BIOLOGICAL RESOURCES ANALYSIS
FOLEY FAMILY COMMUNITY PAVILION
CITY OF HEALDSBURG, CALIFORNIA

Revised November 7, 2022

Prepared for

TLCD Architecture
520 Third Street #250
Santa Rosa, California 95401
Attention: Mr. Ross Jones

Prepared by

Monk & Associates, Inc.
1136 Saranap Avenue, Suite Q
Walnut Creek, California 94595
Contact : Ms. Sarah Lynch

TABLE OF CONTENTS

FIGURES
(At Back of Report)

TABLES
(At Back of Report)

ATTACHMENTS
(At Back of Report)

1. INTRODUCTION

Monk & Associates, Inc. (M&A) has prepared this biological resources analysis for the proposed Foley Family Community Pavilion development site located in Healdsburg, California (the project site) (Figures 1 and 2). The purpose of our analysis is to provide a description of existing biological resources on the project site and to identify potentially significant impacts that could occur to sensitive biological resources from the construction of the Foley Family Community Pavilion (the project).

Biological resources include common plant and animal species, and special-status plants and animals as designated by the U.S. Fish and Wildlife Service (USFWS), California Department of Fish and Wildlife (CDFW), National Marine Fisheries Service (NMFS), and other resource organizations including the California Native Plant Society. Biological resources also include waters of the United States (U.S.) and State, as regulated by the U.S. Army Corps of Engineers (Corps), California Regional Water Quality Control Board (RWQCB), and CDFW. It is important to note that our analysis includes an assessment of the potential for impacts to regulated waters but does not provide the level of detail required for a formal delineation of "waters of the U.S." suitable for submittal to the Corps, the regulatory agency that defines waters of the U.S.

This biological resources analysis also provides mitigation measures for "potentially significant" and "significant" impacts that could occur to biological resources. Whenever possible, upon implementation, the prescribed mitigation measures would reduce impacts to levels considered less than significant pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code §§ 21000 et seq.; 14 Cal. Code Regs §§ 15000 et seq). Accordingly, this report is suitable for review and inclusion in any review being conducted by the City of Healdsburg for the proposed project pursuant to the CEQA.

2. PROPERTY LOCATION AND SETTING

The project site consists of three developed land parcels (1.28 acres) located in the commercial business district of Healdsburg, California (Figures 1-3). The western parcel is almost completely occupied by a vacant warehouse that is approximately 12,032 square feet in size. The center parcel is hard-packed dirt and gravel and is currently used as a parking lot. The eastern parcel supports the Harry and Maggie Wetzel Native Plant Garden which would remain on this parcel during and after the construction of the Foley Family Community Pavilion (Exhibit B). Foss Creek, a perennial creek, is located immediately east of the native plant garden on the project site. The project site is bordered on the south by North Street, on the east by a restaurant and residential properties, on the west by a railroad right-of-way and Grove Street, and on the north by a hotel.

3. PROPOSED PROJECT

This is a re-development project. The goal of the Proposed Project is to reconstruct and rehabilitate the existing warehouse structure currently on the property and associated infrastructure such as the parking lot and walkways to serve as a community events pavilion. The project site will be home to the Healdsburg Certified Farmers' Market and a community

gathering and events facility. The project will include drought tolerant landscaping, alternative approaches towards landscaping and innovative storm water management practices. Almost all proposed development will be permanently setback from the Foss Creek top of bank a minimum of 35 feet, with only minor encroachments, according to the project site plans (Exhibit A). The eastern parcel will remain the Harry and Maggie Wetzel Native Plant Garden which supports native riparian vegetation associated with Foss Creek on the project site (Exhibit B).

4. ANALYSIS METHODS

Prior to preparing this biological resource analysis report, M&A researched the most recent version of CDFW's Natural Diversity Database (CNDDB) (RareFind 5 application) for historic and recent records of special-status plant and animal species (that is, threatened, endangered, rare) known to occur in the region of the project site (CNDDB 2022). All special-status species records were compiled in tables. M&A examined all known record locations for special-status species to determine if special-status species could occur on the project site or within an area of affect.

M&A biologists Ms. Monica Matthews and Ms. Sarah McNamara conducted a general survey of the project site on June 14, 2022 to record biological resources and to assess the likelihood of resource agency regulated areas on the project site. The survey involved searching all habitats on the site and recording all plant and wildlife species observed. M&A cross-referenced the habitats found on the project site against the habitat requirements of local or regionally known special-status species to determine if the proposed project could directly or indirectly impact such species.

M&A's site evaluation included a cursory examination of the site to determine if there could be potential areas within the project site that would be regulated as waters of the U.S. and/or State. The results of our literature research and field reconnaissance are provided in the sections below.

5. RESULTS OF RESEARCH AND PROJECT SITE ANALYSES

5.1 Topography

The project site has minimal topographic relief and is located approximately 100 feet above sea level (Google Earth).

5.2 Hydrology

Foss Creek is a channelized creek located along the project site's eastern boundary. This creek flows north to south along the project line. Surface runoff flows over the project site's paved and gravel surfaces towards the lowest area at the south-central end of the project site before entering the curbed city storm drain.

5.3 Plant Communities and Associated Wildlife Habitats

A complete list of plant species observed on the project site is presented in Table 1. Nomenclature used for plant names follows *The Jepson Manual* Second Edition (Baldwin 2012) and changes made to this manual as published on the Jepson Interchange Project website (http://ucjeps.berkeley.edu/interchange/index.html). Table 2 is a list of wildlife species observed on the project site. Nomenclature for wildlife follows the CDFW's *Complete List of Amphibian,*

Reptile, Bird, and Mammal Species in California (2016) and any changes made to species nomenclature as published in scientific journals since the publication of the CDFW's list.

Past development has disturbed most of the project site, leaving gravel impregnated hardpack surfaces over most of the project site. There is a small ruderal herbaceous area in the northeast corner growing out of fill soil. The Harry and Maggie Wetzel Native Plant Garden on the project site is along Foss Creek and contains native riparian species. The eastern parcel containing the native plant garden and Foss Creek is approximately 0.3-acre and contains 40 native plant species of the 51 native plant species found on the entire project site (see Table 1). This native riparian community is discussed below as is the project site's ruderal herbaceous habitat.

5.3.1 RUDERAL HERBACEOUS

Ruderal (weedy) communities are assemblages of plants that thrive in waste areas, roadsides and other sites that have been disturbed by human activity. Typically, hard-packed soils of roadsides, parking lots, industrial areas and construction sites support communities of ruderal species. Ruderal vegetation is adapted to high levels of disturbance and persists almost indefinitely in areas with continuous disturbance. At the time of M&A's June 2022 survey, portions of the project site intended for development and that were not paved or covered with impermeable surfaces was dominated by non-native herbaceous species such as hare barley (*Hordeum murinum* subsp. *leporinum*), slender wild oat (*Avena barbata*), ripgut grass (*Bromus diandrus*), chicory (*Cichorium intybus*), English plantain (*Plantago lanceolata*) and perennial ryegrass (*Festuca perennis*).

Animals expected to occur in ruderal habitats are typically those species adapted to human disturbance such as the raccoon (*Procyon lotor*), American Crow (*Corvus brachyrhynchos*), Botta's pocket gopher (*Thomomys bottae*), Northern Mockingbird (*Mimus polyglottos*), Brewer's Blackbird (*Euphagus cyanocephalus*), striped skunk (*Mephitis mephitis*), and Common Raven (*Corvus corax*). The American Crow and Common Raven were observed on the project site.

5.3.2 RIPARIAN WOODLAND ALONG FOSS CREEK

The riparian woodland along Foss Creek is contained in the Harry and Maggie Wetzel Native Plant Garden on the east side of the project site. While a few non-native plant species are found in the native plant garden, a majority of plant species found are native trees, shrubs and grasses. Some planted trees in the garden are coastal redwood (*Sequoia sempervirens*), black oak (*Quercus kelloggii*) and red willow (*Salix laevigata*). The abundant collection of native shrubs includes sourberry (*Rhus aromatica*), baccharis (*Baccharis pilularis*), California hazelnut (*Corylus cornuta* subsp. *californica*), spicebush (*Calycanthus occidentalis*) and oceanspray (*Holodiscus discolor* var. *discolor*). Other native plants found in the native garden and Foss Creek include western sword fern (*Polystichum munitum*), California fuchsia (*Epilobium canum* subsp. *canum*), sticky monkeyflower (*Diplacus aurantiacus* var. *aurantiacus*), California wild grape (*Vitis californica*), sand dune sedge (*Carex pansa*) and Douglas' iris (*Iris douglasiana*).

Foss Creek flows north to south along the east side of the native plant garden (Exhibit B). This reach of Foss Creek is channelized and has high concrete retaining walls along both the western and eastern banks. The planted willow trees and oak trees that grow in the native plant garden extend over the western creek bank providing partial canopy cover and shade over Foss Creek. Foss Creek and the associated riparian community may serve as a wildlife corridor for some

species, such as passerine birds and steelhead. Plant species observed along the bed of Foss Creek were herbaceous species such as smartweed (*Persicaria sp.*), water cress (*Nasturtium officinale*), water speedwell (*Veronica anagallis-aquatica*) and lance-leaf water plantain (*Alisma lanceolatum*).

Animals expected or observed to occur in this area include western gray squirrel (*Sciurus griseus*), raccoon, Virginia opossum (*Didelphis virginiana*), brush rabbit (*Sylvilagus bachmani*), Botta's pocket gopher (*Thomomys bottae*), a variety of native butterfly and bee species, California Scrub Jay (*Aphelocoma californica*), Anna's Hummingbird (*Calypte anna*), Common Raven (*Corvus corax*), Spotted Towhee (*Pipilo maculatus*) and Bushtit (*Psaltriparus minimus*). All bird species listed were observed using the native plant garden. It is also expected that during the spring and fall migration months that a variety of different song birds such as warblers, flycatchers, and vireos would be found foraging in the riparian tree canopy. Reptiles expected to occur include western fence lizard (*Sceloporus occidentalis*), slender salamander (*Batrachoseps attenuatus*), and gopher snake (*Pituophis catenifer*).

5.4 Wildlife Corridors

Wildlife corridors are linear and/or regional habitats that provide connectivity to other natural vegetation communities within a landscape fractured by urbanization and other development. Wildlife corridors have several functions: 1) they provide avenues along which wide-ranging animals can travel, migrate, and breed, allowing genetic interchange to occur; 2) populations can move in response to environmental changes and natural disasters; and 3) individuals can recolonize habitats from which populations have been locally extirpated (Beier and Loe 1992). All three of these functions can be met if both regional and local wildlife corridors are accessible to wildlife. Regional wildlife corridors provide foraging, breeding, and retreat areas for migrating, dispersing, immigrating, and emigrating wildlife populations. Local wildlife corridors also provide access routes to food, cover, and water resources within restricted habitats.

The proposed project will not interfere with the movement of native wildlife. The project site was previously developed and is located in an urban area which does not provide much opportunity as a regional or even local wildlife corridor. The project site is bound on the north side with high restrictive fencing, on the west and south side with roads heavily trafficked by vehicles and pedestrians, and on the east side with a channelized reach of Foss Creek. Foss Creek has been channelized within the project site boundaries and has high concrete retaining walls on either side of the creek preventing most mammals from coming up out of the creek and crossing onto the project site. The remainder of the project site is an urban infill development and development of this project site within the western parcels of land should not impact wildlife movement.

As Foss Creek is a tributary of the Russian River, it is possible that it is a steelhead stream. That is, migrating steelhead may move up and down this creek. There are no intentions to outfall stormwater into this creek or remove the riparian canopy (shade cover) growing over this creek; hence, there should be no adverse effects to steelhead and steelhead movement along this creek. The diverse riparian woodland provides important avian habitat, and this function will remain

unaffected. The project as currently proposed would not adversely impact wildlife movement corridors.

6. SPECIAL-STATUS SPECIES DEFINITION

6.1 Definitions

For purposes of this analysis, special-status species are plants and animals that are legally protected under the California and Federal Endangered Species Acts (CESA and FESA, respectively) or other regulations, and species that are considered rare by the scientific community (for example, the CNPS). Special-status species are defined as:

- plants and animals that are listed or proposed for listing as threatened or endangered under the CESA (Fish and Game Code §2050 *et seq*.; 14 CCR §670.1 *et seq.*) or the FESA (50 CFR 17.12 for plants; 50 CFR 17.11 for animals; various notices in the Federal Register [FR] for proposed species);

- plants and animals that are candidates for possible future listing as threatened or endangered under the FESA (50 CFR 17; FR Vol. 64, No. 205, pages 57533-57547, October 25, 1999); and under the CESA (California Fish and Game Code §2068);

- plants and animals that meet the definition of endangered, rare, or threatened under the CEQA (14 CCR §15380) that may include species not found on either CESA or FESA lists;

- plants occurring on Ranks 1A, 1B, 2A, 2B, 3, and 4 of the CNPS' electronic *Inventory* (CNPS 2001). The CDFW recognizes that Ranks 1A, 1B, 2A and 2B of the CNPS inventory contain plants that, in the majority of cases, would qualify for State listing, and the CDFW requests their inclusion in EIRs. Plants occurring on CNPS Ranks 3 and 4 are "plants about which more information is necessary," and "plants of limited distribution," respectively (CNPS 2001). Such plants may be included as special-status species on a case by case basis due to local significance or recent biological information (more on CNPS Rank species below);

- migratory nongame birds of management concern listed by the USFWS (Migratory Nongame Birds of Management Concern in the United States: The list 1995; Office of Migratory Bird Management; Washington D.C.; Sept. 1995);

- animals that are designated as "species of special concern" by the CDFW (2022);

- animal species that are "fully protected" in California (Fish and Game Codes 3511, 4700, 5050, and 5515).

- bat species that are designated on the Western Bat Working Group's (WBWG) Regional Bat Species Priority Matrix as: "RED OR HIGH." This priority is justified by the WBWG as follows: "Based on available information on distribution, status, ecology, and

> known threats, this designation should result in these bat species being considered the highest priority for funding, planning, and conservation actions. Information about status and threats to most species could result in effective conservation actions being implemented should a commitment to management exist. These species are imperiled or are at high risk of imperilment."

In the paragraphs below we provide further definitions of legal status as they pertain to the special-status species discussed in this report or in the attached tables.

Federal Endangered or Threatened Species. A species listed as endangered or threatened under the FESA is protected from unauthorized "take" (that is, harass, harm, pursue, hunt, shoot, trap) of that species. If it is necessary to take a federally-listed endangered or threatened species as part of an otherwise lawful activity, it would be necessary to receive permission from the USFWS prior to initiating the take.

State Threatened Species. A species listed as threatened under the CESA (§2050 of California Fish and Game Code) is protected from unauthorized "take" (that is, harass, pursue, hunt, shoot, trap) of that species. If it is necessary to "take" a State-listed threatened species as part of an otherwise lawful activity, it would be necessary to receive permission from the CDFW prior to initiating the "take."

California Species of Special Concern. These are species in which their California breeding populations are seriously declining and extirpation from all or a portion of their range is possible. This designation affords no legally mandated protection; however, pursuant to the CEQA Guidelines (14 CCR §15380), some species of special concern could be considered "rare." Pursuant to its rarity status, any unmitigated impacts to rare species could be considered a "significant effect on the environment" (§15382). Thus, species of special concern must be considered in any project that will, or is currently, undergoing CEQA review, and/or that must obtain an environmental permit(s) from a public agency.

CNPS Rank Species. The CNPS maintains an "Inventory" of special-status plant species. This inventory has four lists of plants with varying rarity. These lists are: Rank 1, Rank 2, Rank 3, and Rank 4. Although plants on these lists have no formal legal protection (unless they are also State or federally-listed species), the CDFW requests the inclusion of Rank 1 species in environmental documents. In addition, other State and local agencies may request the inclusion of species on other lists as well. The Rank 1 and 2 species are defined below:

- Rank 1A: Presumed extinct in California;
- Rank 1B: Rare, threatened, or endangered in California and elsewhere;
- Rank 2A: Plants presumed extirpated in California, but more common elsewhere;
- Rank 2B: Rare, threatened, or endangered in California, but more common elsewhere.

All of the plants constituting Rank 1B meet the definitions of Section 1901, Chapter 10 (Native Plant Protection Act) or Sections 2062 and 2067 (CESA) of the Fish and Game Code and are eligible for State listing (CNPS 2001). Rank 2 species are rare in California, but more common

elsewhere. Ranks 3 and 4 contain species about which there is some concern and are reviewed by the CDFW and maintained on "watch lists."

Additionally, in 2006, the CNPS updated their lists to include "threat code extensions" for each list. For example, Rank 1B species would now be categorized as Rank 1B.1, Rank 1B.2, or Rank 1B.3. These threat codes are defined as follows:

- .1 is considered "seriously endangered in California (over 80% of occurrences threatened/high degree and immediacy of threat)";
- .2 is "fairly endangered in California (20-80% of occurrences threatened)";
- .3 is "not very endangered in California (less than 20% of occurrences threatened or no current threats known)."

Under the CEQA review process only CNPS Rank 1 and 2 species are considered since these are the only CNPS species that meet CEQA's definition of "rare" or "endangered." Impacts to Rank 3 and 4 species are not regarded as significant pursuant to CEQA.

Fully Protected Birds. Fully protected birds, such as the White-tailed Kite (*Elanus leucurus*) and Golden Eagle (*Aquila chrysaetos*), are protected under California Fish and Game Code (§3511). Fully protected birds may not be "taken" or possessed (i.e., kept in captivity) at any time.

6.2 Potential Special-Status Plants on the Project Site

Figure 4 provides a graphical illustration of the closest known records for special-status species within 3 miles of the project site and helps readers visually understand the number of sensitive species that occur in the vicinity of the project site. No special-status plants have been mapped on or adjacent the project site. However, according to the CDFW's CNDDB, a total of 5 special-status plant species are known to occur in the region of the project site (Table 3). Most of these plants occur in specialized habitats such as serpentine grassland and vernal pools. Additionally, owing to the excessively disturbed and unnatural conditions found at the project site, which includes the majority of the project site having paved or gravel impregnated surfaces, special-status plants would not occur. Additionally, the native plant garden on the project site does not provide habitat for special-status plants as it is a planted and regularly maintained habitat. ***Therefore, no impacts to special-status plants are expected from project site development.***

6.3 Potential Special-Status Wildlife on the Project Site

Figure 4 provides a graphical illustration of the closest known records for special-status species within 3 miles of the project site and helps readers visually understand the number of sensitive species that occur in the vicinity of the project site. No special-status animal records have ever been mapped on or adjacent to the project site. However, a total of 8 special-status wildlife species are known to occur in the region of the project site (Table 4). Because of the sensitivity of the central California coast Distinct Population Segment (DPS) of steelhead (*Oncorhynchus mykiss irideus*), Russian River tule perch (*Hysterocarpus traskii pomo*), Townsend's big-eared bat (*Corynorhinus townsendii*), White-tailed Kite, Osprey (*Pandion haliaetus*) and western pond turtle (*Emys marmorata*), we further discuss these species below.

6.3.1 STEELHEAD-CENTRAL CALIFORNIA COAST DPS

The project site falls within designated Critical Habitat of the Central California Coast DPS of steelhead (*Oncorhynchus mykiss irideus*) (Figure 4). This DPS is federally listed as threatened. It has no special State status. Steelhead are the anadromous (i.e., fish species born in the stream that migrate to the ocean for their adult phase) form of rainbow trout, a salmonid species native to western North America and the Pacific Coast of Asia. Steelhead are similar to some Pacific salmon in their life cycle and ecological requirements. They are born in fresh water streams, where they spend their first 1-3 years of life. They then emigrate to the ocean where most of their growth occurs. After spending between one to four growing seasons in the ocean, steelhead return to their native fresh water stream to spawn. Unlike Pacific salmon, steelhead do not necessarily die after spawning, and are able to spawn more than once. In California, most steelhead spawn from December through April in small streams and tributaries where cool, well oxygenated water is available year round. The female selects a site in areas with gravel substrate where there is good flow through the gravel. She then digs a nest, called a redd, and deposits eggs. The male then fertilizes the eggs. The eggs are covered when the female excavates another redd just upstream. The length of time it takes for eggs to hatch is primarily dependent on water temperature. In hatcheries, steelhead eggs have hatched after 30 days at a temperature of 51º F. Generally, eggs hatch sooner in cooler waters, and take longer in warmer waters. If the temperature goes too high, eggs will not hatch at all. After hatching, the developing steelhead will remain in the gravel for between four and six weeks. During this time they obtain nutrients from a yolk sack attached to their body. When they emerge from the gravel, they are called fry, and are able to catch their own food. Newly emerged fry move to shallow, protected areas of the stream where they establish feeding areas that they defend. Most juveniles can be found in riffles, although larger ones will move to pools or deep runs (Flosi et al. 1998).

The nearest CNDDB occurrence of steelhead is from 2016 and is located approximately 3 miles southwest of the project site in Mill Creek (CNDDB Occurrence No. 40). Snorkel surveys and electrofishing were conducted west of Healdsburg in Mill Creek and its tributaries Wallace, Felta, Palmer and Angel Creeks as part of a fish habitat improvement project. Approximately 10 adults and 100 juveniles were caught and relocated. Mill Creek is a perennial stream and the locations of the observations were surrounded by residential and natural areas. A closer known occurrence of steelhead to the project site is in Foss Creek. A 2006 sighting reported in a California Department of Fish and Wildlife Stream Inventory Report noted steelhead were observed in the reach of Foss Creek just south of the project site (CDFW 2006). Mill Creek and Foss Creek both run north to south before merging with Dry Creek and Western Slough and then entering the Russian River. The area where these two creeks eventually have connectivity is approximately 1.5 miles south of the project site. Foss Creek is a second order stream and while there are no CNDDB records around the project site, Foss Creek is suitable steelhead habitat (CDFW 2006). Foss Creek and the riparian canopy will not be impacted by construction of the project. *Thus, the project would not impact the Central California Coast DPS of steelhead and no mitigation is warranted for this species.*

6.3.2 RUSSIAN RIVER TULE PERCH

The Russian River tule perch is a California species of special concern. This status designation does not provide any special legally mandated protection for this fish species. However, this status designation likely meets the definition of "rare" pursuant to the California Environmental Quality Act (CEQA) (14 CCR §15380(2)(A)). As such, potential impacts to this species should

be considered during any CEQA review conducted for the Foley Family Community Pavilion project.

Russian River tule perch are confined exclusively to the Russian River and its tributaries in Sonoma and Mendocino Counties. They are known to occur from Ukiah downstream to Monte Rio. This tule perch is a small (up to 150 mm), deep bodied fish. This subspecies requires clear, flowing water and abundant cover, such as submerged tree branches and overhanging plants. Although Russian River tule perch sometimes feed in riffles, they require deep (greater that one meter) pool habitats and will use rip-rapped habitat in deep water (Moyle, et. al. op. cit.). These perch are intolerant of turbid conditions and are susceptible to extreme flow variations. Thus, mortality is high among Russian River tule perch. Mating occurs from July through September and sperm is stored within the female until January when fertilization takes place. Young are born in May-June when food is abundant. Except when breeding, tule perch are gregarious, feeding and swimming in schools. They feed on benthic and plant dwelling aquatic invertebrates.

Russian River tule perch are extremely sensitive and susceptible to stream pollution and tend to disappear from polluted, low flow, turbid streams. Places in the Russian River that favor this fish species include areas of the river that are deep with lots of structure (*i.e.,* submerged logs, etc.) (B. Cox, CDFW, pers. comm. with Geoff Monk, 1996). The nearest CNDDB occurrence of Russian River tule perch to the project site is located approximately 0.74-mile southwest (CNDDB Occurrence No. 2). This 1996 occurrence was of four individuals found in Dry Creek, 500 feet downstream of the Westside Road bridge, 0.8 mile west of Highway 101 and 0.9 mile west of Healdsburg. This area of Dry Creek consisted of a series of shallow flats, moderately deep runs with gravel/sand substrate, plunge pools and overhanging tree canopy along the banks. Foss Creek and Dry Creek are both tributaries of the Russian River and merge, along with Western Slough, prior to entering the Russian River.

Due to the Russian River tule perch's susceptibility to stream pollution, the CDFW's primary concern for this species would be the siltation of Foss Creek during construction. However, no construction activities will occur in this creek. Further, no project activities will occur within 35-feet of Foss Creek, except for a few minor encroachments into this 35-foot setback. The project activities will remain well outside of the creek, the creek's top of the bank and channel, and there will be no need to discharge surface runoff into the creek as the project site is already tied into the City's stormdrain system. Finally, appropriate Best Management Practices (BMP) will be implemented during and after construction to prevent siltation, sedimentation and pollution discharge into Foss Creek. *Thus, the project would not impact the Russian River tule perch and no mitigation is warranted for this species.*

6.3.3 TOWNSEND'S BIG-EARED BAT

Townsend's big-eared bat (*Corynorhinus townsendii townsendii*) is a California "species of special concern." It has no federal status. Once considered common in California, this species is found in all but subalpine and alpine habitats. Although these bats eat a variety of beetles and other soft-bodied insects, small moths make up the principle food source for this species. It is believed that roosting sites are the most important limited resource for Townsend's big-eared bat. This species requires caves, mines, tunnels, high buildings, or other human-made structures for roosting and for maternity sites, potentially using separate sites for day, night, hibernation, or maternity

roosts. Although this species shows high site fidelity if undisturbed, it is extremely sensitive to disturbance of roosting sites (a single visit may result in abandonment of the roost).

The nearest occurrence of Townsend's big-eared bat is located approximately 2.9 miles southwest of the project site (CNDDB Occurrence No. 452). This occurrence was from 1948 and 1949 when one individual was located each year in similar locations. There are no other occurrences of Townsend's big-eared bats in or around the vicinity of Healdsburg. However, in 2017 an individual was observed roosting in an abandoned building approximately 4 miles south of Healdsburg (CNDDB Occurrence No. 650). On the project site, the abandoned warehouse proposed for renovation is suitable habitat for Townsend's big-eared bat. Surveys will need to be conducted prior to any work on the warehouse to ensure that if any Townsend's big-eared bats are roosting on the project site, that it will not be affected by the proposed project. Please see the Impacts and Mitigations Section below for further details.

6.3.4 WHITE-TAILED KITE

The White-tailed Kite (*Elanus leucurus*) is a "Fully Protected" species under the California Fish and Game Code (§3511). Fully protected birds may not be "taken" or possessed (i.e., kept in captivity) at any time. It is also protected under the Federal Migratory Bird Treaty Act (50 CFR 10.13). The White-tailed Kite is typically found foraging in grassland, marsh, or cultivated fields where there are dense-topped trees or shrubs for nesting and perching. They nest in a wide variety of trees of moderate height and sometimes in tall bushes, such as coyote bush (*Baccharis pilularis*). Native trees used are live and deciduous oaks (*Quercus* spp.), willows (*Salix* spp.), cottonwoods (*Populus* spp.), sycamores (*Platanus* spp.), maples (*Acer* spp.), toyon (*Heteromeles arbutifolia*), and Monterey cypress (*Cupressus macrocarpa*). Although the surrounding terrain may be semiarid, kites often reside near water sources, where prey is more abundant. The particular characteristics of the nesting site do not appear to be as important as its proximity to a suitable food source (Shuford 1993). Kites primarily hunt small mammals, with California meadow voles (*Microtus californicus*) accounting from between 50-100% of their diet.

The nearest occurrence of White-tailed Kites is located approximately 1.2 miles northeast of the project site (CNDDB Occurrence No. 33). This was a nesting occurrence from 1985 where a nest site was located in a blue gum eucalyptus tree (*Eucalyptus globulus*) along a ridge adjacent to the Russian River. Preconstruction nesting bird surveys should be conducted prior to any earthwork to ensure White-tailed Kites are not affected by the proposed project. Please see the Impacts and Mitigations Section below for further details.

6.3.5 OSPREY

The Osprey (*Pandion haliaetus*) is a "Fully Protected" species under the California Fish and Game Code (§3511) and under the Federal Migratory Bird Treaty Act (50 CFR 10.13). Osprey are large-bodied raptors, typically 21 to 24 inches in total length. Females are larger than males. It has an average wing span of 63 inches, and the wings are long and narrow. Osprey have short, narrow tails, and weights range from 54 to 60 ounces. They are brown above with a dark, bold eye stripe on a white face. Underneath they are white with dark carpal patches and primaries. Unfeathered parts are gray; the iris is reddish in juveniles and yellow in adults.

Osprey are a carnivorous species that prey almost exclusively on fish, and are tightly linked to water bodies. They are almost exclusively diurnal. Osprey have an average life span of five to six years, and reach reproductively mature in their third year. These are generally monogamous breeders, but polygyny is known to occur. Mating occurs in early winter. Two to four eggs are laid, usually in late February through early April. Thirty-six to 42 days of incubation is followed by a 50 to 55 day nesting stage, which concludes with the fledging of young. Parents continue provide some care for young for at least another 10 to 20 days, but post-fledgling parental care is poorly understood.

Nests are made of large sticks and are typically placed at the top of the tree crown or in a dead snag. Human made nesting platforms are also generally used. Osprey typically nest over water or on very high structures or trees to avoid predation. Nests that are not positioned over water are usually sited very close to a water body. The closest known nesting record of Osprey to the project site is 2 miles east of the project site near Fitch Mountain (CNDDB Occurrence 49). One nest was found in 1972 along the Russian River and one adult was observed foraging in a similar location in 1985. Foss Creek on the project site is too close to existing commercial and residential development to provide nesting habitat for ospreys. Plus, no large stick nests or other nesting structures were observed on or near the project site during the site survey that would indicate Ospreys nest there. However, since Foss Creek is located near the Russian River, preconstruction nesting bird surveys should be conducted prior to any earthwork to ensure Osprey are not affected by the proposed project. Please see the Impacts and Mitigations Section below for further details.

6.3.6 WESTERN POND TURTLE

The western pond turtle (*Emys marmorata*) is a California "species of special concern." In April of 2015, the USFWS issued a 90-day finding on a petition to list this species under FESA. In September 2016, M&A spoke with USFWS' Sacramento Field Office and was told that they "hope to finish a 12-month finding in the fiscal year of 2021" (G. Tarr, USFWS, Sacramento Field Office, pers. comm. with S. Lynch of M&A, September 21, 2016). The USFWS' website says that the listing status of this turtle is still "under review". Until the western pond turtle is formally listed it is not afforded the protections of FESA.

The western pond turtle is a habitat generalist, inhabiting a wide range of fresh and brackish, permanent and intermittent water bodies from sea level to about 4,500 feet above sea level (USFWS 1992). Typically, this species is found in ponds, marshes, ditches, streams, and rivers that have rocky or muddy bottoms. This turtle is most often found in aquatic environments with plant communities dominated by watercress, cattail, and other aquatic vegetation. It is a truly aquatic turtle that usually only leaves the aquatic site to reproduce and to overwinter. Recent field work has demonstrated that western pond turtles may overwinter on land or in water, or may remain active in water during the winter season; this pattern may vary considerably with latitude, water temperature, and habitat type and remains poorly understood (Jennings and Hayes 1994).

The pond turtle also requires upland areas for burrowing habitat where it digs nests and buries its eggs. These nests can extend from 52 feet to 1,219 feet from watercourses (Jennings and Hayes

1992), however most pond turtles nest in uplands within 250 meters of water (Bury, unpublished). Upland nest sites are usually found in areas with sparse vegetation. Sunny, barren, and undisturbed (not disked) land provides optimal habitat, while shady riparian habitat and planted agricultural fields do not provide suitable habitat (op. cit.). Eggs are typically laid from March to August (Zeiner et. al. 1988), with most eggs being laid in May and June. Hatchlings will stay in the nest until the following April (Bury, unpublished). Predators of juvenile pond turtles include the non-native bullfrog (*Lithobates catesbeiana*) and Centrarchid fish (sunfish). This turtle is most visible between April and July when it can be observed basking in the sun. In areas where the water is very warm during these months, however, it will bask in the warm water and will be more difficult to observe. It eats plants, insects, worms, fish and carrion (Stebbins 2003).

The nearest occurrence of western pond turtles is located approximately 0.25 mile north of the project site in Foss Creek at the Grand Street Bridge (CNDDB Occurrence No. 765). This observation is from March of 2003 when an adult male was seen foraging in Foss Creek. This area of the creek had 5-8 foot high vertical banks, similar to the channelized reach on the project site. Thus, while Foss Creek within the project site boundaries could provide basking and foraging habitat, the tall, concrete banks would prevent turtles from leaving the creek and nesting on the project site. Foss Creek and the riparian community will not be impacted by construction of the project. *Thus, the project would not impact western pond turtles and no mitigation is warranted for this species.*

7. REGULATORY FRAMEWORK FOR NATIVE WILDLIFE, FISH, AND PLANTS

This section provides a discussion of those laws and regulations that are in place to protect native wildlife, fish, and plants. Under each law its relevance to the proposed project is discussed.

7.1 Federal Endangered Species Act

The FESA forms the basis for the federal protection of threatened or endangered plants, insects, fish, and wildlife. FESA contains four main elements, they are as follows:

Section 4 (16 USCA §1533): Species listing, Critical Habitat Designation, and Recovery Planning: outlines the procedure for listing endangered plants and wildlife.

Section 7 (§1536): Federal Consultation Requirement: imposes limits on the actions of federal agencies that might impact listed species.

Section 9 (§1538): Prohibition on Take: prohibits the "taking" of a listed species by anyone, including private individuals, and State and local agencies.

Section 10: Exceptions to the Take Prohibition: non-federal agencies can obtain an incidental take permit (ITP) through approval of a Habitat Conservation Plan (HCP).

In the case of salt water fish and other marine organisms, the requirements of FESA are enforced by the NMFS. The USFWS enforces all other cases. Below, Sections 9, 7, and 10 of FESA are discussed since they are the sections most relevant to the proposed project.

Section 9 of FESA as amended, prohibits the "take" of any fish or wildlife species listed under FESA as endangered. Under federal regulation, "take" of fish or wildlife species listed as threatened is also prohibited unless otherwise specifically authorized by regulation. "Take," as defined by FESA, means "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." "Harm" includes not only the direct taking of a species itself, but the destruction or modification of the species' habitat resulting in the potential injury of the species. As such, "harm" is further defined to mean "an act which actually kills or injures wildlife; such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering" (50 CFR 17.3). A December 2001 decision by the 9th Circuit Court of Appeals (Arizona Cattle Growers' Association, Jeff Menges, vs. the U.S. Fish and Wildlife Service and Bureau of Land Management, and the Southwest Center for Biological Diversity) ruled that the USFWS must show that a threatened or endangered species is present on a project site and that it would be taken by the project activities. According to this ruling, the USFWS can no longer require mitigation based on the probability that the species could use the site. Rather they must show that it is "reasonably certain to occur."

Section 9 applies to any person, corporation, federal agency, or any local or State agency. If "take" of a listed species (other than a plant species) is necessary to complete an otherwise lawful activity, this triggers the need to obtain an ITP either through a Section 7 Consultation as discussed further below (for federal actions or private actions that are permitted or funded by a federal agency such as the Corps), or through Section 10 of FESA which requires preparation of an HCP (for State and local agencies, or individuals, and projects without a federal "nexus"; for example, projects that do not need a Corps permit).

Section 7(a)(2) of the Act requires that each federal agency consult with the USFWS to ensure that any action authorized, funded or carried out by such agency is not likely to jeopardize the continued existence of an endangered or threatened species or result in the destruction or adverse modification of critical habitat for listed species. Critical habitat designations mean: (1) specific areas within a geographic region currently occupied by a listed species, on which are found those physical or biological features that are essential to the conservation of a listed species and that may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by a listed species that are determined essential for the conservation of the species.

The Section 7 consultation process only applies to actions taken by federal agencies that are considering authorizing discretionary projects. Section 7 is by and between the NMFS and/or the USFWS and the federal agency contemplating a discretionary approval (that is, the federal "action agency," for example, the Corps or the Federal Highway Administration). Private parties, cities, counties, etc. (i.e., applicants) may participate in the Section 7 consultation *at the discretion of the federal agencies conducting the Section 7 consultation*. The Section 7 consultation process is triggered by a determination of the "action agency" – that is, the federal agency that is carrying out, funding, or approving a project - that the project "may affect" a listed species or critical habitat. If an action is likely to adversely affect a listed species or designated critical habitat, formal consultation between the nexus agency and the USFWS/NMFS is

required. As part of the formal consultation, the USFWS/NMFS may resolve any issues informally with the nexus agency or may prepare a formal Biological Opinion assessing whether the proposed action would be likely to result in "jeopardy" to a listed species or if it could adversely modify designated critical habitat. If the USFWS/NMFS prepares a Biological Opinion it will contain either a "jeopardy" or "non-jeopardy" decision. If the USFWS/NMFS concludes that a proposed project would result in adverse modification of critical habitat or would jeopardize the continued existence of a federally-listed species (that is, it will issue a jeopardy decision), the nexus federal agency would be most unlikely to authorize its discretionary permit. If the USFWS/NMFS prepares a "non-jeopardy" Biological Opinion, the nexus federal agency may authorize the discretionary permit making all conditions of the Biological Opinion conditions of its discretionary permit. A non-jeopardy Biological Opinion constitutes an "incidental take" permit that allows applicants to "take" federally-listed species while otherwise carrying out legally sanctioned projects.

For non-federal entities, for example private parties, cities, and counties that are proposing a project that might result in incidental take, Section 10 provides the mechanism for obtaining that take authorization. Under Section 10 of FESA, for the applicant to obtain an ITP, the applicant is required to submit a "conservation plan" to the USFWS or NMFS that specifies the impacts that are likely to result to federally-listed species, and the measures the applicant will undertake to minimize and mitigate such impacts, and the funding that will be available to implement those steps. Conservation plans under FESA have come to be known as "habitat conservation plans" or "HCPs" for short. The terms incidental take permit, Section 10 permit, and Section 10(a)(1)(B) permit are used interchangeably by the USFWS. Section 10(a)(2)(B) of FESA provides statutory criteria that must be satisfied before an ITP can be issued.

7.1.1 Responsible Agency

FESA gives regulatory authority to the USFWS for federally-listed terrestrial species and non-anadromous fish. The NMFS has regulatory authority over federally-listed marine mammals and anadromous fish.

7.1.2 Applicability to the proposed project

The project site does not provide habitat for any federally listed plant species. Similarly, no federally listed mammals, birds, amphibians or reptiles are expected on the project site. Central California Coast DPS of steelhead and Russian River tule perch may occur in Foss Creek, however, Foss Creek and its riparian canopy will not be impacted by construction of the project. Thus, the project would not impact the Central California Coast DPS of steelhead or Russian River tule perch.

7.2 Federal Migratory Bird Treaty Act

The Migratory Bird Treaty Act of 1918 (16 U.S.C. §§ 703-712, July 3, 1918, as amended 1936, 1960, 1968, 1969, 1974, 1978, 1986 and 1989) makes it unlawful to "take" (kill, harm, harass, shoot, etc.) any migratory bird listed in Title 50 of the Code of Federal Regulations, Section 10.13, including their nests, eggs, or young. Migratory birds include geese, ducks, shorebirds, raptors, songbirds, wading birds, seabirds, and passerine birds (such as warblers, flycatchers, swallows, etc.).

7.2.1 Applicability to The Proposed Project

White-tailed Kite and Osprey are known to nest in the region of the project site and though it is unlikely that they would nest onsite due to the amount of residential and commercial disturbance, their presence cannot be ruled out. Passerine birds could nest on the project site. All raptors (birds of prey) are subject to the Migratory Bird Treaty Act. Also, common songbirds and wading birds are also protected pursuant to this Act. As long as there is no direct mortality to species protected pursuant to this Act caused by development of the site, there should be no constraints to development of the site. While adult birds can typically fly out of harm's way, nesting birds, their eggs, and young are much more prone to being impacted by construction projects. To comply with the Migratory Birds Treaty Act, all active nest sites would have to be avoided while birds were nesting. Upon completion of the nesting cycle, the proposed project could commence as otherwise planned. Please review specific requirements for avoidance of nest sites for potentially occurring nesting birds in the Impacts and Mitigations section below.

7.3 **California Endangered Species Act**

7.3.1 Section 2081 of the California Endangered Species Act

In 1984, the State legislated the CESA (Fish and Game Code §2050). The basic policy of CESA is to conserve and enhance endangered species and their habitats. State agencies will not approve private or public projects under their jurisdiction that would impact threatened or endangered species if reasonable and prudent alternatives are available. Because CESA does not have a provision for "harm" (see discussion of FESA, above), CDFW considerations pursuant to CESA are limited to those actions that would result in the direct take of a listed species.

If the CDFW determines that a proposed project could impact a State-listed threatened or endangered species, the CDFW will provide recommendations for "reasonable and prudent" project alternatives. The CEQA lead agency can only approve a project if these alternatives are implemented, unless it finds that the project's benefits clearly outweigh the costs, reasonable mitigation measures are adopted, there has been no "irreversible or irretrievable" commitment of resources made in the interim, and the resulting project would not result in the extinction of the species. In addition, if there would be impacts to threatened or endangered species, the lead agency typically requires project applicants to demonstrate that they have acquired "incidental take" permits from the CDFW and/or USFWS (if it is a federally-listed species) prior to allowing/permitting impacts to such species.

If proposed projects would result in impacts to a State-listed species, an "incidental take" permit pursuant to §2081 of the Fish and Game Code would be necessary (versus a federal ITP for federally listed species). The CDFW will issue an ITP only if:

1) The authorized take is incidental to an otherwise lawful activity;
2) the impacts of the authorized take are minimized and fully mitigated;
3) measures required to minimize and fully mitigate the impacts of the authorized take:
    a) are roughly proportional in extent to the impact of the taking on the species;
    b) maintain the project applicant's objectives to the greatest extent possible; and,
    c) capable of successful implementation; and,
4) adequate funding is provided to implement the required minimization and mitigation measures and to monitor compliance with, and the effectiveness of, the measures.

If an applicant is preparing an HCP as part of the federal 10(a) permit process, the HCP might be incorporated into the §2081 permit if it meets the substantive criteria of §2081(b). To ensure that an HCP meets the mitigation and monitoring standards in Section 2081(b), an applicant should involve CDFW staff in development of the HCP. If a final Biological Opinion (federal action) has been issued for the project pursuant to Section 7 of the FESA, it might also be incorporated into the §2081 permit if it meets the standards of §2081(b).

No §2081 permit may authorize the take of a species for which the Legislature has imposed strict prohibitions on all forms of "take." These species are listed in several statutes that identify "fully protected" species and "specified birds." See Fish and Game Code §§ 3505, 3511, 4700, 5050, 5515, and 5517. If a project is planned in an area where a "fully protected" species or a "specified bird" occurs, an applicant must design the project to avoid all take.

Fish and Game Code §2080.1 allows an applicant who has obtained a "non-jeopardy" federal Biological Opinion pursuant to Section 7 of the FESA, or who has received a federal 10(a) permit (federal ITP) pursuant to the FESA, to submit the federal opinion or permit to the CDFW for a determination as to whether the federal document is "consistent" with CESA. If after 30 days the CDFW determines that the federal ITP is consistent with state law, and that all State-listed species under consideration have been considered in the federal Biological Opinion, then no further permit or consultation is required under CESA for the project. However, if the CDFW determines that the federal opinion or permit is not consistent with CESA, or that there are State-listed species that were not considered in the federal Biological Opinion, then the applicant must apply for a CESA permit under Section 2081(b). Section 2080.1 is of no use if an affected species is State-listed, but not federally-listed.

State and federal ITPs are issued on a discretionary basis, and are typically only authorized if applicants are able to demonstrate that impacts to the listed species in question are unavoidable, and can be mitigated to an extent that the reviewing agency can conclude that the proposed impacts would not jeopardize the continued existence of the listed species under review. Typically, if there would be impacts to a listed species, mitigation that includes habitat avoidance, preservation, and creation of endangered species habitat is necessary to demonstrate that projects would not threaten the continued existence of a species. In addition, management endowment fees are usually collected as part of the agreement for the ITP(s). The endowment is used to manage any lands set-aside to protect listed species, and for biological mitigation monitoring of these lands over (typically) a five-year period.

7.3.2 Applicability to The Proposed Project

No State-listed plant or animal species would likely be impacted by the proposed project (Tables 3 and 4, respectively). Consequently, no impacts are expected to occur to plant or animal species protected pursuant to the CESA. As such, no CESA (2081b) Incidental Take Permit is warranted for the proposed project.

7.4 California Fish and Game Code § 3503, 3503.5, 3511, and 3513

California Fish and Game Code §3503, 3503.5, 3511, and 3513 prohibit the "take, possession, or destruction of birds, their nests or eggs." Disturbance that causes nest abandonment and/or loss of reproductive effort (killing or abandonment of eggs or young) is considered "take." Such a take would also violate federal law protecting migratory birds (Migratory Bird Treaty Act).

All raptors (that is, hawks, eagles, owls) their nests, eggs, and young are protected under California Fish and Game Code (§3503.5). Additionally, "fully protected" birds, such as the white-tailed kite and golden eagle, are protected under California Fish and Game Code (§3511). "Fully protected" birds may not be taken or possessed (that is, kept in captivity) at any time.

7.4.1 Applicability to the Proposed Project

Raptors that are known to nest in the region of the project site include White-tailed Kite and Osprey. These raptors are not likely to nest on the project site based on the amount of residential and commercial disturbance in the area; however, their presence cannot be ruled out without conducting nesting season surveys. Many common passerine birds could nest on the project site. Preconstruction nesting surveys would have to be conducted for nesting birds to ensure that there is no direct take of these birds, or their eggs or nests, as applicable, during the construction of the proposed project. Any active nests that are found during preconstruction surveys would have to be avoided by the proposed project. Suitable non-disturbance buffers would be established around nest sites until the nesting cycle is complete. More specifics on nesting bird surveys and protection buffers are provided below in the Impacts and Mitigations section.

8. CITY OF HEALDSBURG GENERAL PLAN

The Healdsburg 2030 General Plan was adopted in 2009 and includes amendments through January 2015; it guides the physical development of the city and land outside city limits, as well as identifies the community's environmental, social and economic goals. The pertinent goals, policies and implementation measures of the Healdsburg General Plan that pertain to biological resources and their applicability to the project are itemized below.

8.1 Natural Resources Goals and Policies

The Natural Resources Element provides goals, policies and implementation measures directed towards protecting and improving the City's water, agricultural, mineral, air, plant, wildlife and scenic resources.

Goal NR-A: Improve water quality and flows in the Russian river, Dry Creek and Foss Creek to protect the city's water supply, recreation, fish and wildlife.

Policy NR-A-1:

> The establishment of any new individual septic systems within the city limits is prohibited, except as otherwise provided in this General Plan, and shall support the efforts of the County, the Regional Water Quality Control Board, and residents to replace existing septic systems in the Fitch Mountain area with a centralized collection and treatment system or equally effective alternative to service existing development.

Policy NR-A-2:

The City will seek to minimize siltation, sedimentation and pollution discharge into receiving waterways from construction activities and ongoing operations.

Goal NR-B: Conservation and restoration of Healdsburg's native plants and wildlife, ecosystems and waterways.

Policy NR-B-1:

Channel improvements to, and tree and brush clearance activities along Foss Creek shall not unnecessarily disturb riparian vegetation, shall seek to maintain and provide a sufficient shade canopy over the creek, and shall use plants and natural materials to the extent feasible in bank stabilization projects.

8.1.1 APPLICABILITY TO THE PROPOSED PROJECT

The riparian vegetation along Foss Creek within the project site footprint will not be disturbed as all project activities will be setback 35 feet from the creek's top of bank with only minor encroachments, in accordance with Healdsburg Municipal Code Section 20.24.090.

Policy NR-B-2:

Large, mature trees that contribute to the visual quality of the environment or provide important wildlife habitat shall be protected.

Policy NR-B-3:

New development shall be sited to maximize the protection of native tree species, riparian vegetation, important concentrations of native plants, and important wildlife habitat.

8.1.2 APPLICABILITY TO THE PROPOSED PROJECT

The proposed project will protect the native riparian trees and shrubs that grow along Foss Creek.

Policy NR-B-4:

The use of native tree species in landscaping and in the replanting of cut slopes is encouraged.

8.1.3 APPLICABILITY TO THE PROPOSED PROJECT

As currently proposed, the project is not implementing the use of native trees on the project site. However, London plane trees will be planted which are high quality shade trees that are drought tolerant.

Goal NR-C: Preservation and enhancement of Healdsburg's natural setting.

Policy NR-C-6:

Protection of distinctive natural vegetation such as oak woodlands, riparian corridors, and mixed evergreen forest is encouraged.

Goal NR-D: Maintenance of the economic viability of agriculture in the Healdsburg area while providing for the planned development of Healdsburg.

Policy NR-D-3:

The City will support continuation of the local farmers market as an important part of the fabric and culture of the community.

8.1.4 APPLICABILITY TO THE PROPOSED PROJECT

This purpose of this project is to provide a permanent location for the Healdsburg Farmers Market.

Policy NR-D-4:

The City will promote the sustainability of local agriculture.

8.1.5 APPLICABILITY TO THE PROPOSED PROJECT

This policy is not applicable to the proposed project.

Goal NR-E: Reduce greenhouse gas emissions and increase energy efficiency communitywide.

Policy NR-E-5:

The City will encourage the use of large-scale trees in new development to lessen heat build-up from solar radiation.

8.2 Natural Resources Implementation Measures and Applicability

8.2.1 RIPARIAN RESOURCES PROTECTION

8.2.1.1 NR-1

Develop and apply standard mitigation measures and conditions of approval on development permits to reduce siltation, sedimentation and pollution discharge into receiving waterways, both pre- and post-construction.

8.2.2 APPLICABILITY TO THE PROPOSED PROJECT

Appropriate Best Management Practices (BMP) will be implemented during and after construction to prevent siltation, sedimentation and pollution discharge into Foss Creek which is located on the eastern side of the project site. Appropriate siltation control measures would include the use of wildlife friendly (that is, no monofilament netting) hay wattles, silt fencing, and other measures to prevent silt and sediment (which constitutes “fill”) from accidentally entering Foss Creek.

8.2.2.1 NR-2

Continue to require Storm Water Pollution Plans (SWPPP) for development projects with a land disturbance of one acre or more that incorporate best management practices to preserve natural drainage systems; provide source control of construction site materials, wastes and chemicals; and control and treat runoff, both during and after construction.

8.2.3 APPLICABILITY TO THE PROPOSED PROJECT

The project in its current design does not require a Storm Water Pollution Plan (SWPPP) for development. However, if this is required in the future, the proposed project will comply with the preparation of a SWPPP by a qualified engineer. Finally, BMPs will be in place during all earth-work.

8.2.3.1 NR-4

Continue to enforce the riparian setback requirements of the Zoning Ordinance.

8.2.4 APPLICABILITY TO THE PROPOSED PROJECT

Required creek setbacks shall be established and maintained consistent with Healdsburg Municipal Code Section 20.24.090, which requires a minimum 35-foot setback from the top of bank of Foss Creek. The applicant is requesting a variance from the City of Healdsburg to slightly encroach on the 35-foot setback, as the area to be developed is an existing hard-pack parking lot that does not support any natural vegetation. Some riparian canopy may overhang onto the development, but the construction of this project would not impact the riparian community itself, as all work will take place on gravel-impregnated surfaces and will not affect the trunk or branches of any riparian trees.

8.2.4.1 NR-6

Continue to promote the use of native plant species and the use of appropriate species in and adjacent to riparian habitat areas through implementation of Zoning Ordinance regulations and adopted design guidelines.

8.2.5 APPLICABILITY TO THE PROPOSED PROJECT

The entire riparian area of Foss Creek consists of the Wetzel Native Plant Garden which has several mature native trees and an abundance of native shrubs and grasses. This area will be preserved and will continue to be maintained.

8.2.6 CLIMATE PROTECTION AND ENERGY EFFICIENCY

8.2.6.1 NR-25

Encourage the planting of large shade trees where adequate space can be provided for the trees' ultimate size, such as in open space areas, parks, large lots and wide parkway strips.

8.2.7 APPLICABILITY TO THE PROPOSED PROJECT

Twelve London plane trees (*Platanus x acerifolia*) will be planted methodically throughout the parking lot and the city sidewalk. These are drought tolerant and serve as high quality shade trees.

8.3 City of Healdsburg Heritage Tree Ordinance

The City of Healdsburg has an Ordinance protecting "Heritage Trees." Such trees include any tree with a trunk that measures a diameter of 30 inches or greater measured at 24 inches above ground level (Land Use Code Chapter 20.24 § 2). A tree permit must be obtained by the City

authorizing the removal, relocation or specific work to be performed within the protected zone of a heritage tree.

8.3.1 APPLICABILITY TO THE PROPOSED PROJECT

Within the project site development footprint, there are three glossy privet trees (*Ligustrum lucidum*) present. Two of these are considered heritage trees based on their size and would be protected under the City of Healdsburg's tree ordinance. According to the Arborist's report (MacNair & Associates 2021), one tree consists of eight trunks with three primary trunks at 24 inches above grade that convert to a 32-inch equivalent single trunk measurement. The second heritage tree has a low three trunk structure that converts to a 35-inch equivalent single trunk measurement and is in poor health. Glossy privet trees are not native and not considered a valuable species. Glossy privets are considered an invasive species by the California Invasive Plant Council (Cal-IPC). Regardless, since these trees meet the City's ordinance as heritage trees, a tree removal permit request for these trees has been applied for by the Arborist, MacNair & Associates to the City of Healdsburg Parks and Open Space Superintendent, Jaime Licea, on November 17, 2021.

9. REGULATORY REQUIREMENTS PERTAINING TO WATERS OF THE UNITED STATES AND STATE

This section presents an overview of the criteria used by the Corps, the RWQCB, the State Water Resources Control Board (SWRCB), and the CDFW to determine those areas within a project area that would be subject to their regulation.

9.1 U.S. Army Corps of Engineers Jurisdiction and General Permitting

Congress enacted the Clean Water Act "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters" (33 U.S.C. §1251(a)). Pursuant to Section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344), the Corps regulates the disposal of dredged or fill material into "waters of the United States" (33 CFR Parts 328 through 330). This requires project applicants to obtain authorization from the Corps prior to discharging dredged or fill materials into any water of the United States.

On November 18, 2021, the U.S. EPA and the Corps (the "agencies") announced the signing of a proposed rule to revise the definition of "waters of the United States." On December 7, 2021, the proposed rule was published in the Federal Register. The agencies propose to put back into place the pre-2015 definition of "waters of the United States," (40 CFR 230.3(s)). This proposal redefining wetlands is not final at this time. The agencies are interpreting "waters of the United States" consistent with the pre-2015 regulatory regime until further notice.

In the published proposed rule from the Federal Register, the term "waters of the United States" is defined as:

1. All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide
2. All interstate waters including interstate wetlands

3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds:
    (i) That are relatively permanent, standing or continuously flowing bodies of water with a continuous surface connection to the waters identified in paragraph (1), (2), (5)(i), or (6) of this section; or
    (ii) (ii) That either alone or in combination with similarly situated waters in the region, significantly affect the chemical, physical, or biological integrity of waters identified in paragraph (1), (2), or (6) of this section

4. All impoundments of waters otherwise defined as waters of the United States under the definition, other than impoundments of waters identified under 3 of this section
5. Tributaries of waters identified in (1), (2), (4), or (6) of this section
    (i) That are relatively permanent, standing or continuously flowing bodies of water; or
    (ii) That either alone or in combination with similarly situated waters in the region, significantly affect the chemical, physical, or biological integrity of waters identified in (1), (2), or (6) of this section
6. The territorial seas
7. Wetlands adjacent to the following waters (other than waters that are themselves wetlands):
    (i) Waters identified in (1), (2), or (6) of this section; or
    (ii) Relatively permanent, standing or continuously flowing bodies of water identified in paragraph (4) or (5)(i) of this section and with a continuous surface connection to such waters; or
    (iii) Waters identified in (4) or (5)(ii) of this section when the wetlands either alone or in combination with similarly situated waters in the region, significantly affect the chemical, physical, or biological integrity of waters identified in paragraph (1), (2), or (6) of this section

Waters of the United States do not include:

8. Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States.

9. Prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other Federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

Limits of Corps' jurisdiction:

(a) Territorial Seas. The limit of jurisdiction in the territorial seas is measured from the baseline in a seaward direction a distance of three nautical miles. (See 33 CFR 329.12)

(b) Tidal Waters of the United States. The landward limits of jurisdiction in tidal waters:

(1) Extends to the high tide line, or
(2) When adjacent non-tidal waters of the United States are present, the jurisdiction extends to the limits identified in paragraph (c) of this section.

(c) Non-Tidal Waters of the United States. The limits of jurisdiction in non-tidal waters:

(1) In the absence of adjacent wetlands, the jurisdiction extends to the ordinary high water mark ("OHWM"), or
(2) When adjacent wetlands are present, the jurisdiction extends beyond the ordinary high water mark to the limit of the adjacent wetlands.
(3) When the water of the United States consists only of wetlands the jurisdiction extends to the limit of the wetland.

The OHWM on a non-tidal water is:

- the "line on shore established by the fluctuations of water and indicated by physical characteristics such as a clear natural line impressed on the bank; shelving; changes in the character of soil; destruction of terrestrial vegetation; the presence of litter or debris; or other appropriate means that consider the characteristics of the surrounding areas" (33 CFR Section 328.3[e]).

Wetlands are defined as: "...those areas that are inundated or saturated by surface or ground water at a frequency and duration to support a prevalence of vegetation adapted for life in saturated soil conditions" (33 CFR Section 328.8 [b]). Wetlands usually must possess hydrophytic vegetation (i.e., plants adapted to inundated or saturated conditions), wetland hydrology (e.g., topographic low areas, exposed water tables, stream channels), and hydric soils (i.e., soils that are periodically or permanently saturated, inundated or flooded) to be regulated by the Corps pursuant to Section 404 of the Clean Water Act.

One of the Supreme Court rulings that will likely remain under the new rule, once it is finalized, was established in 2001 in Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers. In this case, the U.S. Supreme Court [148 L. Ed. 2d 576 (2001) (SWANCC)] ruled that the Corps exceeded its authority under the Clean Water Act when it regulated discharges of fill material into "isolated" waters used as habitat by migratory birds. Accordingly, waters (including wetlands) that are not connected hydrologically to navigable waters are not subject to regulation by the Corps.

Another Supreme Court decision also significantly changes how the Corps defines waters of the United States. On June 19, 2006 the United States Supreme Court, in a "four-one-four" decision, addressed the extent of Clean Water Act jurisdiction over wetlands adjacent to tributaries of navigable waters. In two consolidated cases, *Rapanos v. United States* and *Carabell v. U.S. Army Corps of Engineers*, a five-Justice majority of the Court remanded the case to the Sixth circuit for further consideration. The Court was unable to produce a majority vote in favor of any one jurisdictional standard for the Sixth Circuit to apply (or for the regulated community to follow). Instead, Justice Scalia authored a plurality opinion that would significantly narrow the reach of

federal wetlands jurisdiction, while Justice Kennedy, concurring in the judgment only, concluded that the appropriate test for jurisdiction over wetlands was the presence of a "significant nexus" between wetlands and "navigable waters" in the traditional sense. The remaining four Justices, in a dissenting opinion by Justice Stevens, would have upheld the Corps of Engineers' assertion of jurisdiction and would have affirmed the Sixth Circuit's decision. When no opinion garners at least five votes, lower courts follow the concurrence that reached the result on the narrowest grounds. Here, that is Justice Kennedy's opinion. Unfortunately, Justice Kennedy did not provide specific guidance about the extent of federal jurisdiction over wetlands that are adjacent to tributaries of navigable waters.

Justice Kennedy concluded that the Clean Water Act applies only to those wetlands with a "significant nexus" to "navigable waters in the traditional sense." A significant nexus exists when a wetland, "either alone or in combination with similarly situated lands in the region, significantly affect[s] the chemical, physical, and biological integrity" of factually navigable waters. Under Supreme Court precedent, wetlands adjacent to navigable waters meet this test. For wetlands located near tributaries of navigable waters, however, each wetland demands a case-by-case jurisdictional inquiry. We know that a "mere hydrological connection" is not enough in all cases, and that "speculative or insubstantial" effects on water quality will not suffice to satisfy the test. [Preceding text excerpted from a newsletter prepared by Briscoe, Ivester, and Bazel LLP]. The Corps of Engineers and the Environmental Protection Agency jointly prepared an Instructional Guidebook to aid Corps field staff in completing the new “Approved Jurisdictional Determination Form,” and is intended to be used as the U.S. Army Corps of Engineers Regulatory National Standard Operating Procedures for conducting an approved jurisdictional determination.

9.2 Permitting Corps Jurisdictional Areas

To remain in compliance with Section 404 of the CWA, project proponents and property owners (applicants) are required to be permitted by the Corps prior to discharging or otherwise impacting waters of the United States. In many cases, the Corps must visit a proposed project area (to conduct a “jurisdictional determination”) to confirm the extent of area falling under their jurisdiction prior to authorizing any permit for that project area. Typically, at the time the jurisdictional determination is conducted, applicants (or their representative) will discuss the appropriate permit application that would be filed with the Corps for permitting the proposed impact(s) to “waters of the United States.”

Pursuant to Section 404, the Corps normally provides two alternatives for permitting impacts to the type of waters of the United States found in the project area. The first alternative would be to use Nationwide Permit(s) (NWP). The second alternative is to apply to the Corps for an Individual Permit (33 CFR Section 235.5(2)(b)). The application process for Individual Permits is extensive and includes public interest review procedures (i.e., public notice and receipt of public comments) and must contain an “alternatives analysis” that is prepared pursuant to Section 404(b) of the Clean Water Act (33 U.S.C. 1344(b)). The alternatives analysis is also typically reviewed by the federal EPA and thus brings another resource agency into the permitting framework. Both the Corps and EPA take the initial viewpoint that there are practical alternatives to the proposed project if there would be impacts to waters of the U.S., and the

proposed permitted action is not a water dependent project (e.g., a pier or a dredging project). Alternative analyses therefore must provide convincing reasons that the proposed permitted impacts are unavoidable. Individual Permits may be available for use in the event that discharges into regulated waters fail to meet conditions of NWP(s).

NWPs are a type of general permit administered by the Corps and issued on a nationwide basis that authorize minor activities that affect Corps regulated waters. Under NWP, if certain conditions are met, the specified activities can take place without the need for an individual or regional permit from the Corps (33 CFR, Section 235.5[c][2]). In order to use NWP(s), a project must meet 27 general nationwide permit conditions, and all specific conditions pertaining to the NWP being used (as presented at 33 CFR Section 330, Appendices A and C). It is also important to note that pursuant to 33 CFR Section 330.4(e), there may be special regional conditions or modifications to NWPs that could have relevance to individual proposed projects. Finally, pursuant to 33 CFR Section 330.6(a), Nationwide permittees may, and in some cases must, request from the Corps confirmation that an activity complies with the terms and conditions of the NWP intended for use (*i.e.,* must receive "verification" from the Corps).

Prior to finalizing design plans, the applicant needs to be aware that the Corps maintains a policy of "no net loss" of wetlands (waters of the United States) from project area development. Therefore, it is incumbent upon applicants that propose to impact Corps regulated areas to submit a mitigation plan that demonstrates that impacted regulated areas would be recreated (*i.e.,* impacts would be mitigated). Typically, the Corps requires mitigation to be "in-kind" (i.e., seasonal wetlands would be filled, mitigation would include seasonal wetland mitigation), and at a minimum of a 1:1 replacement ratio (i.e., one acre or fraction there of recreated for each acre or fraction thereof lost). Often a 2:1 replacement ratio is required if the Permittee is responsible for the mitigation. In some cases, the Corps allows "out-of-kind" mitigation if the compensation site has greater value than the impacted site. Finally, there are many Corps approved wetland mitigation banks where wetland mitigation credits can be purchased by applicants to meet mitigation compensation requirements. Mitigation banks have defined service areas and the Corps may only allow their use when a project would have minimal impacts to wetlands.

9.2.1 APPLICABILITY TO THE PROPOSED PROJECT

Considering that the parcels of land slated for renovation are comprised of a large warehouse, pavement and hard-pack gravel parking lot, it is M&A's educated opinion that there are no waters of the U.S. within the re-development project footprint. Foss Creek on the project site is a perennial creek that would be regulated by the Corps pursuant to Section 404 of the Clean Water Act. However, under the current development proposal there are no plans to impact this creek (e.g., an outfall will not be installed on its banks). There would be no impacts to waters of the U.S. from the proposed project. As such, prior authorization from the Corps is not warranted for this project.

9.3 California Regional Water Quality Control Board (RWQCB)

9.3.1 SECTION 401 OF THE CLEAN WATER ACT

The SWRCB and RWQCB regulate activities in "waters of the State" (which includes wetlands) through Section 401 of the Clean Water Act. While the Corps administers a permitting program

that authorizes impacts to waters of the U.S., including wetlands and other waters, any Corps permit authorized for a proposed project would be inoperative unless it is a NWP that has been certified for use in California by the SWRCB, or if the RWQCB has issued a project specific certification of water quality. Certification of NWPs requires a finding by the SWRCB that the activities permitted by the NWP will not violate water quality standards individually or cumulatively over the term of the permit (the term is typically for five years). Certification must be consistent with the requirements of the federal Clean Water Act, the CEQA, the CESA, and the SWRCB's mandate to protect beneficial uses of waters of the State. Any denied (i.e., not certified) NWPs, and all Individual Corps permits, would require a project specific RWQCB certification of water quality. Where a project will result in dredge or fill of non-federal waters of the State, the RWQCB will authorize those fills through waste discharge requirements issued under the Porter Cologne Water Quality Control Act.

On April 2, 2019, the SWRCB adopted a State-level definition of "wetlands," which is a broader definition than the federal definition in that unvegetated areas may be considered a wetland water of the State. As a part of the same policy, the SWRCB adopted permit procedures and standards governing the discharge of dredged or fill material into wetlands and other waters of the State. The policy includes, among other things, requirements for analyses to identify the least environmentally damaging practicable alternative (LEDPA) and compensatory mitigation standards including a minimum 1:1 ratio for wetlands and streams, and full functional replacement of all waters on top of this minimum where applicable. The policy, which governs both Section 401 certifications and Waste Discharge Requirements (WDRs), is now in effect.

9.3.2 Applicability to the Proposed Project

Since the RWQCB does not have a formal method for technically defining what constitutes waters of the State, M&A expect that the RWQCB should remain consistent with the Corps' determination. Foss Creek is the only water of the State on the project site. This creek and its riparian vegetation will not be impacted by the proposed project. All re-development will take place on existing paved surfaces 35 feet away from Foss Creek's top of bank with minor encroachments into the 35-foot setback. Since the project will remain well outside of the creek, and the creek's top of bank and channel will not be affected, and there will be no need to discharge surface runoff into the creek as the project site is already tied into the City's stormdrain system, prior authorization from the RWQCB pursuant to Section 401 of the Clean Water Act would not be necessary.

9.3.3 Porter-Cologne Water Quality Control Act

The uncontrolled discharge of pollutants into impaired water bodies is considered particularly detrimental. According to the EPA, **sediment is one of the most widespread pollutants contaminating U.S. rivers and streams**. Sediment runoff from construction sites is 10 to 20 times greater than from agricultural lands and 1,000 to 2,000 times greater than from forest lands (EPA 2005). Consequently, the discharge of stormwater from large construction sites is regulated by the RWQCB under the Clean Water Act and California's Porter-Cologne Water Quality Control Act.

The Porter-Cologne Water Quality Control Act, Water Code § 13260, requires that "any person discharging waste, or proposing to discharge waste, that could affect the waters of the State to file a report of discharge" with the RWQCB through an application for waste discharge (Water Code Section 13260(a)(1). The term "waters of the State" is defined as any surface water or groundwater, including saline waters, within the boundaries of the State (Water Code § 13050(e)). It should be noted that pursuant to the Porter-Cologne Water Quality Control Act, the RWQCB also regulates "isolated wetlands," or those wetlands considered to be outside of the Corps' jurisdiction (see Corps Section above).

The RWQCB generally considers filling in waters of the State to constitute "pollution." Pollution is defined as an alteration of the quality of the waters of the State by waste that unreasonably affects its beneficial uses (Water Code §13050(1)). The RWQCB litmus test for determining if a project should be regulated pursuant to the Porter-Cologne Water Quality Control Act is if the action could result in any "threat" to water quality.

The RWQCB requires complete pre- and post-development Best Management Practices (BMPs) for any portion of the project site that is developed. This means that a water quality treatment plan for the pre- and post-developed project site must be prepared and implemented. Preconstruction requirements must be consistent with the requirements of the National Pollutant Discharge Elimination System (NPDES). That is, a *Stormwater Pollution Prevention Plan* (SWPPP) must be developed prior to the time that a site is graded (see NPDES section below). In addition, a post construction BMPs plan, or a Stormwater Management Plan (SWMP) must be developed and incorporated into any site development plan.

9.3.4 Applicability to The Proposed Project

Since any "threat" to water quality could conceivably be regulated by the RWQCB or the SWRCB pursuant to the Porter-Cologne Water Quality Control Act, care will be required when constructing the proposed project to be sure that adequate pre and post construction BMPs are incorporated into the project implementation plans to protect Foss Creek on the east side of the project site. Such BMPs, if correctly installed and maintained, are likely to keep the project in compliance with the Porter-Cologne Water Quality Control Act.

All stormwater runoff currently flows into the City's existing stormdrain system. Project redevelopment will utilize the existing storm drain system. As currently proposed, the project design does not require a Storm Water Pollution Plan (SWPPP) for development. However, it is also important for the project proponent to have the components of a SWMP in place, as well as a SWPPP, if this is required in the future; these documents are typically prepared by the project civil engineer.

10. STATE WATER RESOURCES CONTROL BOARD (SWRCB)/RWQCB – STORMWATER MANAGEMENT

10.1 Construction General Permit

While federal Clean Water Act NPDES regulations allow two permitting options for construction related stormwater discharges (individual permits and General Permits), the SWRCB has elected to adopt only one statewide Construction General Permit at this time that will apply to all

stormwater discharges associated with construction activity, except from those on Tribal Lands, in the Lake Tahoe Hydrologic Unit, and those performed by the California Department of Transportation (CalTrans).

The Construction General Permit requires all dischargers where construction activity disturbs greater than one acre of land or those sites less than one acre that are part of a common plan of development or sale that disturbs more than one acre of land surface to:

1. Develop and implement a SWPPP which specifies BMPs that will prevent all construction pollutants from contacting stormwater with the intent of keeping all products of erosion from moving off site into receiving waters.

2. Eliminate or reduce non-stormwater discharges to storm sewer systems and other waters of the nation. Achieve quantitatively-defined (i.e., numeric) pollutant-specific discharge standards, and conduct much more rigorous monitoring based on the project's projected risk level.

3. Perform inspections of all BMPs.

This Construction General Permit is implemented and enforced by the nine RWQCBs. It is also enforceable through citizens' suits and represents a dramatic shift in the SWRCB's approach to regulating new and redevelopment sites, imposing new affirmative duties and fixed standards on builders and developers.

Types of Construction Activity Covered by the Construction General Permit

- clearing,
- grading,
- disturbances to the ground such as stockpiling, or excavation that results in soil disturbances of at least one acre or more of total land area.

Construction activity that results in soil disturbances to a smaller area would still be subject to this General Permit if the construction activity is part of a larger common plan of development that encompasses greater than one acre of soil disturbance, or if there is significant water quality impairment resulting from the activity.

Construction activity does not include:

- routine maintenance to maintain original line and grade,
- hydraulic capacity, or original purpose of the facility,
- nor does it include emergency construction activities required to protect public health and safety.

The Construction General Permit includes several "post-construction" requirements. These requirements entail that site designs provide no net increase in overall site runoff and match pre-project hydrology by maintaining runoff volume and drainage concentrations. To achieve the

required results where impervious surfaces such as roofs and paved surfaces are being increased, developers must implement non-structural off-setting BMPs, such as landform grading, site design BMPs, and distributed structural BMPs (bioretention cells, rain gardens, and rain cisterns). This "runoff reduction" approach is essentially a SWRCB-imposed regulatory requirement to implement Low Impact Development ("LID") design features. Volume that cannot be addressed using non-structural BMPs must be captured in structural BMPs that are approved by the RWQCB.

Improving the quality of site runoff is necessary to improve water quality in impaired and threatened streams, rivers, and lakes (that is, water bodies on the EPA's 303(d) list). The RWQCB prioritizes the water bodies on the 303(d) list according to potential impacts to beneficial uses. Beneficial uses can include a wide range of uses, such as nautical navigation; wildlife habitat; fish spawning and migration; commercial fishing, including shellfish harvesting; recreation, including swimming, surfing, fishing, boating, beachcombing, and more; water supply for domestic consumption or industrial processes; and groundwater recharge, among other uses. The State is required to develop action plans and establish Total Maximum Daily Loads (TMDLs) to improve water quality within these impaired water bodies. The TMDL is the quantity of a pollutant that can be safely assimilated by a water body without violating the applicable water quality standards.

Pursuant to the Clean Water Act, the RWQCB regulates construction discharges under the NPDES. The project sponsor of construction or other activities that disturb more than one acre of land must obtain coverage under NPDES Construction General Permit Order 2009-0009-DWQ, administered by the RWQCB[1].

10.1.1 Applicability to The Proposed Project

To obtain coverage under the SWRCB administered Construction General Permit, the applicant (typically through its civil engineer) must electronically file a number of permit-related compliance documents (Permit Registration Documents (PRDs), including a Notice of Intent (NOI), a risk assessment, site map, signed certification, SWPPP, Notice of Termination (NOT), NAL exceedance reports, and other site-specific PRDs that may be required. The PRDs must be prepared by a Qualified SWPPP Practitioner (QSP) or Qualified SWPPP Developer (QSD) and filed by a Legally Responsible Person (LRP) on the RWQCB's Stormwater Multi-Application Report Tracking System (SMARTS). (QSDs are typically civil engineers, professional hydrologists, engineering geologists, or landscape architects.) Once filed, these documents become immediately available to the public for review and comment. At a minimum, the SWPPP shall identify BMPs for implementation during project construction that are in accordance with the applicable guidance and procedures contained in the California Stormwater Quality Association's *California Stormwater Best Management Practices Handbook* (2015).

[1] CGP Order 2009-0009-DWQ remains in effect, but has been amended by CGP Order 2009-0014-DWQ, effective February 14, 2011, and CGP Order 2009-0016-DWQ, effective July 17, 2012. The first amendment merely provided additional clarification to Order 2009-0009-DWQ, while Order 2009-0016-DWQ eliminated numeric effluent limits on pH and turbidity (except in the case of active treatment systems), in response to a legal challenge to the original order.

10.2 RWQCB Municipal Stormwater Permitting Programs

The federal Clean Water Act was amended in 1987 to address urban stormwater runoff pollution of the nation's waters. In 1990, the EPA promulgated rules establishing Phase 1 of the NPDES stormwater program. The Phase 1 program for Municipal Separate Storm Sewer System (MS4s) requires operators that serve populations of 100,000 or greater to implement a stormwater management program to control polluted discharges from these MS4s. While Phase 1 of the municipal stormwater program has focused on large urban areas, Phase 2 of the municipal stormwater program was promulgated by the EPA for smaller urban areas including non-traditional Small MS4s, which are governmental facilities such as military bases, public campuses, and prison and hospital complexes.

MS4 permits require the discharger (or dischargers that are permitted by the MS4 permittees) to develop and implement a SWMP with the goal of reducing the discharge of pollutants to the maximum extent practicable (MEP). MEP is the performance standard specified in Section 402(p) of the Clean Water Act. The management programs specify which BMPs will be used to address certain program areas. The program areas include public education and outreach; illicit discharge detection and elimination; construction and post-construction; and good housekeeping for municipal operations. In general, medium and large municipalities are required to conduct chemical monitoring, though small municipalities are not.

10.2.1 NPDES C.3 Requirements

The NPDES C.3 requirements went into effect for any project (public or private) that is "deemed complete" by the City or County (Lead Agency) on or after February 15, 2005, and which will result in the creation or replacement (other than normal maintenance) of at least 10,000 square feet of impervious surface area (roofs, streets, patios, parking lots, etc. Provision C.3 requires the onsite treatment of stormwater prior to its discharge into downstream receiving waters. Note that these requirements are in addition to the existing NPDES requirements for erosion and sedimentation controls during project construction that are typically addressed through acquisition of coverage under the SWRCB administered Construction General Permit. The C.3 requirements are typically required to be implemented by MS4 permittees (and their constituencies).

Projects subject to Provision C3 must include the capture and onsite treatment of all stormwater from the site prior to its discharge, including rainwater falling on building rooftops. Project applicants are required to implement appropriate source control and site design measures and to design and implement stormwater treatment measures in order to reduce the discharge of stormwater pollutants to the *maximum extent practicable.* While the Clean Water Act does not define "maximum extent practicable," the SWMPs required as a condition of the municipal NPDES permits identify control measures (i.e., BMPs) and, where applicable, performance standards, to establish the level of effort required to satisfy the maximum extent practicable criterion. It is ultimately up to the professional judgment of the reviewing municipal staff in the individual jurisdictions to determine whether a project's proposed stormwater controls will satisfy the maximum extent practicable criterion. However, there are numeric criteria used to ensure that treatment BMPs have been adequately sized to accommodate and treat a site's

stormwater. The C3 requirements are quite extensive, and their complete explanation is not provided here. However, the following are minimums that should be understood and adhered to:

- The applicant must provide a detailed and realistic site design *and impervious surface area calculations*. This site design *and calculations* will be used by the Lead Agency (County or City) to determine/*verify* the amount of impervious surface area that is being created or replaced. It should include all proposed buildings, roads, walkways, parking lots, landscape areas, etc., that are being created or redeveloped. If large (greater than 10,000 square feet) lots are being created an effort will need to be made to determine the total impervious surface area that could be created on that parcel. For example, if only a portion of the lot is shown as a "building envelope" then the lead agency will need to consider that a driveway will have to be constructed to access the envelope and that the envelope will then be developed as shown. If the C.3 thresholds are met (creation/redevelopment of 10,000 square feet of impervious surface area), a Stormwater Control Plan (SWCP) (if required by the Lead Agency, or whatever steps for compliance with Provision C3 are required locally) must accompany the application.

- If a SWCP is required by the Lead Agency for the project it must be stamped by a Licensed Civil Engineer, Architect, or Landscape Architect.

10.2.2 Applicability to The Proposed Project

It is the applicant's responsibility to ensure that the project civil engineer prepares all required Stormwater Planning documents for submittal to the City of Healdsburg so that compliance with its MS4 permit requirements can be verified as reported to the RWQCB or as otherwise necessary to comply with the Clean Water Act NPDES requirements. In addition, if the project includes a requirement to obtain a Clean Water Act Section 401 permit from the RWQCB, the SWMP (or equivalent plan) must be submitted to the RWQCB with the application package submitted for acquisition of a Section 401 permit (aka "water quality certification"). Under the currently proposed project design, there is no need to apply for a Section 401 permit as there would be no impacts to waters of the State. However, if project plans change, and Foss Creek would need to be impacted, the applicant would need to apply for a Section 401 permit and a SWMP would need to be submitted to the RWQCB.

10.3 California Department of Fish and Wildlife Protections

10.3.1 Section 1602 of California Fish and Game Code

Pursuant to Section 1602 of the California Fish and Game Code: "An entity may not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, unless all of the following occur:

(1) CDFW receives written notification regarding the activity in the manner prescribed by CDFW. The notification shall include, but is not limited to, all of the following:
(A) A detailed description of the project's location and a map.

(B) The name, if any, of the river, stream, or lake affected.
(C) A detailed project description, including, but not limited to, construction plans and drawings, if applicable.
(D) A copy of any document prepared pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.
(E) A copy of any other applicable local, State, or federal permit or agreement already issued.
(F) Any other information required by CDFW" (Fish & Game Code 2022).

Please see Section 1602 of the current California Fish and Game Code for further details.

Please also note that while not stated in the regulations above, the CDFW typically considers its jurisdiction to include riparian vegetation (that is, the trees and bushes growing along the stream). Thus, any proposed activity in a natural stream channel that would substantially adversely affect an existing fish and/or wildlife resource, including its riparian vegetation, would require entering into a Streambed Alteration Agreement (SBAA) with the CDFW prior to commencing with work in the stream. However, prior to authorizing such permits, the CDFW typically reviews an analysis of the expected biological impacts, any proposed mitigation plans that would be implemented to offset biological impacts and engineering and erosion control plans.

10.3.2 Applicability to The Proposed Project

Foss Creek would be regulated by the CDFW. This creek supports riparian vegetation. It is likely the CDFW would take jurisdiction over the bed, bank, and channel of this creek and its riparian vegetation. Any proposed changes/modifications to Foss Creek or its riparian vegetation would require entering into a SBAA with the CDFW. Under the current project design, there would be no impacts to Foss Creek or its riparian vegetation. Re-development would be set back almost entirely 35 feet from Foss Creek, however, the applicant is requesting a variance from the city to encroach slightly on the setback since the project site to be impacted is already developed and comprised of gravel-impregnated hardpack. Even with a reduced setback distance there would be no impacts to the tree canopy. Thus, an SBAA should not be necessary for this project.

11. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) REGULATIONS

A CEQA lead agency must determine if a proposed activity constitutes a project requiring further review pursuant to the CEQA. Pursuant to CEQA, a lead agency would have to determine if there could be significant adverse impacts to the environment from a proposed project. Typically, if within the city limits, the city would be the CEQA lead agency. If a discretionary permit (i.e., conditional use permit) would be required for a project (e.g. an occupancy permit must be issued), the lead agency typically must determine if there could be significant environmental impacts. This is usually accomplished by an "Initial Study." If there could be significant environmental impacts, the lead agency must determine an appropriate level of environmental review prior to approving and/or otherwise permitting the impacts. In some cases, there are "Categorical Exemptions" that apply to the proposed activity; thus the activity is exempt from CEQA. The Categorical Exemptions are provided in CEQA. There are also Statutory Exemptions in CEQA that must be investigated for any proposed project. If the project is not exempt from CEQA, the lowest level of review typically reserved for projects with no

significant effects on the environment would be for the lead agency to prepare a "Negative Declaration." If a proposed project would have only minimal impacts that can be mitigated to a level of no significance pursuant to the CEQA, then a "Mitigated Negative Declaration" (MND) is typically prepared by the lead agency. Finally, those projects that may have significant effects on the environment, or that have impacts that can't be mitigated to a level considered less than significant pursuant to the CEQA, typically must be reviewed via an Environmental Impact Report (EIR). All CEQA review documents are subject to public circulation, and comment periods.

Section 15380 of CEQA defines "endangered" species as those whose survival and reproduction in the wild are in immediate jeopardy from one or more causes, including loss of habitat, change in habitat, overexploitation, predation, competition, disease, or other factors. "Rare" species are defined by CEQA as those who are in such low numbers that they could become endangered if their environment worsens; or the species is likely to become endangered within the foreseeable future throughout all or a significant portion of its range and may be considered "threatened" as that term is used in FESA. The CEQA Guidelines also state that a project will normally have a significant effect on the environment if it will "substantially affect a rare or endangered species of animal or plant or the habitat of the species." The significance of impacts to a species under CEQA, therefore, must be based on analyzing actual rarity and threat of extinction to that species despite its legal status or lack thereof.

11.1.1 Applicability to the Proposed Project

This report has been prepared as a Biology section that is suitable for incorporation by the CEQA lead agency (the City of Healdsburg) into a CEQA review document such as a MND or an Environmental Impact Report. This document addresses potential impacts to species that would be defined as endangered or rare pursuant to Section 15380 of the CEQA.

12. IMPACTS ANALYSIS

Below the criteria used in assessing impacts to Biological Resources is presented.

12.1 Significance Criteria

A significant impact is determined using CEQA and CEQA Guidelines. Pursuant to CEQA §21068, a significant effect on the environment means a substantial, or potentially substantial, adverse change in the environment. Pursuant to CEQA Guideline §15382, a significant effect on the environment is further defined as a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historical or aesthetic significance. Other federal, State, and local agencies' considerations and regulations are also used in the evaluation of significance of proposed actions.

Direct and indirect adverse impacts to biological resources are classified as "significant," "potentially significant," or "less than significant." Biological resources are broken down into four categories: vegetation, wildlife, threatened and endangered species, and regulated "waters of the United States" and/or stream channels.

12.1.1 Thresholds of Significance

12.1.1.1 Plants, Wildlife, Waters

In accordance with Appendix G (Environmental Checklist Form) of the CEQA Guidelines, implementing the project would have a significant biological impact if it would:

- 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.

- 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 CDFW or USFWS.

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

- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

- Conflict with the provisions of an adopted HCP, Natural Community Conservation Plan, or other approved local, regional, or State HCP.

12.1.1.2 Waters of the United States and State.

Pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344), the Corps regulates the discharge of dredged or fill material into waters of the U.S., which includes wetlands, as discussed in the bulleted item above, and also includes "other waters" (stream channels, rivers) (33 CFR Parts 328 through 330). Substantial impacts to Corps regulated areas on a project site would be considered a significant adverse impact. Similarly, pursuant to Section 401 of the Clean Water Act, and to the Porter-Cologne Water Quality Control Act, the RWQCB regulates impacts to waters of the State. Thus, substantial impacts to RWQCB regulated areas on a project site would also be considered a significant adverse impact.

12.1.1.3 Stream Channels

Pursuant to Section 1602 of the California Fish and Game Code, the CDFW regulates activities that divert, obstruct, or alter stream flow, or substantially modify the bed, channel, or bank of a stream which the CDFW typically considers to include riparian vegetation. Any proposed activity that would result in substantial modifications to a natural stream channel would be considered a significant adverse impact.

13. IMPACT ASSESSMENT AND PROPOSED MITIGATION

In this section we discuss potential impacts to sensitive biological resources including impacts to nesting birds, special-status bats, and heritage trees. We follow each impact with a mitigation prescription that when implemented would reduce impacts to the greatest extent possible. This impact analysis is based on a Site Plan map created by TLCD Architecture in November 2021.

Appendix G – Checklist Items are listed below. Where there would be significant impacts to checklist categories, these impacts and required mitigation measures are fully discussed in the sections below.

Would the proposed project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS?

Yes. Potentially Significant. Nesting birds and special-status bats could be impacted by the proposed project. See the impacts and mitigations detailed below.

Would the proposed project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the CDFW or USFWS?

No impact. The proposed project is a re-development project and all re-development would take place on existing paved or otherwise hard-packed surfaces. Riparian habitat associated with Foss Creek would not be impacted and there are no sensitive natural communities onsite.

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

No Impact. The proposed project will not impact any Corps and/or RWQCB jurisdictional waters. Foss Creek is the only water of the U.S./State on the project site and it will not be impacted by the proposed project.

Would the proposed project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

No impact. The proposed project would not adversely impact or interfere with wildlife movement corridors. This is a re-development project in a downtown area; there are no significant regional or local wildlife corridors on the project site outside of the Foss Creek riparian community which serves as a local wildlife corridor and would not be impacted by the project.

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

Yes, there is a City tree ordinance and tree removal must be addressed. There are no other local policies or ordinances with which this project would conflict. See the impacts and mitigation measures for details.

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

No. No impact.

13.1 Impact BIO-1 Development of The Project Would Have a Potentially Significant Adverse Impact on Nesting Birds (Potentially Significant)

White-tailed Kite and Osprey, as well as other common raptor (birds of prey) species are known from the area and could nest near the project site. If they did, noise and vibrations from project site re-development could impact nesting birds. Common song birds (passerine birds) could also nest on the project site. All of these birds are protected under the Migratory Bird Treaty Act (50 CFR 10.13) and their eggs and young are protected under California Fish and Game Code Sections 3503, 3503.5. Any project-related impacts to these species would be considered a significant adverse impact. Potential impacts to these species from the proposed project include disturbance to nesting birds, adults abandoning their nests, eggs or chicks, and possibly death of adults and/or young. In the absence of survey results, it must be concluded that impacts to nesting raptors and song birds from the proposed project would be **potentially significant pursuant to CEQA.** This impact could be mitigated to a level considered less than significant.

13.2 Mitigation Measure BIO-1. Impacts to Nesting Birds

To avoid impacts to nesting birds, a nesting survey shall be conducted within 15 days of commencing with construction work or tree removal if this work would commence between February 1st and August 31st. The nesting survey should include an examination of all buildings onsite and all trees onsite and within 200 feet of the entire project site (i.e., within a zone of influence of nesting birds), not just trees slated for removal. The zone of influence includes those areas outside the project site where birds could be disturbed by earth- moving vibrations and/or other construction-related noise.

If birds are identified nesting on or within the zone of influence of the construction project, a qualified biologist shall establish a temporary protective buffer around the nest(s). The nest buffer should be staked with orange construction fencing. The buffer must be of sufficient size to protect the nesting site from construction-related disturbance and shall be established by a qualified ornithologist or biologist with extensive experience working with nesting birds near and on construction sites. Typically, adequate nesting buffers are 50 feet from the nest site or nest tree dripline for small birds and up to 300 feet for sensitive nesting birds that include several raptor species known the region of the project site but that are not expected to occur on the project site. Upon completion of nesting surveys, if nesting birds are identified on or within a zone of influence of the project site, a qualified ornithologist/biologist that frequently works with

nesting birds shall prescribe adequate nesting buffers to protect the nesting birds from harm while the project is constructed.

No construction or earth-moving activity shall occur within any established nest protection buffer prior to September 1 unless it is determined by a qualified ornithologist/biologist that the young have fledged (that is, left the nest) and have attained sufficient flight skills to avoid project construction zones, or that the nesting cycle is otherwise completed. In the region of the project site, most species complete nesting by mid-July. This date can be significantly earlier or later, and would have to be determined by the qualified biologist. At the end of the nesting cycle, and fledging from the nest by its occupants, as determined by a qualified biologist, temporary nesting buffers may be removed and construction may commence in established nesting buffers without further regard for the nest site.

Implementation of these mitigation measures would reduce impacts to nesting birds to a level regarded as less than significant pursuant to CEQA.

13.3 Impact BIO-2. Bats –Tree Removal and Site Development May Have a Potentially Significant Impact on Townsend's big-eared bat (Potentially Significant)

The trees and buildings onsite may provide roosting and maternity habitat for special-status bats such as the Townsend's big-eared bat. This bat species is designated by the State as "species of special concern." In accordance with the CEQA Guidelines (Section 15380) which protects "rare" and "endangered" species as defined by CEQA (species of special concern meet this CEQA definition), impacts to this bat species would be considered a **potentially significant adverse impact**. Potential impacts to special-status bats from the proposed project include loss of maternity and/or roosting habitat, death of individual adult bats and/or young. This impact could be mitigated to a less than significant level.

13.4 Mitigation Measure BIO-2. Impacts to Bats

In order to avoid impacts to roosting Townsend's big-eared bats, building removal should only be conducted during seasonal periods of bat activity: between August 31 and October 15, when bats would be able to fly and feed independently, and between March 1 and April 1st to avoid hibernating bats, and prior to the formation of maternity colonies. Then a qualified biologist, one with at least two years of experience surveying for bats, should do preconstruction surveys for roosting bats within 14 days of starting work. If the qualified biologist finds evidence of bat presence during the surveys, then he/she should develop a plan for removal and exclusion, in conjunction with the CDFW.

If building removal must occur outside of the seasonal activity periods mentioned above (i.e., between October 15 and February 28/29, or between April 2 and August 30), then a qualified biologist, one with at least two years of experience surveying for bats, should do preconstruction surveys within 14 days of starting work. If roosts are found, a determination should be made whether there are young. If a maternity site is found, impacts to the maternity site will be avoided by establishment of a non-disturbance buffer until the young have reached independence. The size of the buffer zone should be determined by the qualified bat biologist at the time of the surveys. If the qualified biologist finds evidence of bat presence during the

surveys, then he/she should develop a plan for removal and exclusion, when there are not dependent young present, in conjunction with the CDFW.

This mitigation measure would reduce the project's impact to special-status bats to a level considered less than significant.

13.5 Impact BIO-3. Development of the Project Would Have a Significant Adverse Impact on Two Heritage Glossy Privet Trees (Significant)

The project as currently proposed would require the removal of three glossy privet trees (*Ligustrum lucidum*), two of which are considered heritage trees and would be protected under the City of Healdsburg's tree ordinance. According to the Arborist's report (MacNair & Associates 2021), one tree consists of eight trunks with three primary trunks at 24 inches above grade, which converts to a 32-inch equivalent single trunk measurement. The second heritage tree has a low three trunk structure that converts to a 35-inch equivalent single trunk measurement and is in poor health. The removal of these trees would require a permit from the City of Healdsburg and may require subsequent mitigation (replacement tree planting). ***This impact to two glossy privet trees is a significant impact pursuant to CEQA.*** This impact could be mitigated to less than significant level.

13.6 Mitigation Measure BIO-3. Impacts to Heritage Trees

The City of Healdsburg regulates the removal or alteration of trees to preserve cultural heritage, maintain and enhance the scenic beauty of the community, improve air quality, assist in abating soil and slope erosion, and preserve and enhance property values. The removal or alteration of a heritage tree requires the applicant to apply for a permit from the City of Healdsburg. In addition to the application for the permit, the applicant would need to submit a site plan showing the location of the affected trees in relation to the property lines, buildings and other improvements, the number, species, size and types of trees to be affected, and a statement for the reasons for the removal, encroachment or relocation. Subsequent mitigation (replacement tree planting) may be required if heritage trees are impacted on a project site, which would require the applicant to provide a Tree Location and Preservation Plan.

Glossy privet trees are not considered a valuable species, and are considered an invasive species by the California Invasive Plant Council (Cal-IPC). A tree removal permit request for these trees has been applied for by the Arborist, MacNair & Associates, to the City of Healdsburg Parks and Open Space Superintendent, Jaime Licea, on November 17, 2021. As mitigation for the removal of these trees, the applicant proposes to plant London plane trees on the project site to provide shade in accordance with Natural Resources Protection Measure NR-25.

By implementing these mitigation measures, impacts to heritage trees from the proposed project will be reduced to a less than significant level.

14. LITERATURE CITED

Baldwin D.H, Goldman D.H., Keil D.J., Patterson R, Rosatti T.J., Wilken D.H. (ed.). 2012. The Jepson Manual Vascular Plants of California: Second Edition. University of California Press, Berkeley. 1568 pps.

Bury, B. 2005. Unpublished presentation given at the Pacific pond turtle workshop. Presented by the SF Bay Area Chapter of The Wildlife Society. April 16, 2005.

Cal-IPC. 2006. California Invasive Plant Inventory. Cal-IPS Publication 2006-02. California Invasive Plant Council: Berkeley, CA. Available: www.cal-ipc.org. Accessed June 2022.

CDFW (California Department of Fish and Wildlife). 2006. California Department of Fish and Game Stream Inventory Report. Foss Creek. Published March 2007.

CDFW (California Department of Fish and Wildlife). 2016. Complete list of amphibian, reptile, bird and mammal species in California. Published September 2008; updated May 2016.

CDFW (California Department of Fish and Wildlife). 2018. Protocols for surveying and evaluating impacts to special-status native plant populations and sensitive natural communities. State of California. California Natural Resources Agency. Department of Fish and Wildlife. March 20, 2018. 12 pps.

CNDDB (California Natural Diversity Data Base). 2022. RareFind 5. Computer printout for special-status species within a 3-mile radius of the project site. California Natural Heritage Division, California Department of Fish and Wildlife, Sacramento, CA.

CNPS (California Native Plant Society). 2001. Inventory of rare and endangered plants of California (sixth edition). Rare plant scientific advisory committee, David P. Tibor, convening editor. California Native Plant Society. Sacramento, CA. x+338 pps.

Environmental Laboratory. 1987. U.S. Army Corps of Engineers Wetlands Delineation Manual. Department of the Army, Waterways Experiment Station, Vicksburg, MS.

Flosi, G., S. Downie, J. Hopelain, M. Bird, R. Coey and B. Collins. 1998. *California Salmonid Stream Habitat Restoration Manual*. CA Department of Fish and Game, Inland Fisheries Division.

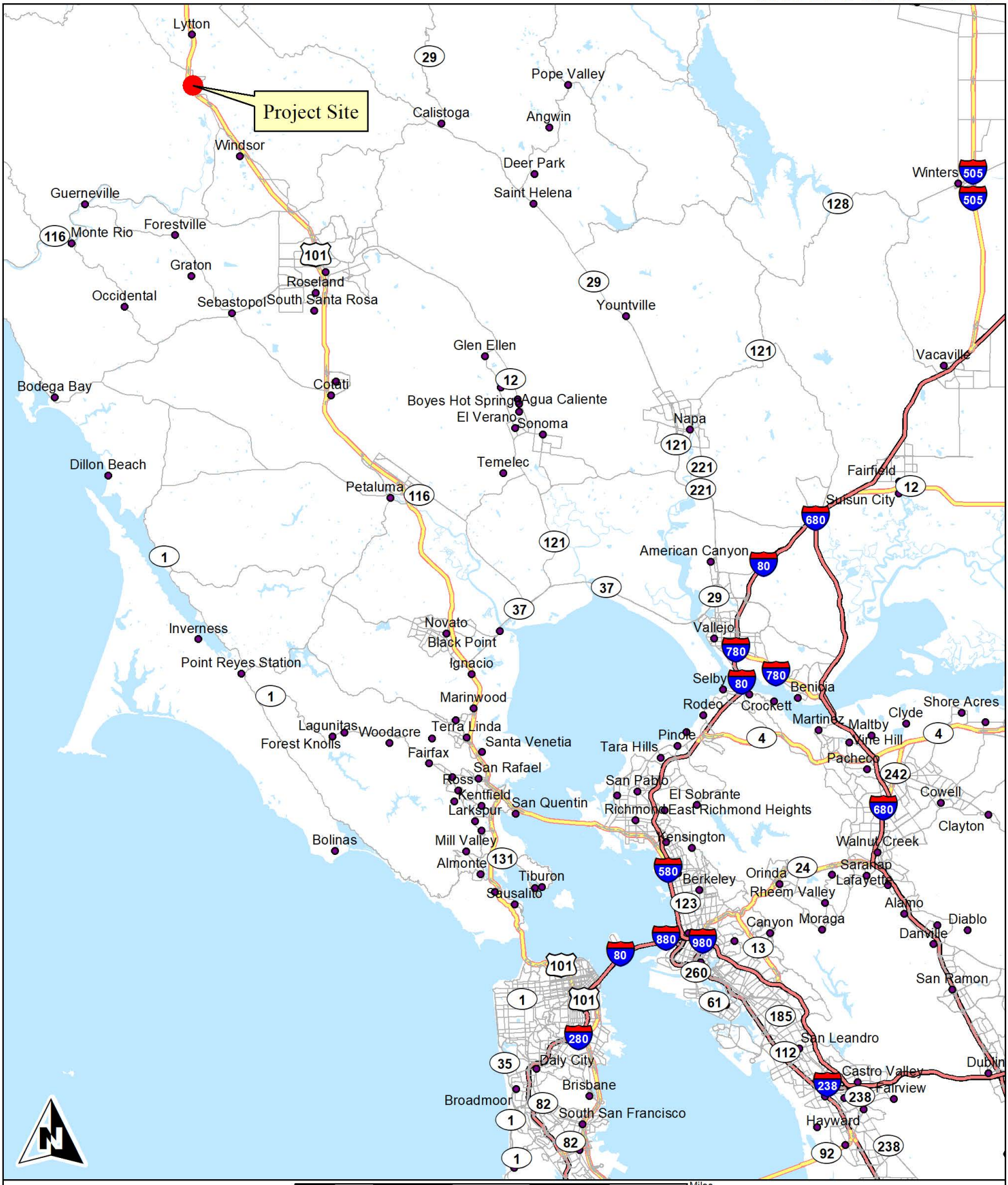
Holland, V.L. & D.J. Keil. 1995. California vegetation. Kendall/Hunt Publishing Company.

Jennings, M.R., M.P. Hayes, and D.C. Holland. 1992. A petition to the U.S. Fish and Wildlife Service to place the California red-legged frog (*Rana aurora draytonii*) and the western

pond turtle (*Clemmys marmorata*) on the list of endangered and threatened wildlife and plants. 21 pp.

Shuford, W.D. 1993. The Marin County Breeding Bird Atlas: A Distributional and Natural History of Coastal California Birds. California Avifauna Series 1. Bushtit Books, Bolinas, California.

USFWS (U.S. Fish & Wildlife Service). 2000. Guidelines for Conducting and Reporting Botanical Inventories for Federally Listed Proposed and Candidate Plants. January 2000.



Monk & Associates
Environmental Consultants
1136 Saranap Avenue, Suite Q
Walnut Creek, California 94595
(925) 947-4867

Figure 1. Foley Family Community Pavilion
3 North Street Project Site Regional Map
Healdsburg, California

County: Sonoma
Map Preparation Date: February 15, 2022

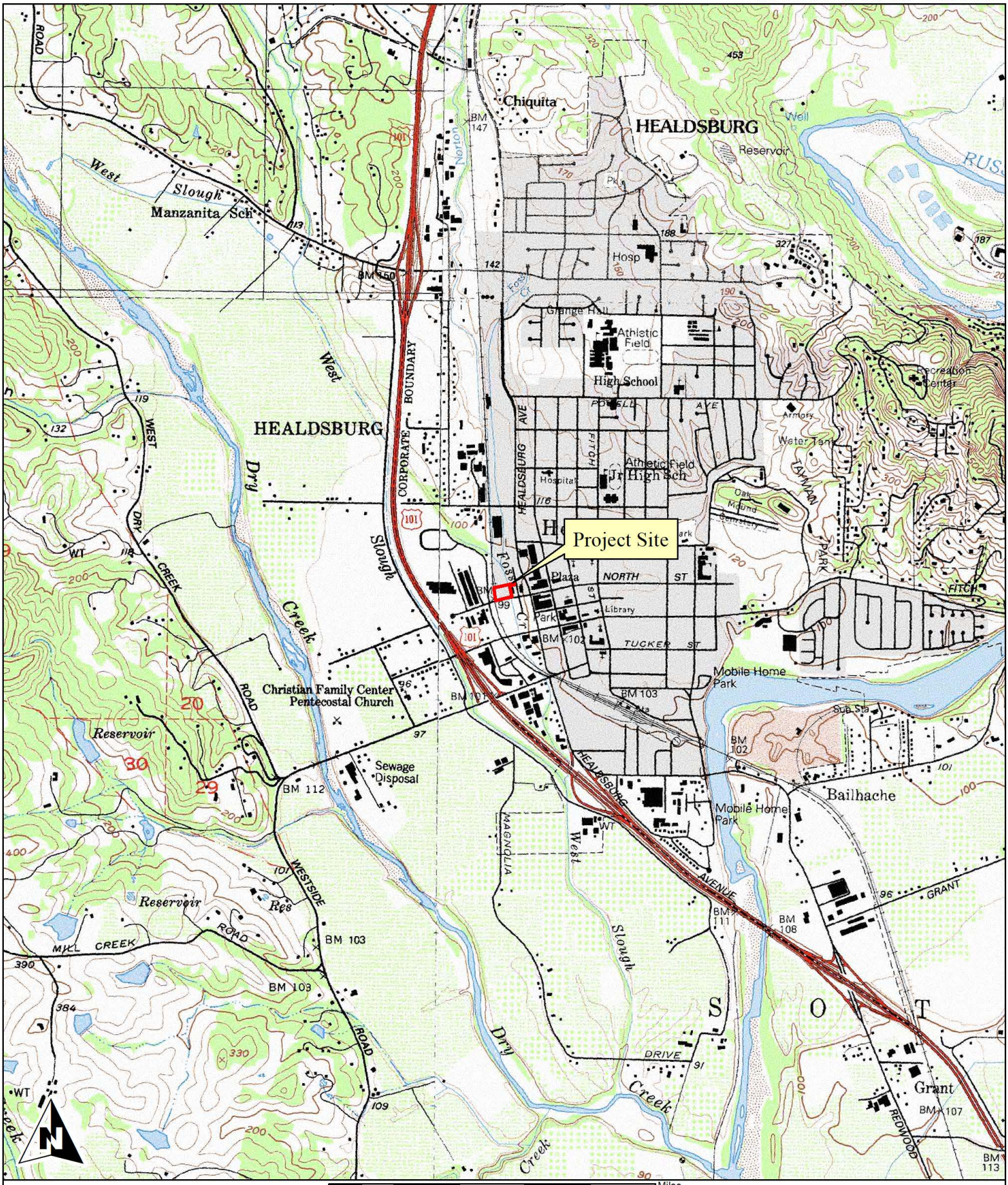


Figure 2. Foley Family Community Pavilion
3 North Street Project Site Location Map
Healdsburg, California

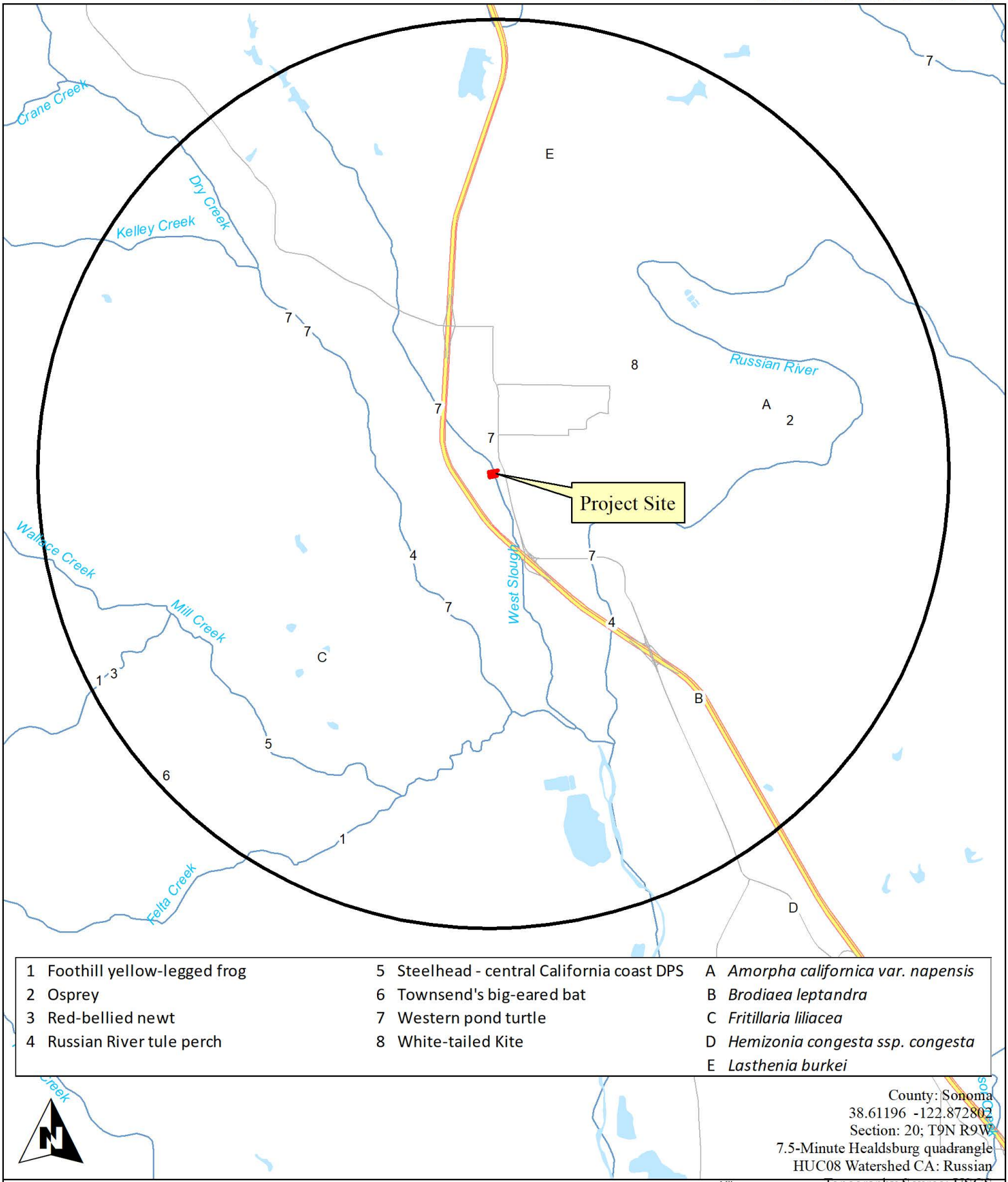
Monk & Associates
Environmental Consultants
1136 Saranap Avenue, Suite Q
Walnut Creek, California 94595
(925) 947-4867

38.61196 -122.872802
Section: 20; T9N R9W
7.5-Minute Healdsburg quadrangle
HUC08 Watershed CA: Russian
Topography Source: USGS
Map Preparation Date: February 15, 2022

Monk & Associates
Environmental Consultants
1136 Saranap Avenue, Suite Q
Walnut Creek, California 94595
(925) 947-4867

Figure 3. Aerial Photograph of the
Foley Family Community Pavilion
3 North Street Project Site

Aerial Photograph Source: ESRI
Map Preparation Date: February 15, 2022



1	Foothill yellow-legged frog	5	Steelhead - central California coast DPS	A	*Amorpha californica var. napensis*
2	Osprey	6	Townsend's big-eared bat	B	*Brodiaea leptandra*
3	Red-bellied newt	7	Western pond turtle	C	*Fritillaria liliacea*
4	Russian River tule perch	8	White-tailed Kite	D	*Hemizonia congesta ssp. congesta*
				E	*Lasthenia burkei*

County: Sonoma
38.61196 -122.872802
Section: 20; T9N R9W
7.5-Minute Healdsburg quadrangle
HUC08 Watershed CA: Russian
Topography Source: USGS
Map Preparation Date: November 7, 2022
3-Mile Radius
Source: CDFW, California Natural Diversity Data Base, 2022
Soils Data Source: USDA NRCS Soil Survey Maps

0 0.5 1 2 3 Miles

Monk & Associates
Environmental Consultants
1136 Saranap Avenue, Suite Q
Walnut Creek, California 94595
(925) 947-4867

Figure 4. Foley Family Community Pavilion
3 North Street Project Site Regional Map
Healdsburg, California

Table 1

Plant Species Observed on the Foley Family Community Pavilion Project Site

Ferns and Allies

Dryopteridaceae

Polystichum munitum	Western sword fern

Gymnosperms

Cupressaceae

Calocedrus decurrens	Incense cedar
Sequoia sempervirens	Redwood

Angiosperms - Dicots

Adoxaceae

Sambucus nigra subsp. caerulea	blue elderberry

Anacardiaceae

Rhus aromatica	Sourberry

Apiaceae

**Daucus carota*	Queen Anne's lace
**Torilis arvensis*	Tall sock destroyer

Apocynaceae

Asclepias sp.	Milkweed
**Nerium oleander*	Oleander

Asteraceae

Achillea millefolium	Common yarrow
Baccharis pilularis subsp. pilularis	Baccharis
**Cichorium intybus*	Chicory
Erigeron canadensis	Horseweed
**Helminthotheca echioides*	Bristly ox-tongue
**Lactuca saligna*	Willow lettuce
**Lactuca serriola*	Prickly lettuce
Leontodon sp.	Hawkbit
**Sonchus asper subsp. asper*	Prickly sow-thistle

Betulaceae

Corylus cornuta subsp californica	California hazelnut

Brassicaceae

**Nasturtium officinale*	Water cress
**Raphanus sativus*	Wild radish

Calycanthaceae

Calycanthus occidentalis	Spicebush

Caprifoliaceae

Lonicera hispidula	California honeysuckle
Symphoricarpos albus var. laevigatus	Common snowberry

* Indicates a non-native species

Table 1

Plant Species Observed on the Foley Family Community Pavilion Project Site

Caryophyllaceae	
Spergularia macrotheca	Beach sand-spurrey
Chenopodiaceae	
Atriplex lentiformis	Big saltbush
Convolvulaceae	
**Convolvulus arvensis*	Bindweed
Ericaceae	
Arctostaphylos densiflora	Vine Hill manzanita
Vaccinium ovatum	California huckleberry
Fabaceae	
Cercis occidentalis	Western redbud
**Lathyrus latifolius*	Perennial sweet pea
**Vicia sativa*	Common vetch
Fagaceae	
Quercus agrifolia var. agrifolia	Coast live oak
Quercus kelloggii	California black oak
Quercus lobata	Valley oak
Quercus wislizeni	Interior live oak
Grossulariaceae	
Ribes aureum var. aureum	Golden currant
Ribes sp.	Gooseberry, currant
Hydrangeaceae	
Carpenteria californica	Tree-anemone
Philadelphus lewisii	Wild mock orange
Juglandaceae	
Juglans sp.	Walnut
Lamiaceae	
Salvia clevelandii	Cleveland's sage
Salvia leucophylla	Purple sage
Salvia spathacea	Pitcher sage
Malvaceae	
**Malva parviflora*	Cheeseweed
Moraceae	
**Ficus carica*	Fig
Myricaceae	
Morella californica	Pacific bayberry
Oleaceae	
Fraxinus latifolia	Oregon ash
**Ligustrum lucidum*	Glossy privet
Onagraceae	
Epilobium canum subsp. canum	California fuchsia

* Indicates a non-native species

Table 1

Plant Species Observed on the Foley Family Community Pavilion Project Site

Papaveraceae	
Eschscholzia californica	California poppy
Phrymaceae	
Diplacus aurantiacus var. aurantiacus	Sticky monkeyflower
Phytolaccaceae	
**Phytolacca americana var. americana*	Pokeweed
Plantaginaceae	
**Kickxia elatine*	Sharppoint fluellin
**Plantago lanceolata*	English plantain
**Veronica anagallis-aquatica*	Water speedwell
Polygonaceae	
Persicaria sp.	Smartweed
**Rumex acetosella*	Sheep sorrel
**Rumex crispus*	Curly dock
Rosaceae	
Fragaria chiloensis	Beach strawberry
Holodiscus discolor var. discolor	Oceanspray
**Photinia serratifolia*	Taiwanese photinia
Physocarpus capitatus	Pacific ninebark
Rosa gymnocarpa subsp. gymnocarpa	Wood rose
**Rubus armeniacus*	Himalayan blackberry
Salicaceae	
Salix laevigata	Red willow
Salix lasiolepis	Arroyo willow
Sapindaceae	
**Acer sp.*	Maple
Scrophulariaceae	
Scrophularia californica	California figwort
Vitaceae	
Vitis californica	California wild grape
Angiosperms -Monocots	
Alismataceae	
**Alisma lanceolatum*	Lance-leaf water-plantain
Cyperaceae	
Carex pansa	Sanddune sedge
Carex tumulicola	Foothill sedge
Iridaceae	
Iris douglasiana	Douglas' iris
**Iris foetidissima*	Coral iris

* Indicates a non-native species

Table 1

Plant Species Observed on the Foley Family Community Pavilion Project Site

Juncaceae	
Juncus patens	Spreading rush
Poaceae	
**Avena barbata*	Slender wild oat
**Brachypodium distachyon*	Purple falsebrome
Bromus carinatus var. carinatus	California brome
**Bromus diandrus*	Ripgut grass
**Bromus madritensis subsp. madritensis*	Foxtail chess
**Cynodon dactylon*	Bermudagrass
**Cynosurus echinatus*	Dogtail Grass
**Festuca perennis*	perennial ryegrass
**Hordeum murinum subsp. leporinum*	Hare barley
Muhlenbergia rigens	Deergrass
**Paspalum dilatatum*	Dallis grass
**Phalaris aquatica*	Harding grass

* Indicates a non-native species

Table 2
Wildlife Species Observed on the Foley Family Community Pavilion Project Site

Birds	
Anna's hummingbird	*Calypte anna*
Nuttall's woodpecker	*Picoides nuttallii*
Black phoebe	*Sayornis nigricans*
California scrub jay	*Aphelocoma californica*
American crow	*Corvus brachyrhynchos*
Common raven	*Corvus corax*
Bushtit	*Psaltriparus minimus*
Spotted towhee	*Pipilo maculatus*

Table 3

Special-Status Plant Species Known to Occur within 3 Miles of the Foley Family Community Pavilion

Family Taxon Common Name	Status*	Flowering Period	Habitat	Area Locations	Probability on Project Site
Asteraceae					
Hemizonia congesta congesta White seaside tarplant	Fed: - State: - CNPS: Rank 1B.2	April-November	Valley and foothill grassland. 20 to 560 meters. Clay soils	Closest record is located 3.0 miles southeast of the project site (Occurrence No. 45).	None. No suitable habitat on the project site. No impacts expected.
Lasthenia burkei Burke's goldfields	Fed: FE State: CE CNPS: Rank 1B.1	April-June	Meadows and seeps (mesic); vernal pools.	Closest record is located 2.1 miles north of the project site (Occurrence No. 45).	None. No meadows or vernal pools on the project site. No impacts expected.
Fabaceae					
Amorpha californica napensis Napa false indigo	Fed: - State: - CNPS: Rank 1B.2	April-July	Broadleaved upland forest (openings); chaparral, cismontane woodland. 150-2000 m.	Closest record is located 2.1 miles east of the project site (Occurrence No. 66).	None. No suitable habitat on the project site. No impacts expected.
Liliaceae					
Fritillaria liliacea Fragrant fritillary	Fed: - State: - CNPS: Rank 1B.2	February-April	Coastal prairie; coastal scrub; valley and foothill grassland; [often serpentinite].	Closest record is located 1.6 miles southwest of the project site (Occurrence No. 56).	None. No suitable habitat on the project site. No impacts expected.
Themidaceae					
Brodiaea leptandra Narrow-anthered California brodiaea	Fed: - State: - CNPS: Rank 1B.2	May-July	Broadleafed upland forest; chaparral; cismontane woodland; lower montane coniferous forest; valley and foothill grassland. Elevation 110 - 915 meters.	Closest record is located 2.0 miles southeast of the project site (Occurrence No. 17).	None. No suitable habitat on the project site. No impacts expected.

Table 3

Special-Status Plant Species Known to Occur within 3 Miles of the Foley Family Community Pavilion

Family Taxon Common Name	Status*	Flowering Period	Habitat	Area Locations	Probability on Project Site

***Status**

Federal:
FE - Federal Endangered
FT - Federal Threatened
FPE - Federal Proposed Endangered
FPT - Federal Proposed Threatened
FC - Federal Candidate

State:
CE - California Endangered
CT - California Threatened
CR - California Rare
CC - California Candidate
CSC - California Species of Special Concern

CNPS:
Rank 1A - Presumed extinct in California
Rank 1B - Plants rare, threatened, or endangered in California and elsewhere
Rank 1B.1 - Seriously endangered in California (over 80% occurrences threatened/ high degree and immediacy of threat)
Rank 1B.2 - Fairly endangered in California (20-80% occurrences threatened)
Rank 1B.3 - Not very endangered in California (<20% of occurrences threatened or no current threats known)

CNPS Continued:
Rank 2 - Plants rare, threatened, or endangered in California, but more common elsewhere
Rank 2A - Extirpated in California, common elsewhere
Rank 2B.1 - Seriously endangered in California, but more common elsewhere
Rank 2B.2 - Fairly endangered in California, but more common elsewhere
Rank 2B.3 - Not very endangered in California, but more common elsewhere
Rank 3 - Plants about which we need more information (Review List)
Rank 3.1 - Plants about which we need more information (Review List) Seriously endangered in California
Rank 3.2 - Plants about which we need more information (Review List) Fairly endangered in California
Rank 4 - Plants of limited distribution - a watch list

Table 4

Special-Status Wildlife Species Known to Occur within 3 Miles of the Foley Family Community Pavilion Project Site

Species	*Status	Habitat	Closest Locations	Probability on Project Site
Fish				
Steelhead - Central California Coast DPS *Oncorhynchus mykiss irideus*	Fed: FT State: - Other:	From Russian River south to Soquel Creek, and to Pajaro River. Also found in San Francisco & San Pablo Bay Basins. Spawn in clear, cool, well oxygenated streams greater than 18 cm deep.	The closest record for this species is located approximately 3 miles southwest of the project site (Occurrence No. 40).	Some suitable habitat on the project site in Foss Creek. No impact expected. See text.
Russian River tule perch *Hysterocarpus traskii pomo*	Fed: State: CSC Other:	This subspecies is confined to the Russian River and its tributaries in Sonoma and Mendocino Counties, California. Requires clear, flowing water and abundant cover, such as beds of aquatic macrophytes, submerged tree branches and overhanging plants.	The closest record for this species is located approximately 0.74 miles southwest of the project site (Occurrence No. 2).	Some suitable habitat on the project site in Foss Creek. No impact expected. See text.
Amphibians				
Red-bellied newt *Taricha rivularis*	Fed: State: CSC Other: -	Inhabits coastal woodlands, especially redwood forests. Requires streams or rocky creeks and rivers to lay ay eggs in. Found along California coast from Sonoma County to Humboldt County.	The closest record for this species is located approximately 2.8 miles southwest of the project site (Occurrence No. 122).	Low to none. Some low-quality habitat occurs on the project site in Foss Creek. This area will not be impacted. No impact expected.
Foothill yellow-legged frog ** *Rana boylii*	Fed: -- State: CE Other:	Found in partially shaded, shallow streams with rocky substrates. Requires perenial pools or flowing water. Needs some cobble-sized rocks as a substrate for egg laying. Requires water for 15 weeks for larval transformation.	The closest record for this species is located approximately 2.6 miles southwest of the project site (Occurrence No. 2471).	None. No habitat on the project site. No impacts expected.
Reptiles				
Western pond turtle *Emys marmorata*	Fed: - State: CSC Other:	Uncommon to common in suitable aquatic habitat throughout CA, west of the Sierra-Cascade crest and absent from desert regions, except the Mojave River. Associated with permanent or nearly permanent water in a wide variety of habitat types.	Nearest CNDDB record is from 2003 in Foss Creek (Occurrence No. 765).	Low to none. Some basking and foraging habitat occurs in Foss Creek on the project site; however, Foss Creek is channelized with steep, 1:1 sides preventing turtles from leaving the creek area and entering the project site. No impact expected. See text.

Table 4

Special-Status Wildlife Species Known to Occur within 3 Miles of the Foley Family Community Pavilion Project Site

Species	*Status	Habitat	Closest Locations	Probability on Project Site
Birds				
Osprey *Pandion haliaetus*	Fed: State: WL Other:	Ocean Shore, bays, fresh-water lakes, and larger streams. Large nests built in tree-tops within 5-6 miles of good fish producing body of water.	The closest record for this species is located approximately 2 miles east of the project site (Occurrence No. 49).	Low. Some suitable habitat within a vicinity of impact. Preconstruction surveys should be conducted prior to construction activities. No impact expected. See text.
White-tailed kite *Elanus leucurus*	Fed: State: FP Other:	Found in lower foothills and valley margins with scattered oaks and along river bottomlands or marshes adjacent to oak woodlands. Nests in trees with dense tops.	The closest record for this species is located approximately 1.2 miles northeast of the project site (Occurrence No. 33).	Low. Some suitable habitat occurs on the project site. Preconstruction surveys should be conducted prior to construction activities. No impact expected. See text.
Mammals				
Townsend's big-eared bat *Corynorhinus townsendii*	Fed: -- State: CSC Other: -	Occurs in humid coastal regions of northern and central California. Roosts in limestone caves, lava tubes, mines, and buildings. Extremely sensitive to disturbance.	The closest record for this species is located approximately 2.9 miles southwest of the project site (Occurrence No. 452).	Low. Some suitable habitat occurs on the project site. Preconstruction surveys should be conducted prior to construction activities. No impact expected. See text.

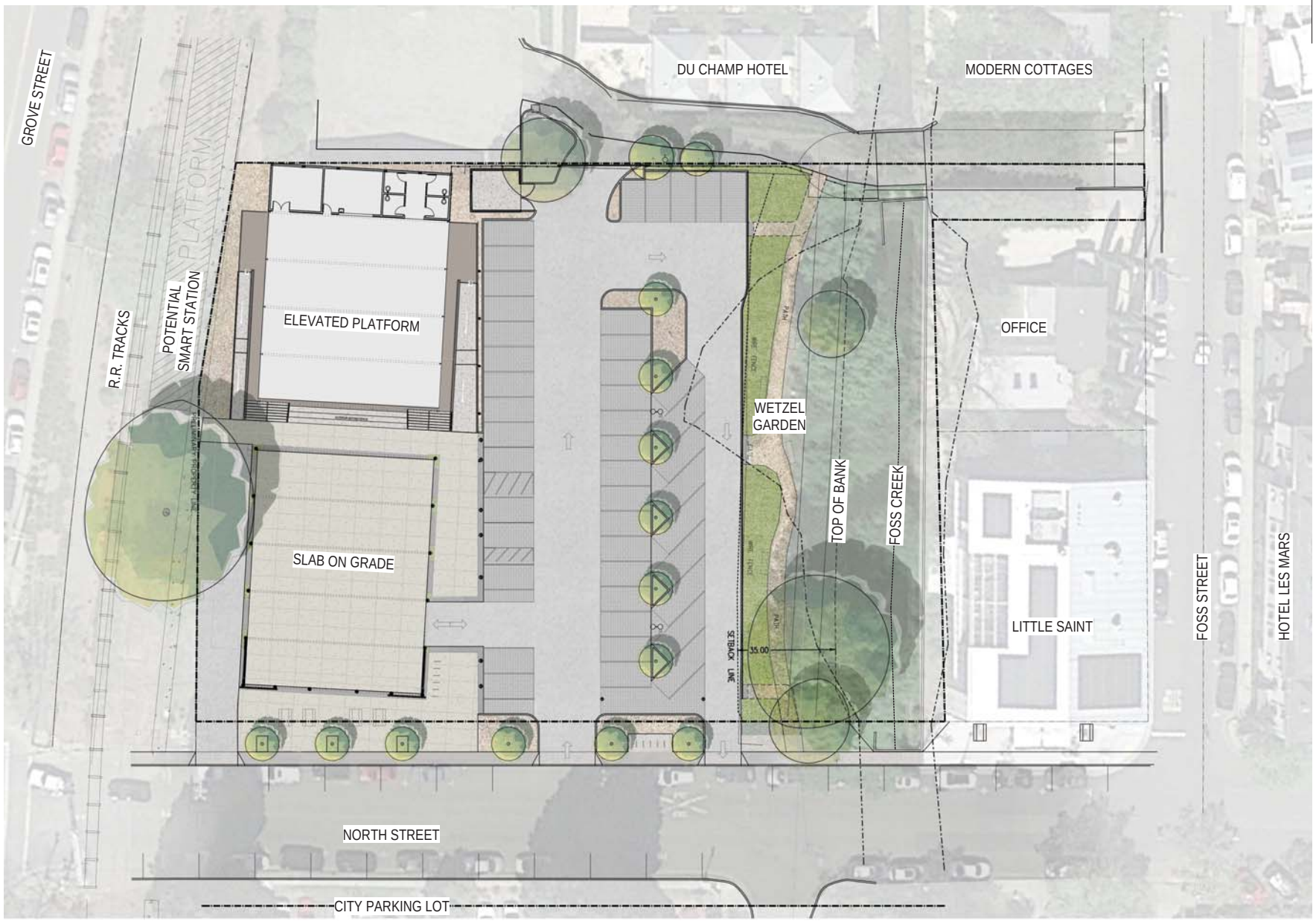
***Status**

Federal:
FE - Federal Endangered
FT - Federal Threatened
FPE - Federal Proposed Endangered
FPT - Federal Proposed Threatened
FC - Federal Candidate
FPD - Federally Proposed for delisting

State:
CE - California Endangered
CT - California Threatened
CR - California Rare
CC - California Candidate

State:
CSC - California Species of Special Concern
FP - Fully Protected
WL - Watch List. Not protected pursuant to CEQA

** This frog is listed as “endangered” in the Southern Sierra, central, and southern California coasts and “threatened” in the Northern Sierra and Feather River. This frog is not protected pursuant to CESA on the northern coast of California (all counties north of Marin and Solano Counties north to Oregon boarder).



1 **SITE PLAN & CONTEXT**
1/16" = 1'-0"

0' 2' 4' 8' 16'

11/24/2021 11:23:51 AM

TLCDARCHITECTURE
520 Third St. #250
Santa Rosa, CA 95401
o: 707.525.5600
f: 707.525.5616
tlcd.com

ABC

ALAN B. COHEN ARCHITECT
205 CENTER STREET
HEALDSBURG, CA 95448
7077431-7100 v alan@abcala.com f 7077431-7101

LANDSCAPE ARCHITECT
ACLA
ANDREA COCHRAN LANDSCAPE ARCHITECTURE
2325 Third Street #210
San Francisco CA 94107
415.503.0060

NOT FOR CONSTRUCTION

SCHEMATIC DESIGN

FOLEY FAMILY COMMUNITY PAVILION
3 NORTH STREET, HEALDSBURG, CA 95448

CITY OF HEALDSBURG

PROJECT NUMBER: 20012
DATE: 11/23/2021
DRAWN BY: MP
CHECKED BY: .
REVISIONS:

NO.	DESCRIPTION	DATE

SITE PLAN & CONTEXT

G-008

Monk & Associates
Environmental Consultants
1136 Saranap Avenue, Suite Q
Walnut Creek, California 94595
(925) 947-4867

Exhibit B. Existing Site Conditions of the
Foley Family Community Pavilion
3 North Street Project Site

Aerial Photograph Source: ESRI
Map Preparation Date: July 8, 2022