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North Bayshore Framework Master Plan
Biological Resources Confirmation Report

Project #10832

Prepared for:

Google

Prepared by:

H. T. Harvey & Associates

January 12, 2022

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Section 1. Introduction

This report describes biological resource issues related to Google's proposed development in the North Bayshore Framework Master Plan (Master Plan) area. The Master Plan outlines a proposal for land use location and intensity, urban design, mobility, district parking, infrastructure, sustainability, and implementation, and phasing strategies, within a subset of land in the North Bayshore Precise Plan (NBPP) area, one of several "change areas" identified in the City of Mountain View's 2030 General Plan. The NBPP is guided by the General Plan's vision, goals, policies, and urban design direction, and defines standards that must be followed by project applicants, unless an exception to a standard is otherwise noted therein. The potential environmental effects of implementation of the NBPP were initially disclosed in the *North Bayshore Precise Plan Environmental Impact Report* (EIR) (City of Mountain View 2014). In 2017, the NBPP was amended to include residential development, and the *North Bayshore Precise Plan Subsequent Environmental Impact Report* (SEIR) (City of Mountain View 2017) was prepared to analyze the effects of the amended NBPP.

This document presents a summary of the findings of the NBPP, its 2014 EIR, and its 2017 SEIR regarding biological resources, existing conditions, and potential impacts in the Master Plan Area, at the time the EIR and SEIR were certified. It also presents a summary of changes to these conditions that have occurred since certification, as well as a summary of any potential impacts that may result from implementation of elements of the Master Plan that were not previously disclosed in the NBPP EIR and SEIR. This document concludes with an assessment of the degree to which the EIR and SEIR adequately assess impacts of the Master Plan and a description of any additional impacts and/or mitigation measures that may result from the Master Plan but that were not assessed in the EIR and SEIR.

1.1 Project Location

The North Bayshore area is geographically distinct from the rest of Mountain View due to being separated from the rest of the City by U.S. Highway 101 (Figure 1). Google's Master Plan Area is located within the NBPP area, in the northern end of the City of Mountain View, bordering Shoreline at Mountain View Regional Park to the north, Highway 101 to the south, Palo Alto to the west, and Stevens Creek to the east.

1.2 Project Description

The Master Plan proposes to redevelop Google's landholdings in North Bayshore, primarily within the central portion of the NBPP area that surrounds North Shoreline Boulevard, into three "Complete Neighborhoods" – Shorebird, Joaquin, and Pear (Figure 2). These complete neighborhoods are intended to have a balanced mix of housing, office, services, and open space within a safe, comfortable, and convenient walking distance for residents and employees (Figure 3). Three district-serving office parking facilities are also proposed as part of the Master Plan, two in the northwest portion of the NBPP area along Marine Way, and a third outside of but adjacent to the northern boundary of the NBPP area, on a parcel with an existing parking lot at Shoreline

Amphitheatre (Figure 4). All of the existing structures in the Master Plan Area will be demolished to accommodate the development, with the exception of the 1201 Charleston building (Shown as "Flex – Community Use District Central Plant" in Figures 3 and 4). A number of open spaces are planned, including three interconnected parks surrounding an existing egret rookery, and a Green Loop that connects a set of linear open spaces dispersed within the neighborhoods (Figure 5). A portion of Shorebird Way will be vacated and incorporated into a planned open space park (Figure 5).

N:\Proposals\10832\Reports\Framework Master Plan\Figure 1 Vicinity Map.mxd mlagarde

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Figure 1. Vicinity Map
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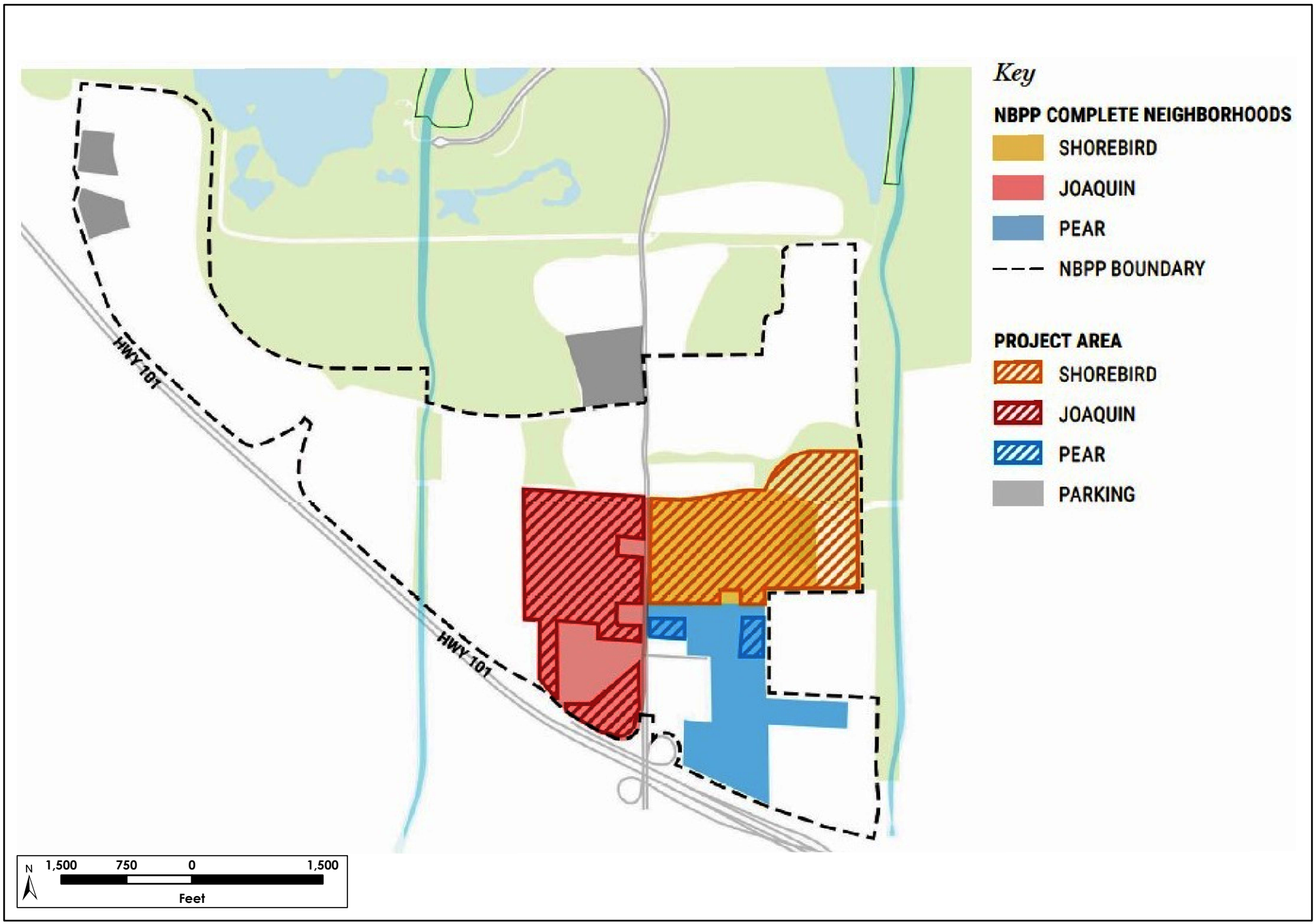

N:\Proposals\10832\Reports\Framework Master Plan\Figure 2 Project Site.mxd

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Figure 2. Project Site and Complete Neighborhoods

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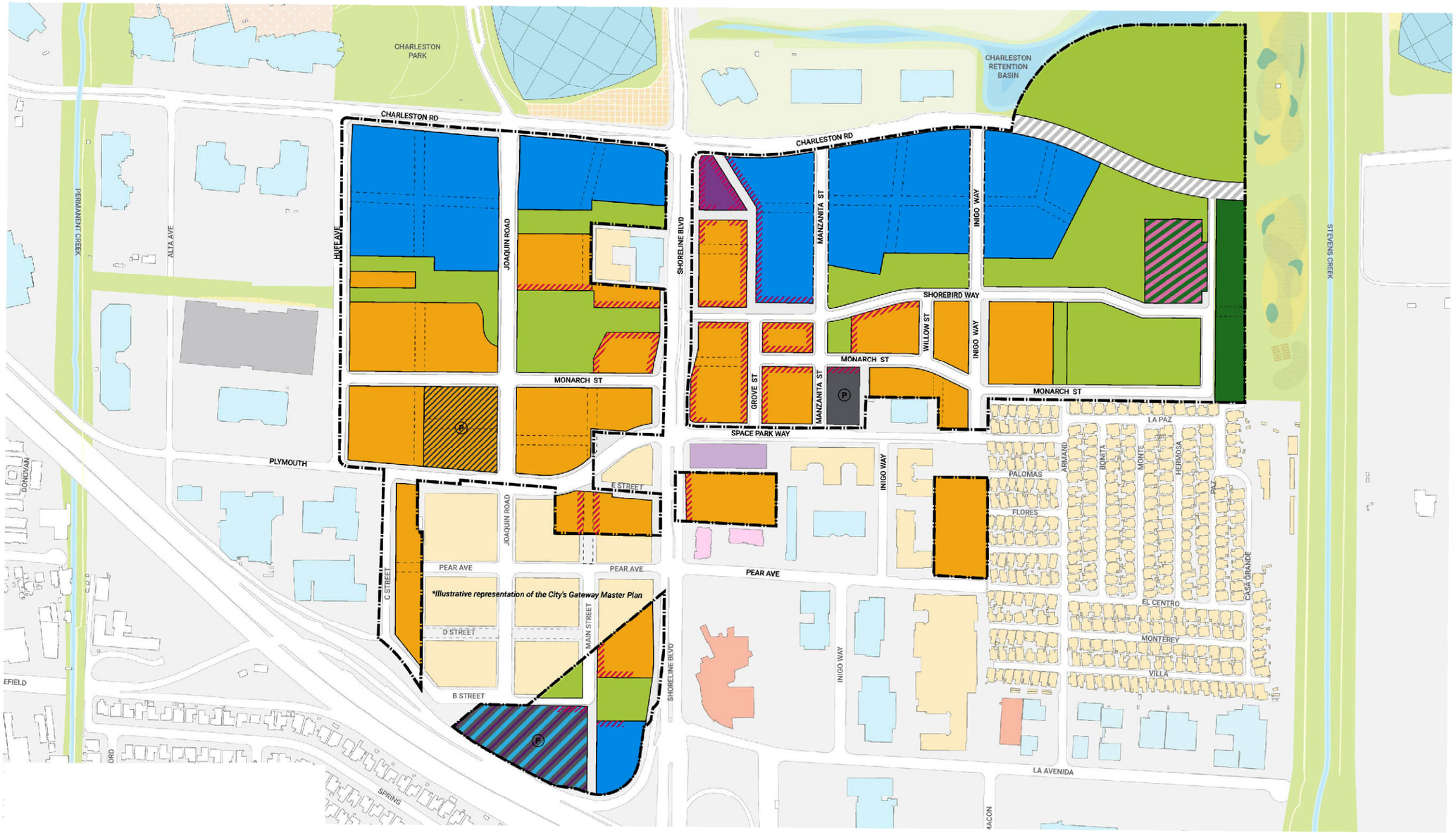

Key

- OFFICE
- RESIDENTIAL
- ACTIVE USES
- HOTEL
- FLEX - HOTEL, OFFICE, PARKING
- FLEX - PARKING, RESIDENTIAL
- FLEX - COMMUNITY USE, DISTRICT CENTRAL PLANT
- PARKING
- DISTRICT CENTRAL PLANT
- INDICATIVE LOCATION OF MID-BLOCK BREAK
- INDICATIVE LOCATION OF PRIVATE STREET
- CONCEPTUAL DEVELOPMENT PARCELS
- OPEN SPACE
- PUBLIC ROW FOR NONMOTORIZED TRAFFIC, MAINTENANCE AND EV ONLY
- PROJECT AREA

Note:

This Plan is part of the North Bayshore Framework Master Plan. This plan demonstrates a conceptual plan for the future development of the Master Plan Area. Roadway alignments, and land use parcels are general depictions. Specifically, the alignment of that part of Manzanita Street and Inigo Way between Shorebird Way and Charleston Road will be determined at the time of submitting a VTSM. This plan may be subsequently updated and modified in response to City comments as part of the design review process and future PCP applications.

N 450 225 0 450
Feet

Background Source: North Bayshore Master Plan Framework, authored by Lendlease Silicon Valley Development, LLC for Google

N:\Proposals\10832\Reports\Framework Master Plan\Figure 4 Land Use Plan Core Project Area.mxd

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Figure 3. Land Use Plan Core Project Area

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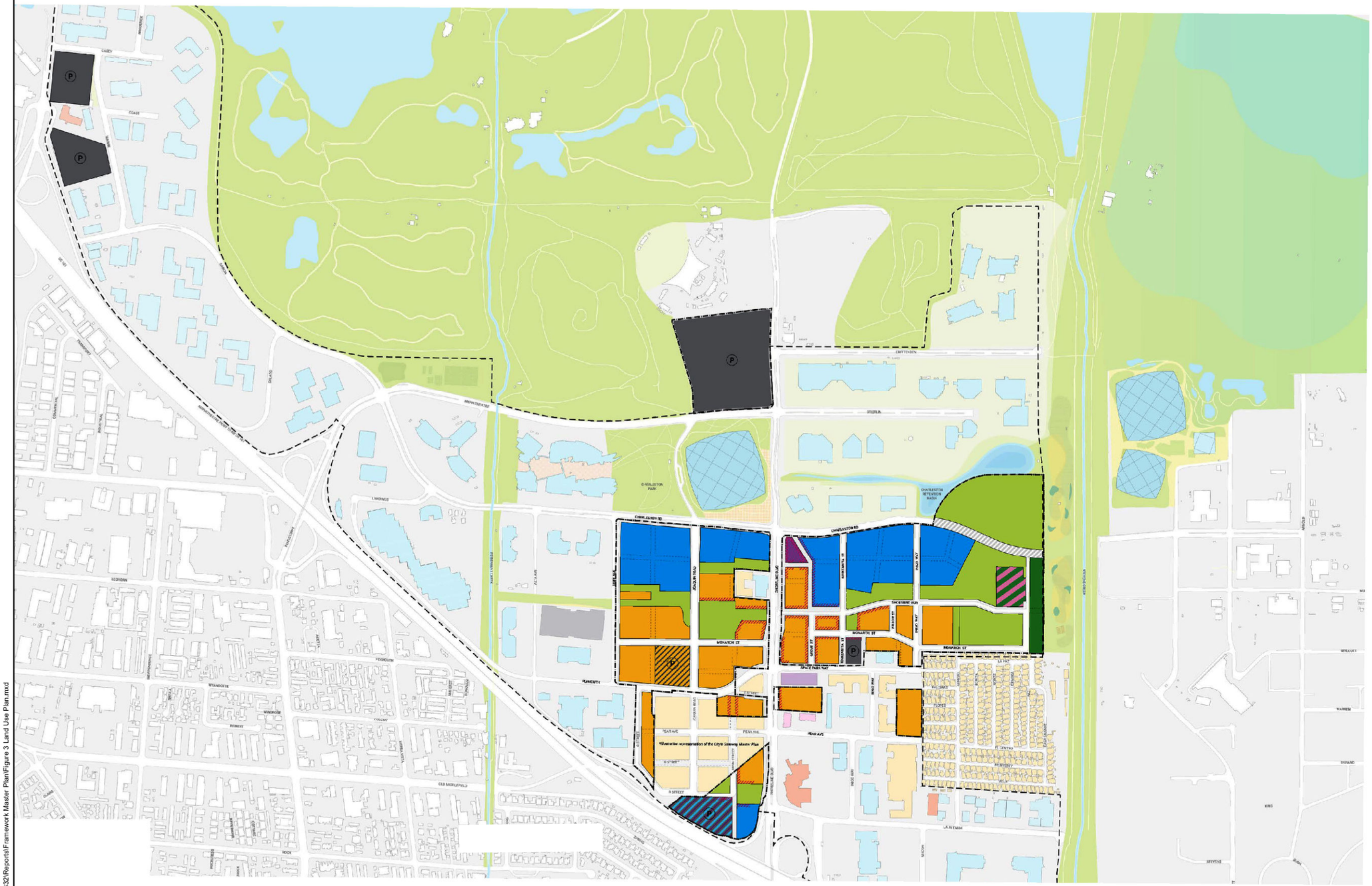

Background Source: North Bayshore Master Plan Framework, authored by Lendlease Silicon Valley Development, LLC for Google

N:\Proposals\10832\Reports\Framework Master Plan\Figure 3 Land Use Plan.mxd

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Figure 4. Land Use Plan

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Note:

Shorebird Yards is to be dedicated to the City of Mountain View as public park land. Following dedication, the City may, at its discretion, work with local school district(s) to establish an education facility on this parcel, which will be subject to its own independent entitlement process and associated CEQA review.

This Plan is part of the North Bayshore Framework Master Plan. This plan demonstrates a conceptual plan for the future development of the Master Plan Area. Roadway alignments, and land use parcels are general depictions. Specifically, the alignment of that part of Manzanita Street and Inigo Way between Shorebird Way and Charleston Road will be determined at the time of submitting a VTSM. This plan may be subsequently updated and modified in response to City comments as part of the design review process and future PCP applications.

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Background Source: North Bayshore Master Plan Framework, authored by Lendlease Silicon Valley Development, LLC for Google

N:\Proposals\10832\Reports\Framework Master Plan\Figure 5 Parks and Open Space Plan.mxd

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Figure 5. Parks and Open Space Plan

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Section 2. Methods

2.1 Background Review

Prior to conducting field work, H. T. Harvey & Associates ecologists reviewed the NBPP, the North Bayshore Framework Master Plan; the 2014 EIR (City of Mountain View 2014); the 2017 SEIR (City of Mountain View 2017); aerial images (Google Inc. 2021); the California Department of Fish and Wildlife's (CDFW's) California Natural Diversity Database (CNDDB 2021); a number of previous reports prepared for this and related projects by H. T. Harvey & Associates in the North Bayshore vicinity; and other relevant reports, scientific literature, and technical databases.

2.2 Site Visits

H. T. Harvey & Associates wildlife ecologist Jane Lien, B.S., conducted a reconnaissance-level field survey of the Master Plan Area and surrounding areas on November 30, 2021 to compare existing conditions to those described in the 2014 EIR and 2017 SEIR and, if necessary, to update the description of existing conditions with respect to biological resources. Specifically, the survey was conducted to 1) determine the extent of any changes in existing environmental conditions that have occurred in and surrounding the Master Plan Area since the previous EIR and SEIR were certified, 2) to identify any potential impacts associated with the proposed Master Plan that were not analyzed in the previous EIR and SEIR, and 3) to identify any impacts from the proposed Master Plan that might exceed the scope of the impacts disclosed in the previous EIR and SEIR.

Section 3. Summary of Existing Conditions

The following section summarizes our findings regarding biological resources present in the Master Plan Area. First, we provide a summary of existing habitat conditions, potential for occurrence of special-status plants and animals, and occurrence of sensitive/regulated habitats present and disclosed in the 2017 SEIR. We then summarize any changes to existing conditions that have occurred since the 2017 SEIR was certified.

3.1 Existing Conditions under the 2017 SEIR

In 2017, the NBPP was amended to include residential development, and the 2017 SEIR was prepared to analyze the effects of these changes to the NBPP. Because the 2017 SEIR supersedes the 2014 EIR, existing conditions as disclosed in the 2017 SEIR (rather than those in the 2014 EIR) are discussed herein.

The NBPP SEIR identified five general biological habitat types, as shown in Figure 6, below. These habitat types were developed/landscaped, disked field, artificial aquatic (artificial waterbodies), freshwater marsh, and open water/creek. Approximately 96 percent of the NBPP area was classified as developed/landscaped habitat. Adjacent land uses, natural communities, and habitats were also identified and discussed in the SEIR to inform the assessment of potential indirect impacts of NBPP activities on adjacent sensitive habitats. These included Stevens Creek, Crittenden Marsh and the Stevens Creek Tidal Marsh Restoration Area, the San Francisco Bay and Estuary, the South Bay Salt Ponds Restoration Project, and Shoreline at Mountain View Regional Park (Shoreline Park). The City of Mountain View actively manages Shoreline Park as burrowing owl foraging and nesting habitat and habitat for a number of other sensitive species, including several occurrences of Congdon's tarplant (*Centromadia parry* ssp. *congdonii*), a California Native Plant Society (CNPS) 1B.1-ranked rare plant species (Figure 6).

The 2017 SEIR identified two habitat types within the Master Plan Area: developed/landscaped and artificial aquatic. Adjacent and/or nearby habitat types include the disked field, freshwater marsh, and open water/creek. The Charleston Retention Basin, a freshwater marsh, is adjacent to the northern boundary of the Master Plan Area. In the SEIR, it was characterized as perennially wet and dominated by broad-leaved cattails (*Typha latifolia*) and California bulrush (*Schoenoplectus californicus*). Planned habitat improvements associated with the Charleston Retention Bain Improvement Project were identified in the SEIR, but reviewed via a separate California Environmental Quality Act (CEQA) process (City of Mountain View 2015). Planned improvements included a net increase of 0.13 acres of freshwater marsh habitat and 3.76 acres of riparian habitat at the Charleston Retention Basin. The SEIR also described a regionally significant egret rookery in the London plane trees (*Platanus* x *acerifolia*) within the developed/landscaped area along Shorebird Way in the eastern portion of the NBPP area, and within the proposed Master Plan Area. The egret rookery is also depicted in Figure 6.

N:\Proposals\10832\Reports\Framework Master Plan\Figure 6 Biological Resources and Habitats Map.mxd

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Figure 6. Biological Resources and Habitats Identified in the 2017 SEIR

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The parcel at Shoreline Amphitheatre proposed in the Master Plan for construction of a parking structure is outside the NBPP area. Impacts from Master Plan activities in this parcel were thus not analyzed in the NBPP SEIR.

3.2 Current Habitat Conditions

Aside from the parking structure proposed at Shoreline Amphitheatre, which is outside of the NBPP area, current conditions in the Master Plan Area are the same as those described in the 2017 SEIR. The Master Plan Area is still dominated by developed/landscaped land uses, with small artificial waterbodies in three locations (Figure 6). The extent of the egret rookery has changed slightly, as described in Section 4.2.3 below, but otherwise, habitat conditions within the Master Plan Area parcels have not changed substantively since 2017.

There have been changes to biological resources and habitats in two nearby areas, however. These changes are discussed below. Additionally, the portion of the Master Plan Area associated with the parking structure proposed at Shoreline Amphitheatre is outside the NBPP area. Potential development of this parcel is thus not covered by the standards and guidelines of the NBPP, nor was development of this parcel reviewed in the NBPP SEIR. Therefore, a description of the existing conditions on and surrounding this additional parcel is included below to facilitate CEQA analysis of this portion of the proposed Master Plan.

3.2.1 Habitat Areas Adjacent to the Master Plan Boundaries

3.2.1.1 Disked Field

The disked field identified at 2000 North Shoreline Boulevard in the SEIR is currently being developed by Google as the Charleston East project, a 2-level, 595,000 square ft office building. Thus, this land cover type would now be considered developed/landscaped, contributing to the overall preponderance of developed/landscaped habitat types within and surrounding the Master Plan Area. The 2017 SEIR identified the disked field as having a low probability of burrowing owls nesting and/or roosting there. Due to development on this parcel, and high levels of disturbance associated with construction of Charleston East, burrowing owls are no longer expected to occur at that location.

3.2.1.2 Charleston Retention Basin

The Charleston Retention Basin lies adjacent to the northern boundary of the Master Plan Area (Figure 6). Since the 2017 SEIR, the Charleston Retention Basin Bridges and Habitat Improvement Project was implemented. That project involved the expansion and enhancement of approximately 6.0 acres of native upland habitats (including a net increase of approximately 2.0 acres of willow riparian forest), the expansion of 0.13 acre of freshwater marsh, the installation of two pedestrian bridges to improve north-south pedestrian circulation and connectivity, and the creation of an improved pedestrian path around the Charleston retention basin to enhance user experience and comply with Americans with Disabilities Act accessibility requirements. The Project also involved the net removal of 134 parking spaces next to the basin to allow for habitat expansion and enhancement and to improve access to the path from adjacent parcels. The Project was implemented in

two phases: the first was completed in fall 2016/winter 2017 and the second was completed in fall 2018/winter 2019. A total of 3.7 acres of riparian habitat was created (H. T. Harvey & Associates 2019).

Although the Charleston Retention Basin and its freshwater marsh habitat (with a fringe of willows) already existed in 2017, it is primarily the expansion of the basin's willow-dominated habitat, as well as the reduction in developed parking areas and improved accessibility, that represent a change from 2017 SEIR conditions. In addition, the growth of willows that were already present in the basin (i.e., other than those added as part of the habitat enhancement project) has increased the proportion of willow, relative to emergent vegetation such as cattails and bulrush, within the basin since 2017.

3.2.2 Additional Master Plan Project Element: Shoreline Amphitheatre Parcel

The Shoreline Amphitheatre parcel is currently developed as a parking lot associated with the Shoreline Amphitheatre. Asphalt covers the majority of the parcel, and scattered landscape trees are present throughout the parking lot. The grade of the parking surface is approximately 30 feet below that of the surrounding land surface. On the eastern margin of the parcel, a steep embankment covered by short ruderal grasses with scattered landscape shrubs and trees slopes upward from the asphalt parking lot toward North Shoreline Boulevard. A similar embankment slopes upward toward Amphitheatre Parkway on the southern margin of the parcel, but this embankment is landscaped and developed with a stairway, escalators, an elevator, and associated pedestrian walkways. The western boundary of the parcel slopes more gently upwards toward Bill Graham Parkway, beyond which lie the grassland on the former landfill at Vista Slope in Shoreline Park. This slope is vegetated with short ruderal grasses and scattered ornamental trees, with a band of low-stature shrubs, such as coyote brush (*Baccharis pilularis*), just beyond the western margin of the parcel. Structures and additional parking associated with the Shoreline Amphitheatre are positioned to the north of the parcel, at the same grade as the current parking lot.

Conditions on the Shoreline Amphitheatre parcel where a parking structure is proposed, as well as wildlife use, are generally the same as those described in the 2017 SEIR for developed/landscaped habitats. The developed/landscaped habitat in this parcel is of relatively low value to wildlife, but provides nesting and foraging opportunities for some urban-adapted species of birds. Native bird species that were observed on or near the site during the November 2021 site visit include the American crow (*Corvus brachyrhynchos*), Anna's hummingbird (*Calypte anna*), and dark-eyed junco (*Junco hyemalis*). These species may use the trees or landscape vegetation, or buildings near the site, for nesting. Additional common bird species that could nest on this parcel include the lesser goldfinch (*Spinus psaltria*), California towhee (*Melozone crissalis*), and Bewick's wren (*Thyromaes bewickii*). Common urban-adapted mammal species that may occur here include the native raccoon (*Procyon lotor*) and nonnative house mouse (*Mus musculus*), Norway rat (*Rattus norvegicus*), black rat (*Rattus rattus*), and eastern gray squirrel (*Sciurus carolinensis*). The western fence lizard (*Sceloporus occidentalis*), a common native reptile, was also observed within landscaped areas here. California ground squirrels (*Otospermophilus beecheyi*) and their burrows are common in the ruderal grassland margins of the parcel, as well as on the adjacent grasslands at Shoreline Park.

Section 4. Special-Status Species and Sensitive Habitats

CEQA requires assessment of the effects of a project on species that are protected by state, federal, or local governments as "threatened, rare, or endangered"; such species are typically described as "special-status species". For the purpose of the environmental review of the project, both for the 2017 SEIR and for the current report, we define special-status species as described below.

For purposes of this analysis, "special-status" plants are considered plant species that are:

- Listed under Federal Endangered Species Act (FESA) as threatened, endangered, proposed threatened, proposed endangered, or a candidate species.
- Listed under the California Endangered Species Act (CESA) as threatened, endangered, rare, or a candidate species.
- Listed by the CNPS as CRPR 1A, 1B, 2, 3, or 4.

For purposes of this analysis, "special-status" animals are considered animal species that are:

- Listed under FESA as threatened, endangered, proposed threatened, proposed endangered, or a candidate species.
- Listed under CESA as threatened, endangered, or a candidate threatened or endangered species.
- Designated by the CDFW as a California species of special concern.
- Listed in the California Fish and Game Code as fully protected species (fully protected birds are provided in Section 3511, mammals in Section 4700, reptiles and amphibians in Section 5050, and fish in Section 5515).

Information concerning threatened, endangered, and other special-status species that occur in the Master Plan Area was collected from several sources and reviewed by H. T. Harvey & Associates biologists to determine whether any special-status species that were unrecorded in the Master Plan Area in 2017 have been recorded since then, and whether the legal/listing status of any species that occur in the Master Plan Area have changed since 2017 such that they have been recognized as a "special-status" species since 2017. Figure 7 depicts CNDDB records of special-status plant species in the general vicinity of the Master Plan Area and Figure 8 depicts CNDDB records of special-status animal species in the Master Plan Area.

Following is a discussion of special-status plants and animals that were addressed in the 2017 SEIR and whether there have been changes in potentially occurring special-status species since 2017 that could affect how Master Plan activities impact special-status species.

LEGEND

- North Bayshore Framework Master Plan
- 5-Mile Radius

CNDDB Records

Plants

- Specific Location
- Approximate Location
- General Area

Terrestrial Communities

- General Area

N 1.2 0.6 0 1.2
Miles

Northern Coastal Salt Marsh
Congdon's tarplant
Point Reyes salty bird's-beak
Valley Oak Woodland
California seablite
round-headed Chinese-houses
lost thistle
northern slender pondweed
alkali milk-vetch
Hoover's button-celery
Hoover's button-celery
San Francisco collinsia
western leatherwood
fragrant fritillary
western leatherwood
two-fork clover
Serpentine Bunchgrass
Jepson's coyote-thistle
woodland woollythreads
Franciscan onion
arcuate bush-mallow
Choris' popcornflower
Santa Cruz clover
chaparral ragwort
legenere
San Mateo woolly sunflower
Contra Costa goldfields
Hoover's button-celery
San Joaquin spearscale
alkali milk-vetch
prostrate vernal pool navarretia
lesser saltscale
California alkali grass
saline clover
arcuate bush-mallow
hairless popcornflower
robust spineflower
Hall's bush-mallow

N:\Proposals\10832\Reports\Framework Master Plan\Figure 7 CNDDB Plant Records.mxd

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Figure 7. CNDDB-Mapped Records of Special-Status Plants

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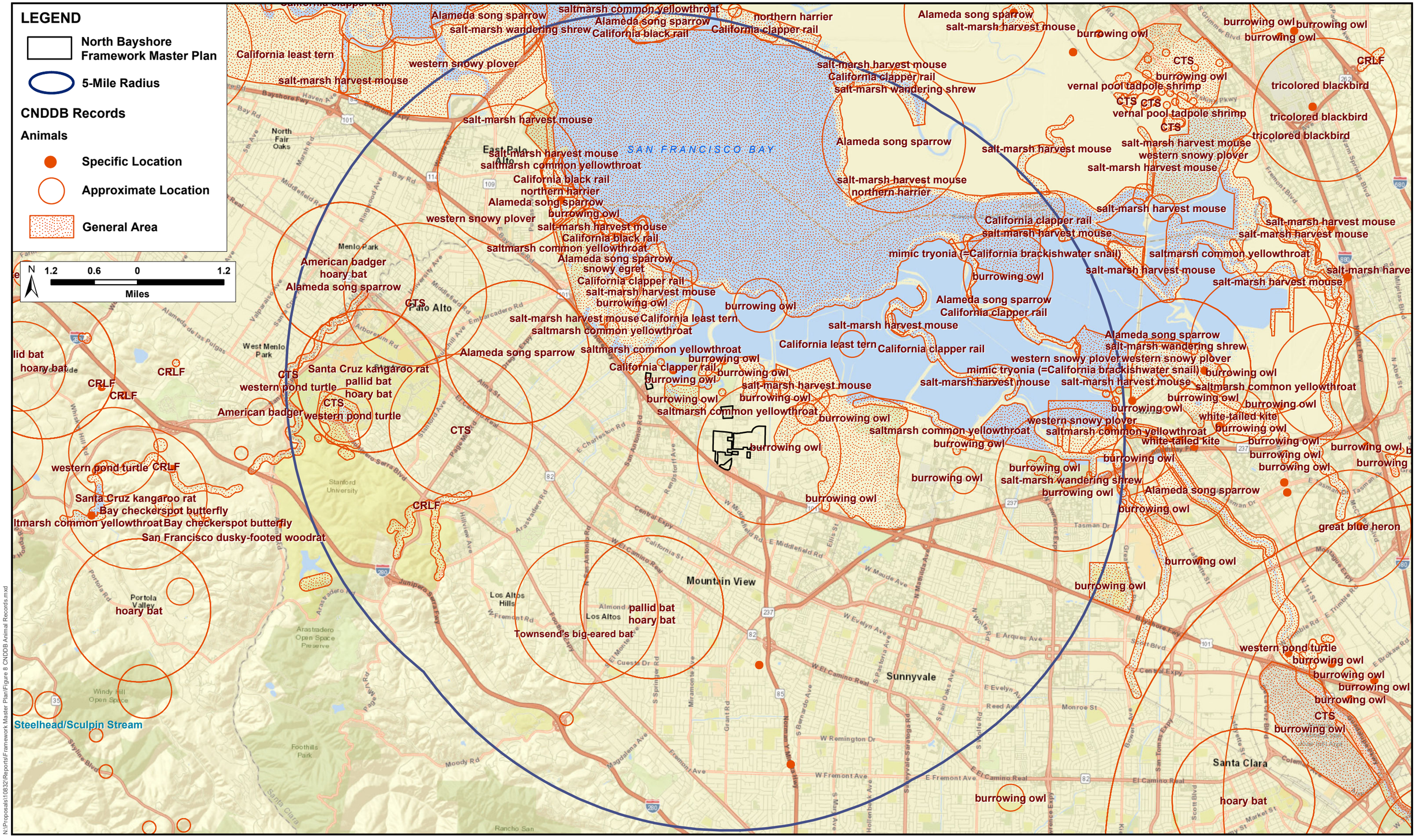

N:\Proposals\10832\Reports\Framework Master Plan\Figure 8 CNDDB Animal Records.mxd

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Figure 8. CNDDB-Mapped Records of Special-Status Animals

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4.1 Special-Status Species Considered in the 2017 SEIR

4.1.1 Special-Status Plant Species

The 2017 SEIR identified the potential for only one special-status plant to occur within the NBPP area, Condon's tarplant, a CNPS 1B.1 listed plant. This plant was considered to have a low potential to occur in the NBPP area based on its general habitat requirements and known distribution. It was not detected during site visits in July and August of 2013 (H. T. Harvey & Associates 2013), nor during off-site surveys at the Charleston Road Bridge and La Avenida Bridge study areas in 2016. The plant is known to occur in five locations at Shoreline Park north of the NBPP area (Figure 6).

4.1.2 Special-Status and Sensitive Animal Species

The 2017 SEIR identified the potential for a small number of special-status animals to occur in the NBPP area. These include three California bird species of special concern: burrowing owl (*Athene cunicularia*), San Francisco common yellowthroat (*Geothlypis trichas sinuosa*), and loggerhead shrike (*Lanius ludovicianus*); and two California fully protected species: the white-tailed kite (*Elanus leucurus*) and peregrine falcon (*Falco peregrinus anatum*). The SEIR noted that burrowing owls were known to nest in Shoreline Park, an area of ongoing burrowing owl monitoring and management, and that biologists with the City of Mountain View reported regular foraging, wintering, and successful nesting in the park. Within the NBPP area, the SEIR indicated that this species had a low probability of nesting and/or roosting in the disked field at 2000 North Shoreline Blvd. and along the northern border of the Google Athletic and Recreational Fields but was otherwise not expected to occur in the NBPP area. The SEIR determined that the San Francisco common yellowthroat nested in the NBPP area within the Charleston Retention Basin and Coast Casey Drainage Canal; that the loggerhead shrike and white-tailed kite could use trees and shrubs along the northern and eastern edges of the NBPP area for nesting because of their adjacency to open grassland and marsh foraging habitat; and that the peregrine falcon could potentially nest on electrical transmission towers or buildings (though the species was not known to nest in the NBPP area as of 2017).

One special-status reptile, the western pond turtle (*Actinemys marmorata*), a California species of special concern, was identified as having a low probability of occurring in the NBPP area and adjacent areas, such as Permanente and Stevens Creeks. The 2017 SEIR determined that several special-status fishes, including the federally threatened green sturgeon (*Acipenser medirostris*), state threatened longfin smelt (*Spirinchus thaleichthys*), and California species of special concern Central Valley fall-run Chinook salmon, had a low probability of occurrence in the lower, tidal reaches of Permanente and Stevens Creeks. The federally threatened Central California Coast Steelhead (*Oncorhynchus mykiss*) is known to occur in Stevens Creek and could also occur in the lower, tidal reaches of Permanente Creek.

Finally, the SEIR noted that two bat species designated as California species of special concern, the western red bat (*Lasiurus blossevillii*) and pallid bat (*Antrozous pallidus*), may be present along Stevens Creek in low numbers as foragers and migrants or wintering individuals but are not expected to occur elsewhere in the NBPP area.

The species nesting in the egret rookery, which are the great egret (*Ardea alba*), snowy egret (*Egretta thula*), and black-crowned night-heron (*Nycticorax nycticorax*), are not technically "special-status" species according to the definitions provided above, as they do not meet any of the criteria for a special-status animal listed above. However, egret and heron rookeries are scarce, usually being concentrated in just a few locations within a region, and though these three species are not particularly rare, the number of individuals nesting in the South Bay is relatively low. As a result, the egret rookery was considered a sensitive biological resource in the 2017 SEIR.

4.2 Changes to Special-Status Species Since 2017

4.2.1 Changes in Occurrences of Special-Status Species in the NBPP Area

None of the special-status plants or animals considered in the 2017 SEIR have undergone substantial changes in distribution or abundance within the NBPP area since 2017. Expansion of natural habitats around the Charleston Retention Basin has provided slightly more habitat for the San Francisco common yellowthroat around the basin, although encroachment of pre-existing willows into areas formerly dominated by cattails and bulrush since 2017 has reduced habitat suitability for yellowthroats. As a result, the San Francisco common yellowthroat is expected to occur in the Charleston Retention Basin, immediately adjacent to the Master Plan Area, in about the same abundance as it did in 2017. No suitable breeding habitat for this species is present within the Master Plan Area itself.

A pair of white-tailed kites fledged young in 2019 from a nest in a landscaped area north of Charleston Road, between the north end of the egret rookery and the Charleston Retention Basin; this nest was within the Master Plan Area. Although this location is not at the immediate edge of expansive open foraging habitat as described in the 2017 SEIR, this location is not far from foraging areas along Stevens Creek. No suitable nesting habitat for the loggerhead shrike is present in the Master Plan Area away from trees and shrubs along the margins of the Shoreline Amphitheatre parcel. In the Master Plan Area, peregrine falcons have a low potential to nest on electrical towers, though they are not currently known to do so.

No species that met the definition of "special-status" species in 2017, but that were not addressed in the 2017 SEIR, have been recorded in the NBPP area since then.

4.2.2 Monarch Butterfly

In 2017, the monarch butterfly had no listing or legal designation as a special-status species, and this species was not discussed in the 2017 SEIR. Since 2017, the monarch has been proposed for listing under FESA. On December 15, 2020, the U.S. Fish and Wildlife Service (USFWS) announced that listing the monarch butterfly (*Danaus plexippus*) as endangered or threatened under FESA was warranted, but precluded by higher priority listing actions. Thus, the monarch butterfly is now a candidate species under FESA, and the USFWS will review its status annually until a listing decision is made.

The monarch butterfly has historically occurred in the Master Plan region primarily as a migrant, foraging for nectar on flowering plants. Although this species forms large nonbreeding aggregations (i.e., winter roosts) in locations with favorable climatic conditions, primarily along the coast, it has not been known to do so in Santa Clara County. Therefore, no large nonbreeding aggregations would occur in or near the Master Plan Area.

Monarchs lay their eggs on milkweed (*Asclepias* spp.) plants, which then serve as the larval hostplant. Native milkweed occurs at scattered locations in the South Bay, and some monarchs in the region breed on native milkweed. Those milkweed plants typically senesce (i.e., become dried and die) by fall, so under natural conditions, monarchs do not breed in the South Bay in winter (due to the absence of suitable hostplants) or form overwintering aggregations here.

However, landscape plantings within the Master Plan Area have recently incorporated nonnative tropical milkweed (*Asclepias curassavica*). That plant species' life cycle, coupled with artificial irrigation of the plants, allows it to serve as a suitable larval hostplant even in winter. During the winter of 2020-2021, a breeding population of monarch butterflies was documented using tropical milkweed within the Master Plan Area along Shorebird Way and Charleston Road (James et al. 2021). Breeding monarch butterflies of various life stages were also observed in the landscape vegetation along Charleston Way near Shorebird Way during the November 2021, reconnaissance surveys. Therefore, the monarch butterfly is present as a breeder in the Master Plan Area.

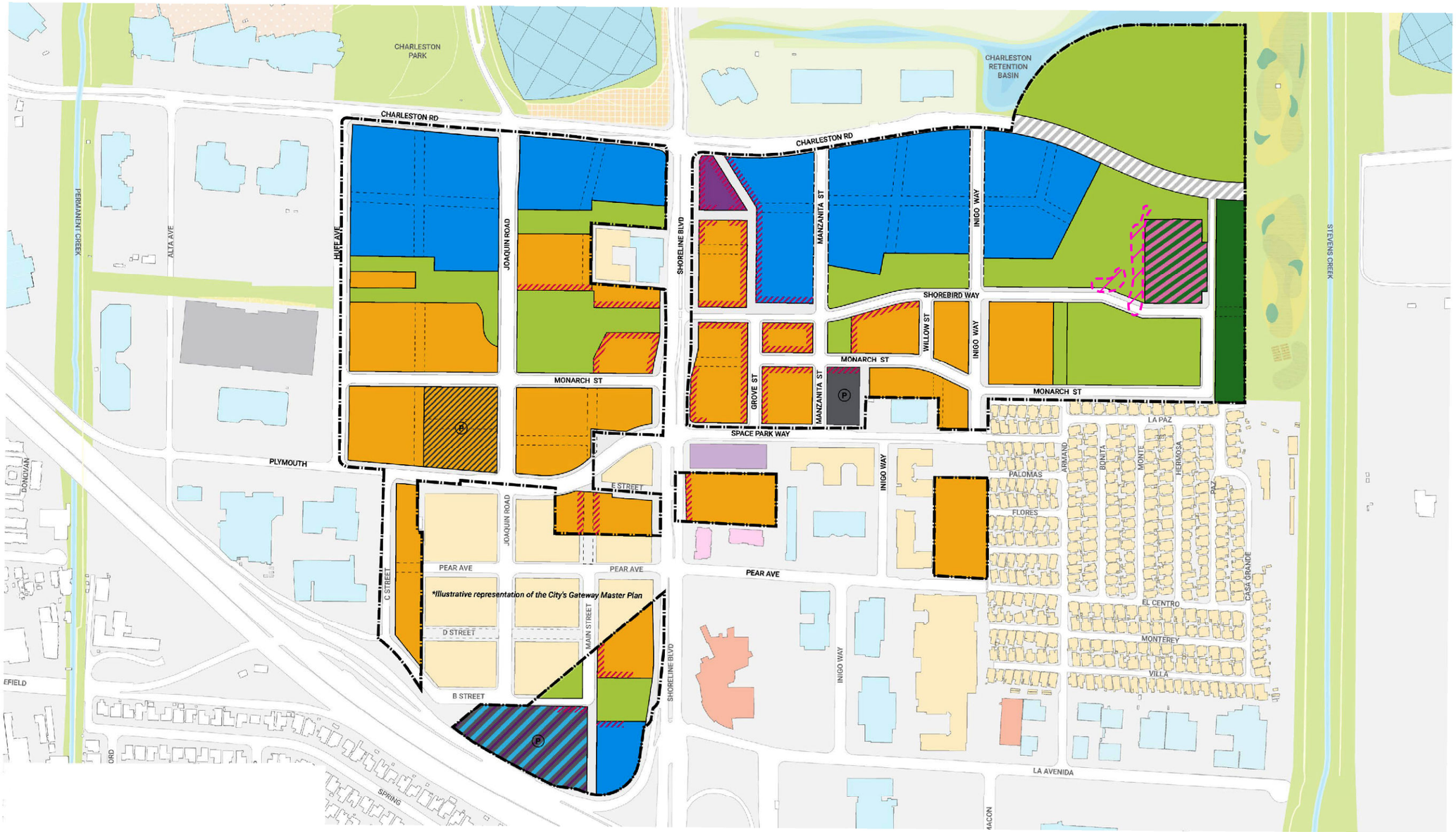
No other species whose listing/legal status has changed since 2017, and that were not already addressed in the 2017 SEIR, occur in the NBPP area.

4.2.3 Egret Rookery

The egret rookery on Shorebird Way south of Charleston Road is still centered in the same area where it was present in 2017, but it has expanded slightly since then. The SEIR maps the rookery along the east side of Shorebird Way, confined to the area roughly adjacent to and congruent with the front façade of the 1201 Charleston building (Figure 6). At the time of the November 2021 reconnaissance survey, the rookery had expanded northward approximately 75 feet and southward approximately 50 feet into adjacent London plane trees along the axis of the original rookery. Additionally, it had expanded westward into London plane trees on the opposite side of the Shorebird Way, along the corner formed where the street turns westward, with a number of nests now present in trees within approximately 75 feet of the southeast corner of the 1215 Charleston building (Figure 9).

4.3 Special-Status Species on the Shoreline Amphitheatre Parcel

Based on the proximity of the NBPP Area to known occurrences of Congdon's tarplant and this species' ability to grow in disturbed habitats, the 2017 SEIR determined that potentially suitable habitat for Congdon's tarplant exists within the NBPP area. A biological resources report prepared in support of the NBPP EIR in 2013



Key

- OFFICE
- RESIDENTIAL
- ACTIVE USES
- HOTEL
- FLEX - HOTEL, OFFICE, PARKING
- FLEX - PARKING, RESIDENTIAL
- FLEX - COMMUNITY USE, DISTRICT CENTRAL PLANT
- PARKING
- DISTRICT CENTRAL PLANT
- INDICATIVE LOCATION OF MID-BLOCK BREAK
- INDICATIVE LOCATION OF PRIVATE STREET
- CONCEPTUAL DEVELOPMENT PARCELS
- OPEN SPACE
- PUBLIC ROW FOR NONMOTORIZED TRAFFIC, MAINTENANCE AND EV ONLY
- PROJECT AREA
- EGRET ROOKERY

Note:

This Plan is part of the North Bayshore Framework Master Plan. This plan demonstrates a conceptual plan for the future development of the Master Plan Area. Roadway alignments, and land use parcels are general depictions. Specifically, the alignment of that part of Manzanita Street and Inigo Way between Shorebird Way and Charleston Road will be determined at the time of submitting a VTSM. This plan may be subsequently updated and modified in response to City comments as part of the design review process and future PCP applications.

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Feet

Background Source: North Bayshore Master Plan Framework, authored by Lendlease Silicon Valley Development, LLC for Google

N:\Proposals\10832\Reports\Framework Master Plan\Figure 9 Egret Rookery.mxd

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Figure 9. Egret Rookery
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specifically noted that this species has the potential to occur in ruderal grassland areas along the northern edge of the Plan Area where it abuts ruderal/grassland habitat associated with Shoreline Park (H. T. Harvey & Associates 2013). Because the Shoreline Amphitheatre parcel includes areas of ruderal grassland, and because it abuts Shoreline Park, Congdon's tarplant could potentially occur on the parcel.

An actively breeding population of burrowing owls is present in Shoreline Park, and habitats on Vista Slope, immediately west of the amphitheatre parcel, are managed to provide suitable nesting, roosting, and foraging habitat for this species. Marginally suitable burrowing owl foraging and roosting habitat, and possibly nesting habitat, is present on the north, east, and western margins of the Shoreline Amphitheatre parcel in the form of ruderal grassland with abundant ground squirrel burrows. These areas do not provide high-quality owl habitat due to their narrow nature and frequent disturbance, but burrowing owls may occasionally be present on the parcel. Burrowing owls are more likely to occur (and more regularly) in the Vista Slope grasslands immediately to the west of the proposed parking structure.

It is possible that up to one pair of white-tailed kites and one pair of loggerhead shrikes could nest in trees or shrubs within or immediately adjacent to the Shoreline Amphitheatre parcel.

4.4 Sensitive and Regulated Habitats

Sensitive habitats and communities are habitats that are scarce or threatened. CDFW determines the level of rarity and imperilment of vegetation types, and tracks sensitive communities in its Rarefind database (CNDDB 2021). Many aquatic, wetland, and riparian habitats are also protected under federal, state, or local regulations, and are generally subject to regulation, protection, or consideration by agencies such as the U. S. Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), and CDFW.

4.4.1 Sensitive and Regulated Habitats in the 2017 SEIR

The SEIR identified wetland, aquatic, and riparian habitats in and along Permanente Creek, the Coast Casey Drainage Canal, and the Charleston Retention Basin in the NBPP area, and along Stevens Creek adjacent to the NBPP area, as sensitive habitats. These habitats are also regulated by the USACE (under Section 404 of the Clean Water Act [CWA]), the RWQCB (under Section 401 of the CWA and under the Porter-Cologne Water Quality Control Act), and the CDFW (under Section 1602 of the California Fish and Game Code). The artificial aquatic habitats ("artificial waterbodies" on Figure 6) are not expected to be regulated by these agencies due to their completely artificial nature, and are not considered sensitive habitats. No other sensitive or regulated habitats were identified in the NBPP area by the 2017 SEIR.

4.4.2 Sensitive and Regulated Habitats – Current Conditions

No sensitive or regulated habitats were present in the Master Plan Area in 2017, and none are currently present. As described in Section 3.2.1.2, the riparian habitat in the Charleston Retention Basin, immediately adjacent to the Master Plan Area, was expanded by approximately 3.7 acres, and the basin's freshwater marsh was expanded

by 0.13 acre (H. T. Harvey & Associates 2019), since the certification of the 2017 SEIR. No other changes to sensitive or regulated habitats in the NBPP area have occurred since 2017.

Section 5. Changes in Regulatory Setting

Biological resources on the project site are regulated by a number of federal, state, and local laws and ordinances. The vast majority of these regulations have not changed since the 2017 SEIR was certified, and they are not discussed in this section. While the 2017 SEIR's discussion of federal jurisdiction over aquatic features in the NBPP is accurate, it is worth noting that the rulemaking surrounding waters of the U.S. has been in flux over the past 5 years, and will continue to evolve in the near future. Similarly, implementation of the federal Migratory Bird Treaty Act (MBTA) has been in flux since 2017. These changes are discussed in more detail below.

5.1 Federal Regulations

1.1.1 Clean Water Act

The CWA functions to maintain and restore the physical, chemical, and biological integrity of waters of the U.S., which include, but are not limited to, tributaries to traditionally navigable waters currently or historically used for interstate or foreign commerce, and adjacent wetlands. Historically, in non-tidal waters, USACE jurisdiction extends to the ordinary high water mark, which is defined in Title 33, CFR, Part 328.3. If there are wetlands adjacent to channelized features, the limits of USACE jurisdiction extend beyond the ordinary high water mark to the outer edges of the wetlands. Wetlands that are not adjacent to waters of the U.S. are termed "isolated wetlands" and, depending on the circumstances, may be subject to USACE jurisdiction. In tidal waters, USACE jurisdiction extends to the landward extent of vegetation associated with salt or brackish water or the high tide line. The high tide line is defined in 33 CFR Part 328.3 as "the line of intersection of the land with the water's surface at the maximum height reached by a rising tide." If there are wetlands adjacent to channelized features, the limits of USACE jurisdiction extend beyond the ordinary high water mark or high tide line to the outer edges of the wetlands. Section 404 of the CWA authorizes the USACE to issue permits to regulate the discharge of dredged or fill material into waters of the U.S.

Construction activities within jurisdictional waters are regulated by the USACE. The placement of fill into such waters must comply with permit requirements of the USACE. No USACE permit will be effective in the absence of Section 401 Water Quality Certification. The State Water Resources Control Board (SWRCB) is the state agency (together with the RWQCB) charged with implementing water quality certification in California.

On June 28, 2017, President Trump signed an executive order directing the U.S. Environmental Protection Agency (EPA) and USACE to implement the Clean Water Rule, arguing that the Clean Water Act applies solely to navigable waters. On June 23, 2020, the Navigable Waters Protection Rule (NWPR) went into effect. This Rule clarified that federal waters do not include ephemeral streams or features adjacent to such features. Ephemeral streams have no connection to groundwater and only convey flows during and shortly after precipitation events. They do not include intermittent streams with a seasonal connection to groundwater and seasonal flows that persist for several days or more following rain events or persist between winter storms.

However, on August 30, 2021 the U.S. District Court of Arizona issued an order vacating and remanding the NWPR rule. In light of this order, the EPA and USACE are now interpreting "Waters of the United States" consistent with the pre-2015 regulatory regime. This pre-2015 regulatory framework is consistent with the regulatory framework applied in the 2017 SEIR. On June 9, 2021, the EPA and the Department of the Army announced their intent to revise the definition of "waters of the United States." The forthcoming rule will propose to restore the regulations defining "waters of the United States" in place prior to 2015, updated to be consistent with relevant Supreme Court decisions.

In summary, although the implementation of the CWA has been in flux since 2017, the current regulatory regime surrounding the CWA is the same as described in the 2017 SEIR.

5.1.1 Migratory Bird Treaty Act

The federal MBTA, 16 U.S.C. Section 703, prohibits killing, possessing, or trading of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. The MBTA protects whole birds, parts of birds, and bird eggs and nests, and it prohibits the possession of all nests of protected bird species whether they are active or inactive. An *active* nest is defined as having eggs or young, as described by the USFWS in its June 14, 2018 memorandum "Destruction and Relocation of Migratory Bird Nest Contents". Nest starts (nests that are under construction and do not yet contain eggs) and inactive nests are not protected from destruction.

In recent years, there have been changes to how the MBTA is implemented and enforced with respect to incidental take of protected birds. However, on October 4, 2021, the USFWS published a final rule revoking January 7, 2021 regulation that limited the scope of the MBTA. The final rule went into effect on December 3, 2021. With this final and formal revocation of the January 7, 2021 rule, the USFWS returns to implementing the MBTA as prohibiting incidental take and applying enforcement discretion, consistent with judicial precedent.

Thus, current implementation and enforcement of the MBTA is consistent with regulations in effect at the time of the 2017 SEIR.

Section 6. Assessment of Master Plan Impacts

CEQA and the State CEQA Guidelines provide guidance in evaluating impacts of projects on biological resources and determining which impacts will be significant. The Act defines "significant effect on the environment" as "a substantial adverse change in the physical conditions which exist in the area affected by the proposed project." Appendix G of State CEQA Guidelines provides a checklist of other potential impacts to consider when analyzing the significance of project effects. The impacts listed in Appendix G (Chapter IV) may or may not be significant, depending on the level of the impact. For biological resources, these impacts include whether the project would:

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

B. "have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service"

C. "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"

D. "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"

E. "conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance"

F. "conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan"

We assessed impacts of Master Plan implementation on biological resources at the project level. These impacts were first evaluated to qualitatively describe how proposed project activities could impact biological resources. Impacts were then evaluated to determine whether they fall within the scope of impacts disclosed in the 2017 SEIR.

The 2017 SIER assessed the potential for sensitive biological resources to occur within the NBPP area and for future development efforts following the standards and guidelines established by the NBPP to result in impacts on existing biological resources. A summary of these standards and guidelines, the biological resource impacts associated with development conducted under these standards, and their significance under CEQA as disclosed in the SEIR, is discussed in the following sections.

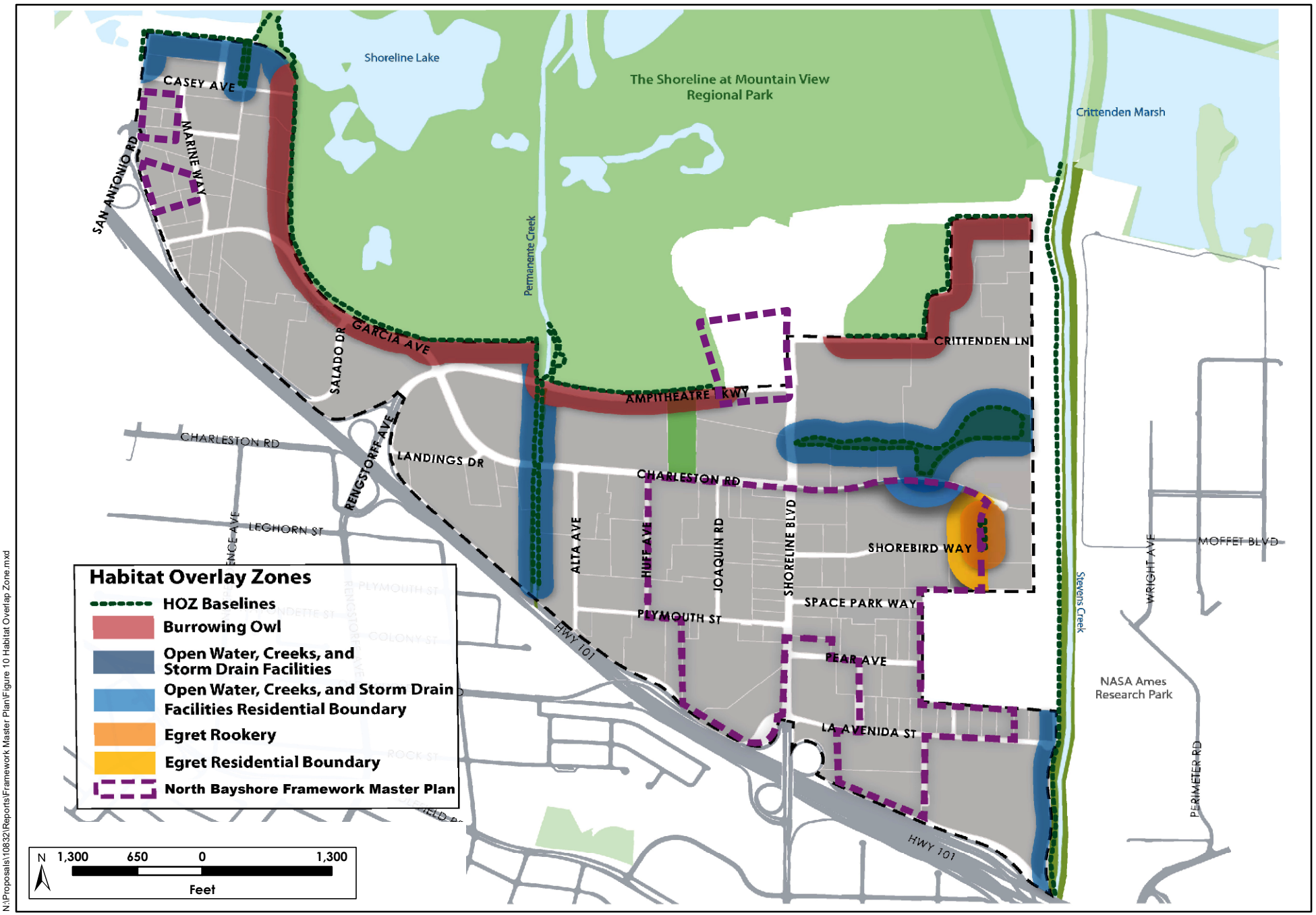
6.1 North Bayshore Precise Plan Standards and Guidelines

The NBPP includes "standards" and "guidelines" that will direct future development in North Bayshore. Standards are requirements that must be followed by project applicants, unless an exception to a standard is otherwise noted. Guidelines are the City's expectations for how site, building, and infrastructure design and improvements should be designed. The portions of Google's North Bayshore Framework Master Plan that are within the NBPP area (i.e., all but the Shoreline Amphitheatre parking structure) are subject to NPBB standards and guidelines.

6.1.1 Habitat and Biological Resources Standards

6.1.1.1 Standards

1. **Habitat Overlay Zone.** All new construction proposed within an overlay zone shall comply with the habitat overlay zone (HOZ) standards. Figure 10 shows the approximate boundaries of each HOZ. Project applicants shall work with the City to determine the precise edge of habitat from which to measure the edge of the HOZ boundary.
2. **Burrowing Owl HOZ.** In Shoreline Park immediately north of the NBPP area, the City supports an ongoing burrowing owl monitoring and management program. The following are standards for new construction and renovations designed to protect and enhance the burrowing owl habitat adjacent to the North Bayshore area.
    a. Overlay District Boundaries. Boundaries shall be 250 feet as measured from the edge of the burrowing owl habitat.
    b. Building Placement in the HOZ. Any new building construction shall not be placed inside the burrowing owl HOZ, except where allowed based on the exceptions described below.
    c. Impervious surface. New impervious surfaces shall not be constructed closer to burrowing owl habitat than existing impervious surfaces, and no net increase in impervious surface shall occur within the HOZ.
    d. Landscape design. No new trees or shrubs capable of exceeding 15 feet in height that could provide perches for avian predators of burrowing owls, and no dense woody vegetation that could hide mammalian predators, shall be planted in the HOZ. New landscaping in the HOZ should consist of herbaceous plants.
    e. Low intensity outdoor lighting. Outdoor lighting shall be low intensity (LZ 2) and shall utilize full cutoff fixtures to reduce the amount of light reaching these sensitive habitats.
    f. Raptor perch deterrents adjacent to burrowing owl habitat. For any new construction in the HOZ, raptor perch deterrents shall be placed on the edges of building roofs or other structures (e.g., light poles or electrical towers) facing the burrowing owl habitat and with a clear view of burrowing owls.



N:\Proposals\10832\Reports\Framework Master Plan\Figure 10 Habitat Overlap Zone.mxd

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Figure 10. Habitat Overlap Zones

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g. Construction near burrowing owl habitat. A preconstruction survey for burrowing owls shall be conducted by a qualified biologist according to the latest CDFW protocol prior to any external construction or large-scale/intensive landscaping, involving heavy equipment or loud noise occurring within the HOZ. If nesting burrowing owls are detected, the HOZ should be free from any external construction or large-scale/intensive landscaping, involving heavy equipment or loud noise until the young have fledged and are independent of the adults, or until monitoring by a qualified biologist determines the nest is no longer active. During the non-breeding season, the HOZ should be free from any external construction or large-scale/intensive landscaping, involving heavy equipment or loud noise around active burrows unless the procedures for monitoring burrowing owls during construction, as described by the Santa Clara Valley Habitat Plan, are implemented.

h. Rodenticides. No rodenticides will be used within the burrowing owl HOZ. Elsewhere in the NBPP area, rodenticide use should be limited to that necessary to protect infrastructure and human health, but otherwise, non-chemical means of rodent management should be used to avoid secondary poisoning of burrowing owls and other raptors.

3. **Egret Rookery HOZ.** A rookery (or nesting area) of great egrets, snowy egrets, and black-crowned night-herons exists along Shorebird Way. This rookery is regionally significant as one of the largest egret colonies in the South Bay, and is an important natural resource. The following outlines standards for new construction and renovations to protect the rookery. The following standards shall apply unless the rookery has been inactive for a minimum of 5 years.

   a. HOZ boundary. The boundary shall be measured from the edge of the rookery. Buffer distances vary depending on the particular condition, as noted in (b) through (f) below.

   b. Building placement in the HOZ. New residential construction shall not be placed within 300 feet of the rookery, and new non-residential construction shall not be placed within 200 feet of the rookery, except where allowed based on the exceptions included in the NBPP.

   c. 1201 Charleston Road. The western building façade and roof of 1201 Charleston Road may not be modified in such a way that would reduce suitability of the rookery site for egrets. This includes adding new entrances, façade improvements, or other similar actions. A qualified biologist shall review any proposed building or site modifications and recommend strategies to the City to ensure there will be no adverse impacts to the egret rookery habitat.

   d. Landscape design. No vegetation other than turf, low-growing grasses, or other herbaceous plants may be planted within 100 feet of the rookery to minimize cover for mammalian predators and avoid entanglement in shrubs of young egrets that have fallen from nests.

   e. Low intensity outdoor lighting. Outdoor lighting within 200 feet of the rookery shall be low intensity (LZ 2) and shall utilize full cutoff fixtures to reduce the amount of light reaching these sensitive habitats.

f. Construction near the egret colony. No external construction or large-scale/intensive landscaping involving heavy equipment or loud noise shall occur within 200 feet of the rookery during the March 1 to August 31 period unless a survey by a qualified biologist has demonstrated that, after 1 June, egrets have either not nested that year or that all young have fledged and departed the rookery area.

4. **Open Water, Creeks, and Storm Drain Facilities HOZ.** To protect habitat and preserve water quality, the following outlines standards for areas adjacent to the Coast Casey Forebay, Shoreline Lake, Stevens Creek, the Charleston Retention Basin, Permanente Creek, and the Coast Casey channel.

    a. HOZ boundary. The distances from each boundary are as follows:

        i. Coast Casey Forebay: 250 feet as measured from the boundary edge.

        ii. Charleston Retention Basin: 250 feet for non-residential land uses, and 300 feet for residential uses, as measured from the boundary edge.

        iii. Stevens Creek: 200 feet as measured from the inner edge of the top of the bank.

        iv. Permanente Creek and Coast Casey channel: 150 feet as measured from the inner edge of the top of the bank.

        v. Shoreline Lake: 200 feet as measured from the lake edge.

    b. Building placement in the HOZ. New construction shall not be placed inside the HOZ, except where allowed based on the exceptions included in the NBPP.

    c. Impervious surface. No new impervious surface shall be constructed closer to open water or creek habitat than existing impervious surfaces, and no net increase in impervious surface can occur within the HOZ associated with these areas.

    d. Bioswales. Bioswales shall be constructed for any new or reconstructed impervious surface draining directly toward creek areas to treat runoff before it enters a creek or open water.

    e. Landscape design. All woody vegetation planted in the HOZ shall consist of native species or non-natives that provide valuable resources (e.g., food, structure, or cover) for native wildlife.

    f. Low intensity outdoor lighting. Within the HOZ, outdoor lighting shall be of low intensity (LZ 2) and shall utilize full cutoff fixtures to reduce the amount of light reaching these sensitive habitats.

5. **Overlapping HOZ Zones.** When HOZ overlay zones overlap, new construction shall meet the most restrictive standards

6. **Conflicting provisions.** These standards apply to new construction in addition to all other applicable NPBB requirements. In the event of a conflict between the standards of this Chapter and other NPBB provisions, the City shall determine which standards apply.

7. **Exceptions to HOZ Requirements.** Project applicants in an HOZ may apply for an exception only from the building placement, impervious surface, and construction requirements.

    a. **Criteria for exceptions.** For an exception to be granted, the following criteria must be met:

        i. *Demonstration of constraint.* The applicant must demonstrate the proposed project cannot be accommodated on the parcel outside the HOZ boundary, and that the proposed project meets all other NBPP requirements.

        ii. *Development placement.* Proposed development should be sited on the least sensitive portions of a site and may only encroach into the HOZ to implement the proposed project. Buildings should generally not be placed within 100 feet of sensitive habitat.

        iii. *Ecological benefit.* The project applicant shall demonstrate how an ecological benefit, for the species or ecological community within the HOZ that will be impacted, can be achieved through habitat enhancements. Examples of habitat enhancements may include, but are not limited to, the provision of additional landscaping/open space, the removal of additional impervious surface in the HOZ, the expansion of bird safe design building standards, or additional enhancements specific to that particular species or ecological community either on the parcel where the exception is being granted or elsewhere in the North Bayshore in close proximity to the impacted species or ecological community that will result in a direct benefit to that species or ecological community.

        iv. *Burrowing owls.* Due to the sensitivity of this species and the City's jurisdiction over its habitat area, exceptions to the burrowing owl HOZ should be granted only in limited circumstances.

    b. **Habitat enhancement plan.** Project applicants must work with a qualified biologist to create and implement a habitat enhancement plan. At a minimum, the plan must include the following components.

        i. *Statement.* A statement of the proposed enhancement measures.

        ii. *Enhancement map.* Maps showing the relationships between existing habitats, the HOZ boundary, existing structures, existing impervious surface, and the proposed site plan.

        iii. *Description of enhancements.* A list and description of the enhancements and an assessment of the ecological benefits of these enhancements.

        iv. *Monitoring and management.* A description of the monitoring and management plan for the proposed list of enhancements.

    c. **Process.** The habitat enhancement plan shall be reviewed by the City prior to final approval of the last discretionary entitlement for a project. The City Council will take final action of the exception request and the habitat enhancement plan, including any CEQA review.

6.1.1.2 Guidelines

1. **Minimize building height near sensitive areas.** No building taller than 55 feet should be constructed within 100 feet of any HOZ boundary to provide additional buffer between sensitive resources and taller buildings. This guideline applies to both residential and non-residential development.

6.1.2 Bird Safe Design Standards

6.1.2.1 Standards

1. **Bird Safe Design requirements.** All new non-residential construction, building additions, and/or building alterations in North Bayshore shall adhere to the following Bird Safe Design standards. All new residential construction within 300 feet of the Charleston Retention Basin shall adhere to these standards.
2. **Façade treatments.** No more than 10% of the surface area of a building's total exterior façade shall have untreated glazing between the ground and 60 feet above ground. Examples of bird-friendly glazing treatments include the use of opaque glass, the covering of clear glass surface with patterns, the use of paned glass with fenestration patterns, and the use of external screens over non-reflective glass.
3. **Occupancy sensors.** For non-residential development, occupancy sensors or other switch control devices shall be installed on non-emergency lights. These lights should be programmed to turn off during non-work hours and between 10:00 p.m. and sunrise.
4. **Funneling of flight paths.** New construction shall avoid the funneling of flight paths along buildings or trees towards a building façade.
5. **Skyways, walkways, or glass walls.** New construction and building additions (both residential and non-residential) shall avoid building glass skyways or walkways, freestanding glass walls, and transparent building corners. New construction and building additions should reduce glass at top of buildings, especially when incorporating a green roof into the design.
6. **Exceptions to the bird safe design requirements.** The City may waive or reduce any of the bird safe design requirements based on analysis by a qualified biologist indicating that proposed construction will not pose a collision hazard to birds.

6.1.2.2 Guidelines

The guidelines in this section include several bird collision guidelines and voluntary best management practices to promote bird safety including:

- Collision monitoring
- Window coverings
- Workstation lighting and window coverings

- Daytime maintenance, and
- Appropriate handling of food waste

6.1.3 Nesting Bird Protection Standards

6.1.3.1 Standards

1. **Pre-activity surveys.** If construction, building additions, building alterations, or removal of trees and shrubs occurs between February 1 and August 31, pre-activity surveys for nesting birds shall be conducted by a qualified biologist. These surveys shall be conducted no more than seven days prior to the initiation of these activities in any given area. During each survey, the biologist shall inspect all potential nesting habitats (e.g., trees, shrubs, and buildings) within the work area; within 300 feet of the work area for raptor nests; and within 100 feet of the work area for nests of non-raptors.
2. **Nest buffers.** If an active nest (i.e., a nest with eggs or young, or any completed raptor nest attended by adults) is found sufficiently close to work areas to be disturbed by these activities, the biologist, in coordination with the CDFW, shall determine the extent of a disturbance-free buffer zone to be established around the nest. Typical buffer zones are 300 feet for raptors and 100 feet for non-raptors. However, the biologist, in consultation with the CDFW, may determine that a reduced buffer is appropriate in some instances. For example, topography, buildings, or vegetation that screen a nest from the work area, or very high existing levels of disturbance (indicating the birds' tolerance to high levels of human activity), may indicate that a reduced buffer is appropriate. No new activities (i.e., work-related activities that were not ongoing when the nest was established) will occur within the buffer as long as the nest is active.

6.1.3.2 Guidelines

1. **Avoidance of the nesting season.** If construction, building additions, building alterations, or removal of trees and shrubs is scheduled to take place outside the nesting season, impacts to protected nesting birds would be avoided. The nesting season for most birds in the North Bayshore area extends from February 1 through August 31. Work activities performed during the September 1 to January 31 period would not be subject to the pre-activity surveys and nest buffers described above.

6.1.4 Landscape Design Standards

6.1.4.1 Standards

1. **Invasive species planting.** Planting new invasive species identified on the California Invasive Plant Council list shall be prohibited.
2. **Control and manage invasive plants found on site.** Best management practices (BMPs) shall be implemented during construction and subsequent site maintenance to manage and control invasive species found on site. BMPs may include clearing infested areas prior to construction, planting native seed from a local source, and avoiding seed dispersal through construction equipment use.

3. **Planting.** During new construction and landscape renovations, the total area of high-water- use plants (e.g., turf and water features) shall not exceed 25 percent of the landscape area. Xeriscaping, low-water-use plants, native plants, and/or salt-tolerant plants compatible with recycled water use for the remainder of the landscaped areas. Non-native plants may only be used if they support habitat useful to native wildlife.

4. **Protect special-status plants.** If State or Federal special-status plants are found onsite such as Congdon's tarplant, the project applicant shall work with the CDFW to determine the appropriate protocol to survey, protect, and/or manage special-status species.

6.1.4.2 Guidelines

The guidelines in this section include landscape design practices, including:

- Removal of non-native plants,
- Preserving native plants,
- Configuring landscaping in multi-layered clusters,
- Operation policies restricting herbicide and pesticide use are encouraged, and
- Using vegetation for building shading.

6.2 2017 SEIR Impacts and Significance Determinations

Table 1 summarizes the 2017 SEIR's findings regarding the significance of potential impacts on biological resources associated with development consistent with the NBPP. Table 1 only includes impacts that are potentially applicable to the North Bayshore Framework Master Plan. Impacts BIO-10, 11, and 12, which focused on impacts of construction of new bridges over Stevens Creek, are not applicable to the Master Plan and are omitted from the table.

Table 1. 2017 SEIR Findings of Significance

Impact	Significance Before Mitigation	Mitigation	Significance After Mitigation
BIO-1: Special-status plants are unlikely to occur in the Precise Plan Area. Future development projects in the Precise Plan Area must adhere to the Landscape Design guidelines of the Precise Plan. Accordingly, implementation of the Precise Plan would not result in a significant impact to special- status plant species.	Less Than Significant	No Mitigation Required	Less Than Significant

BIO-2: Residential land uses included in the amended Precise Plan are expected to increase human activity, domestic pet activity, and visits to Shoreline Park which, over time, may result in impacts to the burrowing owl population at Shoreline Park. With implementation of the applicable Precise Plan standards and guidelines by the City of Mountain View and future project applicants, the impacts from Precise Plan activities on burrowing owls would be less than significant.	Less Than Significant	No Mitigation Required	Less Than Significant
BIO-3: Implementation of the Precise Plan, including HOZ standards and guidelines to protect biological resources, would not result in impacts to other special-status animal species occurring in the project area.	Less Than Significant	No Mitigation Required	Less Than Significant
BIO-4: Implementation of the Precise Plan would not result in impacts to special-status fish species.	Less Than Significant	No Mitigation Required	Less Than Significant
BIO-5: Future development projects in the Precise Plan Area must be consistent with the Nesting Bird Protection standards of the Precise Plan. Implementation of the Precise Plan would not result in a significant impact to nesting birds.	Less Than Significant	No Mitigation Required	Less Than Significant
BIO-6: Future development projects in the Precise Plan Area must be consistent with the Bird Safe Design standards of the Precise Plan. Implementation of the Precise Plan would not result in a significant impact to birds due to collisions.	Less Than Significant	No Mitigation Required	Less Than Significant
BIO-7: With the implementation of the Open Water, Creeks, and Storm Drain Facilities HOZ, Habitat Enhancements and Landscape Design Guidelines, the Precise Plan would have a less than significant impact on aquatic habitats.	Less Than Significant	No Mitigation Required	Less Than Significant
BIO-8: With implementation of the egret rookery HOZ and Bird Safe Design guidelines for future development measures, the Precise Plan would have a less than significant impact on important nursery sites in the area.	Less Than Significant	No Mitigation Required	Less Than Significant

BIO-9: All future projects within the Precise Plan Area, as well as planned infrastructure and traffic improvements, will be required to comply with the City of Mountain View Heritage tree ordinance as a standard condition of approval.	Less Than Significant	No Mitigation Required	Less Than Significant
C-BIO-1: The cumulative projects, including the proposed project, would not result in significant cumulative impacts to special-status species, nesting birds, and migratory birds.	Less Than Significant	No Mitigation Required	Less Than Significant
C-BIO-2: The cumulative projects, including the amended North Bayshore Precise Plan, would not result in significant cumulative impacts from indirect nitrogen deposition**.**	Less Than Significant	No Mitigation Required	Less Than Significant
C-BIO-3: The amended North Bayshore Precise Plan, together with the 2030 General Plan buildout, would not result in significant cumulative loss of Heritage trees.	Less Than Significant	No Mitigation Required	Less Than Significant

6.3 Master Plan Impacts and Mitigation Measures

Following is a summary of impacts on biological resources (ordered according to the CEQA significance criteria for biological resources) that are expected to result from Master Plan implementation, as well as a discussion of whether those impacts are covered by the 2017 SEIR and any additional mitigation measures necessary to reduce impacts to less-than-significant levels under CEQA.

6.3.1 Impacts on Special-Status Species: Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS

6.3.1.1 Impacts on Congdon's Tarplant (Less Than Significant with Mitigation)

No suitable habitat for Congdon's tarplant is present in the Master Plan Area away from the Shoreline Amphitheatre parcel, where the species could potentially occur in ruderal habitat. If the species is present on that parcel, individual plants could be impacted by construction of the parking structure. Plants could be killed, or their health could be impaired, reducing their survival and reproductive success. That parcel was not included in the NBPP, and therefore impacts on Congdon's tarplants from construction of that parking structure would not be covered by the 2017 SEIR. Implementation of Mitigation Measure BIO-A would reduce impacts of Master Plan activities on Congdon's tarplant to less-than-significant levels.

Mitigation Measure BIO-A: Within 2 years prior to disturbance of ruderal habitat for construction of the Shoreline Amphitheatre parking structure, a qualified biologist will conduct a survey for Congdon's tarplant during the appropriate season (e.g., late summer and fall), at a time when the species is detectable at nearby reference sites. The survey will cover all areas within, and within 50 feet of, the construction area for the parking structure. If Congdon's tarplant is found in the survey area, the applicant will comply with NBPP Landscape Design Standard 4 to protect and manage Congdon's tarplant. Management measures would be developed in coordination with the CDFW, and may include establishment of a new population or enhancement of existing populations at Shoreline Park (in coordination with the City of Mountain View).

6.3.1.2 Impacts on the Monarch Butterfly (Less Than Significant with Mitigation)

Because the monarch butterfly was not considered a special-status species in 2017, impacts of NBPP activities on this species were not addressed in the NBPP or the 2017 SEIR. Thus, any impacts of Master Plan implementation on the monarch butterfly would not have been covered by the 2017 SEIR.

As described in Section 4.2.2, monarchs have recently been detected breeding in winter in the NBPP area on nonnative, tropical milkweeds in landscape plantings in the Master Plan Area. If construction associated with the Master Plan removes milkweeds when monarch butterflies are present, monarch eggs, larvae, or pupae could be lost. The NBPP defines a number of "Implementation Actions" that are needed to achieve the NBPP's vision. One of these implementation actions is the preparation of a planting palette providing recommendations for native plantings and for non-natives with high wildlife habitat value. The completed plant palette (H. T. Harvey & Associates 2015) defines a number of planting zones, including urban landscape; open water, creeks, and storm drain facilities HOZ; burrowing owl HOZ; and egret rookery HOZ. All but the urban landscape zones are required by the plan to use 100% native plantings; plantings in the urban landscape zone are required to be 80% native species. If nonnative milkweeds continue to be included in among the 20% of allowable nonnative plants in the urban landscape zone, impacts to monarch butterflies could occur.

Until recently, monarch butterflies were not known to breed in the Bay Area during the winter months, and would normally be expected to be present only in coastal nonbreeding overwintering aggregations. James et al. (2021), however, documented breeding in several locations in the Master Plan region during the winter of 2020-2021, including breeding in landscape vegetation along Shorebird Way and Charleston Road, within the Master Plan Area. This breeding was facilitated by the use of nonnative, tropical milkweeds in landscape vegetation; due to irrigation, these milkweeds persist during the winter months when native milkweeds in more natural, non-irrigated settings die back and are unavailable for oviposition. The implications of winter breeding by monarchs in the NBPP area are complex, and not fully understood. For example, winter breeding might be viewed as beneficial to the monarch population by increasing population size. However, several potentially deleterious effects of such winter breeding are suspected (Crone and Schultz 2021). These potential effects include disruption of migration (potentially leading to the loss of the migratory instinct that monarchs have under natural circumstances). If monarchs find suitable breeding habitat in winter and do not migrate to coastal wintering roosts, they could face higher winter mortality, especially if conditions in the winter breeding areas

become colder or wetter than in the areas where they might otherwise winter. Year-round breeding by monarchs (e.g., if monarchs were to breed throughout the year, using irrigated milkweed in landscaped areas) could also result in higher parasite loads compared to migratory populations. In migratory populations, the absence of monarchs from a given area during at least a portion of the year (i.e., while they are at winter roosts) causes a decline in parasites that infect monarch larvae. If monarchs breed in the NBPP year-round, larvae would be present year-round and there would never be a period in which the parasite loads would decline. High parasite loads are linked to lower migration success and lower reproductive capacities. Thus, if monarchs were to breed in the NBPP area year-round using irrigated and/or nonnative milkweed, this could lead to a loss of the migratory portion of the species' life cycle and could potentially cause wintering populations to become a demographic sink (Crone and Schultz 2021). Currently, the Xerces Society and the USFWS oppose planting nonnative milkweeds within 5 miles of monarch overwintering sites in California, in order to preserve the species' migratory behavior and avoid other deleterious effects (J. Terry, pers. comm.). Thus, the continued planting of nonnative milkweed, and irrigation of milkweed so that it does not senesce in fall, could result in a significant impact on the monarch butterfly. Implementation of Mitigation Measures BIO-B and BIO-C would reduce impacts of Master Plan implementation on monarchs to less-than-significant levels.

Mitigation Measure BIO-B: Nonnative milkweeds shall not be included in Master Plan landscaping. Although native milkweeds are encouraged in landscaping, they shall not be irrigated after August to allow those plants to senesce so that monarchs do not lay eggs on those plants too late in fall, and so that no suitable hostplants are present in late fall that might encourage monarchs to attempt winter breeding instead of migrating to coastal aggregation sites.

Mitigation Measure BIO-C: Within 2 weeks prior to any clearing, construction, or maintenance in landscaped areas that provide milkweeds that have not completely senesced, a qualified biologist will survey those milkweed plants for monarch butterfly eggs, larvae, or pupae. If the plants do not support monarch eggs, larvae, or pupae, the qualified biologist will remove those plants immediately (during the survey) to prevent monarchs from laying eggs between the time of the survey and initiation of impacts. If any eggs, larvae, or pupae are detected within the survey area, then impacts to the plants supporting those individuals will be delayed until the emergence of those individual butterflies as adults. If such a delay is infeasible, the applicant will coordinate with the USFWS regarding recommendations. For example, larvae could be relocated to milkweeds outside the impact area, if those milkweeds are not already occupied by monarch eggs or larvae. Alternatively, monarch butterflies could be raised in captivity and released (with USFWS approval).[1,2]

6.3.1.3 Impacts on Burrowing Owls (Less Than Significant with Mitigation)

No suitable habitat for the burrowing owl is present in the Master Plan Area away from the Shoreline Amphitheatre parcel, which is outside the NBPP area. As discussed in Impact BIO-2 of the 2017 SEIR,

[1] https://www.saveourmonarchs.org/how-to-raise-monarch-butterflies-at-home.html
[2] https://monarchbutterflylifecycle.com/blogs/raise/how-to-raise-monarch-butterflies-inside

implementation of applicable NBPP standards and guidelines for Master Plan activities within the NBPP area would reduce indirect impacts on burrowing owls (e.g., from increased human activity, domestic pet activity, and visits to Shoreline Park) to less-than-significant levels, and implementation of Master Plan activities within the NBPP area would not result in impacts on burrowing owls exceeding those assessed in the 2017 SEIR.

However, at the Shoreline Amphitheatre parcel, ruderal habitat at the margins of the existing parking lot provides at least marginally suitable foraging and roosting, and possibly nesting, habitat. In addition, burrowing owls could occur on the portion of Vista Slope immediately west of the Shoreline Amphitheatre parcel. This parcel is outside the NBPP area, and thus, effects of development of this parcel on burrowing owls were not analyzed in the 2017 SEIR.

Construction of the parking structure would result in the loss of ruderal areas supporting California ground squirrel burrows, within and surrounding the existing parking lot. Although it is possible that burrowing owls could use these areas occasionally, they have not been recorded doing so, and these areas do not provide high-quality habitat for the species as in adjacent areas of Vista Slope, and other burrowing owl habitat areas at Shoreline Park. Therefore, in our opinion, development of these ruderal areas will not result in a significant impact on burrowing owl habitat. Nevertheless, if owls are present in these areas when construction occurs, they could be injured or killed, and occupied burrows could be lost, in the absence of protective measures. If owls are nesting in adjacent areas (e.g., on Vista Slope) within 250 feet of construction, construction activities could disturb owls to the point of abandonment of their burrows, possibly including nests with eggs or young. Direct impacts on burrowing owls, or indirect disturbance that causes abandonment of an active nest, would be a significant impact.

Compliance with the Habitats and Biological Resources Standard 2 (Burrowing Owl HOZ) would reduce impacts on burrowing owls from construction of the parking structure, similar to those disclosed in SEIR impact BIO-2, to less-than-significant levels. Standard 2 includes preconstruction surveys and buffers around burrowing owl burrows. Initial plans provided to us indicate that the building will be 55 feet tall, and will thus not exceed the 55-foot guideline limit on all buildings within 100 feet of an HOZ boundary. However, the current design does not comply with the HOZ standard prohibiting new building construction inside the burrowing owl HOZ. If burrowing owl standards are applied to construction on this parcel, the parking structure would be required to be positioned outside of a 250-foot HOZ, which would be measured from suitable burrowing owl habitat inside Shoreline Park. Initial estimates based on the files provided to us indicate that the building would be within approximately 200 feet of suitable burrowing owl habitat in Shoreline Park, and will thus encroach by approximately 50 feet into the 250-foot HOZ. This proximity of the parking structure to suitable habitat on Vista Slope could cause burrowing owls to avoid areas too close to the new structure, thus resulting in the effective loss of habitat. The loss of suitable burrowing owl habitat on Vista Slope due to proximity to a new building would be a significant impact.

Implementation of Mitigation Measures BIO-D and E would reduce impacts on burrowing owls from Master Plan implementation to less-than-significant levels.

Mitigation Measure BIO-D: In the design and construction of the Shoreline Amphitheatre parking structure, the applicant will comply with all components of the NBPP Habitats and Biological Resources Standard 2 (Burrowing Owl HOZ) to the extent feasible. Requirements for preconstruction surveys, and buffers around active nests during the burrowing owl breeding season, must be implemented without exception.

Mitigation Measure BIO-E: If it is infeasible to comply with all components of the NBPP Habitats and Biological Resources Standard 2 (Burrowing Owl HOZ), the applicant will go through the HOZ exceptions process as described in the NBPP. This process will include preparation of a Habitat Enhancement Plan describing how the applicant will enhance burrowing owl habitat off-site (e.g., at Shoreline Park) commensurate with the acreage of habitat effectively lost as a result of construction less than 250 feet from Vista Hill burrowing owl habitat. As described in the NBPP, the City must approve the HOZ exception and the Habitat Enhancement Plan before approving construction that conflicts with the Burrowing Owl HOZ.

6.3.1.4 Impacts on Other Special-Status Species (Less Than Significant)

In the ways discussed in Impacts BIO-3 and BIO-5 of the 2017 SEIR, implementation of the Master Plan may result in impacts on individuals and habitat of the loggerhead shrike and white-tailed kite (primarily associated with the Shoreline Amphitheatre parking structure) and could result in disturbance of nesting San Francisco common yellowthroats (e.g., from demolition of existing structures near the Charleston Retention Basin). The probability of impacts on nesting peregrine falcons is very low, but cannot be ruled out.

Master Plan activities within the NBPP area will comply with Nesting Bird Protection Standards; thus, impacts on nesting birds within the NBPP area will be less than significant and would not result in impacts exceeding those assessed in the 2017 SEIR. Although the Shoreline Amphitheatre parking structure was not included in the NBPP or its 2017 SEIR, the type of potential impacts to shrikes, kites, and other nesting birds from that Master Plan component would be the same as described in the 2017 SEIR. No suitable nesting habitat for peregrine falcons is present close enough to the Shoreline Amphitheatre parking structure area that construction of this Master Plan component would impact that species. Because no more than one pair of shrikes or kites could nest in the Shoreline Amphitheatre parking structure area, that Master Plan component would not result in substantial impacts to those species (e.g., a substantive reduction in regional populations). No other special-status species (e.g., special-status turtles, fish, or bats) would be impacted by the Master Plan.

Therefore, impacts on other special-status species (aside from Congdon's tarplant and burrowing owl) from implementation of the Shoreline Amphitheatre parking structure would be less than significant, and will not result in any significant impacts beyond those described in the 2017 SEIR.

6.3.1.5 Impacts due to Potential Bird Collisions from NBPP Activities (Less Than Significant)

As described in Impact BIO-6 of the 2017 SEIR, construction in the NBPP area could result in avian collisions with new or modified buildings. However, the NBPP includes bird safe design standards that must be implemented with all new construction, building additions, and/or building alterations. Master Plan components within the NBPP area will comply with these standards.

The Shoreline Amphitheatre parking structure is not within the NBPP area and therefore is not obligated to comply with NBPP bird safe design standards. However, that parking structure will not include heavily glazed facades, up-lighting, or other features that could result in substantial numbers of bird collisions.

Because Master Plan components within the NBPP area will comply with NBPP bird safe design standards, and the parking structure proposed on the Shoreline Amphitheatre parcel will not result in substantial numbers of bird collisions, impacts due to potential bird collisions will be less than significant and will not result in impacts beyond those described in the 2017 SEIR.

6.3.2 Impacts on Sensitive Communities: Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the CDFW or USFWS (Less Than Significant)

Riparian habitats are not present within the Master Plan Area itself. However, as described in Impact BIO-7 of the 2017 SEIR, riparian habitats are present in the Charleston Retention Basin immediately adjacent to the Master Plan Area. The Master Plan proposes open space immediately adjacent to the basin; replacing existing buildings and hardscape with open space uses will enhance habitat conditions in the basin, relative to existing conditions.

The HOZ for riparian habitat in the Charleston Retention basin requires that no new construction be placed inside the HOZ, which is 250 feet for non-residential land uses and 300 feet for residential uses, as measured from the edge of the basin. Although the Master Plan proposes office uses across Charleston Road from, and well within 250 feet of, the basin, this office development will occur in areas that are already developed, and therefore will not constitute new construction.

Because the Master Plan will comply with NBPP standards for habitats associated with the Charleston Retention Basin (Habitat and Biological Resources Standard 4), and because the Master Plan's creation of extensive new open space adjacent to the basin will enhance habitat conditions associated with the basin, Master Plan impacts on riparian habitats will be less than significant, and will not result in any impacts beyond those described in the 2017 SEIR.

6.3.3 Impacts on Wetlands: 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 (Less Than Significant)

Wetlands are not present within the Master Plan Area itself, but they are present in the Charleston Retention Basin immediately adjacent to the Master Plan Area. As described in Section 6.3.2, adherence to Habitat and Biological Resources Standard 4 will maintain impacts on wetlands at Charleston Retention Basin within the scope of impacts described in the 2017 SEIR, which will be less than significant, and will not result in any impacts beyond those described in the 2017 SEIR.

6.3.4 Impacts on Wildlife Movement: 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

6.3.4.1 Impacts on Wildlife Movement (Less Than Significant)

As described in Impact BIO-8 of the 2017 SEIR, the NBPP area is not a particularly important area for movement by non-flying wildlife, and it does not contain any high-quality corridors allowing dispersal of such animals through the area. As a result, impacts of Master Plan activities on wildlife movement will be less than significant, and will not result in significant impacts beyond those described in the 2017 SEIR.

6.3.4.2 Impacts on Egret Rookery (Less Than Significant)

As described in Impact BIO-8 of the 2017 SEIR, the only feature within the NBPP area that is considered an important nursery site is the egret rookery along Shorebird Way. Google is proposing to protect this rookery by maintaining areas north, west, and south of the rookery as open space. The buildings at 1201 Charleston Road would remain, in part because the egrets and herons have selected that location as a rookery site with the building present, and it is unknown whether removal of that building might cause the birds to relocate.

The rookery has expanded since the 2017 SEIR was certified. Habitats and Biological Resources Standard 3b (Egret Rookery HOZ) requires that new residential construction shall not be placed within 300 feet of the rookery. Since 2017, the colony has expanded such that the southwestern margin of the colony falls within approximately 200 feet of the margin of the parcel where residential development is planned southwest of the rookery (see Figure 9). The HOZs in the NBPP were intended to apply based on the locations of sensitive biological resources as of 2017, rather than being dynamic zones that might expand or contract over time. As a result, the Master Plan's proposed land uses and development areas are in compliance with the HOZs required by the NBPP.

It is possible that having residential development within approximately 200 feet of the expanded rookery could disturb birds in the nearest part of the rookery. However, given that these birds are already habituated to a high level of human activity, and that the land around the rookery will be largely maintained as open space, it is unlikely that residential activity would adversely affect the rookery. Furthermore, because the Master Plan is being proposed in compliance with NBPP standards, the Master Plan would not impact nesting egrets or herons

within the areas where they nested as of 2017, which serves as the CEQA baseline for activities that are implemented in accordance with the NBPP. Therefore, with compliance with NBPP standards, implementation of the Master Plan would not result in significant impacts to nesting egrets or herons, and will not result in significant impacts beyond those described in the 2017 SEIR.

6.3.5 Impacts due to Conflicts with Local Policies: Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance (Less than Significant)

Implementation of the Master Plan has potential to result in the removal of trees protected by City ordinances protecting heritage trees, in the same ways described in Impact BIO-9 of the 2017 SEIR. As described in that impact, all future projects within the NBPP area will be required to comply with the City of Mountain View heritage tree ordinance as a standard condition of approval. Therefore, the Master Plan will not conflict with any local policies, and will not result in any impacts related to conflicts with local policies beyond those described in the 2017 SEIR.

6.3.6 Impact due to Conflicts with an Adopted Habitat Conservation Plan: Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan (Less Than Significant)

As described in Impact LU-4 of the 2017 SEIR, the NBPP is not covered by or subject to an adopted habitat conservation plan or natural community conservation plan. Therefore, the Master Plan will not conflict with any such plans, and will not result in any conservation plan-related impacts beyond those described in the 2017 SEIR.

6.3.7 Cumulative Impacts on Biological Resources (No impact)

The 2017 SEIR analyzed cumulative impacts of the NBPP on biological resources and determined that NBPP activities would not result in a cumulatively considerable contribution to significant cumulative impacts. For all the impacts assessed in the 2017 SEIR, Master Plan activities within the NBPP area will have the same or similar impacts to those discussed in the SEIR. Therefore, Master Plan activities proposed within the geographic area analyzed in the 2017 SEIR will not result in a cumulatively considerable contribution to significant cumulative impacts or cumulative impacts greater than those analyzed in the 2017 SEIR. Although the SEIR did not analyze impacts of development on the Shoreline Amphitheatre parcel, it did analyze cumulative impacts on Congdon's tarplant and burrowing owl. With implementation of Mitigation Measures BIO-A, BIO-D, and BIO-E, the Master Plan will not result in a cumulatively considerable contribution to significant cumulative impacts on these species.

The 2017 SEIR did not analyze cumulative impacts on the monarch butterfly, which was not considered a special-status species at the time. Western populations of the monarch butterfly are declining range-wide, and the combined effects of all the stressors on this species likely result in a significant cumulative impact on the

species. However, with implementation of Mitigation Measures BIO-B and BIO-C, the Master Plan will not result in a cumulatively considerable contribution to significant cumulative impacts on this species.

Section 7. References

[CNDDB] California Natural Diversity Database. 2021. Rarefind 5.0. California Department of Fish and Wildlife. Accessed October 2021 from http://www.dfg.ca.gov/biogeodata/cnddb/mapsanddata.asp.

City of Mountain View. Environmental Impact Report. North Bayshore Precise Plan. November 2014.

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James, D. G., M. C. Schaefer, K. Krimmer Easton, and A. Carl. 2021. First Population Study on Winter Breeding Monarch Butterflies, Danaus plexippus (Lepidoptera: Nymphalidae) in the Urban South Bay of San Francisco, California. Insects 2021, 12, 946. https://doi.org/10.3390/Insects 12100946.

PERSONAL COMMUNICATIONS

Terry, Joseph. U.S. Fish and Wildlife Service. Email communication dated November 2, 2021. Subject: Monarch Research.

MEMORANDUM

	Tyler Rogers		Scott Batiuk
To:	David J. Powers & Associates, Inc.	**From:**	WRA, Inc.
	trogers@davidjpowers.com		batiuk@wra-ca.com
cc:			
Date:	March 25, 2022		
Subject:	Peer Review of Biological Resources Confirmation Report for the North Bayshore Framework Master Plan Area		

The purpose of this memorandum is to summarize the results of a peer review conducted by WRA, Inc. (WRA) of the North Bayshore Framework Master Plan Biological Resources Confirmation Report (Biological Report) prepared by H.T. Harvey & Associates for the North Bayshore Framework Master Plan area (Plan Area) in Mountain View, Santa Clara County, California. The peer review focused on bird safe design measures and potentially sensitive habitat and species issues identified within the Plan Area. As part of this peer review, WRA visited the Plan Area on February 8, 2022, to observe site conditions. The Biological Report prepared by H.T. Harvey & Associates was reviewed based on the site visit and an independent review of the 2014 North Bayshore Precise Plan Environmental Impact Report (EIR), the 2017 North Bayshore Precise Plan Subsequent Environmental Impact Report (SEIR), the 2014 (amended 2020) North Bayshore Precise Plan (NBPP), the 2022 North Bayshore Framework Master Plan, and biological resources database and other species occurrence resources. The results of the peer review are provided below.

RESULTS

Open Water, Creeks, and Storm Drain Facilities Habitat Overlay Zone

The Biological Report (page 28, Section 6.1.1.1; page 39, Section 6.3.2) erroneously states that the Habitat Overlay Zone distance for the Charleston Retention Basin is 250 feet for non-residential users. The correct distance for non-residential users, per the North Bayshore Precise Plan, is 200 feet. This comment is purely academic, however, as a distance of 200 feet versus 250 feet does not affect the biological impact analysis.

Landscape Design

The Biological Report (page 28, Section 6.1.4.1) states that the invasive species standard is:

> *Planting new invasive species identified on the California Invasive Pant Council list shall be prohibited.*

This language is slightly different than what is included in the Landscape Design section (5.4) standards in the NBPP, which states:

> *Planting invasive species identified on the California Invasive Plant Council list are prohibited.*

It is unclear what is meant by "new invasive species" in the language from the Biological Report. WRA recommends removing the word "new" from that sentence in order to improve clarity, avoid misinterpretation, and be more consistent with the NBPP.

Consistency on Framework Master Plan Boundary

The Framework Master Plan boundary shown on Figure 10 in the Biological Report differs from the Framework Master Plan boundary shown on other figures in the report and in the Framework Master Plan document. This is important because Figure 10 forms the basis for much of the impacts evaluation. The boundary used for the impacts analysis needs to be consistent with the boundary for the Framework Master Plan.

Mitigation for Burrowing Owl Impacts

We recommend that Mitigation Measure BIO-D be revised as follows:

> *In the design and construction of the Shoreline Amphitheatre parking structure, the applicant ~~will~~ shall comply with ~~all components of the~~ NBPP Habitats and Biological Resources Standard 2 (Burrowing Owl HOZ) requirements for outdoor lighting, perch deterrents, avoidance during construction, and rodenticide use. Burrowing Owl HOZ requirements for landscape design shall be followed to the extent that they do not conflict with other NBPP Policies and/or other City requirements related to parking areas. ~~to the extent feasible~~. ~~Requirements for preconstruction surveys, and buffers around active nests during the burrowing owl breeding season, must be implemented without exception.~~*

This edit increases the level of specificity to ensure the mitigation measure is clearly enforceable, as required by CEQA.

Analysis of Impacts to Riparian Habitat

The Biological Report (page 39, Section 6.3.2) states that riparian habitat is not present within the Master Plan Area, though it is immediately adjacent to it in the Charleston Retention Basin. However, based on WRA's analysis of Plan Area boundaries, a narrow portion of the riparian vegetation in the Charleston Retention Basin is located within the Master Plan Boundary. The zone of overlap can be seen via reviewing the parcel boundaries shown in the design drawings entitled *Charleston Retention Basin Bridges and Habitat Improvements Project* dated September 18, 2015, and prepared by HT Harvey and Associates with BKF Engineering. Parcel boundaries shown in those drawings which form the edge of the Master Plan Boundary extend into areas of riparian and wetland vegetation within the Charleston Retention Basin. This slight overlap with the Master Plan Area does not affect the impacts analysis because the Habitat Overlay Zone buffer for the Charleston Retention Basin is measured from the edge of the basin, regardless of where the Master Plan Boundary is located. WRA agrees with the conclusion in the Biological Report that potential impacts to riparian habitat will be less than significant. However, we recommend that the

report be updated to accurately describe the location of riparian vegetation at the edge of the Charleston Retention Basin in relation to the Master Plan Boundary.

Analysis of Impacts to Wetlands

The Biological Report (pages 39-40, Section 6.3.3) states that wetlands are not present within the Master Plan Area, though they are immediately adjacent to it in the Charleston Retention Basin. However, based on WRA's analysis of Plan Area boundaries, a small portion of wetland habitat in the Charleston Retention Basin is located within the Master Plan Boundary. The zone of overlap can be seen via reviewing the parcel boundaries shown in the design drawings entitled *Charleston Retention Basin Bridges and Habitat Improvements Project* dated September 18, 2015, and prepared by HT Harvey and Associates with BKF Engineering. Parcel boundaries shown in those drawings which form the edge of the Master Plan Boundary extend into areas of riparian and wetland vegetation within the Charleston Retention Basin. This slight overlap with the Master Plan Area does not affect the impacts analysis because the Habitat Overlay Zone buffer for the Charleston Retention Basin is measured from the edge of the basin, regardless of where the Master Plan Boundary is located. WRA agrees with the conclusion in the Biological Report that potential impacts to wetland habitat will be less than significant. However, we recommend that the report be updated to accurately describe the location of wetlands at the edge of the Charleston Retention Basin in relation to the Master Plan Boundary.

Analysis of Impacts to Egret Rookery

The Biological Report's analysis of the egret rookery is based on a presumption that new information indicating changes in current circumstances on the site are not relevant to the impacts analysis. According to CEQA Guidelines Section 21166, a Subsequent EIR must evaluate substantial changes "with respect to circumstances under which the project is being undertaken" and the presence of "new information" which was not known at the time of the original EIR. It is not appropriate to rely on the 2017 CEQA baseline for evaluating changed circumstances. The Biological Report recognizes that circumstances have changed with regard to the extent of the egret rookery, and makes a conclusion that these changes to current conditions are not relevant to the application of the Habitat Overlay Zone (HOZ) standards:

> *Habitats and Biological Resources Standard 3b (Egret Rookery HOZ) requires that new residential construction shall not be placed within 300 feet of the rookery. Since 2017, the colony has expanded such that the southwestern margin of the colony falls within approximately 200 feet of the margin of the parcel where residential development is planned southwest of the rookery (see Figure 9). The HOZs in the NBPP were intended to apply based on the locations of sensitive biological resources as of 2017, rather than being dynamic zones that might expand or contract over time. As a result, the Master Plan's proposed land uses and development areas are in compliance with the HOZs required by the NBPP.*

Biological resources are unique in that they can change and evolve over time. It is common practice to evaluate these changing circumstances in CEQA impacts evaluations and mitigation measures, accounting for seasonal and annual variations in the size, presence and location of biological populations on a site. The expansion of the egret colony is a changed circumstance that must be evaluated according to NBPP policies based on current conditions. The fact that the standards were developed based on historical egret colony use does not support a conclusion that the Master Plan's land use is consistent with those standards. The standards have not changed, and the proposed land use encroaches into the Habitat Overlay buffer for the egret colony due to changed circumstances related to the size of the egret colony.

This incursion is not consistent with the NBPP Standards and the Biological Report and EIR must state that conclusion.

WRA does not disagree with a conclusion that, given the surrounding existing land use and level of disturbance, incursion within that buffer would have a less than significant impact as long as other construction-related standards are followed. Recognizing that one purpose of a buffer is to allow for interannual fluctuations in the size of habitat areas could be another component of the rationale for a less than significant impact determination. However, that does not eliminate the need to clearly disclose that the Master Plan is inconsistent with the NBPP standards due to a change in circumstances at the time of the Subsequent EIR. The inconsistency should be clearly disclosed and a clear finding of less than significant impact of that inconsistency should be made.

Analysis of Impacts to Local Policies Protecting Biological Resources

The HOZ standards are local land use policies protecting biological resources. The analysis of consistency with local land use policies should clearly disclose areas of inconsistency with regard to the Burrowing Owl HOZ and Egret Rookery HOZ. Inconsistency with the Burrowing Owl HOZ should be recognized as potentially significant, and mitigated to a level that is less than significant by implementation of the proposed burrowing owl mitigation measures. Inconsistency with the Egret Rookery HOZ should be disclosed as a less than significant impact consistent with the recommended analysis above for the egret rookery.

H. T. HARVEY & ASSOCIATES

Ecological Consultants

50 years of field notes, exploration, and excellence

North Bayshore Framework Master Plan
Biological Resources Confirmation Report

Project #4360-24

Prepared for:

Google

Prepared by:

H. T. Harvey & Associates

October 21, 2022

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Section 1. Introduction

This report describes biological resource issues related to Google's proposed development in the North Bayshore Framework Master Plan (Master Plan) area. The Master Plan outlines a proposal for land use location and intensity, urban design, mobility, district parking, infrastructure, sustainability, and implementation, and phasing strategies, within a subset of land in the North Bayshore Precise Plan (NBPP) area, one of several "change areas" identified in the City of Mountain View's 2030 General Plan. The NBPP is guided by the General Plan's vision, goals, policies, and urban design direction, and defines standards that must be followed by project applicants, unless an exception to a standard is otherwise noted therein. The potential environmental effects of implementation of the NBPP were initially disclosed in the *North Bayshore Precise Plan Environmental Impact Report* (EIR) (City of Mountain View 2014). In 2017, the NBPP was amended to include residential development, and the *North Bayshore Precise Plan Subsequent Environmental Impact Report* (SEIR) (City of Mountain View 2017) was prepared to analyze the effects of the amended NBPP.

This document presents a summary of the findings of the NBPP, its 2014 EIR, and its 2017 SEIR regarding biological resources, existing conditions, and potential impacts in the Master Plan Area, at the time the EIR and SEIR were certified. It also presents a summary of changes to these conditions that have occurred since certification, as well as a summary of any potential impacts that may result from implementation of elements of the Master Plan that were not previously disclosed in the NBPP 2014 EIR and 2017 SEIR. This analysis is being used to inform an EIR for the North Bayshore Master Plan. This document concludes that the North Bayshore Precise Plan EIR and SEIR adequately assess a majority of impacts of the Master Plan on biological resources. However, as described in Section 6, impacts of the Master Plan on Congdon's tarplant (*Centromadia parryi* ssp. *congdonii*), monarch butterfly (*Danaus plexippus*), and burrowing owls (*Athene cunicularia*) require additional analysis in the Master Plan EIR, and additional mitigation measures are described to reduce impacts of the Master Plan on those species to a less-than-significant level.

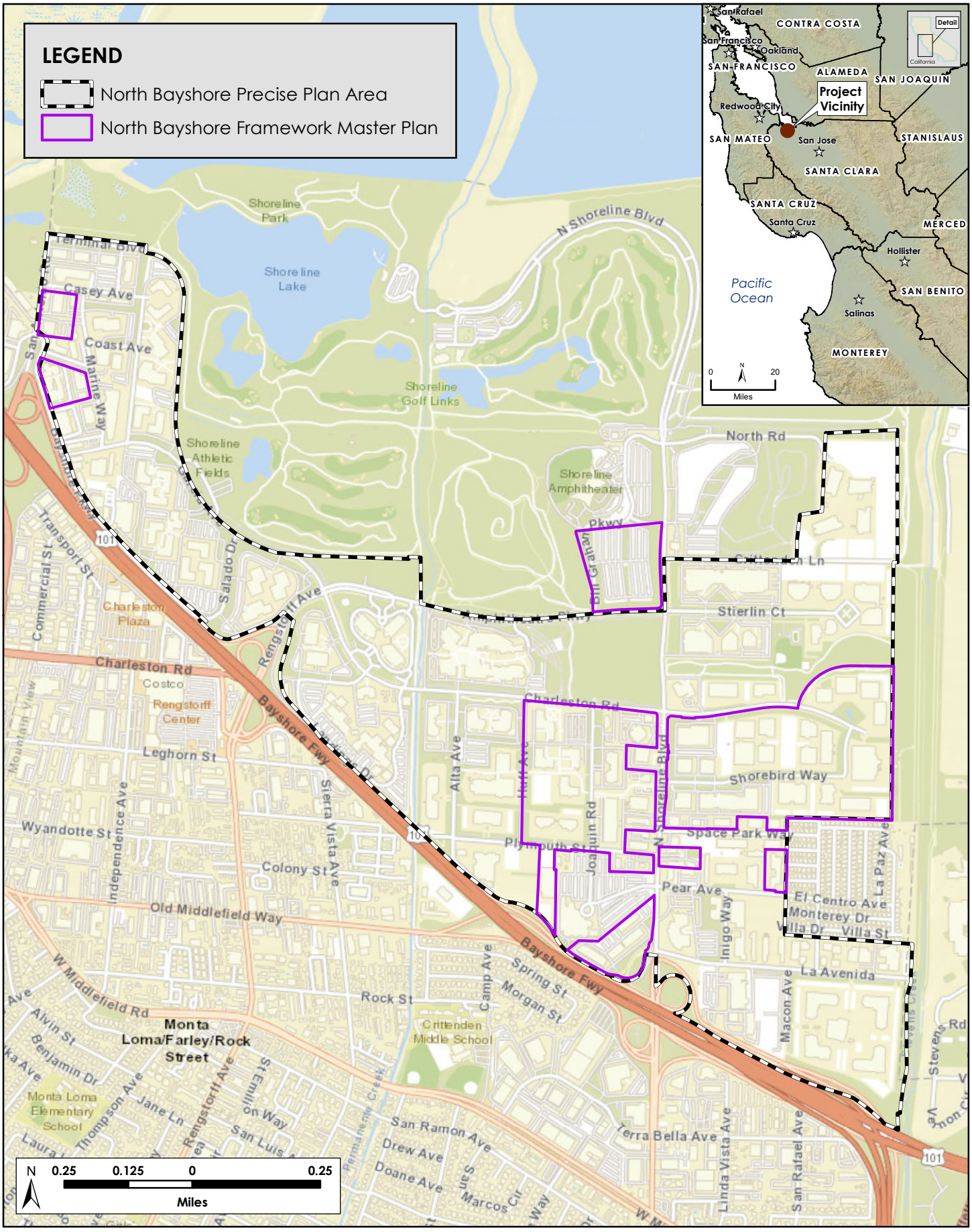
1.1 Project Location

The North Bayshore area is geographically distinct from the rest of Mountain View due to being separated from the rest of the City by U.S. Highway 101 (Figure 1). Google's Master Plan Area is located within the NBPP area, in the northern end of the City of Mountain View, bordering Shoreline at Mountain View Regional Park to the north, Highway 101 to the south, Palo Alto to the west, and Stevens Creek to the east.

1.2 Project Description

The Master Plan proposes to redevelop Google's landholdings in North Bayshore, primarily within the central portion of the NBPP area that surrounds North Shoreline Boulevard, into three "Complete Neighborhoods" – Shorebird, Joaquin, and Pear (Figure 2). These complete neighborhoods are intended to have a balanced mix of housing, office, services, and open space within a safe, comfortable, and convenient walking distance for

residents and employees (Figure 3). Three district-serving office parking facilities are also proposed as part of the Master Plan, two in the northwest portion of the NBPP area along Marine Way, and a third outside of but adjacent to the northern boundary of the NBPP area, on a parcel with an existing parking lot at Shoreline Amphitheatre (Figure 4). All of the existing structures in the Master Plan Area will be demolished to accommodate the development, with the exception of the 1201 Charleston building (Shown as "Flex – Community Use District Central Plant" in Figures 3 and 4). A number of open spaces are planned, including three interconnected parks surrounding an existing egret rookery, and a Green Loop that connects a set of linear open spaces dispersed within the neighborhoods (Figure 5). A portion of Shorebird Way will be vacated and incorporated into a planned open space park (Figure 5).



N:\Projects4300\4360-01\24\Reports\Framework Master Plan\Figure 1 Vicinity Map.mxd mlagarde

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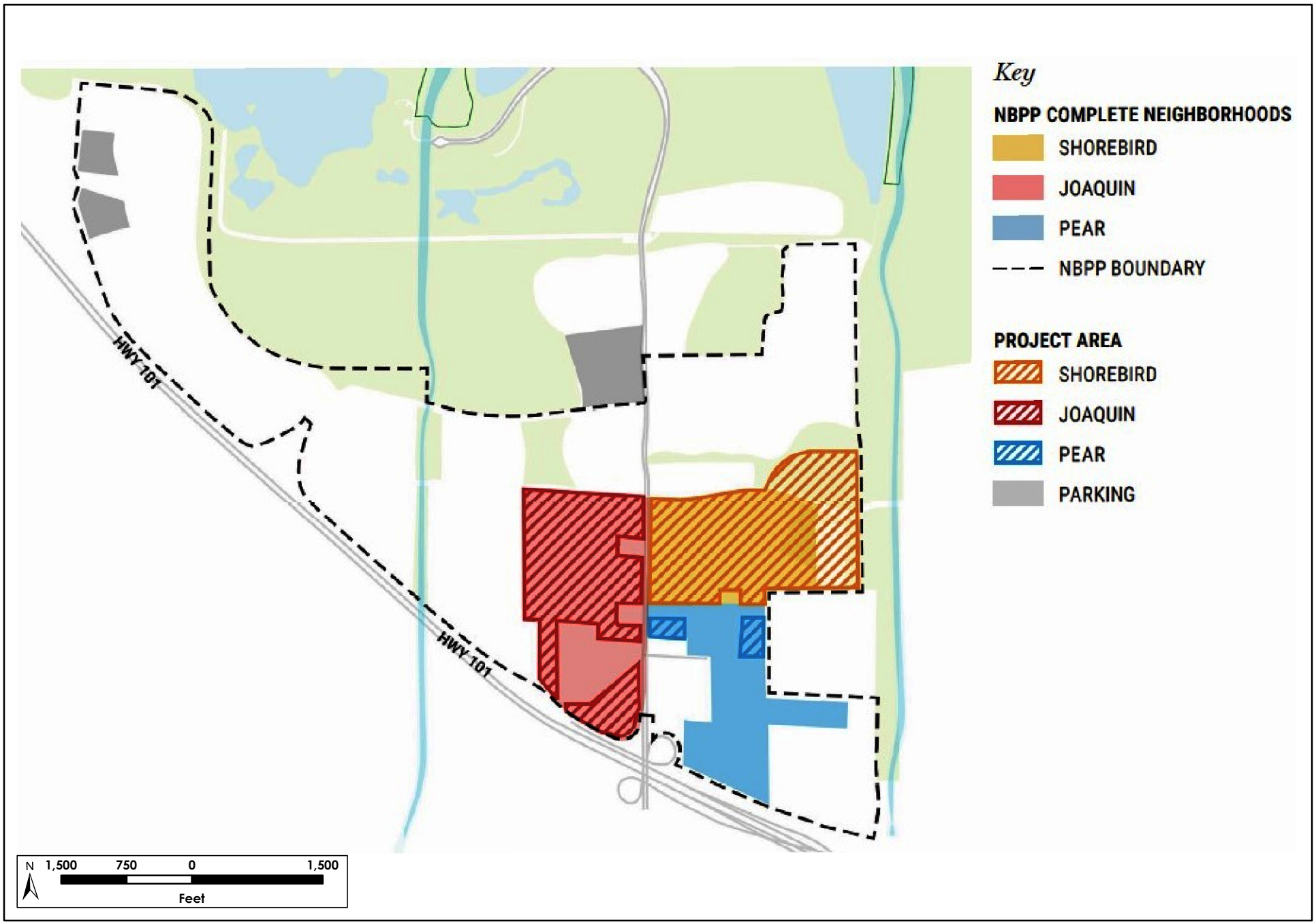
Figure 1. Vicinity Map
North Bayshore Framework Master Plan
Biological Resources Confirmation Memo (4360-24)
October 2022



N:\Projects4300\4360-01\24\Reports\Framework Master Plan\Figure 2 Project Site.mxd

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Figure 2. Project Site
North Bayshore Framework Master Plan
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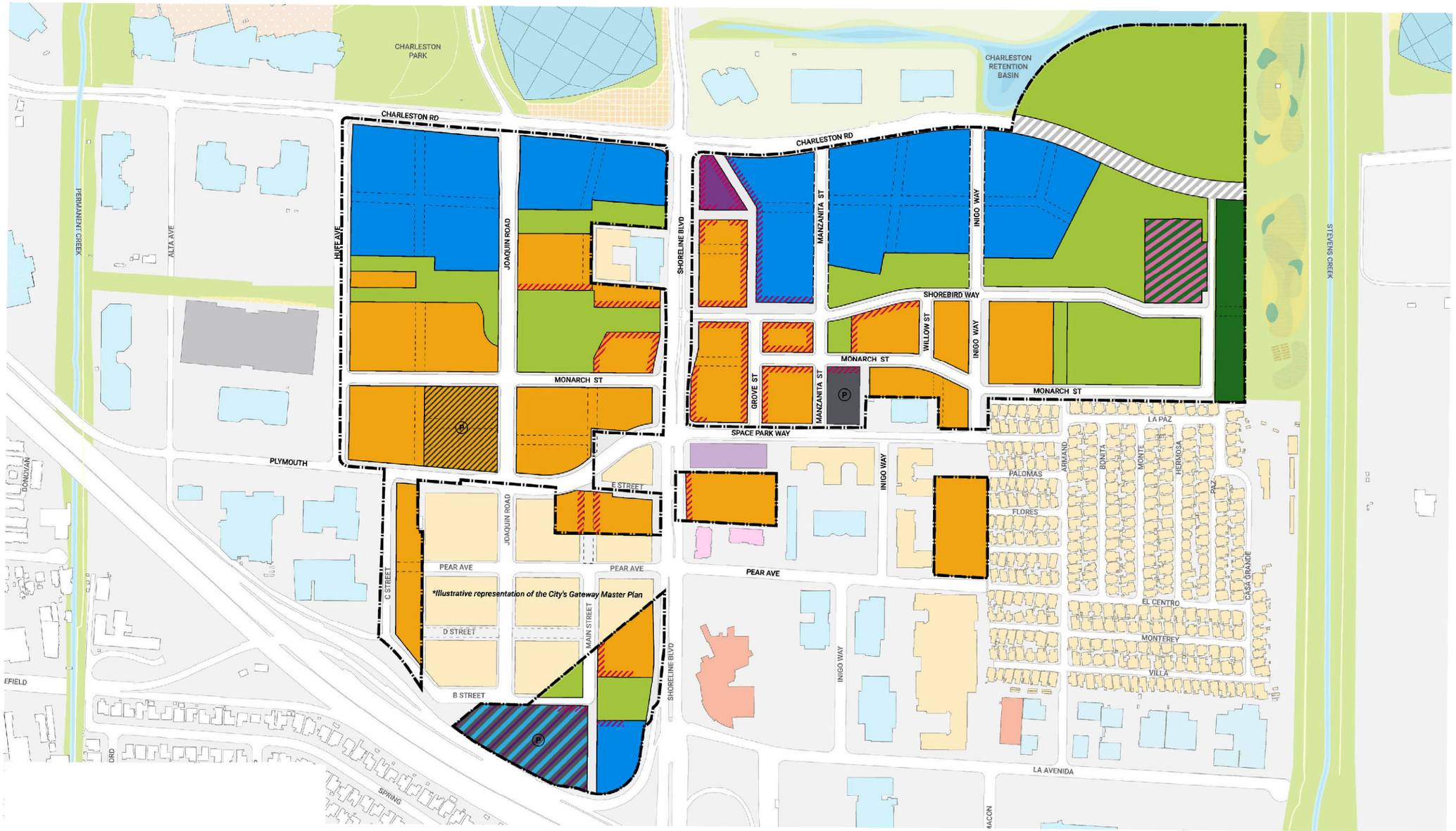

Key

- OFFICE
- RESIDENTIAL
- ACTIVE USES
- HOTEL
- FLEX - HOTEL, OFFICE, PARKING
- FLEX - PARKING, RESIDENTIAL
- FLEX - COMMUNITY USE, DISTRICT CENTRAL PLANT
- PARKING
- DISTRICT CENTRAL PLANT
- INDICATIVE LOCATION OF MID-BLOCK BREAK
- INDICATIVE LOCATION OF PRIVATE STREET
- CONCEPTUAL DEVELOPMENT PARCELS
- OPEN SPACE
- PUBLIC ROW FOR NONMOTORIZED TRAFFIC, MAINTENANCE AND EV ONLY
- PROJECT AREA

Note:

This Plan is part of the North Bayshore Framework Master Plan. This plan demonstrates a conceptual plan for the future development of the Master Plan Area. Roadway alignments, and land use parcels are general depictions. Specifically, the alignment of that part of Manzanita Street and Inigo Way between Shorebird Way and Charleston Road will be determined at the time of submitting a VTSM. This plan may be subsequently updated and modified in response to City comments as part of the design review process and future PCP applications.

N 450 225 0 450
Feet

Background Source: North Bayshore Master Plan Framework, authored by Lendlease Silicon Valley Development, LLC for Google

N:\Projects4300\4360-01\24\Reports\Framework Master Plan\Figure 3 Land Use Plan Core Project Area.mxd

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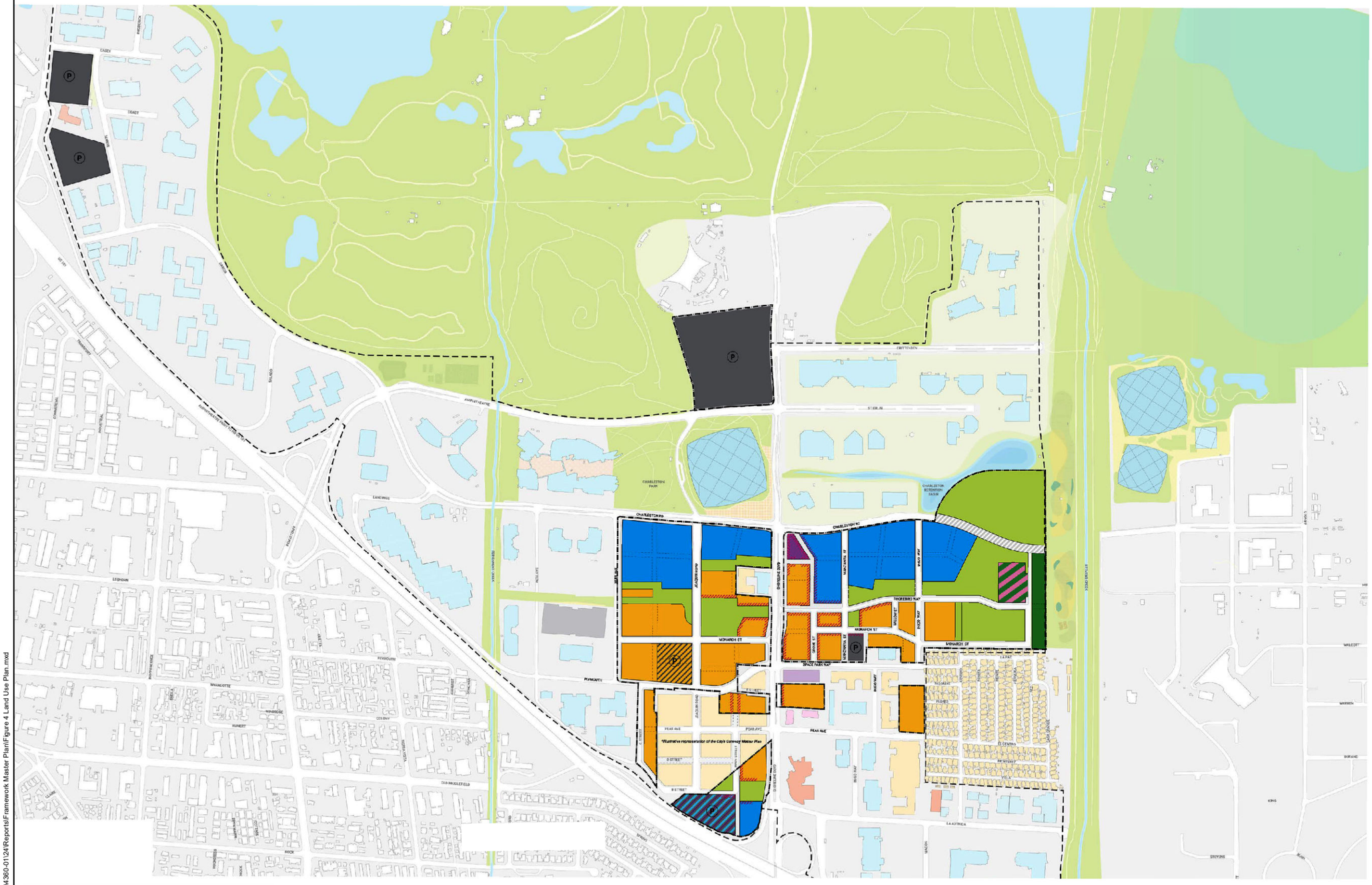
Figure 3. Land Use Plan Core Project Area

North Bayshore Framework Master Plan
Biological Resources Confirmation Memo (4360-24)

October 2022



Background Source: North Bayshore Master Plan Framework, authored by Lendlease Silicon Valley Development, LLC for Google

N:\Projects4300\4360-01\24\Reports\Framework Master Plan\Figure 4 Land Use Plan.mxd

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Figure 4. Land Use Plan

North Bayshore Framework Master Plan
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Key

- DEDICATED PARK LAND
- PRIVATELY OWNED PUBLICLY ACCESSIBLE OPEN SPACE
- DEDICATED PARK LAND (POTENTIAL FOR EDUCATIONAL FACILITY)
- DEDICATED PARK LAND VACATED RIGHT OF WAY
- GREEN LOOP
- INDICATIVE LOCATION OF MID-BLOCK BREAKS
- INDICATIVE LOCATION OF PRIVATE STREET
- CONCEPTUAL DEVELOPMENT PARCELS
- OPEN SPACE
- PUBLIC ROW FOR NONMOTORIZED TRAFFIC, MAINTENANCE AND EV ONLY
- PROJECT AREA

Note:

Shorebird Yards is to be dedicated to the City of Mountain View as public park land. Following dedication, the City may, at its discretion, work with local school district(s) to establish an education facility on this parcel, which will be subject to its own independent entitlement process and associated CEQA review.

This Plan is part of the North Bayshore Framework Master Plan. This plan demonstrates a conceptual plan for the future development of the Master Plan Area. Roadway alignments, and land use parcels are general depictions. Specifically, the alignment of that part of Manzanita Street and Inigo Way between Shorebird Way and Charleston Road will be determined at the time of submitting a VTSM. This plan may be subsequently updated and modified in response to City comments as part of the design review process and future PCP applications.

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Background Source: North Bayshore Master Plan Framework, authored by Lendlease Silicon Valley Development, LLC for Google

N:\Projects4300\4360-01\24\Reports\Framework Master Plan\Figure 5 Parks and Open Space Plan.mxd

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Figure 5. Parks and Open Space Plan

North Bayshore Framework Master Plan
Biological Resources Confirmation Memo (4360-24)

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Section 2. Methods

2.1 Background Review

Prior to conducting field work, H. T. Harvey & Associates ecologists reviewed the NBPP, the North Bayshore Framework Master Plan; the 2014 EIR (City of Mountain View 2014); the 2017 SEIR (City of Mountain View 2017); aerial images (Google Inc. 2021); the California Department of Fish and Wildlife's (CDFW's) California Natural Diversity Database (CNDDB 2021); a number of previous reports prepared for this and related projects by H. T. Harvey & Associates in the North Bayshore vicinity; and other relevant reports, scientific literature, and technical databases.

2.2 Site Visits

H. T. Harvey & Associates wildlife ecologist Jane Lien, B.S., conducted a reconnaissance-level field survey of the Master Plan Area and surrounding areas on November 30, 2021, to compare existing conditions to those described in the 2014 EIR and 2017 SEIR and, if necessary, to update the description of existing conditions with respect to biological resources. Specifically, the survey was conducted to 1) determine the extent of any changes in existing environmental conditions that have occurred in and surrounding the Master Plan Area since the previous EIR and SEIR were certified, 2) to identify any potential impacts associated with the proposed Master Plan that were not analyzed in the previous EIR and SEIR, and 3) to identify any impacts from the proposed Master Plan that might exceed the scope of the impacts disclosed in the previous EIR and SEIR.

Section 3. Summary of Existing Conditions

The following section summarizes our findings regarding biological resources present in the Master Plan Area. First, we provide a summary of existing habitat conditions, potential for occurrence of special-status plants and animals, and occurrence of sensitive/regulated habitats present and disclosed in the 2017 SEIR. We then summarize any changes to existing conditions that have occurred since the 2017 SEIR was certified.

3.1 Existing Conditions under the 2017 SEIR

In 2017, the NBPP was amended to include residential development, and the 2017 SEIR was prepared to analyze the effects of these changes to the NBPP. Because the 2017 SEIR tiers off of the 2014 EIR, existing conditions as disclosed in the 2017 SEIR (rather than those in the 2014 EIR) are discussed herein.

The 2017 SEIR identified five general biological habitat types, as shown in Figure 6, below. These habitat types were developed/landscaped, disked field, artificial aquatic (artificial waterbodies), freshwater marsh, and open water/creek. Approximately 96 percent of the NBPP area was classified as developed/landscaped habitat. Adjacent land uses, natural communities, and habitats were also identified and discussed in the SEIR to inform the assessment of potential indirect impacts of NBPP activities on adjacent sensitive habitats. These included Stevens Creek, Crittenden Marsh and the Stevens Creek Tidal Marsh Restoration Area, the San Francisco Bay and Estuary, the South Bay Salt Ponds Restoration Project, and Shoreline at Mountain View Regional Park (Shoreline Park). The City of Mountain View actively manages Shoreline Park as burrowing owl foraging and nesting habitat and habitat for a number of other sensitive species, including several occurrences of Congdon's tarplant, a California Native Plant Society (CNPS) 1B.1-ranked rare plant species (Figure 6).

The 2017 SEIR identified two habitat types within the Master Plan Area: developed/landscaped and artificial aquatic. Adjacent and/or nearby habitat types include the disked field, freshwater marsh, and open water/creek. The Charleston Retention Basin, a freshwater marsh, is adjacent to the northern boundary of the Master Plan Area. In the SEIR, it was characterized as perennially wet and dominated by broad-leaved cattails (*Typha latifolia*) and California bulrush (*Schoenoplectus californicus*). Planned habitat improvements associated with the Charleston Retention Basin Improvement Project were identified in the SEIR but reviewed via a separate California Environmental Quality Act (CEQA) process (City of Mountain View 2015). The majority of the Charleston Retention Basin Improvement Project is outside the Master Plan area, but the Master Plan project area includes a portion of the Basin Project area on the southeast side of the Basin. Planned improvements included a net increase of 0.13 acres of freshwater marsh habitat and 3.76 acres of riparian habitat at the Charleston Retention Basin. The SEIR also described a regionally significant egret rookery in the London plane trees (*Platanus* x *acerifolia*) within the developed/landscaped area along Shorebird Way in the eastern portion of the NBPP area, and within the proposed Master Plan Area. The egret rookery is also depicted in Figure 6.

N:\Projects\4300\4360-01\24\Reports\Framework Master Plan\Figure 6 Biological Resources and Habitats Map.mxd

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Figure 6. Biological Resources and Habitats Map

North Bayshore Framework Master Plan
Biological Resources Confirmation Memo (4360-24)
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The parcel at Shoreline Amphitheatre proposed in the Master Plan for construction of a parking structure is outside the NBPP area. Impacts from Master Plan activities in this parcel were thus not analyzed in the 2017 SEIR.

3.2 Current Habitat Conditions

Aside from the parking structure proposed at Shoreline Amphitheatre, which is outside of the NBPP area, current conditions in the Master Plan Area are substantially the same as those described in the 2017 SEIR. The Master Plan Area is still dominated by developed/landscaped land uses, with small artificial waterbodies in three locations (Figure 6). The extent of the egret rookery has changed slightly, as described in Section 4.2.3 below, but otherwise, habitat conditions within the Master Plan Area parcels have not changed substantially since 2017.

There have been changes to biological resources and habitats in two nearby areas, however; the disked field is outside the Master Plan area, and the Charleston Retention Basin barely overlaps the Master Plan area. These changes are discussed below. Additionally, the portion of the Master Plan Area associated with the parking structure proposed at Shoreline Amphitheatre is outside the NBPP area. Potential development of this parcel is thus not covered by the standards and guidelines of the NBPP, nor was development of this parcel reviewed in the 2017 SEIR. Therefore, a description of the existing conditions on and surrounding this additional parcel is included below to ensure that all potential impacts from proposed development of the Master Plan, including the parking structure on Shoreline Amphitheatre, are included and analyzed in the North Bayshore Master Plan EIR.

3.2.1 Habitat Areas Adjacent to the Master Plan Boundaries

3.2.1.1 Disked Field

The disked field identified at 2000 North Shoreline Boulevard in the SEIR, which is located outside the Master Plan area, is currently being developed by Google as the Charleston East project, a 2-level, 595,000 square ft office building. Thus, this land cover type would now be considered developed/landscaped, contributing to the overall preponderance of developed/landscaped habitat types within and surrounding the Master Plan Area. The 2017 SEIR identified the disked field as having a low probability of burrowing owls nesting and/or roosting there. Due to development on this parcel, suitable habitat for burrowing owls is no longer present, and high levels of disturbance associated with construction of and use of Charleston East would further discourage burrowing owls from dispersing to or attempting to forage at that location.

3.2.1.2 Charleston Retention Basin

The Charleston Retention Basin lies adjacent to the northern boundary of the Master Plan Area (Figure 6). Since the 2017 SEIR, the Charleston Retention Basin Bridges and Habitat Improvement Project was implemented. That project involved the expansion and enhancement of approximately 6.0 acres of native upland habitats (including a net increase of approximately 2.0 acres of willow riparian forest), the expansion of 0.13 acre of freshwater marsh, the installation of two pedestrian bridges to improve north-south pedestrian

circulation and connectivity, and the creation of an improved pedestrian path around the Charleston retention basin to enhance user experience and comply with Americans with Disabilities Act accessibility requirements. The Project also involved the net removal of 134 parking spaces next to the basin to allow for habitat expansion and enhancement and to improve access to the path from adjacent parcels. The Project was implemented in two phases: the first was completed in fall 2016/winter 2017 and the second was completed in fall 2018/winter 2019. A total of 3.7 acres of riparian habitat was created (H. T. Harvey & Associates 2019).

Although the Charleston Retention Basin and its freshwater marsh habitat (with a fringe of willows) already existed in 2017, it is primarily the expansion of the basin's willow-dominated habitat, as well as the reduction in developed parking areas and improved accessibility, that represent a change from 2017 SEIR conditions. In addition, the growth of willows that were already present in the basin (i.e., other than those added as part of the habitat enhancement project) has increased the proportion of willow, relative to emergent vegetation such as cattails and bulrush, within the basin since 2017.

3.2.2 Additional Master Plan Project Element: Shoreline Amphitheatre Parcel

The Shoreline Amphitheatre parcel is currently developed as a parking lot associated with the Shoreline Amphitheatre. Asphalt covers the majority of the parcel, and scattered landscape trees are present throughout the parking lot. The grade of the parking surface is approximately 30 feet below that of the surrounding land surface. On the eastern margin of the parcel, a steep embankment covered by short ruderal grasses with scattered landscape shrubs and trees slopes upward from the asphalt parking lot toward North Shoreline Boulevard. A similar embankment slopes upward toward Amphitheatre Parkway on the southern margin of the parcel, but this embankment is landscaped and developed with a stairway, escalators, an elevator, and associated pedestrian walkways. The western boundary of the parcel slopes more gently upwards toward Bill Graham Parkway, beyond which lie the grassland on the former landfill at Vista Slope in Shoreline Park. This slope is vegetated with short ruderal grasses and scattered ornamental trees, with a band of low-stature shrubs, such as coyote brush (*Baccharis pilularis*), just beyond the western margin of the parcel. Structures and additional parking associated with the Shoreline Amphitheatre are positioned to the north of the parcel, at the same grade as the current parking lot.

Conditions on the Shoreline Amphitheatre parcel where a parking structure is proposed, as well as wildlife use, are generally the same as those described in the 2017 SEIR for developed/landscaped habitats, based on field inspection of the Shoreline Amphitheatre parcel during a November 30, 2021, site visit and comparison of its conditions to the description of developed/landscaped habitats in the 2017 SEIR. The developed/landscaped habitat in this parcel is of relatively low value to wildlife, based on the predominantly developed nature of this parcel and H. T. Harvey's experience evaluating wildlife use of such habitats throughout the South Bay, but it provides nesting and foraging opportunities for some urban-adapted species of birds. Native bird species that were observed on or near the site during the November 2021 site visit include the American crow (*Corvus brachyrhynchos*), Anna's hummingbird (*Calypte anna*), and dark-eyed junco (*Junco hyemalis*). These species may use the trees or landscape vegetation, or buildings near the site, for nesting. Additional common bird species that could nest on this parcel include the lesser goldfinch (*Spinus psaltria*), California towhee (*Melozone crissalis*), and

Bewick's wren (*Thyromaes bewickii*). Common urban-adapted mammal species that may occur here include the native raccoon (*Procyon lotor*) and nonnative house mouse (*Mus musculus*), Norway rat (*Rattus norvegicus*), black rat (*Rattus rattus*), and eastern gray squirrel (*Sciurus carolinensis*). The western fence lizard (*Sceloporus occidentalis*), a common native reptile, was also observed within landscaped areas here. California ground squirrels (*Otospermophilus beecheyi*) and their burrows are common in the ruderal grassland margins of the parcel, as well as on the adjacent grasslands at Shoreline Park.

Section 4. Special-Status Species and Sensitive Habitats

CEQA Guidelines Section 15065(a)(1) requires assessment of the effects of a project on species that are protected by state, federal, or local governments as "endangered, rare, or threatened"; such species are typically described as "special-status species". For the purpose of the environmental review of the project, both for the 2017 SEIR and for the current report, we define special-status species as described below.

For purposes of this analysis, "special-status" plants are considered plant species that meet at least one of the following criteria:

- Listed under Federal Endangered Species Act (FESA) as threatened, endangered, proposed threatened, proposed endangered, or a candidate species.
- Listed under the California Endangered Species Act (CESA) as threatened, endangered, rare, or a candidate species.
- Listed by the CNPS as CRPR 1A, 1B, 2, 3, or 4.

For purposes of this analysis, "special-status" animals are considered animal species that meet at least one of the following criteria:

- Listed under FESA as threatened, endangered, proposed threatened, proposed endangered, or a candidate species.
- Listed under CESA as threatened, endangered, or a candidate threatened or endangered species.
- Designated by the CDFW as a California species of special concern.
- Listed in the California Fish and Game Code as fully protected species (fully protected birds are provided in Section 3511, mammals in Section 4700, reptiles and amphibians in Section 5050, and fish in Section 5515).

Information concerning threatened, endangered, and other special-status species that occur in the Master Plan Area was collected from several sources and reviewed by H. T. Harvey & Associates biologists to determine whether any special-status species that were unrecorded in the Master Plan Area in 2017 have been recorded since then, and whether the legal/listing status of any species that occur in the Master Plan Area have changed since 2017 such that they have been recognized as a "special-status" species since 2017. Figure 7 depicts CNDDB records of special-status plant species in the general vicinity of the Master Plan Area and Figure 8 depicts CNDDB records of special-status animal species in the Master Plan Area.

LEGEND

- North Bayshore Framework Master Plan
- 5-Mile Radius

CNDDB Records

Plants

- Specific Location
- Approximate Location
- General Area

Terrestrial Communities

- General Area

N 1.2 0.6 0 1.2
Miles

Northern Coastal Salt Marsh
Congdon's tarplant
Point Reyes salty bird's-beak
Valley Oak Woodland
Valley Oak Woodland
California seablite
Point Reyes salty bird's-beak
round-headed Chinese-houses
lost thistle
northern slender pondweed
alkali milk-vetch
Hoover's button-celery
Congdon's tarplant
Congdon's tarplant
Congdon's tarplant
Northern Coastal Salt Marsh
Contra Costa goldfields
Hoover's button-celery
San Joaquin spearscale
Congdon's tarplant
alkali milk-vetch
California seablite
Congdon's tarplant
prostrate vernal pool navarretia
lesser saltscale
California alkali grass
Contra Costa goldfields
Point Reyes salty bird's-beak
Hoover's button-celery
saline clover
alkali milk-vetch
alkali milk-vetch
Congdon's tarplant
arcuate bush-mallow
Congdon's tarplant
Hoover's button-celery
Hoover's button-celery
San Francisco collinsia
western leatherwood
fragrant fritillary
western leatherwood
two-fork clover
western leatherwood
Serpentine Bunchgrass
Jepson's coyote-thistle
Jepson's coyote-thistle
woodland woollythreads
western leatherwood
Franciscan onion
arcuate bush-mallow
arcuate bush-mallow
woodland woollythreads
Choris' popcornflower
western leatherwood
western leatherwood
western leatherwood
western leatherwood
western leatherwood
western leatherwood
western leatherwood
western leatherwood
Santa Cruz clover
chaparral ragwort
legenere
woodland woollythreads
woodland woollythreads
San Mateo woolly sunflower
woodland woollythreads
woodland woollythreads
Congdon's tarplant
Congdon's tarplant
Hoover's button-celery
robust spineflower
Congdon's tarplant
Hall's bush-mallow
hairless popcornflower
saline clove

N:\Projects4300\4360-01\24\Reports\Framework Master Plan\Figure 7 CNDDB Plant Records.mxd

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Figure 7. CNDDB Plant Records
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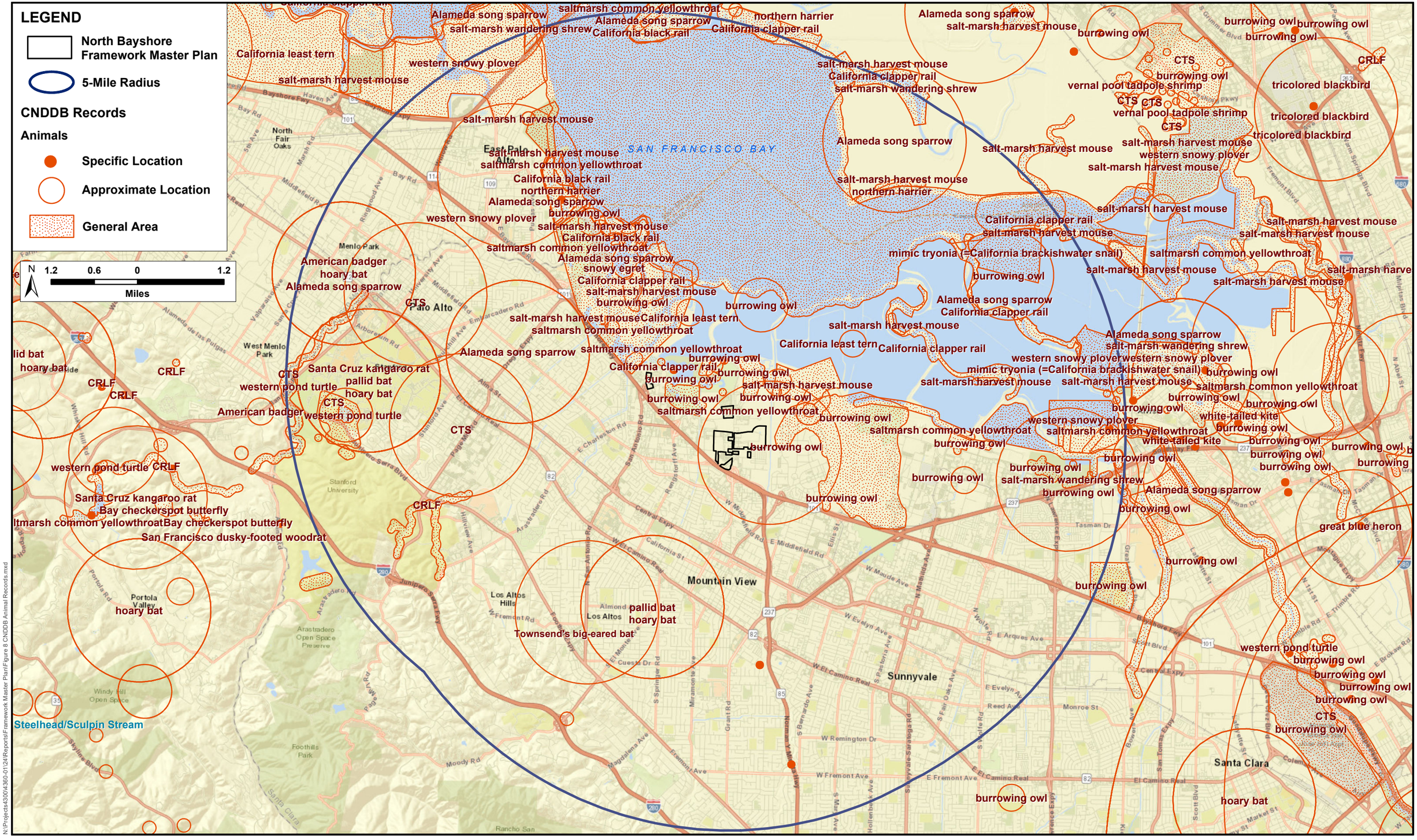

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Figure 8. CNDDB Animal Records
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Following is a discussion of special-status plants and animals that were addressed in the 2017 SEIR and whether there have been changes in potentially occurring special-status species since 2017 that could affect how Master Plan activities impact special-status species.

4.1 Special-Status Species Considered in the 2017 SEIR

4.1.1 Special-Status Plant Species

The 2017 SEIR identified the potential for only one special-status plant to occur within the NBPP area, Condon's tarplant, a CNPS 1B.1 listed plant. This plant was considered to have a low potential to occur anywhere in the NBPP area, including the portions of the Master Plan area that were included in the NBPP area, based on its general habitat requirements and known distribution. It was not detected during site visits in July and August of 2013 (H. T. Harvey & Associates 2013), nor during off-site surveys at the Charleston Road Bridge and La Avenida Bridge study areas in 2016. It has not been detected in the Master Plan area. As of the 2017 SEIR, the plant was known to occur in five locations at Shoreline Park north of the NBPP area (Figure 6).

4.1.2 Special-Status and Sensitive Animal Species

The 2017 SEIR identified the potential for a small number of special-status animals to occur in the NBPP area. These include three California bird species of special concern: burrowing owl, San Francisco common yellowthroat (*Geothlypis trichas sinuosa*), and loggerhead shrike (*Lanius ludovicianus*); and two California fully protected species: the white-tailed kite (*Elanus leucurus*) and peregrine falcon (*Falco peregrinus anatum*). The SEIR noted that burrowing owls were known to nest in Shoreline Park, an area of ongoing burrowing owl monitoring and management, and that biologists with the City of Mountain View reported regular foraging, wintering, and successful nesting in the park. Within the NBPP area, the SEIR indicated that this species had a low probability of nesting and/or roosting in the disked field at 2000 North Shoreline Blvd. and along the northern border of the Google Athletic and Recreational Fields but was otherwise not expected to occur in the NBPP area, including the portions of the Master Plan area that were included in the NBPP area. The 2017 SEIR determined that the San Francisco common yellowthroat nested in the NBPP area within the Charleston Retention Basin and Coast Casey Drainage Canal; that the loggerhead shrike and white-tailed kite could use trees and shrubs along the northern and eastern edges of the NBPP area for nesting because of their adjacency to open grassland and marsh foraging habitat; and that the peregrine falcon could potentially nest on electrical transmission towers or buildings (though the species was not known to nest in the NBPP area as of 2017).

One special-status reptile, the western pond turtle (*Actinemys marmorata*), a California species of special concern, was identified as having a low probability of occurring in the NBPP area and adjacent areas, such as Permanente and Stevens Creeks. The 2017 SEIR determined that several special-status fishes, including the federally threatened green sturgeon (*Acipenser medirostris*), state threatened longfin smelt (*Spirinchus thaleichthys*), and California species of special concern Central Valley fall-run Chinook salmon, had a low probability of occurrence in the lower, tidal reaches of Permanente and Stevens Creeks. The federally threatened Central

California Coast Steelhead (*Oncorhynchus mykiss*) is currently known to occur in Stevens Creek and could also occur in the lower, tidal reaches of Permanente Creek.

Finally, the SEIR noted that two bat species designated as California species of special concern, the western red bat (*Lasiurus blossevillii*) and pallid bat (*Antrozous pallidus*), may be present along Stevens Creek in low numbers as foragers and migrants or wintering individuals but are not expected to occur elsewhere in the NBPP area.

The species nesting in the egret rookery, which are the great egret (*Ardea alba*), snowy egret (*Egretta thula*), and black-crowned night-heron (*Nycticorax nycticorax*), are not technically "special-status" species according to the definitions provided above, as they do not meet any of the criteria for a special-status animal listed above. However, egret and heron rookeries are scarce, usually being concentrated in just a few locations within a region, and though these three species are not particularly rare, the number of individuals nesting in the South Bay is relatively low. As a result, the egret rookery was considered a sensitive biological resource in the 2017 SEIR.

4.2 Changes to Special-Status Species Since 2017

4.2.1 Changes in Occurrences of Special-Status Species in the NBPP Area[1]

None of the special-status plants or animals considered in the 2017 SEIR have undergone substantial changes in distribution or abundance within the NBPP area since 2017. Expansion of natural habitats around the Charleston Retention Basin has provided slightly more habitat for the San Francisco common yellowthroat around the basin, although encroachment of pre-existing willows into areas formerly dominated by cattails and bulrush since 2017 has reduced habitat suitability for yellowthroats. As a result, the San Francisco common yellowthroat is expected to occur in the Charleston Retention Basin, which barely overlaps the Master Plan Area, in about the same abundance as it did in 2017. No suitable breeding habitat for this species is present within the Master Plan Area itself.

A pair of white-tailed kites fledged young in 2019 from a nest in a landscaped area north of Charleston Road, between the north end of the egret rookery and the Charleston Retention Basin; this nest was within the Master Plan Area. Although this location is not at the immediate edge of expansive open foraging habitat as described in the 2017 SEIR, this location is not far from foraging areas along Stevens Creek. No suitable nesting habitat for the loggerhead shrike is present in the Master Plan Area away from trees and shrubs along the margins of the Shoreline Amphitheatre parcel (addressed in Section 4.3). In the Master Plan Area, peregrine falcons have a low potential to nest on electrical towers, though they are not currently known to do so.

No species that met the definition of "special-status" species in 2017, but that were not addressed in the 2017 SEIR, have been recorded in the NBPP area since then.

[1] Special-status species in the Amphitheatre Parcel are discussed in Section 4.3.

4.2.2 Monarch Butterfly

In 2017, the monarch butterfly had no listing or legal designation as a special-status species, and this species was not discussed in the 2017 SEIR. Since 2017, the monarch has been proposed for listing under FESA. On December 15, 2020, the U.S. Fish and Wildlife Service (USFWS) announced that listing the monarch butterfly as endangered or threatened under FESA was warranted but precluded by higher priority listing actions. Thus, the monarch butterfly is now a candidate species under FESA, and the USFWS will review its status annually until a listing decision is made. In H. T. Harvey's opinion, candidate species meet the CEQA definition of a "rare" species in that they may become endangered within the foreseeable future (CEQA Guidelines Section 15380), and therefore it is appropriate to evaluate impacts to candidate species under CEQA.

The monarch butterfly has historically occurred in the South Bay region, including the Master Plan area, primarily as a migrant, foraging for nectar on flowering plants. Although this species forms large nonbreeding aggregations (i.e., winter roosts) in locations with favorable climatic conditions, primarily along the coast, it has not been known to do so in Santa Clara County. Therefore, no large nonbreeding aggregations would occur in or near the Master Plan Area.

Monarchs lay their eggs on milkweed (*Asclepias* spp.) plants, which then serve as the larval hostplant. Native milkweed occurs at scattered locations in the South Bay, and some monarchs in the region breed on native milkweed. Those milkweed plants typically senesce (i.e., become dried and die) by fall, so under natural conditions, monarchs do not breed in the South Bay in winter (due to the absence of suitable hostplants) or form overwintering aggregations here.

However, landscape plantings within the Master Plan Area have recently incorporated nonnative tropical milkweed (*Asclepias curassavica*). That plant species' life cycle, coupled with artificial irrigation of the plants, allows it to serve as a suitable larval hostplant even in winter. During the winter of 2020-2021, a breeding population of monarch butterflies was documented using tropical milkweed within the Master Plan Area along Shorebird Way and Charleston Road (James et al. 2021). Breeding monarch butterflies of various life stages were also observed in the landscape vegetation along Charleston Way near Shorebird Way during the November 2021, reconnaissance surveys. Therefore, the monarch butterfly is present as a breeder in the Master Plan Area.

No other species whose listing/legal status has changed since 2017, and that were not already addressed in the 2017 SEIR, occur in the NBPP area.

4.2.3 Egret Rookery

The egret rookery on Shorebird Way south of Charleston Road is still centered in the same area where it was present in 2017, but it has expanded slightly since then. The SEIR maps the rookery along the east side of Shorebird Way, confined to the area roughly adjacent to and congruent with the front façade of the 1201 Charleston building (Figure 6). At the time of the November 2021 reconnaissance survey, the rookery had expanded northward approximately 75 feet and southward approximately 50 feet into adjacent London plane

trees along the axis of the original rookery. Additionally, it had expanded westward into London plane trees on the opposite side of the Shorebird Way, along the corner formed where the street turns westward, with a number of nests now present in trees within approximately 75 feet of the southeast corner of the 1215 Charleston building (Figure 9).

4.3 Special-Status Species on the Shoreline Amphitheatre Parcel

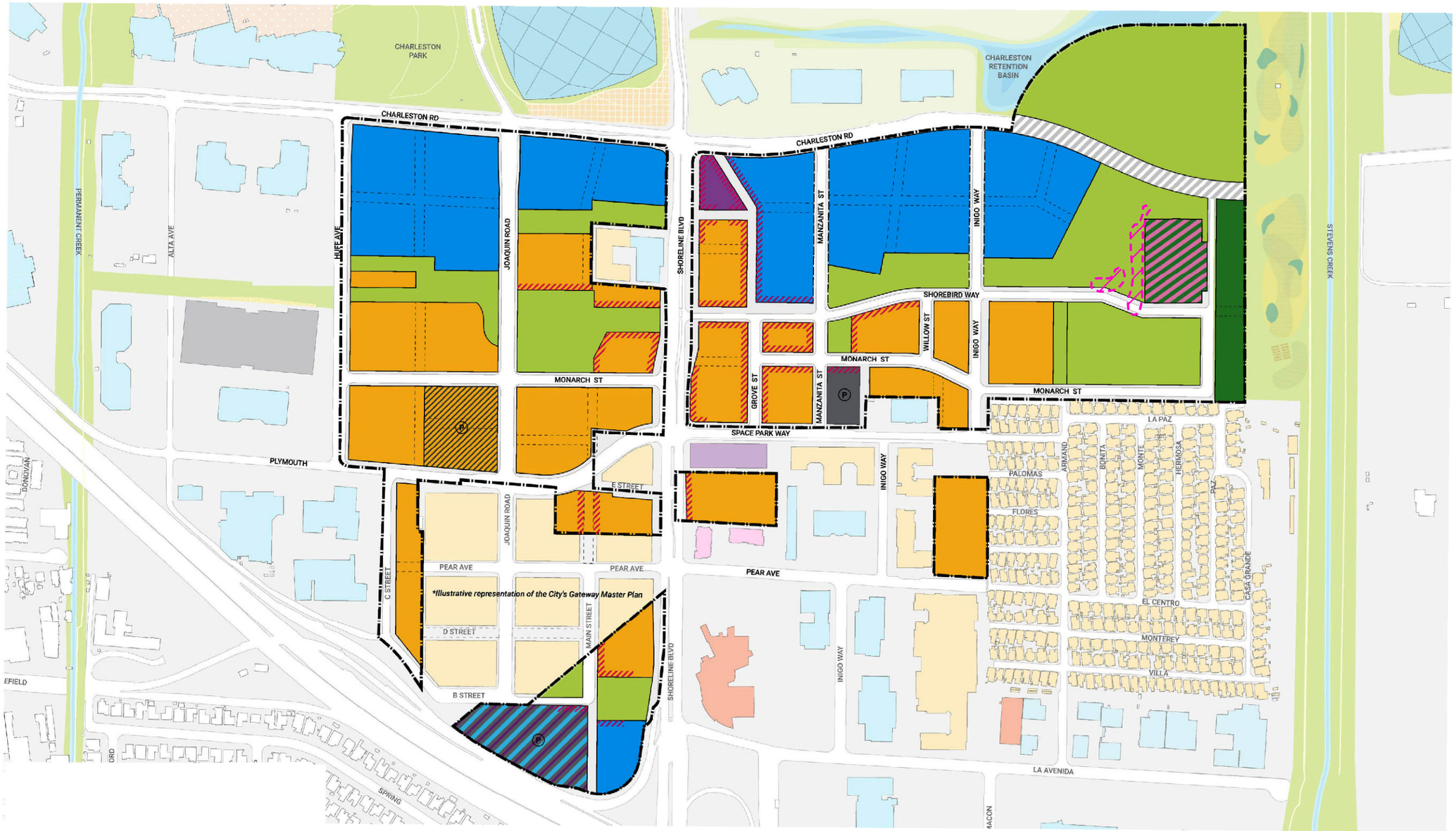
Based on the proximity of the NBPP Area to known occurrences of Congdon's tarplant and this species' ability to grow in disturbed habitats, the 2017 SEIR determined that potentially suitable habitat for Congdon's tarplant exists within the NBPP area. A biological resources report prepared in support of the 2014 EIR in 2013 specifically noted that this species has the potential to occur in ruderal grassland areas along the northern edge of the Plan Area where it abuts ruderal/grassland habitat associated with Shoreline Park (H. T. Harvey & Associates 2013). H. T. Harvey's November 2021 reconnaissance survey of the Master Plan area determined that the ruderal grassland on the Amphitheatre parcel provided potentially suitable habitat for this species and that Congdon's tarplant could potentially occur on the parcel.

An actively breeding population of burrowing owls is present in Shoreline Park, and habitats on Vista Slope, immediately west of the Amphitheatre parcel, are managed to provide suitable nesting, roosting, and foraging habitat for this species. Marginally suitable burrowing owl foraging and roosting habitat, and possibly nesting habitat, is present on the north, east, and western margins of the Shoreline Amphitheatre parcel in the form of ruderal grassland with abundant ground squirrel burrows. These areas do not provide high-quality owl habitat due to their narrow nature and frequent disturbance, but burrowing owls may occasionally be present on the parcel. Burrowing owls are more likely to occur (and more regularly) in the Vista Slope grasslands immediately to the west of the proposed parking structure.

It is possible that up to one pair of white-tailed kites and one pair of loggerhead shrikes could nest in trees or shrubs within or immediately adjacent to the Shoreline Amphitheatre parcel.

4.4 Sensitive and Regulated Habitats

Sensitive habitats and communities are habitats that are scarce or threatened. CDFW determines the level of rarity and imperilment of vegetation types and tracks sensitive communities in its Rarefind database (CNDDB 2021). Many aquatic, wetland, and riparian habitats are also protected under federal, state, or local regulations, and are generally subject to regulation, protection, or consideration by agencies such as the U. S. Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), and CDFW.



Key

- OFFICE
- RESIDENTIAL
- ACTIVE USES
- HOTEL
- FLEX - HOTEL, OFFICE, PARKING
- FLEX - PARKING, RESIDENTIAL
- FLEX - COMMUNITY USE, DISTRICT CENTRAL PLANT
- PARKING
- DISTRICT CENTRAL PLANT
- INDICATIVE LOCATION OF MID-BLOCK BREAK
- INDICATIVE LOCATION OF PRIVATE STREET
- CONCEPTUAL DEVELOPMENT PARCELS
- OPEN SPACE
- PUBLIC ROW FOR NONMOTORIZED TRAFFIC, MAINTENANCE AND EV ONLY
- PROJECT AREA
- EGRET ROOKERY

Note:

This Plan is part of the North Bayshore Framework Master Plan. This plan demonstrates a conceptual plan for the future development of the Master Plan Area. Roadway alignments, and land use parcels are general depictions. Specifically, the alignment of that part of Manzanita Street and Inigo Way between Shorebird Way and Charleston Road will be determined at the time of submitting a VTSM. This plan may be subsequently updated and modified in response to City comments as part of the design review process and future PCP applications.

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Background Source: North Bayshore Master Plan Framework, authored by Lendlease Silicon Valley Development, LLC for Google

N:\Projects4300\4360-01\24\Reports\Framework Master Plan\Figure 9 Egret Rookery.mxd

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Figure 9. Egret Rookery
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4.4.1 Sensitive and Regulated Habitats in the 2017 SEIR

The SEIR identified wetland, aquatic, and riparian habitats in and along Permanente Creek, the Coast Casey Drainage Canal, and the Charleston Retention Basin in the NBPP area, and along Stevens Creek adjacent to the NBPP area, as sensitive habitats. These habitats are also regulated by the USACE (under Section 404 of the Clean Water Act [CWA]), the RWQCB (under Section 401 of the CWA and under the Porter-Cologne Water Quality Control Act), and the CDFW (under Section 1602 of the California Fish and Game Code). The artificial aquatic habitats ("artificial waterbodies" on Figure 6) are not expected to be regulated by these agencies due to their completely artificial nature and are not considered sensitive habitats. No other sensitive or regulated habitats were identified in the NBPP area by the 2017 SEIR.

4.4.2 Sensitive and Regulated Habitats—Current Conditions

The only sensitive or regulated habitats present in the Master Plan Area in 2017 consisted of narrow areas of riparian and wetland habitat where the Master Plan Area overlaps a portion of the Charleston Retention Basin, and these are currently the only such habitats in the Master Plan Area. As described in Section 3.2.1.2, the riparian habitat in the Charleston Retention Basin, immediately adjacent to (and barely overlapping) the Master Plan Area, was expanded by approximately 3.7 acres, and the basin's freshwater marsh was expanded by 0.13 acre (H. T. Harvey & Associates 2019), since the certification of the 2017 SEIR. No other changes to sensitive or regulated habitats in the NBPP area have occurred since 2017.

Section 5. Changes in Regulatory Setting

Biological resources on the project site are regulated by a number of federal, state, and local laws and ordinances. The vast majority of these regulations have not changed since the 2017 SEIR was certified, and they are not discussed in this section. While the 2017 SEIR's discussion of federal jurisdiction over aquatic features in the NBPP is accurate, it is worth noting that the rulemaking surrounding waters of the U.S. has been in flux over the past 5 years and will continue to evolve in the near future. Similarly, implementation of the federal Migratory Bird Treaty Act (MBTA) has been in flux since 2017. These changes are discussed in more detail below.

5.1 Federal Regulations

5.1.1 Clean Water Act

The CWA functions to maintain and restore the physical, chemical, and biological integrity of waters of the U.S., which include, but are not limited to, tributaries to traditionally navigable waters currently or historically used for interstate or foreign commerce, and adjacent wetlands. Historically, in non-tidal waters, USACE jurisdiction extends to the ordinary high water mark, which is defined in Title 33, CFR, Part 328.3. If there are wetlands adjacent to channelized features, the limits of USACE jurisdiction extend beyond the ordinary high water mark to the outer edges of the wetlands. Wetlands that are not adjacent to waters of the U.S. are termed "isolated wetlands" and, depending on the circumstances, may be subject to USACE jurisdiction. In tidal waters, USACE jurisdiction extends to the landward extent of vegetation associated with salt or brackish water or the high tide line. The high tide line is defined in 33 CFR Part 328.3 as "the line of intersection of the land with the water's surface at the maximum height reached by a rising tide." If there are wetlands adjacent to channelized features, the limits of USACE jurisdiction extend beyond the ordinary high water mark or high tide line to the outer edges of the wetlands. Section 404 of the CWA authorizes the USACE to issue permits to regulate the discharge of dredged or fill material into waters of the U.S.

Construction activities within jurisdictional waters are regulated by the USACE. The placement of fill into such waters must comply with permit requirements of the USACE. No USACE permit will be effective in the absence of Section 401 Water Quality Certification. The State Water Resources Control Board (SWRCB) is the state agency (together with the RWQCB) charged with implementing water quality certification in California.

On June 28, 2017, President Trump signed an executive order directing the U.S. Environmental Protection Agency (EPA) and USACE to implement the Clean Water Rule, arguing that the Clean Water Act applies solely to navigable waters. On June 23, 2020, the Navigable Waters Protection Rule (NWPR) went into effect. This Rule clarified that federal waters do not include ephemeral streams or features adjacent to such features. Ephemeral streams have no connection to groundwater and only convey flows during and shortly after precipitation events. They do not include intermittent streams with a seasonal connection to groundwater and seasonal flows that persist for several days or more following rain events or persist between winter storms.

However, on August 30, 2021 the U.S. District Court of Arizona issued an order vacating and remanding the NWPR rule. In light of this order, the EPA and USACE are now interpreting "Waters of the United States" consistent with the pre-2015 regulatory regime. This pre-2015 regulatory framework is consistent with the regulatory framework applied in the 2017 SEIR. On June 9, 2021, the EPA and the Department of the Army announced their intent to revise the definition of "waters of the United States." The forthcoming rule will propose to restore the regulations defining "waters of the United States" in place prior to 2015, updated to be consistent with relevant Supreme Court decisions.

In summary, although the implementation of the CWA has been in flux since 2017, the current regulatory regime surrounding the CWA is the same as described in the 2017 SEIR. The waters of the U.S. within the Master Plan area consisted of narrow areas of wetland habitat where the Master Plan Area overlaps a portion of the Charleston Retention Basin. The Master Plan does not propose to impact these areas, and therefore the Master Plan would not require any permits from the USACE.

5.1.2 Migratory Bird Treaty Act

The federal MBTA, 16 U.S.C. Section 703, prohibits killing, possessing, or trading of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. The MBTA protects whole birds, parts of birds, and bird eggs and nests, and it prohibits the possession of all nests of protected bird species whether they are active or inactive. An *active* nest is defined as having eggs or young, as described by the USFWS in its June 14, 2018 memorandum "Destruction and Relocation of Migratory Bird Nest Contents". Nest starts (nests that are under construction and do not yet contain eggs) and inactive nests are not protected from destruction.

In recent years, there have been changes to how the MBTA is implemented and enforced with respect to incidental take of protected birds. However, on October 4, 2021, the USFWS published a final rule revoking January 7, 2021 regulation that limited the scope of the MBTA. The final rule went into effect on December 3, 2021. With this final and formal revocation of the January 7, 2021, rule, the USFWS returns to implementing the MBTA as prohibiting incidental take and applying enforcement discretion, consistent with judicial precedent. Thus, current implementation and enforcement of the MBTA is consistent with regulations in effect at the time of the 2017 SEIR. Master Plan activities will be subject to the MBTA and will implement measures described in Section 5.3 of the NBPP to avoid impacts to nests of birds protected by the MBTA.

Section 6. Assessment of Master Plan Impacts

CEQA and the State CEQA Guidelines provide guidance in evaluating impacts of projects on biological resources and determining which impacts will be significant. The Act defines "significant effect on the environment" as "a substantial adverse change in the physical conditions which exist in the area affected by the proposed project." Appendix G of State CEQA Guidelines provides a checklist of other potential impacts to consider when analyzing the significance of project effects. The impacts listed in Appendix G (Chapter IV) may or may not be significant, depending on the level of the impact. For biological resources, these impacts include whether the project would:

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

B. "have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service"

C. "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"

D. "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"

E. "conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance"

F. "conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan"

We assessed impacts of Master Plan implementation on biological resources at the project level. These impacts were first evaluated to qualitatively describe how proposed project activities could impact biological resources. Impacts were then evaluated to determine whether they fall within the scope of impacts disclosed in the 2017 SEIR.

The 2017 SIER assessed the potential for sensitive biological resources to occur within the NBPP area and for future development efforts following the standards and guidelines established by the NBPP to result in impacts on existing biological resources. A summary of these standards and guidelines, the biological resource impacts associated with development conducted under these standards, and their significance under CEQA as disclosed in the SEIR, is discussed in the following sections.

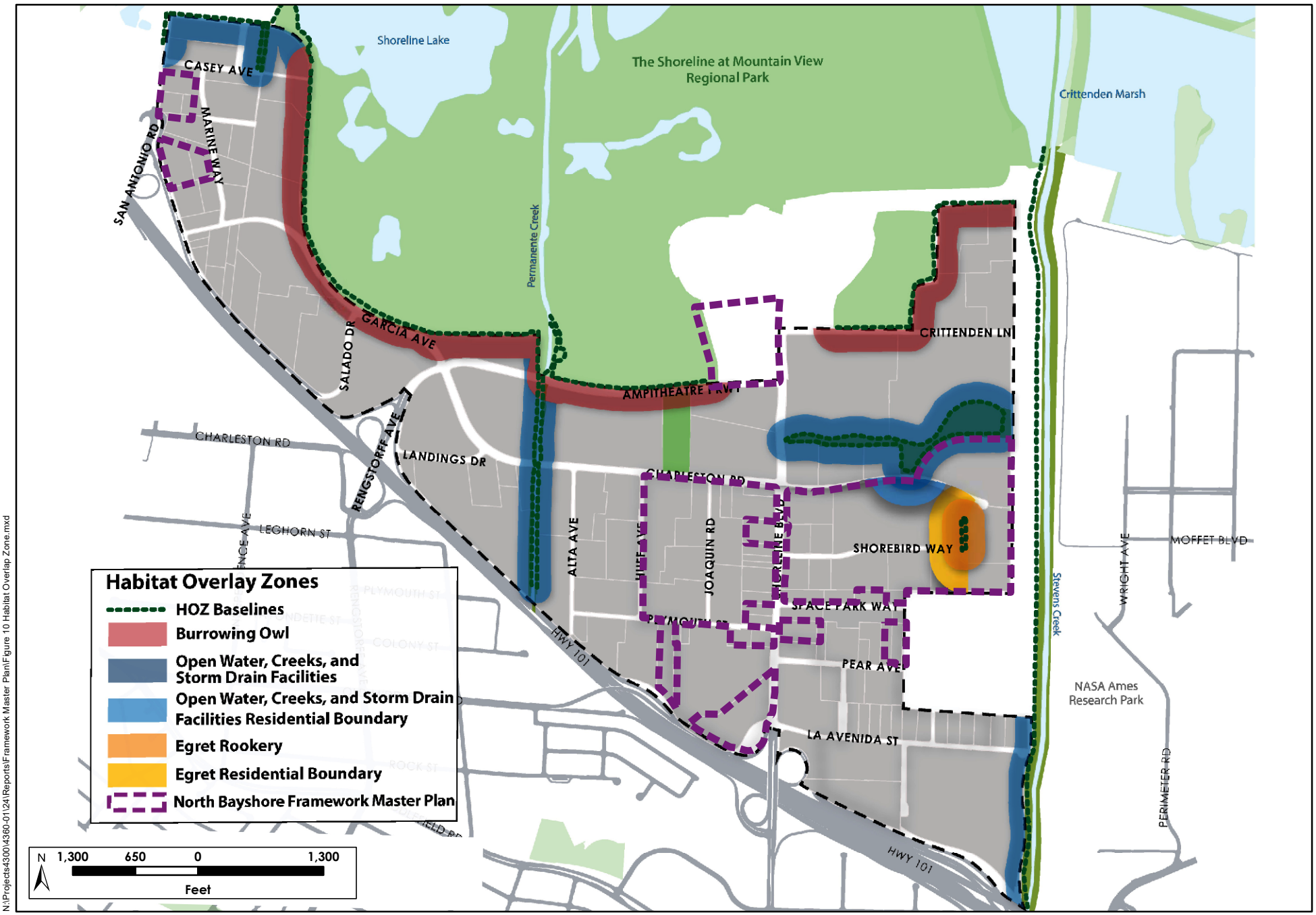
6.1 North Bayshore Precise Plan Standards and Guidelines

The NBPP includes "standards" and "guidelines" that will direct future development in North Bayshore. Standards are requirements that must be followed by project applicants, unless an exception to a standard is otherwise noted. Guidelines are the City's expectations for how site, building, and infrastructure design and improvements should be designed. The portions of Google's North Bayshore Framework Master Plan that are within the NBPP area (i.e., all but the Shoreline Amphitheatre parking structure) are subject to NBPP standards and guidelines.

6.1.1 Habitat and Biological Resources Standards

6.1.1.1 Standards

1. **Habitat Overlay Zone.** All new construction proposed within an overlay zone shall comply with the habitat overlay zone (HOZ) standards. Figure 10 shows the approximate boundaries of each HOZ. Project applicants shall work with the City to determine the precise edge of habitat from which to measure the edge of the HOZ boundary.
2. **Burrowing Owl HOZ.** In Shoreline Park immediately north of the NBPP area, the City supports an ongoing burrowing owl monitoring and management program. The following are standards for new construction and renovations designed to protect and enhance the burrowing owl habitat adjacent to the North Bayshore area.
    a. Overlay District Boundaries. Boundaries shall be 250 feet as measured from the edge of the burrowing owl habitat.
    b. Building Placement in the HOZ. Any new building construction shall not be placed inside the burrowing owl HOZ, except where allowed based on the exceptions described below.
    c. Impervious surface. New impervious surfaces shall not be constructed closer to burrowing owl habitat than existing impervious surfaces, and no net increase in impervious surface shall occur within the HOZ.
    d. Landscape design. No new trees or shrubs capable of exceeding 15 feet in height that could provide perches for avian predators of burrowing owls, and no dense woody vegetation that could hide mammalian predators, shall be planted in the HOZ. New landscaping in the HOZ should consist of herbaceous plants.
    e. Low intensity outdoor lighting. Outdoor lighting shall be low intensity (LZ 2) and shall utilize full cutoff fixtures to reduce the amount of light reaching these sensitive habitats.
    f. Raptor perch deterrents adjacent to burrowing owl habitat. For any new construction in the HOZ, raptor perch deterrents shall be placed on the edges of building roofs or other structures (e.g., light poles or electrical towers) facing the burrowing owl habitat and with a clear view of burrowing owls.



N:\Projects4300\4360-01\24\Reports\Framework Master Plan\Figure 10 Habitat Overlap Zone.mxd

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Figure 10. Habitat Overlap Zone
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g. Construction near burrowing owl habitat. A preconstruction survey for burrowing owls shall be conducted by a qualified biologist according to the latest CDFW protocol prior to any external construction or large-scale/intensive landscaping, involving heavy equipment or loud noise occurring within the HOZ. If nesting burrowing owls are detected, the HOZ should be free from any external construction or large-scale/intensive landscaping, involving heavy equipment or loud noise until the young have fledged and are independent of the adults, or until monitoring by a qualified biologist determines the nest is no longer active. During the non-breeding season, the HOZ should be free from any external construction or large-scale/intensive landscaping, involving heavy equipment or loud noise around active burrows unless the procedures for monitoring burrowing owls during construction, as described by the Santa Clara Valley Habitat Plan, are implemented.

h. Rodenticides. No rodenticides will be used within the burrowing owl HOZ. Elsewhere in the NBPP area, rodenticide use should be limited to that necessary to protect infrastructure and human health, but otherwise, non-chemical means of rodent management should be used to avoid secondary poisoning of burrowing owls and other raptors.

3. **Egret Rookery HOZ.** A rookery (or nesting area) of great egrets, snowy egrets, and black-crowned night-herons exists along Shorebird Way. This rookery is regionally significant as one of the largest egret colonies in the South Bay and is an important natural resource. The following outlines standards for new construction and renovations to protect the rookery. The following standards shall apply unless the rookery has been inactive for a minimum of 5 years.

   a. HOZ boundary. The boundary shall be measured from the edge of the rookery. Buffer distances vary depending on the particular condition, as noted in (b) through (f) below.

   b. Building placement in the HOZ. New residential construction shall not be placed within 300 feet of the rookery, and new non-residential construction shall not be placed within 200 feet of the rookery, except where allowed based on the exceptions included in the NBPP.

   c. 1201 Charleston Road. The western building façade and roof of 1201 Charleston Road may not be modified in such a way that would reduce suitability of the rookery site for egrets. This includes adding new entrances, façade improvements, or other similar actions. A qualified biologist shall review any proposed building or site modifications and recommend strategies to the City to ensure there will be no adverse impacts to the egret rookery habitat.

   d. Landscape design. No vegetation other than turf, low-growing grasses, or other herbaceous plants may be planted within 100 feet of the rookery to minimize cover for mammalian predators and avoid entanglement in shrubs of young egrets that have fallen from nests.

   e. Low intensity outdoor lighting. Outdoor lighting within 200 feet of the rookery shall be low intensity (LZ 2) and shall utilize full cutoff fixtures to reduce the amount of light reaching these sensitive habitats.

   f. Construction near the egret colony. No external construction or large-scale/intensive landscaping involving heavy equipment or loud noise shall occur within 200 feet of the rookery during the March

1 to August 31 period unless a survey by a qualified biologist has demonstrated that, after 1 June, egrets have either not nested that year or that all young have fledged and departed the rookery area.

4. **Open Water, Creeks, and Storm Drain Facilities HOZ.** To protect habitat and preserve water quality, the following outlines standards for areas adjacent to the Coast Casey Forebay, Shoreline Lake, Stevens Creek, the Charleston Retention Basin, Permanente Creek, and the Coast Casey channel.

   a. HOZ boundary. The distances from each boundary are as follows:

      i. Coast Casey Forebay: 250 feet as measured from the boundary edge.
      ii. Charleston Retention Basin: 200 feet for non-residential land uses, and 300 feet for residential uses, as measured from the boundary edge.
      iii. Stevens Creek: 200 feet as measured from the inner edge of the top of the bank.
      iv. Permanente Creek and Coast Casey channel: 150 feet as measured from the inner edge of the top of the bank.
      v. Shoreline Lake: 200 feet as measured from the lake edge.

   b. Building placement in the HOZ. New construction shall not be placed inside the HOZ, except where allowed based on the exceptions included in the NBPP.

   c. Impervious surface. No new impervious surface shall be constructed closer to open water or creek habitat than existing impervious surfaces, and no net increase in impervious surface can occur within the HOZ associated with these areas.

   d. Bioswales. Bioswales shall be constructed for any new or reconstructed impervious surface draining directly toward creek areas to treat runoff before it enters a creek or open water.

   e. Landscape design. All woody vegetation planted in the HOZ shall consist of native species or non-natives that provide valuable resources (e.g., food, structure, or cover) for native wildlife.

   f. Low intensity outdoor lighting. Within the HOZ, outdoor lighting shall be of low intensity (LZ 2) and shall utilize full cutoff fixtures to reduce the amount of light reaching these sensitive habitats.

5. **Overlapping HOZ Zones.** When HOZ overlay zones overlap, new construction shall meet the most restrictive standards

6. **Conflicting provisions.** These standards apply to new construction in addition to all other applicable NPBB requirements. In the event of a conflict between the standards of this Chapter and other NPBB provisions, the City shall determine which standards apply.

7. **Exceptions to HOZ Requirements.** Project applicants in an HOZ may apply for an exception only from the building placement, impervious surface, and construction requirements.

   a. **Criteria for exceptions.** For an exception to be granted, the following criteria must be met:

      i. *Demonstration of constraint.* The applicant must demonstrate the proposed project cannot be accommodated on the parcel outside the HOZ boundary, and that the proposed project meets all other NBPP requirements.

ii. *Development placement.* Proposed development should be sited on the least sensitive portions of a site and may only encroach into the HOZ to implement the proposed project. Buildings should generally not be placed within 100 feet of sensitive habitat.

iii. *Ecological benefit.* The project applicant shall demonstrate how an ecological benefit, for the species or ecological community within the HOZ that will be impacted, can be achieved through habitat enhancements. Examples of habitat enhancements may include, but are not limited to, the provision of additional landscaping/open space, the removal of additional impervious surface in the HOZ, the expansion of bird safe design building standards, or additional enhancements specific to that particular species or ecological community either on the parcel where the exception is being granted or elsewhere in the North Bayshore in close proximity to the impacted species or ecological community that will result in a direct benefit to that species or ecological community.

iv. *Burrowing owls.* Due to the sensitivity of this species and the City's jurisdiction over its habitat area, exceptions to the burrowing owl HOZ should be granted only in limited circumstances.

b. **Habitat enhancement plan.** Project applicants must work with a qualified biologist to create and implement a habitat enhancement plan. At a minimum, the plan must include the following components.

i. *Statement.* A statement of the proposed enhancement measures.

ii. *Enhancement map.* Maps showing the relationships between existing habitats, the HOZ boundary, existing structures, existing impervious surface, and the proposed site plan.

iii. *Description of enhancements.* A list and description of the enhancements and an assessment of the ecological benefits of these enhancements.

iv. *Monitoring and management.* A description of the monitoring and management plan for the proposed list of enhancements.

c. **Process.** The habitat enhancement plan shall be reviewed by the City prior to final approval of the last discretionary entitlement for a project. The City Council will take final action of the exception request and the habitat enhancement plan, including any CEQA review.

6.1.1.2 Guidelines

1. **Minimize building height near sensitive areas.** No building taller than 55 feet should be constructed within 100 feet of any HOZ boundary to provide additional buffer between sensitive resources and taller buildings. This guideline applies to both residential and non-residential development.

6.1.2 Bird Safe Design Standards

6.1.2.1 Standards

1. **Bird Safe Design requirements.** All new non-residential construction, building additions, and/or building alterations in North Bayshore shall adhere to the following Bird Safe Design standards. All new residential construction within 300 feet of the Charleston Retention Basin shall adhere to these standards.

2. **Façade treatments.** No more than 10% of the surface area of a building's total exterior façade shall have untreated glazing between the ground and 60 feet above ground. Examples of bird-friendly glazing treatments include the use of opaque glass, the covering of clear glass surface with patterns, the use of paned glass with fenestration patterns, and the use of external screens over non-reflective glass.
3. **Occupancy sensors.** For non-residential development, occupancy sensors or other switch control devices shall be installed on non-emergency lights. These lights should be programmed to turn off during non-work hours and between 10:00 p.m. and sunrise.
4. **Funneling of flight paths.** New construction shall avoid the funneling of flight paths along buildings or trees towards a building façade.
5. **Skyways, walkways, or glass walls.** New construction and building additions (both residential and non-residential) shall avoid building glass skyways or walkways, freestanding glass walls, and transparent building corners. New construction and building additions should reduce glass at top of buildings, especially when incorporating a green roof into the design.
6. **Exceptions to the bird safe design requirements.** The City may waive or reduce any of the bird safe design requirements based on analysis by a qualified biologist indicating that proposed construction will not pose a collision hazard to birds.

6.1.2.2 Guidelines

The guidelines in this section include several bird collision guidelines and voluntary best management practices to promote bird safety including:

- Collision monitoring
- Window coverings
- Workstation lighting and window coverings
- Daytime maintenance, and
- Appropriate handling of food waste

6.1.3 Nesting Bird Protection Standards

6.1.3.1 Standards

1. **Pre-activity surveys.** If construction, building additions, building alterations, or removal of trees and shrubs occurs between February 1 and August 31, pre-activity surveys for nesting birds shall be conducted by a qualified biologist. These surveys shall be conducted no more than seven days prior to the initiation of these activities in any given area. During each survey, the biologist shall inspect all potential nesting habitats (e.g., trees, shrubs, and buildings) within the work area; within 300 feet of the work area for raptor nests; and within 100 feet of the work area for nests of non-raptors.

2. **Nest buffers.** If an active nest (i.e., a nest with eggs or young, or any completed raptor nest attended by adults) is found sufficiently close to work areas to be disturbed by these activities, the biologist, in coordination with the CDFW, shall determine the extent of a disturbance-free buffer zone to be established around the nest. Typical buffer zones are 300 feet for raptors and 100 feet for non-raptors. However, the biologist, in consultation with the CDFW, may determine that a reduced buffer is appropriate in some instances. For example, topography, buildings, or vegetation that screen a nest from the work area, or very high existing levels of disturbance (indicating the birds' tolerance to high levels of human activity), may indicate that a reduced buffer is appropriate. No new activities (i.e., work-related activities that were not ongoing when the nest was established) will occur within the buffer as long as the nest is active.

6.1.3.2 Guidelines

1. **Avoidance of the nesting season.** If construction, building additions, building alterations, or removal of trees and shrubs is scheduled to take place outside the nesting season, impacts to protected nesting birds would be avoided. The nesting season for most birds in the North Bayshore area extends from February 1 through August 31. Work activities performed during the September 1 to January 31 period would not be subject to the pre-activity surveys and nest buffers described above.

6.1.4 Landscape Design Standards

6.1.4.1 Standards

1. **Invasive species planting.** Planting invasive species identified on the California Invasive Plant Council list is prohibited.
2. **Control and manage invasive plants found on site.** Best management practices (BMPs) shall be implemented during construction and subsequent site maintenance to manage and control invasive species found on site. BMPs may include clearing infested areas prior to construction, planting native seed from a local source, and avoiding seed dispersal through construction equipment use.
3. **Planting.** During new construction and landscape renovations, the total area of high-water- use plants (e.g., turf and water features) shall not exceed 25 percent of the landscape area. Xeriscaping, low-water-use plants, native plants, and/or salt-tolerant plants compatible with recycled water use for the remainder of the landscaped areas. Non-native plants may only be used if they support habitat useful to native wildlife.
4. **Protect special-status plants.** If State or Federal special-status plants are found onsite such as Congdon's tarplant, the project applicant shall work with the CDFW to determine the appropriate protocol to survey, protect, and/or manage special-status species.

6.1.4.2 Guidelines

The guidelines in this section include landscape design practices, including:

- Removal of non-native plants,
- Preserving native plants,
- Configuring landscaping in multi-layered clusters,
- Operation policies restricting herbicide and pesticide use are encouraged, and
- Using vegetation for building shading.

6.2 2017 SEIR Impacts and Significance Determinations

Table 1 summarizes the 2017 SEIR's findings regarding the significance of potential impacts on biological resources associated with development consistent with the NBPP. Table 1 only includes impacts that are potentially applicable to the North Bayshore Framework Master Plan. Impacts BIO-10, 11, and 12, which focused on impacts of construction of new bridges over Stevens Creek, are not applicable to the Master Plan and are omitted from the table.

Table 1. 2017 SEIR Findings of Significance

Impact	Significance Before Mitigation	Mitigation	Significance After Mitigation
BIO-1: Special-status plants are unlikely to occur in the Precise Plan Area. Future development projects in the Precise Plan Area must adhere to the Landscape Design guidelines of the Precise Plan. Accordingly, implementation of the Precise Plan would not result in a significant impact to special- status plant species.	Less Than Significant	No Mitigation Required	Less Than Significant
BIO-2: Residential land uses included in the amended Precise Plan are expected to increase human activity, domestic pet activity, and visits to Shoreline Park which, over time, may result in impacts to the burrowing owl population at Shoreline Park. With implementation of the applicable Precise Plan standards and guidelines by the City of Mountain View and future project applicants, the impacts from Precise Plan activities on burrowing owls would be less than significant.	Less Than Significant	No Mitigation Required	Less Than Significant
BIO-3: Implementation of the Precise Plan, including HOZ standards and guidelines to protect biological resources, would not result in impacts to other special-status animal species occurring in the project area.	Less Than Significant	No Mitigation Required	Less Than Significant

Impact	Significance Before Mitigation	Mitigation	Significance After Mitigation
BIO-4: Implementation of the Precise Plan would not result in impacts to special-status fish species.	Less Than Significant	No Mitigation Required	Less Than Significant
BIO-5: Future development projects in the Precise Plan Area must be consistent with the Nesting Bird Protection standards of the Precise Plan. Implementation of the Precise Plan would not result in a significant impact to nesting birds.	Less Than Significant	No Mitigation Required	Less Than Significant
BIO-6: Future development projects in the Precise Plan Area must be consistent with the Bird Safe Design standards of the Precise Plan. Implementation of the Precise Plan would not result in a significant impact to birds due to collisions.	Less Than Significant	No Mitigation Required	Less Than Significant
BIO-7: With the implementation of the Open Water, Creeks, and Storm Drain Facilities HOZ, Habitat Enhancements and Landscape Design Guidelines, the Precise Plan would have a less than significant impact on aquatic habitats.	Less Than Significant	No Mitigation Required	Less Than Significant
BIO-8: With implementation of the egret rookery HOZ and Bird Safe Design guidelines for future development measures, the Precise Plan would have a less than significant impact on important nursery sites in the area.	Less Than Significant	No Mitigation Required	Less Than Significant
BIO-9: All future projects within the Precise Plan Area, as well as planned infrastructure and traffic improvements, will be required to comply with the City of Mountain View Heritage tree ordinance as a standard condition of approval.	Less Than Significant	No Mitigation Required	Less Than Significant
C-BIO-1: The cumulative projects, including the proposed project, would not result in significant cumulative impacts to special-status species, nesting birds, and migratory birds.	Less Than Significant	No Mitigation Required	Less Than Significant
C-BIO-2: The cumulative projects, including the amended North Bayshore Precise Plan, would not result in significant cumulative impacts from indirect nitrogen deposition**.**	Less Than Significant	No Mitigation Required	Less Than Significant
C-BIO-3: The amended North Bayshore Precise Plan, together with the 2030 General Plan buildout, would not result in significant cumulative loss of Heritage trees.	Less Than Significant	No Mitigation Required	Less Than Significant

6.3 Master Plan Impacts and Mitigation Measures

Following is a summary of impacts on biological resources (ordered according to the CEQA significance criteria for biological resources) that are expected to result from Master Plan implementation, as well as a discussion

of whether those impacts are covered by the 2017 SEIR and any additional mitigation measures necessary to reduce impacts to less-than-significant levels under CEQA.

6.3.1 Impacts on Special-Status Species: Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS

6.3.1.1 Impacts on Congdon's Tarplant (Less Than Significant with Mitigation)

No suitable habitat for Congdon's tarplant is present in the Master Plan Area away from the Shoreline Amphitheatre parcel, but suitable ruderal habitat is present, and the species could potentially occur, on the Shoreline Amphitheatre parcel. If the species is present on that parcel, individual plants could be impacted by construction of the parking structure. Plants could be killed, or their health could be impaired, reducing their survival and reproductive success. That parcel was not included in the NBPP, and therefore impacts on Congdon's tarplants from construction of that parking structure would not be covered by the 2017 SEIR. Implementation of Mitigation Measure BIO-A, a mitigation measure specific to the Master Plan (rather than coming from the 2017 SEIR), would reduce impacts of Master Plan activities on Congdon's tarplant to less-than-significant levels.

> **Mitigation Measure BIO-A:** Within 2 years prior to disturbance of ruderal habitat for construction of the Shoreline Amphitheatre parking structure, a qualified biologist will conduct a survey for Congdon's tarplant during the appropriate season (e.g., late summer and fall), at a time when the species is detectable at nearby reference sites. The survey will cover all areas within, and within 50 feet of, the construction area for the parking structure. If Congdon's tarplant is found in the survey area, the applicant will comply with NBPP Landscape Design Standard 4 to protect and manage Congdon's tarplant. Management measures would be developed in coordination with the CDFW and may include establishment of a new population or enhancement of existing populations at Shoreline Park (in coordination with the City of Mountain View).

6.3.1.2 Impacts on the Monarch Butterfly (Less Than Significant with Mitigation)

Because the monarch butterfly was not considered a special-status species in 2017, impacts of NBPP activities on this species were not addressed in the NBPP or the 2017 SEIR. Thus, any impacts of Master Plan implementation on the monarch butterfly would not have been covered by the 2017 SEIR.

As described in Section 4.2.2, monarchs have recently been detected breeding in winter in the NBPP area on nonnative, tropical milkweeds in landscape plantings in the Master Plan Area. If construction associated with the Master Plan removes milkweeds when monarch butterflies are present, monarch eggs, larvae, or pupae could be lost. The NBPP defines a number of "Implementation Actions" that are needed to achieve the NBPP's vision. One of these implementation actions is the preparation of a planting palette providing recommendations for native plantings and for non-natives with high wildlife habitat value. The completed plant palette (H. T. Harvey & Associates 2015) defines a number of planting zones, including urban landscape; open water, creeks,

and storm drain facilities HOZ; burrowing owl HOZ; and egret rookery HOZ, all of which occur to some extent within the Master Plan area. All but the urban landscape zones are required by the plan to use 100% native plantings; plantings in the urban landscape zone, which comprise the majority of the Master Plan area, are required to be 80% native species. If nonnative milkweeds continue to be included in among the 20% of allowable nonnative plants in the urban landscape zone, impacts to monarch butterflies could occur.

Until recently, monarch butterflies were not known to breed in the Bay Area during the winter months, and would normally be expected to be present only in coastal nonbreeding overwintering aggregations. James et al. (2021), however, documented breeding in several locations in the Master Plan region during the winter of 2020-2021, including breeding in landscape vegetation along Shorebird Way and Charleston Road, within the Master Plan Area. This breeding was facilitated by the use of nonnative, tropical milkweeds in landscape vegetation; due to irrigation, these milkweeds persist during the winter months when native milkweeds in more natural, non-irrigated settings die back and are unavailable for oviposition. The implications of winter breeding by monarchs in the NBPP area are complex, and not fully understood. For example, winter breeding might be viewed as beneficial to the monarch population by increasing population size. However, several potentially deleterious effects of such winter breeding are suspected (Crone and Schultz 2021). These potential effects include disruption of migration (potentially leading to the loss of the migratory instinct that monarchs have under natural circumstances). If monarchs find suitable breeding habitat in winter and do not migrate to coastal wintering roosts, they could face higher winter mortality, especially if conditions in the winter breeding areas become colder or wetter than in the areas where they might otherwise winter. Year-round breeding by monarchs (e.g., if monarchs were to breed throughout the year, using irrigated milkweed in landscaped areas) could also result in higher parasite loads compared to migratory populations. In migratory populations, the absence of monarchs from a given area during at least a portion of the year (i.e., while they are at winter roosts) causes a decline in parasites that infect monarch larvae. If monarchs breed in the NBPP year-round, larvae would be present year-round and there would never be a period in which the parasite loads would decline. High parasite loads are linked to lower migration success and lower reproductive capacities. Thus, if monarchs were to breed in the NBPP area year-round using irrigated and/or nonnative milkweed, this could lead to a loss of the migratory portion of the species' life cycle and could potentially cause wintering populations to become a demographic sink (Crone and Schultz 2021). Currently, the Xerces Society and the USFWS oppose planting nonnative milkweeds within 5 miles of monarch overwintering sites in California, in order to preserve the species' migratory behavior and avoid other deleterious effects (J. Terry, pers. comm.). Thus, the continued planting of nonnative milkweed, and irrigation of milkweed so that it does not senesce in fall, could result in a significant impact on the monarch butterfly. Implementation of Mitigation Measures BIO-B and BIO-C, mitigation measures specific to the Master Plan (rather than coming from the 2017 SEIR), would reduce impacts of Master Plan implementation on monarchs to less-than-significant levels.

> **Mitigation Measure BIO-B:** Nonnative milkweeds shall not be included in Master Plan landscaping. Although native milkweeds are encouraged in landscaping, they shall not be irrigated after August to allow those plants to senesce so that monarchs do not lay eggs on those plants too late in fall, and so that no

suitable hostplants are present in late fall that might encourage monarchs to attempt winter breeding instead of migrating to coastal aggregation sites.

Mitigation Measure BIO-C: Within 2 weeks prior to any clearing, construction, or maintenance in landscaped areas that provide milkweeds that have not completely senesced, a qualified biologist will survey those milkweed plants for monarch butterfly eggs, larvae, or pupae. If the plants do not support monarch eggs, larvae, or pupae, the qualified biologist will remove those plants immediately (during the survey) to prevent monarchs from laying eggs between the time of the survey and initiation of impacts. If any eggs, larvae, or pupae are detected within the survey area, then impacts to the plants supporting those individuals will be delayed until the emergence of those individual butterflies as adults. If such a delay is infeasible, the applicant will coordinate with the USFWS regarding recommendations. For example, larvae could be relocated to milkweeds outside the impact area, if those milkweeds are not already occupied by monarch eggs or larvae. Alternatively, monarch butterflies could be raised in captivity and released (with USFWS approval).[2,3]

6.3.1.3 Impacts on Burrowing Owls (Less Than Significant with Mitigation)

No suitable habitat for the burrowing owl is present in the Master Plan Area except on the Shoreline Amphitheatre parcel, which is outside the NBPP area. As discussed in Impact BIO-2 of the 2017 SEIR, implementation of applicable NBPP standards and guidelines for Master Plan activities within the NBPP area would reduce indirect impacts on burrowing owls (e.g., from increased human activity, domestic pet activity, and visits to Shoreline Park) to less-than-significant levels, and implementation of Master Plan activities within the NBPP area would not result in impacts on burrowing owls exceeding those assessed in the 2017 SEIR.

However, at the Shoreline Amphitheatre parcel, ruderal habitat at the margins of the existing parking lot provides at least marginally suitable foraging and roosting, and possibly nesting, habitat. In addition, burrowing owls could occur on the portion of Vista Slope immediately west of the Shoreline Amphitheatre parcel. This parcel is outside the NBPP area, and thus, effects of development of this parcel on burrowing owls were not analyzed in the 2017 SEIR.

Construction of the parking structure would result in the loss of ruderal areas supporting California ground squirrel burrows, within and surrounding the existing parking lot. Although it is possible that burrowing owls could use these areas occasionally, they have not been recorded doing so, and these areas do not provide high-quality habitat for the species as in adjacent areas of Vista Slope, and other burrowing owl habitat areas at Shoreline Park. Therefore, based on our November 2021 field assessment of habitat quality on the Shoreline Amphitheatre parcel, these ruderal areas do not support habitat necessary for maintenance of local and regional burrowing owl populations, and loss of these ruderal areas in and around the existing parking lot will not result in a significant impact on burrowing owl habitat. Nevertheless, if owls are present in these areas when

[2] https://www.saveourmonarchs.org/how-to-raise-monarch-butterflies-at-home.html
[3] https://monarchbutterflylifecycle.com/blogs/raise/how-to-raise-monarch-butterflies-inside

construction occurs, they could be injured or killed, and occupied burrows could be lost, in the absence of protective measures. If owls are nesting within 250 feet of construction, construction activities could disturb owls to the point of abandonment of their burrows, possibly including nests with eggs or young. Direct impacts on burrowing owls, or indirect disturbance that causes abandonment of an active nest, would be a significant impact.

Although the Amphitheatre parking structure is outside the NBPP area, compliance with the Habitats and Biological Resources Standard 2 (Burrowing Owl HOZ) of the NBPP would reduce impacts on burrowing owls from construction of the parking structure, similar to those disclosed in 2017 SEIR impact BIO-2, to less-than-significant levels. Conversely, conflicts between the design and location of the Amphitheatre parking structure and the NBPP Burrowing Owl HOZ standards could result in significant impacts on burrowing owls using Vista Slope, adjacent to the Amphitheatre parcel. Standard 2 includes preconstruction surveys and buffers around burrowing owl burrows. The building's footprint will be at least 250 feet from suitable burrowing owl habitat on Vista Slope in Shoreline Park; the edge of the suitable burrowing owl habitat on Vista Slope is analogous to the baseline of the Burrowing Owl HOZ, had the Amphitheatre parcel been included in the NBPP area. Therefore, the building will not encroach within 250 feet of suitable burrowing owl habitat on Vista Slope and will not impact owls' use of habitat on Vista Slope. Preliminary plans suggest that the garage will have a maximum height of 90 feet as measured from Level 1 of the garage or 67 feet as measured from street level. Thus, the garage may exceed the 55-foot guideline limit on all buildings within 100 feet of an HOZ boundary, which was used in the NBPP, and is appropriate in the case of the Shoreline Amphitheatre parking structure, as a limit to ensure that impacts from such buildings on burrowing owls in nearby habitat would be less than significant. The final design height will be reviewed in the context of the NBPP guideline regarding 55-foot building height maximum within 100 feet of an HOZ boundary – applying this NBPP Burrowing Owl HOZ guideline to the Amphitheatre parking structure, even though it is outside the NBPP area – to determine if on-site design treatments should be implemented.

Implementation of Mitigation Measure BIO-D, a mitigation measure specific to the Master Plan (rather than coming from the 2017 SEIR), would reduce impacts on burrowing owls from Master Plan implementation to less-than-significant levels.

> **Mitigation Measure BIO-D:** In the design and construction of the Shoreline Amphitheatre parking structure, the applicant shall comply with the NBPP Habitats and Biological Resources Standard 2 (Burrowing Owl HOZ) requirements for outdoor lighting, perch deterrents, avoidance during construction, and rodenticide use. Burrowing Owl HOZ requirements for landscape design shall be followed to the extent that they do not conflict with other NBPP policies and/or other City requirements related to parking areas.

6.3.1.4 Impacts on Other Special-Status Species (Less Than Significant)

In the ways discussed in Impacts BIO-3 and BIO-5 of the 2017 SEIR, implementation of the Master Plan may result in impacts on individuals and habitat of the loggerhead shrike and white-tailed kite (primarily associated

with the Shoreline Amphitheatre parking structure) and could result in disturbance of nesting San Francisco common yellowthroats (e.g., from demolition of existing structures near the Charleston Retention Basin). The probability of impacts on nesting peregrine falcons is very low but cannot be ruled out.

Master Plan activities within the NBPP area will comply with Nesting Bird Protection Standards; thus, impacts on nesting birds within the NBPP area will be less than significant and would not result in impacts exceeding those assessed in the 2017 SEIR. Although the Shoreline Amphitheatre parking structure was not included in the NBPP or its 2017 SEIR, the type of potential impacts to shrikes, kites, and other nesting birds from that Master Plan component would be the same as described in the 2017 SEIR. No suitable nesting habitat for peregrine falcons is present close enough to the Shoreline Amphitheatre parking structure area that construction of this Master Plan component would impact that species. Because no more than one pair of shrikes or kites could nest in the Shoreline Amphitheatre parking structure area, that Master Plan component would not result in substantial impacts to those species (e.g., a substantive reduction in regional populations). No other special-status species (e.g., special-status turtles, fish, or bats) would be impacted by the Master Plan.

Therefore, impacts on other special-status species (aside from Congdon's tarplant and burrowing owl) from implementation of the Shoreline Amphitheatre parking structure would be less than significant, and will not result in any significant impacts beyond those described in the 2017 SEIR.

6.3.1.5 Impacts due to Potential Bird Collisions from NBPP Activities (Less Than Significant)

As described in Impact BIO-6 of the 2017 SEIR, construction in the NBPP area could result in avian collisions with new or modified buildings. However, the NBPP includes bird safe design standards that must be implemented with all new construction, building additions, and/or building alterations. Master Plan components within the NBPP area will comply with these standards to ensure that impacts related to bird collisions are less than significant.

The Shoreline Amphitheatre parking structure is not within the NBPP area and therefore is not obligated to comply with NBPP bird safe design standards. This parking structure would incorporate NBPP bird safe design standards if they were necessary to ensure less-than-significant impacts. However, that parking structure will not include heavily glazed facades, up-lighting, or other features that could result in substantial numbers of bird collisions.

Because Master Plan components within the NBPP area will comply with NBPP bird safe design standards, and the parking structure proposed on the Shoreline Amphitheatre parcel will not result in substantial numbers of bird collisions, impacts due to potential bird collisions will be less than significant and will not result in impacts beyond those described in the 2017 SEIR.

6.3.2 Impacts on Sensitive Communities: Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the CDFW or USFWS (Less Than Significant)

The only riparian habitats within the Master Plan Area are in a narrow portion of the Charleston Retention Basin that barely overlaps the Master Plan area. This portion of the Master Plan area that overlaps the Charleston Retention Basin is within the NBPP area and therefore was evaluated in the 2017 SEIR. Impact BIO-7 of the 2017 SEIR described potential impacts of NBPP activities on riparian habitats and discussed such habitats in the Charleston Retention Basin. The Master Plan does not propose any impacts on riparian habitats. Rather, the Master Plan proposes open space immediately adjacent to the basin; replacing existing buildings and hardscape with open space uses will enhance habitat conditions in the basin, relative to existing conditions.

The HOZ for riparian habitat in the Charleston Retention basin requires that no new construction be placed inside the HOZ, which is 200 feet for non-residential land uses and 300 feet for residential uses, as measured from the edge of the basin. Although the Master Plan proposes office uses across Charleston Road from, and well within 200 feet of, the basin, this office development will occur in areas that are already developed, and therefore will consist of new construction atop previously developed areas.

Because the Master Plan will comply with NBPP standards for habitats associated with the Charleston Retention Basin (Habitat and Biological Resources Standard 4), and because the Master Plan's creation of extensive new open space adjacent to the basin will enhance habitat conditions associated with the basin, Master Plan impacts on riparian habitats will be less than significant and will not result in any impacts beyond those described in the 2017 SEIR.

6.3.3 Impacts on Wetlands: 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 (Less Than Significant)

The only wetlands within the Master Plan Area are in a narrow portion of the Charleston Retention Basin that barely overlaps the Master Plan Area. This portion of the Master Plan area that overlaps the Charleston Retention Basin is within the NBPP area and therefore was evaluated in the 2017 SEIR. Impact BIO-7 of the 2017 SEIR described potential impacts of NBPP activities on wetland habitats and discussed such habitats in the Charleston Retention Basin. The Master Plan does not propose any impacts on wetland habitats. As described in Section 6.3.2, adherence to Habitat and Biological Resources Standard 4 will maintain impacts on wetlands at Charleston Retention Basin within the scope of impacts described in the 2017 SEIR, which will be less than significant, and will not result in any impacts beyond those described in the 2017 SEIR. Inclusion of the Amphitheatre parcel in the Master Plan area does not alter this conclusion, as no wetlands or other regulated habitats are present on that parcel.

6.3.4 Impacts on Wildlife Movement: 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

6.3.4.1 Impacts on Wildlife Movement (Less Than Significant)

As described in Impact BIO-8 of the 2017 SEIR, the NBPP area is not a particularly important area for movement by non-flying wildlife, and it does not contain any high-quality corridors allowing dispersal of such animals through the area. As a result, impacts of Master Plan activities on wildlife movement will be less than significant, and will not result in significant impacts beyond those described in the 2017 SEIR. Inclusion of the Amphitheatre parcel in the Master Plan area does not alter this conclusion, as that parcel also does not contain any high-quality corridors or habitats particularly valuable for animal dispersal or migration.

6.3.4.2 Impacts on Egret Rookery (Less Than Significant)

As described in Impact BIO-8 of the 2017 SEIR, the only feature within the NBPP area that is considered an important nursery site is the egret rookery along Shorebird Way. Google is proposing to protect this rookery by maintaining areas north, west, and south of the rookery as open space. The buildings at 1201 Charleston Road would remain, in part because the egrets and herons have selected that location as a rookery site with the building present, and it is unknown whether removal of that building might cause the birds to relocate.

The rookery has expanded since the 2017 SEIR was certified. Habitats and Biological Resources Standard 3b (Egret Rookery HOZ) requires that new residential construction shall not be placed within 300 feet of the rookery. Since 2017, the colony has expanded such that the southwestern margin of the colony falls within approximately 200 feet of the margin of the parcel where residential development is planned southwest of the rookery (see Figure 9). The HOZs in the NBPP were intended to apply based on the locations of sensitive biological resources as of 2017, rather than being dynamic zones that might expand or contract over time. As a result, the Master Plan's proposed land uses and development areas are consistent with the geographic extent of the HOZ as it was mapped by the NBPP in 2017.

However, the expansion of the egret rookery represents new information that must be considered during CEQA analysis of the Master Plan so that potential impacts of Master Plan activities are evaluated in the context of existing conditions. As described in the NBPP, HOZ buffers for some biological resources were greater for residential land uses than for non-residential uses because of the higher numbers of people and pets present at night and throughout the week in residential areas. For that reason, the NBPP prescribed a 300-foot buffer from the rookery for new residential land uses. However, the nesting egrets and herons are already habituated to a high level of human activity. Although the segment of Shorebird Way immediately adjacent to the rookery is closed to vehicular traffic during the breeding season, pedestrian use of this portion of the road is high; the adjacent commercial/office buildings are still in use; and many people visit the rookery specifically to view these birds. As a result, these birds are not averse to human activity. In addition, the land around the rookery will be largely maintained as open space, providing a buffer between the rookery and new residential development. As

a result, residential activity as close as 200 feet from the nearest nests on the outskirts of the colony is not expected to adversely affect the rookery. Also, the residential area would still be at least 300 feet from the core of the rookery, which is still located where it was in 2017. Therefore, impacts on the rookery of having residential development as close as 200 feet from the nearest nests will be less than significant. With compliance with all NBPP standards for the rookery other than the reduced buffer between residential development and egret/heron nests, implementation of the Master Plan would not result in significant impacts to nesting egrets or herons and will not result in significant impacts beyond those described in the 2017 SEIR.

6.3.5 Impacts due to Conflicts with Local Policies: Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance (Less than Significant with Mitigation)

Implementation of the Master Plan has potential to result in the removal of trees protected by City ordinances protecting heritage trees, in the same ways described in Impact BIO-9 of the 2017 SEIR. As described in that impact, all future projects within the NBPP area will be required to comply with the City of Mountain View heritage tree ordinance as a standard condition of approval. Therefore, the Master Plan will not conflict with local policies related to tree protection.

HOZ standards from the NBPP are also local land use policies protecting biological resources, and therefore, analysis of the Master Plan's consistency with those standards is necessary to evaluate impacts due to conflicts with local policies. As described in Section 6.3.1.3, the initial design of the Shoreline Amphitheatre parking structure will comply with Habitats and Biological Resources Standard 2 (Burrowing Owl HOZ). However, preliminary plans suggest that the garage will have a maximum height of 90 feet as measured from Level 1 of the garage or 67 feet as measured from street level, and thus may exceed the 55-foot guideline limit on all buildings within 100 feet of an HOZ boundary. The final design height will be reviewed in the context of the NBPP guideline regarding 55-foot building height maximum within 100 feet of an HOZ boundary to determine if on-site design treatments should be implemented. Implementation of Mitigation Measure BIO-D would reduce impacts on burrowing owls from Master Plan activities, and therefore reduce impacts related to local policies for burrowing owls, to less-than-significant levels.

As discussed in Section 6.3.4.2, the Master Plan is not entirely consistent with the egret/heron rookery HOZ. The rookery has expanded since the NBPP was approved in 2017, and new residential development is proposed to be constructed as close as approximately 200 feet from the nearest nests in the rookery, whereas the HOZ buffer for residential land uses specified in the NBPP is 300 feet. However, for reasons discussed in Section 6.3.4.2, impacts on the rookery from having residential development as close as 200 feet away will be less than significant, and therefore there is no significant impact related to conflicts with local policies protecting the rookery.

For all these reasons, the Master Plan will not result in any impacts related to conflicts with local policies beyond those described in the 2017 SEIR.

6.3.6 Impact due to Conflicts with an Adopted Habitat Conservation Plan: Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan (Less Than Significant)

As described in Impact LU-4 of the 2017 SEIR, the NBPP is not covered by or subject to an adopted habitat conservation plan or natural community conservation plan. Similarly, the Shoreline Amphitheatre parcel, which is not part of the NBPP, is not covered by or subject to an adopted habitat conservation plan or natural community conservation plan. Therefore, the Master Plan will not conflict with any such plans and will not result in any conservation plan-related impacts beyond those described in the 2017 SEIR.

6.3.7 Cumulative Impacts on Biological Resources (No impact)

The 2017 SEIR analyzed cumulative impacts of the NBPP on biological resources and determined that NBPP activities would not result in a cumulatively considerable contribution to significant cumulative impacts. For all the impacts assessed in the 2017 SEIR, Master Plan activities within the NBPP area will have the same or similar impacts to those discussed in the SEIR. Therefore, Master Plan activities proposed within the geographic area analyzed in the 2017 SEIR will not result in a cumulatively considerable contribution to significant cumulative impacts or cumulative impacts greater than those analyzed in the 2017 SEIR. Although the SEIR did not analyze impacts of development on the Shoreline Amphitheatre parcel, it did analyze cumulative impacts on Congdon's tarplant and burrowing owl. With implementation of Mitigation Measures BIO-A and BIO-D, the Master Plan will not result in a cumulatively considerable contribution to significant cumulative impacts on these species.

The 2017 SEIR did not analyze cumulative impacts on the monarch butterfly, which was not considered a special-status species at the time. Western populations of the monarch butterfly are declining range-wide, and the combined effects of all the stressors on this species likely result in a significant cumulative impact on the species. However, with implementation of Mitigation Measures BIO-B and BIO-C, the Master Plan will not result in a cumulatively considerable contribution to significant cumulative impacts on this species.

Section 7. Proposed Additions to Landscape Palette

The City of Mountain View has established a North Bayshore Precise Plan Plant Palette to guide the selection of plants for landscaping in the NBPP area. However, the City will consider the use of additional landscaping species. Google proposes to add 11 new species to the plant palette for the Master Plan area, as indicated in Table 2.

Table 2. Additional Species for inclusion in the Landscape Palette

Scientific Name	Common Name
Quercus douglasii	Blue oak
Quercus kelloggii	California black oak
Pinus radiata	Monterey pine
Hesperocyparis macrocarpa	Monterey cypress
Juglans californica	California black walnut
Pinus muricata	Bishop pine
Quercus chrysolepis	Canyon live oak
Quercus wislizeni	Interior live oak
Quercus dumosa	Nuttall's scrub oak
Acer macrophyllum	Bigleaf maple

These 11 species are appropriate for inclusion in Master Plan landscaping. They are all native to California, occurring as natives either in the South Bay or in nearby areas. As a result, many of the animal species occurring in the Master Plan area are well adapted to these species and will use them for foraging, nesting, roosting, and other purposes. These species will diversify the plant palette, thus helping to provide resources to a wide variety of animals in the Master Plan area.

Section 8. References

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8.1 Personal Communications

Terry, Joseph. U.S. Fish and Wildlife Service. Email communication dated November 2, 2021. Subject: Monarch Research.

MEMORANDUM

	Tyler Rogers		Scott Batiuk
To:	David J. Powers & Associates, Inc.	**From:**	WRA, Inc.
	trogers@davidjpowers.com		batiuk@wra-ca.com
cc:			
Date:	November 3, 2022		
Subject:	Peer Review of Revised Biological Resources Confirmation Report for the North Bayshore Framework Master Plan Area		

The purpose of this memorandum is to summarize the results of a peer review conducted by WRA, Inc. (WRA) of the revised North Bayshore Framework Master Plan Biological Resources Confirmation Report (Revised Biological Report) prepared by H.T. Harvey & Associates for the North Bayshore Framework Master Plan area (Plan Area) in Mountain View, Santa Clara County, California. The peer review focused on bird safe design measures and potentially sensitive habitat and species issues identified within the Plan Area. As part of this peer review, WRA visited the Plan Area on February 8, 2022, to observe site conditions. The Biological Report prepared by H.T. Harvey & Associates was reviewed based on the site visit and an independent review of the 2014 North Bayshore Precise Plan Environmental Impact Report (EIR), the 2017 North Bayshore Precise Plan Subsequent Environmental Impact Report (SEIR), the 2014 (amended 2020) North Bayshore Precise Plan (NBPP), the 2022 North Bayshore Framework Master Plan, and biological resources database and other species occurrence resources. WRA prepared an initial peer review letter dated March 25, 2022, for the HT Harvey Biological Report. Revisions were made to the report based on the initial peer review, and a subsequent draft was provided to WRA on October 25, 2022. This memo summarizes WRA's second peer review of the HT Harvey Biological Report.

RESULTS

Previous comments made in the March 2022 peer review letter have been resolved.

- The reference to the Habitat Overlay Zone (HOZ) surrounding the Charleston Retention Basin has been fully resolved and is accurate.
- The boundary in Figure 10 of the Biological Report has been updated consistent with the Framework Master Plan.
- Recommended adjustments to language in Mitigation Measure Bio-D have been made.
- Discrepancies with regard to the presence of small portions of riparian and wetland habitat surrounding the Charleston Retention Basin have been resolved.

- Evaluation of consistency with the Egret Rookery HOZ has been resolved and a "less than significant impact" conclusion has been made, consistent with CEQA requirements for the changed circumstances of the egret rookery.
- The word "new" was removed from the Landscape Design Standard regarding planting invasive species in the NBPP

Proposed Additions to Landscape Palette

The revised Biological Report (page 44, Section 7) includes a list of species to be added to the NBPP Plant Palette. The Report states that 11 species are being proposed as additions to the NBPP Plant Palette. However, only ten species are included in Table 2. It is unknown whether a species is missing from Table 2 or if stating that 11 species are being proposed is simply an error. If a species is missing from the table, WRA recommends that it be added. If ten is actually the correct number of species being proposed and none are missing from Table 2, WRA recommends that the number be corrected in the text.

The species included in Table 2 are described as "native to California, occurring as natives either in the South Bay or in nearby areas." Although the term "nearby" is not defined, the statement is not entirely accurate. The NBPP Landscape Design Standards and Guidelines, as summarized in the NBPP Plant Palette, states that native plants used for landscaping "should be grown from propagules collected from local populations found in the San Francisco Bay Area counties (Santa Clara, San Mateo, San Francisco, Alameda, Contra Costa, Marin, Napa, and Solano)." Of the proposed additional species, the following do not occur as native species in the San Francisco Bay Area counties:

- Monterey cypress (*Hesperocyparis macrocarpa*)
- California black walnut (*Juglans californica*)
- bishop pine (*Pinus muricata*)
- Nuttall's scrub oak (*Quercus dumosa*)

Nuttall's scrub oak (*Quercus dumosa*), is native to California but is not locally native, being restricted to southern California (and is actually considered a rare species by the California Native Plant Society and California Department of Fish and Wildlife). However, the widespread inland scrub oak (*Quercus berberidifolia*) that does occur locally was formerly called *Quercus dumosa*, and the inclusion of *Quercus dumosa* in the palette may simply be an example of outdated nomenclature. The plant that is currently known as *Quercus dumosa* may still be a viable landscape plant if available at nurseries, but it is not consistent with the palette of locally native species. WRA recommends that the common name "inland scrub oak" and the scientific name "*Quercus berberidifolia*" be used to ensure that a locally native species is included in the landscaping.

Similarly, California black walnut (*Juglans californica*) is native to California but is not locally native, being restricted to southern California (and it is actually considered a watch list species by the California Native Plant Society and California Department of Fish and Wildlife because it has a limited distribution). However, this may again simply be an example of outdated nomenclature. What are now northern California black walnut (*Juglans hindsii*) and southern California black walnut (*Juglans californica*) were formerly considered to be varieties of *Juglans californica* but have since been elevated to the rank of species. Northern California black walnut is widespread in northern California, including the San Francisco Bay Area. Southern California black walnut may still be a viable landscape plant if available at nurseries, but it is not consistent with the NBPP definition of locally native species. WRA recommends that the

common name “northern California black walnut” and the scientific name “*Juglans hindsii*” be used to ensure that a locally native species is included in the landscaping.

Bishop pine (*Pinus muricata*) is native to California but does not occur in the San Francisco Bay Area counties as defined above, and as such, there are no locally native populations from which to collect propagules. It may still be a viable landscape plant if available at nurseries, but it is not consistent with the NBPP definition of locally native species. WRA recommends it be substituted with a different native tree species that occurs in the San Francisco Bay Area counties.

Monterey cypress (*Hesperocyparis macrocarpa*) is native to California, but it is not native to the San Francisco Bay Area counties. Its native range is limited to the Monterey area. However, it has been widely planted and has naturalized outside of its native range, including the South Bay. It may still be a viable landscape plant if available at nurseries, but it is not consistent with the NBPP definition of locally native species. WRA recommends it be substituted with a different native tree species that occurs in the San Francisco Bay Area counties.

H. T. HARVEY & ASSOCIATES

Ecological Consultants

50 years of field notes, exploration, and excellence

North Bayshore Framework Master Plan
Biological Resources Confirmation Report

Project #4360-24

Prepared for:

Google

Prepared by:

H. T. Harvey & Associates

November 22, 2022

983 University Avenue, Building D ❿ Los Gatos, CA 95032 ❿ 408.458.3200 ❿ *www.harveyecology.com*

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Figures

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List of Preparers

Steve Rottenborn, Ph.D., Principal/Senior Wildlife Ecologist

Stephen L. Peterson, M.S., Project Manager/Senior Wildlife Ecologist

Jane Lien, B.S., Wildlife Ecologist

Section 1. Introduction

This report describes biological resource issues related to Google's proposed development in the North Bayshore Framework Master Plan (Master Plan) area. The Master Plan outlines a proposal for land use location and intensity, urban design, mobility, district parking, infrastructure, sustainability, and implementation, and phasing strategies, within a subset of land in the North Bayshore Precise Plan (NBPP) area, one of several "change areas" identified in the City of Mountain View's 2030 General Plan. The NBPP is guided by the General Plan's vision, goals, policies, and urban design direction, and defines standards that must be followed by project applicants, unless an exception to a standard is otherwise noted therein. The potential environmental effects of implementation of the NBPP were initially disclosed in the *North Bayshore Precise Plan Environmental Impact Report* (EIR) (City of Mountain View 2014). In 2017, the NBPP was amended to include residential development, and the *North Bayshore Precise Plan Subsequent Environmental Impact Report* (SEIR) (City of Mountain View 2017) was prepared to analyze the effects of the amended NBPP.

This document presents a summary of the findings of the NBPP, its 2014 EIR, and its 2017 SEIR regarding biological resources, existing conditions, and potential impacts in the Master Plan Area, at the time the EIR and SEIR were certified. It also presents a summary of changes to these conditions that have occurred since certification, as well as a summary of any potential impacts that may result from implementation of elements of the Master Plan that were not previously disclosed in the NBPP 2014 EIR and 2017 SEIR. This analysis is being used to inform an EIR for the North Bayshore Master Plan. This document concludes that the North Bayshore Precise Plan EIR and SEIR adequately assess a majority of impacts of the Master Plan on biological resources. However, as described in Section 6, impacts of the Master Plan on Congdon's tarplant (*Centromadia parryi* ssp. *congdonii*), monarch butterfly (*Danaus plexippus*), and burrowing owls (*Athene cunicularia*) require additional analysis in the Master Plan EIR, and additional mitigation measures are described to reduce impacts of the Master Plan on those species to a less-than-significant level.

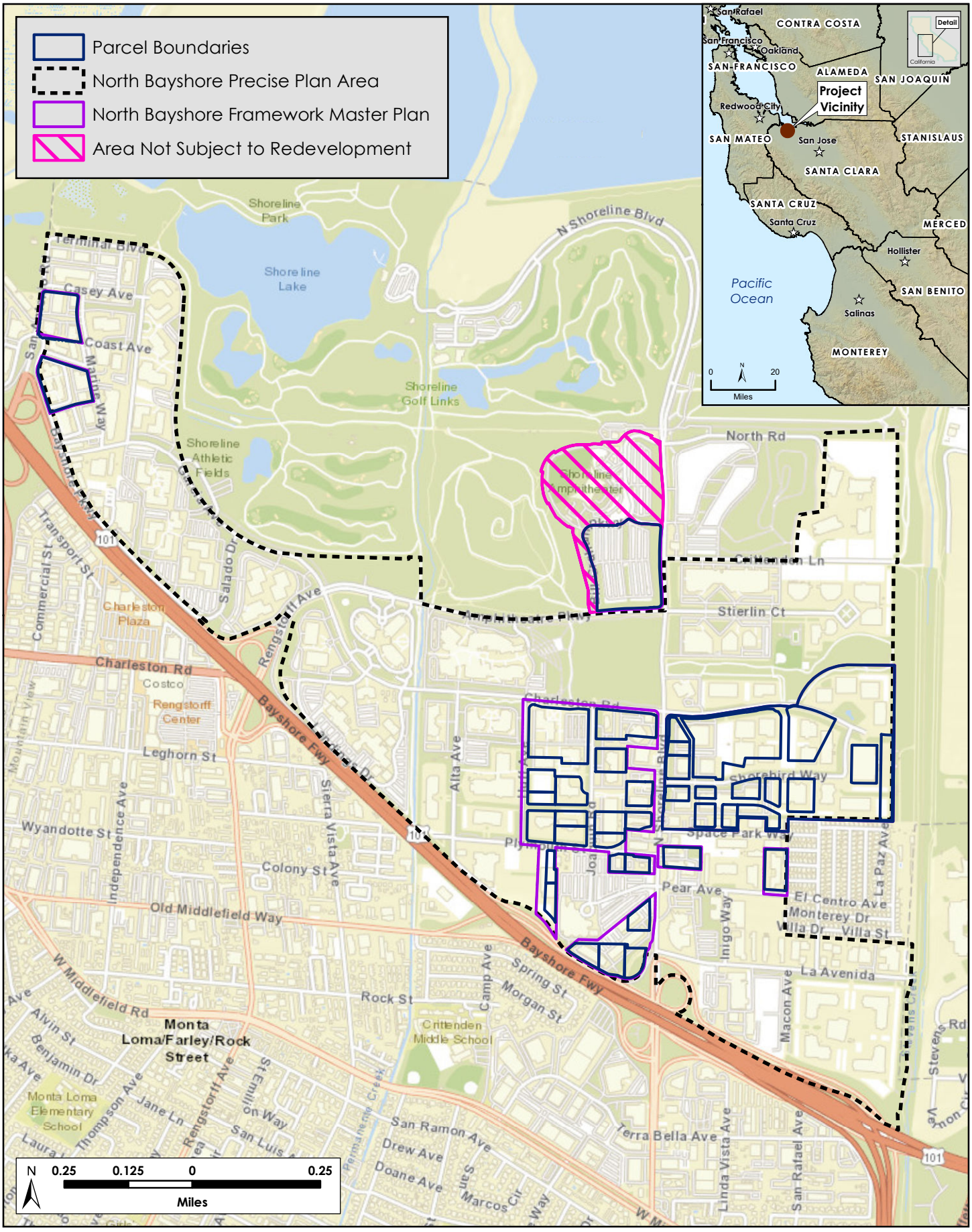
1.1 Project Location

The North Bayshore area is geographically distinct from the rest of Mountain View due to being separated from the rest of the City by U.S. Highway 101 (Figure 1). Google's Master Plan Area is located within the NBPP area, in the northern end of the City of Mountain View, bordering Shoreline at Mountain View Regional Park to the north, Highway 101 to the south, Palo Alto to the west, and Stevens Creek to the east.

1.2 Project Description

The Master Plan proposes to redevelop Google's landholdings in North Bayshore, primarily within the central portion of the NBPP area that surrounds North Shoreline Boulevard, into three "Complete Neighborhoods" – Shorebird, Joaquin, and Pear. These complete neighborhoods are intended to have a balanced mix of housing, office, services, and open space within a safe, comfortable, and convenient walking distance for residents and

employees (Figure 2). Three district-serving office parking facilities are also proposed as part of the Master Plan, two in the northwest portion of the NBPP area along Marine Way, and a third outside of but adjacent to the northern boundary of the NBPP area, on a parcel with an existing parking lot at Shoreline Amphitheatre (Figure 3). All of the existing structures in the Master Plan Area will be demolished to accommodate the development, with the exception of the 1201 Charleston building (Shown as "Flex – Community Use District Central Plant" in Figures 2 and 3). A number of open spaces are planned, including three interconnected parks surrounding an existing egret rookery, and a Green Loop that connects a set of linear open spaces dispersed within the neighborhoods (Figure 4). A portion of Shorebird Way will be vacated and incorporated into a planned open space park (Figure 4).



N:\Projects4300\4360-01124\Reports\Bio Confirmation Report\Figure 1 Vicinity Map.mxd agibson

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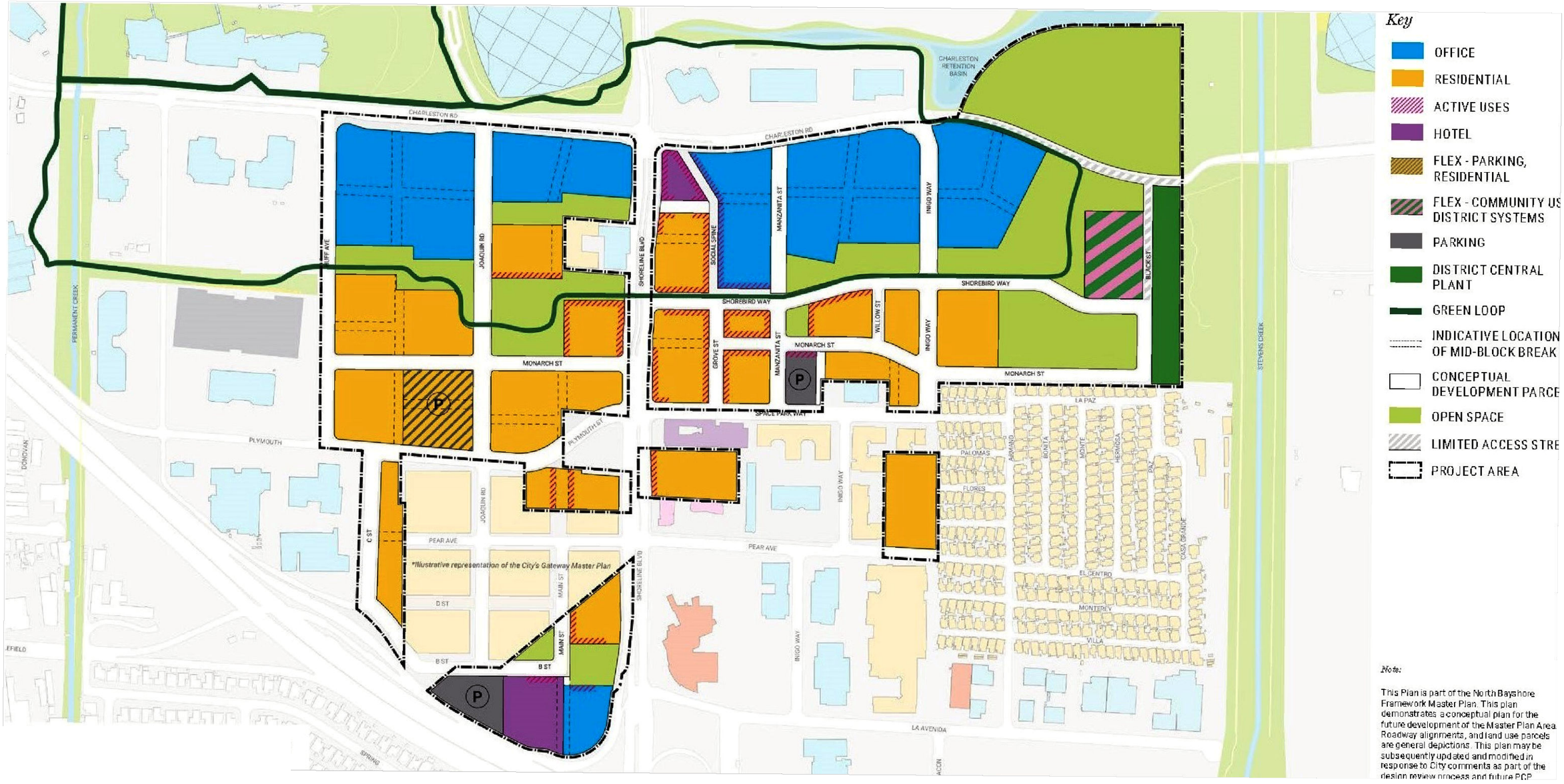
Figure 1. Vicinity Map
North Bayshore Framework Master Plan
Biological Resources Confirmation Memo (4360-24)
November 2022



Key

- OFFICE
- RESIDENTIAL
- ACTIVE USES
- HOTEL
- FLEX - PARKING, RESIDENTIAL
- FLEX - COMMUNITY US DISTRICT SYSTEMS
- PARKING
- DISTRICT CENTRAL PLANT
- GREEN LOOP
- INDICATIVE LOCATION OF MID-BLOCK BREAK
- CONCEPTUAL DEVELOPMENT PARCE
- OPEN SPACE
- LIMITED ACCESS STRE
- PROJECT AREA

Note:

This Plan is part of the North Bayshore Framework Master Plan. This plan demonstrates a conceptual plan for the future development of the Master Plan Area. Roadway alignments, and land use parcels are general depictions. This plan may be subsequently updated and modified in response to City comments as part of the design review process and future PCP

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Feet

Background Source: North Bayshore Master Plan Framework, authored by Lendlease Silicon Valley Development, LLC for Google

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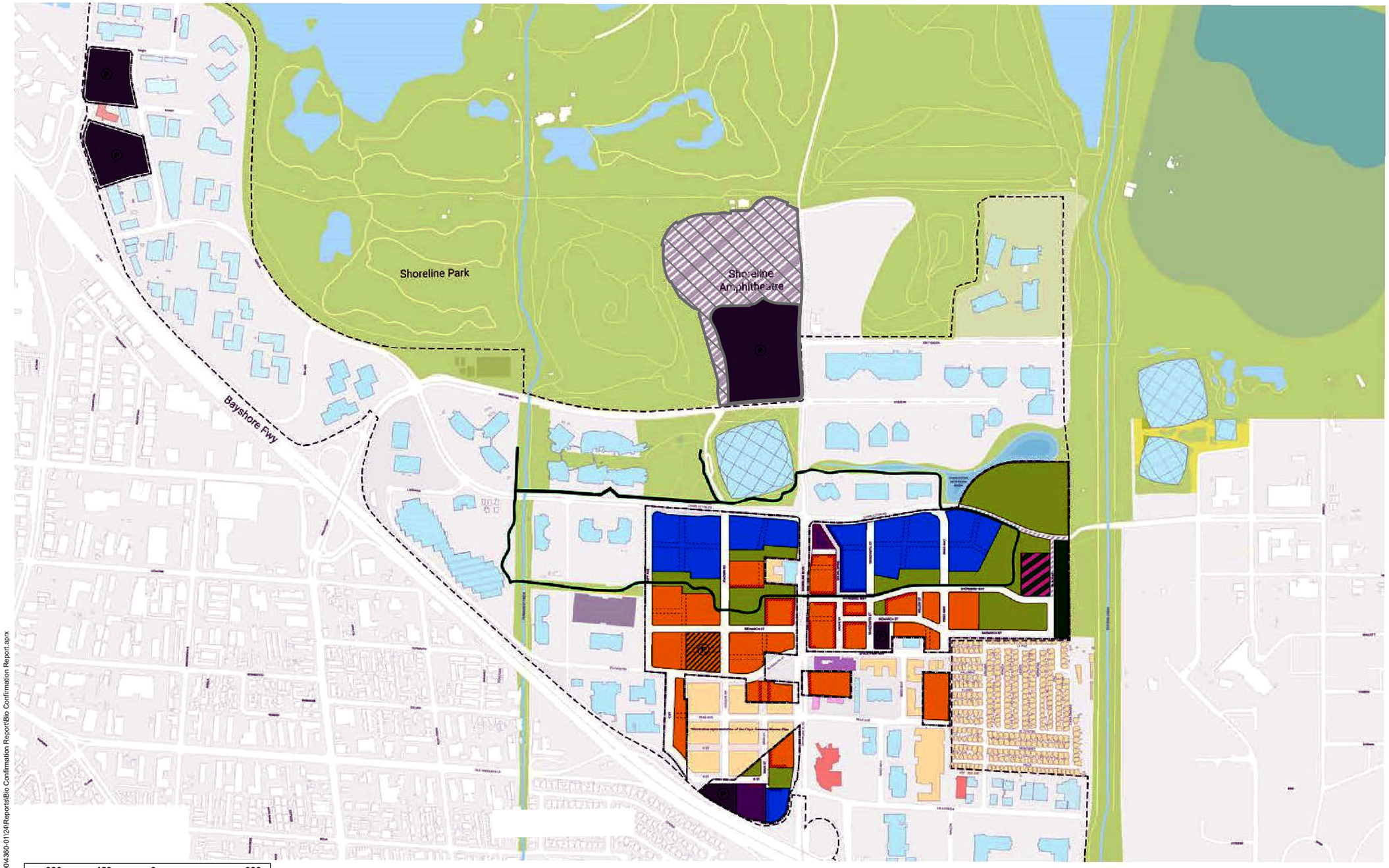
Figure 2. Land Use Plan Core Project Area
North Bayshore Framework Master Plan
Biological Resources Confirmation Memo (4360-24)
November 2022



Key

- OFFICE
- RESIDENTIAL
- ACTIVE USES
- HOTEL
- FLEX - PARKING, RESIDENTIAL
- FLEX - COMMUNITY USE, DISTRICT SYSTEMS
- PARKING
- DISTRICT CENTRAL PLANT
- GREEN LOOP
- INDICATIVE LOCATION OF MID-BLOCK BREAK
- CONCEPTUAL DEVELOPMENT PARCELS
- OPEN SPACE
- AREA NOT SUBJECT TO REDEVELOPMENT
- PROJECT AREA
- NBPP BOUNDARY

Note:

SA-P-1 (Amphitheatre Parking Garage) is a proposed district parking garage that would provide parking for uses located within the Master Plan Area. The parking garage will be part of the Master Plan's CEQA review but will require a Design Review Permit as it is located outside of the NBPP area.

This Plan is part of the North Bayshore Framework Master Plan. This plan demonstrates a conceptual plan for the future development of the Master Plan Area. Roadway alignments, and land use parcels are general depictions. This plan may be subsequently updated and modified in response to City comments as part of the design review process and future PCP applications.

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Figure 3. Land Use Plan
North Bayshore Framework Master Plan
Biological Resources Confirmation Memo (4360-24)
November 2022

Note:

Shorebird Yards is to be dedicated to the City of Mountain View as public park land. Following dedication, the City may, at its discretion, work with local school district(s) to establish an education facility on this parcel, which will be subject to its own independent entitlement process and associated CEQA review.

This Plan is part of the North Bayshore Framework Master Plan. This plan demonstrates a conceptual plan for the future development of the Master Plan Area. Roadway alignments, and land use parcels are general depictions. This plan may be subsequently updated and modified in response to City comments as part of the design review process and future PCP applications.

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Background Source: North Bayshore Master Plan Framework, authored by Lendlease Silicon Valley Development, LLC for Google

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Figure 4. Parks and Open Space Plan
North Bayshore Framework Master Plan
Biological Resources Confirmation Memo (4360-24)
November 2022

Section 2. Methods

2.1 Background Review

Prior to conducting field work, H. T. Harvey & Associates ecologists reviewed the NBPP, the North Bayshore Framework Master Plan; the 2014 EIR (City of Mountain View 2014); the 2017 SEIR (City of Mountain View 2017); aerial images (Google Inc. 2021); the California Department of Fish and Wildlife's (CDFW's) California Natural Diversity Database (CNDDB 2021); a number of previous reports prepared for this and related projects by H. T. Harvey & Associates in the North Bayshore vicinity; and other relevant reports, scientific literature, and technical databases.

2.2 Site Visits

H. T. Harvey & Associates wildlife ecologist Jane Lien, B.S., conducted a reconnaissance-level field survey of the Master Plan Area and surrounding areas on November 30, 2021, to compare existing conditions to those described in the 2014 EIR and 2017 SEIR and, if necessary, to update the description of existing conditions with respect to biological resources. Specifically, the survey was conducted to 1) determine the extent of any changes in existing environmental conditions that have occurred in and surrounding the Master Plan Area since the previous EIR and SEIR were certified, 2) to identify any potential impacts associated with the proposed Master Plan that were not analyzed in the previous EIR and SEIR, and 3) to identify any impacts from the proposed Master Plan that might exceed the scope of the impacts disclosed in the previous EIR and SEIR.

Section 3. Summary of Existing Conditions

The following section summarizes our findings regarding biological resources present in the Master Plan Area. First, we provide a summary of existing habitat conditions, potential for occurrence of special-status plants and animals, and occurrence of sensitive/regulated habitats present and disclosed in the 2017 SEIR. We then summarize any changes to existing conditions that have occurred since the 2017 SEIR was certified.

3.1 Existing Conditions under the 2017 SEIR

In 2017, the NBPP was amended to include residential development, and the 2017 SEIR was prepared to analyze the effects of these changes to the NBPP. Because the 2017 SEIR tiers off of the 2014 EIR, existing conditions as disclosed in the 2017 SEIR (rather than those in the 2014 EIR) are discussed herein.

The 2017 SEIR identified five general biological habitat types, as shown in Figure 5, below. These habitat types were developed/landscaped, disked field, artificial aquatic (artificial waterbodies), freshwater marsh, and open water/creek. Approximately 96 percent of the NBPP area was classified as developed/landscaped habitat. Adjacent land uses, natural communities, and habitats were also identified and discussed in the SEIR to inform the assessment of potential indirect impacts of NBPP activities on adjacent sensitive habitats. These included Stevens Creek, Crittenden Marsh and the Stevens Creek Tidal Marsh Restoration Area, the San Francisco Bay and Estuary, the South Bay Salt Ponds Restoration Project, and Shoreline at Mountain View Regional Park (Shoreline Park). The City of Mountain View actively manages Shoreline Park as burrowing owl foraging and nesting habitat and habitat for a number of other sensitive species, including several occurrences of Congdon's tarplant, a California Native Plant Society (CNPS) 1B.1-ranked rare plant species (Figure 5).

The 2017 SEIR identified two habitat types within the Master Plan Area: developed/landscaped and artificial aquatic. Adjacent and/or nearby habitat types include the disked field, freshwater marsh, and open water/creek. The Charleston Retention Basin, a freshwater marsh, is adjacent to the northern boundary of the Master Plan Area. In the SEIR, it was characterized as perennially wet and dominated by broad-leaved cattails (*Typha latifolia*) and California bulrush (*Schoenoplectus californicus*). Planned habitat improvements associated with the Charleston Retention Basin Improvement Project were identified in the SEIR but reviewed via a separate California Environmental Quality Act (CEQA) process (City of Mountain View 2015). The majority of the Charleston Retention Basin Improvement Project is outside the Master Plan area, but the Master Plan project area includes a portion of the Basin Project area on the southeast side of the Basin. Planned improvements included a net increase of 0.13 acres of freshwater marsh habitat and 3.76 acres of riparian habitat at the Charleston Retention Basin. The SEIR also described a regionally significant egret rookery in the London plane trees (*Platanus* x *acerifolia*) within the developed/landscaped area along Shorebird Way in the eastern portion of the NBPP area, and within the proposed Master Plan Area. The egret rookery is also depicted in Figure 5.

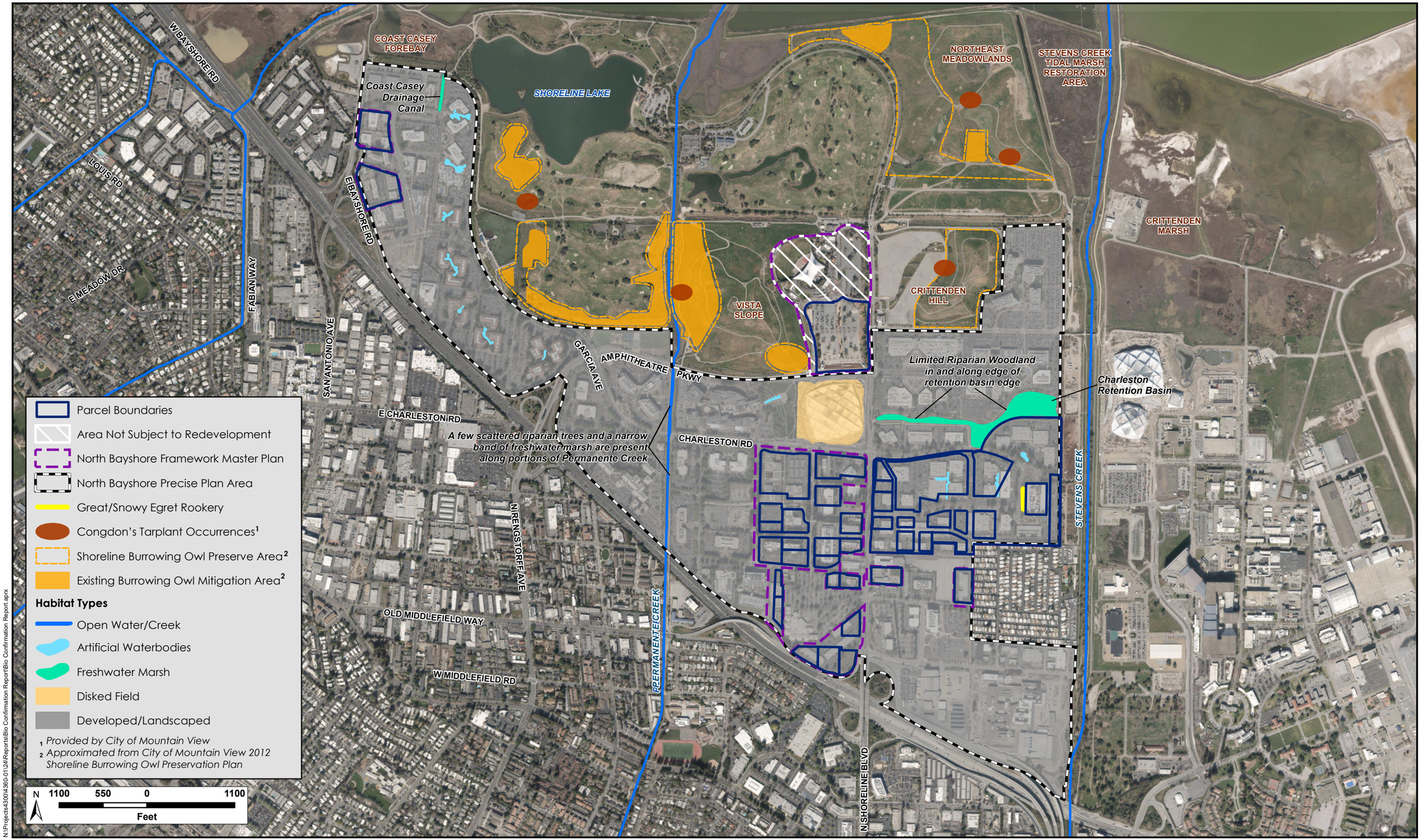

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Figure 5. Biological Resources and Habitats Map

North Bayshore Framework Master Plan
Biological Resources Confirmation Memo (4360-24)
November 2022

The parcel at Shoreline Amphitheatre proposed in the Master Plan for construction of a parking structure is outside the NBPP area. Impacts from Master Plan activities in this parcel were thus not analyzed in the 2017 SEIR.

3.2 Current Habitat Conditions

Aside from the parking structure proposed at Shoreline Amphitheatre, which is outside of the NBPP area, current conditions in the Master Plan Area are substantially the same as those described in the 2017 SEIR. The Master Plan Area is still dominated by developed/landscaped land uses, with small artificial waterbodies in three locations (Figure 5). The extent of the egret rookery has changed slightly, as described in Section 4.2.3 below, but otherwise, habitat conditions within the Master Plan Area parcels have not changed substantially since 2017.

There have been changes to biological resources and habitats in two nearby areas, however; the disked field is outside the Master Plan area, and the Charleston Retention Basin barely overlaps the Master Plan area. These changes are discussed below. Additionally, the portion of the Master Plan Area associated with the parking structure proposed at Shoreline Amphitheatre is outside the NBPP area. Potential development of this parcel is thus not covered by the standards and guidelines of the NBPP, nor was development of this parcel reviewed in the 2017 SEIR. Therefore, a description of the existing conditions on and surrounding this additional parcel is included below to ensure that all potential impacts from proposed development of the Master Plan, including the parking structure on Shoreline Amphitheatre, are included and analyzed in the North Bayshore Master Plan EIR.

3.2.1 Habitat Areas Adjacent to the Master Plan Boundaries

3.2.1.1 Disked Field

The disked field identified at 2000 North Shoreline Boulevard in the SEIR, which is located outside the Master Plan area, is currently being developed by Google as the Charleston East project, a 2-level, 595,000 square ft office building. Thus, this land cover type would now be considered developed/landscaped, contributing to the overall preponderance of developed/landscaped habitat types within and surrounding the Master Plan Area. The 2017 SEIR identified the disked field as having a low probability of burrowing owls nesting and/or roosting there. Due to development on this parcel, suitable habitat for burrowing owls is no longer present, and high levels of disturbance associated with construction of and use of Charleston East would further discourage burrowing owls from dispersing to or attempting to forage at that location.

3.2.1.2 Charleston Retention Basin

The Charleston Retention Basin lies adjacent to the northern boundary of the Master Plan Area (Figure 5). Since the 2017 SEIR, the Charleston Retention Basin Bridges and Habitat Improvement Project was implemented. That project involved the expansion and enhancement of approximately 6.0 acres of native upland habitats (including a net increase of approximately 2.0 acres of willow riparian forest), the expansion of 0.13 acre of freshwater marsh, the installation of two pedestrian bridges to improve north-south pedestrian

circulation and connectivity, and the creation of an improved pedestrian path around the Charleston retention basin to enhance user experience and comply with Americans with Disabilities Act accessibility requirements. The Project also involved the net removal of 134 parking spaces next to the basin to allow for habitat expansion and enhancement and to improve access to the path from adjacent parcels. The Project was implemented in two phases: the first was completed in fall 2016/winter 2017 and the second was completed in fall 2018/winter 2019. A total of 3.7 acres of riparian habitat was created (H. T. Harvey & Associates 2019).

Although the Charleston Retention Basin and its freshwater marsh habitat (with a fringe of willows) already existed in 2017, it is primarily the expansion of the basin's willow-dominated habitat, as well as the reduction in developed parking areas and improved accessibility, that represent a change from 2017 SEIR conditions. In addition, the growth of willows that were already present in the basin (i.e., other than those added as part of the habitat enhancement project) has increased the proportion of willow, relative to emergent vegetation such as cattails and bulrush, within the basin since 2017.

3.2.2 Additional Master Plan Project Element: Shoreline Amphitheatre Parcel

The Shoreline Amphitheatre parcel is currently developed as a parking lot associated with the Shoreline Amphitheatre. Asphalt covers the majority of the parcel, and scattered landscape trees are present throughout the parking lot. The grade of the parking surface is approximately 30 feet below that of the surrounding land surface. On the eastern margin of the parcel, a steep embankment covered by short ruderal grasses with scattered landscape shrubs and trees slopes upward from the asphalt parking lot toward North Shoreline Boulevard. A similar embankment slopes upward toward Amphitheatre Parkway on the southern margin of the parcel, but this embankment is landscaped and developed with a stairway, escalators, an elevator, and associated pedestrian walkways. The western boundary of the parcel slopes more gently upwards toward Bill Graham Parkway, beyond which lie the grassland on the former landfill at Vista Slope in Shoreline Park. This slope is vegetated with short ruderal grasses and scattered ornamental trees, with a band of low-stature shrubs, such as coyote brush (*Baccharis pilularis*), just beyond the western margin of the parcel. Structures and additional parking associated with the Shoreline Amphitheatre are positioned to the north of the parcel, at the same grade as the current parking lot.

Conditions on the Shoreline Amphitheatre parcel where a parking structure is proposed, as well as wildlife use, are generally the same as those described in the 2017 SEIR for developed/landscaped habitats, based on field inspection of the Shoreline Amphitheatre parcel during a November 30, 2021, site visit and comparison of its conditions to the description of developed/landscaped habitats in the 2017 SEIR. The developed/landscaped habitat in this parcel is of relatively low value to wildlife, based on the predominantly developed nature of this parcel and H. T. Harvey's experience evaluating wildlife use of such habitats throughout the South Bay, but it provides nesting and foraging opportunities for some urban-adapted species of birds. Native bird species that were observed on or near the site during the November 2021 site visit include the American crow (*Corvus brachyrhynchos*), Anna's hummingbird (*Calypte anna*), and dark-eyed junco (*Junco hyemalis*). These species may use the trees or landscape vegetation, or buildings near the site, for nesting. Additional common bird species that could nest on this parcel include the lesser goldfinch (*Spinus psaltria*), California towhee (*Melozone crissalis*), and

Bewick's wren (*Thyromaes bewickii*). Common urban-adapted mammal species that may occur here include the native raccoon (*Procyon lotor*) and nonnative house mouse (*Mus musculus*), Norway rat (*Rattus norvegicus*), black rat (*Rattus rattus*), and eastern gray squirrel (*Sciurus carolinensis*). The western fence lizard (*Sceloporus occidentalis*), a common native reptile, was also observed within landscaped areas here. California ground squirrels (*Otospermophilus beecheyi*) and their burrows are common in the ruderal grassland margins of the parcel, as well as on the adjacent grasslands at Shoreline Park.

Section 4. Special-Status Species and Sensitive Habitats

CEQA Guidelines Section 15065(a)(1) requires assessment of the effects of a project on species that are protected by state, federal, or local governments as "endangered, rare, or threatened"; such species are typically described as "special-status species". For the purpose of the environmental review of the project, both for the 2017 SEIR and for the current report, we define special-status species as described below.

For purposes of this analysis, "special-status" plants are considered plant species that meet at least one of the following criteria:

- Listed under Federal Endangered Species Act (FESA) as threatened, endangered, proposed threatened, proposed endangered, or a candidate species.
- Listed under the California Endangered Species Act (CESA) as threatened, endangered, rare, or a candidate species.
- Listed by the CNPS as CRPR 1A, 1B, 2, 3, or 4.

For purposes of this analysis, "special-status" animals are considered animal species that meet at least one of the following criteria:

- Listed under FESA as threatened, endangered, proposed threatened, proposed endangered, or a candidate species.
- Listed under CESA as threatened, endangered, or a candidate threatened or endangered species.
- Designated by the CDFW as a California species of special concern.
- Listed in the California Fish and Game Code as fully protected species (fully protected birds are provided in Section 3511, mammals in Section 4700, reptiles and amphibians in Section 5050, and fish in Section 5515).

Information concerning threatened, endangered, and other special-status species that occur in the Master Plan Area was collected from several sources and reviewed by H. T. Harvey & Associates biologists to determine whether any special-status species that were unrecorded in the Master Plan Area in 2017 have been recorded since then, and whether the legal/listing status of any species that occur in the Master Plan Area have changed since 2017 such that they have been recognized as a "special-status" species since 2017. Figure 6 depicts CNDDB records of special-status plant species in the general vicinity of the Master Plan Area and Figure 7 depicts CNDDB records of special-status animal species in the Master Plan Area.

North Bayshore Framework Master Plan

5-Mile Radius

CNDDB Records

Plants

Specific Location

Approximate Location

General Area

Terrestrial Communities

General Area

N 1.2 0.6 0 1.2

Miles

Area Not Subject To Redevelopment

Northern Coastal Salt Marsh

Congdon's tarplant

Point Reyes salty bird's-beak

Valley Oak Woodland

Valley Oak Woodland

California seablite

Point Reyes salty bird's-beak

round-headed Chinese-houses

lost thistle

northern slender pondweed

alkali milk-vetch

Hoover's button-celery

Congdon's tarplant

Congdon's tarplant

Congdon's tarplant

Hoover's button-celery

San Francisco collinsia

western leatherwood

fragrant fritillary

western leatherwood

two-fork clover

western leatherwood

Serpentine Bunchgrass

Jepson's coyote-thistle

Jepson's coyote-thistle

woodland woollythreads

western leatherwood

Franciscan onion

arcuate bush-mallow

arcuate bush-mallow

woodland woollythreads

Choris' popcornflower

western leatherwood

western leatherwood

western leatherwood

western leatherwood

western leatherwood

western leatherwood

western leatherwood

woodland woollythreads

Santa Cruz clover

chaparral ragwort

legenere

woodland woollythreads

woodland woollythreads

San Mateo woolly sunflower

woodland woollythreads

Northern Coastal Salt Marsh

Northern Coastal Salt Marsh

Contra Costa goldfields

Hoover's button-celery

Congdon's tarplant

alkali milk-vetch

California seablite

Congdon's tarplant

prostrate vernal pool navarretia

lesser saltscale

California alkali grass

San Joaquin spearscale

Contra Costa goldfields

Point Reyes salty bird's-beak

Hoover's button-celery

saline clover

alkali milk-vetch

arcuate bush-mallow

Congdon's tarplant

alkali milk-vetch

Congdon's tarplant

Hoover's button-celery

robust spineflower

Congdon's tarplant

Hall's bush-mallow

hairless popcornflower

saline clover

Mountain View

Sunnyvale

Santa Clara

Los Altos

Los Altos Hills

East Palo Alto

Menlo Park

Palo Alto

West Menlo Park

Stanford

Woodside

Portola Valley

N:\Projects4300\4360-01124\Reports\Bio Confirmation Report\Figure 6 CNDDB Plant Records.mxd

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Figure 6. CNDDB Plant Records

North Bayshore Framework Master Plan

Biological Resources Confirmation Report (4360-24)

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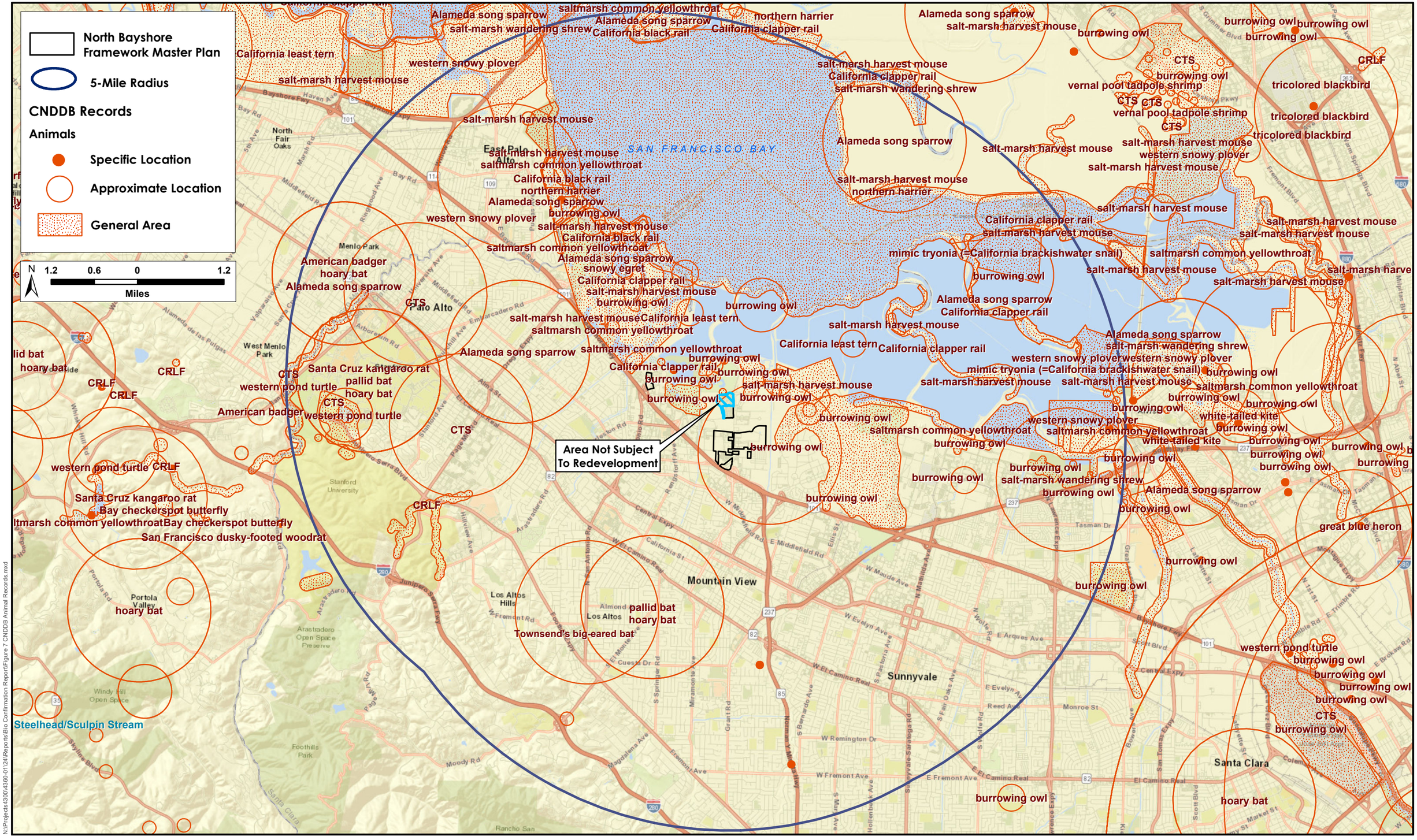

N:\Projects4300\4360-01\24\Reports\Bio Confirmation Report\Figure 7 CNDDB Animal Records.mxd

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Figure 7. CNDDB Animal Records
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Following is a discussion of special-status plants and animals that were addressed in the 2017 SEIR and whether there have been changes in potentially occurring special-status species since 2017 that could affect how Master Plan activities impact special-status species.

4.1 Special-Status Species Considered in the 2017 SEIR

4.1.1 Special-Status Plant Species

The 2017 SEIR identified the potential for only one special-status plant to occur within the NBPP area, Condon's tarplant, a CNPS 1B.1 listed plant. This plant was considered to have a low potential to occur anywhere in the NBPP area, including the portions of the Master Plan area that were included in the NBPP area, based on its general habitat requirements and known distribution. It was not detected during site visits in July and August of 2013 (H. T. Harvey & Associates 2013), nor during off-site surveys at the Charleston Road Bridge and La Avenida Bridge study areas in 2016. It has not been detected in the Master Plan area. As of the 2017 SEIR, the plant was known to occur in five locations at Shoreline Park north of the NBPP area (Figure 5).

4.1.2 Special-Status and Sensitive Animal Species

The 2017 SEIR identified the potential for a small number of special-status animals to occur in the NBPP area. These include three California bird species of special concern: burrowing owl, San Francisco common yellowthroat (*Geothlypis trichas sinuosa*), and loggerhead shrike (*Lanius ludovicianus*); and two California fully protected species: the white-tailed kite (*Elanus leucurus*) and peregrine falcon (*Falco peregrinus anatum*). The SEIR noted that burrowing owls were known to nest in Shoreline Park, an area of ongoing burrowing owl monitoring and management, and that biologists with the City of Mountain View reported regular foraging, wintering, and successful nesting in the park. Within the NBPP area, the SEIR indicated that this species had a low probability of nesting and/or roosting in the disked field at 2000 North Shoreline Blvd. and along the northern border of the Google Athletic and Recreational Fields but was otherwise not expected to occur in the NBPP area, including the portions of the Master Plan area that were included in the NBPP area. The 2017 SEIR determined that the San Francisco common yellowthroat nested in the NBPP area within the Charleston Retention Basin and Coast Casey Drainage Canal; that the loggerhead shrike and white-tailed kite could use trees and shrubs along the northern and eastern edges of the NBPP area for nesting because of their adjacency to open grassland and marsh foraging habitat; and that the peregrine falcon could potentially nest on electrical transmission towers or buildings (though the species was not known to nest in the NBPP area as of 2017).

One special-status reptile, the western pond turtle (*Actinemys marmorata*), a California species of special concern, was identified as having a low probability of occurring in the NBPP area and adjacent areas, such as Permanente and Stevens Creeks. The 2017 SEIR determined that several special-status fishes, including the federally threatened green sturgeon (*Acipenser medirostris*), state threatened longfin smelt (*Spirinchus thaleichthys*), and California species of special concern Central Valley fall-run Chinook salmon, had a low probability of occurrence in the lower, tidal reaches of Permanente and Stevens Creeks. The federally threatened Central

California Coast Steelhead (*Oncorhynchus mykiss*) is currently known to occur in Stevens Creek and could also occur in the lower, tidal reaches of Permanente Creek.

Finally, the SEIR noted that two bat species designated as California species of special concern, the western red bat (*Lasiurus blossevillii*) and pallid bat (*Antrozous pallidus*), may be present along Stevens Creek in low numbers as foragers and migrants or wintering individuals but are not expected to occur elsewhere in the NBPP area.

The species nesting in the egret rookery, which are the great egret (*Ardea alba*), snowy egret (*Egretta thula*), and black-crowned night-heron (*Nycticorax nycticorax*), are not technically "special-status" species according to the definitions provided above, as they do not meet any of the criteria for a special-status animal listed above. However, egret and heron rookeries are scarce, usually being concentrated in just a few locations within a region, and though these three species are not particularly rare, the number of individuals nesting in the South Bay is relatively low. As a result, the egret rookery was considered a sensitive biological resource in the 2017 SEIR.

4.2 Changes to Special-Status Species Since 2017

4.2.1 Changes in Occurrences of Special-Status Species in the NBPP Area[1]

None of the special-status plants or animals considered in the 2017 SEIR have undergone substantial changes in distribution or abundance within the NBPP area since 2017. Expansion of natural habitats around the Charleston Retention Basin has provided slightly more habitat for the San Francisco common yellowthroat around the basin, although encroachment of pre-existing willows into areas formerly dominated by cattails and bulrush since 2017 has reduced habitat suitability for yellowthroats. As a result, the San Francisco common yellowthroat is expected to occur in the Charleston Retention Basin, which barely overlaps the Master Plan Area, in about the same abundance as it did in 2017. No suitable breeding habitat for this species is present within the Master Plan Area itself.

A pair of white-tailed kites fledged young in 2019 from a nest in a landscaped area north of Charleston Road, between the north end of the egret rookery and the Charleston Retention Basin; this nest was within the Master Plan Area. Although this location is not at the immediate edge of expansive open foraging habitat as described in the 2017 SEIR, this location is not far from foraging areas along Stevens Creek. No suitable nesting habitat for the loggerhead shrike is present in the Master Plan Area away from trees and shrubs along the margins of the Shoreline Amphitheatre parcel (addressed in Section 4.3). In the Master Plan Area, peregrine falcons have a low potential to nest on electrical towers, though they are not currently known to do so.

No species that met the definition of "special-status" species in 2017, but that were not addressed in the 2017 SEIR, have been recorded in the NBPP area since then.

[1] Special-status species in the Amphitheatre Parcel are discussed in Section 4.3.

4.2.2 Monarch Butterfly

In 2017, the monarch butterfly had no listing or legal designation as a special-status species, and this species was not discussed in the 2017 SEIR. Since 2017, the monarch has been proposed for listing under FESA. On December 15, 2020, the U.S. Fish and Wildlife Service (USFWS) announced that listing the monarch butterfly as endangered or threatened under FESA was warranted but precluded by higher priority listing actions. Thus, the monarch butterfly is now a candidate species under FESA, and the USFWS will review its status annually until a listing decision is made. In H. T. Harvey's opinion, candidate species meet the CEQA definition of a "rare" species in that they may become endangered within the foreseeable future (CEQA Guidelines Section 15380), and therefore it is appropriate to evaluate impacts to candidate species under CEQA.

The monarch butterfly has historically occurred in the South Bay region, including the Master Plan area, primarily as a migrant, foraging for nectar on flowering plants. Although this species forms large nonbreeding aggregations (i.e., winter roosts) in locations with favorable climatic conditions, primarily along the coast, it has not been known to do so in Santa Clara County. Therefore, no large nonbreeding aggregations would occur in or near the Master Plan Area.

Monarchs lay their eggs on milkweed (*Asclepias* spp.) plants, which then serve as the larval hostplant. Native milkweed occurs at scattered locations in the South Bay, and some monarchs in the region breed on native milkweed. Those milkweed plants typically senesce (i.e., become dried and die) by fall, so under natural conditions, monarchs do not breed in the South Bay in winter (due to the absence of suitable hostplants) or form overwintering aggregations here.

However, landscape plantings within the Master Plan Area have recently incorporated nonnative tropical milkweed (*Asclepias curassavica*). That plant species' life cycle, coupled with artificial irrigation of the plants, allows it to serve as a suitable larval hostplant even in winter. During the winter of 2020-2021, a breeding population of monarch butterflies was documented using tropical milkweed within the Master Plan Area along Shorebird Way and Charleston Road (James et al. 2021). Breeding monarch butterflies of various life stages were also observed in the landscape vegetation along Charleston Way near Shorebird Way during the November 2021, reconnaissance surveys. Therefore, the monarch butterfly is present as a breeder in the Master Plan Area.

No other species whose listing/legal status has changed since 2017, and that were not already addressed in the 2017 SEIR, occur in the NBPP area.

4.2.3 Egret Rookery

The egret rookery on Shorebird Way south of Charleston Road is still centered in the same area where it was present in 2017, but it has expanded slightly since then. The SEIR maps the rookery along the east side of Shorebird Way, confined to the area roughly adjacent to and congruent with the front façade of the 1201 Charleston building (Figure 5). At the time of the November 2021 reconnaissance survey, the rookery had expanded northward approximately 75 feet and southward approximately 50 feet into adjacent London plane

trees along the axis of the original rookery. Additionally, it had expanded westward into London plane trees on the opposite side of the Shorebird Way, along the corner formed where the street turns westward, with a number of nests now present in trees within approximately 75 feet of the southeast corner of the 1215 Charleston building (Figure 8).

4.3 Special-Status Species on the Shoreline Amphitheatre Parcel

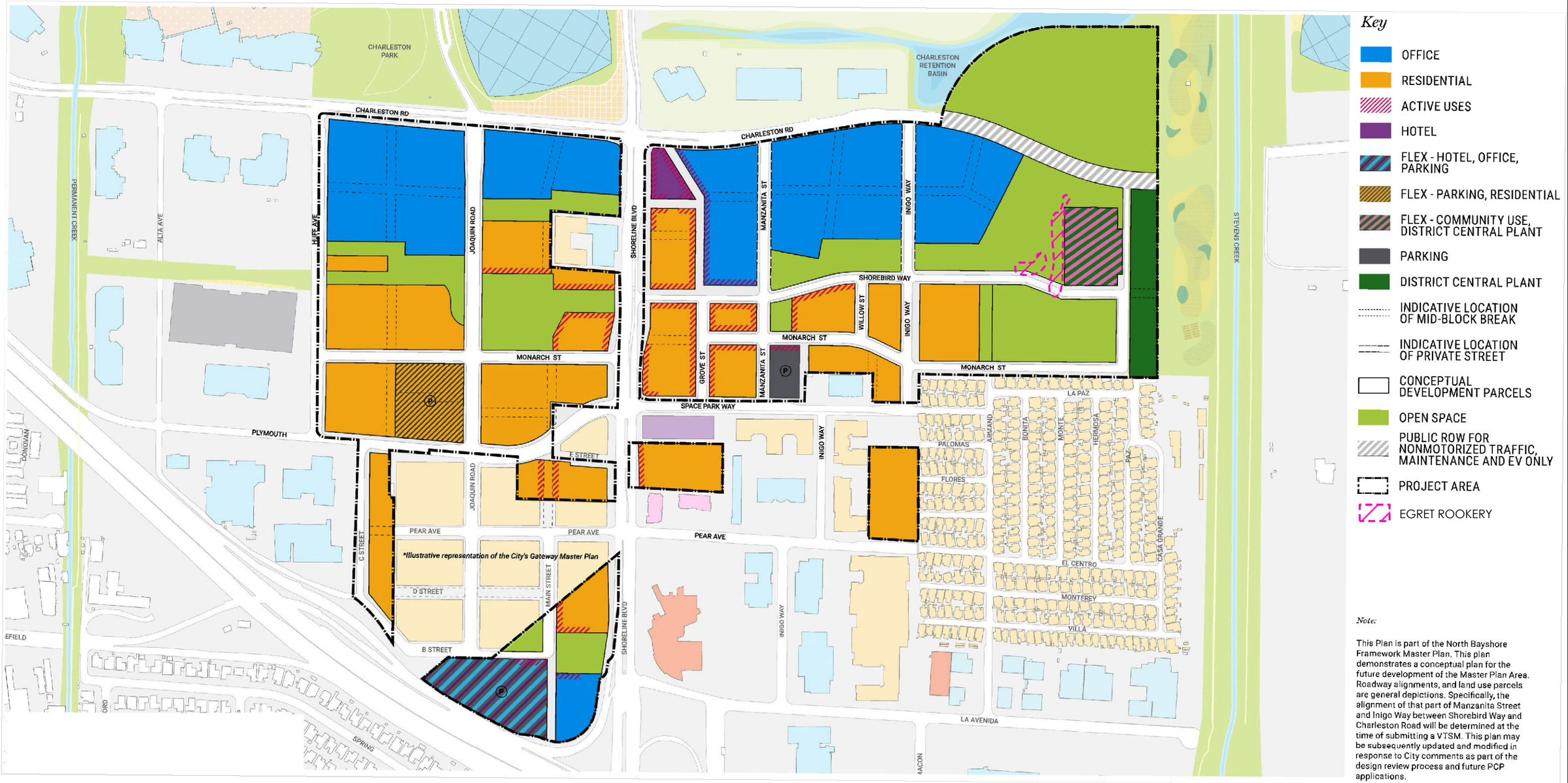
Based on the proximity of the NBPP Area to known occurrences of Congdon's tarplant and this species' ability to grow in disturbed habitats, the 2017 SEIR determined that potentially suitable habitat for Congdon's tarplant exists within the NBPP area. A biological resources report prepared in support of the 2014 EIR in 2013 specifically noted that this species has the potential to occur in ruderal grassland areas along the northern edge of the Plan Area where it abuts ruderal/grassland habitat associated with Shoreline Park (H. T. Harvey & Associates 2013). H. T. Harvey's November 2021 reconnaissance survey of the Master Plan area determined that the ruderal grassland on the Amphitheatre parcel provided potentially suitable habitat for this species and that Congdon's tarplant could potentially occur on the parcel.

An actively breeding population of burrowing owls is present in Shoreline Park, and habitats on Vista Slope, immediately west of the Amphitheatre parcel, are managed to provide suitable nesting, roosting, and foraging habitat for this species. Marginally suitable burrowing owl foraging and roosting habitat, and possibly nesting habitat, is present on the north, east, and western margins of the Shoreline Amphitheatre parcel in the form of ruderal grassland with abundant ground squirrel burrows. These areas do not provide high-quality owl habitat due to their narrow nature and frequent disturbance, but burrowing owls may occasionally be present on the parcel. Burrowing owls are more likely to occur (and more regularly) in the Vista Slope grasslands immediately to the west of the proposed parking structure.

It is possible that up to one pair of white-tailed kites and one pair of loggerhead shrikes could nest in trees or shrubs within or immediately adjacent to the Shoreline Amphitheatre parcel.

4.4 Sensitive and Regulated Habitats

Sensitive habitats and communities are habitats that are scarce or threatened. CDFW determines the level of rarity and imperilment of vegetation types and tracks sensitive communities in its Rarefind database (CNDDB 2021). Many aquatic, wetland, and riparian habitats are also protected under federal, state, or local regulations, and are generally subject to regulation, protection, or consideration by agencies such as the U. S. Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), and CDFW.



Key

- OFFICE
- RESIDENTIAL
- ACTIVE USES
- HOTEL
- FLEX - HOTEL, OFFICE, PARKING
- FLEX - PARKING, RESIDENTIAL
- FLEX - COMMUNITY USE, DISTRICT CENTRAL PLANT
- PARKING
- DISTRICT CENTRAL PLANT
- INDICATIVE LOCATION OF MID-BLOCK BREAK
- INDICATIVE LOCATION OF PRIVATE STREET
- CONCEPTUAL DEVELOPMENT PARCELS
- OPEN SPACE
- PUBLIC ROW FOR NONMOTORIZED TRAFFIC, MAINTENANCE AND EV ONLY
- PROJECT AREA
- EGRET ROOKERY

Note:

This Plan is part of the North Bayshore Framework Master Plan. This plan demonstrates a conceptual plan for the future development of the Master Plan Area. Roadway alignments, and land use parcels are general depictions. Specifically, the alignment of that part of Manzanita Street and Inigo Way between Shorebird Way and Charleston Road will be determined at the time of submitting a VTSM. This plan may be subsequently updated and modified in response to City comments as part of the design review process and future PCP applications.

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Background Source: North Bayshore Master Plan Framework, authored by Lendlease Silicon Valley Development, LLC for Google

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Figure 8. Egret Rookery
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4.4.1 Sensitive and Regulated Habitats in the 2017 SEIR

The SEIR identified wetland, aquatic, and riparian habitats in and along Permanente Creek, the Coast Casey Drainage Canal, and the Charleston Retention Basin in the NBPP area, and along Stevens Creek adjacent to the NBPP area, as sensitive habitats. These habitats are also regulated by the USACE (under Section 404 of the Clean Water Act [CWA]), the RWQCB (under Section 401 of the CWA and under the Porter-Cologne Water Quality Control Act), and the CDFW (under Section 1602 of the California Fish and Game Code). The artificial aquatic habitats ("artificial waterbodies" on Figure 5) are not expected to be regulated by these agencies due to their completely artificial nature and are not considered sensitive habitats. No other sensitive or regulated habitats were identified in the NBPP area by the 2017 SEIR.

4.4.2 Sensitive and Regulated Habitats—Current Conditions

The only sensitive or regulated habitats present in the Master Plan Area in 2017 consisted of narrow areas of riparian and wetland habitat where the Master Plan Area overlaps a portion of the Charleston Retention Basin, and these are currently the only such habitats in the Master Plan Area. As described in Section 3.2.1.2, the riparian habitat in the Charleston Retention Basin, immediately adjacent to (and barely overlapping) the Master Plan Area, was expanded by approximately 3.7 acres, and the basin's freshwater marsh was expanded by 0.13 acre (H. T. Harvey & Associates 2019), since the certification of the 2017 SEIR. No other changes to sensitive or regulated habitats in the NBPP area have occurred since 2017.

Section 5. Changes in Regulatory Setting

Biological resources on the project site are regulated by a number of federal, state, and local laws and ordinances. The vast majority of these regulations have not changed since the 2017 SEIR was certified, and they are not discussed in this section. While the 2017 SEIR's discussion of federal jurisdiction over aquatic features in the NBPP is accurate, it is worth noting that the rulemaking surrounding waters of the U.S. has been in flux over the past 5 years and will continue to evolve in the near future. Similarly, implementation of the federal Migratory Bird Treaty Act (MBTA) has been in flux since 2017. These changes are discussed in more detail below.

5.1 Federal Regulations

5.1.1 Clean Water Act

The CWA functions to maintain and restore the physical, chemical, and biological integrity of waters of the U.S., which include, but are not limited to, tributaries to traditionally navigable waters currently or historically used for interstate or foreign commerce, and adjacent wetlands. Historically, in non-tidal waters, USACE jurisdiction extends to the ordinary high water mark, which is defined in Title 33, CFR, Part 328.3. If there are wetlands adjacent to channelized features, the limits of USACE jurisdiction extend beyond the ordinary high water mark to the outer edges of the wetlands. Wetlands that are not adjacent to waters of the U.S. are termed "isolated wetlands" and, depending on the circumstances, may be subject to USACE jurisdiction. In tidal waters, USACE jurisdiction extends to the landward extent of vegetation associated with salt or brackish water or the high tide line. The high tide line is defined in 33 CFR Part 328.3 as "the line of intersection of the land with the water's surface at the maximum height reached by a rising tide." If there are wetlands adjacent to channelized features, the limits of USACE jurisdiction extend beyond the ordinary high water mark or high tide line to the outer edges of the wetlands. Section 404 of the CWA authorizes the USACE to issue permits to regulate the discharge of dredged or fill material into waters of the U.S.

Construction activities within jurisdictional waters are regulated by the USACE. The placement of fill into such waters must comply with permit requirements of the USACE. No USACE permit will be effective in the absence of Section 401 Water Quality Certification. The State Water Resources Control Board (SWRCB) is the state agency (together with the RWQCB) charged with implementing water quality certification in California.

On June 28, 2017, President Trump signed an executive order directing the U.S. Environmental Protection Agency (EPA) and USACE to implement the Clean Water Rule, arguing that the Clean Water Act applies solely to navigable waters. On June 23, 2020, the Navigable Waters Protection Rule (NWPR) went into effect. This Rule clarified that federal waters do not include ephemeral streams or features adjacent to such features. Ephemeral streams have no connection to groundwater and only convey flows during and shortly after precipitation events. They do not include intermittent streams with a seasonal connection to groundwater and seasonal flows that persist for several days or more following rain events or persist between winter storms.

However, on August 30, 2021 the U.S. District Court of Arizona issued an order vacating and remanding the NWPR rule. In light of this order, the EPA and USACE are now interpreting "Waters of the United States" consistent with the pre-2015 regulatory regime. This pre-2015 regulatory framework is consistent with the regulatory framework applied in the 2017 SEIR. On June 9, 2021, the EPA and the Department of the Army announced their intent to revise the definition of "waters of the United States." The forthcoming rule will propose to restore the regulations defining "waters of the United States" in place prior to 2015, updated to be consistent with relevant Supreme Court decisions.

In summary, although the implementation of the CWA has been in flux since 2017, the current regulatory regime surrounding the CWA is the same as described in the 2017 SEIR. The waters of the U.S. within the Master Plan area consisted of narrow areas of wetland habitat where the Master Plan Area overlaps a portion of the Charleston Retention Basin. The Master Plan does not propose to impact these areas, and therefore the Master Plan would not require any permits from the USACE.

5.1.2 Migratory Bird Treaty Act

The federal MBTA, 16 U.S.C. Section 703, prohibits killing, possessing, or trading of migratory birds except in accordance with regulations prescribed by the Secretary of the Interior. The MBTA protects whole birds, parts of birds, and bird eggs and nests, and it prohibits the possession of all nests of protected bird species whether they are active or inactive. An *active* nest is defined as having eggs or young, as described by the USFWS in its June 14, 2018 memorandum "Destruction and Relocation of Migratory Bird Nest Contents". Nest starts (nests that are under construction and do not yet contain eggs) and inactive nests are not protected from destruction.

In recent years, there have been changes to how the MBTA is implemented and enforced with respect to incidental take of protected birds. However, on October 4, 2021, the USFWS published a final rule revoking January 7, 2021 regulation that limited the scope of the MBTA. The final rule went into effect on December 3, 2021. With this final and formal revocation of the January 7, 2021, rule, the USFWS returns to implementing the MBTA as prohibiting incidental take and applying enforcement discretion, consistent with judicial precedent. Thus, current implementation and enforcement of the MBTA is consistent with regulations in effect at the time of the 2017 SEIR. Master Plan activities will be subject to the MBTA and will implement measures described in Section 5.3 of the NBPP to avoid impacts to nests of birds protected by the MBTA.

Section 6. Assessment of Master Plan Impacts

CEQA and the State CEQA Guidelines provide guidance in evaluating impacts of projects on biological resources and determining which impacts will be significant. The Act defines "significant effect on the environment" as "a substantial adverse change in the physical conditions which exist in the area affected by the proposed project." Appendix G of State CEQA Guidelines provides a checklist of other potential impacts to consider when analyzing the significance of project effects. The impacts listed in Appendix G (Chapter IV) may or may not be significant, depending on the level of the impact. For biological resources, these impacts include whether the project would:

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

B. "have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service"

C. "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"

D. "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"

E. "conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance"

F. "conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan"

We assessed impacts of Master Plan implementation on biological resources at the project level. These impacts were first evaluated to qualitatively describe how proposed project activities could impact biological resources. Impacts were then evaluated to determine whether they fall within the scope of impacts disclosed in the 2017 SEIR.

The 2017 SIER assessed the potential for sensitive biological resources to occur within the NBPP area and for future development efforts following the standards and guidelines established by the NBPP to result in impacts on existing biological resources. A summary of these standards and guidelines, the biological resource impacts associated with development conducted under these standards, and their significance under CEQA as disclosed in the SEIR, is discussed in the following sections.

6.1 North Bayshore Precise Plan Standards and Guidelines

The NBPP includes "standards" and "guidelines" that will direct future development in North Bayshore. Standards are requirements that must be followed by project applicants, unless an exception to a standard is otherwise noted. Guidelines are the City's expectations for how site, building, and infrastructure design and improvements should be designed. The portions of Google's North Bayshore Framework Master Plan that are within the NBPP area (i.e., all but the Shoreline Amphitheatre parking structure) are subject to NBPP standards and guidelines.

6.1.1 Habitat and Biological Resources Standards

6.1.1.1 Standards

1. **Habitat Overlay Zone.** All new construction proposed within an overlay zone shall comply with the habitat overlay zone (HOZ) standards. Figure 9 shows the approximate boundaries of each HOZ. Project applicants shall work with the City to determine the precise edge of habitat from which to measure the edge of the HOZ boundary.
2. **Burrowing Owl HOZ.** In Shoreline Park immediately north of the NBPP area, the City supports an ongoing burrowing owl monitoring and management program. The following are standards for new construction and renovations designed to protect and enhance the burrowing owl habitat adjacent to the North Bayshore area.
    a. Overlay District Boundaries. Boundaries shall be 250 feet as measured from the edge of the burrowing owl habitat.
    b. Building Placement in the HOZ. Any new building construction shall not be placed inside the burrowing owl HOZ, except where allowed based on the exceptions described below.
    c. Impervious surface. New impervious surfaces shall not be constructed closer to burrowing owl habitat than existing impervious surfaces, and no net increase in impervious surface shall occur within the HOZ.
    d. Landscape design. No new trees or shrubs capable of exceeding 15 feet in height that could provide perches for avian predators of burrowing owls, and no dense woody vegetation that could hide mammalian predators, shall be planted in the HOZ. New landscaping in the HOZ should consist of herbaceous plants.
    e. Low intensity outdoor lighting. Outdoor lighting shall be low intensity (LZ 2) and shall utilize full cutoff fixtures to reduce the amount of light reaching these sensitive habitats.
    f. Raptor perch deterrents adjacent to burrowing owl habitat. For any new construction in the HOZ, raptor perch deterrents shall be placed on the edges of building roofs or other structures (e.g., light poles or electrical towers) facing the burrowing owl habitat and with a clear view of burrowing owls.

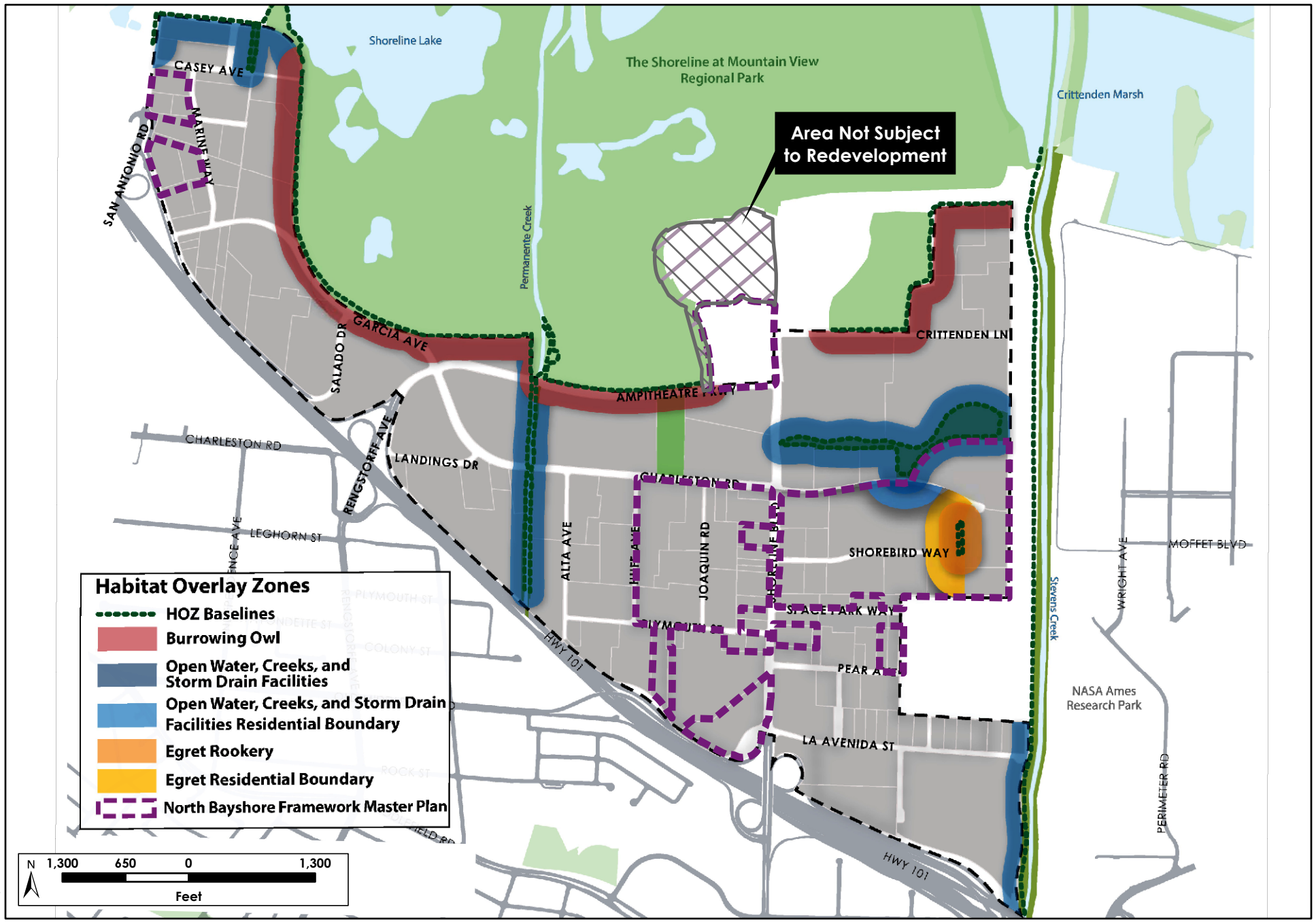

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Figure 9. Habitat Overlap Zone
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g. Construction near burrowing owl habitat. A preconstruction survey for burrowing owls shall be conducted by a qualified biologist according to the latest CDFW protocol prior to any external construction or large-scale/intensive landscaping, involving heavy equipment or loud noise occurring within the HOZ. If nesting burrowing owls are detected, the HOZ should be free from any external construction or large-scale/intensive landscaping, involving heavy equipment or loud noise until the young have fledged and are independent of the adults, or until monitoring by a qualified biologist determines the nest is no longer active. During the non-breeding season, the HOZ should be free from any external construction or large-scale/intensive landscaping, involving heavy equipment or loud noise around active burrows unless the procedures for monitoring burrowing owls during construction, as described by the Santa Clara Valley Habitat Plan, are implemented.

h. Rodenticides. No rodenticides will be used within the burrowing owl HOZ. Elsewhere in the NBPP area, rodenticide use should be limited to that necessary to protect infrastructure and human health, but otherwise, non-chemical means of rodent management should be used to avoid secondary poisoning of burrowing owls and other raptors.

3. **Egret Rookery HOZ.** A rookery (or nesting area) of great egrets, snowy egrets, and black-crowned night-herons exists along Shorebird Way. This rookery is regionally significant as one of the largest egret colonies in the South Bay and is an important natural resource. The following outlines standards for new construction and renovations to protect the rookery. The following standards shall apply unless the rookery has been inactive for a minimum of 5 years.

   a. HOZ boundary. The boundary shall be measured from the edge of the rookery. Buffer distances vary depending on the particular condition, as noted in (b) through (f) below.

   b. Building placement in the HOZ. New residential construction shall not be placed within 300 feet of the rookery, and new non-residential construction shall not be placed within 200 feet of the rookery, except where allowed based on the exceptions included in the NBPP.

   c. 1201 Charleston Road. The western building façade and roof of 1201 Charleston Road may not be modified in such a way that would reduce suitability of the rookery site for egrets. This includes adding new entrances, façade improvements, or other similar actions. A qualified biologist shall review any proposed building or site modifications and recommend strategies to the City to ensure there will be no adverse impacts to the egret rookery habitat.

   d. Landscape design. No vegetation other than turf, low-growing grasses, or other herbaceous plants may be planted within 100 feet of the rookery to minimize cover for mammalian predators and avoid entanglement in shrubs of young egrets that have fallen from nests.

   e. Low intensity outdoor lighting. Outdoor lighting within 200 feet of the rookery shall be low intensity (LZ 2) and shall utilize full cutoff fixtures to reduce the amount of light reaching these sensitive habitats.

   f. Construction near the egret colony. No external construction or large-scale/intensive landscaping involving heavy equipment or loud noise shall occur within 200 feet of the rookery during the March

1 to August 31 period unless a survey by a qualified biologist has demonstrated that, after 1 June, egrets have either not nested that year or that all young have fledged and departed the rookery area.

4. **Open Water, Creeks, and Storm Drain Facilities HOZ.** To protect habitat and preserve water quality, the following outlines standards for areas adjacent to the Coast Casey Forebay, Shoreline Lake, Stevens Creek, the Charleston Retention Basin, Permanente Creek, and the Coast Casey channel.

   a. HOZ boundary. The distances from each boundary are as follows:

      i. Coast Casey Forebay: 250 feet as measured from the boundary edge.
      ii. Charleston Retention Basin: 200 feet for non-residential land uses, and 300 feet for residential uses, as measured from the boundary edge.
      iii. Stevens Creek: 200 feet as measured from the inner edge of the top of the bank.
      iv. Permanente Creek and Coast Casey channel: 150 feet as measured from the inner edge of the top of the bank.
      v. Shoreline Lake: 200 feet as measured from the lake edge.

   b. Building placement in the HOZ. New construction shall not be placed inside the HOZ, except where allowed based on the exceptions included in the NBPP.

   c. Impervious surface. No new impervious surface shall be constructed closer to open water or creek habitat than existing impervious surfaces, and no net increase in impervious surface can occur within the HOZ associated with these areas.

   d. Bioswales. Bioswales shall be constructed for any new or reconstructed impervious surface draining directly toward creek areas to treat runoff before it enters a creek or open water.

   e. Landscape design. All woody vegetation planted in the HOZ shall consist of native species or non-natives that provide valuable resources (e.g., food, structure, or cover) for native wildlife.

   f. Low intensity outdoor lighting. Within the HOZ, outdoor lighting shall be of low intensity (LZ 2) and shall utilize full cutoff fixtures to reduce the amount of light reaching these sensitive habitats.

5. **Overlapping HOZ Zones.** When HOZ overlay zones overlap, new construction shall meet the most restrictive standards

6. **Conflicting provisions.** These standards apply to new construction in addition to all other applicable NPBB requirements. In the event of a conflict between the standards of this Chapter and other NPBB provisions, the City shall determine which standards apply.

7. **Exceptions to HOZ Requirements.** Project applicants in an HOZ may apply for an exception only from the building placement, impervious surface, and construction requirements.

   a. **Criteria for exceptions.** For an exception to be granted, the following criteria must be met:

      i. *Demonstration of constraint.* The applicant must demonstrate the proposed project cannot be accommodated on the parcel outside the HOZ boundary, and that the proposed project meets all other NBPP requirements.

ii. *Development placement.* Proposed development should be sited on the least sensitive portions of a site and may only encroach into the HOZ to implement the proposed project. Buildings should generally not be placed within 100 feet of sensitive habitat.

iii. *Ecological benefit.* The project applicant shall demonstrate how an ecological benefit, for the species or ecological community within the HOZ that will be impacted, can be achieved through habitat enhancements. Examples of habitat enhancements may include, but are not limited to, the provision of additional landscaping/open space, the removal of additional impervious surface in the HOZ, the expansion of bird safe design building standards, or additional enhancements specific to that particular species or ecological community either on the parcel where the exception is being granted or elsewhere in the North Bayshore in close proximity to the impacted species or ecological community that will result in a direct benefit to that species or ecological community.

iv. *Burrowing owls.* Due to the sensitivity of this species and the City's jurisdiction over its habitat area, exceptions to the burrowing owl HOZ should be granted only in limited circumstances.

b. **Habitat enhancement plan.** Project applicants must work with a qualified biologist to create and implement a habitat enhancement plan. At a minimum, the plan must include the following components.

i. *Statement.* A statement of the proposed enhancement measures.

ii. *Enhancement map.* Maps showing the relationships between existing habitats, the HOZ boundary, existing structures, existing impervious surface, and the proposed site plan.

iii. *Description of enhancements.* A list and description of the enhancements and an assessment of the ecological benefits of these enhancements.

iv. *Monitoring and management.* A description of the monitoring and management plan for the proposed list of enhancements.

c. **Process.** The habitat enhancement plan shall be reviewed by the City prior to final approval of the last discretionary entitlement for a project. The City Council will take final action of the exception request and the habitat enhancement plan, including any CEQA review.

6.1.1.2 Guidelines

1. **Minimize building height near sensitive areas.** No building taller than 55 feet should be constructed within 100 feet of any HOZ boundary to provide additional buffer between sensitive resources and taller buildings. This guideline applies to both residential and non-residential development.

6.1.2 Bird Safe Design Standards

6.1.2.1 Standards

1. **Bird Safe Design requirements.** All new non-residential construction, building additions, and/or building alterations in North Bayshore shall adhere to the following Bird Safe Design standards. All new residential construction within 300 feet of the Charleston Retention Basin shall adhere to these standards.

2. **Façade treatments.** No more than 10% of the surface area of a building's total exterior façade shall have untreated glazing between the ground and 60 feet above ground. Examples of bird-friendly glazing treatments include the use of opaque glass, the covering of clear glass surface with patterns, the use of paned glass with fenestration patterns, and the use of external screens over non-reflective glass.
3. **Occupancy sensors.** For non-residential development, occupancy sensors or other switch control devices shall be installed on non-emergency lights. These lights should be programmed to turn off during non-work hours and between 10:00 p.m. and sunrise.
4. **Funneling of flight paths.** New construction shall avoid the funneling of flight paths along buildings or trees towards a building façade.
5. **Skyways, walkways, or glass walls.** New construction and building additions (both residential and non-residential) shall avoid building glass skyways or walkways, freestanding glass walls, and transparent building corners. New construction and building additions should reduce glass at top of buildings, especially when incorporating a green roof into the design.
6. **Exceptions to the bird safe design requirements.** The City may waive or reduce any of the bird safe design requirements based on analysis by a qualified biologist indicating that proposed construction will not pose a collision hazard to birds.

6.1.2.2 Guidelines

The guidelines in this section include several bird collision guidelines and voluntary best management practices to promote bird safety including:

- Collision monitoring
- Window coverings
- Workstation lighting and window coverings
- Daytime maintenance, and
- Appropriate handling of food waste

6.1.3 Nesting Bird Protection Standards

6.1.3.1 Standards

1. **Pre-activity surveys.** If construction, building additions, building alterations, or removal of trees and shrubs occurs between February 1 and August 31, pre-activity surveys for nesting birds shall be conducted by a qualified biologist. These surveys shall be conducted no more than seven days prior to the initiation of these activities in any given area. During each survey, the biologist shall inspect all potential nesting habitats (e.g., trees, shrubs, and buildings) within the work area; within 300 feet of the work area for raptor nests; and within 100 feet of the work area for nests of non-raptors.

2. **Nest buffers.** If an active nest (i.e., a nest with eggs or young, or any completed raptor nest attended by adults) is found sufficiently close to work areas to be disturbed by these activities, the biologist, in coordination with the CDFW, shall determine the extent of a disturbance-free buffer zone to be established around the nest. Typical buffer zones are 300 feet for raptors and 100 feet for non-raptors. However, the biologist, in consultation with the CDFW, may determine that a reduced buffer is appropriate in some instances. For example, topography, buildings, or vegetation that screen a nest from the work area, or very high existing levels of disturbance (indicating the birds' tolerance to high levels of human activity), may indicate that a reduced buffer is appropriate. No new activities (i.e., work-related activities that were not ongoing when the nest was established) will occur within the buffer as long as the nest is active.

6.1.3.2 Guidelines

1. **Avoidance of the nesting season.** If construction, building additions, building alterations, or removal of trees and shrubs is scheduled to take place outside the nesting season, impacts to protected nesting birds would be avoided. The nesting season for most birds in the North Bayshore area extends from February 1 through August 31. Work activities performed during the September 1 to January 31 period would not be subject to the pre-activity surveys and nest buffers described above.

6.1.4 Landscape Design Standards

6.1.4.1 Standards

1. **Invasive species planting.** Planting invasive species identified on the California Invasive Plant Council list is prohibited.
2. **Control and manage invasive plants found on site.** Best management practices (BMPs) shall be implemented during construction and subsequent site maintenance to manage and control invasive species found on site. BMPs may include clearing infested areas prior to construction, planting native seed from a local source, and avoiding seed dispersal through construction equipment use.
3. **Planting.** During new construction and landscape renovations, the total area of high-water- use plants (e.g., turf and water features) shall not exceed 25 percent of the landscape area. Xeriscaping, low-water-use plants, native plants, and/or salt-tolerant plants compatible with recycled water use for the remainder of the landscaped areas. Non-native plants may only be used if they support habitat useful to native wildlife.
4. **Protect special-status plants.** If State or Federal special-status plants are found onsite such as Congdon's tarplant, the project applicant shall work with the CDFW to determine the appropriate protocol to survey, protect, and/or manage special-status species.

6.1.4.2 Guidelines

The guidelines in this section include landscape design practices, including:

- Removal of non-native plants,
- Preserving native plants,
- Configuring landscaping in multi-layered clusters,
- Operation policies restricting herbicide and pesticide use are encouraged, and
- Using vegetation for building shading.

6.2 2017 SEIR Impacts and Significance Determinations

Table 1 summarizes the 2017 SEIR's findings regarding the significance of potential impacts on biological resources associated with development consistent with the NBPP. Table 1 only includes impacts that are potentially applicable to the North Bayshore Framework Master Plan. Impacts BIO-10, 11, and 12, which focused on impacts of construction of new bridges over Stevens Creek, are not applicable to the Master Plan and are omitted from the table.

Table 1. 2017 SEIR Findings of Significance

Impact	Significance Before Mitigation	Mitigation	Significance After Mitigation
BIO-1: Special-status plants are unlikely to occur in the Precise Plan Area. Future development projects in the Precise Plan Area must adhere to the Landscape Design guidelines of the Precise Plan. Accordingly, implementation of the Precise Plan would not result in a significant impact to special- status plant species.	Less Than Significant	No Mitigation Required	Less Than Significant
BIO-2: Residential land uses included in the amended Precise Plan are expected to increase human activity, domestic pet activity, and visits to Shoreline Park which, over time, may result in impacts to the burrowing owl population at Shoreline Park. With implementation of the applicable Precise Plan standards and guidelines by the City of Mountain View and future project applicants, the impacts from Precise Plan activities on burrowing owls would be less than significant.	Less Than Significant	No Mitigation Required	Less Than Significant
BIO-3: Implementation of the Precise Plan, including HOZ standards and guidelines to protect biological resources, would not result in impacts to other special-status animal species occurring in the project area.	Less Than Significant	No Mitigation Required	Less Than Significant

Impact	Significance Before Mitigation	Mitigation	Significance After Mitigation
BIO-4: Implementation of the Precise Plan would not result in impacts to special-status fish species.	Less Than Significant	No Mitigation Required	Less Than Significant
BIO-5: Future development projects in the Precise Plan Area must be consistent with the Nesting Bird Protection standards of the Precise Plan. Implementation of the Precise Plan would not result in a significant impact to nesting birds.	Less Than Significant	No Mitigation Required	Less Than Significant
BIO-6: Future development projects in the Precise Plan Area must be consistent with the Bird Safe Design standards of the Precise Plan. Implementation of the Precise Plan would not result in a significant impact to birds due to collisions.	Less Than Significant	No Mitigation Required	Less Than Significant
BIO-7: With the implementation of the Open Water, Creeks, and Storm Drain Facilities HOZ, Habitat Enhancements and Landscape Design Guidelines, the Precise Plan would have a less than significant impact on aquatic habitats.	Less Than Significant	No Mitigation Required	Less Than Significant
BIO-8: With implementation of the egret rookery HOZ and Bird Safe Design guidelines for future development measures, the Precise Plan would have a less than significant impact on important nursery sites in the area.	Less Than Significant	No Mitigation Required	Less Than Significant
BIO-9: All future projects within the Precise Plan Area, as well as planned infrastructure and traffic improvements, will be required to comply with the City of Mountain View Heritage tree ordinance as a standard condition of approval.	Less Than Significant	No Mitigation Required	Less Than Significant
C-BIO-1: The cumulative projects, including the proposed project, would not result in significant cumulative impacts to special-status species, nesting birds, and migratory birds.	Less Than Significant	No Mitigation Required	Less Than Significant
C-BIO-2: The cumulative projects, including the amended North Bayshore Precise Plan, would not result in significant cumulative impacts from indirect nitrogen deposition**.**	Less Than Significant	No Mitigation Required	Less Than Significant
C-BIO-3: The amended North Bayshore Precise Plan, together with the 2030 General Plan buildout, would not result in significant cumulative loss of Heritage trees.	Less Than Significant	No Mitigation Required	Less Than Significant

6.3 Master Plan Impacts and Mitigation Measures

Following is a summary of impacts on biological resources (ordered according to the CEQA significance criteria for biological resources) that are expected to result from Master Plan implementation, as well as a discussion

of whether those impacts are covered by the 2017 SEIR and any additional mitigation measures necessary to reduce impacts to less-than-significant levels under CEQA.

6.3.1 Impacts on Special-Status Species: Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS

6.3.1.1 Impacts on Congdon's Tarplant (Less Than Significant with Mitigation)

No suitable habitat for Congdon's tarplant is present in the Master Plan Area away from the Shoreline Amphitheatre parcel, but suitable ruderal habitat is present, and the species could potentially occur, on the Shoreline Amphitheatre parcel. If the species is present on that parcel, individual plants could be impacted by construction of the parking structure. Plants could be killed, or their health could be impaired, reducing their survival and reproductive success. That parcel was not included in the NBPP, and therefore impacts on Congdon's tarplants from construction of that parking structure would not be covered by the 2017 SEIR. Implementation of Mitigation Measure BIO-A, a mitigation measure specific to the Master Plan (rather than coming from the 2017 SEIR), would reduce impacts of Master Plan activities on Congdon's tarplant to less-than-significant levels.

> **Mitigation Measure BIO-A:** Within 2 years prior to disturbance of ruderal habitat for construction of the Shoreline Amphitheatre parking structure, a qualified biologist will conduct a survey for Congdon's tarplant during the appropriate season (e.g., late summer and fall), at a time when the species is detectable at nearby reference sites. The survey will cover all areas within, and within 50 feet of, the construction area for the parking structure. If Congdon's tarplant is found in the survey area, the applicant will comply with NBPP Landscape Design Standard 4 to protect and manage Congdon's tarplant. Management measures would be developed in coordination with the CDFW and may include establishment of a new population or enhancement of existing populations at Shoreline Park (in coordination with the City of Mountain View).

6.3.1.2 Impacts on the Monarch Butterfly (Less Than Significant with Mitigation)

Because the monarch butterfly was not considered a special-status species in 2017, impacts of NBPP activities on this species were not addressed in the NBPP or the 2017 SEIR. Thus, any impacts of Master Plan implementation on the monarch butterfly would not have been covered by the 2017 SEIR.

As described in Section 4.2.2, monarchs have recently been detected breeding in winter in the NBPP area on nonnative, tropical milkweeds in landscape plantings in the Master Plan Area. If construction associated with the Master Plan removes milkweeds when monarch butterflies are present, monarch eggs, larvae, or pupae could be lost. The NBPP defines a number of "Implementation Actions" that are needed to achieve the NBPP's vision. One of these implementation actions is the preparation of a planting palette providing recommendations for native plantings and for non-natives with high wildlife habitat value. The completed plant palette (H. T. Harvey & Associates 2015) defines a number of planting zones, including urban landscape; open water, creeks,

and storm drain facilities HOZ; burrowing owl HOZ; and egret rookery HOZ, all of which occur to some extent within the Master Plan area. All but the urban landscape zones are required by the plan to use 100% native plantings; plantings in the urban landscape zone, which comprise the majority of the Master Plan area, are required to be 80% native species. If nonnative milkweeds continue to be included in among the 20% of allowable nonnative plants in the urban landscape zone, impacts to monarch butterflies could occur.

Until recently, monarch butterflies were not known to breed in the Bay Area during the winter months, and would normally be expected to be present only in coastal nonbreeding overwintering aggregations. James et al. (2021), however, documented breeding in several locations in the Master Plan region during the winter of 2020-2021, including breeding in landscape vegetation along Shorebird Way and Charleston Road, within the Master Plan Area. This breeding was facilitated by the use of nonnative, tropical milkweeds in landscape vegetation; due to irrigation, these milkweeds persist during the winter months when native milkweeds in more natural, non-irrigated settings die back and are unavailable for oviposition. The implications of winter breeding by monarchs in the NBPP area are complex, and not fully understood. For example, winter breeding might be viewed as beneficial to the monarch population by increasing population size. However, several potentially deleterious effects of such winter breeding are suspected (Crone and Schultz 2021). These potential effects include disruption of migration (potentially leading to the loss of the migratory instinct that monarchs have under natural circumstances). If monarchs find suitable breeding habitat in winter and do not migrate to coastal wintering roosts, they could face higher winter mortality, especially if conditions in the winter breeding areas become colder or wetter than in the areas where they might otherwise winter. Year-round breeding by monarchs (e.g., if monarchs were to breed throughout the year, using irrigated milkweed in landscaped areas) could also result in higher parasite loads compared to migratory populations. In migratory populations, the absence of monarchs from a given area during at least a portion of the year (i.e., while they are at winter roosts) causes a decline in parasites that infect monarch larvae. If monarchs breed in the NBPP year-round, larvae would be present year-round and there would never be a period in which the parasite loads would decline. High parasite loads are linked to lower migration success and lower reproductive capacities. Thus, if monarchs were to breed in the NBPP area year-round using irrigated and/or nonnative milkweed, this could lead to a loss of the migratory portion of the species' life cycle and could potentially cause wintering populations to become a demographic sink (Crone and Schultz 2021). Currently, the Xerces Society and the USFWS oppose planting nonnative milkweeds within 5 miles of monarch overwintering sites in California, in order to preserve the species' migratory behavior and avoid other deleterious effects (J. Terry, pers. comm.). Thus, the continued planting of nonnative milkweed, and irrigation of milkweed so that it does not senesce in fall, could result in a significant impact on the monarch butterfly. Implementation of Mitigation Measures BIO-B and BIO-C, mitigation measures specific to the Master Plan (rather than coming from the 2017 SEIR), would reduce impacts of Master Plan implementation on monarchs to less-than-significant levels.

> **Mitigation Measure BIO-B:** Nonnative milkweeds shall not be included in Master Plan landscaping. Although native milkweeds are encouraged in landscaping, they shall not be irrigated after August to allow those plants to senesce so that monarchs do not lay eggs on those plants too late in fall, and so that no

suitable hostplants are present in late fall that might encourage monarchs to attempt winter breeding instead of migrating to coastal aggregation sites.

Mitigation Measure BIO-C: Within 2 weeks prior to any clearing, construction, or maintenance in landscaped areas that provide milkweeds that have not completely senesced, a qualified biologist will survey those milkweed plants for monarch butterfly eggs, larvae, or pupae. If the plants do not support monarch eggs, larvae, or pupae, the qualified biologist will remove those plants immediately (during the survey) to prevent monarchs from laying eggs between the time of the survey and initiation of impacts. If any eggs, larvae, or pupae are detected within the survey area, then impacts to the plants supporting those individuals will be delayed until the emergence of those individual butterflies as adults. If such a delay is infeasible, the applicant will coordinate with the USFWS regarding recommendations. For example, larvae could be relocated to milkweeds outside the impact area, if those milkweeds are not already occupied by monarch eggs or larvae. Alternatively, monarch butterflies could be raised in captivity and released (with USFWS approval).[2,3]

6.3.1.3 Impacts on Burrowing Owls (Less Than Significant with Mitigation)

No suitable habitat for the burrowing owl is present in the Master Plan Area except on the Shoreline Amphitheatre parcel, which is outside the NBPP area. As discussed in Impact BIO-2 of the 2017 SEIR, implementation of applicable NBPP standards and guidelines for Master Plan activities within the NBPP area would reduce indirect impacts on burrowing owls (e.g., from increased human activity, domestic pet activity, and visits to Shoreline Park) to less-than-significant levels, and implementation of Master Plan activities within the NBPP area would not result in impacts on burrowing owls exceeding those assessed in the 2017 SEIR.

However, at the Shoreline Amphitheatre parcel, ruderal habitat at the margins of the existing parking lot provides at least marginally suitable foraging and roosting, and possibly nesting, habitat. In addition, burrowing owls could occur on the portion of Vista Slope immediately west of the Shoreline Amphitheatre parcel. This parcel is outside the NBPP area, and thus, effects of development of this parcel on burrowing owls were not analyzed in the 2017 SEIR.

Construction of the parking structure would result in the loss of ruderal areas supporting California ground squirrel burrows, within and surrounding the existing parking lot. Although it is possible that burrowing owls could use these areas occasionally, they have not been recorded doing so, and these areas do not provide high-quality habitat for the species as in adjacent areas of Vista Slope, and other burrowing owl habitat areas at Shoreline Park. Therefore, based on our November 2021 field assessment of habitat quality on the Shoreline Amphitheatre parcel, these ruderal areas do not support habitat necessary for maintenance of local and regional burrowing owl populations, and loss of these ruderal areas in and around the existing parking lot will not result in a significant impact on burrowing owl habitat. Nevertheless, if owls are present in these areas when

[2] https://www.saveourmonarchs.org/how-to-raise-monarch-butterflies-at-home.html
[3] https://monarchbutterflylifecycle.com/blogs/raise/how-to-raise-monarch-butterflies-inside

construction occurs, they could be injured or killed, and occupied burrows could be lost, in the absence of protective measures. If owls are nesting within 250 feet of construction, construction activities could disturb owls to the point of abandonment of their burrows, possibly including nests with eggs or young. Direct impacts on burrowing owls, or indirect disturbance that causes abandonment of an active nest, would be a significant impact.

Although the Amphitheatre parking structure is outside the NBPP area, compliance with the Habitats and Biological Resources Standard 2 (Burrowing Owl HOZ) of the NBPP would reduce impacts on burrowing owls from construction of the parking structure, similar to those disclosed in 2017 SEIR impact BIO-2, to less-than-significant levels. Conversely, conflicts between the design and location of the Amphitheatre parking structure and the NBPP Burrowing Owl HOZ standards could result in significant impacts on burrowing owls using Vista Slope, adjacent to the Amphitheatre parcel. Standard 2 includes preconstruction surveys and buffers around burrowing owl burrows. The building's footprint will be at least 250 feet from suitable burrowing owl habitat on Vista Slope in Shoreline Park; the edge of the suitable burrowing owl habitat on Vista Slope is analogous to the baseline of the Burrowing Owl HOZ, had the Amphitheatre parcel been included in the NBPP area. Therefore, the building will not encroach within 250 feet of suitable burrowing owl habitat on Vista Slope and will not impact owls' use of habitat on Vista Slope. Preliminary plans suggest that the garage will have a maximum height of 90 feet as measured from Level 1 of the garage or 67 feet as measured from street level. Thus, the garage may exceed the 55-foot guideline limit on all buildings within 100 feet of an HOZ boundary, which was used in the NBPP, and is appropriate in the case of the Shoreline Amphitheatre parking structure, as a limit to ensure that impacts from such buildings on burrowing owls in nearby habitat would be less than significant. The final design height will be reviewed in the context of the NBPP guideline regarding 55-foot building height maximum within 100 feet of an HOZ boundary – applying this NBPP Burrowing Owl HOZ guideline to the Amphitheatre parking structure, even though it is outside the NBPP area – to determine if on-site design treatments should be implemented.

Implementation of Mitigation Measure BIO-D, a mitigation measure specific to the Master Plan (rather than coming from the 2017 SEIR), would reduce impacts on burrowing owls from Master Plan implementation to less-than-significant levels.

> **Mitigation Measure BIO-D:** In the design and construction of the Shoreline Amphitheatre parking structure, the applicant shall comply with the NBPP Habitats and Biological Resources Standard 2 (Burrowing Owl HOZ) requirements for outdoor lighting, perch deterrents, avoidance during construction, and rodenticide use. Burrowing Owl HOZ requirements for landscape design shall be followed to the extent that they do not conflict with other NBPP policies and/or other City requirements related to parking areas.

6.3.1.4 Impacts on Other Special-Status Species (Less Than Significant)

In the ways discussed in Impacts BIO-3 and BIO-5 of the 2017 SEIR, implementation of the Master Plan may result in impacts on individuals and habitat of the loggerhead shrike and white-tailed kite (primarily associated

with the Shoreline Amphitheatre parking structure) and could result in disturbance of nesting San Francisco common yellowthroats (e.g., from demolition of existing structures near the Charleston Retention Basin). The probability of impacts on nesting peregrine falcons is very low but cannot be ruled out.

Master Plan activities within the NBPP area will comply with Nesting Bird Protection Standards; thus, impacts on nesting birds within the NBPP area will be less than significant and would not result in impacts exceeding those assessed in the 2017 SEIR. Although the Shoreline Amphitheatre parking structure was not included in the NBPP or its 2017 SEIR, the type of potential impacts to shrikes, kites, and other nesting birds from that Master Plan component would be the same as described in the 2017 SEIR. No suitable nesting habitat for peregrine falcons is present close enough to the Shoreline Amphitheatre parking structure area that construction of this Master Plan component would impact that species. Because no more than one pair of shrikes or kites could nest in the Shoreline Amphitheatre parking structure area, that Master Plan component would not result in substantial impacts to those species (e.g., a substantive reduction in regional populations). No other special-status species (e.g., special-status turtles, fish, or bats) would be impacted by the Master Plan.

Therefore, impacts on other special-status species (aside from Congdon's tarplant and burrowing owl) from implementation of the Shoreline Amphitheatre parking structure would be less than significant, and will not result in any significant impacts beyond those described in the 2017 SEIR.

6.3.1.5 Impacts due to Potential Bird Collisions from NBPP Activities (Less Than Significant)

As described in Impact BIO-6 of the 2017 SEIR, construction in the NBPP area could result in avian collisions with new or modified buildings. However, the NBPP includes bird safe design standards that must be implemented with all new construction, building additions, and/or building alterations. Master Plan components within the NBPP area will comply with these standards to ensure that impacts related to bird collisions are less than significant.

The Shoreline Amphitheatre parking structure is not within the NBPP area and therefore is not obligated to comply with NBPP bird safe design standards. This parking structure would incorporate NBPP bird safe design standards if they were necessary to ensure less-than-significant impacts. However, that parking structure will not include heavily glazed facades, up-lighting, or other features that could result in substantial numbers of bird collisions.

Because Master Plan components within the NBPP area will comply with NBPP bird safe design standards, and the parking structure proposed on the Shoreline Amphitheatre parcel will not result in substantial numbers of bird collisions, impacts due to potential bird collisions will be less than significant and will not result in impacts beyond those described in the 2017 SEIR.

6.3.2 Impacts on Sensitive Communities: Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the CDFW or USFWS (Less Than Significant)

The only riparian habitats within the Master Plan Area are in a narrow portion of the Charleston Retention Basin that barely overlaps the Master Plan area. This portion of the Master Plan area that overlaps the Charleston Retention Basin is within the NBPP area and therefore was evaluated in the 2017 SEIR. Impact BIO-7 of the 2017 SEIR described potential impacts of NBPP activities on riparian habitats and discussed such habitats in the Charleston Retention Basin. The Master Plan does not propose any impacts on riparian habitats. Rather, the Master Plan proposes open space immediately adjacent to the basin; replacing existing buildings and hardscape with open space uses will enhance habitat conditions in the basin, relative to existing conditions.

The HOZ for riparian habitat in the Charleston Retention basin requires that no new construction be placed inside the HOZ, which is 200 feet for non-residential land uses and 300 feet for residential uses, as measured from the edge of the basin. Although the Master Plan proposes office uses across Charleston Road from, and well within 200 feet of, the basin, this office development will occur in areas that are already developed, and therefore will consist of new construction atop previously developed areas.

Because the Master Plan will comply with NBPP standards for habitats associated with the Charleston Retention Basin (Habitat and Biological Resources Standard 4), and because the Master Plan's creation of extensive new open space adjacent to the basin will enhance habitat conditions associated with the basin, Master Plan impacts on riparian habitats will be less than significant and will not result in any impacts beyond those described in the 2017 SEIR.

6.3.3 Impacts on Wetlands: 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 (Less Than Significant)

The only wetlands within the Master Plan Area are in a narrow portion of the Charleston Retention Basin that barely overlaps the Master Plan Area. This portion of the Master Plan area that overlaps the Charleston Retention Basin is within the NBPP area and therefore was evaluated in the 2017 SEIR. Impact BIO-7 of the 2017 SEIR described potential impacts of NBPP activities on wetland habitats and discussed such habitats in the Charleston Retention Basin. The Master Plan does not propose any impacts on wetland habitats. As described in Section 6.3.2, adherence to Habitat and Biological Resources Standard 4 will maintain impacts on wetlands at Charleston Retention Basin within the scope of impacts described in the 2017 SEIR, which will be less than significant, and will not result in any impacts beyond those described in the 2017 SEIR. Inclusion of the Amphitheatre parcel in the Master Plan area does not alter this conclusion, as no wetlands or other regulated habitats are present on that parcel.

6.3.4 Impacts on Wildlife Movement: 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

6.3.4.1 Impacts on Wildlife Movement (Less Than Significant)

As described in Impact BIO-8 of the 2017 SEIR, the NBPP area is not a particularly important area for movement by non-flying wildlife, and it does not contain any high-quality corridors allowing dispersal of such animals through the area. As a result, impacts of Master Plan activities on wildlife movement will be less than significant, and will not result in significant impacts beyond those described in the 2017 SEIR. Inclusion of the Amphitheatre parcel in the Master Plan area does not alter this conclusion, as that parcel also does not contain any high-quality corridors or habitats particularly valuable for animal dispersal or migration.

6.3.4.2 Impacts on Egret Rookery (Less Than Significant)

As described in Impact BIO-8 of the 2017 SEIR, the only feature within the NBPP area that is considered an important nursery site is the egret rookery along Shorebird Way. Google is proposing to protect this rookery by maintaining areas north, west, and south of the rookery as open space. The buildings at 1201 Charleston Road would remain, in part because the egrets and herons have selected that location as a rookery site with the building present, and it is unknown whether removal of that building might cause the birds to relocate.

The rookery has expanded since the 2017 SEIR was certified. Habitats and Biological Resources Standard 3b (Egret Rookery HOZ) requires that new residential construction shall not be placed within 300 feet of the rookery. Since 2017, the colony has expanded such that the southwestern margin of the colony falls within approximately 200 feet of the margin of the parcel where residential development is planned southwest of the rookery (see Figure 8). The HOZs in the NBPP were intended to apply based on the locations of sensitive biological resources as of 2017, rather than being dynamic zones that might expand or contract over time. As a result, the Master Plan's proposed land uses and development areas are consistent with the geographic extent of the HOZ as it was mapped by the NBPP in 2017.

However, the expansion of the egret rookery represents new information that must be considered during CEQA analysis of the Master Plan so that potential impacts of Master Plan activities are evaluated in the context of existing conditions. As described in the NBPP, HOZ buffers for some biological resources were greater for residential land uses than for non-residential uses because of the higher numbers of people and pets present at night and throughout the week in residential areas. For that reason, the NBPP prescribed a 300-foot buffer from the rookery for new residential land uses. However, the nesting egrets and herons are already habituated to a high level of human activity. Although the segment of Shorebird Way immediately adjacent to the rookery is closed to vehicular traffic during the breeding season, pedestrian use of this portion of the road is high; the adjacent commercial/office buildings are still in use; and many people visit the rookery specifically to view these birds. As a result, these birds are not averse to human activity. In addition, the land around the rookery will be largely maintained as open space, providing a buffer between the rookery and new residential development. As

a result, residential activity as close as 200 feet from the nearest nests on the outskirts of the colony is not expected to adversely affect the rookery. Also, the residential area would still be at least 300 feet from the core of the rookery, which is still located where it was in 2017. Therefore, impacts on the rookery of having residential development as close as 200 feet from the nearest nests will be less than significant. With compliance with all NBPP standards for the rookery other than the reduced buffer between residential development and egret/heron nests, implementation of the Master Plan would not result in significant impacts to nesting egrets or herons and will not result in significant impacts beyond those described in the 2017 SEIR.

6.3.5 Impacts due to Conflicts with Local Policies: Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance (Less than Significant with Mitigation)

Implementation of the Master Plan has potential to result in the removal of trees protected by City ordinances protecting heritage trees, in the same ways described in Impact BIO-9 of the 2017 SEIR. As described in that impact, all future projects within the NBPP area will be required to comply with the City of Mountain View heritage tree ordinance as a standard condition of approval. Therefore, the Master Plan will not conflict with local policies related to tree protection.

HOZ standards from the NBPP are also local land use policies protecting biological resources, and therefore, analysis of the Master Plan's consistency with those standards is necessary to evaluate impacts due to conflicts with local policies. As described in Section 6.3.1.3, the initial design of the Shoreline Amphitheatre parking structure will comply with Habitats and Biological Resources Standard 2 (Burrowing Owl HOZ). However, preliminary plans suggest that the garage will have a maximum height of 90 feet as measured from Level 1 of the garage or 67 feet as measured from street level, and thus may exceed the 55-foot guideline limit on all buildings within 100 feet of an HOZ boundary. The final design height will be reviewed in the context of the NBPP guideline regarding 55-foot building height maximum within 100 feet of an HOZ boundary to determine if on-site design treatments should be implemented. Implementation of Mitigation Measure BIO-D would reduce impacts on burrowing owls from Master Plan activities, and therefore reduce impacts related to local policies for burrowing owls, to less-than-significant levels.

As discussed in Section 6.3.4.2, the Master Plan is not entirely consistent with the egret/heron rookery HOZ. The rookery has expanded since the NBPP was approved in 2017, and new residential development is proposed to be constructed as close as approximately 200 feet from the nearest nests in the rookery, whereas the HOZ buffer for residential land uses specified in the NBPP is 300 feet. However, for reasons discussed in Section 6.3.4.2, impacts on the rookery from having residential development as close as 200 feet away will be less than significant, and therefore there is no significant impact related to conflicts with local policies protecting the rookery.

For all these reasons, the Master Plan will not result in any impacts related to conflicts with local policies beyond those described in the 2017 SEIR.

6.3.6 Impact due to Conflicts with an Adopted Habitat Conservation Plan: Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan (Less Than Significant)

As described in Impact LU-4 of the 2017 SEIR, the NBPP is not covered by or subject to an adopted habitat conservation plan or natural community conservation plan. Similarly, the Shoreline Amphitheatre parcel, which is not part of the NBPP, is not covered by or subject to an adopted habitat conservation plan or natural community conservation plan. Therefore, the Master Plan will not conflict with any such plans and will not result in any conservation plan-related impacts beyond those described in the 2017 SEIR.

6.3.7 Cumulative Impacts on Biological Resources (No impact)

The 2017 SEIR analyzed cumulative impacts of the NBPP on biological resources and determined that NBPP activities would not result in a cumulatively considerable contribution to significant cumulative impacts. For all the impacts assessed in the 2017 SEIR, Master Plan activities within the NBPP area will have the same or similar impacts to those discussed in the SEIR. Therefore, Master Plan activities proposed within the geographic area analyzed in the 2017 SEIR will not result in a cumulatively considerable contribution to significant cumulative impacts or cumulative impacts greater than those analyzed in the 2017 SEIR. Although the SEIR did not analyze impacts of development on the Shoreline Amphitheatre parcel, it did analyze cumulative impacts on Congdon's tarplant and burrowing owl. With implementation of Mitigation Measures BIO-A and BIO-D, the Master Plan will not result in a cumulatively considerable contribution to significant cumulative impacts on these species.

The 2017 SEIR did not analyze cumulative impacts on the monarch butterfly, which was not considered a special-status species at the time. Western populations of the monarch butterfly are declining range-wide, and the combined effects of all the stressors on this species likely result in a significant cumulative impact on the species. However, with implementation of Mitigation Measures BIO-B and BIO-C, the Master Plan will not result in a cumulatively considerable contribution to significant cumulative impacts on this species.

Section 7. Proposed Additions to Landscape Palette

The City of Mountain View has established a North Bayshore Precise Plan Plant Palette to guide the selection of plants for landscaping in the NBPP area. However, the City will consider the use of additional landscaping species. Google proposes to add eight new species to the plant palette for the Master Plan area, as indicated in Table 2.

Table 2. Additional Species for inclusion in the Landscape Palette

Scientific Name	Common Name
Quercus douglasii	Blue oak
Quercus kelloggii	California black oak
Pinus radiata	Monterey pine
Juglans hindsii	Northern California black walnut
Quercus chrysolepis	Canyon live oak
Quercus wislizeni	Interior live oak
Quercus berberidifolia	Inland scrub oak
Acer macrophyllum	Bigleaf maple

These eight species are appropriate for inclusion in Master Plan landscaping. They are all native to California, occurring as natives either in the South Bay or in nearby areas (i.e., other Bay area counties). As a result, many of the animal species occurring in the Master Plan area are well adapted to these species and will use them for foraging, nesting, roosting, and other purposes. These species will diversify the plant palette, thus helping to provide resources to a wide variety of animals in the Master Plan area.

Section 8. References

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8.1 Personal Communications

Terry, Joseph. U.S. Fish and Wildlife Service. Email communication dated November 2, 2021. Subject: Monarch Research.

wra
Environmental
Consultants

MEMORANDUM

TO:	Tyler Rogers	**FROM:**	Scott Batiuk
CC:			
DATE:	December 2, 2022		
SUBJECT:	Peer Review of Second Revision of Biological Resources Confirmation Report for the North Bayshore Framework Master Plan Area		

The purpose of this memorandum is to summarize the results of a peer review conducted by WRA, Inc. (WRA) of the second revision of the North Bayshore Framework Master Plan Biological Resources Confirmation Report prepared by H.T. Harvey & Associates for the North Bayshore Framework Master Plan area (Plan Area) in Mountain View, Santa Clara County, California. The peer review focused on bird safe design measures and potentially sensitive habitat and species issues identified within the Plan Area. As part of this peer review, WRA visited the Plan Area on February 8, 2022, to observe site conditions. The Biological Report prepared by H.T. Harvey & Associates was reviewed based on the site visit and an independent review of the 2014 North Bayshore Precise Plan Environmental Impact Report (EIR), the 2017 North Bayshore Precise Plan Subsequent Environmental Impact Report (SEIR), the 2014 (amended 2020) North Bayshore Precise Plan (NBPP), the 2022 North Bayshore Framework Master Plan, and biological resources database and other species occurrence resources. WRA prepared an initial peer review memorandum dated March 25, 2022, for the HT Harvey Biological Report. Revisions were made to the report based on the initial peer review, and a subsequent draft was provided to WRA on October 25, 2022. A second revision was made to the report, and a new draft was provided to WRA on December 2, 2022. This memorandum summarizes WRA's third peer review of the HT Harvey Biological Report.

RESULTS

Previous comments made in the November 2022 peer review memorandum have been resolved, and there are no additional peer review comments on the second revision of the report