

TABLE OF CONTENTS

Section 1.0	Introduction	1
Section 2.0	Responses to Draft IS/MND Comments	2
Section 3.0	Draft IS/MND Text Revisions.....	12
Section 4.0	Conclusion.....	27

Appendix A: Draft Comment Letters

SECTION 1.0 INTRODUCTION

The Initial Study/Mitigated Negative Declaration (IS/MND) for the Camden Avenue Residential project was prepared in compliance with the requirements of the California Environmental Quality Act (CEQA). The 20-day public circulation period for the IS/MND started July 22, 2022 and ended August 10, 2022. Section 2.0 contains responses to comments submitted by agencies, organizations, and individuals during the IS/MND public review period. Copies of the comment letters are attached to this document in Appendix A.

CEQA does not require formal responses to comments on an IS/MND and the decision-making body shall adopt the proposed MND only if it finds on the basis of the whole record before it, that there is no substantial evidence that the project will have a significant effect on the environment and the MND reflects the lead agency's independent judgment and analysis [CEQA Guidelines §15074(b)].

Pursuant to CEQA Guidelines §15073.5, the recirculation of the MND is required when the document must be "substantially revised" after public notice of its availability. A "substantial revision" is defined as:

- (1) A new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance; or
- (2) The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required.

In response to comments received during the public review period, the IS/MND was revised to provide clarification on the project site and its boundaries and add information requested by commenters to the discussion of the existing regulatory framework and site conditions. Revisions to the IS/MND are shown in Section 4.0 below. No new, avoidable significant effects were identified, and no new mitigation measures or revisions are required to reduce potential effects to a less than significant level. At the request of the Santa Clara Valley Water District (see Comment B.8), MM BIO-2.4 was updated to require the project's landscape plan to conform with the design guides set forth in Chapter 4 of the Valley Water User Manual: Guidelines and Standards for Land Use Near Streams; however, this addition was not necessary to reduce potential effects associated with project landscaping to a less than significant level. Therefore, under CEQA Guidelines §15073.5, recirculation of the IS/MND is not required.

SECTION 2.0 RESPONSES TO DRAFT IS/MND COMMENTS

Comments are organized by the source of the letter and its date. The specific comments from each of the letters and/or emails are presented, with each response to that specific comment directly following. Copies of the letters and emails received by the City of San José are included in their entirety in Appendix A of this document. Comments received on the Draft IS/MND are listed below.

<u>Comment Letter and Commenter</u>	<u>Page of Response</u>
A. Santa Clara Valley Audubon Society (received August 9, 2022)	3
B. Santa Clara Valley Water District (received August 10, 2022)	6

A. Santa Clara Valley Audubon Society (received August 9, 2022)

Comment A.1: The Santa Clara Valley Audubon Society (SCVAS) is one of the largest National Audubon Society chapters in California. Our mission is to promote the enjoyment, understanding, and protection of birds and other wildlife by engaging people of all ages in birding, education, and conservation. We appreciate the opportunity to comment on the Initial Study / Mitigated Negative Declaration (IS/MND) for the Camden Avenue Residential Project. The project will construct seven detached single-family residences on an approximately 1-gross-acre site and widen Camden Avenue. The parcel is adjacent to the Guadalupe Creek. Please find our comments below.

Response A.1: This comment does not raise any issues regarding the adequacy of the IS/MND; therefore no further response is required.

Comment A.2: I. Riparian Setbacks. The July 2022 IS/MND (pages 15-16) provides policies from the Envision San José 2040 General Plan. The section neglects to consider all the goals and policies that pertain to Riparian Corridors. Specifically, the San Jose’s General Plan Goal ER-2 Riparian Corridors, and riparian corridors policies, including:

- General Plan Policy ER-2.1- Ensure that new public and private development adjacent to riparian corridors in San José are consistent with the provisions of the City’s Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Conservation Plan/ Natural Communities Conservation Plan (HCP/NCCP).
- General Plan Policy ER-2.2 - Ensure that a 100-foot setback from riparian habitat is the standard *to be achieved in all but a limited number of instances*, only where no significant environmental impacts would occur. (emphasis added).

This omission is important because these policies call for keeping development outside of the 100-ft setback from the riparian corridor of the Guadalupe Creek and other waterways in San Jose. Note that General Plan Policy ER-2.2 states that 100-ft setback from riparian habitat is “the standard to be achieved in all but a limited number of instances”.

Comment 1: Please add General Plan policies ER-2.1 and ER-2.1 2.2 to the IS/MND.

Comment 2: In recent years, development within the 100-ft setback has been the standard in San Jose, with reduced setbacks approved for many new projects. Thus, this project - cumulatively with other projects that are approved or pending approval within the 100-ft setbacks of the San Jose riparian corridors - is inconsistent with the General Plan.

Response A.2: The IS has been revised to include General Plan policies ER-2.1 and ER-2.2 and include an explanation of the project’s consistency with Council Policy 6-34 and the 100 foot riparian setback prescribed therein; refer to Section 3.0 of this Memorandum. As documented in Section 4.4 of the Initial Study and the Biological Evaluation Technical Report (attached to the Initial Study as Appendix B), no significant environmental impacts on the riparian habitat adjacent to the project site would occur with adherence to mitigation measures MM BIO-1.1 through MM BIO-1.4 and MM BIO-2.1 through MM BIO-2.6. Therefore, the proposed reduced setback

would not be inconsistent with General Plan Policy ER-2.2 or City Council Policy 6-34 given project circumstances warrant an exception from the standard 100-foot setback. All past and future projects located that have requested a reduced setback (i.e., cumulative projects) are required by General Plan Policy ER-2.2 to demonstrate that no significant environmental impacts would occur. Similarly, Council Policy 6-34 would require cumulative projects to demonstrate that 1) there is no reasonable alternative that avoids or reduces the encroachment into the setback area; 2) the reduced setback will not significantly reduce or adversely impact the riparian corridor; 3) the proposed uses are not fundamentally incompatible with riparian habitat; 4) there is no evidence of stream bank erosion or previous attempts to stabilize the stream banks that could be negatively affected by the proposed development within the setback area; and 5) the granting of the reduced setback would not be detrimental or injurious to adjacent and/or downstream properties. With mandatory adherence to General Plan Policy ER-2.2 and City Council Policy 6-34, the project would not result in a cumulatively considerable impact on riparian habitat.

Comment A.3: Council Policy 6-34 Riparian Corridor and Bird Safe Design (2016) and the San Jose Riparian Corridor Policy Study (1999) allow for reduced setbacks under “limited circumstances”. In the Biological Assessment (Live Oak Associates, September 2021, section 3.3.12), a reduced setback is justified based on the following circumstances:

1. Urban infill locations where most properties are developed and are located on parcels that are equal to or less than one (1) acre;
2. Sites adjacent to small lower order tributaries whose riparian influences do not extend to the 100-foot setback;
3. Sites with unique geometric characteristics and/or disproportionately long riparian frontages in relation to the width of the minimum Riparian Corridor setback;” and
4. Instances where implementation of the project includes measures that can protect and enhance the riparian value more than the minimum setback.

Comment 3: The Guadalupe Creek at this location is designated a Category 1 stream in the SCV Habitat Plan, not a “lower order” (Category 2) tributary. The river and its riparian corridor adjacent to the Project support a healthy riparian forest and near year round water flow, with at times heavy flows as recognized by Valley Waller with additional floodplain management on the southern side. Whether or not the project site, well within the 100-ft setback, is “beyond the influence of the riparian habitat” is immaterial in this circumstance because the Guadalupe Creek is not a small lower order tributary.

- Please remove this criterion (circumstance #3) from the IS/MND list of circumstances that justify encroachment into the riparian corridor.

Response A.3: Page 58 of the IS correctly identified Guadalupe Creek as a Category One stream. As noted in Response A.2, the IS was revised to include an explanation of the project’s consistency with Council Policy 6-34. Circumstance #3 was not included as justification for an exception to the 100-foot setback requirement prescribed in Council Policy 6-34. The project qualifies for an exception to the 100-

foot setback requirement under circumstances 2, 4, and 7. Refer to Section 3.0 of this Memorandum for the full discussion of the project's consistency with Council Policy 6-34.

Comment A.4: II. Bird Friendly Design. Every year, as many as 1 billion birds die from colliding with windows and other glazed facades¹. During the day, these collisions result from birds flying towards reflections of open skies or nearby vegetation. At night, when most birds migrate, light from buildings and other human developments disorient and attract them, luring them not just off their migratory paths, but straight into collisions. These fatalities account for 2 to 9 percent of all birds in North America in any given year, making building strikes a significant source of human-caused avian mortality in the United States. Bird collisions have contributed to the cumulative loss in number of birds and to ongoing decline of many migratory species in North America.

Bird collisions occur where birds are active and more collisions occur near habitat areas and riparian corridors, which is why most policies regulating bird collisions focus on these locations.

Comment 4: This proposed mitigation reflects policies and mitigations that are applied by several jurisdictions in the Bay Area:

- For buildings within 300-ft of the edge of the riparian corridor, minimize fenestration and apply Bird-Safety Treatment to windows or glazing with unobstructed line-of-sight to open space and/or the riparian corridor so that no more than 10% of the glazing area of the facade consists of untreated glazing.

Response A.4: Adherence with the proposed mitigation is not necessary to reduce impacts associated with bird collisions to a less than significant level. Mitigation Measure MM BIO-2.3 (refer to Page 54 of the IS) requires the project's windows to comply with the Bird-Safe Design Guidance provided in Council Policy 6-34. New structures would not be allowed to include windows with mirrored surfaces that glare into the riparian corridor, and mirrors, large areas of reflective glass, transparent glass skyways, walkways, or entryways, free-standing glass walls, and transparent building corners would be prohibited. Additionally, MM BIO-2.3 would require the use of bird-friendly glass. Consistent with the conclusions of the Biological Evaluation Technical Report and the discussion under Section 4.4, checklist question d) of the IS, adherence with MM BIO-2.3 would ensure that the project does not substantially interfere with the movement of native resident or migratory bird species.

Comment A.5: IV. Lighting. Artificial Light at night is emerging as a forceful and pervasive disruptor to biological beings, affecting almost all organisms in all ecosystems, including birds, as well as public and human health. The International Dark Sky Association published an in-depth review in "Artificial Light at Night: State of the Science 2022", a state of the art report for smart fixtures and lighting which can help regulate lighting and reduce light pollution. San Jose Section 2.3.7 of the City-wide Design Standards and Guidelines also provides direction for mitigating light pollution.

Comment 5: To avoid overlighting, reduce light pollution, and mitigate potential harm to biological resources and human health,

- All outdoor lighting fixtures will be capable of accepting 7-pin controls that can enable use of dimmers, timers, motion sensors, and networking;
- The project should comply with Standards S1, S6, S7 and Guidelines G5, G6, G7 and G8 in Section 2.3.7 of the City-wide Design Standards and Guidelines Site, Lighting.
- Between the hours of 11 p.m. and sunrise, all outdoor lighting should be reduced in intensity and dimmable to no more than fifty percent of the fixture's maximum possible brightness.

Please do not hesitate to contact SCVAS if you have questions.

Response A.5: Adherence with the proposed mitigation is not necessary to reduce impacts to biological resources and human health associated with overlighting and light pollution to a less than significant level. The specific lighting fixtures to be installed are not known at this time; however, Mitigation Measure MM BIO-2.2 (refer to Page 54 of the IS) requires the project's lighting to be directed down and away from surrounding land uses and the riparian corridor. MM BIO-2.3 prohibits up-lighting and spotlights, and would require non-emergency lighting to be turned off or shielded at night. Adherence with MM BIO-2.2 and MM BIO-2.3 would ensure that the project does not result in overlighting or light pollution that could harm biological resources or human health. Further, as discussed on page 20 of the Initial Study, the project would be subject to design review, which would ensure the project complies with Standards S1, S6, and S7 of the Citywide Design Standards and Guidelines.

B. Santa Clara Valley Water District (received August 10, 2022)

Comment B.1: Valley Water has reviewed the Initial Study/Mitigated Negative Declaration (IS/MND) for the Camden Avenue Residential Project received on July 21, 2022. Based on our review of the IS/MND we have the following comments: Page 7 notes the site is bounded to the east by a Valley Water maintenance road easement and Guadalupe Creek. The project site is located directly adjacent to Valley Water property where Guadalupe Creek is located. There is no maintenance road easement located on the project site or on Valley Water property. Please revise the text for accuracy.

Response B.1: The IS has been revised to clarify that the project site does not encompass any portion of Valley Water property or the riparian habitat located along Guadalupe Creek. Revisions to the IS are identified in Section 3.0 of this Memorandum.

Comment B.2: Page 20 states the project will “preserve and improve a 50-foot-wide, 0.25 acre portion of the riparian corridor...” However, much of the noted 50 foot top of bank setback area is not located on the project site; and therefore, is not being preserved or improved by the project.

Response B.2: As noted in Response B.1, the IS has been revised to clarify that the project site does not encompass any portion of riparian habitat located along Guadalupe Creek, including the area identified in Comment B.2, and therefore the project does not preserve or improve this area. This comment does not raise any issues regarding the adequacy of the IS/MND; therefore no further response is required.

Comment B.3: The document describes in multiple places, including but not limited to pages 10, 20, 47, 51, 83, and 115, that the site is comprised of two areas: a 0.75 acre area west of Valley Water's chain link fence and maintenance road and a 0.25 acre area east of the fence and maintenance road. The project site does not include a Valley Water maintenance road or chain link fencing; these improvements are located on the adjacent Valley Water property. The document needs to be revised to describe the site accurately in relation to Valley Water property, fencing, etc and Figures 3.2-1 and 3.2-3. It is unclear if the analysis of impacts on the riparian corridor is complete and accurate as the site description is not correct and is not consistent with the information in Appendix B: Biological Evaluation Technical Report. Additionally, it is not clear if the acreage of the mitigation area is correct since the 0.25 acre area is described as being east of Valley Water's maintenance road and fencing which is Valley Water property and not part of the project. Please revise the document for accuracy and consistency with the information contained in Appendix B and confirm the analysis for biological impacts is accurate and complete.

Response B.3: As noted in Response B.1, the IS has been revised to clarify that the project site does not encompass any portion of Valley Water property or the riparian habitat located along Guadalupe Creek. The conclusions regarding the project's biological impact (including on the riparian corridor) were not affected by these revisions, given that the aforementioned revision increased the distance between the area of effect and the riparian corridor. The acreage of the riparian setback where the proposed Habitat Mitigation and Monitoring Plan would be implemented within the project site is correctly stated as 0.25-acres in the IS.

Comment B.4: The Mitigation and Monitoring Plan in Appendix B, notes the use of local riparian plants sourced from propagules found in the Guadalupe Watershed or the neighboring watersheds, if necessary. Valley Water supports this effort and this is in conformance with Design Guides 2 and 4 of the Guidelines and Standards for Land Use Near Streams which was developed by Valley Water, cities (including San Jose) in Santa Clara County, and the County in collaboration. However, the container sizes specified in the plan are larger than is typically available for the designated custom grown plants. Additionally, Valley Water recommends direct seeding for oaks, having found that the superior tap root that results allows seedlings to be weaned off irrigation sooner than container stock. Please update the plan to better reflect the size plants that can be obtained for watershed specific custom grown plants. If such plants cannot be found in the container sizes desired, the project should use native plants, not local to the Guadalupe Watershed, instead in conformance with Design Guide 3.

Response B.4: As noted by the commenter, the HMMP is in conformance with Design Guides 2 and 4 of the Guidelines and Standards for Land Use Near Streams. Consistent with Design Guide 3, the HMMP does not propose the planting of any non-native plants. The HMMP may be adjusted as necessary to account for available

materials but would remain consistent with the aforementioned design guides, and therefore would not result in any new or greater impacts than disclosed in the Initial Study. This comment does not raise any issues regarding the adequacy of the Initial Study, and therefore no further response is required.

Comment B.5: Page 53 states the 0.25 acre area of the site is comprised of Sycamore Oak Riparian Forest Habitat; however, based on the information in Appendix B and the figures in the IS/MND, the site does not have any riparian habitat. The riparian area is located on the adjacent Valley Water property. Please revise the document for accuracy.

Response B.5: Refer to Responses B.1 and B.3.

Comment B.6: Mitigation measures MM BIO-2.4 and 2.6, described on pages 10 and 54, require the project to remove invasive species from the 0.25 acres area and replant with locally native species. Use of locally native riparian species should be in conformance with the Guidelines and Standards for Land Use Near Stream Design Guides 2 and 4 and specify the use of custom grown plants sourced from propagules collected in the Guadalupe watershed.

Response B.6: Refer to Response B.8.

Comment B.7: Page 46 of the Biological Resources section describes the City's Riparian Corridor policy and the requirement for a minimum 100 feet riparian setback for projects; however, there is no discussion in the document regarding consistency with the policy. Please include a discussion regarding consistency with the Riparian Corridor Policy. While it may not be possible to have a 100 foot setback due to the size of the parcel in this case, Valley Water supports maximizing the setbacks to the riparian corridor.

Response B.7: Refer to Responses A.2 and A.3.

Comment B.8: Mitigation Measure MM BIO-2.4, page 55, should reference the Guidelines and Standards for Land Use Near Streams Design Guides 2-4 (attached) regarding appropriate plantings to use within the riparian corridor setback area to protect the existing locally native riparian habitat along Guadalupe Creek.

Response B.8: As noted in Section 1.0 of this Responses to Comments Memorandum, MM BIO-2.4 was updated to require the project's landscape plan to conform with the design guides set forth in Chapter 4 of the Valley Water User Manual: Guidelines and Standards for Land Use Near Streams in response to this comment. As this comment did not raise any issues regarding the adequacy of the IS/MND, no further response is required.

Comment B.9: Mitigation Measure MM BIO-2.6, page 55, should also include the creation of guidelines for the maintenance of the riparian setback area and riparian corridor. The guidelines should provide information and best management practices for weed control including pesticide/herbicide use; appropriate replacement plants, including use of watershed specific stock and sourcing information; appropriate irrigation around coast live oaks and other plants that have a low tolerance for summer irrigation; and best management practices for working around the creek and

riparian habitat in general. Helpful information regarding these subjects can be found in the Guidelines and Standards for Land Use Near Streams.

Response B.9: As noted in Response B.8, MM BIO-2.4 has been revised to require the landscape plan to demonstrate compliance with the design guides set forth in Chapter 4 of the Valley Water User Manual: Guidelines and Standards for Land Use Near Streams. MM BIO-2.6 refers to the HOA bylaws, which would not govern the riparian setback area. Maintenance of the riparian setback area would be done in accordance with the Habitat Mitigation and Monitoring Plan (Appendix B to the IS) under the oversight of a qualified biologist, who would be required to hold the appropriate certifications, such as the following: International Society of Arboriculture (ISA) Arborist and ISA Tree Risk Assessment Qualification, California Rapid Assessment Method (CRAM) (Riverine and Perennial Estuarine modules), Qualified Stormwater Pollution Prevention Plan (SWPPP) Developer (QSD) and Practitioner (QSP), and Certified Professional in Erosion and Sediment Control (CPESC). As documented in Section 4.4 of the Initial Study and the Biological Evaluation Technical Report (attached to the Initial Study as Appendix B), no significant environmental impacts on the riparian habitat adjacent to the project site would occur with adherence to mitigation measures MM BIO-1.1 through MM BIO-1.4 and MM BIO-2.1 through MM BIO-2.6.

Comment B.10: The discussion on page 58 regarding consistency with the Santa Clara Valley Habitat Plan is not complete. The document states that the project would qualify for a 35 foot stream setback instead of the 100 foot required setback. However, an exception must be obtained for a reduced setback and it is not clear if that has been done. Additionally, the setback requirement, as stated in Appendix B, is a minimum 50- foot top of bank setback or 35 foot setback from overhanging riparian vegetation, whichever is greater. The document needs to be revised for accuracy and it needs to be confirmed that the appropriate setback is proposed for site.

Response B.10: Page 58 of the IS has been revised to clarify that the project could have a 50 foot top of bank setback or 35 foot setback from overhanging riparian vegetation, whichever is greater; refer to Section 3.0 of this Memorandum. As noted in Response A.2, the IS was revised to include an explanation of the project's consistency with Council Policy 6-34. Circumstance #3 was not included as justification for an exception to the 100-foot setback requirement prescribed in Council Policy 6-34. The project appears to qualify for an exception to the 100-foot setback requirement under circumstances 2, 4, and 7, and the setback exception request will be referred to the Habitat Agency for comment before being acted upon by the City. Refer to Section 3.0 of this Memorandum for the revised text regarding the project's consistency with Council Policy 6-34 and the Valley Habitat Plan.

Comment B.11: Since some of the bioretention areas are located at the edge of the riparian setback area, plants used in bioretention areas should also be compatible with the riparian setback plantings. As noted above these plants should be in conformance with the Guidelines and Standards for Land Use Near Streams Design Guides 2, 3 and 4. If locally native riparian plants are proposed they should be Guadalupe watershed-specific due to their inevitable migration into the creek and onto Valley Water property and mitigation sites downstream.

Response B.11: See Response B.8.

Comment B.12: The text in the Biological Resources section in many places is not consistent with the information provided in Appendix B (some examples are noted in the above comments) and should be revised for accuracy and consistency.

Response B.12: As noted in previous responses, the IS has been revised for consistency with the Biological Evaluation Technical Report. Refer to Section 3.0 of this Memorandum for a comprehensive list of text revisions to the IS.

Comment B.13: Page 83 states the 0.25 acre portion of the site east of the Valley Water maintenance road and fencing is located within a mapped Liquefaction Hazard Zone. As noted above, the area described is Valley Water property and not part of this project site. Please revise the document for accuracy.

Response B.13: As noted in Response B.1, the IS has been revised to clarify that the project site does not encompass any portion of Valley Water property or the riparian habitat located along Guadalupe Creek, including the 0.25 acre portion east of the Valley Water maintenance road. The commenter is correct that the project site is not within a Liquefaction Hazard Zone, and pages 79, 82, and 83 of the IS have been revised accordingly; refer to Section 3.0 of this Memorandum for the revised text.

Comment B.14: The discussion of the Municipal Regional Stormwater NPDES Permit (MRP) on page 107 should note the MRP was re-issued in May 2022 and became effective in July 2022. Additionally, it is unclear in the discussion regarding compliance with the MRP on page 114 how the new MRP affects this project.

Response B.14: The commenter is correct that the MRP was re-issued in May 2022 and became effective in July 2022; however, projects that receive their permits prior to June 30, 2023 do not need to comply with the provisions of the July 2022 MRP. As such, the IS correctly analyzes the project in accordance with the provisions of the MRP currently in effect at the time the environmental analysis was completed.

Comment B.15: The discussion on page 108 regarding Valley Water should be revised for clarity and accuracy. Valley Water provides flood protection and stream stewardship within the County in addition to managing the ground water basin and being the wholesale water supplier. Under Valley Water's Ordinance 90-1, permits for wells and deep borings, 45 feet or more in depth are required. Additionally, Valley Water's Water Resources Protection Ordinance requires permits for work on Valley Water property and easements or impacting Valley Water facilities. References to "District" should be replaced with "Valley Water", to be consistent with our current naming.

Response B.15: Page 108 of the IS has been revised to reflect the information provided by the commenter in Comment B.15; refer to Section 3.0 of this Memorandum for the revised text.

Comment B.16: Page 110 and 164 states the site is located within the Guadalupe River watershed, which extends “from the confluence of Guadalupe River and Alamitos Creek to the San Francisco Bay.” The site is located within the Guadalupe Watershed which is 170 square miles as stated; however, the Guadalupe Watershed doesn’t begin at the Guadalupe River which starts at the confluence of Guadalupe Creek and Alamitos Creek. The Guadalupe Watershed drains the Guadalupe River and all its tributaries, which include Alamitos, Los Gatos, Ross, Canoas and Guadalupe Creek to name a few. Please revise the document for accuracy.

Response B.16: Pages 110 and 164 have been revised to reflect the information provided by the commenter in Comment B.16; refer to Section 3.0 of this Memorandum for the revised text.

Comment B.17: Page 111 notes the portion of the site to be developed is located in FEMA Zone D, areas of undetermined but possible flooding, and that the riparian area is located on the FEMA Special Flood Hazard Area Zone A. Based on the current FEMA flood map for the site, the entire site is located in Zone D. The Zone A is located on the adjacent Valley Water property. Please update the text of the document for accuracy regarding the flood zones and with respect to the references to the 0.75 and 0.25 acre areas of the site as per comment 3 above.

Response B.17: The IS (including page 111) has been revised to reflect the information provided by the commenter in Comment B.17 and to clarify the location and boundaries of the flood zone relative to the project site; refer to Section 3.0 of this Memorandum for the revised text.

Comment B.18: Page 115 notes the site is adjacent to the Guadalupe Recharge System. The site is located adjacent to Guadalupe Creek and to the northeast of the site is Valley Water’s Los Capitancillos Recharge System. The Guadalupe Recharge Ponds are located further north along the Guadalupe River near Hwy 85. Please revise the text for accuracy.

Response B.18: Page 115 has been revised to reflect the information provided by the commenter in Comment B.18; refer to Section 3.0 of this Memorandum for the revised text.

Comment B.19: Please forward the revised IS/MND for Valley Water review when available. If you have any questions please let me know.

Response B.19: The revised IS/MND will be provided to Valley Water prior to the Planning Commission hearing. This comment does not raise any issues regarding the adequacy of the IS/MND; therefore no further response is required.

SECTION 3.0 DRAFT IS/MND TEXT REVISIONS

This section contains revisions to the text of the Camden Avenue Residential Project IS/MND dated July 2022. Revised or new language is underlined. All deletions are shown with a ~~line through the text~~.

Page 7 Section 3.1.1 Existing Setting, paragraph 1, revised as follows:

The approximately one-acre project site is located on the east side of Camden Avenue between Canna Lane and Malpas Drive in the Oak Canyon district of the City of San José. The triangle-shaped site is bounded by Camden Avenue to the west, existing residential development to the north, and a Santa Clara Valley Water District (Valley Water) maintenance road easement and the Guadalupe Creek (and associated riparian corridor) to the east. The site is currently vacant and consists of undeveloped open space, ~~a gravel Valley Water maintenance road, and a chain link fence.~~

Page 17 Section 4.1.1.2 Existing Conditions, Project Site, revised as follows:

The project site is currently vacant, and consists of undeveloped open space, ~~a Valley Water maintenance road, and a chain link fence.~~ The site is on level ground with the surrounding area and is visible from adjacent parcels and roadways. No ordinance-sized trees, rock outcroppings, or historic buildings are present on-site.¹ The only trees present on-site are sapling-sized tree-of-heaven individuals ranging from approximately two to six feet in height, none of which meet the definition of a heritage or ordinance-size tree, and are not important visual resources on the site.

Page 20 Section 4.1.2 Impact Discussion, checklist question c), paragraph 2, revised as follows:

In addition to the urbanized areas to the north, west, and south, the project site is bordered by the Guadalupe Creek and the associated undeveloped riparian corridor to the east. The project proposes to preserve and improve a 50-foot-wide, 0.25-acre portion of the ~~riparian corridor~~ project site that forms the eastern portion of the project site by removing invasive species and replanting it with native vegetation and installing supportive irrigation. The project also proposes to implement a five-year monitoring plan funded by HOA fees in accordance with the HMMP prepared for the project (refer to Appendix B). Further, the proposed residences would be no taller than 35 feet in height and would be constructed in accordance with the Citywide Design Guidelines, ensuring that views of the Guadalupe Creek and riparian corridor are not significantly obstructed or degraded.

¹¹ An “ordinance-size tree” is defined in Chapter 13.32 of the City Municipal Code as any native or non-native tree with a circumference of 38 inches (diameter of 12 inches) at 54 inches (4.5 feet) above the natural grade of slope.

Pages 45-46 Section 4.4.1.1 Regulatory Framework, Local, Envision San José 2040 General Plan; the following General Plan policies have been added:

ER-2.1: Ensure that new public and private development adjacent to riparian corridors in San José are consistent with the provisions of the City’s Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Conservation Plan/Natural Communities Conservation Plan (HCP/NCCP).

ER-2.2: Ensure that a 100-foot setback from riparian habitat is the standard to be achieved in all but a limited number of instances, only where no significant environmental impacts would occur.

Pages 46-47 Section 4.4.1.1 Regulatory Framework, Local, City of José Council Policy 6-34: Riparian Corridor Protection and Bird-Safe Design, revised as follows:

Council Policy 6-34 provides design guidance for development projects proposed within 300 feet of stream banks, including measures designed to reduce impacts to streams. All riparian projects are required to implement a standard minimum setback of 100 feet, with potential exceptions granted to projects that meet a specific set of circumstances and would not cause a significant environmental impact. Possible exceptions to the 100 foot setback requirement include:

1. Developments located within the boundaries of the Downtown area, as those boundaries are defined in the General Plan.
2. Urban infill locations where most properties are developed and are located on parcels that are equal to or less than one (1) acre.
3. Sites adjacent to small lower order tributaries whose riparian influences do not extend to the 100-foot setback.
4. Sites with unique geometric characteristics and/or disproportionately long riparian frontages in relation to the width of the minimum Riparian Corridor setback.
5. Pre-existing one- or two-family residential lots, or typical yard area, but only where a frontage road is infeasible to buffer Riparian Corridors from these and the Building Setbacks are consistent with all Riparian Corridor setback requirements.
6. Sites that are being redeveloped with uses that are similar to the existing uses or are more compatible with the Riparian Corridor than the existing use, and where the intensity of the new development will have significantly less environmental impacts on the Riparian Corridor than the existing development.
7. Instances where implementation of the project includes measures that can protect and enhance the riparian value more than the minimum setback.
8. Recreational facilities deemed to be a critical need and for which alternative site locations are limited.
9. Utility or equipment installations or replacements that involve no significant disturbance to the Riparian Corridor during construction and operation and generate only incidental human activity.
10. The existence of legal uses within the minimum setback.
11. The extent to which meeting the required setback would result in demonstrable hardship (i.e. denies an owner any economically viable use of the land or adversely affects recognized real property interest).
12. The extent to which meeting the minimum setback would require deviations from, exception to or variances from other established policies, legal requirements, or standards.

Projects meeting one or more of the above circumstances must also demonstrate that:

1. There is no reasonable alternative for the proposed project that avoids or reduces the encroachment into the setback area.
2. The reduced setback will not significantly reduce or adversely impact the riparian corridor.
3. The proposed uses are not fundamentally incompatible with riparian habitats.
4. There is no evidence of stream bank erosion or previous attempts to stabilize the stream banks that could be negatively affected by the proposed development within the setback area.
5. The granting of the exception will not be detrimental or injurious to adjacent and/or downstream properties.

Policy 6-34 also addresses potential impacts to riparian systems as it relates to construction materials and lighting design of the building. Policy 6-34 encourages restoration or rehabilitation of riparian corridors to be included in project designs.

Pages 47-50 Section 4.4.1.2, Existing Conditions, revised as follows:

~~The approximately one-acre project site, which is divided by a north-south Valley Water maintenance road and chain-link fence, consists of an approximately 0.75-acre area and a 0.25-acre area to the west and east of the maintenance road and chain-link fence, respectively. These two areas have distinct natural communities, which are discussed in greater detail below.~~

Natural Communities

Russian Thistle Ruderal Annual Forb Alliance

~~The approximately 0.75-acre portion of the project site west of the Valley Water maintenance road is heavily dominated by Russian Thistle (*Salsola tragus*), which makes up 70 to 80 percent of the land cover. Co-dominant species include lamb's quarters (*Chenopodium album*), horseweed (*Erigeron canadensis*), and seedlings and saplings of the tree-of-heaven (*Ailanthus altissima*), a highly invasive non-native tree. Other species that were present included common sow-thistle (*Sonchus oleraceus*), serrated lettuce (*Lactuca serriola*), and filarees (*Erodium* spp.). Non-native annual grasses, such as rigput brome (*Bromus diandris*), represent a very small component of the relative vegetation of the site. The northern boundary of the site includes a backyard fence that is covered in a Mexican blood-trumpet vine (*Amphilophium buccinatorium*). The only trees present on-site are sapling-sized tree-of-heaven individuals ranging from approximately two to six feet in height, none of which meet the definition of a heritage or ordinance-size tree or provide any substantial habitat value on the site.~~

This portion of the project site has previously been used for the placement of fill material, including gravels and chipped wood, and vegetation removal and grading of the site has previously occurred. Soils types on-site include Urbanland-Flaskan and Urbanland-Landelspark, both of which are well-drained and are not hydric or supportive of serpentine plant communities.

Russian Thistle Ruderal Annual Forb Alliance is not identified as a sensitive natural community in any local or regional plans, policies, regulations, or by the CDFW or USFWS.

Sycamore Oak Riparian Forest Habitat

~~The approximately 0.25-acre portion of the project site~~ The land east of the project site beyond the Valley Water maintenance road and chain-link fence east of the Valley Water maintenance road is vegetated with a mature oak-sycamore riparian forest including a dense tree layer and an understory shrub, grass, and forb layer. The riparian area is a mostly contiguous native habitat dominated by California sycamore trees (*Platanus racemosa*) and coast live oaks. Sub-dominant tree species include the California buckeye (*Aesculus californica*), valley oak (*Quercus lobata*), blue oak (*Q. douglasii*), sandbar willow (*Salix exigua*), and blue elderberry (*Sambucus nigra* ssp. *cerulea*). Other trees observed in the canopy include the Persian silk tree (*Albizia julibrissia*), tree-of-heaven saplings, California black walnut (*Juglans hindsii*), almond trees (*Prunus dulcis*), and red willow (*Salix laevigata*). Understory plants included sagebrush (*Artemisia californica*), oat grass (*Avena fatua*), Italian thistle (*Carduus pycnocephalus*), elegant clarkia (*Clarkia unguiculata*), fennel (*Foeniculum vulgare*), bedstraw (*Galium aparine*), prickly-pear (*Opuntia* sp.), bee plant (*Scrophularia californica*), poison oak (*Toxicodendron diversilobum*), and California wild grape (*Vitis californicus*). With a few exceptions, this mix of species is largely native in composition.

Sycamore Oak Riparian Forest Habitat is identified as a sensitive natural community by the City of San José, the Santa Clara Valley Habitat Plan, and the CDFW and USFWS.

Special-Status Species

Special-status species are plants and animals that are legally protected under the Federal Endangered Species Act (FESA), California Endangered Species Act (CESA), or other regulations, and species that are considered sufficiently rare by the scientific community to qualify for such listing. For purposes of this analysis, special-status plant species include the following:

- Listed under FESA as threatened, endangered, proposed threatened, proposed endangered, or a candidate species.
- Listed under CESA as threatened, endangered, rare, or a candidate species.
- Listed by the CNPS as California Rare Plant Rank (CRPR) 1A, 1B, 2, 3, or 4.

For purposes of this analysis, special-status wildlife species include the following:

- Listed under FESA as threatened, endangered, proposed threatened, proposed endangered, or a candidate species.
- Listed under CESA as threatened, endangered, or a candidate threatened or endangered species.
- Designated by the CDFW as a California species of special concern.
- Listed in the California Fish and Game Code as fully protected species (fully protected birds are provided in Section 3511, mammals in Section 4700, reptiles and amphibians in Section 5050, and fish in Section 5515).

The potential for special-status species to occur on-site was evaluated by Live Oak Associates, Inc. based on a site visit conducted in June 2020, aerial imagery, and a review of the information available in the California Natural Diversity Data Base, the California Rare Plant Rank, manuals and references related to plants and animals of the Santa Clara Valley Region, the Envision San José

2040 General Plan, City of San José policies and ordinances, and the Santa Clara Valley Habitat Conservation Plan.²

Special-Status Plants

No special-status plants were observed at the site during the June 2020 site visit. Based on the low diversity of vegetation, soil disturbance, and lack of native species, Live Oak Associates determined that no special-status plants occur or have the potential to occur ~~within the proposed area of disturbance at the project site (i.e., the 0.75-acre portion of the site).~~

Special-Status Wildlife

No special-status wildlife species were observed during the June 2020 site visit. Based on the low diversity of vegetation, soil disturbance, and lack of native species, the ~~proposed area of disturbance project site on the approximately 0.75-acre portion of the project site~~ is unlikely to provide habitat for special-status wildlife. Live Oak identified seven special-status wildlife species (all birds or bats) that have the potential to occur in the adjacent riparian forest habitat, including:

- Tri-colored blackbird (*Agelaius tricolor*)
- Northern harrier (*Circus cyaneus*)
- White-tailed Kite (*Elanus leucurus*)
- Purple martin (*Progne subis*)
- California yellow warbler (*Dendroica petechia brewsteri*)
- Pallid bat (*Antrozous pallidus*)
- Townsend's big eared bat (*Corynorhinus townsendii*)

General Wildlife

In addition to the special-status wildlife identified above, a number of other common animals (birds, mammals, amphibians, reptiles, and fish) have the potential to occur on the project site and/or the surrounding area. These animals are listed below.

Birds

- California gull (*Larus californicus*)
- House finch (*Haemorhous mexicanus*)
- House sparrow (*Passer domesticus*)
- Rock pigeon (*Columbia livia*)
- Mourning dove (*Zenaida macroura*)
- American crow (*Corvus brachyrhynchos*)

² Live Oak Associates, Inc. *Camden Avenue Site Biological Evaluation Technical Report San José, California*. September 15, 2021.

- Brewer's blackbird (*Euphagus cyanocephalus*)

Mammals

- Rats (*Rattus* spp.)
- Virginia opossum (*Didelphus virginiana*)
- Northern raccoon (*Procyon lotor*)

Amphibians and Reptiles

- Western fence lizards (*Sceloporus occidentalis*)

State and Federally Protected Wetlands

Jurisdictional waters include rivers, creeks, and drainages that have a defined bed and bank and which, at the very least, carry ephemeral flows. Jurisdictional waters also include lakes, ponds, reservoirs, and wetlands. No jurisdictional waters or wetlands are present within the ~~proposed area of disturbance~~ project site, and the project does not propose any activities that extend into the top of bank or bed of the Guadalupe Creek adjacent east of the site.

Migratory Wildlife Corridors and Native Wildlife Nursery Sites

As previously described, the ~~approximately 0.75-acre western portion of the~~ project site is segregated from the riparian corridor adjacent to the Guadalupe Creek by a Valley Water maintenance road and chain-link fence; ~~this portion of the site does not function as a migratory wildlife corridor or native wildlife nursery site.~~

The riparian corridor east of the Valley Water maintenance road provides high habitat value to regional wildlife in the form of forage, cover, and breeding/roosting habitat, and it also serves as an important regional habitat linkage for many species. Several fish species may use the Guadalupe River, which the Guadalupe Creek flows into approximately two miles downstream or east of the site, including the Sacramento sucker juveniles (*Catostomus occidentalis occidentalis*), rifle sculpin (*Cottus gulosus*), California roach (*Hesperoleucus symmetricus*), Central California Coast steelhead (*Oncorhynchus mykiss*), chinook salmon (*O. tshawytscha*), and Sacramento blackfish (*Orthodon microlepidotus*). The watershed is also known to support several non-native fish species including the common carp (*Cyprinus carpio*), green sunfish (*Lepomis cyanellus*), bluegill (*Lepomis macrochirus*), and golden shiner (*Notemigonus crysoleucas*). Many bird species use the Guadalupe River for movement and foraging habitat. In general, the Guadalupe Creek is expected to act as a movement corridor for many common local species.

Santa Clara Valley Habitat Plan

As mapped in the Santa Clara Valley Habitat Agency's Geobrowser, the ~~approximately 0.75-acre portion of the project site west of the Valley Water maintenance road and chain-link fence~~ is mapped

as “Urban-Suburban” land.³ Urban-Suburban land is comprised of areas where native vegetation has been cleared for residential, commercial, industrial, transportation, or recreational structures. The ~~eastern portion of the project site~~ land east of the project site beyond the Valley Water maintenance road and chain-link fence is mapped as “Willow Riparian Forest and Scrub”.

Pages 51-52 Section 4.4.2 Impact Discussion, checklist question a), revised as follows:

Candidate, Sensitive, and Special Status Species

As discussed in Section 4.1.1.2, no special-status plant or wildlife species are present or have the potential to occur within ~~the proposed area of disturbance on the approximately 0.75-acre portion of~~ the project site. However, there are seven special-status species with the potential to occur within the riparian forest habitat east of the Valley Water maintenance road, including five bird species and two bat species. Special-status birds and bats that may be present in the riparian forest habitat are not expected to use the ~~approximately 0.75-acre portion of the project site proposed for development~~ due to the associated lack of tree cover and foraging habitat. Conversion of the project site from a degraded vacant lot to a single-family residential development would constitute a negligible change in habitat value. Implementation of the proposed HMMP (refer to Appendix B) would improve the ~~riparian forest habitat on the approximately proposed~~ 0.25-acre portion of the project site not proposed for development riparian setback area by removing invasive species and replanting native vegetation and installing supportive irrigation. Implementation of the mitigation measures outlined below under checklist question b) would ensure that the residential project would not cause an indirect substantial adverse effect on the adjacent riparian forest habitat. For these reasons, the project would not cause a substantial adverse effect on any candidate, sensitive, or special status species.

Nesting Birds

As discussed in Section 4.1.1.2, the only trees present within the ~~proposed area of disturbance~~ project site are sapling-sized tree-of-heaven individuals that range from two to six feet in height, which would not provide nesting habitat for birds. Areas of the project site may be used by ground nesting birds, and trees and structures adjacent to the site may support nesting birds. Nesting birds are protected under provisions of the MBTA and CDFW code. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes abandonment and/or removal and site grading that disturb a nesting bird adjacent to the construction zone would constitute a significant impact.

Pages 53-55 Section 4.4.2 Impact Discussion, checklist question b), revised as follows:

As documented in Section 4.4.1.2, the natural community present on the project site consists of is ~~two distinct natural communities, including a 0.75-acre area of Russian Thistle Ruderal Annual Forb Alliance (“Russian thistle”) and a 0.25-acre area of Sycamore Oak Riparian Forest Habitat (“riparian forest”) that runs along the Guadalupe Creek.~~

³ Santa Clara Valley Habitat Agency. “Geobrowser”. Accessed March 18, 2022. <http://www.hcpmaps.com/habitat/>

~~Within the Russian thistle community, the~~ The project proposes to dedicate a 0.18-acre portion of the project site adjacent to Camden Avenue to the public right-of-way, which would enable the City to widen Camden Avenue and implement the Class IV bicycle facility proposed under the City's Better Bike Plan 2025. ~~The remaining~~ An approximately 0.57-acre portion would be developed with seven single-family residences and a mix of hardscape and landscaped surfaces. ~~On~~ ~~Within the riparian forest area~~ the eastern portion of the project site (an approximately 0.25-acre area), the project proposes to implement an HMMP that would ~~improve the riparian forest habitat by removing~~ invasive species and ~~replanting~~ native vegetation and installing supportive irrigation (refer to Section 3.2.1.1).

Based on the above, the project would not directly cause a substantial adverse effect on any riparian habitat or other sensitive natural community. However, the project does have the potential to indirectly cause substantial adverse effects to the adjacent riparian forest area. During construction, debris could travel by wind, scavenging bird, or storm water from the ~~Russian thistle area~~ project site into the riparian forest area. Light and glare generated by the proposed single-family houses could discourage nocturnal animals from using the adjacent riparian corridor or expose them to unsafe conditions. Light and glare may also expose nesting birds to increased predation. Additionally, if any of the landscaping proposed by the project included non-native invasive species, these species could migrate into riparian habitat upstream and downstream of the project site and displace native species. Landscaping may also utilize chemicals such as pesticides and fertilizers that could runoff into the riparian forest area and harm the environment. Accordingly, the project would be required to implement the following mitigation measures.

Impact BIO-2: Without mitigation, debris generated during project construction, light and glare generated by windows and surfaces, and landscaping plants and chemicals could cause a substantial adverse effect to the Riparian Forest portion of the project site.

Mitigation Measures:

MM BIO-2.1: Prior to the issuance of any tree removal, grading, or building permits (whichever occurs first), the project applicant shall submit a final site plan to the Director of Planning, Building, and Code Enforcement or the Director's designee that shows that the project shall observe a 50-foot development-free setback from the top-of-bank of the Guadalupe Creek and a 35-foot setback from riparian vegetation, which is the minimum setback allowed by the Santa Clara Valley Habitat Plan.

MM BIO-2.2: Prior to the issuance of any building permits, the project applicant shall submit a final lighting plan set to the Director of Planning, Building, and Code Enforcement or the Director's designee that shows that all lighting is designed such that the throw of light is low to the ground and not directed toward the riparian corridor. Lighting shall also be in compliance with the City's Council Policy 6-34 Riparian Corridor Protection and Bird-Safe Design, including that lighting shall not be directed into riparian corridors.

MM BIO-2.3: Prior to the issuance of any building permits, the project applicant shall submit a final construction plan set to the Director of Planning, Building and Code

Enforcement or the Director's designee that shows all windows that directly face the riparian habitat are constructed with un-mirrored surfaces and are comprised of bird-friendly glass, such as glass products that are etched or textured to be observable to birds (e.g., glass products certified as Bird Smart by the American Bird Conservancy). The project shall be in compliance with the City's Council Policy 6-34 Riparian Corridor Protection and Bird-Safe Design, including that large mirrors and large areas of reflective glass shall be avoided, freestanding glass walls and transparent building corners shall be avoided, open space shall not be funneled into a building façade, landscaping shall be strategically placed to reduce reflection and views of foliage inside of and through glass, up-lighting and spotlights shall be avoided, and that non-emergency lighting shall be turned off or shielded at night to minimize light from buildings that is visible to birds, especially during the nesting season (February – May and August – November).

MM BIO-2.4: Prior to the issuance of any grading permits, the project applicant shall submit a landscape plan to the Director of Planning, Building, and Code Enforcement or the Director's designee showing that all landscaping within 100 feet of the riparian edge is comprised of locally native and/or non-invasive species that are not featured on the California Invasive Plant Council's Invasive Plant Inventory of invasive plant species (www.cal-ipc.org/ip/nventory). The landscape plan shall also demonstrate compliance with the design guides set forth in Chapter 4 of the Valley Water User Manual: Guidelines and Standards for Land Use Near Streams.

Page 56 Section 4.4.2 Impact Discussion, checklist question d), revised as follows:

As discussed in Section 4.4.1.2, ~~the project site is divided into two distinct natural communities, Russian thistle and riparian forest. Due~~ due to the degraded nature of the ~~Russian thistle area project site~~ and lack of tree cover, plant and wildlife diversity, or high-quality habitat to the north, west, and south, native resident or migratory wildlife in the project's vicinity are expected to primarily to move through the adjacent riparian forest habitat along the Guadalupe Creek. As discussed under checklist question b), the project would not directly cause substantial adverse effects on the riparian forest habitat, and with implementation of mitigation measures MM BIO-2.1 through MM BIO-2.6, indirect impacts to the riparian forest area would be less than significant. Further, implementation of MM BIO 2.2 and BIO-2.3 would ensure that light and glare from the proposed development that could affect the movement and safety of nocturnal animals and birds would not be cast into the riparian forest habitat and would require the project to use bird-friendly glass that would reduce the potential for bird strikes. Therefore, the project would not substantially interfere with the use of the riparian forest habitat as a movement corridor or as a wildlife nursery site.

Pages 56-57 Section 4.4.2 Impact Discussion, checklist question e), revised as follows:

San Jose Municipal Code Section 13.32

The City of San José maintains the urban forest by controlling the removal of ordinance trees on private property (San José Municipal Code Section 13.32). As discussed in Section 4.4.1.2, no heritage or ordinance-sized trees are present within the ~~Russian thistle area proposed for development~~

project site; there are only sapling-sized tree-of-heaven individuals, none of which meet the definition of a heritage or ordinance-size tree. Implementation of the HMMP ~~in the riparian forest area (refer to Appendix B)~~ would only involve the removal of invasive species and would not remove any heritage or ordinance-sized trees. All trees removed would be replaced in accordance with the following standard permit condition.

Standard Permit Conditions:

Trees removed for the project shall be replaced at ratios required by the City, as stated in Table 4.4-1 below.



Table 4.4-1: City of San José Tree Replacement Ratios				
Circumference of Tree to be Removed	Replacement Ratios Based on Type of Tree to be Removed			Minimum Size of Each Replacement Tree**
	Native	Non-Native	Orchard	
38 inches or more	5:1*	4:1	3:1	15-gallon
19 to 38 inches	3:1	2:1	none	15-gallon
Less than 19 inches	1:1	1:1	none	15-gallon

*X:X = tree replacement to tree loss ratio
 Note: Trees greater than or equal to 38-inches in circumference measured at 54 inches above natural grade shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees.
 For multi-family residential, commercial, and industrial properties, a permit is required for removal of trees of any size.
 A 38-inch tree equals 12.1 inches in diameter.
 **A 24-inch box replacement tree = two 15-gallon replacement trees
 Single Family and Two-dwelling properties may replace trees at a ratio of 1:1

Prior to the issuance of building permit(s), the permittee shall pay Off-Site Tree Replacement Fee(s) to the City for off-site replacement trees in accordance with the City Council approved Fee Resolution in effect at the time of payment.

If there is insufficient area on the project site to accommodate the required replacement trees, one or more of the following measures shall be implemented, to the satisfaction of the Director of Planning, Building and Code Enforcement. Changes to an approved landscape plan require the issuances of a Permit Adjustment or Permit Amendment

- The size of a 15-gallon replacement tree may be increased to 24-inch box and count as two replacement trees to be planted on the project site.
- Pay Off-Site Tree Replacement Fee(s) to the City, prior to the issuance of Public Works grading permit(s), in accordance with the City Council approved Fee Resolution, in effect at the time of payment. The City will use the off-site tree replacement fee(s) to plant trees at alternative sites.

With incorporation of the above standard permit condition, the project would not involve the removal of any protected trees, and the project would not conflict with any local policies or ordinances protecting biological resources.

Council Policy 6-34

The project proposes to maintain a setback of 50 feet from the Guadalupe Creek top of bank, and at least 35 feet from the outer dripline of riparian vegetation. General Plan Policy ER-2.2 and Council Policy 6-34 require projects to be setback 100 feet from riparian areas, except when certain circumstances are present (refer to Section 4.4.1.1 for a comprehensive list). The Biological Evaluation Technical Report (refer to Appendix B) determined that the project qualified for an exception under the following circumstances.

2. Urban infill locations where most properties are developed and are located on parcels that are equal to or less than one (1) acre.
4. Sites with unique geometric characteristics and/or disproportionately long riparian frontages in relation to the width of the minimum Riparian Corridor setback.
7. Instances where implementation of the project includes measures that can protect and enhance the riparian value more than the minimum setback.

Additionally, the Biological Evaluation Technical Report determined that the project meets the following conditions required for projects requesting an exception from the 100 foot setback requirement:

1. There is no reasonable alternative for the proposed project that avoids or reduces the encroachment into the setback area.
2. The reduced setback will not significantly reduce or adversely impact the riparian corridor.
3. The proposed use are not fundamentally incompatible with riparian habitats.
4. There is no evidence of stream bank erosion or previous attempts to stabilize the stream banks that could be negatively affected by the proposed development within the setback area.
5. The granting of the exception will not be detrimental or injurious to adjacent and/or downstream properties.

Accordingly, the proposed riparian setbacks would not conflict with the riparian setback requirements set forth in General Plan Policy ER-2.2 and Council Policy 6-34. Implementation of MM BIO-2.3 would require the project to be in compliance with the provisions set forth in Policy 6-34 regarding design, construction materials, lighting and glare, and bird-safe design. Consistent with the findings of the Biological Evaluation Technical Report, the proposed project would not conflict with any General Plan policies or Council Policy 6-34.

Pages 58 Section 4.4.2 Impact Discussion, checklist question f), Conditions on Covered Activities, paragraph 4, revised as follows:

Condition 11, “Stream and Riparian Setbacks”, requires that new covered projects adhere to setbacks from creeks and streams and associated riparian vegetation in the Plan Area to minimize and avoid impacts from covered projects on aquatic and riparian land cover types, covered species, and wildlife corridors within these areas. As the project site is within the City of San José’s Urban Service Area

(USA), the project site's slope does not exceed 30 percent, and the Guadalupe Creek is a Category One stream, the required stream setback is 100 feet without an exception request. With a riparian setback exception and in accordance with MM BIO-2.1 (refer to checklist question b), the project could have a 50 foot top of bank setback or 35 foot setback from overhanging riparian vegetation, whichever is greater, stream setback of 35 feet. Therefore, the project would be required to obtain a Class 11 Exception ~~for a 35-foot stream setback~~, which requires projects to demonstrate the following:

Page 79 Section 4.7.1.2 Existing Conditions, On-Site Geologic Conditions, Liquefaction and Lateral Shearing, paragraph 1, revised as follows:

Liquefaction is a temporary loss of shear strength as a result of increased pore pressure due to strong ground shaking or cyclic loading. Liquefaction is defined by saturation of soil and loss of cohesion. It is associated with loose, high-plasticity soils and near-surface groundwater levels. ~~As discussed in Section 3.2, the project site is divided by a Valley Water maintenance road and chain-link fence. The 0.75-acre portion of the site to the west of the maintenance road and fence project site is not mapped within a state-designated Liquefaction Hazard Zone; however, the 0.25-acre portion of the site to the east of the maintenance road and fence is within a Liquefaction Hazard Zone.~~⁴

Page 82 Section 4.7.2 Impact Discussion, checklist question a), Liquefaction and Lateral Spreading, paragraphs 1 and 2, revised as follows:

The project ~~proposes to construct seven single family residences within a 0.57-acre portion of the project site west of the Valley Water maintenance road and chain-link fence that site is not mapped within a Liquefaction Hazard Zone. The 0.25-acre portion land east of the project site east of beyond the Valley Water~~ the maintenance road and chain-link fence is mapped within a Liquefaction Hazard Zone.⁵

The project does not propose any activities within a the Liquefaction Hazard Zone ~~beyond the implementation of the HMMP discussed in Section 4.4 of this Initial Study and in Appendix B. Implementation of the HMMP would be limited to removal of invasive species and the planting and irrigation of native species, which would improve subsurface soil conditions.~~ According to the City's Municipal Code, a Certificate of Geologic Hazard Clearance is required for the project due to its location within a Liquefaction Hazard Zone. By subjecting the proposed project to review by the City of San Jose's geologist and requiring geologic hazard clearance from the Director of Public Works, and adhering to the standard permit conditions described above, adverse effects posed by seismically-induced liquefaction would be reduced to a less than significant level.

⁴ California Geological Survey. *California Earthquake Hazards Zone Application (EQ ZAPP)*. Accessed April 8, 2022. <https://maps.conservation.ca.gov/cgs/EQZApp/app/>

⁵ California Geological Service. "Earthquake Zones of Required Investigation". Accessed May 9, 2022. <https://maps.conservation.ca.gov/cgs/EQZApp/app/>

Page 83 Section 4.7.2 Impact Discussion, checklist question c), paragraph 1, revised as follows:

~~As documented in Section 4.7.1.2, the project site is not located on expansive soils or mapped within a Liquefaction or Landslide Hazard Zone. The project proposes to construct seven single family residences within a 0.57-acre portion of the project site west of the Valley Water maintenance road and chain link fence that is not mapped within a Liquefaction Hazard Zone. The 0.25-acre portion of the project site east of the maintenance road and chain link fence is mapped within a Liquefaction Hazard Zone; however, the project does not propose any activities within this area beyond the implementation of the HMMP discussed in Section 4.4 of this Initial Study and in Appendix B. Implementation of the HMMP would be limited to removal of invasive species and the planting and irrigation of native species, which would improve subsurface soil conditions. Additionally, the project would implement the following standard permit condition.~~

Page 108 Section 4.10.1.1 Regulatory Framework, Regional, Water Resources Protection Ordinance and District Well Ordinance

~~Valley Water provides flood protection and stream stewardship within Santa Clara County, in addition to managing the ground water basin and being the wholesale water supplier. Under Valley Water's Ordinance 90-1, permits are required for wells and deep borings 45 feet or more in depth. Additionally, Valley Water's Water Resources Protection Ordinance requires permits for work on Valley Water property and easements or impacting Valley Water facilities. Valley Water operates as the flood control agency for Santa Clara County. Their stewardship also includes creek restoration, pollution prevention efforts, and groundwater recharge. Permits for well construction and destruction work, most exploratory boring for groundwater exploration, and projects within Valley Water property or easements are required under Valley Water's Water Resources Protection Ordinance and District Well Ordinance.~~

Page 110 Section 4.10.1.2 Existing Conditions, Hydrology and Drainage, paragraph 1, revised as follows:

The project site is located in the Guadalupe River Watershed, as identified in the General Plan. The Guadalupe River Watershed drains the Guadalupe River and all of its tributaries across an approximately 170 square mile areas extending from the confluence of Guadalupe River and Alamitos Creek to the San Francisco Bay.⁶ The project site is located in a subwatershed with less than 65 percent impervious surfaces.⁷

⁶ City of San José. *Envision San José 2040 General Plan, Appendix G*. December 2010.

⁷ City of San José, Spatial Team. "Public GIS Viewer". Accessed February 24, 2022. <https://www.arcgis.com/apps/webappviewer/index.html?id=3c5516412b594e79bd25c49f10fc672f>

Page 111 Section 4.10.1.2 Existing Conditions, Flooding, revised as follows:

As discussed in Section 3.2.1, the project's residential component would be setback 50 feet from the Guadalupe Creek. The ~~proposed location of the residential component~~ project site is located within Flood Zone D, which is used for areas where there are possible but undetermined flood hazards, as no analysis of flood hazards has been conducted.⁸ ~~The A portion of the riparian setback would be~~ riparian corridor located adjacent east of the project site is located in Flood Zone A, which are areas subject to inundation by the one-percent-annual-chance flood event (i.e., a one hundred year flood event).

Page 115 Section 4.10.2 Impact Discussion, checklist question b), paragraph 3, revised as follows:

The ~~project site~~ Las Capitanillos Recharge System is located adjacent to the ~~Guadalupe Recharge System~~ northeast of the project site, as identified in the SCVWD's Groundwater Management Plan.⁹ All stormwater runoff generated by the project site would be treated via the bioretention areas described in Section 4.2.1 before entering the Camden Avenue storm drain system. Additionally, the project would maintain a 0.25-acre riparian setback area adjacent to the Guadalupe Creek riparian corridor, and replant it with native plant species and irrigation support that ensures ~~the~~ groundwater recharge areas continues to operate as intended in the SCVWD Groundwater Management Plan.

Page 115-116 Section 4.10.2 Impact Discussion, checklist question c), paragraph 1, revised as follows:

As discussed in Section 4.10.1.2, the ~~0.75-acre portion of the project site to be developed west of the Valley Water maintenance road~~ is currently 100 percent pervious; post-construction, the site would be developed with 21,390 square feet of impervious surface and 14,329 square feet of pervious surface, equivalent to 60 percent impervious and 40 percent pervious. The project would not alter the course of any stream or river, including the Guadalupe Creek adjacent to the project site. However, the project would increase the amount of impervious surface present on-site, resulting in an incremental increase in the amount of surface runoff that enters the City's storm drain system.

Page 116-117 Section 4.10.2 Impact Discussion, checklist question d), paragraph 1, revised as follows:

As discussed in Section 4.10.1.2, the ~~proposed location of the residential component~~ project site is located within Flood Zone D, ~~while a portion of the riparian setback would be located in Flood Zone A.~~ Due to the project site's inland location and distance from large bodies of water (i.e., the San Francisco Bay), it is not subject to seiche or tsunami hazards, or sea level rise.

⁸ Federal Emergency Management Agency. *Unmapped Areas on Flood Hazard Maps: Understanding Zone D*. August 2011.

⁹ Santa Clara Valley Water District. *2021 Groundwater Management Plan for the Santa Clara and Llagas Subbasins*. November 2021.

Page 164 Section 4.19.1.2 Existing Conditions, Storm Drainage, paragraph 1, revised as follows:

The project site is located in the Guadalupe River Watershed, as identified in the General Plan. The Guadalupe River Watershed drains the Guadalupe River and all of its tributaries across an approximately 170 square miles areas extending from the confluence of Guadalupe River and Alamos Creek to the San Francisco Bay.¹⁰ The project site is located in a subwatershed with less than 65 percent impervious surfaces.¹¹

¹⁰ City of San José. *Envision San José 2040 General Plan, Appendix G*. December 2010.

¹¹ City of San José, Spatial Team. "Public GIS Viewer". Accessed February 24, 2022.

<https://www.arcgis.com/apps/webappviewer/index.html?id=3c5516412b594e79bd25c49f10fc672f>

SECTION 4.0 CONCLUSION

The comments received on the 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. Minor revisions were added to the text of the IS/MND (refer to Section 3.0 Draft IS/MND Text Revisions). The text revisions do not constitute a "substantial revision" pursuant to CEQA Guidelines §15073.5 and recirculation of the MND is not required.

Appendix A: Draft IS/MND Comment Letters



Tuesday, August 9, 2022

To: Cort Hitchens, Planner II
City of San José Department of Planning, Building, and Code Enforcement
cort.hitchens@sanjoseca.gov

Re: Camden Avenue Residential Project PDC21-019, PD21-006 and ER21-086

The Santa Clara Valley Audubon Society (SCVAS) is one of the largest National Audubon Society chapters in California. Our mission is to promote the enjoyment, understanding, and protection of birds and other wildlife by engaging people of all ages in birding, education, and conservation. We appreciate the opportunity to comment on the Initial Study / Mitigated Negative Declaration (IS/MND) for the Camden Avenue Residential Project. The project will construct seven detached single-family residences on an approximately 1-gross-acre site and widen Camden Avenue. The parcel is adjacent to the Guadalupe Creek. Please find our comments below.

I. Riparian setbacks

The July 2022 IS/MND (pages 15-16) provides policies from the Envision San José 2040 General Plan. The section neglects to consider all the goals and policies that pertain to Riparian Corridors. Specifically, the San Jose's General Plan Goal ER-2 Riparian Corridors, and riparian corridors policies, including

- General Plan Policy ER-2.1- Ensure that new public and private development adjacent to riparian corridors in San José are consistent with the provisions of the City's Riparian Corridor Policy Study and any adopted Santa Clara Valley Habitat Conservation Plan/ Natural Communities Conservation Plan (HCP/NCCP).
- General Plan Policy ER-2.2 - Ensure that a 100-foot setback from riparian habitat is the standard *to be achieved in all but a limited number of instances*, only where no significant environmental impacts would occur. (emphasis added).

This omission is important because these policies call for keeping development outside of the 100-ft setback from the riparian corridor of the Guadalupe Creek and other waterways in San Jose. Note that General Plan Policy ER-2.2 states that 100-ft setback from riparian habitat is "the standard to be achieved in all but a limited number of instances".

Comment 1: Please add General Plan policies ER-2.1 and ER-2.1 2.2 to the IS/MND

Comment 2: In recent years, development within the 100-ft setback has been the standard in San Jose, with reduced setbacks approved for many new projects. Thus, this project - cumulatively with other projects that are approved or pending approval within the 100-ft setbacks of the San Jose riparian corridors - is inconsistent with the General Plan.

Council Policy 6-34 Riparian Corridor and Bird Safe Design (2016) and the San Jose Riparian Corridor Policy Study (1999) allow for reduced setbacks under “limited circumstances”. In the Biological Assessment (Live Oak Associates, September 2021, section 3.3.12), a reduced setback is justified based on the following circumstances:

1. Urban infill locations where most properties are developed and are located on parcels that are equal to or less than one (1) acre;
2. Sites adjacent to small lower order tributaries whose riparian influences do not extend to the 100-foot setback;
3. Sites with unique geometric characteristics and/or disproportionately long riparian frontages in relation to the width of the minimum Riparian Corridor setback;” and
4. Instances where implementation of the project includes measures that can protect and enhance the riparian value more than the minimum setback.

Comment 3: The Guadalupe Creek at this location is designated a Category 1 stream in the SCV Habitat Plan, not a “lower order” (Category 2) tributary. The river and its riparian corridor adjacent to the Project support a healthy riparian forest and near year round water flow, with at times heavy flows as recognized by Valley Waller with additional floodplain management on the southern side. Whether or not the project site, well within the 100-ft setback, is “beyond the influence of the riparian habitat” is immaterial in this circumstance because the Guadalupe Creek is not a small lower order tributary.

- Please remove this criterion (circumstance #3) from the IS/MND list of circumstances that justify encroachment into the riparian corridor.

II. Bird Friendly Design

Every year, as many as 1 billion birds die from colliding with windows and other glazed facades¹. During the day, these collisions result from birds flying towards reflections of open skies or nearby vegetation. At night, when most birds migrate, light from buildings and other human developments disorient and attract them, luring them not just off their migratory paths, but straight into collisions. These fatalities account for 2 to 9 percent of all birds in North America in any given year, making building strikes a significant source of human-caused avian mortality in the United States. Bird collisions have contributed

¹ Loss, Scott R., Will, Tom, Loss, Sara S., and Marra, Peter P. 2014. "Bird–building collisions in the United States: Estimates of annual mortality and species vulnerability." *The Condor*. 8–23.
<https://doi.org/10.1650/CONDOR-13-090.1>

to the cumulative loss in number of birds and to ongoing decline of many migratory species in North America².

Bird collisions occur where birds are active and more collisions occur near habitat areas and riparian corridors, which is why most policies regulating bird collisions focus on these locations³.

Comment 4: This proposed mitigation reflects policies and mitigations that are applied by several jurisdictions in the Bay Area:

- For buildings within 300-ft of the edge of the riparian corridor, minimize fenestration and apply Bird-Safety Treatment⁴ to windows or glazing with unobstructed line-of-sight to open space and/or the riparian corridor so that no more than 10% of the glazing area of the facade consists of untreated glazing.

IV. Lighting

Artificial Light at night is emerging as a forceful and pervasive disruptor to biological beings, affecting almost all organisms in all ecosystems⁵, including birds, as well as public and human health. The International Dark Sky Association published an in-depth review in “Artificial Light at Night: State of the Science 2022”⁶, a state of the art report for smart fixtures and lighting which can help regulate lighting and reduce light pollution. San Jose Section 2.3.7 of the City-wide Design Standards and Guidelines also provides direction for mitigating light pollution.

Comment 5: To avoid overlighting, reduce light pollution, and mitigate potential harm to biological resources and human health,

- All outdoor lighting fixtures will be capable of accepting 7-pin controls that can enable use of dimmers, timers, motion sensors, and networking;
- The project should comply with Standards S1, S6, S7 and Guidelines G5, G6, G7 and G8 in Section 2.3.7 of the City-wide Design Standards and Guidelines Site, Lighting⁷.

² <https://science.sciencemag.org/content/366/6461/120>: Decline of the North American avifauna (9/19/19) Science.org

³For example, Cupertino’s Bird Safe and Dark Sky ordinance

<https://www.cupertino.org/our-city/departments/community-development/planning/non-residential-mixed-use-development/bird-safe-and-dark-sky>; San Francisco Bird Friendly ordinance

https://codelibrary.amlegal.com/codes/san_francisco/latest/sf_planning/0-0-0-18643, and San Jose City Wide Design Standards and Guidelines

<https://www.sanjoseca.gov/home/showpublisheddocument/69148/637520903552430000>

⁴ Bird-Safety Treatment and Bird-safe Pattern are defined in the glossary (pg. 91) of the San Jose City Wide Design Standards and Guidelines

<https://www.sanjoseca.gov/home/showpublisheddocument/69148/637520903552430000>

⁵ How Animals Perceive the World. 2022. The Atlantic.

<https://www.theatlantic.com/magazine/archive/2022/07/light-noise-pollution-animal-sensory-impact/638446/>

⁶ Artificial Light at Night: State of the Science 2022. International Dark-Sky Association. DOI: 10.5281/zenodo.6903500

<https://www.darksky.org/wp-content/uploads/2022/06/IDA-State-of-the-Science-2022-EN.pdf>

⁷ Pg 29 in San Jose Citywide Design Standards and Guidelines, February 2021

<https://www.sanjoseca.gov/home/showpublisheddocument/69148/637520903552430000>

- Between the hours of 11 p.m. and sunrise, all outdoor lighting should be reduced in intensity and dimmable to no more than fifty percent of the fixture's maximum possible brightness.

Please do not hesitate to contact SCVAS if you have questions.

Respectfully,

Shani Kleinhaus

Shani Kleinhaus, Ph.D.
Environmental Advocate
Santa Clara Valley Audubon Society
22221 McClellan Rd.
Cupertino, CA 95014
advocate@scvas.org

From: [Hitchens, Cort](#)
To: [Colleen Haggerty](#)
Cc: [Garg, Tina](#); [Shah, Rina](#)
Subject: RE: Camden Avenue Residential Project IS/MND-City File PDC21-19/PD21-006
Date: Wednesday, August 10, 2022 4:32:53 PM

Hi Colleen,

Thank you for the comments, they have been received.

Cort Hitchens | Planner II
City of San José
Planning, Building & Code Enforcement
[200 E. Santa Clara Street, 3rd Floor](#)
[San José, CA 95113](#)
Direct: [\(408\) 794-7386](#)

From: Colleen Haggerty <CHaggerty@valleywater.org>
Sent: Wednesday, August 10, 2022 4:11 PM
To: Hitchens, Cort <Cort.Hitchens@sanjoseca.gov>
Subject: Camden Avenue Residential Project IS/MND-City File PDC21-19/PD21-006

[External Email]

Cort,

Valley Water has reviewed the Initial Study/ Mitigated Negative Declaration (IS/MND) for the Camden Avenue Residential Project received on July 21, 2022. Based on our review of the IS/MND we have the following comments:

1. Page 7 notes the site is bounded to the east by a Valley Water maintenance road easement and Guadalupe Creek. The project site is located directly adjacent to Valley Water property where Guadalupe Creek is located. There is no maintenance road easement located on the project site or on Valley Water property. Please revise the text for accuracy.
2. Page 20 states the project will “preserve and improve a 50-foot-wide, 0.25 acre portion of the riparian corridor...” However, much of the noted 50 foot top of bank setback area is not located on the project site; and therefore, is not being preserved or improved by the project.
3. The document describes in multiple places, including but not limited to pages 10, 20, 47, 51, 83, and 115, that the site is comprised of two areas: a 0.75 acre area west of Valley Water’s chain link fence and maintenance road and a 0.25 acre area east of the fence and maintenance road. The project site does not include a Valley Water maintenance road or chain link fencing; these improvements are located on the adjacent Valley Water property. The document needs to be revised to describe the site accurately in relation to Valley Water property, fencing, *etc* and Figures 3.2-1 and 3.2-3.

It is unclear if the analysis of impacts on the riparian corridor is complete and accurate as the site description is not correct and is not consistent with the information in Appendix B: Biological Evaluation Technical Report. Additionally, it is not clear if the acreage of the mitigation area is correct since the 0.25 acre area is described as being east of Valley Water's maintenance road and fencing which is Valley Water property and not part of the project. Please revise the document for accuracy and consistency with the information contained in Appendix B and confirm the analysis for biological impacts is accurate and complete.

4. The Mitigation and Monitoring Plan in Appendix B, notes the use of local riparian plants sourced from propagules found in the Guadalupe Watershed or the neighboring watersheds, if necessary. Valley Water supports this effort and this is in conformance with Design Guides 2 and 4 of the Guidelines and Standards for Land Use Near Streams which was developed by Valley Water, cities (including San Jose) in Santa Clara County, and the County in collaboration. However, the container sizes specified in the plan are larger than is typically available for the designated custom grown plants. Additionally, Valley Water recommends direct seeding for oaks, having found that the superior tap root that results allows seedlings to be weaned off irrigation sooner than container stock. Please update the plan to better reflect the size plants that can be obtained for watershed specific custom grown plants. If such plants cannot be found in the container sizes desired, the project should use native plants, not local to the Guadalupe Watershed, instead in conformance with Design Guide 3.
5. Page 53 states the 0.25 acre area of the site is comprised of Sycamore Oak Riparian Forest Habitat; however, based on the information in Appendix B and the figures in the IS/MND, the site does not have any riparian habitat. The riparian area is located on the adjacent Valley Water property. Please revise the document for accuracy.
6. Mitigation measures MM BIO-2.4 and 2.6, described on pages 10 and 54, require the project to remove invasive species from the 0.25 acres area and replant with locally native species. Use of locally native riparian species should be in conformance with the Guidelines and Standards for Land Use Near Stream Design Guides 2 and 4 and specify the use of custom grown plants sourced from propagules collected in the Guadalupe watershed.
7. Page 46 of the Biological Resources section describes the City's Riparian Corridor policy and the requirement for a minimum 100 feet riparian setback for projects; however, there is no discussion in the document regarding consistency with the policy. Please include a discussion regarding consistency with the Riparian Corridor Policy. While it may not be possible to have a 100 foot setback due to the size of the parcel in this case, Valley Water supports maximizing the setbacks to the riparian corridor.
8. Mitigation Measure MM BIO-2.4, page 55, should reference the Guidelines and Standards for Land Use Near Streams Design Guides 2-4 (attached) regarding appropriate plantings to use within the riparian corridor setback area to protect the existing locally native riparian habitat along Guadalupe Creek.
9. Mitigation Measure MM BIO-2.6, page 55, should also include the creation of guidelines for the maintenance of the riparian setback area and riparian corridor. The guidelines should provide information and best management practices for weed control including pesticide/herbicide use; appropriate replacement plants, including use of watershed specific stock and sourcing information; appropriate irrigation around coast live oaks and other plants that have a low tolerance for summer irrigation; and best management practices for working around the creek and riparian habitat in general. Helpful information regarding these

subjects can be found in the Guidelines and Standards for Land Use Near Streams.

10. The discussion on page 58 regarding consistency with the Santa Clara Valley Habitat Plan is not complete. The document states that the project would qualify for a 35 foot stream setback instead of the 100 foot required setback. However, an exception must be obtained for a reduced setback and it is not clear if that has been done. Additionally, the setback requirement, as stated in Appendix B, is a minimum 50- foot top of bank setback or 35 foot setback from overhanging riparian vegetation, whichever is greater. The document needs to be revised for accuracy and it needs to be confirmed that the appropriate setback is proposed for site.
11. Since some of the bioretention areas are located at the edge of the riparian setback area, plants used in bioretention areas should also be compatible with the riparian setback plantings. As noted above these plants should to be in conformance with the Guidelines and Standards for Land Use Near Streams Design Guides 2, 3 and 4. If locally native riparian plants are proposed they should be Guadalupe watershed-specific due to their inevitable migration into the creek and onto Valley Water property and mitigation sites downstream.
12. The text in the Biological Resources section in many places is not consistent with the information provided in Appendix B (some examples are noted in the above comments) and should be revised for accuracy and consistency.
13. Page 83 states the 0.25 acre portion of the site east of the Valley Water maintenance road and fencing is located within a mapped Liquefaction Hazard Zone. As noted above, the area described is Valley Water property and not part of this project site. Please revise the document for accuracy.
14. The discussion of the Municipal Regional Stormwater NPDES Permit (MRP) on page 107 should note the MRP was re-issued in May 2022 and became effective in July 2022. Additionally, it is unclear in the discussion regarding compliance with the MRP on page 114 how the new MRP affects this project.
15. The discussion on page 108 regarding Valley Water should be revised for clarity and accuracy. Valley Water provides flood protection and stream stewardship within the County in addition to managing the ground water basin and being the wholesale water supplier. Under Valley Water's Ordinance 90-1, permits for wells and deep borings, 45 feet or more in depth are required. Additionally, Valley Water's Water Resources Protection Ordinance requires permits for work on Valley Water property and easements or impacting Valley Water facilities. References to "District" should be replaced with "Valley Water", to be consistent with our current naming.
16. Page 110 and 164 states the site is located within the Guadalupe River watershed, which extends "from the confluence of Guadalupe River and Alamitos Creek to the San Francisco Bay." The site is located within the Guadalupe Watershed which is 170 square miles as stated; however, the Guadalupe Watershed doesn't begin at the Guadalupe River which starts at the confluence of Guadalupe Creek and Alamitos Creek. The Guadalupe Watershed drains the Guadalupe River and all its tributaries, which include Alamitos, Los Gatos, Ross, Canoas and Guadalupe Creek to name a few. Please revise the document for accuracy.
17. Page 111 notes the portion of the site to be developed is located in FEMA Zone D, areas of undetermined but possible flooding, and that the riparian area is located on the FEMA Special Flood Hazard Area Zone A. Based on the current FEMA flood map for the site, the entire site is located in Zone D. The Zone A is located on the adjacent Valley Water property. Please

update the text of the document for accuracy regarding the flood zones and with respect to the references to the 0.75 and 0.25 acre areas of the site as per comment 3 above.

18. Page 115 notes the site is adjacent to the Guadalupe Recharge System. The site is located adjacent to Guadalupe Creek and to the northeast of the site is Valley Water's Los Capitancillos Recharge System. The Guadalupe Recharge Ponds are located further north along the Guadalupe River near Hwy 85. Please revise the text for accuracy.

Please forward the revised IS/MND for Valley Water review when available. If you have any questions please let me know.

Colleen Haggerty, PE

Senior Civil Engineer

Community Projects Review Unit

Santa Clara Valley Water District

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