



LSA ASSOCIATES, INC.  
157 PARK PLACE  
PT. RICHMOND, CALIFORNIA 94801

510.236.6810 TEL  
510.236.3480 FAX

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December 7, 2015

George M. Saad  
Empire USA, LLC  
1801 Century Park East, Suite 2400  
Century City, CA 90067-3113

Subject: Biological Site Assessment, 1005 – 1010 Northgate Drive Project, San Rafael,  
Marin County, California (APN #s 178-240-17 and 178-240-21)

Dear Mr. Saad:

Per the request by the City of San Rafael (City), LSA Associates, Inc. (LSA) presents this biological site assessment (BSA) letter report for the proposed 1005 and 1010 Northgate Drive Project (project) site. Empire USA, LLC (Empire) proposes to make changes to the lot lines and land uses on two existing parcels located at 1005 and 1010 Northgate Drive in San Rafael, California (Figure 1). The project site (Assessor's Parcels: 178-240-17 and 178-240-21) is situated within the Marin County planning area City-Centered Corridor as defined by the Marin Countywide Plan (MCCDA 2007) and encompasses approximately 317,447 square feet (7.3 acres). The elevation range of the project site is between 13 and 60 feet (4 and 8 meters) above sea level. The project as currently proposed would entail: construction of a new mixed-use building at 1005 Northgate Drive, with a lot line adjustment, and 51 dwelling units and 2,000 square feet of commercial space; a lot split at 1010 Northgate Drive, with the existing 235-room hotel to remain; construction of a new mixed-use project on a new parcel at "1020 Northgate Drive" with 81 dwelling units, re-building of the hospitality uses adjacent to the hotel; adding replacement parking to be deeded to the hotel; and constructing a new residential building on a new parcel at "1025 Northgate Drive" with 85 dwelling units on a podium over parking. The proposed project may develop both the 1005 Northgate Drive parcel and the 1010 Northgate Drive parcel or may only develop the 1010 Northgate Drive parcel.

This letter report addresses the project's potential to reduce the number or restrict the range of any rare, threatened, endangered plant or animal, cause a fish or wildlife population to drop below self-sustaining levels, or adversely affect significant riparian lands, wetlands, marshes, and other significant wildlife habitat.

Biological resources on the project site consist of site landscaping, non-native woodland, non-native grasslands, and natural vegetation including valley oak woodland and native grassland. Gallinas Creek, a concrete-lined channel, occurs off-site immediately to the west of the project site. No construction will occur within Gallinas Creek and no vegetation along the creek will be removed as part of the project.

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## METHODS

Prior to conducting fieldwork, LSA compiled a list of the special-status plant and animal species that could occur in the project area based on records in the *California Natural Diversity Data Base* (CNDDDB) (CDFW 2015), the California Native Plant Society (CNPS) *Inventory of Rare and Endangered Plants of California* (8<sup>th</sup> edition) (electronic version) (CNPS 2015), and in-house knowledge of special-status species in Marin County. The CNDDDB search for special-status plant and animal species occurrences included an area within a 2-mile radius of the project site. The 2-mile search radius encompasses all habitats that were potentially present on the project site historically. The list of special-status plants was augmented to include all occurrences of special-status vascular plants recorded for the Novato and San Rafael U.S. Geological Survey (USGS) 7.5 minute quadrangles.

LSA botanist/arborist Tim Milliken visited the site on November 20, 2015, to record information on existing vegetation and wildlife, assess habitat suitability for special-status plants and animals, and identify features potentially subject to regulatory jurisdiction (e.g., protected trees, wetlands). The list of plants and animals observed within and adjacent to the project area were recorded in field notes prior to their inclusion in this report.

The scientific and vernacular nomenclature for the plant and animal species used in this report are from the following standard sources: plants, Baldwin et al. (2012) and updates listed on the Jepson Herbarium website (Jepson Herbarium 2015); birds, American Ornithologist' Union (1998) and supplements; and mammals, Bradley et al. (2014).

## EXISTING CONDITIONS

### Vegetation

The vegetation on the project site consists of developed areas with ornamental plantings, non-native woodland, valley oak woodland, and grasslands.

**Developed Areas with Ornamental Plantings.** The vegetation of developed areas consists of planted and maintained perennial shrubs and trees along the perimeter of the project, around existing buildings, and in the parking lot islands. Most of the trees on the project site are non-native planted landscape trees with the exception of the planted native coast redwood (*Sequoia sempervirens*) and western sycamore (*Platanus racemosa*) which are present in parking lot islands. Along the east and northwest perimeter of the site there are stands of large diameter silver dollar gum (*Eucalyptus polyanthemos*) trees that are approximately 60 feet in height. Other planted trees on the site include Italian cypress (*Cupressus sempervirens*), sugar gum (*Eucalyptus cladocalyx*), bay laurel (*Laurus nobilis*), glossy privet (*Ligustrum japonicum*), southern magnolia (*Magnolia grandiflora*), Monterey pine (*Pinus radiata*), Victorian box (*Pittosporum undulatum*), purple leaf plum (*Prunus cerasifera*), evergreen pear (*Pyrus kawakamii*), queen palm (*Syagrus romanzoffiana*), American elm (*Ulmus americana*), and Mexican fan palm (*Washingtonia robusta*). Perennial shrubs and other ornamental plantings on the site include a variety of selections standard to the landscape industry.

**Non-native Woodland.** Along the east and west perimeter of the site there are stands of large diameter silver dollar gum trees that are approximately 60 feet in height. These trees are part of the site's landscaping and include a limited number of understory species including pampas-grass



(*Cortaderia* sp.), ivy (*Hedera* sp.), toyon (*Heteromeles arbutifolia*), glossy privet, and firethorn (*Pyracantha* sp.).

**Valley Oak Woodland.** The central-western area of the project site, adjacent to Gallinas Creek, is generally a non-maintained “wild” area that is best characterized as valley oak woodland. In this vegetation type, valley oak (*Quercus lobata*) is the dominant component of the tree layer. Other native trees and shrubs also occur here, including coyote brush (*Baccharis pilularis*), toyon, coast live oak (*Quercus agrifolia*), poison oak (*Toxicodendron diversilobum*), and California bay (*Umbellularia californica*). The herbaceous layer is a mixture of native and non-native plants. With the exception of pampas-grass, ivy, glossy privet, and firethorn, most of the non-native herbaceous plants observed are typically found as nuisance annual weeds in oak woodlands. These annual weeds include field hedge parsley (*Torilis arvensis*), annual dogtail (*Cynosurus echinatus*), and English plantain (*Plantago lanceolata*). There is a large patch of French broom (*Genista monspessulana*), a highly invasive non-native perennial shrub within the oak woodland. Native herbaceous plants observed in the valley oak woodland include soap root (*Chlorogalum pomeridianum*), blue wild rye (*Elymus triticoides*), gold back fern (*Pentagramma triangularis*), leather fern (*Polypodium scolieri*), and purple needle grass (*Stipa pulchra*).

**Grasslands.** There are three different types of grassland associated with the project site: pampas-grass grassland, native grassland, and ruderal grassland. Pampas-grass grassland occurs as a large scale ground cover in the north and northeast portions of the project site. This single species grassland type is planted under the silver dollar gum, and in the northeast portion of the project site this plant has become naturalized. Native grasslands are not extensive, but they are present between the openings of the valley oak woodland canopy. Plants within the native grassland include soap root, blue wild rye, and purple needle grass. Ruderal grasslands are an assemblage of weedy non-native plants that occur in highly disturbed landscapes. This grassland type is present in the western portion of the project site and is dominated by Harding grass (*Phalaris aquatica*). Other plant species observed in the ruderal grassland include, wild oats (*Avena fatua*), rattlesnake grass (*Briza maxima*), ripgut brome (*Bromus diandrus*), and French broom.

## Wildlife

Wildlife usage of the site is limited due to the current uses including a hotel and associated surface parking. Wildlife usage is probably greatest in the more natural area along the western portion of the project site. This use was confirmed by observation of several species of birds, wildlife trails, and scat from two mammals. Additionally, a stick nest was observed in one of the silver dollar gum trees on the western side of the project site. Wildlife detected on the site included the following: mourning dove (*Zenaidura macroura*), Anna’s hummingbird (*Calypte anna*), black phoebe (*Sayornis nigricans*), western scrub-jay (*Aphelocoma californica*), American crow (*Corvus brachyrhynchos*), golden-crowned sparrow (*Zonotrichia atricapilla*), northern raccoon (*Procyon lotor*; scat only), and mule deer (*Odocoileus hemionus*; scat only).

## Jurisdictional Waters

Wetlands are categorized as marshes, wet meadows, seep areas, floodplains, basins, and other areas experiencing extended seasonal soil saturation. Seasonally or intermittently inundated features such as seasonal pools, ephemeral streams, and tidal marshes are categorized as wetlands if they have

hydric soils and support wetland plant communities. For wetlands to be subject to regulation under the federal Clean Water Act they must have hydrophytic vegetation, hydric soils, and wetland hydrology.

LSA did not observe any wetlands, depressions, ditches, ponds, streams, or other features potentially subject to U.S. Army Corps of Engineers (Corps) and/or San Francisco Bay Regional Water Quality Control Board (RWQCB) jurisdiction on the project site during the November 20 survey.

Gallinas Creek, a concrete-lined flood control channel, is located off of the site and it conveys freshwater flows from the Santa Margarita Valley past the western portion of the project site. The creek then flows underneath US-101 where it transitions into a salt-water tidal slough that drains into San Pablo Bay east of US-101. Gallinas Creek conveys only ephemeral flow and is full during seasonal storms. The ephemeral vegetation in the creek includes tall flatsedge (*Cyperus eragrostis*), spreading rush (*Juncus patens*), sedge (*Carex* sp.), and curly dock (*Rumex crispus*). Above the concrete sided banks of the creek, earthen banks consist of non-native grassland, native grassland, and valley oak woodland.

Gallinas Creek is likely jurisdictional under the Clean Water Act (Sections 401 and 404) and placement of fill in the creek would be subject to regulation by the Corps and the RWQCB. Gallinas Creek is potentially subject to California Department of Fish and Wildlife (CDFW) jurisdiction under Section 1602 of the California Fish and Game Code on the adjacent site. Any work that would modify the bed or bank of the creek (e.g., a storm water outfall) or the associated riparian vegetation (i.e., removal) could be subject to regulation by CDFW.

### Trees

Trees are present along the perimeter of the proposed project, around existing buildings, and in the parking lot islands. Most of the trees on the parcels are non-native planted landscape trees with the exception of native coast redwood and western sycamore which are present in parking lot islands, and native oaks that occur west of the edge of pavement near Gallinas Creek. The proposed project will include the removal of some trees and associated landscaping on the site. There are no municipal regulations governing the removal of trees on private property, but trimming or removal of trees may impact nesting birds or roosting bats which are protected under the federal Migratory Bird Treaty Act (MBTA) and Section 3503 the California Fish and Game Code.

### SPECIAL-STATUS SPECIES

In this assessment, special-status species are considered those listed as threatened or endangered under the California and/or federal endangered species act, California species of special concern (CDFW 2015), and plants with a California rare plant rank of 1 or 2 (CNPS 2015). Project-related impacts to such species are considered “significant” under *CEQA Guidelines* and projects with unavoidable significant impacts to these species must provide mitigation.

Based on the results of the database searches and observed habitat conditions, LSA identified one special-status plant species as potentially occurring in habitats observed on the site. Congested-headed hayfield tarplant (*Hemizonia congesta* subsp. *congesta*) (California Rare Plant Rank 1B) occurs in valley and foothill grassland and sometimes along roadsides. The site visit coincided with the blooming period for this species. Congested-headed hayfield tarplant was not observed during



LSA's November 20 survey nor is it expected to occur based on the highly disturbed condition of the grasslands and roadsides of the project site.

The CNDDDB and CNPS Inventory (CNPS 2015) identify nine additional special-status plants as occurring in the San Rafael region but these species were eliminated from consideration based on the lack of tidal salt or brackish marsh, freshwater wetlands, chaparral, or serpentine rock outcrops on the site.

Similarly, the CNDDDB identifies four special-status animals as occurring within 2 miles of the site. These species were eliminated from consideration due to the lack of tidal salt marsh (e.g., great blue heron, California black rail, San Pablo song sparrow, and California clapper rail). Although not included in the two mile search results, it is worthwhile to note that there are no perennial streams connected to the Bay that could be habitat for California coast steelhead (*Oncorhynchus mykiss irideus*) either on or adjacent to the project site or within Gallinas Creek.

The segment of Gallinas Creek adjacent to the project site does not provide suitable habitat for special-status plant and animal species. Gallinas Creek is not designated as Critical Habitat for the federally threatened Central California Coast Steelhead distinct population segment (NMFS 2005) and the project would not impact Critical Habitat for this species. The nearest designated Critical Habitat for California Coastal Steelhead is located approximately 2 air miles to the west of the project site in Corte Madera Creek Watershed (Leidy 2007), which is in a different watershed than Gallinas Creek.

## MOVEMENT CORRIDORS

Stream courses are frequently used by local wildlife as movement corridors and foraging sites. The concrete lined Gallinas Creek channel is off-site and is separated from the project site by a chain-link fence. Upstream of the project site Gallinas Creek flows through a culvert under Manuel T. Freitas Parkway and downstream of the project site the creek flows underneath US-101 where it transitions into a salt-water tidal slough that drains into San Pablo Bay. The presence of culverts, roads, and fences isolates Gallinas Creek and restricts wildlife movement to and from adjacent habitat located downstream of the project site area. This section of Gallinas Creek would not be expected to provide a wildlife movement corridor of regional importance to terrestrial or aquatic species, although the on-site upland area adjacent to the creek may be used by common mid-sized mammal species such as Virginia opossums (*Didelphis virginiana*), striped skunk (*Mephitis mephitis*), and raccoon.

## NESTING BIRDS AND ROOSTING BATS

As noted above, the only potential wildlife movement corridor on the project site is the upland area adjacent to the creek. This potential movement corridor will be protected by the stream conservation setback. No nursery areas such as bat maternity roots or heron rookeries occur on the project site, but a variety of native birds protected under the federal Migratory Bird Treaty Act and California Fish and Game Code could nest in the trees and shrubs on the project site.

## ADOPTED CONSERVATION PLANS AND LOCAL ORDINANCES

The project will not conflict with any other local polices and ordinances protecting biological resources or provisions of any adopted Habitat Conservation Plan (HCP), Natural Community Conservation Plan (NCCP), or other approved local, regional, or State habitat conservation plan.

## BIOLOGICAL CONSTRAINTS

Based on the analysis presented in this report the primary biological constraints to the project include nesting birds protected under the federal Migratory Bird Treatment Act and California Fish and Game Code. Although there is no municipal regulation governing the removal of trees on private property, the City of San Rafael's Community Development Department (Department) requires a tree survey report to be included with the proposed project permit documentation. The City's Code of Ordinances – Lot Line Adjustments and Consolidation (Chapter 15.05.020) requires that proposed projects requesting adjustments or consolidation of lot line(s) provide a plat map showing existing trees and any other data required by the Department. LSA prepared a tree survey report to satisfy these requirements (LSA 2015).

Nests of all native bird species are protected under the federal MBTA and Section 3503 the California Fish and Game Code, which prohibits the take, possession, or needless destruction of the nest or eggs of any bird. The mature trees and shrubs on the site provide nesting habitat for resident bird species such as, western scrub-jay, northern mockingbird, and house finch, among others. If conducted during the nesting season (typically defined by CDFW as February 15 to August 31), vegetation removal could directly impact nesting birds by destroying active nests. Prolonged loud construction noise could also disturb nesting birds, resulting in nest abandonment or failure. Potential impacts to nesting birds are typically addressed under CEQA with preconstruction nest surveys incorporated into the project description or as a mitigation measure in a project's CEQA document (e.g., Initial Study or Environmental Impact Report).

The proposed project is not expected to:

- Reduce the number or restrict the range of any rare, threatened, endangered plant or animal;
- Cause a fish or wildlife population to drop below self-sustaining levels; or
- Adversely affect significant riparian lands, wetlands, marshes, and other significant wildlife habitat.

## RECOMMENDATIONS

LSA recommends that the following protection measures be incorporated into the project to avoid impacts to nesting birds.

- Preconstruction Nesting Bird Survey. If any construction activities (e.g., ground disturbance, tree removal, or tree pruning) are scheduled during the bird nesting season (typically defined by CDFW as February 15 to August 31), a qualified biologist shall conduct a preconstruction survey for nesting birds no more than 14 days prior to the start of work. If the survey indicates the presence of nesting birds, the biologist shall delineate a buffer zone where no construction will occur until the biologist has determined that all young have successfully



fledged. The size of the buffer(s) shall be determined by the project biologist and will be based on the nesting species and its sensitivity to disturbance. Typical buffer zones are 50 feet for passerines and up to 250 feet for raptors. Nests shall be monitored regularly to determine if construction activities are affecting the nesting activities and when young birds have fledged.

- Roosting Bats. When trimming large branches or removing trees from the site, the cut tree and branches will be left in place overnight to allow foliage roosting bats to escape and find new roosting sites in the adjacent habitat. Trees can be removed from the site or chipped the next day.

Please contact me at 510-236-6810 if you have any questions or require additional information.

Sincerely,

**LSA ASSOCIATES, INC.**



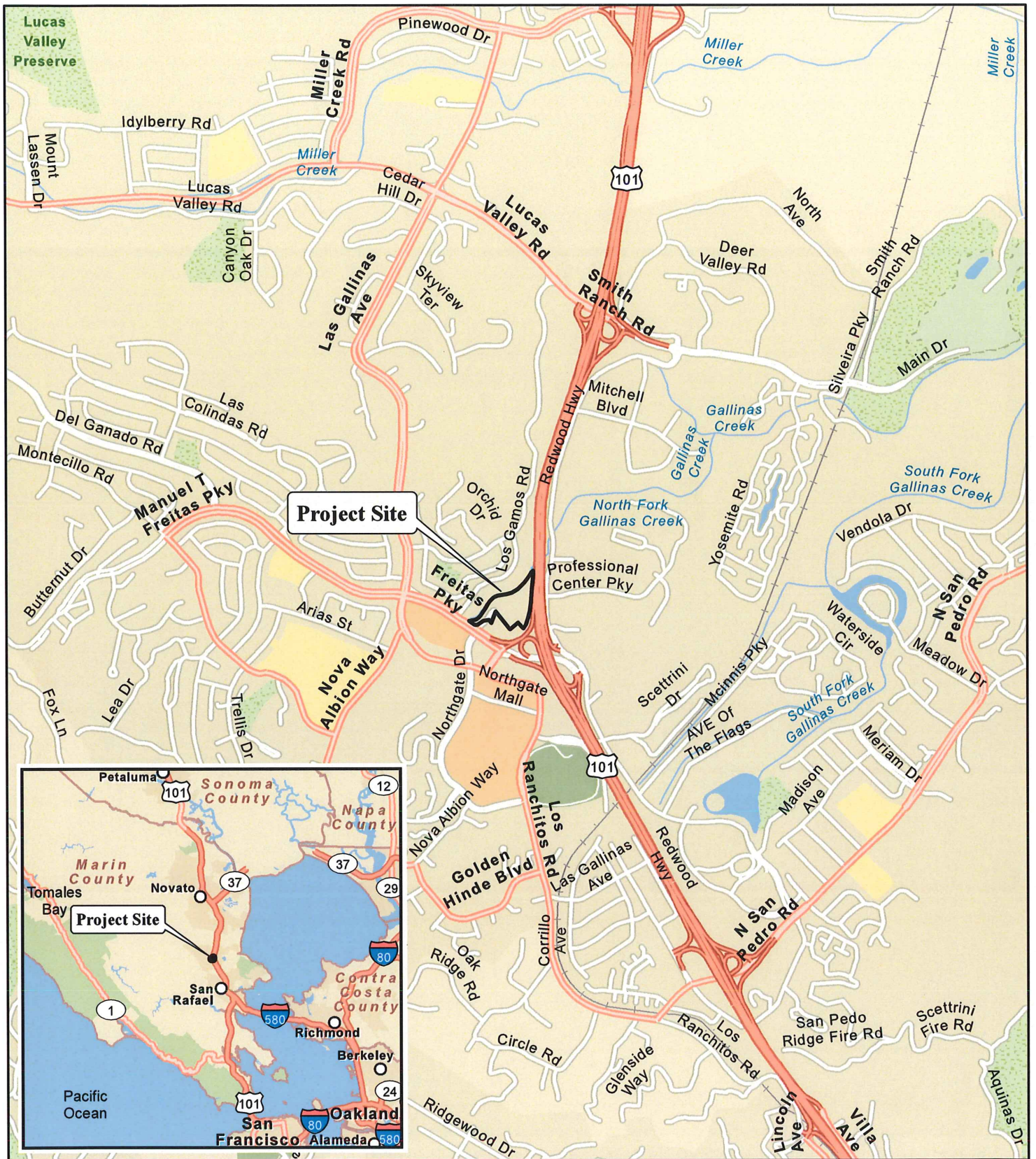
Tim Milliken  
Botanist

Attachments:            Figure 1: Regional location  
                                 Site photographs

## REFERENCES

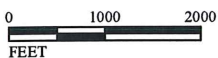
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- LSA Associates Inc. 2015. *Tree Survey Report: 1005 and 1010 Northgate Drive Project, San Rafael, Marin County, California*. November 30, 2015. Letter to George M. Saad, 1801 Century Park East, Suite 2400 Century City, CA 90067-3113. LSA Point Richmond Office, California.
- National Marine Fisheries Service (NMFS). 2005. Endangered and Threatened Species; Designation of Critical Habitat for Seven Evolutionarily Significant Units of Pacific Salmon and Steelhead in California; Final Rule. September 2, 2005. Federal Register. 70 (170).





LSA

FIGURE 1



SOURCE: ESRI StreetMap North America (2012).

I:\EMP1501A\GIS\Maps\Figure 1\_Project Location and Regional Vicinity Map.mxd (11/30/2015)

1005 & 1010 Northgate Drive  
Regional Location and Project Area





Photo 1. West side of site looking at the ruderal grassland and Gallinas Creek.

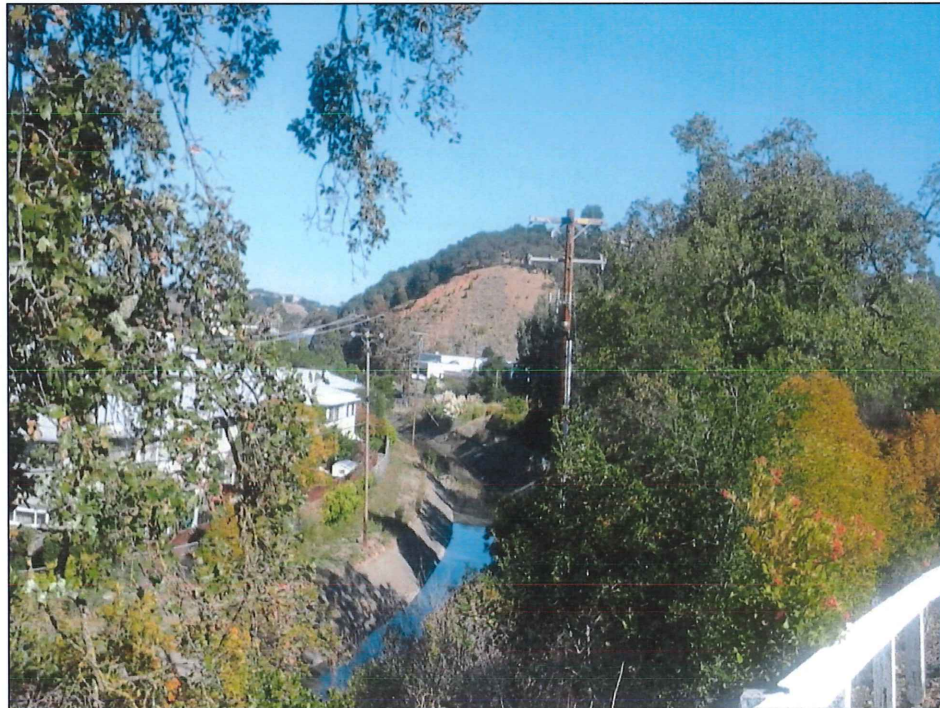


Photo 2. West side of site showing valley oak woodland and Gallinas Creek.





Photo 3. West side of the site showing patch of native grassland, chain-link fence, and Gallinas Creek.



Photo 4. East side of site showing site landscaping, pampas-grass grassland, and silver dollar gum trees.