

4.5 BIOLOGICAL RESOURCES

This section is based on the Sacramento General Plan Update EIR (SGPU EIR), recent environmental review and assessment in the 65th Street Transit Village Plan EIR, and the biological setting information prepared for the City on the South 65th Street Area Plan (South Area Plan). Biological information contained within the aforementioned documentation was analyzed for its relevance to habitats and potential impacts of the 65th Street Redevelopment Plan.

4.5.1 ENVIRONMENTAL SETTING

Located in the southeastern portion of the City, the 65th Street Redevelopment Plan Project Area (Project Area) is in the vicinity of California State University Sacramento (CSUS). Existing land uses in the Project Area include approximately industrial (warehouse), public, commercial (retail and service), residential, office, institutional (including a private school, medical facility and two churches), with 58 acres vacant and 10 acres recreational.

The Project Area is surrounded by development of the City of Sacramento and adjacent suburbs. The Union Pacific Railroad tracks run through the Project Area from Elvas and J Street to Power Inn Road, with undeveloped, disturbed annual grassland along these tracks. Most of the Project Area and surrounding area is developed with residential and industrial buildings, roadways, and pavement. The Project Area is situated in an urban setting with generally low habitat value, developed with buildings, roadways, and pavement. Although some parcels are vacant and underutilized, these areas often have been substantially disturbed and have been used as dumping points and parking, are frequently traversed by pedestrians, are constantly exposed to urban noise, and are surrounded on all sides by urban development. The SGPU EIR did not identify the occurrence of any state or federally listed or non-listed special status specified within the Project Area. However, these developed areas contain several areas of potential heritage trees and several drainage ditches which may represent potential waters of the United States, as well as landscaped areas and several areas of disturbed annual nonnative grassland and a detention basin that may represent a potential wetland.

GENERAL BIOLOGICAL RESOURCES

Vegetation

Annual grassland is the dominant plant community in the undeveloped portions of the Project Area. It is characterized by nonnative grasses which include soft brome (*Bromus hordeaceus*), medusahead (*Taeniatherum caput-medusae*), common wild oat (*Avena fatua*), and Italian ryegrass (*Lolium multiflorum*). Common weedy forbs onsite include mustards (*Brassica* spp.), prickly lettuce (*Lactuca serriola*), and wild radish (*Raphanus sativus*). Annual, nonnative grassland is located throughout the Project Area in vacant areas and detention basins.

Other habitat types within the Project Area include landscaped areas and potential seasonal wetlands. Tahoe-Tallac Park and residential neighborhoods comprise the majority of landscaped areas. The trees are mainly nonnative, ornamental trees planted for landscape purposes. Several Eucalyptus trees are located to the west of the detention basin project area near 65th Street and Broadway, and vernal pools are present in the area of the 65th and Broadway Detention Basin Project, north of the church on San Joaquin Street.

Wildlife

The scattered annual grasslands in the Project Area provide moderate habitat value for wildlife species, and undeveloped properties likely provide foraging habitat. The scattered seasonal wetlands and the detention pond behind the driving range provide habitat for waterbirds and other wildlife species. Landscaped areas may provide some nesting habitat for birds, and the drainage outfalls located within the 65th Street interchange provide nesting and loafing habitat for white throated swift, and potentially for purple martin. Some of the warehouse-type buildings may provide roosting habitat for bats.

Common wildlife species either observed or expected to occur in the Project Area include western fence lizard (*Sceloporus occidentalis*), red-tailed hawk (*Buteo jamaicensis*), northern mockingbird (*Mimus polyglottos*), rock dove (*Columba livia*), American crow (*Corvus brachyrhynchos*), western meadowlark (*Sturnella neglecta*), mourning dove (*Zenaida macroura*), Brewer's blackbird (*Euphagus cyanocephalus*), striped skunk (*Mephitis mephitis*), Virginia opossum (*Didelphis virginiana*), California vole (*Microtus californicus*), California ground squirrel (*Spermophilus beecheyi*), and black-tailed jackrabbit (*Lepus californicus*).

SPECIAL STATUS WILDLIFE RESOURCES

Sensitive biological resources include those that are afforded special protection through the following: CEQA, California Fish and Game Code, the federal Endangered Species Act (ESA), the California Endangered Species Act (CESA), and/or the federal Clean Water Act (CWA). Sensitive biological resources in the Project Area also include those afforded protection under the City of Sacramento General Plan Update (SGPU).

Special-Status Plants

Vernal pools are known to be present in the area of the 65th and Broadway Detention Basin Project, but development of the basin is not part of the Redevelopment Plan, nor is it considered in the draft South 65th Street Area Plan. Vernal pools have not been identified elsewhere in the Project Area, and vernal pool species are not expected. Vernal pool plant species are not discussed further in this document. Rose-mallow and Sanford's arrowhead are discussed below because they have the potential to occur in portions of the Project other than the detention basin project site.

Rose-Mallow

Rose-mallow (*Hibiscus lasiocarpus*) is an emergent perennial herb in the mallow family (Malvaceae) that produces large white or pink flowers. This California Native Plant Society (CNPS) "List 2" species blooms from June to September. Suitable habitat consists of freshwater marshes and swamps. Rose-mallow has the potential to occur in roadside drainages and potential jurisdictional waters of the United States.

Sanford's Arrowhead

Sanford's arrowhead (*Sagittaria sanfordii*) is a CNPS List 1B species that is found in shallow, standing fresh water and sluggish waterways associated with marshes, swamps, ponds, vernal pools, lakes, reservoirs, sloughs, ditches, canals, streams, and rivers. This aquatic perennial has linear, emergent leaf blades and produces white flowers from late May through August. Sanford's arrowhead has the

potential to occur within potential season wetlands and waters of the United States in the Project Area.

Special-Status Animals

Vernal pools are present in the area of the 65th and Broadway Detention Basin Project, but there are no proposed redevelopment activities that would impact this site. Because vernal pools are not known to be elsewhere in the Project Area, species occurring in vernal pools are not expected. These include vernal pool fairy shrimp, vernal pool tadpole shrimp, California linderiella, and midvalley fairy shrimp. They will not be discussed further in this document.

Western Burrowing Owl

The burrowing owl is a California Species of Special Concern and federal Species of Concern, and is a year-round resident in the Central Valley. This species prefers open annual or perennial grasslands, including heavily disturbed areas with existing burrows, elevated perches, large areas of bare ground or low vegetation, and few visual obstructions. Burrows are typically located near water where large numbers of prey species, primarily insects, are found, and are the essential component of burrowing owl habitat. Burrowing owls typically use burrows made by mammals, such as ground squirrels or badgers, but may also use artificial structures such as cement culverts; cement, asphalt, or wood debris piles; or openings beneath cement or asphalt pavement. No burrowing owls were observed during the October 2003 reconnaissance-level survey of the proposed South Area Plan in the eastern portion of the Project Area, but suitable foraging habitat is present throughout the Project Area. Burrowing owls have been recorded immediately north of the Project Area, and in several other areas within a 3-mile radius of the Project Area, as identified in the California Natural Diversity Data Base (CNDDDB, 2003). Therefore, there is potential for burrowing owls to forage and nest in the grasslands in the Project Area.

Swainson's Hawk

The Swainson's hawk is state listed as a threatened species. Swainson's hawks winter in South America and migrate to North America to breed during the summer. In California, Swainson's hawks are mainly found in riparian habitats along the Sacramento Valley, with additional populations found in northeastern California. Swainson's hawks typically nest in riparian habitats or isolated trees bordered by suitable foraging habitat (i.e., grasslands and agricultural fields), and agricultural fields and open grasslands provide important foraging habitat for Swainson's hawks. Swainson's hawks are known to nest along the Sacramento River, which is approximately five miles west of the Project Area within the estimated 10-mile foraging range for this species, but no occurrences have been recorded within a 3-mile radius (CNDDDB 2003).

The Project Area's patches of annual grasslands provides marginal foraging habitat for Swainson's hawks. Loss of high quality foraging habitat has been identified as one of the prime management issues facing Swainson's hawks in the Central Valley (Department of Fish and Game (DFG) 1994). There are scattered trees throughout the Project Area which could provide nesting habitat for Swainson's hawk, although they are mainly nonnative, ornamental trees planted for landscape purposes. Although the Project Area's open lands represent potential Swainson's hawk foraging habitat, and hawks could forage periodically, the urban nature of the Project Area and its discontinuous patches of open ruderal parcels likely limit this species' use of the area.

White-Tailed Kite

White-tailed kite is a California Species of Special Concern, a DFG Fully Protected Species, and a U.S. Fish and Wildlife Service (USFWS) species of concern. This yearlong resident in Sacramento County typically inhabits agricultural areas and herbaceous and open stages of most habitats. It nests in groves of dense broad-leaved deciduous trees near open foraging areas. It forages over areas as large as 3 square kilometers. There are no occurrences of the white-tailed kite within a 3-mile radius of the Project Area (CNDDDB 2003), and no White-tailed kites were observed within the Project Area during the October 2003 reconnaissance-level survey of the proposed South Area Plan. The Project Area's grasslands described above provide potential foraging habitat for white-tailed kite, but only limited nesting habitat occurs in some of the Project Area's landscape trees.

Other Raptors

In addition to the species listed above, other species of raptors including Nuttall's woodpecker, Cooper's hawk, American kestrel, red-shouldered hawk, and red-tailed hawk may use the Project Area for nesting and/or foraging. Although not all raptor species are federal or state listed species, they are occasionally recorded in the CNDDDB. None of these species were recorded in the CNDDDB within a 3-mile radius. A red-tailed hawk was observed within the Project Area during the October 2003 reconnaissance-level survey of the proposed South Area Plan. The undeveloped properties of the Project Area may provide additional foraging habitat. The California Fish and Game Code (Section 3503.5) provides specific protection for raptors, and the removal or destruction of active raptor nests is considered a violation of Section 3503.5.

Loggerhead Shrike

Loggerhead shrike is a federal Species of Concern and a state Species of Special Concern. This species typically inhabits grasslands, shrublands, and open woodlands and usually nests in dense shrub vegetation. The Project Area's patches of annual grasslands provides marginal foraging habitat for loggerhead shrike, but only limited nesting habitat occurs in the area. No Loggerhead shrikes were observed within the Project Area during the October 2003 reconnaissance-level survey of the proposed South Area Plan, and no sightings of this species were recorded in the CNDDDB within a 3-mile radius.

Purple Martin

Purple martin is a California Species of Special Concern. This summer resident inhabits a variety of wooded, low-elevation habitats in portions of California. In Sacramento County, purple martins have been found nesting in seven colony groups in elevated freeway structure weep (i.e., drainage) holes. One of these sites at 20th St. and X Street is less than 4 miles from the Project Area. Another of these sites, on Sutterville Road, is known to be less than 5 miles from the Project Area. No purple martins were observed in the Project Area during the October 2003 reconnaissance-level survey of the proposed South Area Plan, although the survey was conducted outside of the purple martin nesting season, and no sightings of this species were recorded in the CNDDDB within a 3-mile radius. However, weep holes beneath U.S. 50 were observed to be housing white-throated swifts. White-throated swifts and purple martin often use the same type of weep holes for nesting.

Special-Status Bats

Townsend's big-eared bat, small-footed myotis bat, long-legged myotis bat, and Yuma myotis bat are all California and Federal species of concern. They live in a variety of communities, including

broad-leaf forests, oak and conifer woodlands, arid grasslands and deserts, and high-elevation forests and meadows. These bats are most commonly found around wet sites. Known roosting sites include buildings and other human-made structures. None of these bat species were observed within the Project Area during the October 2003 survey, although the survey was not conducted at the time of day when these species would most likely be visible. Habitat must include appropriate roosting, maternity, and hibernacula sites. Several of the warehouse-type buildings in the Project Area have the potential to provide roosting habitat, and there is foraging habitat onsite in the open grasslands and around the wetlands.

Sensitive Habitats

Sensitive habitats include those that are of special concern to resource agencies, or that are afforded legal protection through CEQA, Section 1600 of the California Fish and Game Code, Section 404 or 401 of the federal Clean Water Act (CWA), and/or the State Porter-Cologne Act. Sensitive habitats located in the Project Area include potential jurisdictional Waters of the United States consisting of drainages with in-channel freshwater marsh and seasonal wetland habitat. The extent of jurisdictional Waters of the United States in the Project Area has not been determined, since it is determined through wetland delineations and associated U.S. Army Corps of Engineers (USACOE) verifications. Wetland delineations and associated USACOE verifications were not undertaken for this project because these are more appropriately done at a later stage of planning (when individual development proposals are made within the Project Area over time). Northern claypan vernal pools, a sensitive habitat, are known to be present in the area of the 65th and Broadway Detention Basin Project, which provides an indication that the potential exists for this habitat to be located in other parts of the Project Area.

Potential Jurisdictional Wetlands and Waters of the United States

Waters of the U.S. include wetlands (e.g., special aquatic sites such as seasonal ponds and marshes) and other jurisdictional waters, such as lakes, ponds, rivers, and intermittent drainages. Wetlands are defined as those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. The majority of jurisdictional wetlands meet three wetland delineation criteria: hydrophytic vegetation, hydric soil types, and wetland hydrology.

Seasonal wetland and freshwater marsh habitats are located in roadside drainages and in the stormwater detention basin previously identified. Seasonal wetlands are ephemeral wetlands that pond or remain flooded for long periods during a portion of the year, generally the rainy winter season, then dry up, typically in the spring. Seasonal wetland habitat is known to exist in the 65th Street interchange, in the storm-water detention basin east of the driving range, and in roadside ditches in the Project Area.

Freshwater marshes are herbaceous wetlands that are dominated by emergent vegetation such as grasses, reeds, rushes, and sedges. Marshes are typically perennial wetlands, but may dry out for short periods of time. Freshwater marsh habitat is found in roadside ditches throughout the Project Area, as well as in the 65th Street interchange and around the pond located in the driving range.

4.5.2 REGULATORY BACKGROUND

SPECIAL-STATUS SPECIES

Many biological resources in California are protected and/or regulated by a variety of laws and policies. Prior to implementation, it is necessary for any individual development project to be in compliance with these regulations. Key regulatory issues are discussed below.

Special-status species include plants and animals that are legally protected, or that are otherwise considered sensitive by federal, state, or local resource conservation agencies and organizations. This includes species listed as state and/or federally Threatened or Endangered, those considered as candidates for listing as Threatened or Endangered, species identified by California Department of Fish and Game (DFG) and/or United States Fish and Wildlife Service (USFWS) or the National Marine Fisheries Service (NMFS) as Species of Special Concern, and plants considered by the California Native Plant Society (CNPS) to be rare, threatened or endangered (i.e., plants on CNPS List 1B).

FEDERAL ENDANGERED SPECIES ACT

Pursuant to the federal Endangered Species Act (ESA), the USFWS and NMFS have authority over projects that may affect the continued existence of a federally-listed species. Either an “incidental take permit”, under Section 10(a) of the ESA, or a federal interagency consultation, under Section 7 of the ESA, is required if the project may affect a federally-listed species. Under the ESA, the definition of “take” includes killing, harming, or harassing. USFWS has also interpreted the definition of harm to include significant habitat modification.

CALIFORNIA ENDANGERED SPECIES ACT

Pursuant to the California Endangered Species Act (CESA), a permit from DFG is required for projects that could result in the take of a state-listed Threatened or Endangered species. Under CESA, take is defined as an activity that would directly or indirectly kill an individual of a species, rather than also including “harm” or “harass” as is included in the federal act. As a result, the threshold for a take under the CESA is higher than under the ESA (i.e., habitat modification is not necessarily considered take under CESA).

WETLANDS AND OTHER JURISDICTIONAL WATERS OF THE U.S.

The USACOE regulates Waters of the U.S. and wetlands under the federal Clean Water Act. Waters of the U.S. include navigable waters of the United States, interstate waters, all other waters where the use or degradation or destruction of the waters could affect interstate or foreign commerce, tributaries to any of these waters, and wetlands that meet any of these criteria or that are adjacent to any of these waters or their tributaries. Nearly all surface waters and wetlands in California meet the criteria for Waters of the United States, including intermittent streams and seasonal lakes and wetlands.

Pursuant to Section 404 of the Clean Water Act, a permit must be obtained from USACOE prior to any activity that involves the discharge of dredged or fill materials into Waters of the U.S. Fills of less than 2 acre of non-tidal waters of the U.S. for residential, commercial, or institutional development projects can generally be authorized under the USACOE’s Nationwide Permit (NWP)

program, provided the project satisfies the terms and conditions of the particular NWP. All other fills would require an individual permit.

CITY OF SACRAMENTO TREE ORDINANCE (CHAPTER 12.64 OF TITLE 12 OF THE SACRAMENTO CITY CODE)

Under the City of Sacramento's Tree Ordinance, a permit is required from the City for the removal of any heritage or City tree (Title 12, Chapter 12.64). Provisions of the Ordinance are intended to protect both City street trees and Heritage trees, as provided below.

A City street tree is defined by the City to mean and include any tree growing on a public street right-of-way. City street trees are to be maintained by the City. The protection of trees is defined as follows:

- No person shall remove, trim, prune, cut or otherwise perform any maintenance on any City street tree without first obtaining a permit from the Director ("Director" means the director of the department of neighborhood services or the director's authorized representative).
- No person shall injure or destroy any City street tree by any means, including but not limited to the following:
 - Constructing a concrete, asphalt, brick, or gravel sidewalk, or otherwise filling up the ground area around any tree so as to shut off air, light or water from its roots, unless ordered or authorized to do so by the City.
 - Piling building material, equipment or other substance around any tree as to injure the tree.
 - Pouring any deleterious matter on or around any tree or on the surrounding ground, lawn or sidewalk.
 - Cutting roots with a diameter of 2 inches or greater for sidewalk repair or any other purpose; provided, however, that such roots may be cut if authorized in advance by the Director.

The Director of Public Works and the Planning Director shall notify the Director of any applications for new subdivisions, curb, gutter, sidewalk, street light or driveway installations, or other proposed improvements which might require the removal of or cause injury to, any City street tree, or interfere with the fulfillment of the maintenance easement private street tree plantings.

A heritage tree is defined by ordinance as follows:

- any tree species with a trunk circumference of one hundred (100) inches or more, which is of good quality in terms of health, vigor of growth and conformity to generally accepted horticultural standards of shape and location for its species.
- any native Quercus species, Aesculus California or Platanus Racemosa, having a circumference of 36 inches or greater when a single trunk, or a cumulative circumference of 36 inches or greater when a multi-trunk.
- any tree 36 inches in circumference or greater in a riparian zone. The riparian zone is measured from the center line of the water course to 30 feet beyond the high water line.

- any tree, grove of trees or woodland trees designated by resolution of the City Council to be of special historical or environmental value or of significant community benefit.

The maintenance responsibility and permits for activities affecting heritage trees as defined in §12.64 states:

- A property owner shall be responsible for maintaining all heritage trees on the property owner's property.
- None of the following activities shall be performed unless a permit therefore is first applied for by the property owner or person authorized by the property owner and granted by the director, subject to appeal provisions in Section 12.64.060:
 - ✓ The removal of any heritage tree;
 - ✓ Pruning of any heritage tree segment greater than twelve (12) inches in circumference or the placement of any chemical or other deleterious substance by spray or otherwise on any heritage tree;
 - ✓ Disturbing the soil or placing any chemical or other deleterious substance or material on the soil within the drip line area of any heritage tree.

4.5.3 ENVIRONMENTAL IMPACTS

METHODOLOGY

Development and infrastructure activities in the Project Area have been analyzed in previous environmental documents as noted above, and the biological resources impacts identified in the previous review of planned development are as follows:

- The City determined that impacts to the following habitats and species would be a significant and unavoidable consequence of implementing the 1988 General Plan Update: riparian habitat, habitat along creeks and canals, fence-row habitat, vernal pools, special-status plant species, Swainson's hawk, white-tailed kite, giant garter snake, valley elderberry longhorn beetle, and water birds (associated with loss of agricultural habitat). The City adopted partial mitigation to address these impacts (e.g., preservation of habitat where feasible), but impacts could not be mitigated to a less-than-significant level.
- The City determined that impacts to the following habitats and species, as a consequence of implementing the 1988 General Plan Update, would be less than significant: heritage trees, annual grasslands, old fields, bald eagle, peregrine falcon, long-billed curlew, western yellow-billed cuckoo, least Bell's vireo, tricolored blackbird, California tiger salamander, thicktail chub, Sacramento anthicid beetle, golden eagle, ringtail, river otter, bank swallow, and burrowing owl.

This is a programmatic analysis that assumes that where there is evidence of the possible or likely existence of a special status species or habitat in the Project Area, it is possible that a future redevelopment activity could have an effect on such resources. The need for site specific assessments on a project by project basis will be identified pursuant to CEQA and City procedures over the 30 year life of the Redevelopment Plan, as projects are proposed. The U.S. Army Corps of Engineers (USACOE) rather than the CEQA consultant determine whether non-designated water

bodies (such as the drainage ditches and detention basin in the Project Area) are waters of the United States and wetlands. Wetland delineations and associated USACOE verifications were not undertaken for this analysis because this is more appropriately done at a later stage of planning (when individual development proposals are made in the Project Area consistent with zoning). This EIR therefore identifies drainage ditches as “potential” waters and the detention basin as a “potential” wetland and identifies mitigation that would be applied if these turn out to be waters and wetlands, respectively.

Trees in the plan are treated similarly in this EIR. The City of Sacramento Heritage Tree Ordinance identifies criteria for identifying heritage trees. A tree survey was not undertaken for this project because such a survey is more appropriately done at a later stage of planning, especially considering the 30 year life of the Redevelopment Plan. This EIR therefore identifies trees in the Project Area as “potential” heritage trees, and identifies mitigation that would be applied if the trees turn out to be heritage trees.

THRESHOLDS OF SIGNIFICANCE

The proposed Redevelopment Plan would result in significant terrestrial biology impacts if it would result in one or more of the following:

- 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 DFG or USFWS;
- 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 DFG or USFWS;
- Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, rivers, etc.) through direct removal, filling, hydrological interruption, or other means;
- Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites;
- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; and
- Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

IMPACTS OF THE PROPOSED PROJECT

Impact 4.5-1 Potential Loss Of Heritage Trees

The Project Area contains trees that would be regulated under the City of Sacramento Heritage Tree Ordinance. Infrastructure improvements and development that occurs in furtherance of the Redevelopment Plan would be required to assess any potential project specific construction impacts to trees, in coordination with the City Arborist. Heritage trees in the Project Area would be protected by the Heritage Tree Ordinance. Heritage trees are defined by the Ordinance as trees of any species having a trunk circumference of 100 inches or more measured 4.5 feet above ground

level, which are of good quality in terms of health, vigor of growth, and conformity to generally accepted horticultural standards of shape for its species. The loss of heritage trees would be a **significant impact**

Mitigation Measures

The following measures should be implemented to reduce potential impacts on heritage trees:

4.5-1a To the extent feasible, existing heritage trees shall be retained and incorporated into proposed development and/or landscaping plans; or,

4.5-1b If heritage trees cannot be avoided and will likely be removed, a certified arborist shall conduct a tree survey to identify the diameter at breast height (DBH), height, location, and health of the trees to be removed. This information is required for a permit to remove the trees. Recommendations for tree planting/replacement ratios and appropriate planting sites would also be included in this report.

Significance after Mitigation

Less than significant.

Impact 4.5-2: Potential Loss of Special Status Species

The Project Area provides marginally suitable potential nesting or foraging habitat for raptors including Swainson’s hawk and Western burrowing owl. Swainson’s hawk is a state-listed species while the burrowing owl is a California Species of Special Concern. White-tailed kites, Swainson’s hawks, and other raptor species could nest in the larger trees and wetland habitats on and near the Project Area. Burrowing owls could nest in the ruderal areas. A variety of trees and shrubs used for landscaping of urban areas provides nest sites and cover for wildlife. In general, the density and diversity of urban wildlife depends on the extent and type of landscaping and open space, as well as the proximity to natural habitats. The burrowing owl prefers open annual or perennial grasslands, including heavily disturbed areas with existing burrows, elevated perches, large areas of bare ground or low vegetation, and few visual obstructions. Burrows are typically located near water where large numbers of prey species, primarily insects, are found.

The proposed Redevelopment Plan would eliminate barriers to General Plan buildout in the Project Area, by funding infrastructure improvements and providing incentives for housing development and commercial/industrial rehabilitation and development. Existing foraging areas now vacant may be developed as growth consistent with adopted plans occurs in the Project Area, resulting in a cumulative impact on the availability of foraging and nesting habitat. White-tailed kites, Swainson’s hawks, and other raptor species may nest in the larger trees and riparian habitats on and near the project site, which could be disturbed by future development and infrastructure projects. Burrowing owls could nest in the ruderal areas that may be disturbed by future development activities. Active raptor nests are protected under Section 3503.5 of the State Fish and Game code. Construction activities during the breeding season could disturb nesting birds. This would be a **potentially significant impact**

Mitigation Measures

- 4.5-2a:** Prior to development approval, a qualified biologist shall be retained by the project proponent to conduct a survey to determine if wetlands are present. If wetlands are present, prepare a site-specific preliminary wetlands determination to identify whether a wetland delineation should be submitted to the USACOE. The USACOE will require a Section 7 consultation if Waters of the U.S. are present. Isolated wetlands may require a Section 10 permit from USFWS. Conditions on the USACOE or USFWS permit shall constitute the mitigation requirements to be implemented prior to building permit.
- 4.5-2b:** 1) Prior to development approval, a qualified biologist shall be retained by the project proponent to prepare a site-specific biological survey to determine the potential for presence of special status species and/or suitable habitat for special status species.
- 2) No physical alteration of a development site or issuance of building permits shall occur within potentially biologically sensitive areas until evidence is submitted for review and approval by the City of Sacramento that areas containing habitat for listed species have been avoided, or if avoidance is not possible that all required consultations with the USFWS and/or DFG have occurred pursuant to the Federal and State Endangered Species Acts, and evidence is provided of any necessary permits, approvals, or agreements from USACOE and DFG for removal of any wetland or riparian habitat and/or associated drainages. If avoidance is not possible, a “no jeopardy” opinion will be required by the USFWS for federally listed species that could be affected. A “no jeopardy” opinion will not be issued unless USFWS agrees that adequate mitigation of the affected species has been provided. If state-listed species could be affected, a written agreement (such as a 2081 agreement) with DFG would need to be obtained that specifies that adequate mitigation has been provided. The proposed development shall be consistent with the provisions of any required consultations and associated permits or agreements.
- 4.5-2c:** No physical alteration of a development site or issuance of building permits shall occur within existing grasslands or riparian areas until a breeding season survey is conducted by a qualified biologist during spring or early summer (April-July, before development activity takes place) near annual grasslands (for burrowing owls and northern harriers), large trees, and riparian areas. If surveys detect nesting raptors on the project site, the nest shall be fenced and avoided until nesting activity is completed. The DFG shall be consulted if an active nest is found near a development area to determine an appropriate “no disturbance” protection buffer. If a burrowing owl nest could be destroyed during construction/grading, a mitigation plan, which includes the following criteria, will be prepared by the project proponent:
- Occupied burrows shall not be disturbed during the nesting season (1 February through 31 August) unless a qualified biologist approved by DFG verifies that the birds have not begun nesting or the young have fledged are capable of independent survival.
 - A minimum of 6.5 acres of suitable foraging habitat acceptable to DFG shall be permanently protected at an approved mitigation bank for each occupied burrow disturbed. The protected lands shall be adjacent to the occupied burrows and shall contribute to the long-term conservation of the owls.

- Occupied burrows, which are removed during construction activities, shall be replaced at a ratio of 1:1 at the protected land site (mitigation bank).
- Passive relocation efforts shall be employed over a one-week period prior to construction activities to allow owls to acclimate to alternate burrows.
- The project proponent shall provide the City with written proof of compliance with DFG mitigation requirements. Proof of compliance shall include a copy of the mitigation bank agreement and a receipt for purchase of mitigation credits at an approved mitigation bank.

Significance after Mitigation

Less than significant

4.5.4 REFERENCES - BIOLOGICAL RESOURCES

- *City of Sacramento General Plan*, City of Sacramento, January 19, 1988.
- *Sacramento City Code*, City of Sacramento, <http://ordlink.com/codes/sacramento/index.htm>
- *65th Street Transit Village Project Draft Environmental Impact Report*, City of Sacramento, December 2001.
- *South 65th Street Area Plan, Initial Study*, November 2003
- *South 65th Street Area Plan, Biological Setting*, January 2004