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MITIGATED NEGATIVE DECLARATION

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Los Gatos Creek Trail, Reach 4

PROJECT FILE NUMBER: PP04-01-014

PROJECT DESCRIPTION: The proposed project consists of the construction of a 0.66-mile paved pedestrian/bike trail along Los Gatos Creek between Coe Avenue and Auzerais Avenue in San Jose. The trail will consist of two, six-foot lanes and two, two-foot unpaved shoulders on either side of the trail. The project will implement a segment of the approved Los Gatos Creek Trail, which will stretch for 19 miles from Lexington Reservoir County Park on the south to the confluence of Los Gatos Creek and the Guadalupe River on the north.

PROJECT LOCATION & ASSESSORS PARCEL NO.: Adjacent to Los Gatos Creek between Coe Avenue and Auzerais Avenue in San Jose. The trail will generally be located along the west bank of the creek. Assessor's Parcel Numbers: 264-11-100, 264-11-101, 264-11-011, 264-11-094, 264-42-013, 264-11-086, 264-11-049, 264-11-034, 264-11-085, 264-11-022, 264-11-075, 264-11-004 and 264-53-016.

COUNCIL DISTRICT: 6

NAME OF APPLICANT: City of San Jose, Department of Parks, Recreation and Neighborhood Services.

MAILING ADDRESS AND PHONE NO. OF APPLICANT CONTACT PERSON: Judy Salvano, Department of Public Works, 170 West San Carlos Street, San Jose, CA 95113 (408) 297-2824

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or

more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

AIR QUALITY: The following construction dust control measures will be implemented during all phases of construction on the project site:

- Use dust-proof chutes for loading construction debris and soil onto trucks.
- Water to control dust generation during site grading and break-up of existing pavement.
- Cover all trucks hauling debris and/or soil from the site, or require all trucks to maintain at least two feet of freeboard.
- Water or cover stockpiles of debris, soil, sand, or other materials that can be blown by the wind.
- Sweep daily (preferably with water sweepers) all paved roads, parking areas, and staging areas at the construction site and on adjacent public streets if visible soil material is carried onto these streets.
- Install gravelbags or other erosion control measures to prevent silt runoff to public roadways.
- Replant vegetation in disturbed areas as quickly as possible.
- Apply nontoxic soil stabilizers to inactive construction areas (previously graded areas inactive for 10 days or more).
- Limit vehicle traffic speeds on unpaved roads to 15 mph.
- Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph.

BIOLOGICAL RESOURCES (SALMONIDS): The proposed project includes the following mitigation and avoidance measures to reduce construction impacts to salmonids to a less than significant level:

- The project includes the replacement of riparian and Shaded Riverine Area (SRA) habitat at the following ratios (replacement: loss), according to California Department of Fish and Game (CDFG) guidelines and consistent with the Riparian Mitigation and Monitoring Plan to be prepared for the project: 1) 3:1 for native riparian trees and shrubs, based on canopy cover area; 2) 1:1 for non-native riparian trees and shrubs, based on canopy cover; and 0.5:1 for the conversion of grassland to rock apron for the proposed stormdrain outfall. Overall, the proposed project will restore at least 0.40 acres of mixed riparian forest habit and 102 linear feet of SRA habitat within the Los Gatos Creek corridor in the previously described mitigation areas.
- To minimize impacts to salmonids, construction within the creek channel shall be restricted to the dry season (July 1 to October 15th), the period after the spawning season when

minimal water is in the channel and movement of salmonids within the project area is expected to be minimal.

- Environmentally Sensitive Area (ESA) fencing shall be installed at the upstream and downstream limits of work at the outfall installation site and tree removal sites to prevent construction equipment and crews from disturbing the active channel beyond the limits of work.
- Measures shall be taken to ensure that individual steelhead are not killed and that movement of steelhead is not prevented by any water-diversion structures used during construction, regardless of the timing of construction. Dewatering for the rock apron installation area will be via installation of a U-shaped coffer dam comprised of clean gravel and plastic sheeting. The area of dewatering and construction activity within the channel shall be minimized. The portion of the channel opposite the U-shaped coffer dam shall remain unaffected by dewatering and construction activity and available for fish passage. A qualified fisheries biologist shall be present during dewatering, and will relocate any fish trapped within the coffer dam to suitable habitat in the live stream channel.
- The project shall avoid equipment operation in the live stream channel. If work within the stream channel is determined unavoidable by the project engineer, stream flow shall be diverted around the work area by a barrier, new channel, or other conveyance capable of permitting upstream and downstream fish movement. Appropriate State and Federal agencies shall be notified of the proposed diversion. Construction of such a barrier, or new channel, would normally begin in the downstream area and continue in an upstream direction, and the flow should be diverted only when construction of the diversion is completed.
- No debris, soil, sand, bark, slash, sawdust, cement, concrete, washings, petroleum products, or other organic or earthen material shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into Los Gatos Creek.
- All conditions of the Streambed Alteration Agreement to be obtained for the project from CDFG will be implemented.

WATER QUALITY: The following mitigation and avoidance measures are included in the project to avoid or reduce water quality impacts of the proposed project during construction to a less than significant level.

- To protect water quality in Los Gatos Creek, the project will conform with Caltrans Best Management Practices (BMPs) as described under Section 7-1.01G 'Water Pollution' of the Caltrans Standard Specifications (CalTrans 2002) (Appendix B) and as presented in the Caltrans Storm Water Quality Handbook (Caltrans 2000). Should the specified BMPs prove ineffective, the City will consult with local representatives of the CDFG and Regional Water Quality Control Board (RWQCB) to develop contingency measures.

- The project shall submit a Notice of Intent (NOI) to comply with the NPDES General Construction Permit and a Storm Water Pollution Prevention Plan (SWPPP) to the Regional Water Quality Control Board (RWQCB) 30 days prior to any construction on the site.

CULTURAL RESOURCES: Although the project is not expected to result in impacts to cultural materials during construction, implementation of the following standard mitigation and avoidance measures will avoid or reduce impacts to prehistoric resources during construction:

- Should materials be uncovered during site grading, all work will be suspended within 50 feet of any discovery until a qualified archaeologist has inspected the discovery. If it appears that a significant archaeological deposit has been uncovered, work will not be allowed to restart in the area of discovery until the project archaeologist has submitted a plan for the evaluation of the resource to the San José Planning Department for approval.
- If it is determined that a significant archaeological deposit will be impacted by further earthmoving, a plan for the mitigation of impacts to the resource will be submitted to the Planning Department for approval before earthmoving recommences in the area of the discovery.

NOISE: Although the project will not create significant levels of noise, the project will implement the following noise reduction measures to minimize short term construction noise impacts:

- Construction operations (including truck traffic) will comply with all City ordinances, and shall be restricted to the hours of 7:00 a.m. to 7:00 p.m., Monday through Friday, unless otherwise expressly allowed for the project (Title 20, City of San Jose Municipal Code).
- All internal combustion engine driven equipment shall be equipped with intake and exhaust mufflers which are in good condition and appropriate for the equipment.
- Stationary noise generating equipment shall be located as far as possible from sensitive receptors when sensitive receptors adjoin or are near a construction project area.
- "Quiet" air compressors and other stationery noise sources shall be utilized where technology exists.

PUBLIC REVIEW PERIOD

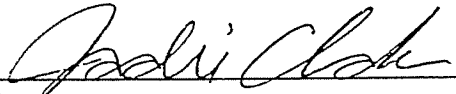
Before 5:00 p.m. on **June 12, 2004** any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or

- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$100 filing fee. The written protest should make a "fair argument" based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

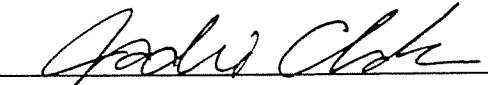
Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: May 12, 2004



Deputy

Adopted on: June 28, 2004



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