

# River Oaks Stormwater Capture Project

## File No. ER20-186

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Initial Study / Mitigated Negative Declaration

## RESPONSES TO PUBLIC COMMENTS AND TEXT CHANGES

February 2021

***CEQA Lead Agency:***



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**Department of Planning, Building and Code Enforcement 200**  
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## Table of Contents

SECTION 1	SUMMARY OF COMMENTS .....	3
SECTION 2	AGENCIES AND PERSONS COMMENTING ON.....	4
SECTION 3	RESPONSE TO COMMENTS .....	5
SECTION 4	TEXT CHANGES TO THE IS/MND .....	8
SECTION 5	COMMENT LETTERS RECEIVED ON THE IS/MND .....	14

## SECTION 1

## SUMMARY OF COMMENTS

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The River Oaks Stormwater Capture Project Initial Study /Mitigation Negative Declaration (IS/MND) was circulated for public review for a 20-day review period, from December 23, 2020 to January 15, 2021. During the circulation period, the City of San José (City) received comment letters and emails from representatives of Santa Clara County Parks and Recreation Department, Santa Clara County Roads and Airport Department, and Santa Clara Valley Water District.

In summary, the comments received on the draft IS/MND did not raise any new issues about the project's environmental impacts, or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND. CEQA does not require formal responses to comments on an IS/MND, only that the lead agency consider the comments received [CEQA Guidelines §15074(b)]. Nevertheless, responses to the comments are included in this document to provide a complete environmental record.

Section 2 of this document contains a list of the agencies that submitted comments on the IS/MND. Section 3 contains the City's responses to comments received on the IS/MND. The specific comments have been excerpted from the two letters and one e-mail and are summarized under "Comment" followed by the City's responses. Section 4 contains text changes to the IS/MND in response to public comments as well as a recent minor site plan revision and a site design option, both of which do not change the environmental impact findings of the IS/MND and no new mitigation measures are required. Section 5 contains copies of the comment letters submitted to the City.

**SECTION 2****AGENCIES AND PERSONS COMMENTING ON THE IS/MND**

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	<b>Comment Received From</b>	<b>Date of Letter</b>	<b>Response on Page</b>
A.	Santa Clara County Parks and Recreation Department, Kelly Gibson	January 13, 2021	5
B.	Santa Clara County Roads and Airports Department, Ellen Talbo	January 13, 2021	5
C.	Valley Water, Colleen Haggerty	January 15, 2021	5

## SECTION 3

## RESPONSE TO COMMENTS

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This section includes responses to comments on the IS/MND. Numbered responses correspond to the comments in each comment letter. Copies of the comment letters are included in Section 5.

### A. RESPONSE TO SANTA CLARA COUNTY PARKS AND RECREATION DEPARTMENT

**Comment A1:** This comment notes that comments from the Santa Clara County Parks and Recreation Department (SCCPRD) are primarily about the project's potential impacts on the Santa Clara County Countywide Trails Master Plan Update (Countywide Trails Plan).

**Response A1:** This comment is acknowledged.

**Comment A2:** This comment notes that there is one Countywide Trails Plan trail route adjacent to the Project: the Guadalupe Sub-Regional Trail, a hiking and off-road bicycle route, located along the Guadalupe River. SCCPRD supports the Project's efforts to include pedestrian routes and encourage recreation, education, and connections to other trails and parks. The comment notes that it is imperative that the Project does not impact the existing Guadalupe Sub-Regional Trail (publicly referred to as the Guadalupe River Trail) located adjacent to the Project site on the east bank of the Guadalupe River.

**Response A2:** The proposed project would not impact the existing Guadalupe River Trail. Text has been provided in Section 4 of this document, as a text addition to the IS/MND, to clarify the proposed project's location relative to the Guadalupe River Trail and note that the trail would not be impacted by the proposed project.

### B. RESPONSE TO SANTA CLARA COUNTY ROADS AND AIRPORTS DEPARTMENT

**Comment B1:** The comment notes that the proposed project identified Montague Expressway as a designated truck route. Therefore, a truck-hauling permit may be required. Upon permitting, the project should submit construction truck circulation route impacting County facilities for review and comment.

**Response B1:** The IS/MND noted Montague Expressway as a designated truck route based on the Primary Truck Routes Diagram in the City of San José General Plan. Montague Expressway is designated as a Primary Truck Route from east of the Guadalupe River to Interstate 680. Text has been provided in Section 4 of this document, as a text addition to the IS/MND, to clarify the potential need for a truck hauling permit, to be confirmed during project design.

### C. RESPONSE TO VALLEY WATER

**Comment C1:** The comment states that to protect the genetic integrity of the existing riparian plantings and Valley Water mitigation plantings along the river, all planting at the site should be in accordance with Design Guides 2 and 3 of the Guidelines and Standards for Land use Near Streams.

**Response C1:** This comment is acknowledged and appreciated. The City is a participant in the Santa Clara County Water Resources Protection Collaborative which, in 2002, adopted the Guidelines and Standards for Land Use Near Streams referenced in the comment. When the proposed project's planting plan is refined at later stages of the project design, plantings will be selected to ensure compliance with these Guidelines and Standards. This information was reflected in the preliminary design document and has been added to Section

2.5.1, Project Design and Operation, of the IS/MND (Page 2-6). Section 4 of this document shows the IS/MND text changes.

**Comment C2:** The comment states that it is unclear on Figure 2-4 if any of the proposed trees will be within 15 feet of the levee toe. To be in conformance with Army Corps of Engineer Levee Guidelines, all trees should be located at least 15 feet from the toe of the levee.

**Response C2:** As discussed in the IS/MND project description, none of the proposed trees would be located within 15 feet of the levee toe. As discussed on page 2-10 of the IS/MND, no roots or structural foundations would be allowed to penetrate the levee prism, and the future growth of trees would be anticipated during final design plant selection to avoid growth into the levee prism. The proposed project would conform with Army Corps of Engineers Levee Safety Program. No changes to the IS/MND are needed.

**Comment C3:** Comment notes that Valley Water does not have a record of the City easement mentioned on page 2-10 of the IS/MND. Valley Water requested that the City forward a copy of the easement deed for Valley Water records and review.

**Response C3:** This comment is acknowledged. The City is researching their records and will coordinate further with Valley Water on access. The IS/MND text has been revised to remove reference to an existing easement. The specific text revisions are shown in Section 4 of this document.

**Comment C4:** Comment states that while page 2-10 notes that no work is proposed within 15 feet of the levee toe, based on Figures 2-4, 2-5 and 2-6 it appears that grading and planting is proposed to occur up to the toe of the levee and on Valley Water property.

**Response C4:** It is acknowledged that the conceptual rendering appears to reflect improvements within 15 feet of the levee toe, however the conceptual layout will be updated during final design. The existing levee toe, as surveyed, is approximately at the existing fenceline. No improvements are proposed within 15 feet of the levee toe, as shown on Figure 2-5, where only the portion of the existing path on City property would be repaved. Significant consideration has been given to avoiding impacts to the levee throughout the planning stages of the proposed project, as reflected in the IS/MND, and it is intended that project grading and plantings will not impact the levee. These objectives will be reflected in the final design. As noted in Table 2-4 of the IS/MND, the City would obtain a permit for any potential work on Valley Water property, with specific permitting needs to be determined during detailed design. No text changes to the IS/MND are needed.

**Comment C5:** Comment notes that as noted on page 2-12 a permit is required for any work that is proposed on Valley Water property. A permit application and plans should be sent to Valley Water to begin the permit review process to identify any concerns while the project is in the early design phase to avoid permitting delays.

**Response C5:** Comment acknowledged. As noted in the comment, Table 2-4 in the IS/MND includes this permit in the list of potential permits to be confirmed during project design. The City will begin the permitting process as soon as appropriate. The comment does not raise any new issues about the project's environmental impacts and no changes to the IS/MND are needed.

**Comment C6:** Comment states that page 3-5 of the IS/MND incorrectly notes that the Guadalupe River levee was constructed by the Army Corps of Engineers; the levee was constructed by Valley Water.

**Response C6:** Comment noted. Text changes have been made to page 3-53 as well as page 2-2 of the IS/MND to accurately reflect that the Guadalupe River was constructed and is maintained by Valley Water. See Section 4 of this document to show the IS/MND text changes.

## SECTION 4

## TEXT CHANGES TO THE IS/MND

Page Number	Description of Change
Page 2-2	<p><b>2.3 Environmental Setting</b></p> <p>In the project vicinity, the Guadalupe River is flanked by a levee embankment, constructed <del>by the U.S. Army Corps of Engineers and maintained by the Santa Clara Valley Water District (Valley Water)</del> <u>in conformance with U.S. Army Corps of Engineers standards.</u></p>
Page 2-6	<p><b>2.5.1 Project Design and Operation</b></p> <p><u>When the project's planting plan is detailed and refined at later stages of the project design, plantings would be selected to ensure compliance with the applicable Guidelines and Standards for Land Use Near Streams adopted by the Santa Clara Valley Water Resources Protection Collaborative. These guidelines include requirements and recommendations for planting designs for various land use activities in and around Santa Clara County streams, in order to protect stream resources.</u></p>
Page 2-7 Page 2-8 Page 2-9	<p><b>2.5.1 Project Description</b></p> <p>Figure 2-4 Concept Rendering of Proposed Project (<i>revised January 2021</i>)  Figure 2-5 Proposed Site Plan (<i>revised January 2021</i>)  Figure 2-6 Planting Zone Delineation (<i>revised January 2021</i>)</p> <p><i>Note: After circulation of the IS/MND, original Figures 2-4, 2-5 and 2-6 as shown in the IS/MND on pages 2-7, 2-8, and 2-9, were slightly revised. The sedimentation forebay was realigned slightly northward, and minor alterations to the retaining wall and perimeter trail were made to accommodate space for equipment for potential future reuse of captured stormwater. At this time, the City does not have plans for reuse of stormwater. If the City chooses to implement a reuse project in the future, the City will conduct separate environmental review under CEQA. The revised figures are included following this table and incorporated into the IS/MND by reference herein.</i></p>
Page 2-10	<p><b>2.5.1 Project Design and Operation</b></p> <p>The City of San José has <del>an existing easement</del> <u>operations and maintenance (O&amp;M) access that encompasses</u> <del>to the existing pathway along the toe of the levee. The proposed Project would avoid impacts to this existing easement</del> <u>O&amp;M access pathway and within the levee prism.</u></p> <p><u>The City has identified a design option that would construct a retaining wall within the southern edge of the basin (approximately 580 feet long and on average 7 feet high). The retaining wall would allow an approximate 20-foot distance between the top of the wall/basin and the Valley Water property line (12-feet of which would be used as the City's maintenance access and perimeter trail), and an approximate 30-foot distance between the top of the wall/basin and the toe of the levee slope. This design option would minimize any potential encroachment on the O&amp;M road and Valley Water</u></p>



	<p><u>property. The design option would not substantially change the overall grading quantities and truck haul trips required during construction as compared to the proposed Project design. This design option is shown in Figure 2-7.</u></p>
Page 2-12	<p><b>Table 2-4: Permits and Approvals</b></p> <p>Santa Clara Valley Water District: Permit for any impact to the Guadalupe River levee system (including areas within the existing <del>easement</del> <u>O&amp;M access pathway, as needed</u>)</p> <p><u>City of San José: Truck Hauling Permit may be required (to be confirmed during project design)</u></p>
Page 3-2	<p><b>3. Environmental Checklist Form</b></p> <p><b>10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)</b></p> <p>Valley Water – encroachment permit for any impacts to the Guadalupe River levee system (including areas within the existing <del>easement</del> <u>O&amp;M access pathway, as needed</u>)</p> <p><u>City of San José - Truck Hauling Permit may be required (to be confirmed during project design)</u></p>
Page 3-53	<p><b>3.10.1 Setting</b></p> <p>In the project vicinity, the Guadalupe River is flanked by a levee embankment, constructed <del>by the USACE</del> and maintained by the Santa Clara Valley Water District (Valley Water) <u>in conformance with USACE standards.</u></p>
Page 3-79	<p><b>3.16.2. Findings – Discussion of Impact (b)</b></p> <p><u>The Guadalupe River Trail, a paved recreational pedestrian and bicycle path, is located along the Guadalupe River to the southwest of the project site. The proposed project would not have physical impacts on the trail or impede use of the trail either during construction or operation.</u></p>

**Figure 2-4: Concept Rendering of Proposed Project**  
(Revised January 2021)



**River Oaks Stormwater Capture Project**

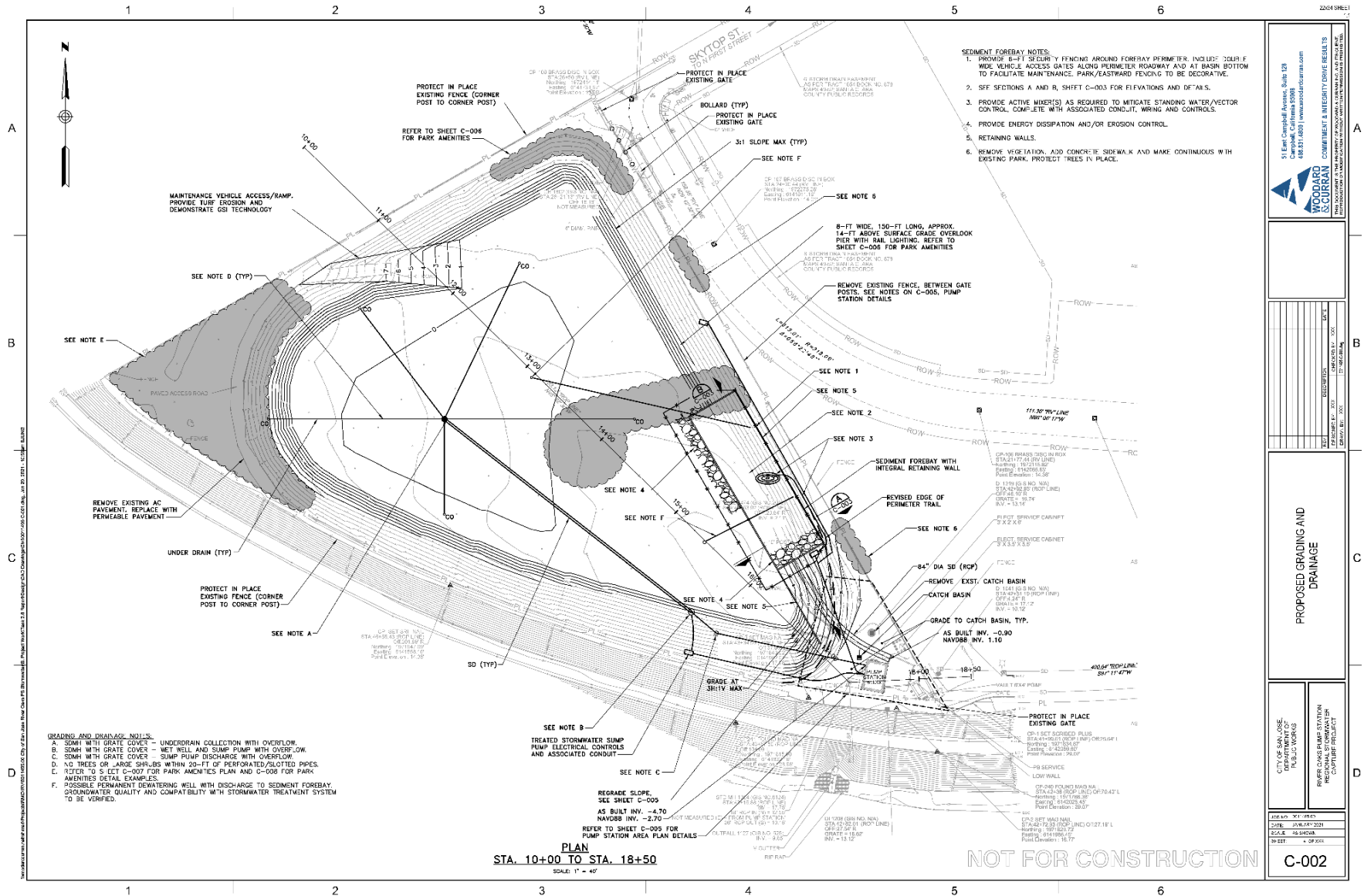
January 29, 2021



0 10 20 30 60

**rhaa**  
LANDSCAPE ARCHITECTURE + PLANNING

Figure 2-5: Proposed Site Plan  
(Revised January 2021)



WOODWARD-CLYDE  
CITY OF SAN JOSE  
DEPARTMENT OF PUBLIC WORKS  
REGIONAL STORMWATER CAPTURE PROJECT

REV	DATE	DESCRIPTION
1	10/11/2021	ISSUED FOR PERMITS
2	10/11/2021	ISSUED FOR PERMITS
3	10/11/2021	ISSUED FOR PERMITS

PROJECT NO. 2019-0001  
SHEET NO. 2019-0001-002

**PROPOSED GRADING AND DRAINAGE**

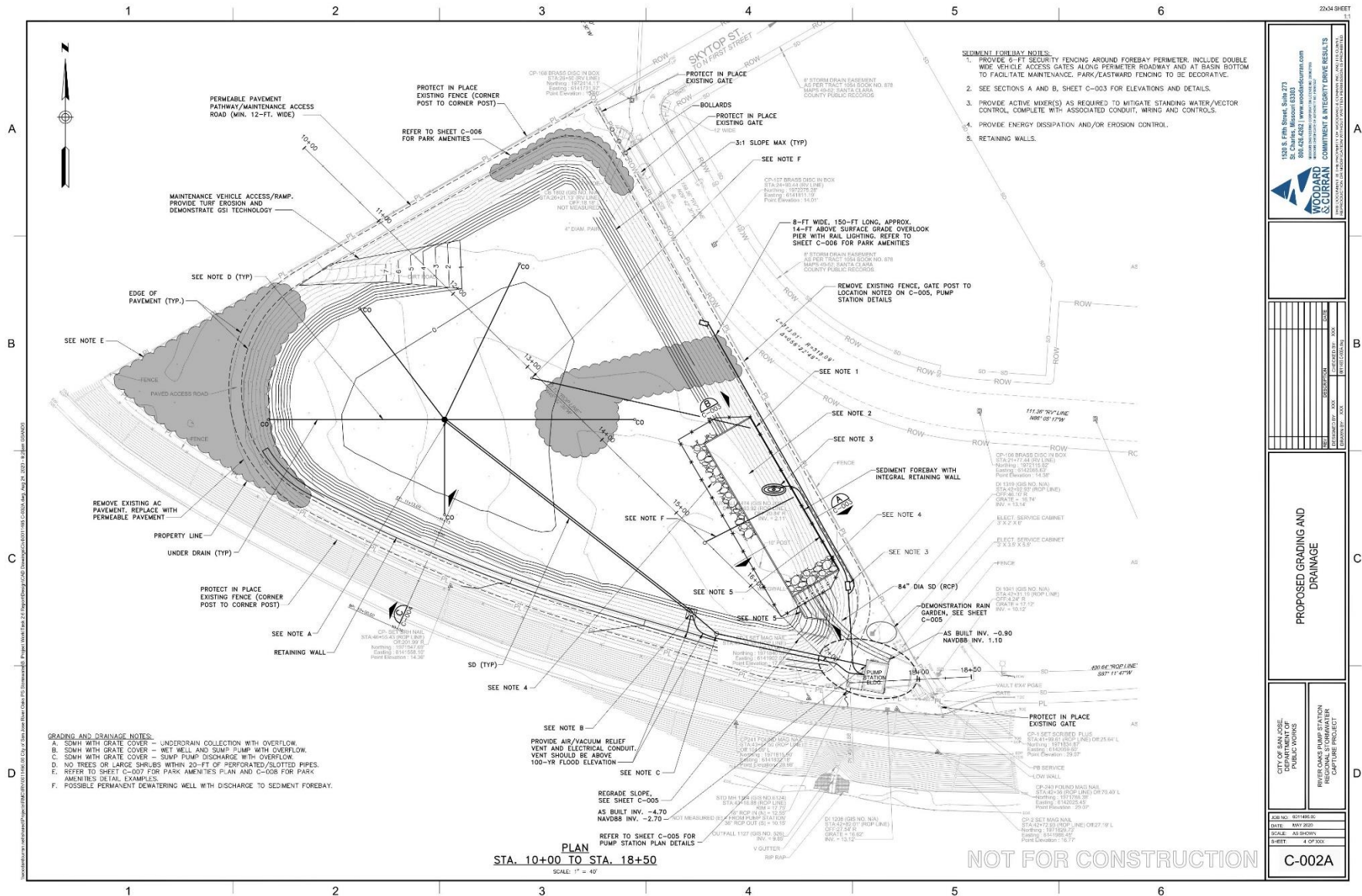
C-002



**Figure 2-6: Planting Zone Delineation**  
(Revised January 2021)



Figure 2-7: Site Plan for Design Option with Retaining Wall



## **SECTION 5**

## **COMMENT LETTERS RECEIVED ON THE IS/MND**

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The following pages contain the comment letters and e-mail received on the IS/MND. The bracketed comment numbering on each of the comments corresponds to the responses in Section 3.



# County of Santa Clara

## Parks and Recreation Department

298 Garden Hill Drive  
Los Gatos, California 95032-7669  
(408) 355-2200 FAX (408) 355-2290  
Reservations (408) 355-2201

[www.parkhere.org](http://www.parkhere.org)

January 13, 2021

City of San Jose  
Attn: Bethelhem Telahun  
200 East Santa Clara Street  
San Jose, CA 95113

### **SUBJECT: Notice of Intent to Adopt a Mitigated Negative Declaration for the River Oaks Stormwater Capture Project**

Dear Bethelhem Telahun,

The County of Santa Clara Parks and Recreation Department (County Parks Department) is submitting the following comments on the Notice of Intent to Adopt a Mitigated Negative Declaration for the River Oaks Stormwater Capture Project (Project) which proposes to convert the existing flood control basin to provide stormwater treatment via bioretention prior to discharge to the Guadalupe River.

In regard to the Project, the County Parks Department's review is primarily focused on potential impacts related to the *Santa Clara County Countywide Trails Master Plan Update (Countywide Trails Plan)*, an element of the County General Plan (adopted by the Board of Supervisors on November 14, 1995), relative to countywide trail routes, public access and regional parks. There is one *Countywide Trails Plan* trail route adjacent to the Project:

A1

*Guadalupe Sub-Regional Trail (S3)*- a hiking and off-road bicycle route, located along the Guadalupe River

The County Parks Department supports the collaborative efforts between various City of San Jose departments and other local agencies in regard to this Project and future site improvements. The County Parks Department also supports the Project's efforts to plan and develop new pedestrian routes within the development as well as encourage recreation, education, and connections to other trails and parks in the vicinity. It is imperative that the proposed development does not impact the completed Guadalupe Sub-Regional Trail, known publicly as the Guadalupe River Trail, located adjacent to the Project site on the east bank of the Guadalupe River.

A2

Thank you for the opportunity for County Parks Department to provide comments on the Notice of

Board of Supervisors: Mike Wasserman, Cindy Chavez, Dave Cortese, Susan Ellenberg, S. Joseph Simitian

County Executive: Jeffrey V. Smith



Intent to Adopt a Mitigated Negative Declaration for the River Oaks Stormwater Capture Project. If you have any questions, please email me at [kelly.gibson@prk.sccgov.org](mailto:kelly.gibson@prk.sccgov.org)

Sincerely,  
*Kelly Gibson*  
Kelly Gibson  
Assistant Planner



Board of Supervisors: Mike Wasserman, Cindy Chavez, Dave Cortese, Susan Ellenberg, S.Joseph Simitian

County Executive: Jeffrey V. Smith



# County of Santa Clara

Roads and Airports Department  
Planning, Land Development and Survey

101 Skyport Drive  
San Jose, CA 95110-1302  
(408) 573-2460 FAX 441-0276



**January 13, 2021**

## **Bethelhem Telahun**

City of San Jose 200 East Santa Clara Street  
[bethelhem.telahun@sanjoseca.gov](mailto:bethelhem.telahun@sanjoseca.gov)

### **SUBJECT: Public Notice of Intent to Adopt a Mitigated Negative Declaration for River Oaks Stormwater Capture Project (ER20-186)**

The County of Santa Clara Roads and Airports Department (The County) appreciates the opportunity to review the Public Notice of Intent to Adopt a Mitigated Negative Declaration for River Oaks Stormwater Capture Project (ER20-186), and is submitting the following comments:

- The proposed project identified Montague Expressway as a designated truck route. Therefore a truck-hauling permit may be required. Upon permitting, the project should submit construction truck circulation route impacting County facilities for review and comment.

B1

If you have any questions or concerns about these comments, please contact me at 408-573-2482 or [rg.Ellen.Talbo@rda.sccgov.org](mailto:rg.Ellen.Talbo@rda.sccgov.org)

Thank you,

Ellen Talbo, AICP

County Transportation Planner

**From:** [Colleen Haggerty](#)  
**To:** [Telahun, Bethelhem](#)  
**Subject:** City File ER20-186  
**Date:** Friday, January 15, 2021 10:04:26 PM

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[External Email]

Hi Bethelhem,

Valley Water has reviewed the MND for the River Oaks Stormwater Capture project, City File ER20-186. Based on our review we have the following comments:

1. To protect the genetic integrity of the existing riparian plantings and Valley Water mitigation plantings along the river, all planting at the site should be in accordance with Design Guides 2 and 3 of the Guidelines and Standards for Land use Near Streams. C1
2. It is unclear on Figure 2-4 if any of the proposed trees will be within 15 feet of the levee toe. To be in conformance with Army Corps of Engineer Levee Guidelines, all trees should be located at least 15 feet from the toe of the levee. C2
3. The MND notes on page 2-10 that the City has an easement over Valley Water property; however, Valley Water does not have record of this easement. Please forward a copy of the easement deed for our records and review. C3
4. Page 2-10 notes that no work is proposed within 15 feet of the levee toe; however, based on Figures 2-4, 2-5 and 2-6 it appears that grading and planting is proposed to occur up to the toe of the levee and on Valley Water property. C4
5. As noted on page 2-12 a permit is required for any work that is proposed on Valley Water property. A permit application and plans should be sent to Valley Water to begin the permit review process to identify any concerns while the project is in the early design phase to avoid permitting delays. C5
6. Page 3-5 incorrectly notes that the Guadalupe River levee was constructed by the Army Corps of Engineers; the levee was constructed by Valley Water. C6

Please forward a permit application and plans for the project so that we may begin to the permit review process. If you have any questions please let me know.

Colleen Haggerty, PE

Associate Civil Engineer

Community Projects Review Unit

Santa Clara Valley Water District

5750 Almaden Expressway, San Jose, CA 95118

(408) 630-2322 direct | (408)265-2600 main | [chaggerty@valleywater.org](mailto:chaggerty@valleywater.org) | [www.valleywater.org](http://www.valleywater.org)

\* Mailing address for FedEx, UPS, Golden State, etc.

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