

4.3 Biological Resources

This section addresses the existing environmental conditions for biological resources in the City of Solvang, California and its Sphere of Influence (SOI), herein referred to as the Planning Area, and the potential impacts to biologicals resources resulting from implementation of the 2045 General Plan. This section includes vegetation communities and landscapes, waterbodies and wetlands, special-status species, sensitive natural communities, nesting birds, critical habitat, and wildlife corridor habitat in the Planning Area.

4.3.1 Setting

The City of Solvang has a Mediterranean climate characterized by warm, dry summers and cool, moist winters. The Planning Area lies approximately 9 miles north of the Pacific Ocean on the northern side of the Santa Ynez Mountain range and features agricultural lands, rolling hills, open spaces, rural character, scenic roadways, and natural features. The elevation ranges from approximately 300 to 630 feet in elevation. The varied topography supports several natural habitats that contribute to the overall ecological balance of the area, including annual grasslands, coastal oak woodlands, coastal scrub, deciduous orchard, pasture, mixed chapparal, valley foothill riparian, and valley oak woodlands. In addition, the Santa Ynez River and numerous streams flow through the Planning Area, which also provide habitat for various wildlife species. The Planning Area also contains urban and suburban development.

The previous adopted General Plan designated two City-designated open space parcels located within the Planning Area. They are located south of State Route (SR) 246 near Nykobing and behind the residential area along Aarhus Drive. The open space consists of relatively undisturbed natural habitats consisting of a variety of vegetation communities. These open space areas often feature parks, such as Creekside Place Park located along Rebild Drive and Alisal Commons Park located at the north end of Glen Way. These parks offer residents and visitors opportunities for outdoor activities, including walking, biking, and picnicking. The city also has two natural open space parcels managed by Nyborb Estates homeowners Association, including one 2.67-acre parcel located south of SR 246 near Nykobing and a 9.00-acre parcel located behind the homes along Aarhus Drive. Figure 4.3-1 illustrates the open spaces in the Planning Area.

In addition to the open spaces, there are three California Protected Areas within the Planning Area for conservation purposes: Alisal Commons Park, Hans Christian Anderson Park, and Sunny Fields Park. California Protected Areas are lands that are protected for open space purposes and include regional parks, forests, preserves, and wildlife areas as well as urban parks that are mainly open space. Other parks that are not designated as California Protected Areas in the Planning Area include Creekside Place Park and Solvang Park. Figure 4.3-2 illustrates the California Protected Areas and parks within the Planning Area, distinguished by Active Parks (A) and Passive Parks (P) (City of Solvang 2021).

Figure 4.3-1 Designated Open Space in Planning Area

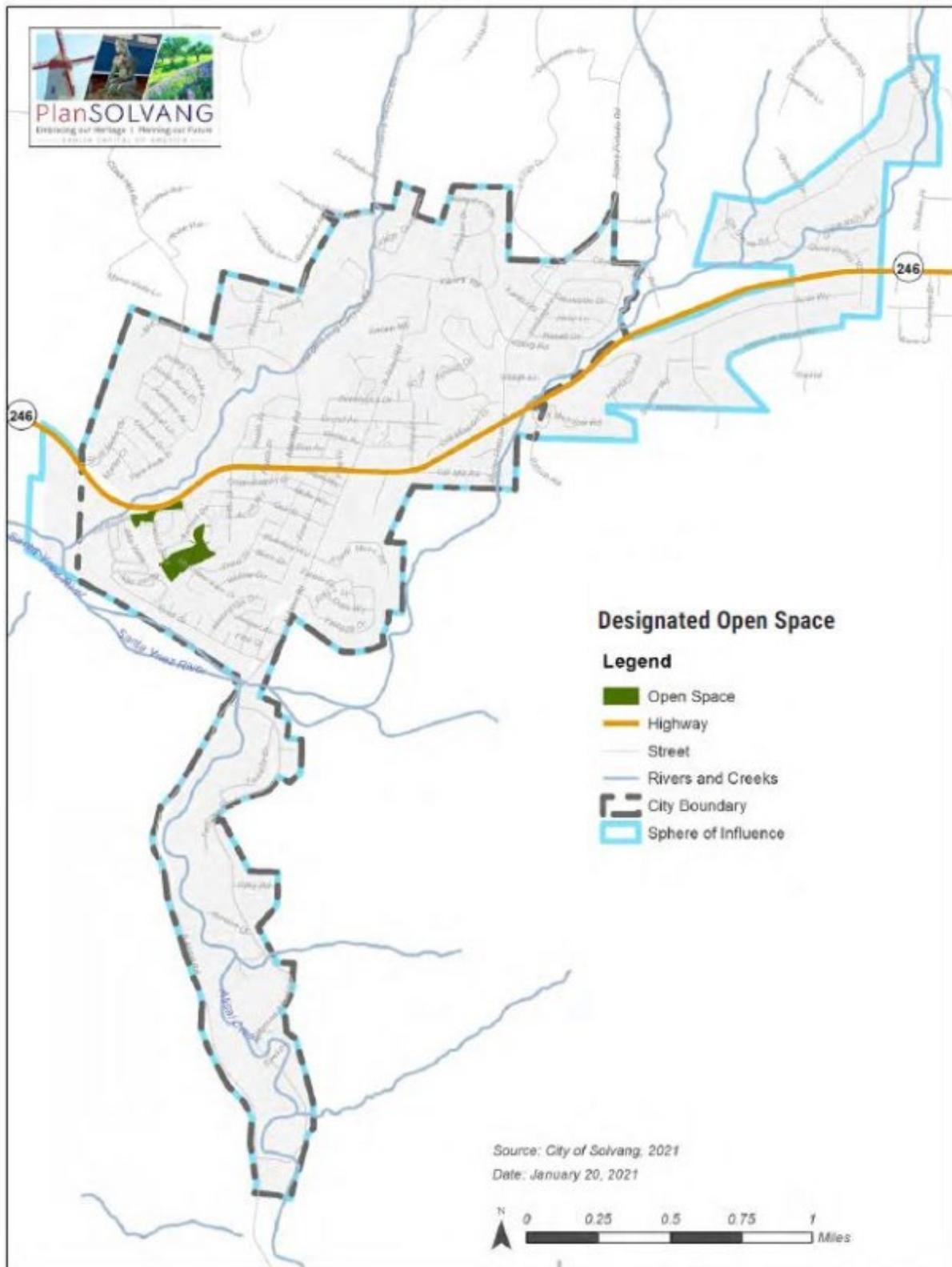
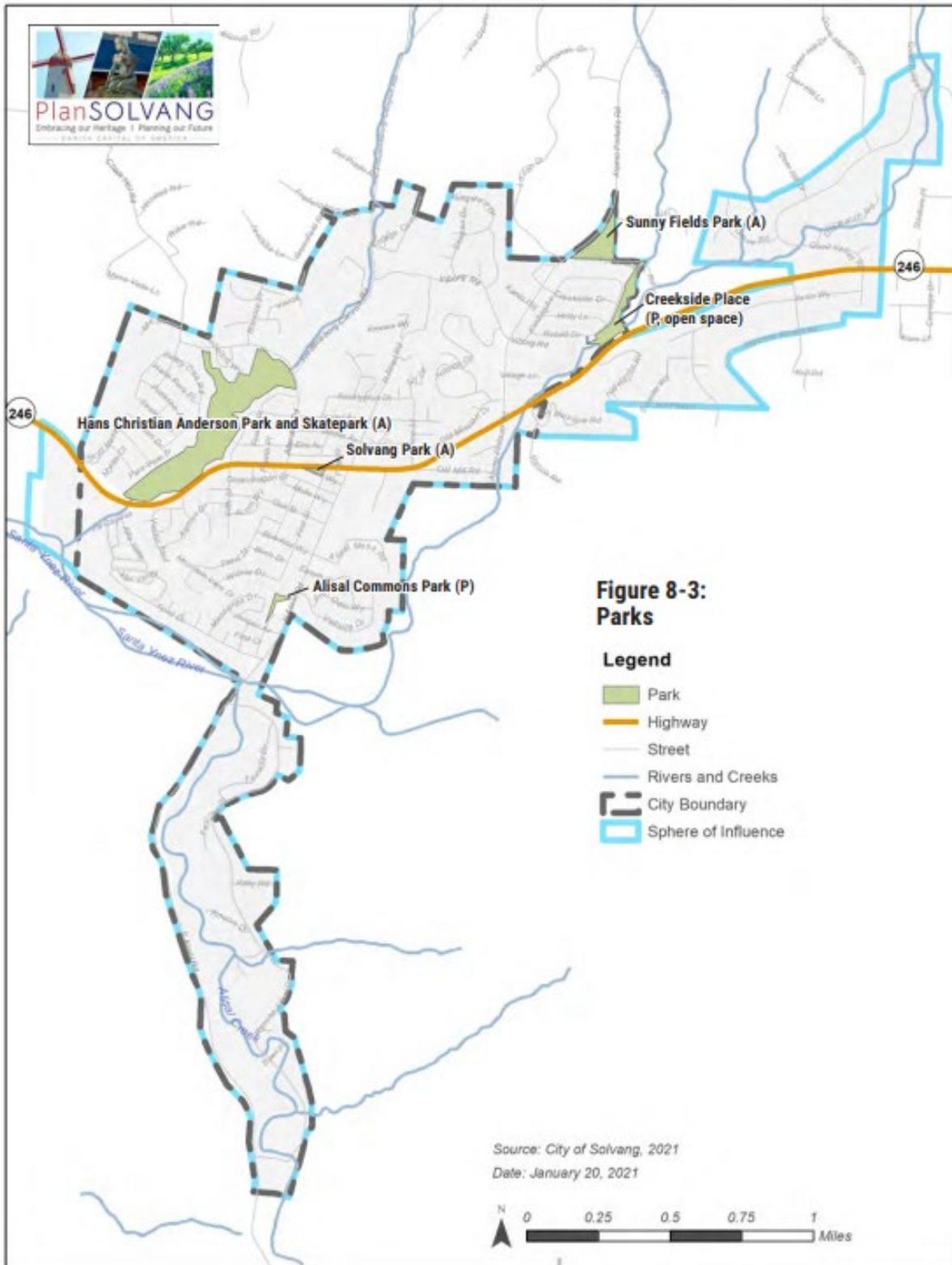


Figure 4.3-2 California Protected Areas and Parks in Planning Area



4.3.1.1 Vegetation Communities and Land Cover Types

The primary vegetation communities in the Planning Area consist of annual grassland, coastal oak woodland, coastal scrub, deciduous orchard, mixed chaparral, valley foothill riparian, and valley oak woodland (City of Solvang 2021). These vegetation communities were identified as occurring in the Planning Area by the California Department of Fish and Wildlife (CDFW) California Wildlife Habitat Relationships classification scheme (CWHR) (Mayer and Laudenslayer 1988) (CDFW 2023a). These vegetation communities constitute approximately 36 percent of the Planning Area, the majority consisting of annual grassland, with the remaining areas in the Planning area consisting of urban (64 percent), barren (1 percent), and lacustrine (<1 percent) areas. Further descriptions of these vegetation communities are provided below and illustrated in Figure 4.3-3.

Annual Grassland

Annual grasslands are characterized by open grasslands composed primarily of non-native annual plant species, including wild oats (*Avena fatua*), rigput brome (*Bromus diandrus*), red brome (*Bromus rubens*), and foxtail barley (*Hordeum murinum*). This vegetation community occurs mostly on flat plains to gently rolling foothills. Species composition depends largely on weather patterns and livestock grazing. Fall rains cause germination of annual plant seeds. Plants grow slowly during the cool winter months, remaining low in stature until spring, when temperatures increase and stimulate more rapid growth. Many wildlife species use this community for foraging, such as black-tailed jackrabbit (*Lepus californicus*), California ground squirrel (*Spermophilus beecheyi*), coyote (*Canis latrans*), and a variety of bird species (CDFW 2023a).

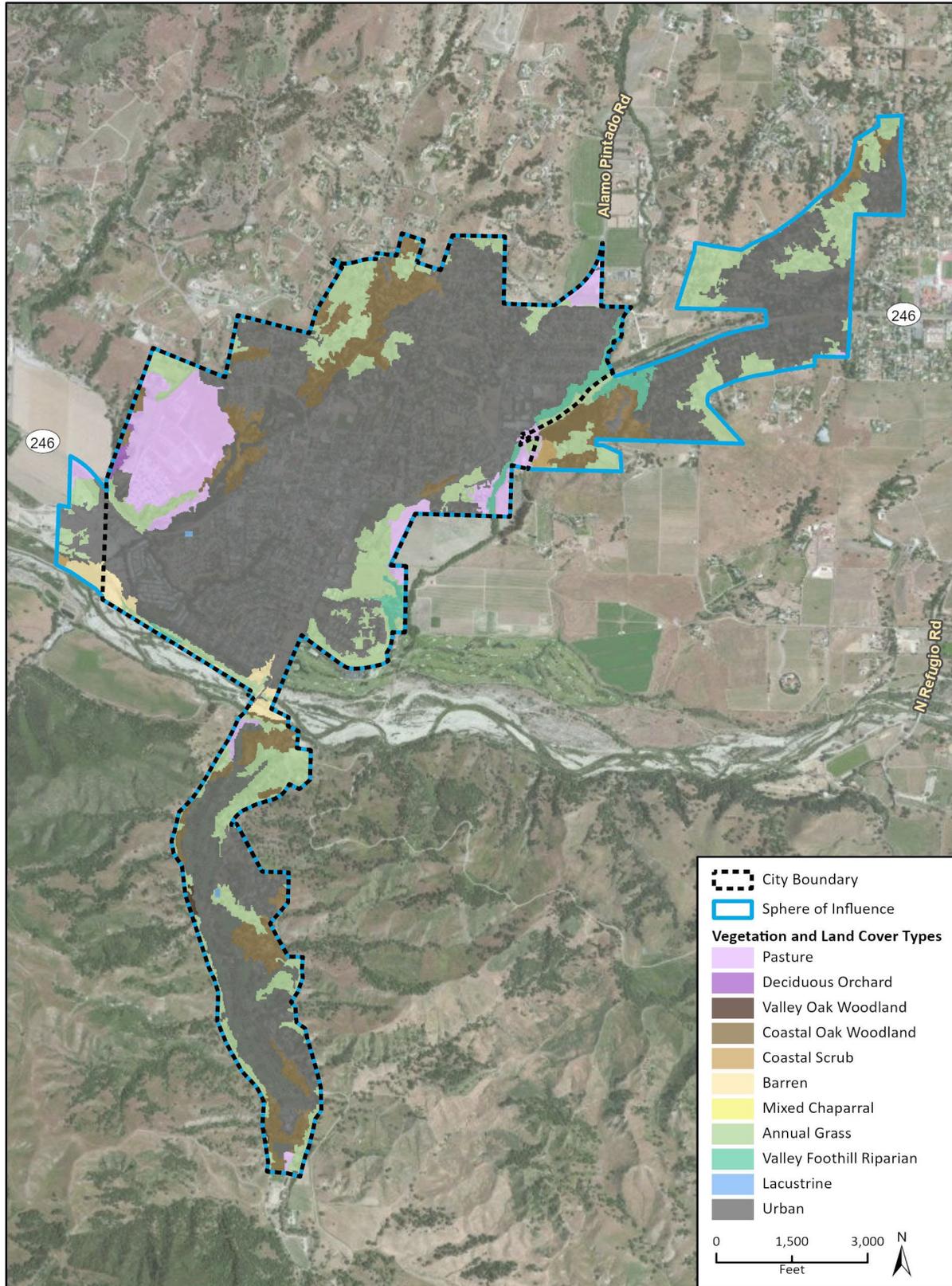
Pasture

Pasture vegetation is a mix of perennial grasses and legumes that normally provide 100 percent canopy closure. Old or poorly drained pastures may have patches of weeds in excess. The mix of grasses and legumes varies according to management practices such as seed mixture, fertilization, soil type, irrigation, weed control, and the type of livestock on the pasture. Pastures are planted on flat and gently rolling terrain and may be irrigated. Pastures are used by a variety of wildlife depending upon geographic area and types of adjacent habitats. Ground-nesting birds, including waterfowl, nest in pastures if adequate residual vegetation is present at the onset of the nesting season (CDFW 2023a). Figure 4.3-3 classifies the Skytt Mesa subdivision and Sunny Fields Park as Pasture; this is indicative of available CDFW data and not representative of existing site conditions.

Coastal Oak Woodland

Coast oak woodland is a native vegetation community that consists of deciduous and evergreen hardwoods, typically dominated by coast live oak trees (*Quercus agrifolia*). Coast live oak woodlands are variable, ranging from dense woodlands (sometimes intergrading with mixed evergreen forests) on the more mesic north-facing slopes and canyons, to an open savanna on drier, more exposed slopes where the soils are usually shallower. The understory may range from absent to dense. Typical understory species include shade tolerant shrubs such as native blackberry (*Rubus ursinus*), toyon (*Heteromeles arbutifolia*), and poison oak (*Toxicodendron diversilobum*); and native herbaceous plants such as fiesta flower (*Pholistoma auritum*), miner's lettuce (*Claytonia perfoliata*), and various fern species. Coastal oak woodlands are found in coastal foothills and valleys and provides important habitat for wildlife, including nesting sites, foraging areas for small mammals, and microclimates suitable for amphibians, reptiles, and fungi (CDFW 2023a).

Figure 4.3-3 Vegetation Communities in Planning Area



Imagery provided by ESRI and its licensors © 2023.
 Soils data provided by USDA Forest Service, Region 5 CALVEG Zone 7, Crosswalk to CWHR 2002.

20-10211 Paleo
 Fig 4.3-3 Vegetation and Land Cover Types

Coastal Scrub

Coastal scrub is a native vegetation community that is typically found on stabilized backdune slopes, ridges, and flats along the coast. Soils are typically sandy to sandy loam. Central coastal scrub typically forms a mosaic with other communities including coast bluff scrub, maritime chaparral, coast live oak woodland, and coastal prairie. Vegetation in this habitat type is composed of soft scrub of moderate to high cover and is dominated by native mock heather (*Ericameria ericoides*), California sagebrush (*Artemisia californica*), coyote brush (*Baccharis pilularis*), black sage (*Salvia mellifera*), common California-aster (*Lessingia filaginifolia* var. *filaginifolia*), dune bush lupine (*Lupinus chamissonis*), and sticky monkeyflower (*Diplacus aurantiacus*). Central coastal scrub provides habitat for a variety of vertebrate species (CDFW 2023a).

Deciduous Orchard

Deciduous orchards are typically dominated by a single species of tree, such as almonds, apples, apricots, peaches, pecans, and walnuts. Trees range in height at maturity depending on the species, ranging from 10 feet for dwarf varieties to upwards of 60 feet for pecans and walnuts. The understory is usually composed of low-growing grasses, which are often intensively managed. Orchards are planted on deep fertile soils which once supported productive and diverse natural habitats. The orchards still provide anthropogenic habitat that offers wildlife, such as deer and rabbit that commonly browse on the tree foliage, an area for foraging and cover that allows animals to move through the region. Many wildlife species act as biological control agents by feeding on weed seeds and insect pests (CDFW 2023a).

Mixed Chaparral

Mixed chaparral is a native vegetation community that is dominated by several shrubby species instead of a single dominant species. Most species grow to a height of three to 10 feet but can sometimes take the form of dwarf woodland with a canopy of more than 13 feet in height. Mixed chaparral communities often develop into dense thickets with little to no understory. Shrubs commonly found in this vegetation community include native chamise (*Adenostoma fasciculatum*), birchleaf mountain mahogany (*Cercocarpus betuloides*), toyon, California buckeye (*Aesculus californica*), poison oak, sumac (*Rhus aromatica*), and hollyleaf cherry (*Prunus ilicifolia*). Mixed chaparral occurs on all aspects, but at lower elevations, it generally is found on north-facing slopes. This pattern is especially true in southern California. Generally, it occurs on steep slopes and ridges with relatively thin, well-drained soils. Mixed chaparral provides habitat for a variety of wildlife species, such as California quail (*Callipepla californica*), western fence lizard (*Sceloporus occidentalis*), and brush rabbit (*Sylvilagus bachmani*) (CDFW 2023a).

Valley Foothill Riparian

Valley foothill riparian is a native vegetation community that contains mostly winter deciduous trees, such as native cottonwood (*Populus* spp.), California sycamore (*Platanus racemosa*), and valley oak (*Quercus lobata*). The canopy height can grow up to 98 feet in a mature riparian forest. Typical understory shrub layer species include native California blackberry, blue elderberry (*Sambucus mexicana*), poison oak, and willows (*Salix* spp.). This vegetation community is found in valleys bordered by sloping alluvial fans, slightly dissected terraces, lower foothills, and coastal plains. They are generally associated with low velocity flows, flood plains, and gentle topography. Valleys provide deep alluvial soils and a high water table. The substrate is coarse, gravelly or rocky soils more or less permanently moist. Valley foothill riparian habitats provide food, water, migration

and dispersal corridors, and escape, nesting, and thermal cover for an abundance of wildlife (CDFW 2023a).

Valley Oak Woodland

Valley oak woodland is a native vegetation community that typically includes an open to continuous, or savannah-like (less than 10 percent cover, but evenly distributed) tree canopy dominated by native valley oaks (*Quercus lobata*). The shrub layer is sparse to open, and the herbaceous layer typically includes a wide range of grasses. Valley oak woodlands are typically found in valley bottoms, summit valleys, on gentle to somewhat steep, lower to upper slopes and ridgetops. Soil textures are various, including loams and clays. Historically, these woodlands ranged across alluvial terraces of large valleys and low rolling hills. However, most valley oak woodlands are gone, having been cut down for firewood or agriculture. These woodlands provide food and cover for many species of wildlife (CDFW 2023a).

4.3.1.2 Waterbodies and Wetlands

The Planning Area is in the Santa Ynez River watershed (HUC 12-180600100508) and consists of four main waterbodies: Santa Ynez River, Alamo Pintado Creek, Adobe Creek, and Alisal Creek. The Santa Ynez River originates in the San Rafael Mountains and flows westerly about 90 miles to the ocean. The Santa Ynez River runs east to west along the southern city limit boundary, and passes under the Alisal bridge crossing. Alamo Pintado Creek, Adobe Creek, and Alisal Creek are all tributaries to the Santa Ynez River within the Planning Area. The major rivers and streams in Solvang and the surrounding region are shown in Figure 4.3-1. The Santa Ynez River watershed supports a variety of fish communities and is identified as a Critical Habitat for steelhead trout, which is federally listed as endangered and a candidate for State listing as endangered in Southern California. In addition, the river and its watershed form an extensive riparian habitat with nearby chaparral and oak woodland habitat, which support a variety of plant and wildlife species.

In addition to these waterbodies, the Planning Area contains one small wetland feature, approximately 14,000 square feet (0.32 acres) in size, mapped by the United States Fish and Wildlife Service (USFWS) in the National Wetlands Inventory (NWI). The wetland is mapped near Nykobing at the cross street of Vester Sted and Midtenhof, within a partially developed area. The NWI identifies this feature as a temporarily flooded, palustrine wetland that was excavated by humans. Based on recent aerial imagery, the wetland feature is presumed to be absent.

4.3.1.3 Special-Status Species

For the purposes of this analysis, special-status species include the following:

- Species listed as threatened or endangered under the Federal Endangered Species Act (FESA), including proposed and candidate species;
- Species listed as candidate, threatened, or endangered under the California Endangered Species Act (CESA);
- Species designated as Fully Protected by the California Fish and Game Code (CFGC), and species identified as a CDFW Species of Special Concern or on the CDFW Watch List;
- Plant species protected by the Native Plant Protection Act (NPPA) (State Rare);
- Plant species with California Native Plant Society (CNPS) California Rare Plant Ranks (CRPR) 1A, 1B, 2A and 2B.

Queries of scientific databases administered by the USFWS, CDFW, and CNPS were conducted to obtain comprehensive information regarding State and federally listed species as well as other special-status species considered to have potential to occur within the City's Planning Area. The query of the CDFW California Natural Diversity Database (CNDDDB) (CDFW 2023b) and Biogeographic Information and Observation System (BIOS) (CDFW 2023c) included the City's Planning Area and an additional 5-mile radius.

The USFWS Critical Habitat Portal was also reviewed to obtain information on limits of federally defined Critical Habitat for endangered species that may occur within the Planning area and the additional 5-mile radius. The CNPS's Inventory of Rare and Endangered Plants (CNPS 2023) was also reviewed and queried the *Solvang, California* USGS 7.5-minute topographic quadrangle and the surrounding eight quadrangles (*Zaca Creek, Los Alamos, Santa Rosa Hills, Sacate, Gaviota, Tajiguas, Santa Ynez, and Los Olivos*). Species that occur in habitats that are not present within the Planning Area and species known to be extirpated from the region were excluded from further evaluation.

A table has been provided as Appendix D that lists the special-status wildlife and plants identified in the desktop review as occurring in the region. Further discussion on species that have a potential to occur within the Planning Area is provided below, determined by an evaluation of potentially occurring suitable habitat, nearest documented occurrences, and recently observed records for each species.

Special-Status Wildlife

A total of 21 special-status invertebrate, fish, amphibian, reptile, bird, and mammal species have the potential to occur in the Planning Area. Of the 21 special-status wildlife species with the potential to occur in the Planning Area, the following species have federal and/or State listing status (CDFW 2023d):

- California red-legged frog (*Rana draytonii*) – federally-listed threatened
- Crotch's bumble bee (*Bombus crotchii*) – candidate for State-listed endangered
- foothill yellow-legged frog (*Rana boylei* pop. 6) – South Coast Distinct Population Segment (DPS) – federally-listed endangered, State-listed endangered
- least Bell's vireo (*Vireo bellii pusillus*) – federally-listed endangered, State-listed endangered
- monarch – California overwintering population (*Danaus plexippus plexippus* pop. 1) – candidate for federal listing
- southwestern willow flycatcher (*Empidonax traillii extimus*) – federally-listed endangered, State-listed endangered
- steelhead – southern California DPS (*Oncorhynchus mykiss irideus* pop. 10) – federally-listed endangered, candidate for State-listed endangered
- southwestern pond turtle (*Actinemys pallida*) – proposed federally-listed threatened
- tidewater goby (*Eucyclogobius newberryi*) – federally-listed endangered
- vernal pool fairy shrimp (*Branchinecta lynchi*) – federally-listed endangered

Special-Status Plant Species

A total of 30 special-status plant species have the potential to occur within the Planning Area. Of these 30 special-status plant species, the following have federal and/or State listing status (CDFW 2023e):

- La Graciosa thistle (*Cirsium scariosum* var. *loncholepis*) – federally-listed endangered, candidate State-listed threatened
- seaside bird’s-beak (*Cordylanthus rigidus* ssp. *littoralis*) – candidate State-listed endangered
- Gaviota tarplant (*Deinandra increscens* ssp. *villosa*) – federally-listed endangered, candidate State-listed threatened
- Vandenberg monkeyflower (*Diplacus vandenbergensis*) – federally-listed endangered
- Lompoc yerba santa (*Eriodictyon capitatum*) – federally-listed endangered, candidate State-listed rare
- Santa Ynez false lupine (*Thermopsis macrophylla*) – candidate State-listed rare

4.3.1.4 Sensitive Natural Communities

Sensitive natural communities are native vegetation communities, associations, or sub-associations that support concentrations of special-status plant and/or wildlife species, are of relatively limited distribution, or are of particular value to wildlife. Sensitive natural communities are special-status plant communities considered sensitive by federal, State, and local agencies due to their rarity or value in providing habitat for vegetation, fish, and wildlife. Sensitive natural communities present within the Planning Area include (CDFW 2023f):

- Southern California Steelhead Stream
- Southern Coast Live Oak Riparian Forest
- Southern Willow Scrub
- Southern Cottonwood Willow Riparian Forest
- Valley Oak Woodland

4.3.1.5 Bats

While there are no specific laws in California protecting bats as a specific type of wildlife, ten species of bats are currently considered Species of Special Concern by the CDFW. Additionally, the Western Bat Working Group lists some as High Priority (for consideration of conservation measures). Both special-status and common species of bats may roost in a variety of habitats and structures such as trees with exfoliating bark, tree hollows, broad leafed trees, palm fronds, bridges, hollow beams, mines, caves, rocky crevices, attics, and eaves of buildings. Bats typically have a maternity season (generally from April 1 through August 31) and maternity roosts will be situated in areas to raise young. Depending on the species, some bats may not migrate and will use the same roost year-round. Additionally, bats may go into torpor (a temporary hibernation) during colder months (generally November to February) where bats may not be detectable while they are in deep sleep, making any potential relocations or evictions more challenging during this time frame. Because bat species identification is typically gathered through acoustical detectors that record the inaudible ultrasonic calls of bats, not all special-status species have been documented in scientific databases, such as the CDFW’s CNDDDB, and may occur in areas where suitable habitat may be present.

4.3.1.6 Nesting Birds

Migratory or other common nesting birds, while not designated as special-status species, are protected by the federal Migratory Bird Treaty Act (MBTA) and CFGC in the Planning Area. Common avian species may nest in vegetation, including native and ornamental vegetation, and in man-made structures, such as power poles or the eaves of buildings. Birds typically construct their nests during

the breeding season, which is generally February 1 through September 15, and beginning January 1 for all raptor species.

4.3.1.7 Critical Habitat

Critical habitat is a term used in the federal Endangered Species Act to identify specific geographic areas that contain features essential for the conservation of a threatened or endangered species that may require special management or protection. These habitats provide suitable conditions that may provide nesting/denning sites, foraging areas, cover, and other resources that are essential to the species' survival, reproduction, and genetic diversity. Critical habitat areas have been developed because the species face various threats to its habitat, including urban development, agriculture, invasive species, and habitat fragmentation. The habitat areas were defined based on scientific studies and analysis of the species' habitat requirements. The designation of critical habitat does not necessarily restrict all human activities within the designated areas; however, it requires federal agencies to consult with the USFWS or National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS), also referred to as NOAA Fisheries, to ensure that all proposed actions or projects do not adversely modify or destroy the critical habitat. It is also important to note that the species may also occur outside these designated areas within similar habitats occurring throughout the City's Planning Area and consultation with the USFWS/NOAA Fisheries is still required in the event suitable habitat for the species may be impacted.

The USFWS Critical Habitat Portal (USFWS 2023a) was reviewed to obtain information on limits of federally defined Critical Habitat occurring within the City's Planning Area and a 5-mile radius. Based on this review, four defined Critical Habitat areas were determined to occur for the following four federally-listed species: vernal pool fairy shrimp, southern California steelhead, California red-legged frog, and southwestern willow flycatcher. Brief summaries of these species and their defined Critical Habitat areas are provided below.

Vernal Pool Fairy Shrimp

Vernal pool fairy shrimp are a federally-listed threatened species in which the USFWS has designated Critical Habitat in which consists of vernal pool habitats, characterized by small, shallow water bodies with no permanent outlet. Defined Critical Habitat for the species occurs approximately 2.8 miles east of the City's Planning Area, near Santa Ynez. No Critical Habitat for this species occurs within the Planning Area; however, the species may occur in vernal pool habitats present outside defined Critical Habitat areas.

Southern California Steelhead

Steelhead are a federally-listed endangered species in which the NOAA Fisheries has designated Critical Habitat along the entire length of the Santa Ynez River. Solvang only has about 500 feet length of the Santa Ynez River and most of that is along the Alisal Bridge crossing, within the Planning Area, and few associated tributaries outside of the Planning area, to the east and west. The Santa Ynez River consists of an important water source that provides connection to the Pacific Ocean, offering anadromous species, such as steelhead, important fresh water spawning, rearing, and migration habitat.

California Red-legged Frog

California red-legged frog is a federally-listed threatened species in which the USFWS has designated Critical Habitat in two areas in the Santa Ynez Mountains, approximately 3 miles

southwest and southeast of the Planning Area. These areas consist of important water sources, such as streams or stock ponds, which the species uses for breeding, and upland areas for foraging and shelter (USFWS 2010). The species is also known to occur in similar habitats outside federally defined critical habitat areas, including the Santa Ynez River and Alamo Pintado Creek.

Southwestern Willow Flycatcher

Southwestern willow flycatcher is a federally and State-listed endangered species in which the USFWS has designated Critical Habitat areas along the Santa Ynez River, approximately 1.3 miles west of the Planning Area. These areas consist of optimal riparian habitat for nesting, migration, and foraging (USFWS 2013). Although no Critical Habitat for this species has been delineated within the Planning Area, the species may still occur in similar habitats outside federally defined Critical Habitat areas, including the riparian habitats along the Santa Ynez River within the northern extent of the Planning Area.

4.3.1.8 Wildlife Corridor Habitat

Wildlife corridors are generally defined as connections between habitat patches that allow for physical and genetic exchange between otherwise isolated animal populations. Such linkages may serve a local purpose, such as between foraging and denning areas, or they may be regional in nature, allowing movement across the landscape. Some habitat linkages may serve as migration corridors, wherein animals periodically move away from an area and then subsequently return. Examples of barriers or impediments to movement include housing and other urban development, roads, fencing, unsuitable habitat, or open areas with little vegetative cover.

Many local wildlife species, including mountain lions, bobcats, gray foxes, coyotes, and mule deer, depend on access to large areas of connected habitats for feeding and dispersal. Urban development patterns have the potential to fragment habitats and limit the ranges of wildlife. Wildlife corridors represent the last remaining access areas that connect fragmented patches of habitat. Maintaining and enhancing existing habitat linkages is essential to ensuring the preservation of regional natural resources, biodiversity, and sensitive species.

No designated wildlife movement corridors are present within the Planning Area (Spencer et al. 2010). However, the Planning Area is near the Santa Ynez Mountains to the south, and incorporates portions of the Santa Ynez River and associated tributaries, which provide suitable wildlife movement corridors for wildlife to travel locally and are important in linking non-contiguous or fragmented wildlife habitats. Due to the existing level of development, the urban areas of the Planning Area restrict wildlife movement and are not considered wildlife corridors.

4.3.2 Regulatory Setting

a. Federal Regulations

Endangered Species Act

The USFWS and National Marine Fisheries Service (NMFS) share responsibility for implementing the Endangered Species Act (ESA). Generally, the USFWS implements the FESA for terrestrial and freshwater species, while the NOAA Fisheries implements the FESA for marine and anadromous species. Projects that would result in “take” of any threatened or endangered animal species, or a threatened or endangered plant species if occurring on federal land, are required to obtain permits from the USFWS or NOAA Fisheries through either Section 7 (interagency consultation with a federal

nexus) or Section 10 (Habitat Conservation Plan) of the ESA, depending on the involvement by the federal government in funding, authorizing, or carrying out the project. The permitting process is used to determine if a project would jeopardize the continued existence of a listed species and what measures would be required to avoid jeopardizing the species. "Take" under federal definition means to harass, harm (which includes habitat modification), pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Proposed or candidate species do not have the full protection of the ESA; however, the USFWS and NOAA Fisheries advise project applicants that they could be elevated to listed status at any time.

Fish and Wildlife Coordination Act

The USFWS also has responsibility for project review under the Fish and Wildlife Coordination Act. This statute requires that all federal agencies consult with USFWS, NOAA Fisheries, and the State's wildlife agency (CDFW) for activities that affect, control, or modify streams and other water bodies. Under the authority of the Fish and Wildlife Coordination Act, USFWS, NOAA Fisheries, and the CDFW review applications for permits issued under Section 404 and provide comments to USACE about potential environmental impacts.

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) prohibits the take (including killing, capturing, selling, trading, and transport) of protected migratory bird species without prior authorization by the USFWS.

The list of migratory bird species protected by the law, in regulations at 50 Code of Federal Regulations Part 10.13, is primarily based on bird families and species included in the four international treaties. A migratory bird species is included on the list if it meets one or more of the following criteria:

- It occurs in the United States or United States territories as the result of natural biological or ecological processes and is currently, or was previously listed as, a species or part of a family protected by one of the four international treaties or their amendments.
- Revised taxonomy results in it being newly split from a species that was previously on the list, and the new species occurs in the United States or United States territories as the result of natural biological or ecological processes.
- New evidence exists for its natural occurrence in the United States or United States territories resulting from natural distributional changes and the species occurs in a protected family.

In 2004, the Migratory Bird Treaty Reform Act (MBTRA) limited the scope of the MBTA by stating the MBTA applies only to migratory bird species that are native to the United States or United States territories, and that a native migratory bird species is one that is present as a result of natural biological or ecological processes. The MBTRA requires the USFWS to publish a list of all nonnative, human-introduced bird species to which the MBTA does not apply, and an updated list was published in 2020. The 2020 update identifies species belonging to biological families referred to in treaties the MBTA implements but are not protected because their presence in the United States or United States territories is solely the result of intentional or unintentional human-assisted introductions.

Bald and Golden Eagle Protection Act

The Bald and Golden Eagle Protection Act prohibits anyone, without a permit issued by the USFWS, from "taking" bald or golden eagles, including their parts (including feathers), nests, or eggs. The Act provides criminal penalties for persons who "take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or any manner, any bald eagle ... [or any golden eagle], alive or dead, or any part, nest, or egg thereof." The Act defines "take" as "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb."

Clean Water Act Section 404

Congress enacted the Clean Water Act (CWA) "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." Section 404 of the CWA authorizes the Secretary of the Army, acting through the United States Army Corps of Engineers (USACE), to issue permits regulating the discharge of dredged or fill materials into the "navigable waters at specified disposal sites."

Section 502 of the CWA further defines "navigable waters" as "waters of the United States, including the territorial seas." "Waters of the United States" are broadly defined at 33 Code of Federal Regulations Part 328.3 to include navigable waters, perennial and intermittent streams, lakes, rivers, ponds, as well as wetlands, marshes, and wet meadows. In recent years, the USACE and United States Environmental Protection Agency (EPA) have undertaken several efforts to modernize their regulations defining "waters of the United States" (e.g., the 2015 Clean Water Rule and 2020 Navigable Waters Protection Rule), but these efforts have been frustrated by legal challenges which have invalidated the updated regulations.

As of May 2023, the Supreme Court issued a decision regarding *Sackett vs. EPA Limits CWA Jurisdiction*, whereas, reducing the CWA's geographic reach and the definition of "waters of the United States". In this decision, the Court decided the following, in summary:

- "Adjacent wetlands" are waters of the United States only if there is a continuous surface connection between the wetland and a navigable or relatively permanent water body, such that it is difficult to determine the boundary between the wetland and the water body. The opinion notes that "temporary interruptions to surface connection may sometimes occur because of phenomena like low tides or dry spells".
- The Significant Nexus Standard, introduced by the Court in prior decisions and codified in the agencies' current regulations, is not mentioned in the CWA, and therefore the EPA has no statutory basis to impose it. Additionally, the standard includes ecological factors whose use in determining jurisdiction is not supported by the statute.
- Although jurisdiction over tributaries was not addressed by the Court, current regulations rely upon the Significant Nexus Standard to establish jurisdiction over tributaries that flow infrequently. The decision hints that these tributaries will be non-jurisdictional going forward, stating, "...the [CWA's] use of "waters" encompasses only those relatively permanent, standing or continuously flowing bodies of water forming geographical features that are described in ordinary parlance as streams, oceans, rivers, and lakes."

Rivers and Harbors Act Section 10

Section 10 of the Rivers and Harbors Act of 1899 requires authorization from the USACE for the construction of any structure in or over any navigable water of the United States. Structures or work outside the limits defined for navigable waters of the United States require a Section 10 permit if

the structure or work affects the course, location, or condition of the water body. The law applies to any dredging or disposal of dredged materials, excavation, filling, re-channelization, or any other modification of a navigable water of the United States, and applies to all structures and work. It further includes, without limitation, any wharf, dolphin, weir, boom breakwater, jetty, groin, bank protection (e.g., riprap, revetment, bulkhead), mooring structures such as pilings, aerial or subaqueous power transmission lines, intake or outfall pipes, permanently moored floating vessel, tunnel, artificial canal, boat ramp, aids to navigation, and any other permanent, or semi-permanent obstacle or obstruction. It is important to note that Section 10 applies only to navigable waters, and thus does not apply to work in non-navigable wetlands or tributaries. In some cases, Section 10 authorization is issued by the USACE concurrently with CWA Section 404 authorization, such as when certain Nationwide Permits are used.

b. State Regulations

California Endangered Species Act

The California Endangered Species Act (CESA) (Fish and Game Code Section 2050 et. seq.) prohibits take of State-listed threatened or endangered. Take under CESA is defined as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill” (Fish and Game Code sec. 86). This definition does not prohibit indirect harm by way of habitat modification, except where such harm is the proximate cause of death of a listed species. Where incidental take would occur during construction or other lawful activities, CESA allows the CDFW to issue an Incidental Take Permit upon finding, among other requirements, that impacts to the species have been minimized and fully mitigated. Unlike the federal ESA, CESA’s protections extend to candidate species during the period (typically one year) while the California Fish and Game Commission decides whether the species warrants CESA listing.

Avian Protection Laws

California Fish and Game Code sections 3503, 3503.5, and 3513 describe unlawful take, possession, or destruction of native birds, nests, and eggs. Section 3503.5 of the Code protects all birds-of-prey and their eggs and nests against take, possession, or destruction of nests or eggs. Section 3513 makes it a State-level offense to take any bird in violation of the federal MBTA.

Native Plant Protection Act

The Native Plant Protection Act (NPPA) requires the CDFW to establish criteria for determining if a species, subspecies, or variety of native plant is endangered or rare, and prohibits the take of listed plant species. Effective in 2015, CDFW promulgated regulations (14 CCR 786.9) under the authority of the NPPA, establishing that the CESA’s permitting procedures would be applied to plants listed under the NPPA as "Rare." With this change, there is little practical difference for the regulated public between plants listed under CESA and those listed under the NPPA.

CWA Section 401

Section 401 of the CWA requires an applicant requesting a federal license or permit for an activity that may result in any discharge into navigable waters (such as a Section 404 Permit) to provide State certification that the proposed activity will not violate State and federal water quality standards. In California, CWA Section 401 Water Quality Certification (Section 401 Certification) is issued by the Regional Water Quality Control Boards (RWQCBs) and by the State Water Resources

Control Board (SWRCB) for multi-region projects. The process begins when an applicant submits an application to the RWQCB and informs the USACE (or the applicable agency from which a license or permit was requested) that an application has been submitted. The USACE will then determine a “reasonable period of time” for the RWQCB to act on the application; this is typically 60 days for routine projects and longer for complex projects but may not exceed one year. When the period has elapsed, if the RWQCB has not either issued or denied the application for Section 401 Certification, the USACE may determine that Certification has been waived and issue the requested permit. If a Section 401 Certification is issued it may include binding conditions, imposed either through the Certification itself or through the requested federal license or permit.

Porter-Cologne Water Quality Control Act

The Porter-Cologne Water Quality Control Act (Porter-Cologne Act) is the principal law governing water quality regulation in California. It establishes a comprehensive program to protect water quality and the beneficial uses of water. The Porter-Cologne Act applies to surface waters, wetlands, and ground water and to both point and nonpoint sources of pollution. Pursuant to the Porter-Cologne Act (California Water Code section 13000 et seq.), the policy of the State is as follows:

- The quality of all the waters of the State shall be protected
- All activities and factors affecting the quality of water shall be regulated to attain the highest water quality within reason
- The State must be prepared to exercise its full power and jurisdiction to protect the quality of water in the State from degradation

The Porter-Cologne Act established nine RWQCBs (based on watershed boundaries) and the SWRCB, which are charged with implementing its provisions and which have primary responsibility for protecting water quality in California. The SWRCB provides program guidance and oversight, allocates funds, and reviews RWQCB decisions. In addition, the SWRCB allocates rights to the use of surface water. The RWQCBs have primary responsibility for individual permitting, inspection, and enforcement actions within each of nine hydrologic regions. The SWRCB and RWQCBs have numerous nonpoint source related responsibilities, including monitoring and assessment, planning, financial assistance, and management.

Section 13260 of the Porter-Cologne Act requires any person discharging or proposing to discharge waste that could affect the quality of waters of the State to file a Report of Waste Discharge with the appropriate RWQCB. The RWQCB may then authorize the discharge, subject to conditions, by issuing Waste Discharge Requirements (WDRs). While this requirement was historically applied primarily to outfalls and similar point source discharges, the SWRCB’s *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State*, effective May 2020, make it clear that the agency will apply the Porter-Cologne Act’s requirements to discharges of dredge and fill material as well. The *Procedures* state that they are to be used in issuing CWA Section 401 Certifications and WDRs, and largely mirror the existing review requirements for CWA Section 404 Permits and Section 401 Certifications, incorporating most elements of the United States Environmental Protection Agency’s *Section 404(b)(1) Guidelines*. Following issuance of the *Procedures*, the SWRCB produced a consolidated application form for dredge/fill discharges that can be used to obtain a CWA Section 401 Water Quality Certification, WDRs, or both.

CFGC Section 1600 et seq.

Pursuant to CFGC Section 1600, the CDFW has authority over all perennial, intermittent, and ephemeral rivers, streams, and lakes in the State, and requires any person, State or local governmental agency, or public utility to notify the CDFW before beginning any activity that would “substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake” that supports fish or wildlife resources.

A *stream* is defined as a “body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life. This includes watercourses having a surface or subsurface flow that supports or has supported riparian vegetation” (CCR, Title 14 Section 1.72). A Lake or Streambed Alteration Agreement may be required for any project that would result in an adverse impact to a river, stream, or lake. CDFW jurisdiction typically extends to the top of the bank and out to the outer edge of adjacent riparian vegetation if present. However, the CDFW can take jurisdiction over a body of flowing water and the landform that conveys it, including water sources and adjoining landscape elements that are byproducts of and affected by interactions with flowing water without regard to size, duration, or the timing of flow.

CDFW Special Animals List

Special-status wildlife species are those species included on the CDFW “Special Animals” list. “Special Animal” is a general term that refers to all the taxa the CNDDDB is interested in tracking, regardless of their legal or protection status. The CDFW considers the taxa on this list to be those of greatest conservation need. The species on this list generally fall into one or more of the following categories:

- Officially listed or proposed for listing under the CESA and/or FESA;
- State or federal candidate for possible listing;
- Taxa that meet the criteria for listing, even if not currently included on any list, as described in *CEQA Guidelines* Section 15380;
- Taxa considered by the Department to be a Species of Special Concern;
- Taxa that are biologically rare, very restricted in distribution, declining throughout their range, or have a critical vulnerable stage in their life cycle that warrants monitoring;
- Populations in California that may be on the periphery of a taxon’s range but are threatened with extirpation in California.

c. Local Regulations

City of Solvang Municipal Code

Title 8, Chapter 8 of the City’s Municipal Code sets standards for city trees in public right of ways or parks, including planting, maintenance, and removal of trees. These standards include prohibiting the penetration of tree root barriers, prohibiting locating material detrimental to city trees within the area of the tree, and requiring a permit to plant, remove, transplant, injure, trim, top, cut, spray, root prune, fertilize, stake, guy rod, cable, or damage city trees.

4.3.3 Impact Analysis

a. Methodology and Significance Thresholds

Methodology

As a programmatic document, this EIR presents an assessment of the potential for adoption and implementation of the 2045 General Plan to result in significant impacts to biological resources. As a programmatic document, this EIR presents a citywide assessment of the 2045 General Plan. Because the 2045 General Plan is a long-term document intended to guide actions for many years into the future, this analysis relies on program-level and qualitative evaluation.

The adoption of this plan does not include physical development that could directly impact biological resources. However, implementation of the 2045 General Plan would continue to allow development within the City's Planning Area. Each proposed project under the 2045 General Plan would require subsequent analysis to evaluate project-specific impacts to biological resources, significance, need for project-specific mitigation, and any subsequent discretionary permits or coordination with resource agencies (e.g., USFWS, USACE, CDFW, RWQCB) that may be required.

Significance Thresholds

CEQA Guidelines Appendix G provides the following significance thresholds to determine if a project would have a potentially significant impact on biological resources. For the purposes of this EIR, implementation of the 2045 General Plan may have a significant adverse impact if it would:

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 the California Department of Fish and Wildlife or United States Fish and Wildlife Service;
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 the California Department of Fish and Wildlife or United States Fish and Wildlife Service;
3. Have a substantial adverse effect on State or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means;
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;
5. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or
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.

b. Project Impacts and Mitigation Measures

Threshold 1: Would the project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, regulations, or by the California Department of Fish and Game or United States Fish and Wildlife Service?

Impact BIO-1 THE 2045 GENERAL PLAN COULD HAVE A SUBSTANTIAL ADVERSE EFFECT, EITHER DIRECTLY OR THROUGH HABITAT MODIFICATIONS, ON SPECIAL-STATUS SPECIES. IMPLEMENTATION OF FEDERAL, STATE, AND LOCAL REGULATIONS AND POLICIES, AS WELL AS MITIGATION MEASURES BIO-1 THROUGH BIO-3 WOULD ENSURE DEVELOPMENT FACILITATED BY THE 2045 GENERAL PLAN WOULD NOT HAVE A SUBSTANTIAL ADVERSE EFFECT ON CANDIDATE, SENSITIVE, OR SPECIAL-STATUS SPECIES. THIS IMPACT WOULD BE LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED.

As discussed in Section 4.3.1.3, *Special-Status Species*, there are 21 special-status animal species and 31 special-status plant species with potential to occur in the Planning Area. Critical habitat for southern California steelhead occurs along Santa Ynez River, within the Planning Area, and Critical Habitat for four federally-listed species is also present within the vicinity (within five miles) of the Planning Area. Potentially significant effects on candidate, sensitive, or special-status species would occur if temporary disturbance associated with construction projects or permanent impacts due to development facilitated by the 2045 General Plan would result in incremental direct loss of habitat, fragmentation of larger open areas and wildlife corridors, or disturbance to protected species or loss of suitable habitat that support protected species.

Development facilitated by the 2045 General Plan would be subject to the provisions of federal and State regulations protecting biological and water resources, including, but not limited to, FESA, CESA, CWA, and the NPPA. These regulations include requirements for biological studies where potential habitat exists, identification of potential jurisdictional waters, and consultation with applicable regulatory agencies where protected biological resources may occur. In addition, the 2045 General Plan's Environment and Sustainability Element would implement the following policies to reduce potential impacts to protected resources:

- **Policy ENV-1.1: Open Space Management.** The City shall manage city-owned open space designated land for the protection of sensitive biological resources primarily as a preserve.
- **Policy ENV-3.1: Natural Resource Protection.** The City shall protect sensitive natural resources, wildlife communities and habitats within the city owned open spaces.
- **Policy ENV-3.3: Minimize Impacts of Development.** The City shall ensure new development does not significantly deplete, damage, or alter existing critical wildlife habitat or populations such as coastal oak woodland along Alamo Pintado Creek, Alisal Creek, and Adobe Creek and riparian habitat along the Santa Ynez River.
- **Policy ENV-3.4: Support Local and Regional Efforts.** The City shall support and participate in local and regional efforts of local, State and federal resource agencies (e.g., Santa Barbara County, California Department of Fish and Wildlife, U.S. Army Corps, United States Fish and Wildlife Service, Coast Guard, local land trusts and conservation organizations) to protect, restore and maintain viable, contiguous areas of habitat for sensitive plant and animal species along Alamo Pintado Creek, Alisal Creek, and Adobe Creek and the Santa Ynez River.
- **Policy ENV-3.5: Preserve Creek Corridors.** The City shall preserve the ecological integrity of creek corridors that support riparian resources by preserving native riparian plants and, to the extent feasible, removing invasive nonnative plants. If preservation of the ecological integrity of

existing resources is found to be infeasible, adverse impacts to riparian resources shall be fully mitigated consistent with the requirements of applicable State and Federal regulations.

The policies listed above would minimize impacts to protected biological resources and provide open space that preserves habitat that may support special-status species and sensitive habitats, including nesting migratory birds.

The landscape features within the urban areas of Solvang, such as street trees, shrubs, herbaceous plants, and parklands, could also serve as temporary habitats for nesting migratory birds. Construction-related activities such as vegetation removal, building demolition and/or relocation, grading, materials laydown, access, and infrastructure improvements, and building construction occurring within the urban areas, could result in the direct or indirect disturbance of nesting migratory birds. The most identifiable potential direct impact to migratory bird species would involve the removal of vegetation, particularly trees and landscaping shrubs that may serve as perching or nesting sites for migratory birds. These adverse effects on listed or special-status bird species would represent a potentially significant impact. However, implementation of Mitigation Measure BIO-1 (conduct pre-construction bird surveys and implement avoidance measures) would be required for future projects where mature trees and other habitat is present and construction activities are scheduled within early spring to late summer, and would be applied to future projects when applicable based on site conditions at the City's discretion.

Special-status bats such as pallid bat and Townsend's big-eared bat are State Species of Special Concern and have potential to occur within the Planning Area. These bats are found in a variety of habitats, including grasslands, shrublands, woodlands, and forests, and may roost in trees, cliff faces, caves or buildings. Bats prefer open areas or areas under a tree canopy for foraging, and often roost near water. Although the Planning Area does consist largely of developed urban areas, large trees, abandoned structures, and buildings occurring throughout the city provide suitable roosting habitat for special-status bat species. Disturbance of maternity roosts by construction activities resulting in roost destruction or abandonment would be a potentially significant impact to bat species and would potentially constitute violations of the California Fish and Game Code. Such adverse effects on special-status bats would be a potentially significant impact. However, implementation of Mitigation Measure BIO-2 (conduct pre-construction roosting bat surveys and implement avoidance measures) would be required for future projects where trees, abandoned structures, or other habitat for roosting bats is present and construction activities may occur during seasonal periods of bat activity, and would be applied to future projects when applicable based on site conditions at the City's discretion.

The Crotch's bumblebee is a candidate for State listing as an endangered species and may have the potential to occur within the Planning Area. The species inhabits grassland and scrub areas, requiring a hotter and drier habitat than many other bumble bee species. This species nests underground, often in abandoned rodent dens. This species visits a wide range of host plants and is therefore considered a dietary generalist. Disturbance of underground nesting locations by construction activities resulting in nest destruction or abandonment would be a potentially significant impact to the species and would potentially constitute violations of CESA. Such adverse effects on the species would be a potentially significant impact. However, implementation of Mitigation Measure BIO-3 (conduct pre-construction surveys and implement avoidance measures) would be required for future projects where direct ground disturbance is necessary, where suitable habitat for nesting Crotch's bumble bee may be present, and direct ground disturbing construction activities may occur during seasonal periods of nesting bee activity, and would be applied to future projects when applicable based on site conditions at the City's discretion.

Mitigation Measures

BIO-1 Conduct Pre-construction Bird Surveys and Implement Avoidance and Minimization Measures

For construction activities initiated during the bird nesting season (February 1 through September 15, and as early as January 1 for raptors), involving removal of vegetation, abandoned structures, man-made features, or other nesting bird habitat, a pre-construction nesting bird survey shall be conducted no more than 5 days prior to initiation of ground disturbance and vegetation removal. The nesting bird pre-construction survey shall be conducted on foot and shall include an area on and around the construction site at a distance determined by a qualified biologist, including staging and storage areas. The minimum survey radii surrounding the work area shall be 500 feet. The survey shall be conducted by a qualified biologist familiar with the identification of avian species known to occur in the Solvang region. If construction lapses for 5 days or longer, the qualified biologist shall conduct another focused survey before project activities are reinitiated. If nests are found, an avoidance buffer shall be determined by the biologist dependent upon the species, the proposed work activity, and existing disturbances associated with land uses outside the site. The qualified biologist shall observe the active nest to establish a behavioral baseline of the adults and nestlings, if present. The qualified biologist shall monitor the active nests, while construction activities are happening to detect signs of disturbance and behavioral change as a result of construction impacts, such as noise, vibration, odors, or worker/equipment motion. If signs of disturbance and behavioral changes are observed, the qualified biologist shall stop all construction work causing those changes and until a larger avoidance buffer is established or until it is determined that the nesting period is completed. The buffer shall be demarcated by the biologist with bright orange construction fencing, flagging, construction lathe, or other means to demarcate the boundary. All construction personnel shall be notified of the buffer zone as a "Nesting Bird Area" and to avoid entering the buffer zone until a biologist determines that the nest is no longer active. No ground-disturbing activities shall occur within the buffer until the biologist has confirmed that breeding/nesting is completed and the young have fledged the nest. A report summarizing the pre-construction survey(s) shall be prepared by a qualified biologist and shall be included on project site plans and submitted to the City prior to the commencement of construction activities.

BIO-2 Special Status Bat Species Habitat Assessment Survey and Emergence Survey(s)

For future projects where trees, abandoned structures, or other habitat for roosting bats is present and construction activities may occur during seasonal periods of bat activity, construction activities shall occur outside the maternity season, as feasible. Should construction timing not allow for it, a special-status bat habitat assessment survey shall be conducted by a qualified biologist prior to any construction activities during the bat maternity season from April 1 through August 31. The survey will document any evidence of special-status bat species that may occur in proposed work areas through direct observation (e.g., roosting bats) and/or sign (e.g., bat guano). If no observance and/or sign of special-status bats are detected during these surveys, then construction-related activities may proceed. If observance or sign of special status bat species are detected during the survey, special-status bat species emergence survey(s) will need to be conducted.

If observance and/or sign of special-status bat species use is documented within the project site during implementation of BIO-2, and construction activities occur during the bat maternity season (April 1 through August 31), special-status bat species emergence survey(s) will be conducted. As part of BIO-3, a habitat assessment survey generally outlined in BIO-2 will be conducted on the first

night of the emergence survey(s) to document the areas of suitable bat habitat within the Project site. Emergence surveys will be conducted in areas of suitable bat habitat (e.g., near buildings or trees) during the bat maternity season to document any special-status bat species emerging from features identified during the habitat assessment survey. Multiple emergence surveys may be required depending on the size and number of suitable habitat locations. The emergence survey(s) will be conducted one hour prior to sunset and last up to a minimum of two hours after sunset. Depending on potential species that may occur, surveys may need to be conducted until midnight. Passive acoustic monitoring equipment will be utilized during the emergence surveys to determine identify bats to the species level. Any special-status bat species observed maternity roosting within or adjacent to the Project site should be avoided and provided a minimum buffer as determined by the qualified biologist (a 100-foot to 300-foot buffer is recommended) or in consultation with USFWS and/or CDFW prior to the commencement of construction. Should special-status bat species to only be day roosting and not maternity roosting, a bat mitigation and/or management plan should be developed for roost relocation. Mitigation and management plans would also require consultation with USFWS and/or CDFW prior to the commencement of construction.

BIO-3 Conduct Pre-construction Crotch's Bumblebee Surveys and Implement Avoidance Measures

For construction activities located in vacant or undeveloped areas containing open grasslands, shrublands, or chaparral, a habitat assessment for Crotch's bumblebee shall be performed. If it determined that suitable habitat for Crotch's bumblebee is present, a focused survey shall be performed during the species active flight period for Crotch's bumblebee and peak blooming period of nectar and pollen sources (May 1 through July 31). The survey shall be conducted by a qualified biologist to determine presence of Crotch's bumblebee no more than 5 days prior to initiation of construction activities. The Crotch's bumblebee survey shall be conducted on foot and shall encompass the entirety of a project site and focus on areas that allow for the highest probability of detection, such as high abundance nectar or pollen sources and rodent burrows that may be used for breeding and nesting, subject to the discretion of the qualified biologist. Prior to the start of construction, the qualified biologist shall map areas with abundant nectar or pollen sources that have potential use by Crotch's bumblebee and active nesting sites. A report summarizing the habitat assessment and pre-construction survey (if required) shall be prepared by the qualified biologist and shall be submitted to the City prior to the commencement of construction activities.

If Crotch's bumblebee is determined to be present, the project proponent shall consult with CDFW and obtain an Incidental Take Permit in accordance with the CESA prior to initiating any ground disturbance on the site.

Significance After Mitigation

Implementation of Mitigation Measure BIO-1 would reduce potential impacts to nesting birds to a less-than-significant level by requiring pre-construction surveys for nesting birds and avoidance measures if nesting birds are present on a project site. Implementation of Mitigation Measure BIO-2 would reduce potential impacts to bat species to a less-than-significant level by requiring assessment of potential building and tree removals, and avoidance of roosting bats. Implementation of Mitigation Measure BIO-3 would reduce potential impacts to Crotch's bumblebee to a less-than-significant level by requiring pre-construction surveys for Crotch's bumblebee and avoidance measures if Crotch's bumblebee is present on a project site.

<p>Threshold 2: Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or United States Fish and Wildlife Service?</p> <p>Threshold 3: Would the project have a substantial adverse effect on State or federally protected wetlands (including but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?</p>

Impact BIO-2 DEVELOPMENT FACILITATED BY THE 2045 GENERAL PLAN WOULD BE SUBJECT TO ADOPTED FEDERAL, STATE, AND LOCAL POLICIES, INCLUDING THOSE THE 2045 GENERAL PLAN WOULD IMPLEMENT, WHICH WOULD ENSURE THAT RIPARIAN HABITAT, WETLANDS, AND OTHER SENSITIVE NATURAL COMMUNITIES WOULD NOT BE SUBSTANTIALLY DEGRADED OR REMOVED. THEREFORE, THESE IMPACTS WOULD BE LESS THAN SIGNIFICANT.

The Santa Ynez River, Alamo Pintado Creek, Adobe Creek, and Alisal Creek are within the Planning Area. These features support riverine, wetland, and riparian habitats. Potential impacts could occur if development facilitated by the 2045 General Plan would alter or degrade these habitats.

The 2045 General Plan would promote infill development and would not result in substantial development in proximity to riparian or wetland features. Three key agencies regulate activities within inland streams, wetlands, and riparian areas in California: the USACE, RWQCB, and CDFW. Any project that involves permanently or temporarily impacting jurisdictional water and/or wetlands through project activities would likely require permits from these State and federal agencies, before any land disturbance can commence. As described in Section 4.9, *Hydrology and Water Quality*, construction would occur in accordance with either a Construction General Permit or an Erosion and Sediment Control Plan, both of which require the implementation of best management practices to reduce impacts to water quality during construction.

Operation of future development facilitated by the 2045 General Plan would be required to comply with Section 14-3 of the City’s Municipal Code which requires any owner or person developing real property to integrate post-construction requirements that would control the volume, rate, and potential pollutant load of runoff. In addition, projects that create or replace greater than or equal to 2,500 square feet of impervious surface must implement post-construction BMPs and submit a Stormwater Control Plan listing applicable BMPs to the City for review and approval. These measures would ensure development facilitated by the 2045 General Plan would not result in impaired water quality or increased erosion that could potentially affect riparian habitat, sensitive natural communities, or wetlands.

As discussed in Impact BIO-1, the 2045 General Plan would implement Policy 3.3 and Policy 3.5 to ensure development would not substantially impact riparian and creek habitats. The 2045 General Plan would also implement these additional following policies to reduce potential impacts to riparian and wetland habitats:

- **Policy LU-8.1: Open Space Designations.** The City shall designate riparian and publicly owned lands along the Santa Ynez River, Alisal Creek, Adobe Creek, Alamo Pintado Creek, and other appropriate locations as open space.
- **Policy SAF-4.6: New Parcels.** The City shall prohibit the creation of parcels upon which the presence of easements, floodplain, marsh or riparian habitat, or other features would leave insufficient land to build and operate structures. This action item shall not apply to open space

lots specifically created for dedication to the City or another appropriate party for habitat protection, flood control, drainage, or wetland maintenance.

Development facilitated by the 2045 General Plan would be subject to applicable federal, State, and City requirements, which would minimize potential impacts to riparian habitat, sensitive natural communities, and wetlands. Through compliance with these regulations, and the fact that the 2045 General Plan envisions development in mostly developed areas of Solvang, implementation of the 2045 General Plan would not have a substantial adverse impact on riparian habitat, sensitive natural communities, or wetlands. These impacts would be less than significant.

Mitigation Measures

No mitigation measures are required because impacts would be less than significant.

Threshold 4: Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

Impact BIO-3 IMPLEMENTATION OF THE 2045 GENERAL PLAN WOULD NOT SUBSTANTIALLY IMPEDE THE MOVEMENT OF NATIVE RESIDENT OR MIGRATORY FISH OR WILDLIFE SPECIES, OR CONFLICT WITH ESTABLISHED NATIVE RESIDENT OR MIGRATORY WILDLIFE CORRIDORS WITH IMPLEMENTATION OF POLICIES INCLUDED IN THE 2045 GENERAL PLAN. THIS IMPACT WOULD BE LESS THAN SIGNIFICANT.

As discussed in Section 4.3.1.7, *Wildlife Corridor Habitat*, vegetated areas along the Santa Ynez mountains, the Santa Ynez River, and associated tributaries, provide suitable habitat that facilitates wildlife movement due to the presence of surface water, prey, and protective cover, with limited impediment, as they travel throughout the region. However, due to the existing level of development, the urban areas of the Planning Area are not considered wildlife corridors.

The 2045 General Plan would promote infill development and would not result in substantial development in open space areas which can serve as wildlife corridors. Accordingly, the majority of development facilitated by the 2045 General Plan would not occur within or encroach upon a designated migratory corridor (Spencer et al. 2010).

The Santa Ynez River does contain critical habitat for steelhead trout; however, development in proximity to the Santa Ynez River would comply with existing federal and City regulations described in Impact BIO-2 to control runoff and pollutant discharge. Compliance with these regulations would ensure development would minimize potential impacts to the Santa Ynez River and ensure migration patterns in the Santa Ynez River would not be substantially interrupted. Therefore, as discussed in Impact BIO-1, the 2045 General Plan would implement Policy ENV-3.5 which aims to preserve the ecological integrity of creek corridors which could be used by fish such as steelhead trout. In addition, the 2045 General Plan includes the following policy to promote the conservation of wildlife corridors:

- **Policy CD-2.40: Hillside Landscaping Design.** The City shall require that hillside properties be designed to minimize formal landscape planting and hardscapes and locate them close to the residence, follow the natural topography, and preserve native trees, native plant and wildlife habitats, and migration corridors.

With implementation of the policies proposed by the 2045 General Plan, and because the 2045 General Plan would promote development in existing urban areas of Solvang, development

facilitated by the 2045 General Plan would not substantially interfere with the movement of any native resident or migratory fish or wildlife species or impede the use of native wildlife nursery sites. This impact would be less than significant.

Mitigation Measures

No mitigation measures are required because this impact would be less than significant.

Threshold 5: Would the project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

Impact BIO-4 DEVELOPMENT FACILITATED BY THE 2045 GENERAL PLAN WOULD BE REQUIRED TO CONFORM WITH APPLICABLE LOCAL POLICIES AND ORDINANCES PROTECTING BIOLOGICAL RESOURCES. THEREFORE, THIS IMPACT WOULD BE LESS THAN SIGNIFICANT.

The majority of development facilitated by the 2045 General Plan would be infill development in areas previously disturbed. However, some development could potentially result in tree removal. Title 8, Chapter 8 of the City’s Municipal Code requires a permit to plant, remove, transplant, injure, trim, top, cut, spray, root prune, fertilize, stake, guy rod, cable, or damage any city tree.

Section 8-8-5 of the City’s Municipal Code requires trees planted on private property to be maintained by the property owner, and unauthorized removal or failure to maintain trees on private property is not permitted. In addition, the 2045 General Plan includes the following policies related to tree protection:

- **Policy CD-1.14: Street Trees and Tree Canopy.** The City shall require street trees citywide, including in medians, to create an expanded tree canopy and to reduce the urban heat island effect.
- **Policy CD-1.29: Tree and Natural Feature Preservation.** The City shall require the preservation of existing trees and natural features (e.g., drainage courses, rock outcrops) in the overall landscape design to the maximum extent feasible.
- **Policy CD-2.22: Tree Grates.** The City shall require the use of tree grates around trees in walkways.
- **Policy ENV-2.2: Urban Forest.** The City shall protect the urban forest created by mature trees in existing developed areas and require planting of approved trees and landscaping in new development.
- **Policy SAF-10.1: Tree Maintenance.** The City shall continue to maintain trees on City property to minimize hazards, and work with property owners to do the same.

Development facilitated by the 2045 General Plan would adhere to the requirements of the City’s Municipal Code and 2045 General Plan policies. Therefore, the 2045 General Plan would not conflict with local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. This impact would be less than significant.

Mitigation Measures

No mitigation measures are required because this impact would be less than significant.

Threshold 6: Would the project conflict with the provisions of an adopted Habitat Preservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan?

Impact BIO-5 IMPLEMENTATION OF THE 2045 GENERAL PLAN WOULD NOT CONFLICT WITH THE PROVISION OF AN ADOPTED HABITAT CONSERVATION PLAN, NATURAL COMMUNITY CONSERVATION PLAN, OR OTHER APPROVED LOCAL, REGIONAL, OR STATE HABITAT CONSERVATION PLAN. NO IMPACT WOULD OCCUR.

There are no Habitat Conservation Plans, Natural Community Conservation Plans, or other approved local, regional, or State Habitat Conservation Plans applicable to the Planning Area (CDFW 2019). Therefore, the 2045 General Plan would not conflict with such plans. No impact would occur.

Mitigation Measures

No mitigation measures are required because no impact would occur.

4.3.4 Cumulative Impacts

Regional cumulative impacts consider the City-wide impacts together with similar impacts of future development in and around Santa Barbara County. The general approach to cumulative impact analysis used in this EIR is discussed in Section 3, *Environmental Setting*.

Cumulative development in Santa Barbara County has the potential to result in adverse effects to special-status species. Direct impacts to candidate, sensitive, or special-status species would be minimized through compliance with the federal and state Endangered Species Acts, which requires authorization for the take of a species in accordance with applicable regulations concerning the protection of such a species. However, cumulative development could indirectly impact candidate, sensitive, or special-status species, including critical habitat essential for the conservation of a threatened or endangered species, through habitat degradation or removal. As a result, cumulative impacts are potentially significant.

The 2045 General Plan would not facilitate substantial permanent development in riparian habitat and would implement policies designed to preserve and restore habitat for special-status species. These include Policy ENV-3.3 and Policy ENV-3.5 which emphasize the protection of wildlife habitat. Furthermore, Mitigation Measures BIO-1, BIO-2, and BIO-3 would ensure development facilitated by the 2045 General Plan would minimize potential impacts to nesting birds, roosting and breeding bat populations, and Crotch's bumblebee. Therefore, the 2045 General Plan would not have a cumulatively considerable contribution to cumulative impacts on candidate, sensitive, or special-status species.

Cumulative development in Santa Barbara County could impact natural water resources; however, cumulative development proposed in areas identified as jurisdictional waters and/or wetlands, streambed/banks, or riparian vegetation would be subject to the permit requirements of the USACE, RWQCB, and CDFW, pursuant to Section 404 and Section 401 of the CWA, Porter-Cologne Water Quality Control Act, and Section 1600 of the California Fish and Game Code. Applicable federal and State requirements would minimize potential impacts to riparian habitat and wetlands. As a result, cumulative development would have a less than significant impact on streams, wetlands, and riparian vegetation.

Cumulative development could result in increased development density that may alter wildlife corridors, including through habitat loss or degradation of existing wildlife corridors. The 2045

General Plan includes Policy CD-2.40 which requires hillside properties to be designed to preserve wildlife migration corridors. The 2045 General Plan also includes Policy ENV-3.5 which requires the City to preserve creek corridors, which could be used as migratory corridors. The 2045 General Plan would discourage development in any wildlife corridors and would implement policies to promote the preservation of wildlife corridors. Therefore, the 2045 General Plan would not have a cumulatively considerable contribution to cumulative impacts on wildlife corridors.

Cumulative development throughout Santa Barbara County would be required to adhere to applicable local policies and ordinances protecting biological resources enforced by the agencies that have jurisdiction over a project site. There is no Natural Community Conservation Plan or Habitat Conservation Plan within the Planning Area; therefore, no cumulative impacts related to conflicts local policies or ordinances protecting biological resources or a Natural Community Conservation Plan or Habitat Conservation Plan would occur.