

3.3 BIOLOGICAL RESOURCES

INTRODUCTION

This section discusses the biological resources present within the Whole Foods in the Park Shopping Center project site, the current status of these resources before project implementation, the potential impacts on these resources, and measures to mitigate identified impacts.

This analysis is based on a field survey conducted by Impact Sciences, Inc., on June 25, 2014; a review of relevant literature;¹ and on several previous studies, including a biological inventory prepared in January 2010,² the 2012 staff report on protected native trees,³ two tree reports in 2009 and 2011,⁴ and a wetland analysis conducted in 2011.⁵ The reports are provided in **Appendix 3.3**. The City of Malibu Local Coastal Program (LCP) was also reviewed, which includes the Local Implementation Plan (LIP).

ENVIRONMENTAL SETTING

Regional Location

The City of Malibu is located on the Santa Monica Bay within the Mediterranean climate biome. As such, winters are typically cool and wet, while summers are warm and dry. This climate supports a characteristic flora comprised of drought tolerant, summer dormant plant communities such as oak woodland, coastal sage scrub, and chaparral. The City lies between the Pacific Ocean, generally to the south with steep foothills generally to the north. The project site is located within the Malibu Beach US Geological Survey (USGS) 7.5-minute quadrangle.

Surrounding Land Uses

The undeveloped, disturbed project site is located in the commercial/retail Malibu Civic Center area of the City, bounded by Civic Center Way to the south and Cross Creek Road to the east. A vacant, mowed field lies to the west, and an equestrian facility to the north. Across Civic Center Way is the Malibu Mall,

¹ California Natural Diversity Data Base (CNDDB) Query for 7.5-minute USGS quadrangle maps for: Malibu Beach; Topanga; Canoga Park; Calabasas; Thousand Oaks; Point Dume June 2014. Commercial edition updated June 2014.

² Rachel Tierney Consulting. January 22, 2010. *Whole Foods in the Park, Malibu California – Biological Inventory*. Prepared for Marny Randall.

³ Bonnie Blue, Project Planner. March 22, 2012. *Biological Review: Protected Native Trees*.

⁴ Christopher A. Joseph & Associates. January 2009. *Tree Report* and Tree Life Concern, Inc., December 15, 2011. *Whole Foods in the Park Project (sycamore trunks), Malibu, CA*.

⁵ Glenn Lukos Associates. February 21, 2011. *Jurisdictional Determination, Whole Foods Plaza, Malibu, Los Angeles County, California*.

containing retail stores and restaurants. A hardware store/nursery and other commercial land uses are to the east along Cross Creek Road. The Malibu Creek corridor is generally parallel to Cross Creek Road along the eastern edge of the commercial strip, approximately 390 feet (straight line distance) from the project site at its closest point. Commercial development and Cross Creek Road lie between the project site and the creek.

Land Uses, Plant Communities, and Wildlife Habitat

The project site is highly disturbed, regularly mowed, and vegetated with plant species that colonize disturbed areas (collectively known as ruderal plant species). A gravel area leads from Civic Center Way toward the center of the site, extending into a pad. Litter and debris is scattered throughout the site. With the exception of a few western sycamore trees (*Platanus racemosa*), nearly all other plant species on-site are non-native, invasive exotic species. Annual mustard (*Brassica* spp.) dominates the site along with carnation spurge (*Euphorbia terracina*), crown daisy (*Glebionis coronaria* [*Chrysanthemum coronarium*]), and grasses such as ripgut brome (*Bromus diandrus*) and Bermuda grass (*Cynodon dactylon*). Castor bean (*Ricinus communis*) and perennial pepperweed (*Lepidium latifolium*) are present in small numbers. Eight western sycamore trees (*Platanus racemosa*) are present in the northwestern portion of the site, as are two laurel sumac shrubs (*Malosma laurina*) and a few blue elderberry shrubs (*Sambucus nigra* ssp. *caerulea*). Non-native jacaranda (*Jacaranda mimosifolia*), palm (species unknown), and eucalyptus (*Eucalyptus globulus*) are stump sprouting from previously cut trunks.

Wildlife habitat is of marginal quality due to the disturbed conditions, presence of litter, and the lack of native plants or plant communities. Wildlife encountered include California [Beechey] ground squirrel (*Otospermophilus beecheyi*), with many burrows over the entire area, and bird species typical of urban areas, such as American crow (*Corvus brachyrhynchos*), rock pigeon (*Columba livia*), northern mockingbird (*Mimus polyglottos*) and western scrub jay (*Aphelocoma californica*). One western fence lizard (*Sceloporus occidentalis*) was seen during the June 2014 survey.

Special-Status Resources

Special Status Wildlife Species

Special-status wildlife species are defined herein as those that are state or federally listed as Threatened or Endangered, proposed for listing as Threatened or Endangered, designated as state or federal candidates for listing, a federal Bird of Conservation Concern, a state Species of Special Concern, a state Fully Protected Animal, or that may otherwise be considered "Rare" under Section 15380 of the *State California Environmental Quality Act (CEQA) Guidelines*.

Based on a review of The California Natural Diversity Database (CNDDDB) and knowledge of the project area, 37 special status wildlife species (including invertebrates, mammal, amphibian, reptile, and bird species) are known to occur in the project area.⁶ These species are identified in **Table 3.3-1, Summary of Special Status Wildlife Species Reported as Occurring in the Vicinity of the Whole Foods in the Park Site**, along with their regulatory status, habitat requirements, and an evaluation of their potential to occur on the campus. As indicated in **Table 3.3-1**, special-status wildlife species reported for the vicinity are not expected to occur on-site due to the absence of suitable habitat and therefore will not be discussed further in this document.

Special Status Plant Species

Special-status plants include those species that are state or federally listed as Rare, Threatened or Endangered; federal candidates for listing; proposed for state or federal listing; or included on Lists 1 or 2, of the California Native Plant Society Inventory of Rare and Endangered Plants of California (CNPS Inventory). Plant species identified as occurring in the project vicinity are listed on **Table 3.3-2, Summary of Special Status Plant Species Reported as Occurring in the Vicinity of the Whole Foods in the Park Site**.

Thirty-three special status plants were identified in the CNDDDB as occurring in the project vicinity.⁷ However, no special-status plant species have been found nor are expected to occur due to the highly disturbed condition of the site coupled with the absence of habitat types associated with locally occurring special-status plant species (e.g., specific substrates, vernal pools, native plant communities, wetlands, etc.).

⁶ California Natural Diversity Data Base (CNDDDB) Query for 7.5-minute USGS quadrangle maps for: Malibu Beach; Topanga; Canoga Park; Calabasas; Thousand Oaks; Point Dume, June 2014. Commercial edition updated June 2014.

⁷ California Natural Diversity Data Base (CNDDDB) Query for 7.5-minute USGS quadrangle maps for: Malibu Beach; Topanga; Canoga Park; Calabasas; Thousand Oaks; Point Dume, June 2014. Commercial edition updated June 2014.

Table 3.3-1
Summary of Special Status Wildlife Species Reported as Occurring in the Vicinity of the Whole Foods at the Park Site
June 2014 CNDDDB Query for: Malibu Beach; Topanga; Canoga Park; Calabasas; Thousand Oaks; Point Dume USGS Quadrangles

Common Name <i>Scientific Name</i>	Status		Habitat Requirements	Potential Occurrence on the Project Site
	Federal	State		
Santa Monica shieldback katydid <i>Aglaothorax longipennis</i>	--	sa	Chaparral	No suitable habitat on-site.
Monarch butterfly (wintering sites) <i>Danaus plexippus</i>	--	sa	Winter roost sites located in wind-protected tree groves (gum trees, Monterey pine, and cypress trees), with nectar and water sources nearby.	Trees on-site do not provide the wind-protected grove required by this species; suitable habitat is not present on-site for roosting.
Santa Monica grasshopper <i>Trimerotropis occidentiloides</i>	--	sa	Little information is available on this species. It has been found in disturbed areas and along dirt roads and chaparral in the Santa Monica Mountains.	Little is known about this species and because it is not afforded any protection status, impacts to this species, should they occur, would be considered less than significant.
Gertsch's socialchemmis spider <i>Socalchemmis gertschi</i>	--	sa	No specific habitat requirements available. Not much is known about this nocturnal hunting spider. Thought to occur in coastal sage scrub habitat.	Known from only two locations in Los Angeles County; Brentwood and Topanga Canyon.
Sandy beach tiger beetle <i>Cicindela hirticollis gravida</i>	--	sa	Coastal dunes: Inhabits sand in the upper beach zones that are adjacent to non-brackish water.	No suitable habitat on-site.
Globose dune beetle <i>Coelus globosus</i>	--	sa	Coastal dunes.	No suitable habitat on-site.
Arroyo chub <i>Gila orcutti</i>	--	SSC	Slow-moving or backwater sections of warm to cool streams with mud or sand substrates.	No suitable aquatic habitat is present on-site.
Tidewater goby <i>Eucyclogobius newberryi</i>	FE	SSC	Shallow lagoons and lower coastal stream reaches with salinities from brackish to fresh.	No suitable aquatic habitat is present on-site.
Steelhead rainbow trout (southern California DPS) <i>Oncorhynchus mykiss irideus</i>	FE	SSC	Anadromous aquatic fish.	No suitable habitat on-site.
Arroyo toad <i>Anaxyrus californicus</i>	FE	SSC	Restricted to rivers with shallow pools and specific substrates.	No suitable habitat on-site.

Common Name Scientific Name	Status		Habitat Requirements	Potential Occurrence on the Project Site
	Federal	State		
California red-legged frog <i>Rana draytonii</i>	FT	SSC	Permanent water sources such as ponds, lakes, reservoirs, streams, and adjacent riparian woodlands.	No suitable aquatic habitat on-site.
Western pond turtle <i>Actinemys pallida</i> [<i>Emys marmorata</i>]	--	SSC	Streams, ponds, freshwater marshes, and lakes with growth of aquatic vegetation.	No suitable aquatic habitat is present on site.
Coast horned lizard <i>Phrynosoma blainvillii</i>	--	SSC	Relatively open grasslands, scrublands, and woodlands with fine, loose soil.	The site does not contain fine, loose soil; the soil is compacted. Although native ants were found on-site, it is not suitable habitat for this species.
Coastal whiptail <i>Aspidoscelis tigris multiscutatus</i>	--	sa	Open areas in semiarid grasslands, scrublands, and woodlands.	Unlikely to occur on-site due to disturbed conditions and lack of scrub/woodland habitat.
Silvery legless lizard <i>Anniella pulchra pulchra</i>	--	SSC	Stabilized dunes, beaches, dry washes, pine, oak, and riparian woodlands, and chaparral; associated with sparse vegetation with sandy or loose, loamy soils.	The compacted soil on-site does not provide the loose, loamy soils needed by this species.
California mountain kingsnake (San Diego population) <i>Lampropeltis zonata pulchra</i>	--	SSC	In the coastal ranges, occurs in riparian woodlands, and adjacent chaparral and coastal sage scrub vegetation; associated with rock outcrops.	Suitable habitat is not present on-site.
San Bernardino ringneck snake <i>Diadophis punctatus modestus</i>	--	--	Woodlands, grassland, chaparral, and scrub habitats; often found in mesic areas under rocks, logs, and debris.	Suitable habitat is not present on-site.
Two-striped garter snake <i>Thamnophis hammondi</i>	--	SSC	Perennial and intermittent streams with dense riparian vegetation.	Suitable aquatic habitat is not present on-site.
Bank swallow (nesting) <i>Riparia riparia</i>	--	CT	Requires vertical banks/cliffs with fine-textured/sandy soils near streams along rivers, lakes, ocean for colonial nests,	No suitable cliff/bank habitat is present on-site.
Cooper's hawk (nesting) <i>Accipiter cooperi</i>	--	sa	Nesting habitat: dense canopy in oak and riparian woodlands; nesting trees typically medium height > 20ft.	Suitable nesting habitat is not present on the site but is present nearby along Malibu Creek.
Tricolored blackbird (nesting colony) <i>Agelaius tricolor</i>	--	SSC	Freshwater marshes and riparian scrub.	No suitable nesting habitat is present on-site.
Swainson's hawk (nesting) <i>Buteo swainsoni</i>	--	CT	Nesting range restricted to Central Valley, Mojave Desert and Great Basin.	Does not nest in project region.

Common Name Scientific Name	Status		Habitat Requirements	Potential Occurrence on the Project Site
	Federal	State		
Western burrowing owl (burrow sites) <i>Athene cunicularia hypugea</i>	--	SSC	Grasslands and areas with low cover or open scrub, level to gently sloping sites.	Vegetative cover on-site is higher than normally preferred. Suitable burrow sites are present; however, this species has not been found on-site.
California gnatcatcher <i>Poliophtila californica</i>	FT	SSC	Coastal sage scrub in areas of flat or gently sloping terrain.	No suitable nesting habitat is present on-site.
American peregrine falcon (nesting) <i>Falco peregrinus anatum</i>	Delisted	CFP	Nests near wetlands, lakes, rivers or other waters on high cliffs.	No suitable nesting habitat is present on-site.
S. California rufous-crowned sparrow <i>Aimophila ruficeps canescens</i>	--	sa	Chaparral; coastal sage scrub.	No suitable habitat on-site.
California leaf-nosed bat <i>Macrotus californicus</i>	--	SSC	Desert riparian, desert wash, desert scrub, desert succulent scrub, alkali desert scrub, and palm oasis. Roosts in caves and mines.	No suitable roosting habitat is present on-site.
Western small-footed myotis <i>Myotis ciliolabrum</i>	--	sa	Arid wooded and brushy uplands near water from sea level to at least 9,000 ft. Prefers open stands in forests, woodlands, and brush. Uses streams, ponds etc. for feeding & drinking. Roosts in caves, mines, occasionally under bridges or bark.	Preferred foraging and roosting habitats are not present on-site.
Yuma myotis <i>Myotis yumanensis</i>	--	sa	Found in a variety of habitats; optimal habitats are open forests and woodlands with sources of water over within to feed. Roosts in buildings, caves, old swallow nests, mines, under bridges.	Preferred foraging and roosting habitats are not present on-site.
Hoary bat <i>Lasiurus cinereus</i>	--	sa	Thought to prefer trees at the edge of clearings, but have been found in trees in heavy forests, open wooded glades, and shade trees along urban streets and in city parks.	Marginal roosting habitat is present on and adjacent to the project site.
Western red bat <i>Lasiurus blossevillii</i>	--	SSC	Closely associated with deciduous trees in riparian areas.	Preferred habitats are not present on the site but may be present in Malibu Creek nearby.
Spotted bat <i>Euderma maculata</i>	--	SSC	Deserts, scrublands, chaparral, and coniferous woodlands. Roosts in rock crevices, occasionally caves or buildings.	No suitable roosting habitat is present on-site.
Pallid bat <i>Antrozous pallidus</i>	--	SSC	Arid habitats, including grasslands, shrub lands, woodlands, and forests; prefers rocky outcrops, cliffs, and crevices with access to open habitats for foraging.	Locally common species that could forage on-site; no suitable roosting habitat is present.

Common Name Scientific Name	Status		Habitat Requirements	Potential Occurrence on the Project Site
	Federal	State		
Golden eagle (nesting & wintering) <i>Aquila chrysaetos</i>	--	CFP	Requires cliffs or rocky ledges for nesting, though will occasionally nest in trees, on the ground or in human-made structures.	Suitable nesting habitat is not present on-site.
Western mastiff bat <i>Eumops perotis ssp. californicus</i>	--	SSC	Occurs in a wide variety of habitats but is closely associated with roosting sites, which include rocky crevices and cliffs for day-roosts. Requires high cliff faces, or buildings with sufficient vertical drop (at least 20 feet above ground).	Suitable roosting habitat is not present on-site, as this species is not typically associated with roosting in trees.
San Diego desert woodrat <i>Neotoma lepida intermedia</i>	--	SSC	Chaparral and coastal sage scrub.	Suitable habitat is not present on-site.
American badger <i>Taxidea taxus</i>	--	SSC	Drier open stages of shrub, forest, and herbaceous habitats with friable soils.	Suitable habitat foraging and burrow habitat is present on-site; however this species has not been detected and is unlikely to occur due to surrounding urban land uses.

KEY:

(nesting) = For most taxa the CNDDDB is interested in sightings for the presence of resident populations. For some species (primarily birds), the CNDDDB only tracks certain parts of the species range or life history (e.g., nesting locations). The area or life stage is indicated in parenthesis after the common name.

Status:

Federal -- US Fish and Wildlife Service

FE: Federally Endangered

FT: Federally Threatened

FPE: Federally Proposed Endangered

FPT: Federally Proposed Threatened

FC: Federal Candidate for listing as threatened or endangered

MNBMC: Migratory Nongame Birds of Management Concern (not shown for federally listed or proposed threatened or endangered species)

--: Federal Species of Concern

Species denoted with this term primarily include those considered C2 species under the old classification system. This term is only to be used as a "term-of-art" and is not to imply any legal protection or inclusion on the Federal ESA list.

State -- California Department of Fish and Game

CE: California Endangered

CT: California Threatened

CCE: California Candidate (Endangered)

CCT: California Candidate (Threatened)

CFP: California Fully Protected

CP: California Protected

SSC: California Species of Special Concern

sa: California Special Animal (species with no official federal or state status, but are included on CDFG's Special Animals list)

Table 3.3-2
Summary of Special Status Plant Species Reported as Occurring in the Vicinity of the Whole Foods at the Park Site
June 2014 CNDDDB Query for: Malibu Beach; Topanga; Canoga Park; Calabasas; Thousand Oaks; Point Dume USGS Quadrangles

Common Name <i>Scientific Name</i>	Status			Habitat Requirements	Elevation Range, Life Form, and Flowering Period	Potential Occurrence
	Federal	State	CNPS			
Braunton's milk-vetch <i>Astragalus brauntonii</i>	FE	--	1B.1	Chaparral, coastal scrub valley and foothill grassland, closed-cone coniferous forest/ recent burns or disturbed areas, usually sandstone with carbonate layers	4-640m PH January-August	LA & Vent Co: occurrences in the Simi Hills and Santa Monica Mountains. Substrate endemic; no suitable habitat on-site; not present.
Ventura marsh milk-vetch <i>Astragalus pycnostachyus</i> var. <i>lanosissimus</i>	FE	CE	1B.1	Coastal dunes, coastal scrub, marshes and swamps (edges, coastal salt or brackish)	1-35m PH June-October	Vent. Co: Coastal species know only from Oxnard. Low potential to occur.
Coastal dunes milk-vetch <i>Astragalus tener</i> var. <i>titi</i>	FE	CE	1B.1	Coastal bluff scrub (sandy), coastal dunes, coastal prairie (mesic)/often vernal mesic areas	1-50 ft. AH March-May	Last recorded in Los Angeles Co. in 1903 near Inglewood. Suitable habitat NOT present on-site.
Coulter's saltbush <i>Atriplex coulteri</i>	--	--	1B.2	Coastal bluff scrub, coastal dunes, coastal scrub, and valley and foothill grassland/ alkaline or clay	3-460m PH March-October	Last recorded in project vicinity in 1937; historic records for Malibu Beach and Pt. Dume quads. Low potential for on-site occurrence.
Parish's brittlescale <i>Atriplex parishii</i>	--	--	1B.1	Chenopod scrub, playas, vernal pools.	25-1900m AH June-October	Suitable habitat is NOT present on-site; no current records in vicinity.
Davidson's saltscale <i>Atriplex serenana</i> var. <i>davidsonii</i>	--	--	1B.2	Coastal bluff scrub, coastal scrub/alkaline.	10-200m AH April-October	Few records for mainland LA Co; none recent. Low potential for occurrence on-site.
Malibu baccharis <i>Baccharis malibuensis</i>	--	--	1B.1	Chaparral, cismontane woodland, coastal scrub, riparian woodland.	150-350m. S (d) August	Suitable CH & CSS habitat not present on-site; low potential for occurrence.
Round-leaved filaree <i>California macrophylla</i>	-	-	1B.1	Cismontane woodland/valley & foothill grassland	15-1200m AH March-May	Known from many locations but no recent records near site.

3.3 Biological Resources

Common Name <i>Scientific Name</i>	Status			Habitat Requirements	Elevation Range, Life Form, and Flowering Period	Potential Occurrence
	Federal	State	CNPS			
Slender mariposa lily <i>Calochortus clavatus</i> var. <i>gracilis</i>	--	--	1B.2	Chaparral, coastal scrub, valley and foothill grassland	320–1000m PH(b) March–June	Low potential for occurrence on-site due to highly disturbed conditions and compacted soils.
Plummer’s mariposa lily <i>Calochortus plummerae</i>	--	--	4.2	Chaparral, cismontane woodlands, coastal scrub, Lower montane coniferous forests, valley and foothill grassland/ granitic, rocky.	100–1700m PH (b) May–July	Low potential for occurrence on-site due to highly disturbed conditions and compacted soils.
Southern tarplant <i>Centromadia parryi</i> spp. <i>australis</i>	-	-	1B.1	Marshes and swamps (margins), valley and foothill grassland (vernally mesic), vernal pools.	0–480m AH May–November	Suitable mesic grassland habitat is not present; low potential for occurrence on-site.
Salt marsh bird’s-beak <i>Chloropyron [Cordylanthus] maritimum</i> ssp. <i>maritimum</i>	FE	CE	1B.2	Coastal dunes, marshes and coastal salt marsh.	0 – 30m AH May–October	No suitable habitat on-site.
San Fernando Valley spineflower <i>Chorizanthe parryi</i> ssp. <i>fernandina</i>	FC	CE	1B.1	Coastal scrub (sandy), valley and foothill grassland.	150–1220m AH April–July	Suitable soils are not present on site; low potential for occurrence.
Parry’s spineflower <i>Chorizanthe parryi</i> ssp. <i>parryi</i>	--	--	1B.1	Chaparral, cismontane woodland, coastal scrub, valley and foothill grassland/ sandy or rocky, openings.	275–1220m AH April–June	Suitable soils are not present on site; low potential for occurrence.
Santa Susana tarplant <i>Deinandra minthornii</i>	--	Rare	1B.2	Chaparral, coastal scrub/ rocky.	280–760m. S (d) July–November	This species is a substrate endemic; suitable soils are not present on-site.
Beach spectaclepod <i>Dithyrea maritima</i>	--	--	1B.2	Chaparral (maritime), coastal dunes.	0 – 200m. PH April–June	Endemic to coastal sand dunes; no suitable habitat on-site.
Blochman’s dudleya <i>Dudleya blochmaniae</i> ssp. <i>blochmaniae</i>	-	-	1B.1	Chaparral, coastal bluff scrub, ultramafic, valley and foothill grassland. Open, rocky slopes, often serpentine or clay-dominated.	7–550m PH April–June	No suitable rocky, serpentine or clay soils/substrates on-site.
Agoura Hills dudleya <i>Dudleya cymosa</i> ssp. <i>agourensis</i>	T	-	1B.2	Chaparral, cismontane woodland; open rocky volcanic slopes	<460m PH May–June	Endemic to volcanic substrates; no suitable habitat on-site.

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Common Name <i>Scientific Name</i>	Status			Habitat Requirements	Elevation Range, Life Form, and Flowering Period	Potential Occurrence
	Federal	State	CNPS			
Marcescent dudleya <i>Dudleya cymosa</i> ssp. <i>marcescens</i>	T	R	1B.1	Shaded, rocky volcanic outcrops and slopes.	150–500m PH April–July	Endemic to volcanic substrates; no suitable habitat on-site.
Santa Monica dudleya <i>Dudleya cymosa</i> ssp. <i>ovatifolia</i>	--	-	1B.1	Shaded, rocky volcanic outcrops and slopes.	150–500m PH April–July	Endemic to volcanic substrates; no suitable substrate on-site.
Many-stemmed dudleya <i>Dudleya multicaulis</i>	--	--	1B.1	Coastal bluff scrub, chaparral, coastal scrub, valley and foothill grassland/rocky, often clay or serpentinite.	<600m PH May–June	Heavy, often clay soils, coastal plains, sandstone outcrops. Suitable substrate is not present on-site.
Conejo dudleya <i>Dudleya parva</i>	FT	--	1B.2	Shaded, rocky volcanic outcrops and slopes.	210–1580m PH May–July	Endemic to volcanic substrates; no suitable substrate on-site.
Conejo buckwheat <i>Eriogonum crocatum</i>	--	CR	1B.2	Chaparral/ volcanic, rocky	150–520m PH April – July	Endemic to volcanic substrates; no suitable substrate on-site.
Decumbent goldenbush <i>Isocoma menziesii</i> var. <i>decumbens</i>	--	--	1B.2	Sandy soil, chaparral, coastal scrub, landward side of dunes, hillsides, arroyos.	PS <200m April–Nov	Channel Islands; Baja. In LA Co., known only from Catalina Island. [=Haplopappus venetus ssp. furfuraceus]
California black walnut <i>Juglans californica</i>	--	--	4.2	Cismontane woodland/valley & foothill grassland	30–900m DT May–June	Not present.
Coulter's goldfields <i>Lasthenia glabrata</i> ssp. <i>coulteri</i>	--	--	1B.1	Saline places, vernal pools.	<1000m AH April–May	No suitable habitat on-site.
White-veined monardella <i>Monardella hypoleuca</i> ssp. <i>hypoleuca</i>	--	--	1B.3	Oak woodland, chaparral.	<1500m PH June–August	No suitable habitat on-site.
Chaparral nolina <i>Nolina cismontana</i>	--	--	1B.1	Dry chaparral of coastal mountains.	200–1300m PH April–July	No suitable habitat on-site; not present.

Common Name <i>Scientific Name</i>	Status			Habitat Requirements	Elevation Range, Life Form, and Flowering Period	Potential Occurrence
	Federal	State	CNPS			
California Orcutt grass <i>Orcuttia californica</i>	--	--	1B.1	Vernal pool endemic.	<700m AG April–August	No suitable habitat on-site.
Lyon’s pentachaeta <i>Pentachaeta lyonii</i>	FE	CE	1B1	Coastal scrub, grassland, chaparral openings; often on clay.	<400m AH March–August	No suitable habitat on-site.
Salt spring checkerbloom <i>Sidalcea neomexicana</i>	--	--	2.2	Alkaline springs, marshes.	<1500m PH March–June	No suitable habitat on-site.
Sonoran maiden fern <i>Thelypteris puberula</i> var. <i>sonorensis</i>	--	--	2B.2	Meadow & seep/wetland; stream banks.	50–800m PH June–Sept	No suitable habitat on-site.
California screw moss <i>Tortula californica</i>	--	--	1B.1	Arid soil; rock.	10–1460m Moss*	No suitable habitat on-site.

STATUS KEY:Federal

FE: Federally Endangered

FT: Federally Threatened

Species

FPE: Federally Proposed

Endangered

FPT: Federally Proposed

Threatened

FC: Federal Candidate

Species

FSC: Federal Species of

Concern

State

CE: State Endangered

CT: State Threatened

CR: State Rare

CNPS

List 1A: Plants presumed extinct in California.

List 1B: Plants rare and endangered in California and elsewhere

List 2: Plants rare and endangered in California, but more common elsewhere

List 3: Taxa about which more information is needed

List 4: plants of limited distribution

LIFE FORM KEY:

AH: Annual Herb (b): bulb

AG: Annual Grass (d): deciduous

PG: Perennial Grass (e): evergreen

PH: Perennial Herb (p): parasitic

PC: Perennial Cactus (r): rhizomatous

S: Shrub (s): stoloniferous

Ss: Subshrub * No flowering

period identified

T: Tree

Sensitive Plant Communities

Sensitive plant communities are communities that are of limited distribution statewide or within a county or region and are often vulnerable to environmental effects of projects. These communities may or may not contain special-status species or their habitat. The most current version of the California Department of Fish and Wildlife's (CDFW's)⁸ *Vegetation Alliances and Associations, Vegetation Classification and Mapping Program* (2011), indicates the level of rarity and imperilment of vegetation types. For alliances with state ranks of S1 through S3, all associations within them are also considered to be highly imperiled, and therefore, are considered to be sensitive plant communities.

The CNDDDB query identified six sensitive plant communities as occurring in the project vicinity: California Walnut Woodland; Southern Coast Live Oak Riparian Forest; Southern Coastal Salt Marsh; Southern Sycamore Alder Riparian Woodland; Valley Needlegrass Grassland; and, Valley Oak Woodland. None of these sensitive plant communities are present on-site due to the highly disturbed conditions.

Wildlife Movement Corridors

Wildlife corridors are described as pathways or habitat linkages that connect discrete areas of natural open space otherwise separated or fragmented by topography, changes in vegetation, and other natural or manmade obstacles such as urbanization. Fragmentation of natural habitat creates isolated "islands" of habitat that may not provide sufficient area or resources to accommodate sustainable populations for a number of species, adversely affecting both genetic and species diversity. Wildlife corridors partially or largely mitigate the adverse effects of fragmentation by (1) allowing animals to move between remaining habitats to replenish depleted populations and increase the gene pool available, (2) providing escape routes from fire, predators, and human disturbances, thus reducing the risk that catastrophic events (such as fire or disease) will result in population or species extinction, and (3) serving as travel paths for individual animals moving throughout their home range in search of food, water, mates, and other needs, or for dispersing juveniles in search of new home ranges.

Jurisdictional Resources

Wetlands, creeks, streams, and permanent and intermittent drainages are subject to the jurisdiction of the US Army Corps of Engineers (USACE) under Section 404 of the federal Clean Water Act (CWA). The CDFW has jurisdiction over resources associated with rivers, streams, and lakes, together with other

⁸ As of January 1, 2013, the California Department of Fish and Game is now known as the California Department of Fish and Wildlife.

aquatic features that provide an existing fish and wildlife resource (Sections 1600 through 1616 of the California Fish and Game Code). The CDFW asserts jurisdiction from bank-to-bank, or to the outer edge of vegetation associated with a riparian corridor, whichever is greater. Streams and wetlands are also subject to regulation of the Regional Water Quality Control Board (RWQCB) under both the federal CWA and the State of California's Porter-Cologne Water Quality Control Act (California Water Code, Division 7).

REGULATORY FRAMEWORK

Federal Regulations

Federal Endangered Species Act

Under the federal Endangered Species Act (FESA), the Secretary of the Interior and the Secretary of Commerce have joint authority to list a species as Threatened or Endangered (16 United States Code [USC] 1533[c]). Pursuant to the requirements of the FESA, an agency reviewing a proposed project within its jurisdiction must determine whether any federally listed or proposed species may be present in the project region, and whether the proposed project would result in a "take"⁹ of such species. The take provision of the FESA applies to actions that would result in injury, death, or harassment of a single member of a species protected under the FESA. In addition, the agency is required to determine whether the project is likely to jeopardize the continued existence of any species proposed to be listed under the FESA, or result in the destruction or adverse modification of critical habitat for such species (16 USC 1536[3][4]). If it is determined that a project may result in the take of a federally listed species, a permit from the US Fish and Wildlife Service (USFWS) would be required under Section 7 or Section 10 of the FESA. Section 7 applies if there is a federal nexus (e.g., the project is on federal land, the lead agency is a federal entity, a permit is required from a federal agency, or federal funds are being used). Section 10 applies if there is no federal nexus.

Substantial, adverse project-related impacts to FESA-listed species or their habitats would be considered significant in this EIR. Proposed species are granted limited protection under the FESA and must be addressed in Biological Assessments (under Section 7 of the FESA); proposed species otherwise have no protection from take under federal law, unless they are emergency-listed species. Candidate species are

⁹ "Take," as applied in Section 9 of the FESA, means to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect or to attempt to engage in any such conduct." "Harass" is further defined by the USFWS (50 CFR § 17.3) as an intentional or negligent act or omission that creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, and sheltering. "Harm" is defined as "an act which actually kills or injures wildlife." This 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.

afforded no protection under the FESA. However, the USFWS recommends that candidate species and species proposed for listing also be considered in informal consultation during a project's environmental review.

Clean Water Act

The federal Water Pollution Control Act of 1972, often referred to as the Clean Water Act, is the nation's primary law for regulating discharges of pollutants into waters of the United States. The objective of the Clean Water Act is to restore and maintain the chemical, physical, and biological integrity of the nation's waters. The regulations adopted pursuant to the Clean Water Act deal extensively with the permitting of actions in waters of the United States, including wetlands. The Clean Water Act's statutory sections and implementing regulations provide more specific protection for riparian and wetland habitats than any other federal law. The US Environmental Protection Agency (US EPA) has primary authority under the Clean Water Act to set standards for water quality and for effluents, but the USACE has primary responsibility for permitting the discharge of dredge or fill materials into streams, rivers, and wetlands.

Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (16 USC, Section 703, Supplement I, 1989) prohibits killing, possessing, or trading in migratory birds, except in accordance with regulations prescribed by the Secretary of the Interior. The Migratory Bird Treaty Act encompasses whole birds, parts of birds, and bird nests and eggs.¹⁰

State Regulations

California Endangered Species Act

Under the California Endangered Species Act (CESA), the CDFW has the responsibility for maintaining a list of Threatened and Endangered species (California Fish and Game Code Section 2070). The CDFW also maintains a list of "candidate species," which are species formally under review for addition to either the list of endangered species or the list of threatened species. In addition, the CDFW maintains lists of "species of special concern," which serve as watch lists. Pursuant to the requirements of the CESA, an agency reviewing a proposed project within its jurisdiction must determine whether any state-listed Endangered or Threatened species could be present on the project site and determine whether the

¹⁰ The Act covers hundreds of bird species, including varieties of loon, grebe, albatross, booby, pelican, cormorant, heron, stork, swan, goose, duck, vulture, eagle, hawk, falcon, fail, plover, avocet, sandpiper, phalarope, gull, tern, murre, puffin, dove, cuckoo, roadrunner, owl, swift, hummingbird, kingfisher, woodpecker, swallow, jay, magpie, crow, wren, thrush, mockingbird, vireo, warbler, cardinal, sparrow, blackbird, finch, and many others.

proposed project could have a potentially significant impact on such species. In addition, the CDFW encourages informal consultation on any proposed project that may affect a candidate species. Project-related impacts to species on the CESA Endangered or Threatened lists would be considered significant in this EIR. Impacts to “species of concern” would be considered significant if the species met the criteria set forth under *State CEQA Guidelines* Section 15380, or if the species were also protected under any of the other statutes or policies discussed in this section.

California Native Plant Protection Act

State listing of plant species began in 1977 with the passage of the California Native Plant Protection Act (NPPA), which directed the CDFW to carry out the legislature’s intent to “preserve, protect, and enhance endangered plants in this state.” The NPPA gave the California Fish and Game Commission the power to designate native plants as Endangered or Rare and to require permits for collecting, transporting, or selling such plants. The CESA expanded upon the original NPPA and enhanced legal protection for plants. The CESA established threatened and endangered species categories and grandfathered all rare animals (but not rare plants) into the NPPA as threatened species. Thus, there are three listing categories for plants in California: rare, threatened, and endangered.

California Fish and Game Code

The California Fish and Game Code provides a variety of protections for species that are not federally or state-listed as Threatened, Endangered, or of special concern.

- Section 3503 protects all breeding native bird species in California by prohibiting the take,¹¹ possession, or needless destruction of nests and eggs of any bird, with the exception of non-native English sparrows and European starlings (Section 3801).
- Section 3503.5 protects all birds of prey (in the orders Falconiformes and Strigiformes) by prohibiting the take, possession, or killing of raptors and owls, their nests, and their eggs.
- Section 3513 of the code prohibits the take or possession of migratory nongame birds as designated in the Migratory Bird Treaty Act or any parts of such birds except in accordance with regulations prescribed by the Secretary of the Interior.
- Section 3800 of the code prohibits the taking of nongame birds, which are defined as birds occurring naturally in California that are not game birds or fully protected species.
- Section 3511 (birds), Section 5050 (reptiles and amphibians), and Section 4700 (mammals) designate certain wildlife species as fully protected in California.

¹¹ “Take” in this context is defined in Section 86 of the California Fish and Game Code as to “hunt, pursue, catch, capture, or kill, or to attempt to hunt, pursue, catch, capture, or kill.”

Local Regulations

City of Malibu General Plan

The Conservation (CON) Element of the General Plan contains several objectives and policies relative to biological resources, summarized below. The **Environmental Impacts** Section below analyzes project compliance with the pertinent policies.

- Objective 1.2:** Wildlife and Biota Resources Preserved, Protected, and Reclaimed.
- Policy 1.2.1:** The City shall preserve wildlife habitats and habitat linkages.
- Policy 1.2.2:** The City shall protect, preserve, and reclaim very threatened community types that occur in Malibu, as inventoried by the Department of Fish and Wildlife, with special emphasis on these: Southern Coastal Bluff Scrub; Southern Dune Scrub; Valley Needlegrass Grassland; Southern Foredunes (Broad Beach); Venturan Coastal Sage Scrub; Coastal Brackish Marsh (Malibu Creek and Lagoon); Coastal and Valley Freshwater Marsh; Southern Willow Scrub; California Walnut Woodland; and Valley Oak Woodland. CON Policy 1.2.3: The City shall mitigate net loss of very threatened plant communities.
- Policy 1.2.3** The City shall mitigate net loss of very threatened plant communities.
- Policy 1.2.4:** The City shall regulate removal of vegetation in ESHAs.
- Policy 1.2.5:** The City shall discourage plant species that are invasive in the Santa Monica biogeographic area where such invasive plant species would degrade native plant communities.
- Policy 1.2.6:** The City shall discourage the use of insecticides, herbicides, or toxic chemical substances (excepting non-regulated home pesticides) within the City or if ESHAs, raptors, and other animals could be adversely affected, except in an emergency that threatens wildlife or the habitat itself.
- Policy 1.2.7:** The City shall reduce impacts resulting from night lighting so as not to disturb natural habitats.
- Policy 1.2.8:** The City shall protect streambed gravel conditions in streams supporting steelhead trout.

Policy 1.2.9 The City shall apply setback requirements, determined by site specific analysis, to new septic systems for protection of oak and riparian woodlands, and to prevent lateral seepage into stream or coastal waters.

Objective 1.3: Marine and Beach Resources Preserved, Protected, Enhanced, and Reclaimed.

Policy 1.3.1: The City shall prohibit uses of the marine environment that will have a significant adverse effect on the biological diversity and productivity of coastal waters.

Policy 1.3.2 The City shall protect beaches and sea cliffs in Malibu.

Policy 1.3.4: The City shall protect and support restoration of all kelp beds, wetlands, creeks, and estuaries of Malibu.

Policies 1.3.3 and 1.3.5 through 1.3.13 directly relate to immediate ocean front land uses, and as such are not applicable to the proposed project.

City of Malibu Local Coastal Plan, Land Use Plan, and Local Implementation Plan¹²

The City of Malibu is responsible for processing coastal development permits (CDPs) in accordance with the policies of the Land Use Plan (LUP) and LIP. The Whole Foods in the Park project is not seeking any amendments to the LIP or LUP.

Environmentally Significant Habitat Area – LIP Chapter 4

An Environmentally Significant Habitat Area (ESHA) is defined as “any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem, which could be easily disturbed or degraded by human activities and developments.”

Native Tree Protection – LIP Chapter 5

Native trees protected under Chapter 5 include native oak (*Quercus* spp.), California black walnut (*Juglans californica*), western sycamore (*Platanus racemosa*), alder (*Alnus rhombifolia*) and toyon (*Heteromeles arbutifolia*) with a diameter at breast height (DBH) (measured at 4.5 feet from ground level) of 6 inches or more for a single trunk of a combination of any two trunks with a total of 8 inches or more DBH. A CDP is required for the removal of native trees. An additional Protected Zone is also required which includes the drip line plus 5 feet, or an area 15 feet outward from the trunk, whichever is greater.

¹² Adopted by the California Coastal Commission on September 13, 2002

The removal of protected trees is prohibited except where no other feasible alternative is present. Section 5.5 of the LIP defines required mitigation measures. These measures include applicant submittal of a native tree replacement program describing how replacement trees would be planted, how many and of what size, and specifically where. A monitoring program must also be submitted, with performance standards, monitoring procedures, and corrective measures to assure continued survival of the replacement trees.

ENVIRONMENTAL IMPACTS

Thresholds of Significance

Significance criteria are defined in the *State CEQA Guidelines*. According to Appendix G (Environmental Checklist) of the *State CEQA Guidelines*, a project may be deemed to have a significant impact on the environment 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 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 CDFW or USFWS;
- have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (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; or
- conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.

Methodology

The analysis below compares identified impacts to the standards of significance stated above and determines the impact's level of significance under CEQA. If the impact is determined to be significant, the analysis identifies feasible mitigation measures to eliminate the impact or reduce it to a less than significant level. If the impact cannot be reduced to a less than significant level after implementation of all

feasible mitigation measures, then the impact is identified as significant and unavoidable. The project's potential contribution to cumulative impacts is also identified.

Impact Analysis

Threshold 3.3.1 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 CDFW or USFWS.

No special status wildlife was identified as occurring or potentially occurring on the project site. Construction of the proposed project would include the removal of eight native western sycamore trees. There is the potential for migratory birds to nest in these trees. Should an active nest be present at the time of tree removal, a direct loss would occur. Construction noise could also adversely impact nesting birds in close proximity to the project site, such as within the trees just outside the northern property line. Night lighting could interfere with bird nesting activities in the trees along the property line. All migratory birds are protected under the federal Migratory Bird Treaty Act and Section 3503 of the state Fish and Game Code protects bird nest and eggs; as such, removal of a nest, eggs, or abandonment of an active nest caused by the project would result in a significant adverse impact.

Mitigation Measure

3.3-1: If construction would commence during the nesting/breeding season (February through August), a pre-construction survey of the project vicinity for nesting birds shall be conducted by a qualified biologist (i.e., experienced with the nesting behavior of bird species of the region) within two weeks of the commencement of construction activities. The intent of the survey would be to determine if active nests of special-status bird species or other species protected by the Migratory Bird Treaty Act and/or the California Fish and Game Code are present within the construction zone or within 500 feet of the construction zone. The survey area shall include all trees, shrubs, and buildings in the construction zone and a surrounding 500 feet area, including suitable habitat areas outside the project site.

If active nests are found in areas that could be directly affected by, or are within 500 feet of, construction and would be subject to prolonged construction-related noise, a no-disturbance buffer zone shall be created around active nests during the breeding season or until a qualified biologist determines that all young have fledged. The size of the

buffer zones and types of construction activities restricted within them shall be determined by the qualified biologist taking into account factors such as the following:

- Noise and human disturbance levels at the construction site at the time of the survey and the noise and disturbance expected during the construction activity.
- Distance and amount of vegetation or other screening between the construction site and the nest.
- Sensitivity of individual nesting species and behaviors of the nesting birds.

Limits of construction to avoid an active nest shall be established in the field by a qualified biologist with flagging, fencing, or another appropriate barrier and construction personnel shall be instructed on the sensitivity of nest areas.

LUP Policy 6.23 requires exterior lighting to be low intensity and shielded. **As discussed in Section 3.1 Aesthetics**, it is anticipated that prior to project entitlement and buildout the City will have adopted a citywide lighting ordinance. As a new project, all lighting for the proposed project would be required to meet the standards in the City's General Plan, MMC Title 17, LIP Sections 4.6.2 and 6.5(G) and the adopted citywide lighting ordinance. In addition, uplighting in landscaping or elsewhere on-site shall be prohibited. The combination of low wattage and shielding would reduce potential impacts to nesting birds to less than significant levels.

Residual Impacts

Following implementation of **Mitigation Measure 3.3-1** and compliance with MMC Title 17, LIP Sections 4.5.2 and 6.5 (G) potential impacts to nesting birds would be reduced to a less than significant level.

Threshold 3.3.2 **Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or USFWS.**

As previously discussed, there are no riparian habitats or other sensitive natural communities on the project site. Therefore, there would be no impacts to jurisdictional wetlands and waters from buildout of the proposed project.

Mitigation Measures

No mitigation is required.

Residual Impacts

Impacts would be less than significant.

Threshold 3.3.3 Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.

A jurisdictional delineation conducted in February 2011 determined the site does not support or contain wetlands or other aquatic features (such as streams or ephemeral drainages) or associated riparian habitat that would be regulated by the United States under Section 404 of the Clean Water Act or by the CDFW under Section 1600 of the State Fish & Game Code.¹³ The report also found the site does not contain wetlands or a stream as defined by the City of Malibu LCP or the California Coastal Commission. Therefore, no impact would occur.

Mitigation Measures

No mitigation is required.

Residual Impacts

No impacts would occur.

Threshold 3.3.4 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.

The project site is currently fenced with a 6-foot-tall chain-link fence and surrounded by urban land uses. It is not part of an established wildlife corridor. As such, the site does not provide habitat connectivity between open space areas and is not considered to be part of an established wildlife movement corridor. Impacts would be less than significant.

Mitigation Measures

No mitigation is required.

¹³ Glenn Lukos Associates. February 21, 2011. *Jurisdictional Determination, Whole Foods Plaza, Malibu, Los Angeles County, California.*

Residual Impacts

Impacts would be less than significant.

Threshold 3.3.5 **Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.**

General Plan Policies

Policy 1.2.1: The City shall preserve wildlife habitats and habitat linkages. With the exception of a few native trees, the project site does not contain native wildlife habitats and is within a developed portion of the city. As such, the property does not support habitat linkages.

Policy 1.2.2: The City shall protect, preserve, and reclaim very threatened community types that occur in Malibu. The subject property does not contain, nor would it impact, any very threatened community types.

Policy 1.2.3: The City shall mitigate net loss of very threatened plant communities. The subject property does not contain, nor would it impact, any very threatened plant communities.

Policy 1.2.4: The City shall regulate removal of vegetation in ESHAs. No ESHAs are defined on the site.

Policy 1.2.5: The City shall discourage plant species that are invasive in the Santa Monica biogeographic area where such invasive plant species would degrade native plant communities. The project landscape plan does not propose the use of any invasive plant species and shall be consistent with the City's Landscape Water Conservation Ordinance (Ordinance No. 343). (Refer to **Figures 2.0-10a and 2.0-10b, Landscape Plan.**)

Policy 1.2.6: The City shall discourage the use of insecticides, herbicides, or toxic chemical substances (excepting non-regulated home pesticides) within the City or if ESHAs, raptors, and other animals could be adversely affected, except in an emergency that threatens wildlife or the habitat itself. **Section 3.7, Hazards and Hazardous Materials**, of this EIR states that the types of potentially hazardous materials associated with operation of the proposed project include solvents, cleaning products, fertilizers, and pesticides that are packaged and stored for consumer sales. Furthermore, materials would be used for facility upkeep that could be considered hazardous if used inappropriately. Such materials include cleaning solvents used for janitorial purposes, materials used for landscaping, and materials used for maintenance. Examples of such materials could include but are not limited to cleaning solvents, pesticides and herbicides for landscaping, and painting supplies. However, all potentially hazardous materials transported, stored, offered for sale, or used on-site for daily upkeep would be contained,

stored, and used in accordance with manufacturers' instructions and handled in compliance with applicable standards and regulations. With compliance with existing local, state, and federal regulations, the transport, storage, and sale of these materials would not pose a significant hazard to the public or the environment.

Policy 1.2.7: The City shall reduce impacts resulting from night lighting so as not to disturb natural habitats. The applicant has provided a lighting plan that demonstrates compliance with the City's Lighting Ordinance. As discussed in **Section 3.1, Aesthetics**, it is anticipated that prior to project entitlement and buildout the City will have adopted a citywide lighting ordinance. As a new project, all lighting for the proposed project would be required to meet the standards in the City's General Plan, MMC Title 17, LIP Sections 4.6.2 and 6.5(G) and the adopted citywide lighting ordinance. In addition, uplighting in landscaping or elsewhere on-site shall be prohibited. The combination of low wattage and shielding would reduce potential impacts to natural habitats, such as nesting birds, to less than significant levels.

Policy 1.2.8: The City shall protect streambed gravel conditions in streams supporting steelhead trout. The project site would not directly or indirectly impact any streambed.

Policy 1.2.9 The City shall apply setback requirements, determined by site specific analysis, to new septic systems for protection of oak and riparian woodlands, and to prevent lateral seepage into stream or coastal waters. The proposed project would connect to the future (Phase 1) Civic Center wastewater treatment facility via points of connection to pipelines in either Civic Center Way or Cross Creek Road. Therefore, no on-site wastewater treatment system is included as part of the proposed project.

Policy 1.3.4: The City shall protect and support restoration of all kelp beds, wetlands, creeks and estuaries of Malibu. The proposed project would not directly or indirectly impact any of these resources.

Native Tree Protection

Site development would necessitate the removal of eight western sycamore trees, a protected tree species under the City's LCP. The removal of protected trees is prohibited by Section 5.5.1 of the LIP except where no other feasible alternative is present:

B. Where the removal of native trees cannot be avoided or where development encroachments into the protected zone of native trees result in the loss or worsened health of the trees, mitigation measures shall include, at a minimum, the planting of replacement trees on-site, if suitable area exists on the project site, at a ratio of no less than 10 replacement trees for every 1 tree removed.

The mitigation plans must be included as a condition of permit approval. Annual monitoring and reporting is also required (LIP Section 5.6) for no less than 10 years, including compliance with performance standards defined as part of the mitigation plan and approved by the City of Malibu. LIP Section 5.6.2 identifies the requirements as follows:

5.6.2. Replacement Trees

Where the planting of replacement trees is required as mitigation, as required by Section 5.5 of the Malibu LIP above, each replacement tree shall be monitored annually for a period of not less than ten years. An annual monitoring report shall be submitted for the review and approval of the City for each of the ten years. The monitoring report shall identify the size and health of each replacement tree, comparing this information with the criteria provided in the native tree replacement planting program required in Section 5.5.1 (A) of the Malibu LIP for determining that replacement trees are healthy and growing normally. Mid-course corrections shall be implemented if necessary. Monitoring reports shall be provided to the City annually and at the conclusion of the ten-year monitoring period that document the success or failure of the mitigation. If performance standards are not met by the end of ten years, the monitoring period shall be extended until the standards are met.

A planting plan has been prepared indicating the location of the 80 western sycamores that would be included as part of the proposed project's landscaping. These plans indicate the required sycamores would be planted in the following sizes: 15 of the 60-inch-box size; 15 of the 48-inch-box size; 10 of the 36-inch-box size; 10 of the 24-inch-box size; and three of the 15-gallon size. Refer to **Figures 2.0-10a and 2.0-10b, Landscape Plan**.

Mitigation Measures

Compliance with the requirements of the LIP, which require planting of 10 trees for each tree removed, would reduce potential impacts related to the removal of the sycamore trees to less than significant. As noted above, 80 western sycamores have been incorporated into the landscaping plan. However, a monitoring plan must also be provided, including plans for the required 10-year monitoring and reporting. Therefore, **Mitigation Measure 3.3-2** is required.

3.3-2: The project applicant shall ensure the requirements of LIP Section 5.6.2 are met through the preparation of a monitoring plan. The applicant (or designee) shall be responsible for preparation of annual monitoring reports on the replacement trees. The monitoring report shall include measurements of replacement trees (i.e., DBH, approximate height and canopy width) and the relative health, including noting any damage from fire, insects, and disease, or other vectors affecting health. If at any time, within the monitoring period the health of a replacement tree begins to decline beyond recovery, that tree shall be replaced in kind with a healthy tree.

Monitoring reports shall be provided to the City annually and at the conclusion of the ten-year monitoring period documenting the success or failure of the mitigation. If performance standards are not met by the end of ten years, at the discretion of the City Planning Department the monitoring period shall be extended until the standards are met.

Residual Impacts

Impacts would be less than significant.

Threshold 3.3.6 Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan.

The proposed project does not conflict with any adopted habitat conservation plans, natural community conservation plans, or other local, regional, or state habitat conservation plans because none have been defined for the location including the project site.

Mitigation Measures

No mitigation is required.

Residual Impacts

Impacts would be less than significant.

Cumulative Impacts

As described above, the project site provides low/limited habitat value and development of the project site would not result in the loss of any suitable habitat. However, nearby projects within and around the Civic Center area have identified a cumulative loss of habitat within the Civic Center and Malibu in general. These include the project depicted on **Figure 3.0-1** of this report as #14 (a shopping center project at 30745 Pacific Coast Hwy), 17 (a high school improvement project at 30215 Morning View Drive), 31 (an office building project at 24903 Pacific Coast Highway), 34 (the La Paz project at 23465 Civic Center Way), 35 (the Rancho Malibu Hotel project), 37 (the Santa Monica College Satellite Campus project at 23525 Civic Center Way), 38 (multi-family residential development at 28455 Pacific Coast Highway, 28401 Pacific Coast Highway, and 370 La Paz Lane), and 39 (a shopping center project at 23575 Civic Center Way); all projects larger than ~0.25 acre. Other sites proposed for development in Malibu contain a variety of native plant communities and wildlife resources, including connection to wildlife movement corridors and overall support a more diverse flora and fauna than the project site. If these surrounding

sites were to be developed, the loss of these sites which offer varying degrees of habitat suitability could result in a cumulative loss of habitat in the region.

However, as the proposed project would not individually result in the loss of any important habitat or biological resources, this project's contribution to any potential cumulative effect would not be considerable. Therefore, the proposed project would not contribute to a cumulative impact related to biological resources.

Mitigation Measures

No mitigation measures are required.

Residual Impacts

Impacts would be less than significant.