

Appendix C Biological Resources Technical Memo

Appendices

This page intentionally left blank.

TECHNICAL MEMORANDUM

Biological Resources

Prepared for: JoAnn Hadfield/PlaceWorks

Prepared by: Ruben Ramirez/Cadre Environmental

Date: February 27th, 2018

Project: Newport Crossings Mixed Use Residential, City of Newport Beach, CA.

The purpose of this memorandum is to serve as an updated review of existing biological conditions and/or sensitive species/resources potentially occurring within the proposed Newport Crossings Mixed Use Residential project as previously characterized in the “*Draft Initial Study – Proposed Mitigated Negative Declaration, City of Newport Beach, The Residences at Newport Place*” prepared by Keeton Kreitzer Consulting, January 2016.

Project Location/Description

As stated by the City of Newport Beach, Community Development Department:

“The 5.7-acre project site is located within the Newport Place Planned Community (PC-11) in the Airport Area of the City of Newport Beach. It is generally bounded by Corinthian Way to the northeast, Martingale Way to the east, Scott Drive to the northwest, and Dove Street to the southwest. The site is currently improved with the 58,277-square-foot MacArthur Square shopping center built in 1974, which consists of eight retail/commercial buildings, surface parking, and ornamental trees (Attachment A – Aerial Photograph).” (City of Newport Beach 2017)

“The proposed project would consist of 350 residential dwelling units, 2,000 square feet of “casual-dining” restaurant space, 5,500 square feet of commercial space, and a 0.5-acre public park. The proposed buildings would be approximately 55 feet for livable spaces, with limited ancillary structures to 77 feet for architectural features, elevator shafts, and mechanical equipment. A six-story parking structure (one level subterranean and five levels above ground) is proposed in the center of the site to be surrounded and screened from public views by the residential and commercial buildings on all sides.” (City of Newport Beach 2017).

Biological Resources in Project Site

Existing conditions onsite have not changed since the initial biological assessment and impact analysis was conducted by Keeton Kreitzer Consulting, January 2016. The project site is completely developed and/or characterized by eight retail/commercial buildings, surface parking, and ornamental trees (City of Newport Beach 2017). No native habitats exist onsite for

federal or state listed wildlife or plant species regulated by the United States Fish and Wildlife Service (USFWS) or California Department of Fish and Wildlife (CDFW). Also, no jurisdictional resources regulated by the United States Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB) or CDFW occur onsite. The ornamental vegetation documented onsite including shrubs and trees provide suitable nesting habitat for nesting birds protected by the federal Migratory Bird Treaty Act (MBTA) and discussed below.

Biological Resources Impact Analysis

The environmental impacts relative to biological resources are assessed using impact significance criteria which mirror the policy statement contained in the California Environmental Quality Act (CEQA) at Section 21001 (c) of the Public Resources Code. This section reflects that the legislature has established it to be the policy of the state to:

“Prevent the elimination of fish and wildlife species due to man’s activities, ensure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and animal communities...”

The following definitions apply to the significance criteria for biological resources:

- “*Endangered*” means that the species is listed as endangered under state or federal law.
- “*Threatened*” means that the species is listed as threatened under state or federal law.
- “*Rare*” means that the species exists in such small numbers throughout all or a significant portion of its range that it may become endangered if its environment worsens.
- “*Region*” refers to the area within southern California that is within the range of the individual species.
- “*Sensitive habitat*” refers to habitat for plants and animals (1) which plays a special role in perpetuating species utilizing the habitat on the property, and (2) without which there would be substantial danger that the population of that species would drop below self-perpetuating levels.
- “*Substantial effect*” means significance loss or harm of a magnitude which, based on current scientific data and knowledge, (1) would cause a species or a native plant or animal community to drop below self-perpetuating levels on a statewide or regional basis or (2) would cause a species to become threatened or endangered.

Also, the determination of impacts has been made according to the federal definition of “*take*”. Federal Endangered Species Act (FESA) which prohibits the “*taking*” of a member of an endangered or threatened wildlife species or removing, damaging, or destroying a listed plant species by any person (including private individuals and private or government entities). The FESA defines “*take*” as “*to harass, harm, pursue, hunt, shoot, would, kill, trap, capture or collect*” an endangered or threatened species, or to attempt to engage in these activities.

Specifically, the memorandum addresses the following CEQA Environmental Checklist items.

	Potentially Significant Impact	Less Than Significant Impact With Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the Project:				
a) Have a substantial adverse effect, either directly or through habitat modification, 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 U.S. Fish and Wildlife Service?				X
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?				X
c) 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?				X
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?			X	
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?			X	
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Native Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X

a) *Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the CDFW or USFWS?*

No Impact. Cadre Environmental concurs with the initial analysis conducted by Keeton Kreitzer Consulting, January 2016. A stated by Keeton Kreitzer Consulting:

“All of the vegetation that exists on the site and within the project area is introduced (i.e., non- native) plant materials that are common in urban landscapes. There are no species identified as candidate, sensitive, or special

status species within the limits of either the site or in the immediate project area, which has been completely altered by development. Therefore, no significant impact would occur to any sensitive species designated by the resources agencies as a result of project implementation. Further, the proposed project is not directly affected by any regional plans, or policies of other resource agencies. No impacts are anticipated and no mitigation measures are required” (Keeton Kreitzer Consulting 2016)

- b) *Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by CDFW or USFWS?*

No Impact. Cadre Environmental concurs with the initial analysis conducted by Keeton Kreitzer Consulting, January 2016. As stated by Keeton Kreitzer Consulting:

“As indicated above, the subject property is developed with a 58,277 square foot shopping center and is located within a heavily urbanized area of Newport Beach. Figure NR1 (Biological Resources) in the Natural Resource Element of the Newport General Plan does not identify any important or sensitive biological resources on the site. Similarly, the project site is not identified on Resources Element Figure NR2 (Environmental Study Areas); no sensitive habitat or other important biological resources exist on the site. Neither the site nor the surrounding area contains riparian habitat or other sensitive natural community. Although some small rodents and mammals that adapt to urban development may exist on the site, no native habitat or grasslands exist on the subject property that would represent an important source of foraging for raptors and other sensitive or protected species. No significant biological resources are identified in the Natural Resources Element of the Newport Beach General Plan either for the site or for the immediate project area. Due to the location and nature of the proposed project, implementation will not result in adverse impacts to riparian or other sensitive natural community; no mitigation measures are required” (Keeton Kreitzer Consulting 2016)

- c) *Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the CWA (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?*

No Impact. Cadre Environmental concurs with the initial analysis conducted by Keeton Kreitzer Consulting, January 2016. As stated by Keeton Kreitzer Consulting:

“There are no federally protected wetlands as defined by Section 404 of the Clean Water Act located within the limits of the project site. As previously indicated, the City’s Natural Resources Element of the General Plan does not identify any important or sensitive biological resources on the project site. Further, no marshes, vernal pools, or coastal habitats exist in the project area according to the Natural Resources Element adopted by the City of Newport Beach. Therefore, there will be no significant impacts to wetlands resulting from project implementation; no mitigation measures are required” (Keeton Kreitzer Consulting 2016)

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

Less than Significant Impact. The ornamental landscaping including trees and shrubs documented within and adjacent to the project site are expected to provide nesting habitat for migratory birds protected under the federal MBTA. Loss of an active nest would be considered a potentially significant impact. Mitigation for potential direct/indirect impacts to common nesting bird species will require compliance with the federal Migratory Bird Treaty Act. Implementation of Standard Condition SC-1 will ensure compliance with the MBTA and reduce potential impacts to nesting birds to less than significant.

Standard Condition

- SC-1 Suitable nesting bird habitat is present within and immediately adjacent to the project site and compliance with the following conservation measure would ensure compliance with the federal MBTA.

Potential direct/indirect impacts to nesting of common bird and raptor species will require compliance with the federal MBTA. Construction outside the nesting season (between September 1st and January 31st) does not require pre-removal nesting bird surveys. If construction is proposed between February 1st and August 31st, a qualified biologist must conduct a nesting bird survey(s) no more than three (3) days prior to initiation of tree or shrub removal to document the presence or absence of nesting birds within or directly adjacent (100 feet) to the project site, if access is permitted.

The survey(s) will focus upon identifying any raptor and/or bird nests that are directly or indirectly affected by tree removal or noise from construction activities. If active nests are documented, species-specific measures shall be prepared by a qualified biologist and implemented to prevent abandonment of the active nest. At a minimum, grading in the vicinity of a nest shall be postponed until the young birds have fledged. A survey report by a qualified biologist verifying that no active nests are present, or that the young have fledged, shall be submitted to the City of Newport Beach Community Development Department prior to initiation of tree/shrub removal or construction in the nest setback zone. The qualified biologist shall serve as a construction monitor during those periods when construction activities occur near active nest areas to ensure that no inadvertent impacts on these nests occur.

Any nest permanently vacated for the season would not warrant protection pursuant to the MBTA.

- e) *Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?*

Less than Significant Impact. Cadre Environmental concurs with the initial analysis conducted by Keeton Kreitzer Consulting, January 2016. As stated by Keeton Kreitzer Consulting:

“Implementation of the proposed project will result in physical changes to the affected property; however, project implementation will not result in significant impacts to biological resources as a result of redeveloping the MacArthur Square shopping center property with a mixed-use development. As previously indicated, the City’s General Plan does not identify the project site as one that supports sensitive habitat and/or important biological resources. As indicated in Section 4.1(b), although several mature trees exist on the project site, none are native trees or a species; however the City has adopted Policy G-1 (Retention or Removal of Trees) in order “... to establish definitive standards for the retention, removal, maintenance, reforestation, tree trimming standards, and supplemental trimming of City trees.” Many of the existing mature trees within the project site are proposed to remain and will be integrated into the landscape plan for the proposed project. These existing trees will assist in buffering the proposed buildings from the street and providing a degree of privacy for future residents. While the existing introduced landscaping may be eliminated as a result of project implementation (i.e., construction of the proposed mixed-use development), the landscape concept plan prepared for the proposed residential project will offset the loss of any existing non-native landscape species, including the trees that exist on the project site. Therefore, impacts resulting from the elimination of the existing trees that occupy the site would be less than significant; no mitigation is required.” (Keeton Kreitzer Consulting 2016)

- f) *Conflict with the provisions of an adopted Habitat Conservation Plan, Native Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?*

No Impact. Cadre Environmental concurs with the initial analysis conducted by Keeton Kreitzer Consulting, January 2016. As stated by Keeton Kreitzer Consulting:

“The project site and surrounding area are urbanized and do not support any sensitive habitat and/or species that are protected by an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or state habitat conservation plan. Project implementation will not conflict with local, regional, or state resource preservation and/or conservation policies. Therefore, no impacts will occur as a result of project implementation; no mitigation measures are required.” (Keeton Kreitzer Consulting 2016)

Standard Conditions

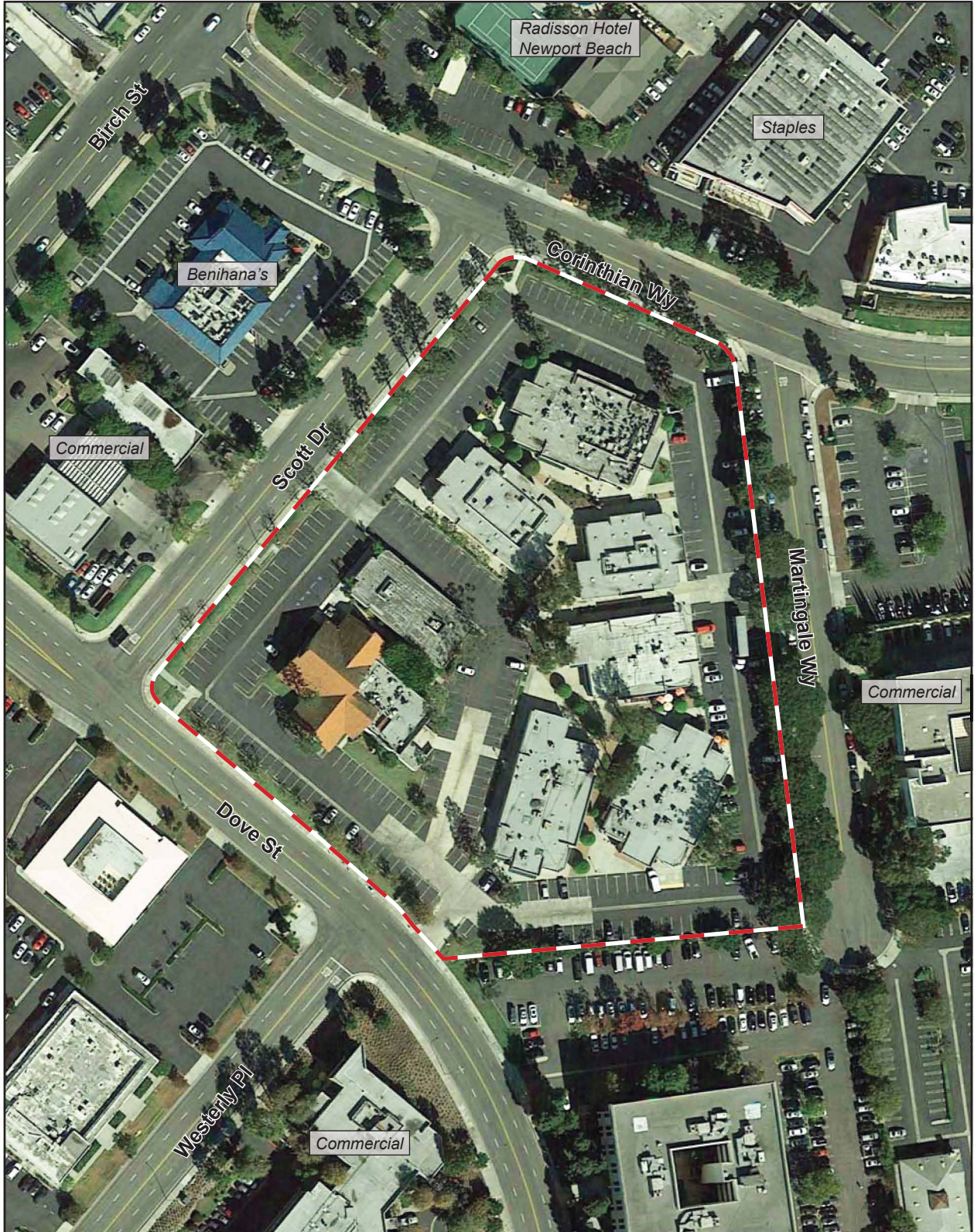
- SC-2 Prior to the issuance of a building permit, the applicant shall submit a landscape and irrigation plan prepared by a licensed landscape architect. These plans shall incorporate drought tolerant plantings and water efficient irrigation practices, and the plans shall be approved by the Planning Division. (Keeton Kreitzer Consulting 2016)
- SC-3 All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, watering and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall

be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance. (Keeton Kreitzer Consulting 2016)

Summary of Potential Effects to Biological Resources

Project implementation of Standard Conditions SC-1 to SC-3 will ensure that any potentially significant impacts to biological resources are reduced to a level of less than significant.

Attachment A- Aerial Photograph



--- Project Boundary

0 2,000
Scale (Feet)



Source: Google Earth Pro, 2017

PlaceWorks