

**Appendix E: Biological Resources Report and
Biological Resources Issues Memorandum**

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October 3, 2018

Mr. John Hamilton, AICP
Environmental Planner
City of Vista
200 Civic Center Drive
Vista, CA 92084-6275

Subject: Biological Resources Report - Sunroad Plaza - P18-0117

Dear Mr. Hamilton,

INTRODUCTION

Tierra Data Inc. (TDI) is pleased to provide you with this Biological Resources Report (report) for the proposed Sunroad Plaza Project (Project) located in the City of Vista (City). This report was prepared to provide the Project applicant, City, resource agencies, and the public with updated biological data and analysis of the proposed Project effects on biological resources. The report is intended to satisfy review of the proposed Project under the California Environmental Quality Act (CEQA) and to demonstrate compliance with federal and state regulations. It describes the proposed Project site's current biological conditions, vegetation communities, and plant and wildlife species observed or detected during the surveys. The report also identifies existing resources that are sensitive, as well as sensitive species with potential to occur within the Project site. Also, Project effects are assessed, and mitigation measures are proposed to offset the proposed Project's unavoidable significant impacts to sensitive biological resources.

Project Location

The approximately 4.1-acre property lies on Hacienda Drive, east of Vista Village Drive and south of State Highway (Hwy) 78, in the southern part of the City (Figure 1). The property consists of four parcels, Assessor's Parcel Number (APN) 164-231-01, 02, 03 and 04. The property is bounded on the north by the Hwy. 78 (and the on ramp from Vista Village Drive), on the west by Vista Village Drive, and to the south and east by Hacienda Drive. The lands beyond the adjacent roads are generally commercial (Food-4-Less) and residential development to the south, undeveloped parcels and residential to the east, a small undeveloped parcel and Buena Vista Creek to the west, and commercial development immediately north of Hwy 78 (Figure 2). The site is shown on the U.S. Geological Survey 7.5-minute San Marcos Quadrangle in Township 11 South, Range 4 West in Section 25. Most of the project area is devoid of vegetation except around the outer edges, on the fill slopes that support the roads, which support some native plant species as well as non-native weeds.

Proposed Project

The Proposed project is the development and operation of a commercial/retail center which would involve the construction of five new buildings. Three of the building would be drive-thru fast-food restaurants (approximately 15,900 square feet total), while one would be a retail building (4,800 square feet), and a commercial car wash (4,740 square feet).

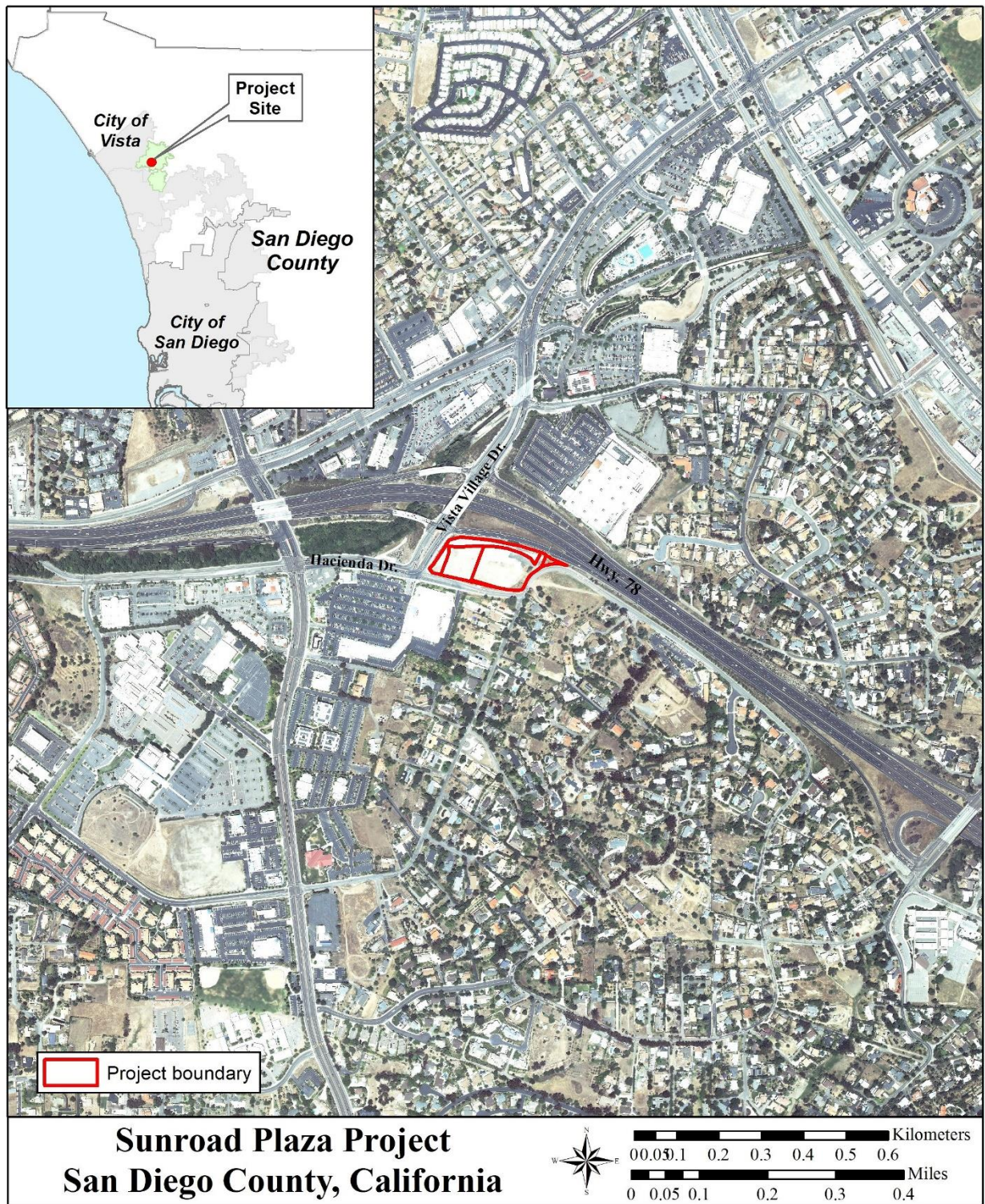


Figure 1. Regional Location and Project Vicinity.

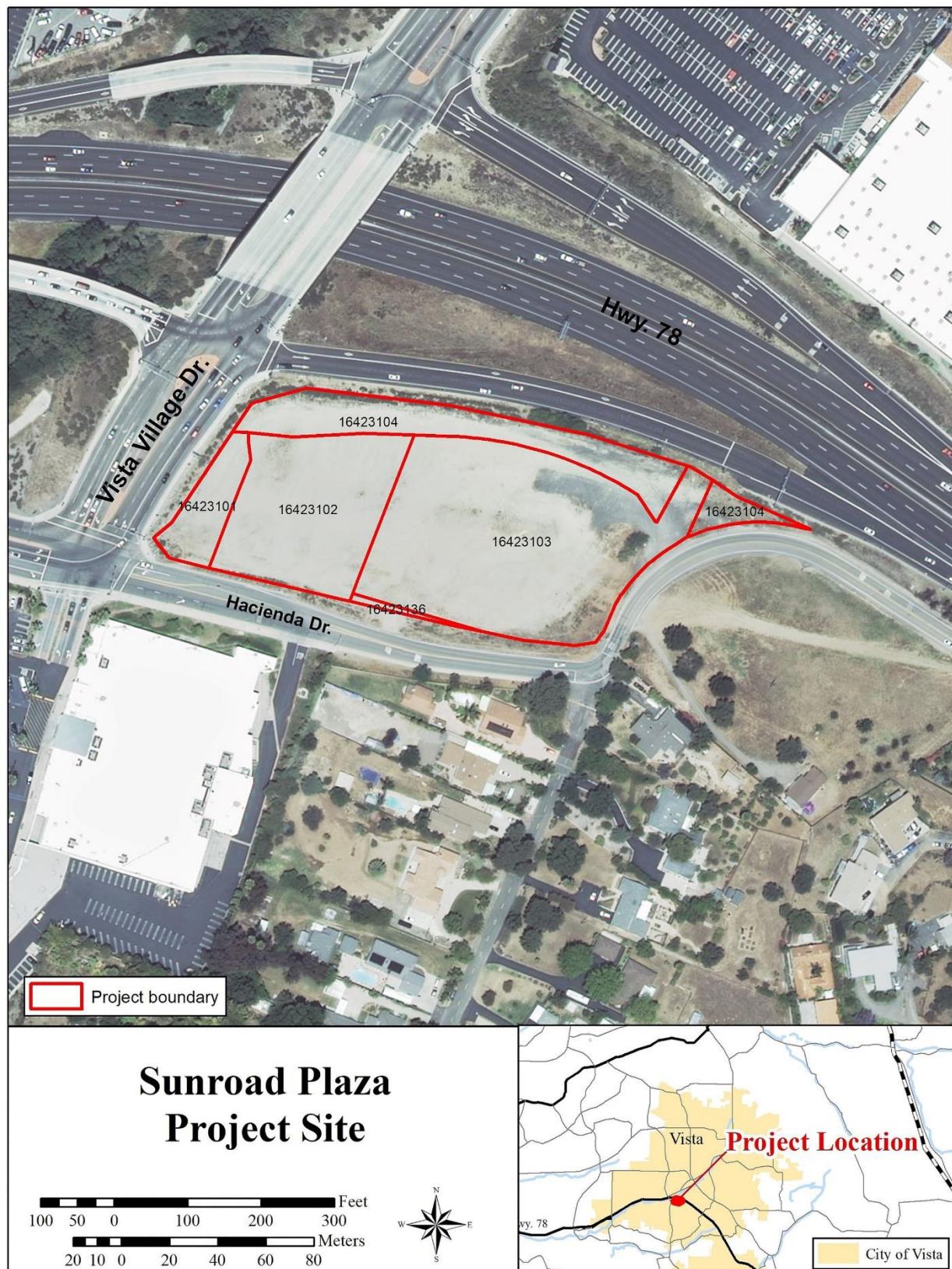


Figure 2. Aerial Image of Site.

The car wash would be a drive-thru facility with a water treatment and reclamation system designed to clean and reuse water to minimize potable water demand. The project will also include a total of 205 parking stalls. Access to the project site would be via two driveways on Hacienda Drive, one each on the site's eastern and southern boundaries. The Project proposes 5,500 cubic yards of cut, 7,770 cubic yards of fill, and 2,200 cubic yards of export.

METHODS

Before performing the field surveys, a California Natural Diversity Database (CNDDB) search was conducted to identify sensitive plant and wildlife species historically noted in the vicinity of the Project site (1-mile radius).

TDI Biologist Scott Snover visited the property on September 7, 2018 and spent approximately one-half hour (9:45 AM-10:15 AM) conducting wandering transects throughout the entire property, recording all plant and wildlife, creating a map of the existing vegetation communities, and taking photographs. The weather conditions were clear and warm (low 80s degrees Fahrenheit).

Survey Limitations

Complete inventories of the biological resources present on a site often require many hours of surveying at different times of day, during different seasons of the year, over more than one year. Some animal species are active only at night, around sunrise, or around sundown. Bird activity is highest just after sunrise. Other species could be on site in such low numbers that they could have been missed. However, through literature review, the study of existing databases of species distribution, and knowledge of habitat requirements and distribution, the probability of a particular species being present on a site can often be predicted with a high level of confidence. This report represents TDI's best effort to identify potential biological constraints to development. The high level of disturbance at this site imposed few limitations.

RESULTS

Existing Conditions and Surrounding Land Uses

The property is heavily disturbed and mostly barren with sparse non-native weeds throughout the interior. There is somewhat denser growth around the edges, including several native shrub species, which appear to have been mowed at some point in the past (Figure 2).

Review of historical aerial images (Historic Aerials 2018, Google Earth 2018) shows that the site and area has changed significantly over the past 80 years. In 1938 the proposed Project site was occupied largely by agricultural fields, with the western corner potentially occupied by native coastal scrub habitat connected to a larger patch of habitat to the south. By the 1950s the area was planted with orchard trees and held up to three residences. By the 1960s construction of Vista Village Drive, Hacienda Drive, and Highway 78 had occurred, and, later, the on-ramp from Vista Village to the highway in 1997. Along with the road construction, further development of the area progressively removed remaining natural habitat areas surrounding the site. The area immediately to the south of the project area, which was largely native habitat in 1938 is now covered by a shopping center and suburban housing. Since sometime between 1997 and 2002 the area has been maintained in a cleared state and bounded on all sides by Hacienda Drive, Vista Village Drive, and the on-ramp to Highway 78. A fence was added around the site in 2012 to prevent vehicles from entering the area, though clearing of the site has been maintained. Given that the project area and its immediate surroundings have been subjected to significant road, commercial, and residential development, with all areas of the landscape having undergone significant changes, the occurrence of native species on the northern and western margins of the site is almost certainly due to planting of the species on the slopes.

Regulatory Environment

This section describes the regulatory requirements for the proposed Project, and also its regional resource planning status. The Project is subject to CEQA, and applicable state and federal regulations. The Project site is located within the Multiple Habitat Conservation Plan (MHCP) that covers the North County cities and in which City participates. The Vista MHCP Subarea Plan has not been adopted, but the City applies the MHCP through its General Plan.

To varying degrees, biological resources on a site can be subject to regulatory control by the federal government, State of California, and local jurisdiction. The federal government administers non-marine plant and wildlife related regulations through the U.S. Fish and Wildlife Service (USFWS), while Waters of the U.S. (WoUS). (wetlands and non-wetlands) are administered by the U.S. Army Corps of Engineers (Corps). California law regarding wetland, water-related, and wildlife issues is administered by the California Department of Fish and Wildlife (CDFW).

California Environmental Quality Act

The City is the Lead Agency for the proposed Project for the CEQA environmental review process in accordance with state law and local ordinances.

Federal and State Regulations

Regulations that apply or potentially apply to future development of the proposed Project site include the federal and California Endangered Species Acts (ESA and CESA, respectively), Migratory Bird Treaty Act, California Fish and Game (CFG) Code, federal Clean Water Act (CWA), and CEQA. Impacts to any jurisdictional drainage features would require a Corps CWA Section 404 Permit, a Regional Water Quality Control Board (RWQCB) CWA Section 401 Certification, and CFG Code Section 1602 Lake and Streambed Alteration Agreement (LSAA).

Federal Government

The ESA provides the legal framework for the listing and protection of species (and their habitats) identified as being endangered or threatened with extinction. Actions that result in harm or death to endangered or threatened species, including habitat modification that substantially impairs feeding, breeding, or sheltering activities constitutes “take” under the ESA. Section 9(a) of the ESA defines take as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct.” “Harm” and “harass” are further defined in federal regulations and case law to include actions that adversely impair or disrupt a listed species’ behavioral patterns.

Sections 7 and 10(a) of the ESA regulate actions that could jeopardize endangered or threatened species. Section 7 describes a process of federal interagency consultation for use when federal actions may adversely affect listed species. A biological assessment is required for any major construction activity if it may affect listed species. A Section 7 consultation (formal or informal) is required when there is a nexus between endangered or threatened species’ use of a site and impacts to Corps jurisdictional areas. As no such drainages exist on site, a Section 7 Consultation is not required. Section 10(a) requires a Habitat Conservation Plan (HCP) if a federally listed species would be impacted but no federal nexus for a Section 7 consultation exists. The Natural Community Conservation Planning (NCCP) Programs (see below) in the City (MHCP) operates in lieu of the federal ESA for covered species once adopted.

The USFWS designates areas of Critical Habitat for endangered or threatened species. Critical Habitat is defined as areas of land that are considered necessary for the endangered or threatened species to recover. The ultimate goal is to restore healthy populations of listed species within their native habitat so they can be removed from the list of threatened or endangered species. Once an area is designated as Critical Habitat, all

federal agencies must consult with USFWS to ensure that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of the critical habitat. No Critical Habitat has been designated on site and the nearest land under the designation is for the federal-listed as threatened coastal California gnatcatcher (CAGN; *Polioptila californica californica*) approximately 0.9 miles to the west of the proposed Project site (USFWS 2018).

The MBTA prohibits taking any migratory bird, part, nest, or eggs and is implemented using Section 10.12 of the USFWS MBTA regulations which defines “take” as to: pursue, hunt, shoot, wound, kill, trap, capture, or collect, or any attempt to carry out these activities. A take does not include habitat destruction or alteration, as long as there is not a direct taking of birds, active nests, eggs, or parts thereof.

The MBTA is generally protective of migratory birds but does not actually stipulate the type of protection required. In common practice, USFWS places restrictions on disturbances allowed near active bird nests during the bird breeding season (January 1-September 15).

State of California

The CESA is similar to the ESA in that it contains a process for listing species and regulating potential impacts to listed species. Section 2081 of the CESA authorizes CDFW to enter into a memorandum of agreement for take of listed species for scientific, educational, or management purposes.

Pursuant to Section 3503, 3503.5, 3505, and 3513 of the CFG Code, it is unlawful to take, possess, or needlessly destroy the active nest or eggs of any bird. The CFG Code defines “take” as to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.

The Native Plant Protection Act (NPPA) enacted a process by which plants are listed as rare or endangered. The NPPA regulates the collection, transport, and commerce in listed plants. The CESA followed the NPPA and covers both plants and animals determined to be endangered or threatened with extinction. Plants listed as rare under NPPA were also designated rare under the CESA.

CEQA and its implementing guidelines (CEQA Guidelines) require discretionary projects with potentially significant effects (or impacts) on the environment to be submitted for environmental review. Mitigation for significant impacts to the environment is determined through the environmental review process, in accordance with existing laws and regulations.

City of Vista

The NCCP Act (Section 2835) allows CDFW to authorize take of species covered by plans in agreement with NCCP guidelines. An NCCP initiated by the State of California under Section 4(d) of the federal ESA focuses on conserving coastal sage scrub to avoid the need for future federal and state listing of coastal sage scrub-dependent species. The CAGN is presently listed as threatened under the ESA, while several additional species inhabiting coastal sage scrub are candidates for federal and/or state listing. The MHCP and associated subarea plans were intended to be completed under the NCCP and HCP processes.

The MHCP Subregional Plan was adopted and certified by the SANDAG Board of Directors on March 28, 2003. Each of the seven jurisdictions within the MHCP planning area (including Vista) is required to implement their respective portion of the MHCP via citywide subarea plans. To date, the City’s Subarea Plan is still in process, and in lieu of a Subarea Plan, is meeting the NCCP requirements through its General Plan (City 2012a).

The City has no specific ordinances that regulate biological resources resulting in reliance on its existing planning regulations, NCCP Guidelines, and CEQA for determining the significance of impacts and mitigation.

Wetland Regulation

If any wetlands are determined to be on site, the following would apply:

U.S. Army Corps of Engineers

The regulatory authority of the Corps comes from Section 404 of the CWA (33 U.S.C. §1251 et seq.). The Act requires Corps authorization for work involving intentional or unintentional placement of fill or discharge of dredge materials into any of the WoUS. Corps jurisdiction extends to the Ordinary High Water Mark (OHWM) for non-tidal waters and includes ephemeral drainages that are typical of the Southern California hills and mountains and which show a distinct bed and bank. Authorization for such activity is through a CWA Section 404 Permit (404 Permit) from the Corps.

CDFW

CDFW requires a CFG Code 1602 LSAA for projects that will divert or obstruct the natural flow of water, change the bed, channel, or bank of any stream, remove riparian vegetation, or use any material from a streambed. The LSAA is a contract between a project proponent and CDFW stating what activities are permissible and what compensation is required for those activities.

RWQCB

A federal CWA Section 401 Water Quality Certification (401 Certification) is required from the State Water Resources Control Board if a proposed project may result in a discharge into any WoUS. The program is administered by the RWQCB district in which the project is proposed. If a 404 Permit is required from the Corps, a 401 Certification is required from the RWQCB. The RWQCB also administers the State's Porter-Cologne Act which regulates discharge into Waters of the State.

Biological Resources

Vegetation Communities

Most of the parcel is almost barren with very sparse non-native weeds. The vegetation on the site is characterized as Bare Ground (BG, 11300) which is included within but differentiated here from Disturbed Habitat (DH; 11300), as described by Holland (1986) and Oberbauer et al. (2008) (Figure 3). A small stand of Chinese elm trees located at the eastern end of the site is classified as non-native vegetation (NNV 11000). The MHCP categorizes vegetation communities by Groups A through F with Group A being the most sensitive and Group F the least (SANDAG 2003). Acreages are provided in Table 1.

Table 1. Vegetation Communities on Site

Vegetation Community (Holland Code)	On site (ac)
<i>Group F – Other</i>	
Non-native Vegetation (11000)	0.02
Disturbed Habitat (11300)	0.52
Bare Ground (11300)	3.55
Total	4.09

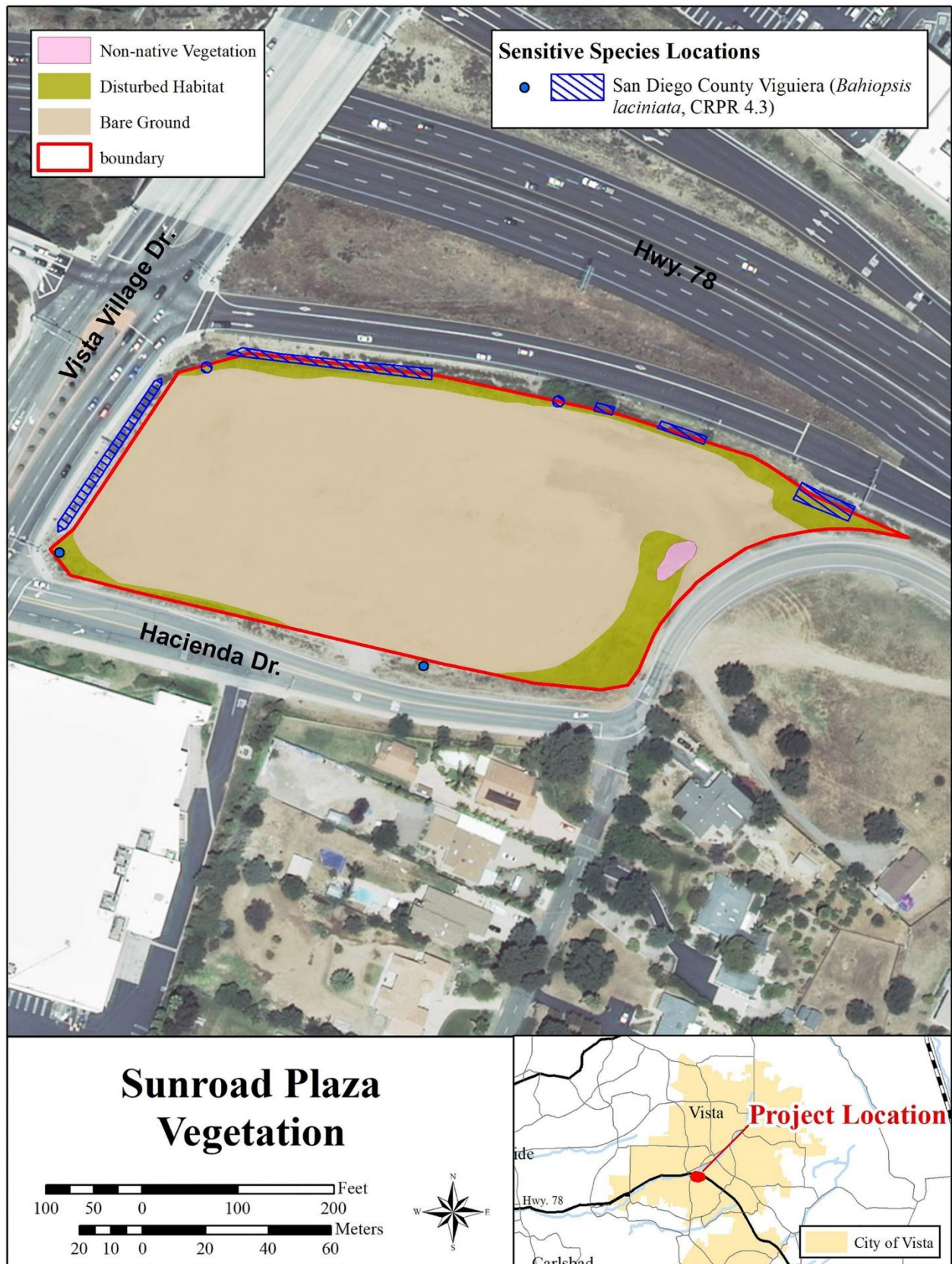


Figure 3. Biological Resources.

Disturbed Habitat

DH consists of land legally cleared of vegetation or where the soil has repeatedly been used and compacted, greatly reducing its habitat value.

The MHCP defines DH as follows:

Disturbed land includes areas in which the vegetative cover comprises less than 10 percent of the surface area (disregarding natural rock outcrops) and where there is evidence of soil surface disturbance and compaction (e.g., grading); or where the vegetative cover is greater than 10 percent, there is soil surface disturbance and compaction, and the presence of building foundations and debris (e.g., irrigation piping, fencing, old wells, abandoned farming or mining equipment) resulting from legal activities (as opposed to illegal dumping). Vegetation on disturbed land (if present) will have a high predominance of non-native, weedy species that are indicators of surface disturbance and soil compaction, such as Russian thistle (*Salsola tragus*), telegraph weed (*Heterotheca grandiflora*), horehound (*Marrubium vulgare*), and sow-thistle (*Sonchus oleraceus*). Although non-native grasses may be present on disturbed land, they do not dominate the vegetative cover. Examples of disturbed land include recently graded firebreaks, graded construction pads, construction staging areas, off-road vehicle trails, and old homesites.

DH on site includes the graded and maintained pad identified as being BG as well as the outer edges of the parcel along the road embankments being comprised of Brome grasses (*Bromus* sp.), and a few sparse native shrubs including black sage (*Salvia mellifera*), deerweed (*Acmispon glaber*), coast goldenbush (*Isocoma menziesii*), and San Diego viguiera (*Viguiera laciniata*), which is a CRPR 4.2 sensitive species (see photos in Appendix C). These areas appear to have been mowed as part of the site maintenance but the shrubs are regenerating and are generally short in stature.

Non-native Vegetation

NNV is comprised of naturalized non-native shrub and tree species that are not tended or artificially maintained yet dominates an area that does not fall within the definition of any other vegetation community. NNV on site is comprised of a small stand of Chinese elm trees (*Ulmus parvifolia*) at the eastern end of the site near the entrance. The trees are only about two meters tall or less and appear to be resprouting from having been cut back at some time in the past.

Jurisdictional Wetlands

There are no wetlands on the site.

Rare, Endangered, or Sensitive Species and Habitats

Sensitive Habitats

There are no sensitive habitats on the site.

Listed and Sensitive Species

The only sensitive species observed on the site is San Diego viguiera (*Bahiopsis laciniata*), which is a CRPR 4.3 sensitive species. Many small (<0.5 meters tall) individuals occur sporadically along the western and northern perimeters of the site. These plants appear to originate from a strip of the species outside of the fence along the slopes that support Vista Village Drive and the on-ramp to Highway 78, which was apparently planted for the landscaping of those slopes. The plants inside of the fence have either grown from seed entering the site from across the fence or were part of the original landscaping but are now being cut down during weed control efforts. Although most of the individuals occur along the fence line and on the

road slopes, which are outside of the parcel boundaries, several individuals do occur within the parcel boundaries, especially at the western corner of the property. Since these individuals are likely self-sown from planted individuals of the species, they do not represent a natural population with conservation significance.

Sensitive Species with Potential to Occur

Sensitive species that occur in the immediate vicinity according to CNDDDB records but were not observed and which may have some potential to occur on site are assessed below (Table 2 and Table 3). All other sensitive species have no potential to occur because of the lack of habitat caused by maintenance of the site as a graded pad and the adjacent strips of plants being proximal to high traffic volumes.

Table 2. Special Status Plant Species with Potential to Occur.

SPECIAL STATUS PLANT SPECIES WITH POTENTIAL TO OCCUR		
SPECIES	STATUS*	POTENTIAL TO OCCUR
Thread-leaved brodiaea (<i>Brodiaea filifolia</i>)	FT/SE CRPR 1B.1 MHCP NE	None. No suitable habitat present.
Wart-stemmed ceanothus (<i>Ceanothus verrucosus</i>)	--/-- CRPR 2B.2 MHCP- covered	None. No suitable habitat present. Would have been seen if present.
Status: City: MHCP NE = Multiple-Habitat Conservation Plan Narrow Endemic MHCP-covered = Species is covered under the MHCP Federal: FE = Federal Endangered FT = Federal Threatened State: SE = State Endangered ST = State Threatened		
California Rare Plant Rank (CRPR) 1A = Plants Presumed Extinct in California 1B = Plants Rare, Threatened or Endangered in California and Elsewhere 2 = Plants Rare, Threatened, or Endangered in California, But More Common Elsewhere 3 = Plants About Which We Need More Information, A Review List 4 = Plants of Limited Distribution, A Watch List State Rank and CRPR are followed by a threat code (e.g., State Rank S2.2 or CRPR 1B.2) .1 = Seriously endangered in California (over 80% of occurrences threatened / high degree and immediacy of threat) .2 = Fairly endangered in California (20-80% occurrences threatened) .3 = Not very endangered in California (<20% of occurrences threatened)		

Table 3. Special Status Animal Species with Potential to Occur.

LISTED OR SENSITIVE ANIMAL SPECIES WITH POTENTIAL TO OCCUR		
SPECIES	STATUS*	POTENTIAL TO OCCUR
VERTEBRATES		
Reptiles		
Coast horned lizard (<i>Phrynosoma coronatum blainvilliei</i>)	--/SSC	None. Inhabits open sage scrub where it preys upon carpenter ants. Past disturbance, agriculture, and suburban setting has likely eliminated species from site.
Mammals		
Hoary bat (<i>Antrozous pallidus</i>)	--/SSC	Low. Roosts colonially in caves, mines, crevices, and abandoned buildings that do not occur.
Western yellow bat (<i>Eumops perotis californicus</i>)	--/SSC	None. Roosts in crevices in cliff faces, which are not found on site. Strongly tied to presence of large (100 ft long or more) ponds for drinking that are not on site or in vicinity.
Status: City: MHCP NE = Multiple-Habitat Conservation Plan Narrow Endemic Federal: FE = Federal Endangered FT = Federal Threatened		State: SE = State Endangered ST = State Threatened FP = Fully Protected SSC = California Species of Special Concern

Wildlife Corridors

Wildlife movement corridors are areas that connect suitable wildlife habitat areas in a region otherwise fragmented by rugged terrain, changes in vegetation, or human disturbance. Natural features such as canyon drainages, ridgelines, or areas with vegetative cover provide corridors for wildlife movement. Wildlife movement corridors are important because they provide access to mates, food, and water; allow the dispersal of individuals away from high population density areas; and, facilitate the exchange of genetic traits between populations.

The site supports degraded or low-quality habitat and is bordered on the north and south sides by residential, commercial, and road development. An undeveloped vacant parcel lies to the east on the opposite side of Hacienda Drive. Approximately 300 feet to the west, on the opposite side of Vista Village Drive, an area of vegetated open space associated with Buena Vista Creek. With little in the way of resources on site and limited resources off site, the Project site is not part of any functional local or regional corridor. The site is not identified as a corridor in the MHCP (SANDAG 2003) nor is it in proximity to the MHCP Focused Planning Area (FPA) within the City.

IMPACTS

Impacts are categorized as either direct, indirect, or cumulative.

- *Direct Impacts:* A direct impact occurs when the primary effect is loss of a biological resource through direct mortality during clearing and grading and removal of existing habitat, often replacing it with development and landscaping.
- *Indirect Impacts:* An indirect impact consists of secondary effects of a project (such as noise, changes in drainage patterns, water quality, lighting, invasive plant species, and barriers to wildlife movement) that leads to habitat degradation and loss of species or habitat. The magnitude of an indirect impact may be the same as a direct impact; however, the effect usually takes a longer time to become apparent.
- *Cumulative Impacts:* Although impacts to sensitive biological resources may not be significant when considered independently, when multiple impacts such as from several development projects within an area are combined, they may be cumulatively significant.

The significance of impacts to biological resources present or to those with potential to occur was determined based upon the sensitivity of the resource and the extent of the anticipated impacts.

Thresholds of Significance

Pursuant to Appendix G Section IV of the CEQA Guidelines, a proposed project would result in a significant impact if it would:

- a) Have a substantial adverse effect, either directly or through habitat modifications, on any candidate, sensitive, or special status species in local or regional plans, policies, or regulations or by the USFWS or CDFW;
- b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by USFWS or CDFW;
- c) Have a substantial adverse effect on federally protected wetlands as defined by CWA Section 404;
- d) Interfere substantially with movement of any native resident, migratory fish or wildlife species, or established native resident or migratory wildlife corridors; or impede use of native wildlife nursery sites;
- e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or
- f) Conflict with the provisions of an adopted HCP, NCCP, or other approved local, regional, or state conservation plan.

Direct Impacts

Impacts will occur from development of the site from an open undeveloped, mostly barren site to a commercial development, with associated parking, road and utility improvements. It is assumed that the whole Project site will be impacted with no areas being left as biological open space.

Impacts would occur per the acreages of vegetation communities/land cover types in Table 4. Also see Figure 4.

Table 4. Vegetation Communities - Impacts.

Vegetation Community (Holland Code)	On Site (acres)	Impacts (acres)	Mitigation Ratio	Required Mitigation (acres)
<i>Group F – Other</i>				
Non-native Vegetation	0.02	0.02	-	0
Disturbed Habitat (11300)	0.52	0.52	-	0
Bare Ground	3.55	3.55	-	0
Total	4.09	4.09		0

¹ Totals may not add due to rounding.

Impacts to Special Status Species

Only one special status species (sensitive, or special status species in local or regional plans, policies, or regulations or by the USFWS or CDFW) was detected on site during surveys by TDI (2018); the CRPR 4.3 San Diego viguiera CRPR 4.3 is the lowest sensitivity rating by CDFW, meaning the species has a limited distribution and is not very endangered in California with fewer than 20% of occurrences threatened.

San Diego viguiera is found mostly in San Diego County where it is found disproportionately in the southern portion of the County from the foothills to the coast in canyons and on hillsides in Coastal Sage Scrub. The plants on site have apparently seeded from mature plants planted on the adjacent road slopes, are kept small in stature by repeated mowing, are not part of sensitive vegetation community, are not connected to any off-site protected open space or vacant land, and are not within an FPA. The species is not afforded special protection in any NCCP Plan because of its low sensitivity rating and it not being a narrow endemic. The loss of these individuals would not be significant, and no mitigation is required.

Per this analysis, all other special status species had no potential to occur with none having a moderate or high potential to occur on site.

Impacts to Sensitive Vegetation Communities

No sensitive vegetation communities occur on site.

Impacts to Federally Protected Wetlands

No wetlands occur on site.

Impacts to Wildlife Movement or Nursery Sites

The site is not identified as part of any regional wildlife corridor or contiguous with any MHCP-designated FPA (SANDAG 2003). The site is bordered by residential and commercial development on all sides with development beyond this and the vacant site on the east side of East Vista Way extending long distances that limit wildlife movement. The nearest undeveloped habitat off site that is part of or contiguous to a larger block of habitat is over a mile away to the east. So, the site does not act as part of a corridor and development would not impede wildlife movement.

The site does not provide the resources to be a nursery site for any species that are of conservation concern, and none are in close proximity to the site meaning the proposed Project would not impede the use of any wildlife nursery sites.

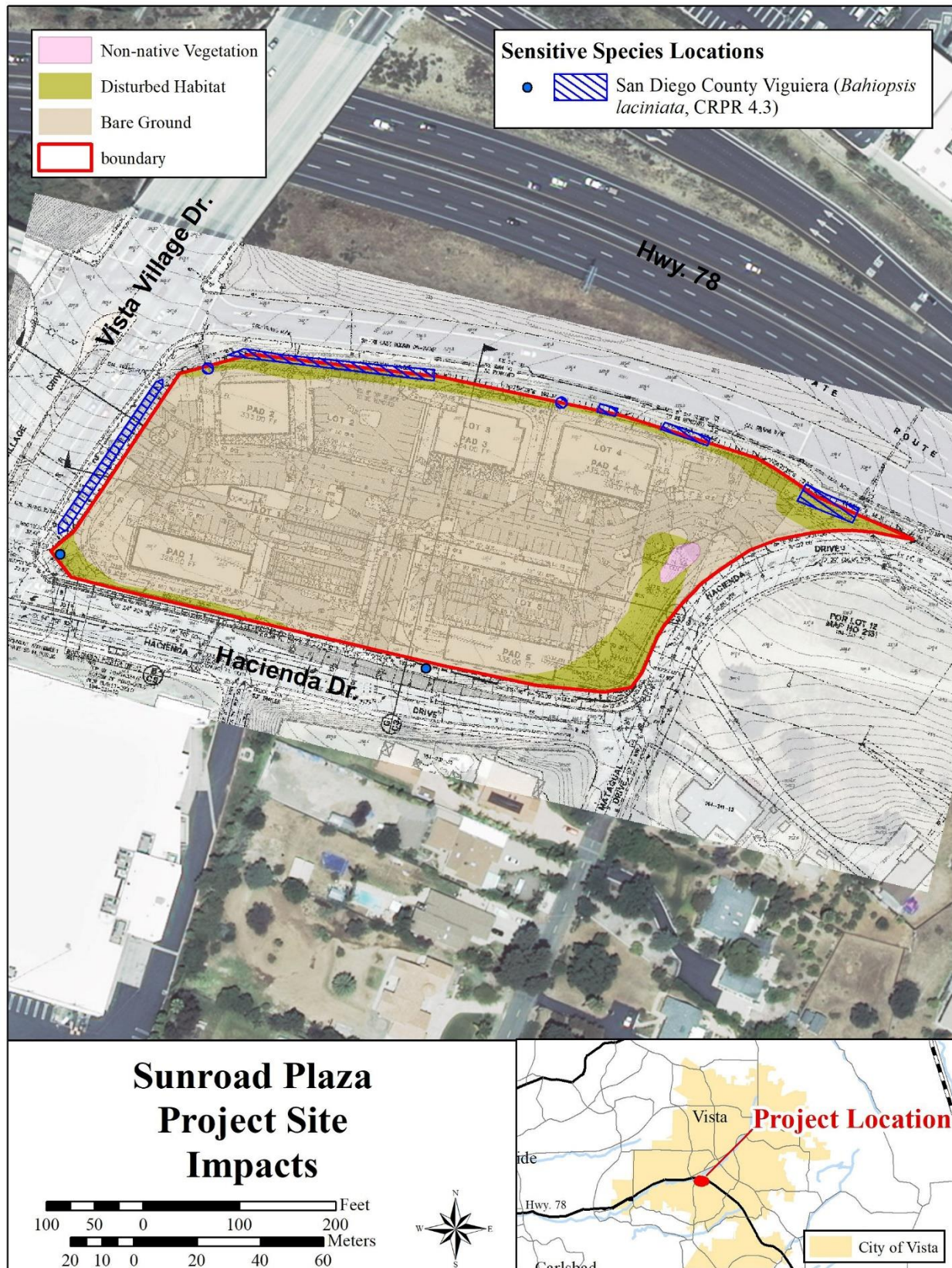


Figure 4. Project Impacts to Biological Resources.

Conflicts with Any Local Policies or Ordinances

The City has no specific policies that control biological resources other than compliance with CEQA and the MHCP. As a result, no impacts would occur because of a conflict with local policies or ordinances.

Conflicts with the Provisions of an Adopted Habitat Conservation Plan

The City participates in the MHCP, a regional conservation plan under the states NCCP Program that will also act as an HCP under the ESA. While the City's Subarea Plan has not been adopted, the City enforces the MHCP through its General Plan. With mitigation for impacts per MHCP-requirements, the Project would be in compliance with the MHCP (SANDAG 2003) and as a result would not be in conflict with the plan.

Conflicts with Any Federal Policy or Treaty

All actively nesting birds and their nests, with a few exceptions, are protected under the MBTA and CFG Code. Direct impacts may occur to birds nesting in the vegetation on site if clearing occurs during the bird breeding season (January 1 through September 15). No raptors have potential to nest on site because of the lack of suitable nesting locations, but killdeer (*Charadrius vociferous*) were detected on site and can nest in gravel or open ground.

To eliminate the potential violation of the MBTA and CFG Code, clearing and/or grading will need to occur without impacting any active bird nests.

Indirect Impacts

Indirect impacts to sensitive habitats or species can occur from errant grading impacts, construction or operation noise, changes in drainage patterns after grading that modify habitats, degraded surface water quality from runoff during construction, lighting onto habitat areas, introduction of invasive plant species, and brush management that leads to habitat degradation.

No indirect impacts to are anticipated to sensitive species as none have a moderate or high potential to occur on site and none would be expected to occur immediately off site.

Errant Grading

Since the area surrounding the site is already developed, no issues of errant grading are anticipated.

Noise

Noise from machinery during grubbing, earthwork, and construction would be a temporary impact to local wildlife. Noise-related impacts, when construction noise exceeds 60 dBA_{Leq}, would be considered significant if listed species or raptors were displaced and failed to breed.

Noise levels are already high at the site because of the proximity of the site to Vista Village Drive and Hwy 78. Impacts would not be significant because no raptors or listed species are expected to breed on, or adjacent to, the site.

Drainage

Storm water drainage requirements ensure the amount of water leaving a site is not changed by installation of a project.

The project will meet storm water quality mandates through implementation of Best Management Practices (i.e. BMPs) detailed in the required Storm Water Quality Management Plan (SWQMP) that will be approved by the City. As a result, no impacts from site drainage are expected.

Surface Water Quality

Surface water can be contaminated by sediment during grubbing, grading, and construction, from fuels, oils, and lubricants from construction vehicles, and post-construction by runoff from rooftops, hardscaping and landscaping. Decreased water quality may adversely affect native vegetation, aquatic animals, and terrestrial wildlife that depend upon these resources.

BMPs would be used to control erosion, sedimentation, and pollution that could impact surface water quality during construction. Post-construction, treatment of runoff from landscaping and hardscaping per the SWQMP will filter surface water and will control pollutants into Buena Vista Creek. Effects would not be significant.

Lighting

Exterior night lighting has the potential to illuminate native habitats off site, which could interfere with wildlife movement and could unbalance predator/prey relationships and provide nocturnal predators with an added advantage over their prey. This could adversely affect native wildlife, especially if listed species would be affected.

No light-sensitive listed species are expected on this site. There is no adjacent or nearby sensitive habitat that would be affected by exterior lighting from this project. Effects would not be significant.

Invasive Plant Species

Invasive weed species could colonize areas disturbed by grading, construction, and development that could spread into adjacent native habitats and degrade habitat quality for native wildlife.

The site is already highly disturbed. There are no adjacent habitat areas that could be contaminated by invasive species from this site.

To avoid additional impacts, any landscaping would involve only appropriate native or non-invasive ornamental plant species.

Brush Management

There are no issues with brush management related to this project as no habitat will remain and no brush management is required.

Cumulative Impacts

The MHCP was designed to compensate for the loss of regional biological functionality that would otherwise occur on a project-by-project basis under CEQA. Compliance with the requirements of the MHCP would not result in cumulatively considerable impacts for those resources covered by the plan. As no sensitive resources occur on site, and mitigation for this habitat will be at MHCP-required ratios, implementation of the mitigation measures will ensure that no significant cumulative impacts occur.

MITIGATION MEASURES

Pursuant to CEQA requirements and the MHCP (SANDAG 2003) the following Mitigation measures are proposed to reduce potentially significant impacts to below a level of significance or to avoid them altogether. These Mitigation Measures constitutes the Mitigation, Monitoring, and Reporting Program (MMRP) for the proposed Project for biological resources.

Direct Impacts

Impact BIO 1: Impacts to active bird nests during clearing, grubbing, or construction would be a violation of the MBTA and CFG Code. This is most likely during the bird breeding season which starts as early as January 1 for raptors and can end as late as September 15 for certain riparian songbirds.

Mitigation Measure BIO 3: All vegetation removal or grading will be performed prior to or after the bird breeding season, January 1 through September 15 (i.e., only between September 16 and December 31). If clearing or grading is planned to occur during the bird-breeding season, pre-construction nest surveys shall be conducted prior to any work. Work may proceed if no bird nests are observed. By avoiding clearing during the bird breeding season or impacts to nesting birds, the proposed Project will ensure compliance with the MBTA and pertinent sections of the CFG Code.

Indirect Impacts

To ensure all indirect effects are avoided or remain below a level of significance, the MCHP includes a list of Standard BMPs that are required to limit indirect impacts (SANDAG 2003: Volume II, Appendix B). Application measures for this project are identified below.

1. A qualified biologist shall conduct a training session for all project personnel prior to proposed activities. At a minimum, the training shall include a description of the target species of concern and its habitats, the general provisions of the ESA and the MHCP, the need to adhere to the provisions of the Act and the MHCP, the penalties associated with violating the provisions of the Act, the general measures that are being implemented to conserve the target species of concern as they relate to the project, and the access routes to and project site boundaries within which the project activities must be accomplished. **Does not apply as no listed species or MHCP target species are present.**
2. A water pollution and erosion control plan shall be developed that describes sediment and hazardous materials control, dewatering or diversion structures, fueling and equipment management practices, and other factors deemed necessary by reviewing agencies. Erosion control measures shall be monitored on a regularly scheduled basis, particularly during times of heavy rainfall. Corrective measures will be implemented in the event erosion control strategies are inadequate. Sediment/erosion control measures will be continued at the project site until such time as the revegetation efforts are successful at soil stabilization.
3. The footprint of disturbance shall be minimized to the maximum extent feasible. Access to sites shall be via pre-existing access routes to the greatest extent possible. **Does not apply as whole site will be impacted and access is via paved streets.**
4. Projects that cannot be conducted without placing equipment or personnel in sensitive habitats should be timed to avoid the breeding season of the target species of concern. **Does not apply as there are no target species of concern.**
8. Equipment storage, fueling, and staging areas shall be located on upland sites with minimal risks of direct drainage into riparian areas or other sensitive habitats. These designated areas shall be located in such a manner as to prevent any runoff from entering sensitive habitat. All necessary precautions shall be taken to prevent the release of cement or other toxic substances into surface waters. All project related spills of hazardous materials shall be reported to appropriate entities including but not limited to applicable jurisdictional city, USFWS, and CDFW, RWQCB and shall be cleaned up immediately and contaminated soils removed to approved disposal areas.
9. Erodible fill material shall not be deposited into water courses. Brush, loose soils, or other similar debris material shall not be stockpiled within the stream channel or on its banks. **This does not apply as no water courses occur on site.**

10. The qualified project biologist shall monitor construction activities throughout the duration of the project to ensure that all practicable measures are being employed to avoid incidental disturbance of habitat and any target species of concern outside the project footprint. Construction monitoring reports shall be completed and provided to the jurisdictional City, USFWS, and the CDFW summarizing how the project is in compliance with applicable conditions. The project biologist should be empowered to halt work activity if necessary and to confer with staff from the applicable city, UFWS, and CDFW to ensure the proper implementation of species and habitat protection measures. **This does not apply as no habitat occurs on or adjacent to the site.**
11. The removal of native vegetation shall be avoided and minimized to the maximum extent practicable. Temporary impacts shall be returned to pre-existing contours and revegetated with appropriate native species. All revegetation plans shall be prepared and implemented consistent with (MHCP) Appendix C (Revegetation Guidelines) and shall require written concurrence of the USFWS and CDFW. **Does not apply as no revegetation is required.**
12. Exotic species that prey upon or displace target species of concern should be permanently removed from the site. **Does not apply as the site will be completely developed.**
13. To avoid attracting predators of the target species of concern, the project site shall be kept as clean of debris as possible. All food related trash items shall be enclosed in sealed containers and regularly removed from the site(s). Pets of project personnel shall not be allowed on-site where they may come into contact with any listed species. **While no target species occur, site shall be kept clean and pets shall not be allowed on site.**
14. Construction employees shall strictly limit their activities, vehicles, equipment, and construction materials to the proposed project footprint and designated staging areas and routes of travel. The construction area(s) shall be the minimal area necessary to complete the project and shall be specified in the construction plans. Construction limits will be fenced with orange snow screen. Exclusion fencing should be maintained until the completion of all construction activities. All employees shall be instructed that their activities are restricted to the construction areas.
15. Any habitat destroyed that is not in the identified project footprint shall be disclosed immediately to the jurisdictional city, USFWS, and CDFG and shall be compensated at a minimum ratio of 5:1. **Does not apply as no habitat will remain on site and no habitat occurs adjacent to the site.**
16. If dead or injured listed species are located, initial notification must be made within three working days, in writing, to the Service's Division of Law Enforcement in Torrance, California and by telephone and in writing to the applicable jurisdiction, Carlsbad Field Office of the USFWS, and CDFW.
17. The jurisdictional City shall have the right to access and inspect any sites of approved projects including any restoration/enhancement area for compliance with project approval conditions including these BMPs. The USFWS and CDFW may accompany City representatives on this inspection.
18. Any planting stock to be brought onto the site for landscaping or ecological restoration shall first be inspected by a qualified pest inspector to ensure it is free of pest species that could invade natural areas, including but not limited to Argentine ants, fire ants, and other insect pests. Any planting stock found to be infested with such pests shall not be allowed on the project site or within 300 feet of natural habitats. The stock shall be quarantined, treated, or disposed of according to best management principles by qualified experts in a manner that precludes invasions into natural habitats. **This does not apply as no water courses occur on site.**
19. Projects adding new utility lines or towers or modifying existing utility lines or towers will implement designs that preclude or minimize harm to wildlife due to collisions or electrocution. Information on such designs can be found at www.migratorybirds.fws.gov/issues/towers.

20. Where appropriate based on site-specific survey results, wildlife undercrossings shall be designed and implemented for new roads or road improvement projects that could disrupt wildlife movements or result in increased roadkill. Such undercrossings, along with any necessary wildlife fencing or other facilities, shall be designed based on best available information to maximize use of the undercrossing by species of concern. Undercrossing design shall strive to maximize the openness index ([width x height]/length), minimize traffic noise within the crossing, use appropriate fencing to funnel wildlife into the crossing rather than across the road surface, and screen the undercrossing openings with natural vegetation. **Does not apply as no undercrossings are proposed or required.**
21. All mitigation sites shall be conserved through fee title acquisition or conservation easement, and proof of recordation shall be provided to the jurisdictional city prior to land disturbance. **This does not apply as no water courses occur on site.**

In addition, to ensure all potential indirect effects are avoided:

Any project landscaping shall not include species identified as an invasive non-native plant species as identified by the California Invasive Plant Council at <http://www.cal-ipc.org/paf/>.

CONCLUSION

Since the project site is comprised mostly of bare ground and highly disturbed ruderal vegetation, the overall impacts to natural resources resulting from the project is expected to be minimal.

In its current condition the site does present suitable nesting habitat to some ground-nesting bird species such as killdeer, which prefer to nest on open ground. A flock of about ten killdeer were observed during the September site visit. Birds may also nest in the Chinese elms at the eastern end of the site, but these trees are very small and therefore represent marginal nesting opportunities. Any impacts to nesting birds will be avoided through clearing outside the bird-breeding season (January 1 through September 15) unless a preconstruction survey demonstrates no active nests would be affected.

Application of MHCP Standard BMPs plus the additional measure for invasive species identified above, would ensure the proposed Project would be in compliance with CEQA, the MHCP, MBTA, and CFG Code.

After application of the MMRP, no significant direct or indirect impacts to sensitive or special status, riparian or sensitive vegetation communities, species, wetlands, wildlife corridors or nursery sites, local policies or ordinances, or be in conflict with the MHCP or any state or federal codes or treaties. As a result of the project design and MMRP, the proposed Project would have a less than significant effect on biological resources.

If you have any questions, please contact Derek Langsford at derek.langsford@tierradata.com or by phone at (760) 749-2247

Sincerely,



Derek H. Langsford, PhD, CSE
Biology Practice Manager
Certified Senior Ecologist
County of San Diego Approved Biologist

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APPENDIX A

Plant Species Observed (*Indicates non-native species)

<u>FAMILY/</u>	<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>	<u>HABITAT(S)‡</u>
ANGIOSPERMS – MONOCOTS			
Poaceae			
	<i>Avena barbata</i> *	wild oats	DH
	<i>Bromus spp.</i> *	brome	DH
	<i>Cynodon dactylon</i> *	Bermuda grass	DH
ANGIOSPERMS – DICOTS			
Asteraceae			
	<i>Arctotis venusta</i> *	African daisy	DH
	<i>Heterotheca grandiflora</i>	telegraph weed	DH
	<i>Isocoma menziesii</i>	Menzie's goldenbush	DH
	<i>Pseudognaphalium luteoalbum</i> *	Jersey cudweed	DH
	<i>Stephanomeria virgata</i>	rod wirelettuce	DH
	<i>Viguiera laciniata</i>	San Diego county viguiera	DH
Brassicaceae			
	<i>Hirschfeldia incana</i> *	short-podded mustard	DH
Chenopodiaceae			
	<i>Salsola tragus</i> *	Russian thistle	DH
Euphorbiaceae			
	<i>Euphorbia maculata</i> *	spotted spurge	DH
Fabaceae			
	<i>Acmispon glaber</i>	deerweed	DH
	<i>Acmispon americanus</i>	American bird's foot trefoil	DH
Geraniaceae			
	<i>Erodium sp.</i> *	filaree	DH
Pinaceae			
	<i>Pinus sp.</i> *	pine tree	DH
Ulmaceae			
	<i>Ulmus parvifolia</i> *	Chinese elm	DH
*Non-native species			
‡Habitat Acronyms: DH = Disturbed Habitat			

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APPENDIX B

Animal Species Observed or Detected

<u>SCIENTIFIC NAME</u>	<u>COMMON NAME</u>	<u>HABITAT(S)†‡</u>
VERTEBRATES		
Birds		
<i>Charadrius vociferus</i>	Killdeer	DH

†‡Habitat acronyms: DH = Disturbed Habitat

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APPENDIX C

Site Photos



Photo 1: Looking west from south-east corner of project at barren central portion of project site.



Photo 2: Looking east along berm on Hacienda Drive. Note Chinese elms at upper left.



Photo 3: Looking west along berm on Hacienda Drive.



Photo 4: San Diego viguiera shrub on the Hacienda Drive slope.



Photo 5: Sparse weeds on the central portion of the project site.



Photo 6: San Diego viguiera on the western slope along Vista Village Drive.



Photo 7: San Diego County viguiera on the western slope along Vista Village Drive.



Photo 8: San Diego County viguiera on the northern slope along the Highway 78 on-ramp.



Photo 9: View west along northern slope.



Photo 10: San Diego viguiera along the northern fence line along Highway 78 on-ramp. The shrubs visible to the upper left are Menzie's goldenbush.



Photo 11: San Diego viguiera in the eastern corner of the project site. The shrubs visible outside the fence are mature viguieras.



Photo 12: African daisy in gravel driveway at eastern end of the project site.



Photo 13: Chinese elms at the eastern end of the project site.



Photo 14: Overview of the interior of the project site, from the east end.



MEMO

To: Curt Stephenson
President, Sunroad Enterprises, Inc.

From: Derek H. Langsford, PhD, CSE
Biology Practice Manager

Date: January 3, 2019

Subject: Sunroad Plaza Project (P18-0117) – remaining biological resource issues

Dear Mr. Stephenson,

This memorandum serves as documentation of changes to the status of biological resources on the Sunroad Plaza project site.

On December 20, 2018, Tierra Data, Inc. (TDI) biologist Scott Snover visited the location, on Hacienda Drive, east of Vista Village Drive and south of State Highway 78, in the southern part of the City of Vista. Previously, TDI has documented in its Biological Resources Report - Sunroad Plaza - P18- 0117 (TDI, October 3, 2018) that the only biological mitigation measure for direct impacts was to undergo a migratory bird nest survey:

Mitigation Measure BIO 1: All vegetation removal or grading will be performed prior to or after the bird breeding season, January 1 through September 15 (i.e., only between September 16 and December 31). If clearing or grading is planned to occur during the bird-breeding season, pre-construction nest surveys shall be conducted prior to any work. Work may proceed if no bird nests are observed. By avoiding clearing during the bird breeding season or impacts to nesting birds, the proposed Project will ensure compliance with the MBTA and pertinent sections of the CFG Code.

The only resources that could support arboreal nesting birds were the small Chinese elms (*Ulmus parvifolia*) at the eastern end of the project site previously documented in September 2018 (Photo 1). Since these trees provided potential avian nesting sites, and while no nesting has been observed to date, it was deemed appropriate to remove these exotic trees to avoid removal during the bird-breeding season identified in the mitigation measure. The trees have been cut down, though not completely killed, but the remaining growth does not represent potential nesting habitat for arboreal avian species (Photo 2).

With all arboreal resources removed, only a check for ground-nesting birds, e.g. killdeer (*Charadrius vociferous*) would be needed prior to start of work if clearing and grading were to start between January 1 and September 15, assuming the Chinese elms do not grow back. Beyond this measure, conditions applied from the Multiple Habitat Conservation Plan (MHCP; SANDAG 2003: Volume II, Appendix B) identified in the biology report (TDI 2018) to ensure the prevention of indirect impacts, will result in the project not having any significant effects on biological resources.



Photo 1. Chinese elm trees at the Sunroad Plaza site in September 2018.



Photo 2. Remaining short, sparse Chinese elm growth at the Sunroad Plaza site in December 2018.