



# PUBLIC NOTICE

**U.S. ARMY CORPS OF ENGINEERS  
LOS ANGELES DISTRICT**

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## **APPLICATION FOR PERMIT Discovery Village Project**

**Public Notice/Application No.:** SPL-2018-00236-SRR

**Project:** Discovery Village Project

**Comment Period:** April 25, 2018 to through May 25, 2018.

**Project Manager:** Stephen Roethle; Tel: 760-602-4835; [Stephen.Roethle@usace.army.mil](mailto:Stephen.Roethle@usace.army.mil)

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### **Applicant**

Mike Neal  
H.G. Fenton Company  
7577 Mission Valley Rd  
San Diego, California 92108  
619-400-0120

### **Contact**

Amanda Gonzales  
Merkel & Associates, Inc.  
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San Diego, California 92123  
858-560-5465

### **Location**

The proposed project is located within the city of San Marcos, San Diego County, CA. The project site is south of the onramp to State Route 78 at San Marcos Boulevard, and is located directly southeast of the Bent Avenue and Discovery Street intersection. (Figure 1) (Latitude: 33.130906, longitude-117.177665).

### **Activity**

The applicant proposes to permanently impact approximately 2.39 acres of wetland waters of the U.S. in order to construct a mixed-use development and associated infrastructure on an approximately 99 acre lot. (Figures 2-3). For more information see Additional Project Information section below.

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Interested parties are hereby notified an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). We invite you to review today's public notice and provide views on the proposed work. By providing substantive, site-specific comments to the Corps Regulatory Division, you provide information that supports the Corps' decision-making process. All comments received during the comment period become part of the record and will be considered in the decision. This permit will be issued, issued with special conditions, or denied under Section 404 of the Clean Water Act. Comments should be mailed to:

DEPARTMENT OF THE ARMY  
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS  
REGULATORY DIVISION  
ATTN: Stephen Roethle  
5900 LA PLACE COURT, SUITE 100  
CARLSBAD, CA 92008

Alternatively, comments can be sent electronically to: [Stephen.Roethle@usace.army.mil](mailto:Stephen.Roethle@usace.army.mil)

The mission of the U.S. Army Corps of Engineers Regulatory Program is to protect the Nation's aquatic resources, while allowing reasonable development through fair, flexible and balanced permit decisions. The Corps evaluates permit applications for essentially all construction activities that occur in the Nation's waters, including wetlands. The Regulatory Program in the Los Angeles District is executed to protect aquatic resources by developing and implementing short- and long-term initiatives to improve regulatory products, processes, program transparency, and customer feedback considering current staffing levels and historical funding trends.

Corps permits are necessary for any work, including construction and dredging, in the Nation's navigable waters and their tributary waters. The Corps balances the reasonably foreseeable benefits and detriments of proposed projects, and makes permit decisions that recognize the essential values of the Nation's aquatic ecosystems to the general public, as well as the property rights of private citizens who want to use their land. The Corps strives to make its permit decisions in a timely manner that minimizes impacts to the regulated public.

During the permit process, the Corps considers the views of other Federal, state and local agencies, interest groups, and the general public. The results of this careful public interest review are fair and equitable decisions that allow reasonable use of private property, infrastructure development, and growth of the economy, while offsetting the authorized impacts to the waters of the United States. The permit review process serves to first avoid and then minimize adverse effects of projects on aquatic resources to the maximum practicable extent. Any remaining unavoidable adverse impacts to the aquatic environment are offset by compensatory mitigation requirements, which may include restoration, enhancement, establishment, and/or preservation of aquatic ecosystem system functions and services.

### **Evaluation Factors**

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR Part 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

### **Preliminary Review of Selected Factors**

**EIS Determination-** A preliminary determination has been made an environmental impact statement is not required for the proposed work.

**Water Quality-** The applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the California Regional Water Quality Control Board. Section 401 requires any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance. This project is located outside the coastal zone and preliminary review indicates it would not affect coastal zone resources. After a review of the comments received on this public notice and in consultation with the California Coastal Commission, the Corps will make a final determination of whether this project affects coastal zone resources after review of the comments received on this Public Notice.

**Essential Fish Habitat-** No Essential Fish Habitat (EFH), as defined by the Magnuson-Stevens Fishery Conservation and Management Act, occurs within the project area and no EFH is affected by the proposed project.

**Cultural Resources-** A survey, test excavation, and historic building evaluation for the Area of Potential Effect (APE) was completed in 2009 and amended and expanded in 2017. The surveys determined that no resources on site are eligible for listing on the National Register of Historic Places (NRHP).

The Corps has contacted the Native American Heritage Commission (NAHC) to obtain a sacred lands file search and Native American contact list based on the project location. When a response is received the Corps shall then coordinate with the tribal representatives provided on the NAHC Native American contact list and other pertinent tribal representatives. Based on the responses received and follow-up tribal coordination and meetings, the Corps may consult with the State Historic Preservation Office (SHPO) pursuant to Section 106 of the National Historic Preservation Act. The Corps has not made a preliminary effect determination on potentially eligible historic properties within the project area. If the Corps determines there is a potential for adverse effects the effect will require mitigation. Mitigation for potential adverse effects will need to be resolved through additional tribal coordination and consultation, consultation with the SHPO and Advisory Council on Historic Places (ACHP), and preparation of a final Memorandum of Agreement (MOA) document between the applicant, Corps, SHPO, and ACHP (if applicable).

**Endangered Species-** The Corps has preliminarily determined that the proposed project may affect, and is likely to adversely affect: (1) the federally listed as threatened coastal California gnatcatcher (*Poliophtila californica californica*; CAGN); (2) May affect, but is not likely to adversely affect; the

federally listed as endangered least Bell's vireo (*Vireo bellii pusillus*; LBVI); These preliminary determinations are based upon information contained within the applicant's evaluation of biological resources. At this time, the Corps anticipates initiating consultation with the U.S. Fish and Wildlife Service (USFWS) pursuant to Section 7 of the Endangered Species Act (ESA) to address the potential direct and indirect effects of the proposed project on CAGN and LBVI.

**Public Hearing-** Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

### **Proposed Activity for Which a Permit is Required**

**Basic Project Purpose-** The basic project purpose for the proposed project is mixed-use development. The project is not water dependent.

**Overall Project Purpose-** The overall project purpose for the proposed project is to provide mixed-use development in the City of San Marco that could include general and medical office space with an adjacent multi-family community, public park and potential site for a school, consistent with the City General Plan.

### **Additional Project Information**

**Baseline information-** Discovery Village North and South were previously one larger project, called the University Office and Medical Park Amendment to the SP 90-24 (UOMP) Project. In support of this previous project, the Applicant was issued a CWA, Section 404 Provisional Permit SPL-2006-02063-MLM and Environmental Assessment and Statement of Finding for SPL-2006-02063-MLM.

**Project description-** The Discovery Village Project consists of two separate development areas, Discovery Village North and Discovery Village South, which are immediately adjacent to one another.

Discovery Village North is an approximate 60-acre development and preserved open space on undeveloped land consisting of the following elements:

1. Public infrastructure improvements consisting of completion of Discovery Street through the project site and designation of the footprint for the future Grand Avenue Bridge as a right-of-way (approximately 23 acres).
2. Mixed-use development that could include general and medical office space with an adjacent multi-family community, public park and potential site for a school (approximately 22 acres), and
3. Open Space corridor through the project site (approximately 15 acres).

Discovery Village South would involve construction of up to 230 single-family homes on approximately 39-acres of undeveloped land, located immediately south of the future Discovery Street. Discovery Village South would be accessed by and is dependent on the future construction of Discovery Street, an element of Discovery Village North which will be constructed prior to or concurrent with Discovery Village South.

Implementation of the Discovery Village Project would result in the permanent discharge of fill material in up to 2.39 acres of jurisdictional wetlands, and the temporary discharge in up to 0.19 acre of jurisdictional wetlands.

**Proposed Mitigation**– The proposed mitigation may change as a result of comments received in response to this public notice, the applicant's response to those comments, and/or the need for the project to comply with the 404(b)(1) Guidelines. In consideration of the above, the proposed mitigation sequence (avoidance/minimization/compensation), as applied to the proposed project is summarized below:

**Avoidance:** The Applicant has redesigned the Discovery Village Project from the previously approved Scripps Specific Plan to maximally avoid jurisdictional resources along San Marcos Creek.

**Minimization:** In order to minimize impacts to jurisdictional resources associated with San Marcos Creek, Discovery Street deviates from City street design standards. The realignment includes design variances on curve radii as well as reduction of travel lanes and inclusion of non-standard intersections.

**Compensation:** The Applicant is proposing to mitigate impacts to jurisdictional resources through onsite permittee responsible mitigation within the San Marcos Creek Open Space via a combination of establishment, re-establishment, rehabilitation, and preservation.

### **Proposed Special Conditions**

Special conditions providing for the avoidance, minimization and mitigation of impacts to waters of the U.S., threatened and endangered species, and cultural resources would likely be incorporated into the Corps permit, if issued. No specific conditions are proposed at this time.

For additional information please call Stephen Roethle of my staff at 760-602-4835 or via e-mail at [Stephen.Roethle@usace.army.mil](mailto:Stephen.Roethle@usace.army.mil). This public notice is issued by the Chief, Regulatory Division.



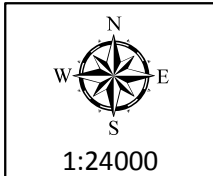
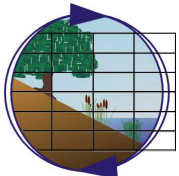
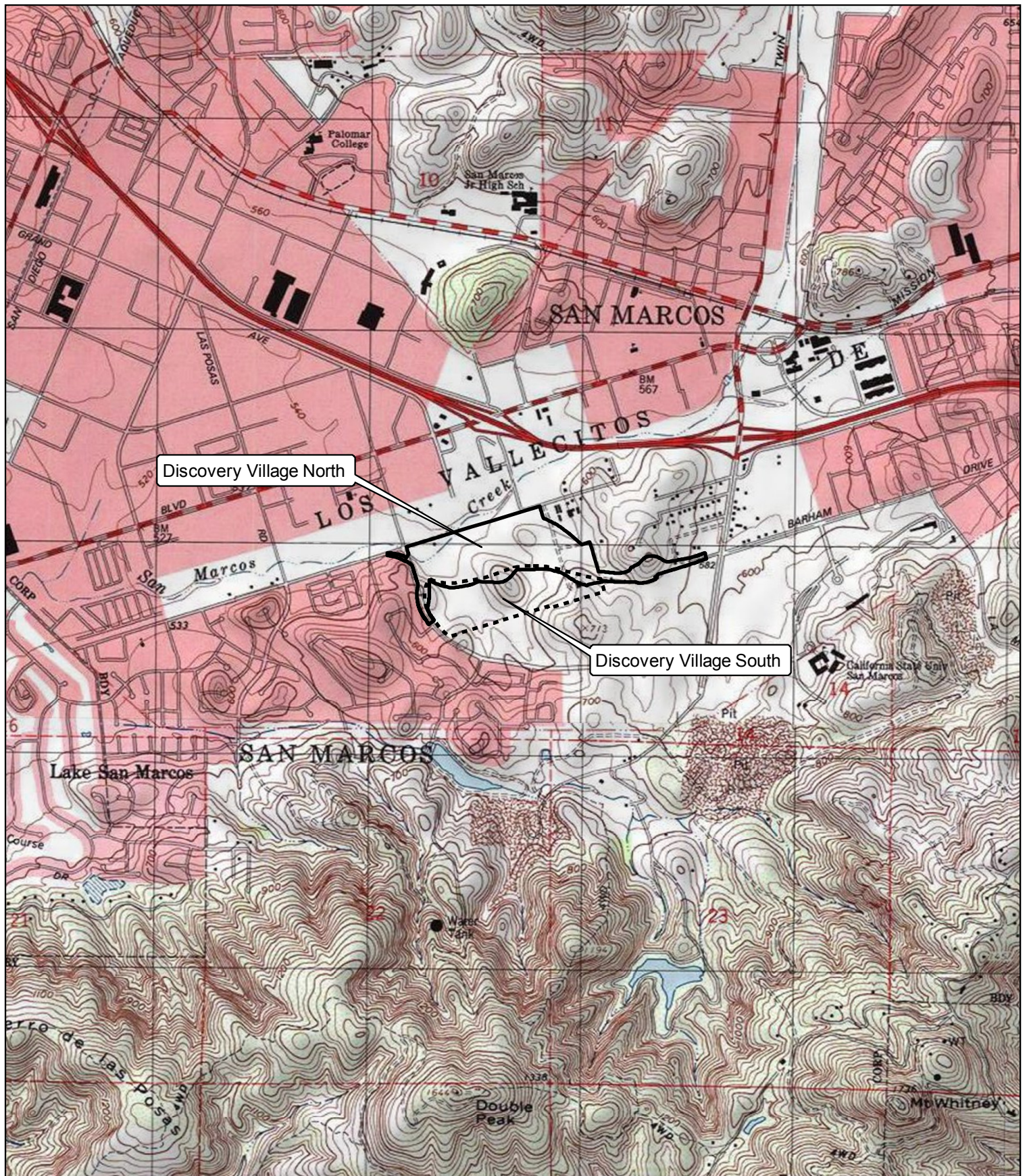
#### *Regulatory Program Goals:*

- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

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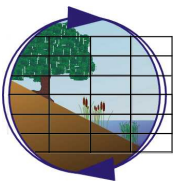
**DEPARTMENT OF THE ARMY**  
**LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS**  
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**Project Vicinity Map**  
Discovery Village Project  
Source: USGS 7.5' San Marcos, CA Quadrangle

**Figure 1**

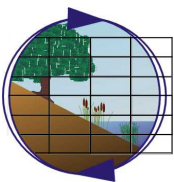
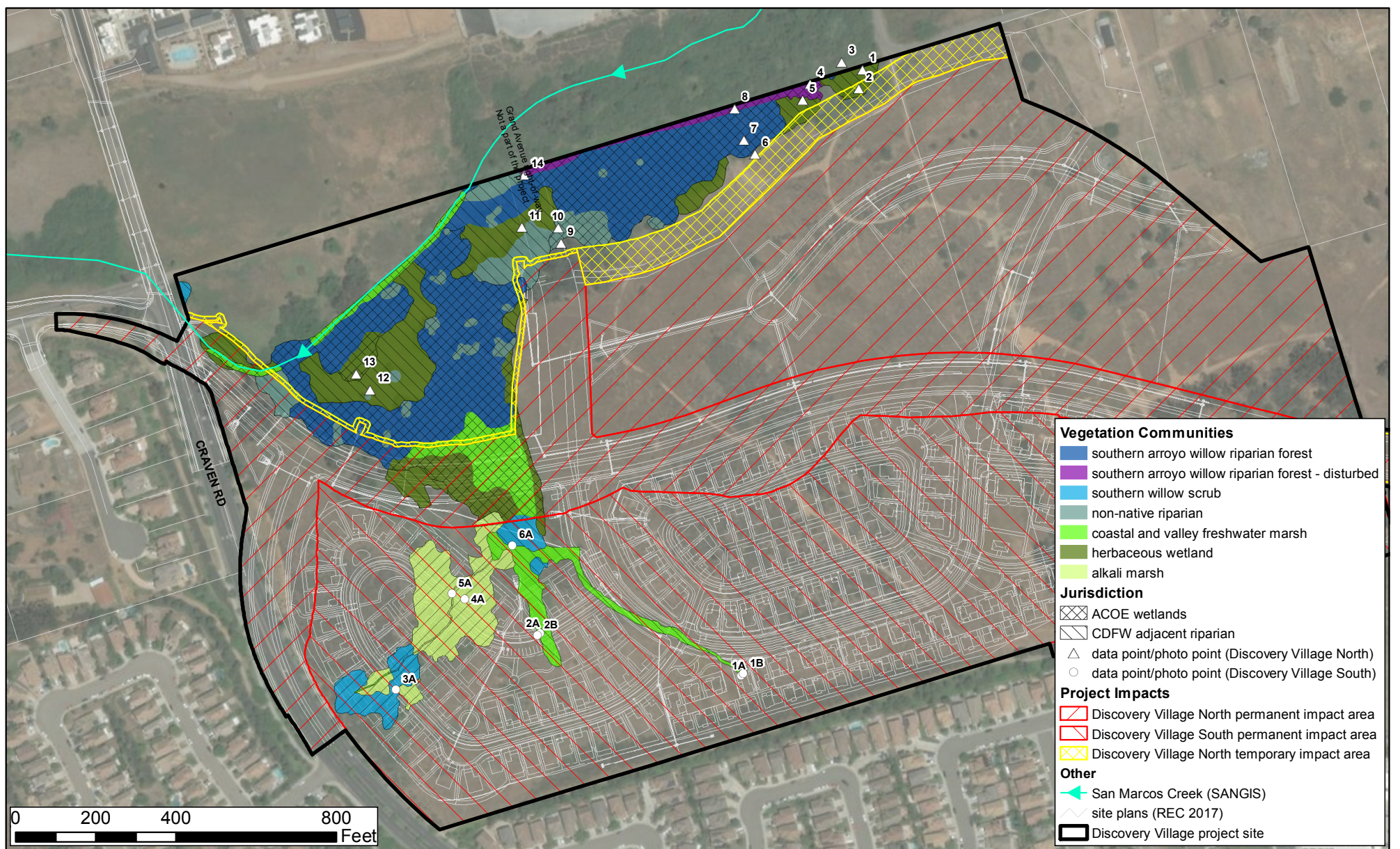


Aerial Source: Digital Globe June 2016

## Local Setting Map

### Discovery Village Project

**Figure 2**



## Project Impact to Jurisdictional Resources Map

### Discovery Village Project

Aerial Source: Digital Globe June 2016

**Figure 3**