonment and death of any live eggs or young that may be present in nests within or near the site. Such an effect would be considered a significant impact. To ensure that any active nests will not be disturbed, and individual birds will not be harmed by construction activities, the following measures should be followed.

Mitigation. The following measures will ensure that active migratory bird and raptor nests will not be disturbed, and individual birds will not be harmed by construction activities and will reduce the project's potential impacts to nesting migratory birds to a less-than-significant level.

Mitigation Measure 3.3.5a. If initial site disturbance activities, including residence, tree, shrub, or vegetation removal, are to occur during the breeding season (typically February 1 to August 31), a qualified biologist would conduct pre-construction surveys for nesting migratory birds and raptors. The survey for nesting migratory birds would cover the project site itself, and the survey for nesting raptors would encompass the site and surrounding lands within 300 feet, where accessible. The survey should occur within 7 days prior to the onset of ground disturbance. If a nesting migratory bird were to be detected, an appropriate construction-free buffer would be established. The City of Cupertino' s Municipal Code identifies required buffers of 300 feet for raptors and 75 feet for passerines. The buffer size will be determined by the project biologist and per the City of Cupertino's Municipal Code (17.04.050), the buffer can only be reduced if CDFW approves the reduction. Buffer reduction would depend on species, topography, and type of activity that would occur in the vicinity of the nest. The project buffer would be monitored periodically by the project biologist to ensure compliance. After the nesting is completed, as determined by the biologist, the buffer would no longer be required.

3.3.6 Roosting Bats

Impact. Although the residences onsite did not support suitable bat roosting habitat at the time of the survey, the detached structures onsite could provide marginal roosting habitat. A number of bat species may also forage on the site year-round or during migration.

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

- ***Mitigation Measure 3.3.6a:*** A daytime bat roosting habitat assessment/survey should be conducted prior to demolition of the buildings and structures onsite. The City of Cupertino's Municipal Code (17.04.050) includes a required timing for the bat roosting assessment/survey within 14 days prior to start of demolition or tree removal. Surveys will need to be repeated should a lapse of seven days or more occurs in construction activities. Although the Municipal Code requires this timing, should the developer want additional planning time, an initial habitat assessment can be conducted prior to the assessment/survey.

The results of the bat roosting habitat assessment/survey should be summarized in a letter report and include any recommended next steps. The biologist will consider the Municipal Code when making recommendations.

Mitigation Measure 3.3.6c: If potential bat roosting habitat is absent from the site, no further surveys would be necessary.

Mitigation Measure 3.3.6d: If bats are absent from the site, no further surveys would be necessary prior to construction as long as the survey is within seven days prior to demolition/construction activities

Mitigation Measure 3.3.6e: Should additional surveys requiring a man-lift or a night emergence survey, these would need to be conducted for the trees and/or structures identified in the report prior to start of construction. Additionally, if two-step removal is recommended, the developer would follow specific instructions in the report.

Mitigation Measure 3.3.6f: 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 building removal activities.

Mitigation Measure 3.3.6g: If a maternity colony is detected, then a construction-free buffer should be established around the building and remain in place until the nursery is no longer active. Removal of the building should preferably be conducted 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.

3.3.7 Potential Impacts to Riparian Habitat and Other Sensitive Natural Communities, Including Federally and State Protected Wetlands

Potential Impacts. No jurisdictional waters, wetlands, aquatic habitats, or riparian habitat occur on the site. Therefore, the project as proposed will have no impact on riparian habitats or on waters under the jurisdiction of the U.S. or state. The riparian habitat associated with Stevens Creek, exists approximately 200 meters west of the site and the area between the project site and the creek is an active golf course and Stevens Creek Trail.

Mitigation. No mitigation is warranted for potential impacts to riparian habitat and other sensitive natural communities.

3.3.8 Degradation of Water Quality in Seasonal Drainages, Stock Ponds, and Downstream Waters

Potential Impact. Eventual site development and construction may require grading that leaves the soil of construction zones barren of vegetation and, therefore, vulnerable to sheet, rill, or gully erosion. Eroded soil is generally carried as sediment in surface runoff to be deposited in natural creek beds, canals, and adjacent wetlands. Furthermore, urban runoff is often polluted with grease, oil, pesticide and herbicide residues, heavy metals, etc. These pollutants may eventually be carried to sensitive wetland habitats used by a diversity of native wildlife species. The deposition of pollutants and sediments in sensitive riparian and wetland habitats would be considered a potentially significant adverse environmental impact. The project would comply with the City's grading requirements. Therefore, the project buildout would result in a less-than-significant impact to water quality.

Mitigation. No mitigation is warranted.

3.3.9 Conflict with Local Policies and Ordinances: City of Cupertino's Tree Ordinance

Potential Impacts. Although a tree inventory was not conducted by an arborist for this site, it is expected some of the trees onsite would be defined as "protected" per the City of Cupertino's tree ordinance. Onsite trees could be directly impacted in the form of removal, while off-site trees could be severely impacted in the form of root damage during grading efforts. The loss of ordinance-sized trees without further compliance with the City's tree ordinance could constitute a significant adverse impact of the project.

Mitigation. Mitigation for removal of each ordinance-sized tree should follow the City's tree ordinance by obtaining and adhering to any requirements within a tree permit. The project should consider having an arborist conduct a tree inventory and to prepare a report that details if and how many "protected" trees exist onsite.

3.3.10 Conflict with Local Policies and Ordinances: City of Cupertino's General Plan: Community Vision 2015 - 2040

As discussed in Section 3.2.7, the City of Cupertino's General Plan: Community Vision 2015 – 2040 covers the project site. Chapter 6 the City's General Plan sets forth goals, policies and strategies aimed at protecting the City's environmental resources and promoting sustainability, including a number of goals, policies and strategies relevant to development projects (see Section 3.2.7). It is assumed that the project will be consistent with all such goals, policies, and strategies.

Mitigation. No mitigation is warranted.

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APPENDIX A: ILLUSTRATIVE SITE PLAN

400-150

10857 Linda Vista Drive

Cupertino, CA

August 4, 2025

Illustrative Overall Plan

L.1.1

SUMMERHILL HOMES℠
COMMUNITIES OF DISTINCTION
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