

## MEMORANDUM

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**To:** Ryan Bane, Senior Planner  
City of Santa Cruz Planning and Community Development Department

**From:** Matt Ricketts, Senior Biologist, Dudek

**Subject:** Peer Review of Biotic Resources Group Biotic Review Report for 1130 and 1132 Mission Street Proposed Mixed Use Development Project

**Date:** May 23, 2024

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This memorandum contains comments on the August 17, 2023 letter report prepared by Biotic Resources Group<sup>1</sup> to assess biotic resources at 1130 and 1132 Mission Street in Santa Cruz (site). At the City's May 16, 2024 Planning Commission meeting, the commission recommended that the report be peer reviewed by the City's environmental consultant as a condition of approval for the proposed mixed use development of the site (project). This memo is intended to satisfy the condition of approval. In addition, it addresses public concerns on the report's conclusions regarding project impacts to biotic resources associated with Laurel Creek and the City's finding that the project qualifies for California Environmental Quality Act (CEQA) Section 15332 in-fill development exemption.<sup>2</sup> Our comments focus on the technical quality of the report based on Mr. Ricketts' 23 years of experience preparing or peer-reviewing similar reports for private and public development projects throughout the San Francisco Bay Area.

### Biotic Resource Report Peer Review

The report is well-written and consistent with industry standards for biotic resource assessments of small privately-owned commercial parcels. The list of sources consulted for the database review is comprehensive and consistent with the ones we consult for similar projects, although it would've helped to see the California Natural Diversity Database (CNDDB) and California Native Plant Society (CNPS) Rare Plant Inventory query results attached to the report to verify which special-status plant and wildlife species were evaluated for occurrence. The description of on-site vegetation and Laurel Creek on page 3 demonstrates the author's technical competence in plant identification and the description of regulated and sensitive habitats on pages 7–8 similarly demonstrates their familiarity with local, state, and federal protections for aquatic resources and sensitive habitats. Based on the provided photos and site description, we concur with their conclusions that no permits are needed if the project stays outside the riparian corridor.

We also concur with their conclusion on pages 6–7 that “[t]he value of the riparian corridor to native wildlife is moderated due to its small size and...lack of native riparian vegetation...” while still providing “perching, roosting, and nesting sites for several bird species” and habitat for “common wildlife species adapted to urban land uses.” In our experience, similar riparian corridors in dense urban environments indeed provide habitat for locally common

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<sup>1</sup> Biotic Resources Group. 2023. *1130 and 1132 Mission Street (APN 006-203-24 and 25), Proposed Mixed Use Development Project: Biotic Review*. Prepared for Omar Hanson, Santa Cruz, CA. August 17, 2023.

<sup>2</sup> Vassil, V. 2024. “Food Bin Redevelopment Appeal.” Email from V. Vassil (Cleveland Avenue resident) to City of Santa Cruz. May 17, 2024.

and urban-adapted wildlife but have limited long-term value for special-status wildlife species that require the more complex vegetation structure and hydrology associated with native riparian communities. That said, the report's analysis would benefit by providing a list or summary of *which* species of native birds and other wildlife were observed or could be expected to use the corridor. Based on the provided site photos and our review of aerial imagery, we don't think the lack of a wildlife species list is a fatal flaw in the analysis, but its inclusion would provide information parallel to the discussion of plants in the second paragraph of page 3.

The impact analysis and recommended mitigation measures on pages 9–11 are sound. We concur that the removal of existing structures, parking areas, and nonnative landscaping would not be considered a significant impact on local or regional botanical resources. Impact BIO-1 correctly identifies the encroachment of the new building into the Laurel Creek riparian corridor as a direct impact because it would conflict with the City-wide Creeks and Wetlands Management Plan, a local policy. The author clearly outlines the rationale for this statement in the text, Table 1, and Figures 7a and 7b. The recommendation to either revise the plans or provide compensatory mitigation in the form of on-site riparian restoration or enhancement in Mitigation Measure (MM) BIO-1 is commensurate with the level of impact. Impact BIO-2 addresses indirect impacts on the riparian corridor from development within the 40-foot-wide watercourse management area and the associated measures provide helpful site-specific guidance on minimizing such impacts through native plantings. MM BIO-4 prescribes preconstruction surveys for nesting birds (including raptors) and the survey parameters (e.g., timing, designated buffer zones) are consistent with similar measures we have written for small projects in or near the City. Our only critique of this section is that the relationship between the significance criteria and the identified impacts is unclear. We assume that Impacts BIO-1 and BIO-2 address significance criteria b (“have a substantial adverse effect on any riparian habitat...”) and e (“conflict with any local policies or ordinances...”) but this is based on our professional experience and may not be evident to the reader. Similarly, a brief discussion of why the project would not have a significant impact on the resources addressed by the other significance criteria would provide more support for the report's conclusion that none would occur.

In summary, while the report would benefit from additional information on its methodology (i.e., CNDDDB and CNPS database query results) and rationale for its significance findings, we concur with its overall conclusion that the project would not have a significant impact on biotic resources with implementation of the recommended MMs. The author clearly has a good understanding of local biotic resources and the local, state, and federal regulations that protect them, and knows how to write practical but effective MMs.

## Comments on Biotic Resource Concerns

In his May 17, 2024 email to the City, Cleveland Avenue resident Vasiliki Vassil (commenter) raises several concerns over the report or the project's potential impacts on biotic resources. Each of these concerns is paraphrased below in italics and followed by our comments.

***Timing of the biotic resources survey (June 29, 2023) missed the April-to-May blooming period of most special-status plant species and it is also too late for a second survey to detect any such species.***

We understand the commenter's concern over the author's claim that the survey was conducted “within the blooming period of most species (...April–May),” which contradicts the earlier reporting on page 1 that it was conducted on June 29. This is why it would behoove the author to have attached the results of the CNDDDB and CNPS queries to show which special-status plants were evaluated, along with their blooming periods. A table listing

the species with the author's analysis of each species' potential to occur (likely none or unlikely for all) would also provide this information.

That said, it is clear from the report's photos, site description, and available aerial imagery that the site is highly disturbed and does not support any natural substrates likely to support any special-status plants. Native vegetation is absent from both the site and adjacent Laurel Creek riparian corridor and given that the project would not remove any of the riparian vegetation, we do not think additional rare plant surveys are necessary to demonstrate absence.

***The report did not evaluate whether replacement native riparian plantings along Laurel Creek would survive in the "year-round deep shade cast by the tall, overhanging building."***

Most riparian trees and shrubs, including those mentioned in MM BIO-2, are shade-tolerant, and therefore would not be affected by the shade cast by the new building. Riparian restoration plans are typically prepared by a restoration ecologist that would take site-specific factors such as shading and sun exposure into account when designing the planting plan. Our staff have successfully designed and permitted many small riparian restoration projects for urban sites like this without adverse effects from adjacent building design.

***It cannot be stated conclusively that the site has no value as habitat for endangered, rare or threatened species because the timing of the June 29, 2023 survey missed the blooming period for native species and is also not the best time of year to assess nesting birds, aquatic reptiles or amphibians.***

Given the small size and developed condition of the site, a single site visit is adequate for professional biologists to assess habitat for special-status species and evaluate the potential for their occurrence. While targeted surveys for individual species should indeed be repeated and conducted at the times of year when they are most likely to be present, such surveys are not warranted for this site because of the poor habitat conditions for native species. Professional biologists are trained to assess habitat (i.e., the resources and conditions present in an area that produce occupancy...by a given organism<sup>3</sup>) for multiple species when conducting site visits and consider factors such as species' distribution, habitat needs, and seasonality in their determination for a given species to occur.

***Raptors (e.g., a pair of red-shouldered hawks) are known to breed and feed in the Laurel Creek riparian zone adjacent to the site. Raptors are protected by California law, and by the [f]ederal Migratory Bird Treaty Act. The proposed building will encroach into the Laurel Creek riparian habitat used by these raptors and likely result in the illegal incidental take and should be evaluated.***

The report acknowledges the habitat value of the Laurel Creek riparian corridor for native birds and common wildlife on page 6 and that raptor and bird nests are protected by the California Fish and Game Code and federal Migratory Bird Treaty Act (MBTA) on pages 8–9. In addition, MM BIO-4 provides for the protection of any active nests found during preconstruction surveys, which would avoid take under both statutes. We do not share the commenter's concerns that the project would result in incidental take of bird or raptor nests if this measure is implemented.

***Southwestern pond turtles have been reported from Neary Lagoon and Westlake Pond and could therefore occur in the Laurel Creek corridor. The report did not demonstrate that the site has no habitat value for this and other endangered, rare, or threatened species.***

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<sup>3</sup> Hall, L.S., P.R. Krausman, and M.L. Morrison. 1997. The habitat concept and a plea for standard terminology. *Wildlife Society Bulletin* 25:173–182.

As previously mentioned, the report would indeed benefit from additional information on the species that were evaluated and why they are not expected to occur. Most biotic resource reports attach copies of species database query results and/or species “potential to occur” tables. Within this context, we understand the commenter’s opinion that the report “did not demonstrate that the site has no habitat value for [special-status wildlife species].”

That said, we agree with the report’s overall conclusion that special-status wildlife species are not expected to occur on site “due to lack of suitable habitat.” Southwestern pond turtles indeed require uplands for nesting but would not be expected to occur on the project site because it is entirely paved and lacks soft soils required for nesting and overwintering. It is also over 2,000 feet from potentially occupied aquatic habitat at Neary Lagoon and Westlake Pond and does not provide aquatic habitat itself due to the lack of basking sites. We are aware of no other special-status species that might be expected to occur on the project site or adjacent riparian corridor. The project would also not involve any direct impacts to the creek channel or associated vegetation.