

# CITY OF MILPITAS

1355 California Circle Project  
Final Environmental Impact Report

Prepared by:

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Prepared for:

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Planning & Neighborhood Services  
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Milpitas, CA 95035

**September 2023**



**CITY OF MILPITAS  
1355 CALIFORNIA CIRCLE PROJECT  
Final Environmental Impact Report**

**Prepared for:**

City of Milpitas  
Planning Department  
455 E. Calaveras Boulevard  
Milpitas, California 95035

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**September 2023**

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# 1.0 INTRODUCTION

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This Final Environmental Impact Report ('Final EIR' or 'FEIR') has been prepared by the City of Milpitas (City) for the proposed residential development project located at 1355 California Circle (referred to as the 'Project'). This FEIR complies with the requirements of the California Environmental Quality Act (CEQA) statutes (Cal. Pub. Res. Code, Section 21000 et. seq.) and implementing guidelines (Cal. Code Regs., Title 14, Section 15000 et. seq.) (the "State CEQA Guidelines").

## 1.1 CEQA REQUIREMENTS

Before approving a project that may cause a significant environmental impact, CEQA requires the lead agency to prepare and certify a FEIR. According to the *State CEQA Guidelines*, Section 15132, the FEIR shall consist of:

1. The Draft EIR (DEIR) or a revision of the DEIR;
2. Comments and recommendations received on the DEIR, either verbatim or in summary;
3. A list of persons, organizations, and public agencies commenting on the DEIR;
4. The responses of the lead agency to significant environmental points raised in the review and consultation process; and
5. Any other information added by the lead agency.

As shown, under the *State CEQA Guidelines*, the FEIR includes the DEIR as well as the other items listed. For purposes of clarity, the term "Final EIR" in this document refers to everything contained in this document and not the DEIR. The term "EIR" in this document refers to the FEIR and the DEIR.

## 1.2 PUBLIC REVIEW PROCESS

At the outset of the environmental review process, the City prepared a Notice of Preparation (NOP) for the Project (State Clearinghouse No. 2022110251). The NOP was published and distributed to the State Clearinghouse, trustee agencies, responsible agencies, and other interested parties for a 30-day public review period from November 14, 2023, to December 14, 2022. A public scoping meeting was held on November 30, 2022. The Draft EIR was circulated for a 45-day public review period July 7, 2023, to August 21, 2023.

### 1.3 CONTENT OF THE FEIR

As discussed above, the primary intent of the FEIR is to provide a forum to air and address comments pertaining to the analysis contained within the DEIR. Pursuant to Section 15088 of the *State CEQA Guidelines*, the City has reviewed and addressed all comments raising environmental issues on the DEIR, which the City received by the comment period deadline. Included in the FEIR are all the written comments that were submitted during the public comment period.

To adequately address the comments provided by interested agencies and the public in an organized manner, this FEIR includes the following chapters and appendices:

- **Section 1.0, Introduction.** This chapter summarizes the contents of the FEIR and the environmental review process.
- **Section 2.0, Corrections and Additions.** This chapter provides a list of changes that were made to the DEIR. These revisions are shown in strikeout and additions are shown in underline text.
- **Section 3.0, Responses to Comments.** The City received three comment letters during the DEIR public review period. Of these, one letter is directed exclusively at the Project rather than the DEIR. This chapter contains summaries of these comment letters and the City's responses to those comments that raise significant environmental points. A list of individuals, organizations, and public agencies commenting on the DEIR is provided. All comment letters, including those that did not raise significant environmental points, are included in **Section 3.0 Responses to Comments**.

In addition, the City received two comment letters after the DEIR public review period. Under CEQA, a lead agency is required to consider comments on the DEIR and to prepare a written response, if a comment is received within the public comment period. (Pub. Resources Code, § 21091, subd. (d); *CEQA Guidelines*, § 15088.) When a comment letter is received after the close of the public comment period, however, a lead agency does not have an obligation to respond. (Pub. Resources Code, § 21091, subd. (d)(1); Pub. Resources Code, § 21092.5, subd. (c)(“Nothing in this section requires the lead agency to respond to comments not received within the comment periods specified in this division, to reopen comment periods, or to delay acting on a negative declaration or environmental impact report.”).) Although a lead agency is not required to respond to late comments, it may choose to do so. (Gray v. County of Madera (2008) 167 Cal. App. 4th 1099, 1110 (Gray), citing Pub. Resources Code, § 21091, subd. (d)(1); *CEQA Guidelines*, § 15088; Gilroy Citizens for Responsible Planning v. City of Gilroy (2006) 140 Cal.App.4th 911, 925, fn. 10 (Gilroy Citizens).)

- **Section 4.0, Mitigation Monitoring Program.** This chapter includes the Mitigation Monitoring Program (MMP) prepared in compliance with the requirements of Section 21081.6 of the California Public Resources Code and Section 15091(d) and 15097 of the *State CEQA Guidelines*.

## 1.4 REVIEW AND CERTIFICATION OF THE FEIR

Consistent with CEQA (Public Resource Code Section 21092.5), responses to agency comments are being forwarded to each commenting agency prior to certification of the FEIR. In addition, responses are also being distributed to all commenters via email. The FEIR can be downloaded at:

<https://www.milpitas.gov/379/Environmental-Documents-CEQA>

## 1.5 SUMMARY OF THE PROPOSED PROJECT

The Project is comprised of five (5) seven-plex townhomes, eight (8) twelve-plex townhomes, and an apartment building. The Project would provide a total of 206 multi-family housing units:

- Seven-Plex Townhomes: 35 dwelling units.
- Twelve-Plex Townhomes: 96 dwelling units.
- Apartment Building: 75 dwelling units

### 1.5.1 Proposed Townhomes

The proposed seven-plex and twelve-plex townhomes would be located next to each other and would encompass the majority of the Project Site.

#### *Seven-Plex Townhomes*

The Project would construct five three-storied townhome buildings containing seven units per building for a total of 35 dwelling units. All 35 dwelling units would be offered as “market rate” for sale units, ranging in size between 1,534 and 1,850 square feet. The seven-plex townhomes would encompass building numbers 1 through 5. Buildings 1 and 2 would have frontage onto California Circle. The seven-plex townhomes would have a total gross floor area of 16,954 square feet. These townhomes would utilize four different floor plans that consist of three and four-bedroom units, each varying in size and garage type.

#### *Twelve-Plex Townhomes*

The Project would also construct eight four-storied townhome buildings containing twelve units per building for a total of 96 dwelling units. All 96 dwelling units would be offered as “market rate” for sale

units, ranging in size from 1,518 to 2,175 square feet. The twelve-plex townhomes would encompass building numbers 6 through 13. The townhomes would have a total gross floor area of 28,677 square feet. Additionally, the twelve-plex townhomes would utilize seven different plans that consist of predominantly three-bedroom units with either two or three bathrooms. A portion of these units have an option to create a fourth bedroom loft.

The twelve-plex townhomes would range in size between 1,518 and 2,175 square feet. Approximately 14 units of the twelve-plex townhomes are adaptable multi-story dwelling units on an accessible route that complies with the California Building Code (CBC).

### 1.5.2 Proposed Apartment Complex

The Project would develop a six-story apartment complex and associated parking facilities at the northeastern corner of the Project Site; refer to **Figure 2.0-5, Apartment Site Plan**, of the DEIR. The proposed apartment building would be located within the northeastern corner of the Project Site. Plans for the apartment building would range between studios to two-bedroom units. The proposed apartment complex would provide 75 units that would be offered at “below market rate” (BMR) rental prices. It is anticipated that, of the 75 BMR units, a minimum of 20 units would be offered at the City’s established “low-income rental rate”, while the remaining 55 units would be offered at a “moderate rental rate” (MRR) rental prices. The proposed apartment complex would have a gross floor area of approximately 66,844 square feet, and a floor area ratio of 1.63. The ground floor, level R0, would be reserved for 60 covered parking spaces, an apartment leasing office, and maintenance rooms. Starting at the second floor of the building, levels R1 through R5 would consist of several studios, one bedroom, and two-bedroom units that range in size between 411 to 840 square feet.

### 1.5.3 Project Objectives

In accordance with *State CEQA Guidelines* Section 15124, the specific project objectives identified below support the underlying purpose of the Project, assist the City as Lead Agency in developing a reasonable range of alternatives to evaluate in this EIR, and will ultimately aid the decision maker in preparing findings and overriding considerations, if necessary.

The objectives of the Project are as follows:

- Increase affordable housing opportunities, including housing designated for all Milpitas Unified School District staff, and help meet the City’s Regional Housing Needs Allocation (RHNA);

- Redevelop underutilized and vacated land; and
- Implement sustainable building practices to showcase energy efficiency and low water use.

## 1.6 SUMMARY OF THE PROPOSED PROJECT IMPACTS

Section 15382 of the *State CEQA Guidelines* defines a significant impact on the environment as “a substantial, or potentially substantial, adverse change in any of the physical conditions within an area affected by the project, including land, air, water, flora, fauna, ambient noise, and objects of historic or aesthetic significance.” To approve a project with significant and unavoidable impacts, the lead agency must adopt a written Statement of Overriding Considerations (in accordance with Section 15093 of the *State CEQA Guidelines*) demonstrating that the decisionmaker has found that on balance the benefits of approving the Project outweigh the negative environmental consequences.

Impacts found to be significant and unavoidable are the Project and cumulative impacts to aesthetics, specifically to the existing scenic vistas that surround the Project Site. Impacts found to be potentially significant but able to be reduced to less than significant with the imposition of proposed mitigation include habitat modifications, movement of native animal species, archaeological resources, tribal resources, paleontological resources, transportation regulations, and emergency access.

## 2.0 CORRECTIONS AND ADDITIONS

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As required by California Environmental Quality Act (CEQA) Guidelines Section 15088, this chapter provides corrections or clarifications of certain statements in the Draft Environmental Impact Report (DEIR). The correction(s) and/or addition(s) do not constitute significant new information, because none of the defined criteria in 15088.5(a) would be met, including that the correction(s) or addition(s) would not result in new significant impacts or a substantial increase in the severity of any impact already identified in the DEIR. Specifically, Section 15088.5(a) defines significant new information which requires recirculation to be any of the following:

1. A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
2. A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
3. A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.
4. The DEIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

Corrections or information has been added to the DEIR pursuant to *State CEQA Guidelines* Section 15132, as part of the preparation of the Final EIR (FEIR). Additions to the text of the DEIR are shown by underline and deletions from the text of the DEIR are shown by strikethrough unless otherwise described. Where mitigation measures are replaced or revised, the replacement or revised measures are listed under the relevant impact section; however, the revisions also apply to mitigation measures listed in the Executive Summary. As noted above, the following corrections and additions included herein involve minor modifications that clarify or amplify information contained in the DEIR and none would result in new or more severe significant impacts from those identified in the DEIR impact analysis or conclusions.

## 2.0 Project Description

Page 2.0-5 – Revise the first bullet point under “2.4 Objectives of the Proposed Project” to read as follows:

- Increase affordable housing opportunities, including housing designated for ~~teachers~~ all Milpitas Unified School District staff and help meet the City’s Regional Housing Needs Allocation (RHNA);

## 3.3 Biological Resources

Page 3.3-13 – Revise the first paragraph under “3.3.1.3 Sensitive Plant Communities” to read as follows:

Except for the existing adjacent storm drain channel west of the Project Site, there are no riparian habitats in the Project Site or its immediate vicinity.<sup>9</sup> ~~Additionally, The adjacent storm drain channel is not an identifiable jurisdictional waters or wetlands. Rather, the~~ channel is identified as a Riverine Habitat R4SBAx, which is characterized as a man-made storm channel that serves a larger deepwater system and contains surface water for brief periods of time. ~~However, the Riverine includes all wetlands within the channel. Thus, the adjacent channel may be considered as a jurisdictional Waters of the United States and is thereby considered a jurisdictional Waters of the State.~~

Page 3.3-23 – Revise the paragraphs under “3.3.5 Impact BIO-2” to read as follows:

There are no natural hydrologic features that are present on-site. As mentioned above, there are no riparian habitats within the Project Site or in its immediate vicinity. There is an existing storm drain channel, located west of the Project Site. ~~However, As discussed in Section 3.3.1.3, Sensitive Plant Communities, the storm drain channel is not identified as a Riverine Habitat R4SBAx and is considered to be an identifiable jurisdictional waters or wetlands. Rather, the channel is identified as a Riverine Habitat R4SBAx, which is characterized as a man made storm channel that serves a larger deepwater system and contains surface water for brief periods of time. Furthermore However, the Project’s drainage plan and compliance with the National Pollutant Discharge Elimination System permit will ensure that the channel would not be disturbed by Project construction or operation activities (see Appendix 3.9 Stormwater and Water Quality Analysis).~~ Although Coyote Creek is located approximately 630 feet west of the Project Site, developed properties and I-880 serve as a barrier between the riverine and the Project Site. Thus, Project implementation would have less than significant impacts ~~on to~~ the riverine.

As shown in **Table 3-2, Summary of the Potentially Occurring Special-Status Plant and Animal Species**, one natural community has historically been observed within the same USGS Quadrangle as the Project Site: the Northern Coastal Salt Marsh. However, the Project Site is a developed property with minimal non-native vegetation and is not adjacent to a bay, harbor, or inlet. Thus, the Project Site would not provide a suitable habitat for the natural community.

In conclusion, the Project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community, and no less than significant impacts would occur.

### ***Significance Before Mitigation***

No Less than Significant Impact.

### **Mitigation Measures**

No mitigation measures are required.

### ***Significance After Mitigation***

No Less than Significant Impact.

Page 3.3-24 – Revise the paragraphs under “3.3.5 Impact BIO-3” as follows:

As discussed above, the Project Site is developed and located within an urbanized area of Milpitas. ~~Additionally, the Project Site does not contain any natural hydrologic or drainage features. Although the Project Site is adjacent to a channelized Waters of the State, the channel would not be disturbed by the Project. Further, there no State or Federally protected wetlands on site.~~ Therefore, Project implementation would not have a substantial adverse effect on state or federally protected wetlands. No Less than Significant impacts to protected wetlands would occur.

### ***Significance Before Mitigation***

No Less than Significant Impact.

### **Mitigation Measures**

No mitigation measures are required.

### ***Significance After Mitigation***

No Less than Significant Impact.

### 3.9 Hydrology and Water Quality

Page 3.9-1 – Revise the third paragraph under “3.9.1.1 Watershed” as follows:

#### ***Watersheds***

The City of Milpitas is located within the Coyote Watershed,<sup>1</sup> the largest watershed in Santa Clara County (County) encompassing approximately 322 square miles.<sup>2</sup> Coyote Creek, the main waterway for the watershed, is the longest creek in the County. The Coyote Watershed is home to the Penitencia Water Treatment Plant, which provides drinking water for 270,000 residential and commercial users.<sup>3</sup> An existing storm drain channel is located immediately west of the Project Site.

Page 3.9-14 – Revise the second paragraph under “3.9.2.3 Regional” as follows:

#### ***Santa Clara Valley Water District Comprehensive Water Resources Management Plan Valley Water's One Water Plan***

~~The SCVWD's Comprehensive Water Resources Management Plan is organized in the following elements: Water Supply, Natural Flood Protection, and Water Resources Stewardship. Each element includes an informational overview that describes overarching goals and related objectives on a broad level and places them in a countywide context. At the heart of the plan are the goals, objectives, and strategies that serve as the district's framework and provide information for partner agencies. The SCVWD is involved in water management at varying levels of involvement. In some instances, it plays a primary role; in others, the district collaborates with other agencies and/or partners; in still other cases, the SCVWD serves as an informational resource and public advocate. The Comprehensive Water Resources Management Plan clarifies these degrees of involvement. Valley Water's One Water Plan is a long range integrated water resources master plan that includes goals for Water Supply, Natural Flood Protection, and Environmental Stewardship. This planning effort acts as Valley Water's flood management plan and stream stewardship plan, while also providing a nexus to water supply planning. Each One Water goal is described in terms of measurable objectives and priority actions on a per watershed basis. One Water's five watershed plans (1 complete, 2 pending, 2 to be developed) will identify those actions needed to improve watershed health and water resources management throughout Santa Clara County. Much of the work needed can only be accomplished through partnerships with local government and non-profit organizations.~~

Page 3.9-14 – Revise the third paragraph under “3.9.2.3 Regional” as follows:

**Santa Clara Valley 2016 Groundwater Management Plan 2021 Groundwater Management Plan**

The SCVWD’s Groundwater Management Plan (GWMP) describes the District’s comprehensive groundwater management framework, including existing and potential actions to achieve basin sustainability goals and ensure continued sustainable groundwater management. The GWMP covers the Santa Clara and Llagas subbasins, located entirely in Santa Clara County. The SCVWD’s prior Groundwater Management Plan was adopted by the Board in 2012 and described the District’s comprehensive groundwater management framework, including basin management objectives, strategies, groundwater management programs, and outcome measures. The 2016 GWMP updates and expands on technical information in the 2012 GWMP and is prepared as an alternative to a Groundwater Sustainability Plan under the Sustainable Groundwater Management Act (SGMA). In addition, the District prepared a five-year groundwater management plan as required by the Sustainable Groundwater Management Act.

Page 3.9-20 – Revise the paragraphs under “3.9.5 Impact HYD-1, Operation” as follows:

The proposed Drainage Plan under the Project would divide the Project Site into 38 drainage management areas (DMAs, see Appendix 3.9, Stormwater and Water Quality Analysis for the complete drainage plan of the Project). As discussed in Appendix 3.9, the majority of these drainage areas would be LID treated using bio-treatment basins, while one DMA is considered to be a self-retaining drainage area. In recognition of the potential for development to cause potential stormwater pollutant impacts, the Project would be required to implement Source Control and Treatment Control BMPs to reduce the discharge of pollutants to the maximum extent practicable. These control BMPs would include buildings with disconnected downspouts, self-retaining areas, beneficial landscaping, inlets with flows-to-bay labels, pavement sweeping, catch basin cleaning, and good housekeeping. These BMPs, as well as the proposed bio-treatment basins would be designed in Treatment Control BMPs would also be required to be incorporated into the design of onsite storm drain systems to treat runoff in accordance with the Standard Urban Water Mitigation Plan (SUSMP) standards and as required by the City.

Chapter 16 of the City’s Municipal Code provides regulations and gives legal effect to certain requirements of the Waste Discharge Requirements and National Pollutant Discharge Elimination System permit for the discharge of stormwater runoff from the City's municipal separate storm

sewer (MS4), issued by the California Regional Water Quality Control Board, San Francisco Region to the City of Milpitas. These regulations include the following:

- Section XI-16-5 makes it unlawful to discharge non-stormwater or contaminated stormwater into any City storm drain or watercourse.
- Section X-16-6 requires regulated projects to design and construct Low Impact Development source control, site design, and stormwater treatment measures in order to reduce water quality impacts of urban runoff from the entire project site for the life of the project.
- Section XI-16-7 requires that property owners, its administrators, or any other persons, including homeowners' associations, take the necessary actions to ensure that permanent stormwater treatment measures are properly maintained so that they continue to operate as originally designed and approved for the life of the development.

As shown in Project's Drainage Plan, Appendix 3.9, the Project would reduce the existing on-site impervious surface area from 224,153 square feet to 207,849 square feet of impervious area. Accordingly, the Project would increase the existing on-site from 67,395 square feet to 83,669 square feet, providing additional area for rainfall to naturally infiltrate rather than produce stormwater discharge. Lastly, implementation of the proposed treatment basins would provide more than 1,000 square feet of treatment than what is required under City standards.

Implementation of these site-specific source control and treatment control BMPs would be in accordance with Chapter 16 of the City code and the County construction and Santa Clara Valley stormwater management codes policies, and the SWMP would reduce these potential impacts related to stormwater quality. Applicable Furthermore, these BMPs would be implemented in accordance with regional and local regulatory requirements, including the MRP. ~~Because the Project would not violate any water quality or waste discharge requirements. Therefore, impacts would be less than significant.~~

Page 3.9-21 – Revise the first and second paragraph under “3.9.5 Impact HYD-2” as follows:

~~Groundwater levels are managed by the California Department of Water Resources to maintain a safe operating yield of groundwater, which includes a sustainable pumping rate that does not exceed the total recharge into the basin. Further, the SCVWD's Groundwater Management Plan describes the District's comprehensive groundwater management framework, including existing and potential actions to achieve basin sustainability goals and ensure continued sustainable groundwater management.~~

As discussed above, the Project would reduce the result in comparable amounts of impervious surfaces and increase the pervious surfaces on-site as compared to existing conditions. Further, the Project Site is not located within a local groundwater recharge area and no groundwater extraction would occur as part of the Project.

Page 3.9-23 – Revise the second paragraph under “3.9.5 Impact HYD-3, Operation” as follows:

The Project would implement a new on-site drainage system that would be LID and include the use of bio-treatment basins (see Appendix 3.9). These bio-treatment basins would be designed to be consistent with local and regional drainage requirements. The Project is not anticipated to substantially change the drainage patterns within the Project Site. At completion, the Project Site would be developed with buildings, landscaped areas, roads, and other hardscape improvements; no bare areas of soil would be left vulnerable to erosion. Chapter 16 of the City’s Municipal Code provides regulations and gives legal effect to certain requirements of the Waste Discharge Requirements and National Pollutant Discharge Elimination System permit for the discharge of stormwater runoff from the City’s municipal separate storm sewer (MS4), issued by the California Regional Water Quality Control Board, San Francisco Region to the City of Milpitas. These regulations include Section XI 16-5 through Section XI-16-7, as detailed above. Compliance with existing State and local regulations would ensure impacts are reduced and impacts would be less than significant.

Page 3.9-24 – Revise the first paragraph under “3.9.5 Impact HYD-3, Stormwater Drainage Systems” as follows:

Storm water runoff is influenced by rainfall intensity, ground surface permeability, watershed size and shape, and physical barriers. In addition, paved surfaces and drainage conduits can accelerate the velocity of runoff, concentrating peak flows in downstream areas faster than under natural conditions. Significant increases to runoff and peak flow could overwhelm drainage systems and alter flood elevations in downstream locations. Increased runoff velocity can promote scouring of existing drainage facilities, reducing system reliability, and safety. The Project would decrease the number and area of impervious surfaces and increase the number and area of pervious surfaces on-site compared to the existing conditions result in comparable amounts of impervious surfaces as existing conditions. Therefore, the Project is not anticipated to increase demand for the existing stormwater drainage systems. Impacts would be less than significant.

Page 3.9-24 – Revise the third paragraph under “3.9.5 Impact HYD-3, Surface Flows” as follows:

~~During operation of the Project, much of the site would remain impervious (similar to existing conditions) Compared to existing conditions, implementation of the Project would result in a reduction in impervious surfaces due to the presence of parking areas, walkways, hardscape, and building roofs and roadways.~~ Landscaped areas of the Project would introduce opportunities for infiltration of stormwater runoff and roof discharges, thereby minimizing potential impacts associated with stormwater runoff exiting the area, and potentially improving conditions compared to existing conditions. For these reasons, potential impacts to drainage pattern alterations, including how drainage pattern alterations could affect surface water runoff, erosion/siltation, flooding, and stormwater conveyance facilities would be less than significant.

## 3.10 Land Use and Planning

Page 3.10-2 – Revise the second paragraph under “3.10.1.1 On-Site Land Uses” as follows:

Consistent with the new General Plan NCMU land use designation, the Project Site and adjacent parcels will be rezoned to Mixed Use (MXD) to allow a multifamily residential development with a density of 21 to 30 units per acre. Other parcels in the California Circle area will be rezoned ~~MXD~~ Mixed Use to the newly created Neighborhood Commercial Mixed Use (NCMU), consistent with current land uses and the NCMU designation under the General Plan.

## Appendix 3.14, Transportation Analysis

Page 1 – Revise the third paragraph under “Scope of Study” as follows:

- California Circle and I-880 NB Ramps (South of Dixon Landing Road)
- California Circle and Dixon Landing Road (North of Dixon Landing Road)
- Dixon Landing Road and Milmont Drive

## 3.0 RESPONSES TO COMMENTS

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This section includes comments received during the circulation of the Draft Environmental Impact Report (“DEIR” or “Draft EIR”) prepared for the 1355 California Circle Project (hereafter referred to as “Project”). The comment letters were submitted to the City of Milpitas by public agencies and private citizens. Responses to written comments received have been prepared to address the environmental concerns raised by the commenters and to indicate where and how the Draft EIR addresses pertinent environmental issues. Any changes made to the text of the DEIR correcting information, data, or intent, other than minor typographical corrections or minor working changes, are noted in **Section 2.0, Corrections and Additions**.

The DEIR was submitted to the State Clearinghouse Office of Planning and Research and circulated for 45-day public review, beginning on July 07, 2023, and ending on August 21, 2023.

The City received three comment letters during the DEIR public review period. Of these, one letter is directed exclusively at the logistics of proposed discretionary approvals of the Project rather than the DEIR. A list of commenters on the DEIR is shown in **Table 3.0-1, List of Commenters on the DEIR**.

The City also received two additional comment letters after the DEIR public review period. While the City is not obligated to respond, the City may choose to do so.

The original bracketed comment letters are provided followed by a numbered response to each bracketed comment. Individual comments within each letter are numbered and the response is given a matching number. For the letters that pertain to the DEIR, each separate DEIR comment, if more than one, has been assigned a number. The responses to each DEIR comment identify first the number of the comment letter, and then the number assigned to each issue (Response 1-1, for example, indicates that the response is for the first issue raised in comment Letter No. 1).

**Table 3.0-1**  
**List of Commenters on the DEIR**

Letter Number	Organization	Commenter Name	Comment Date	Response Page Number
1	California Department of Transportation, District 4	Laurel Sears	August 18, 2023	3.0-6
2	San Francisco Bay Regional Water Quality Control Board	Brian Wines	July 14, 2023	3.0-9
3	True Life Companies	Leah Beniston	July 19, 2023	3.0-17
<b>Comments Received After the DEIR Public Review Period</b>				
4	California Department of Transportation, District 4	Yunsheng Luo	September 12, 2023	3.0-20
5	Santa Clara Valley Water District	Jason Miguel	September 11, 2023	3.0-25

### 3.1 RESPONSES TO COMMENTS RECEIVED ON THE DRAFT PEIR

The original bracketed comment letters and numbered responses are provided on the following pages. Individual comments within each letter are numbered and the response is given a matching number.

## California Department of Transportation

DISTRICT 4  
OFFICE OF REGIONAL AND COMMUNITY PLANNING  
P.O. BOX 23660, MS-10D | OAKLAND, CA 94623-0660  
[www.dot.ca.gov](http://www.dot.ca.gov)



August 18, 2023

SCH #: 2022110251  
GTS #: 04-SCL-2022-01215  
GTS ID: 28215  
Co/Rt/Pm: SC/880/10.006

Lillian VanHua, Senior Planner  
City of Milpitas  
455 E. Calaveras Boulevard  
Milpitas, CA 95035

### **Re: Pulte Homes Residential Development at 1355 California Circle – Draft Environmental Impact Report (DEIR)**

Dear Lillian VanHua:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Pulte Homes Residential Development at 1355 California Circle. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system.

The Local Development Review (LDR) Program reviews land use projects and plans to ensure consistency with our mission and state planning priorities. The following comments are based on our review of the July 2023 DEIR.

#### **Project Understanding**

The proposed project would demolish the existing vacant office building and replace it with a residential townhome development with up to two hundred and six (206) new units on a 6.69-acre site located at 1355 California Circle.

#### **Travel Demand Analysis**

With the enactment of Senate Bill (SB) 743, Caltrans is focused on maximizing efficient development patterns, innovative travel demand reduction strategies, and multimodal improvements. For more information on how Caltrans assesses Transportation Impact Studies, please review Caltrans' Transportation Impact Study Guide ([link](#)).

1

2

Caltrans commends the Lead Agency regarding the reduced Vehicle Miles Traveled (VMT) generation for the proposed land use stated in the Transportation Analysis. The project VMT analysis and significance determination are undertaken in a manner consistent with the Office of Planning and Research's (OPR) Technical Advisory. This project supports the State's goals to reduce greenhouse gas emissions and improve multimodal transportation options for land use development.

2

### **Pedestrian and Bicycle Planning**

Based upon the project's location adjacent to Interstate-880, Caltrans supports the proposed bicycle and pedestrian recommendations in Section 2.0, Project Description that recommend new pedestrian walkways on-site and would provide bike racks for residents. To be consistent with Policy CD 2-7 of the Community Design Element stated in the DEIR, Caltrans recommends any short or long term bike parking should provide safe and secure bicycle storage in compliance with the Federal Highway Administration(FHWA)- Bicycle Parking & Storage ([link](#)). Any proposed sidewalk improvements within the State Right of Way must be consistent with the Highway Design Manual (HDM).

3

### **Transportation Impact Fees**

Please identify project-generated travel demand and estimate the costs of transit and active transportation improvements necessitated by the proposed project; viable funding sources such as development and/or transportation impact fees should also be identified. We encourage a sufficient allocation of fair share contributions toward multi-modal and regional transit improvements to fully mitigate cumulative impacts to regional transportation. We also strongly support measures to increase sustainable mode shares, thereby reducing VMT.

4

### **Utilities**

Any utilities that are proposed, moved or modified within Caltrans' Right-of-Way (ROW) shall be discussed. If utilities are impacted by the project, provide site plans that show the location of existing and/or proposed utilities. These modifications require a Caltrans-issued encroachment permit.

5

### **Lead Agency**

As the Lead Agency, the City of Milpitas is responsible for all project mitigation, including any needed improvements to the State Transportation Network (STN). The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

6

### **Equitable Access**

If any Caltrans facilities are impacted by the project, those facilities must meet American Disabilities Act (ADA) Standards after project completion. As well, the

7

project must maintain bicycle and pedestrian access during construction. These access considerations support Caltrans' equity mission to provide a safe, sustainable, and equitable transportation network for all users.

7

### **Encroachment Permit**

Please be advised that any permanent work or temporary traffic control that encroaches onto Caltrans' ROW requires a Caltrans-issued encroachment permit. As part of the encroachment permit submittal process, you may be asked by the Office of Encroachment Permits to submit a completed encroachment permit application package, digital set of plans clearly delineating Caltrans' ROW, digital copy of signed, dated and stamped (include stamp expiration date) traffic control plans, this comment letter, your response to the comment letter, and where applicable, the following items: new or amended Maintenance Agreement (MA), approved Design Standard Decision Document (DSDD), approved encroachment exception request, and/or airspace lease agreement. Your application package may be emailed to [D4Permits@dot.ca.gov](mailto:D4Permits@dot.ca.gov).

8

To obtain information about the most current encroachment permit process and to download the permit application, please visit Caltrans Encroachment Permits ([link](#)).

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Marley Mathews, Transportation Planner via [LDR-D4@dot.ca.gov](mailto:LDR-D4@dot.ca.gov).

For future early coordination opportunities or project referrals, please contact [LDR-D4@dot.ca.gov](mailto:LDR-D4@dot.ca.gov).

Sincerely,



LAUREL SEARS  
Acting District Branch Chief  
Local Development Review

c: State Clearinghouse

**Letter 1**      **California Department of Transportation**  
**Laurel Sears, Acting District Branch Chief**  
**P.O. BOX 23660, MS-10D**  
**Oakland, CA 94623-0660**  
**August 18, 2023**

**Response 1-1**

The comment provides an introduction to California Department of Transportation's (Caltrans) detailed comments, which are addressed below. The comment also provides an overview of the Project. This comment is noted. No further response is required.

**Response 1-2**

The commenter concurs with the Project's VMT analysis and significance determination methodology. The commenter states that the Project would support the State's goals to reduce greenhouse gas emissions and improve multimodal transportation options for land use development. This comment is noted. No further response is required.

**Response 1-3**

The commenter supports the proposed bicycle and pedestrian facilities included in the Project. Caltrans recommends that any short- or long-term bike parking include safe and secure bicycle storage, and any proposed sidewalk improvements under the Project be consistent with the Highway Design Manual (HDM). As discussed in **Section 2.0, Project Description**, the Project would provide on-site bicycle storage in the form of bike racks and are subject to design review and approval as part of the Project's site plan review by the City. No sidewalk improvements are proposed under the Project.

**Response 1-4**

The commenter requests the identification of the project-generated travel demand for transit and active transportation improvements, as well as the appropriate development and/or transportation impact fees for the Project. The estimated costs of transit necessitated by the Project and any transportation impact fees or developer fees will be determined by the City prior to the issuance of construction and building permits. Thus, the determination of the Project's development and/or transportation impact fees is beyond the scope of the Project's CEQA analysis. This comment is noted. No further response is required.

**Response 1-5**

The commenter requires any utilities within Caltrans' Right-of-Way (ROW) to be noted within the DEIR. The Project does not include any off-site utility lines located within Caltrans ROW.

**Response 1-6**

The commenter identifies the City of Milpitas, as the Lead Agency, as the responsible party for any improvements to the State Transportation Network. This comment is noted. No further response is required.

**Response 1-7**

The commenter requires all Caltrans facilities that are impacted by the Project to meet American Disabilities Act (ADA) Standards after Project completion and recommends that the existing bicycle and pedestrian access to be maintained during construction. As stated in Response 1-6, the Project would not impact existing facilities within Caltrans ROW. As discussed in **Section 4.14, Transportation**, of the DEIR, Project operations would not significantly impact the existing off-site bicycle and pedestrian facilities. Rather, the Project would introduce new bicycle facilities within the Project Site, including bike racks. However, construction activities associated with the Project may result in partial lane closures for bicyclists and sidewalk closures for pedestrians. Implementation of **Mitigation Measure MM TRA-1** would require bicycle lanes and pedestrian sidewalks to remain open and accessible, to the greatest extent feasible, during construction or shall be re-routed to ensure continued connectivity. Implementation of **MM TRA-1** would be consistent with Caltrans' equity mission.

**Response 1-8**

The commenter advises to obtain a Caltrans-issued encroachment permit prior to any encroachment onto Caltrans ROW. The commenter further provides additional details regarding Caltrans' encroachment permit application materials. Project-related permitting activities will occur after the City Council's approval of the Project and prior to the initiation of construction activities. Nevertheless, requirements related to the issuance of encroachment permits are beyond the scope of the Project's CEQA analysis. This comment is noted. No further response is required.



## San Francisco Bay Regional Water Quality Control Board

July 14, 2023

*Sent via electronic mail: No hardcopy to follow*

City of Milpitas, Planning Department  
ATTN: Lillian VanHua, Senior Planner ([planningdepartment@milpitas.gov](mailto:planningdepartment@milpitas.gov))  
455 East Calaveras Boulevard  
Milpitas, CA 95035

**Subject:** San Francisco Bay Regional Water Quality Control Board Comments on the *Draft Environmental Impact Report for the Pulte Homes Residential Development at 1355 California Circle*, City of Milpitas Santa Clara County, California  
SCH No. 2022110251

Dear Ms. VanHua:

San Francisco Bay Regional Water Quality Control Board (Water Board) staff appreciates the opportunity to review the *Draft Environmental Impact Report for the Pulte Homes Residential Development at 1355 California Circle* (DEIR). The DEIR evaluates the potential environmental impacts associated with implementing the Pulte Homes Residential Development at 1355 California Circle Project (Project). The Project Site is located at 1355 California Circle between Interstate 880 (I-880) and California Circle. The 6.69-acre Project Site is located in the northwestern portion of the City of Milpitas. The Project site is bound by commercial and industrial uses to the north, multi-family residential uses and a religious assembly use to the east, a vacant industrial parcel to the south, and I-880 to the west. A City-owned storm drain channel is also located immediately west, between the Project Site and I-880. The Project is comprised of five seven-plex townhomes, eight twelve-plex townhomes, and an apartment building. The Project would provide a total of 206 multi-family housing units. We have the following comments on the Project's potential impacts to waters of the State.

1

### Summary

As is discussed below, the DEIR does not provide sufficient information to determine if the storm drain channel is a jurisdictional water of the State. If the channel is determined to be a water of the State, the DEIR should be revised to include an alternatives analysis for proposed impacts to the channel and specific mitigation measures for any unavoidable impacts to the channel.

2

JAYNE BATTEY, CHAIR | EILEEN WHITE, EXECUTIVE OFFICER

1515 Clay St., Suite 1400, Oakland, CA 94612 | [www.waterboards.ca.gov/sanfranciscobay](http://www.waterboards.ca.gov/sanfranciscobay)

**Comment 1. The Project site may contain a jurisdictional water of the State.**

The discussion of Biological Resources in Section 3.3 of the DEIR includes the following text in the discussion of Impact BIO-2:

There are no natural hydrologic features that are present on-site. As mentioned above, there are no riparian habitats within the Project Site or in its immediate vicinity. There is an existing storm drain channel, located west of the Project Site. However, the storm drain channel is not an identifiable jurisdictional waters or wetlands. Rather, the channel is identified as a Riverine Habitat R4SBAX, which is characterized as a manmade storm channel that serves a larger deepwater system and contains surface water for brief periods of time.

The DEIR does not provide sufficient information to support the assertion that the storm drain channel is not a jurisdictional water of the State. Constructed storm channels may be regulated as waters of the State if they replace an impacted water of the State and/or they become a feature of the local watershed. If the storm channel has a bed and bank and receives runoff from a local watershed, it is likely to be regulated as a water of the State. In addition, it is possible that portions of the storm channel may have sufficient hydrology to be regulated as isolated wetlands. While isolated wetlands are not regulated as waters of the U.S., they are regulated as waters of the State. The DEIR should be revised to include more detailed information about the dimensions, vegetation, and hydrology of the storm channel. The DEIR should also include the dimensions of any proposed impacts to the storm channel.

3

**Comment 2. If the storm channel is a water of the State, any impacts to the channel must be supported by an alternatives analysis.**

As is noted above, even if the channel was created by excavation, if it has persisted for decades and is supported by a local watershed, it is regulated as a water of the State, pursuant to the State's Porter-Cologne Water Quality Act. If the channel is not subject to federal jurisdiction, fill of the channel will require the issuance of Waste Discharge Requirements (WDRs) from the Water Board. Issuance of WDRs will require public noticing of the proposed WDRs and approval by a vote of the Board at one of our monthly Board meetings.

When the Water Board receives an application for certification and/or WDRs, staff reviews the project to verify that the project proponent has taken all feasible measures to avoid impacts to waters of the State (these impacts usually consist of the placement of fill in waters of the State). Where impacts to waters of the State cannot be avoided, projects are required to minimize impacts to waters of the State to the maximum extent practicable (i.e., the footprint of the project in waters of the state is reduced as much as possible). Compensatory mitigation is then required for those impacts to waters of the state that cannot be avoided or minimized. Avoidance and minimization of impacts is a prerequisite to developing an acceptable project and identifying appropriate compensatory mitigation for an approved project's impacts. Avoidance and minimization cannot be used as compensatory mitigation. After avoidance and minimization of direct impacts to waters of the State have been maximized for the

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proposed project, the necessary type and quantity of compensatory mitigation for the remaining impacts to waters of the State are assessed on a case-by-case basis.

Under the *San Francisco Bay Basin Water Quality Control Plan* (Basin Plan), projects are required to avoid impacts to waters of the State, in conformance with U.S. Environmental Protection Agency's CWA 404(b)(1) Guidelines (Guidelines). The Guidelines provide guidance in evaluating the circumstances under which the fill of jurisdictional waters may be permitted. Projects must first exhaust all opportunities, to the maximum extent practicable, to avoid, and then to minimize impacts to jurisdictional waters. Only after all options for avoidance and minimization of impacts have been exhausted, is it appropriate to develop mitigation for adverse impacts to waters of State. Since residential development is not a water dependent project, it is assumed that impacts to waters of the State can be avoided.

The Water Boards only allow compensatory mitigation to be implemented for those impacts to waters of the State that cannot be avoided and/or minimized; "avoidance and minimization" in the context of reviewing applications for WDRs refers to minimizing the proposed project's footprint in waters of the State. The current Project appears to propose the fill of all potential waters of the State that are present at the Project site. It is unusual for the Water Board to issue permits for projects that include no avoidance or minimization of impacts to waters of the State. The Project applicant is encouraged to revise the DEIR to fully explore an alternative that completely avoids fill of the storm channel and incorporates the channel into the Project's landscaping and open space areas.

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**Comment 3. The DEIR does not describe acceptable mitigation for the proposed fill of waters of the State at the Project site.**

If the storm channel is determined to be a water of the State, the DEIR should be revised to provide mitigation for any impacts to the storm channel. Please note that the required amount of mitigation will depend on the similarity of the impacted water of the State to the provided mitigation water of the State, the uncertainty associated with successful implementation of the mitigation project, and the distance between the site of the impact and the site of the mitigation water. In-kind mitigation for the fill of a channel consists of the creation of a new channel. If the mitigation consists of restoration or enhancement of open waters, the amount of mitigation will be greater than if the mitigation consists of the creation of open waters. If there are uncertainties with respect to the availability of sufficient water to support a mitigation water, then the amount of mitigation would also have to be greater. Finally, the amount of required mitigation increases as the distance between the impact site and the mitigation site increases.

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A mitigation ratio of 1:1 may be acceptable if a mitigation channel is established on the Project site. For mitigation projects that are offsite and/or out-of-kind, the required mitigation ratio will increase with distance from the Project site and any differences between the type of water body that is impacted and the type of water body that is provided at the mitigation site. For an off-site mitigation project, the applicant will need to acquire fee title to a property with the proper hydrology to support an appropriately-

sized mitigation feature. In addition, the applicant will need to monitor and maintain the mitigation feature for at least ten years, until final performance criteria are attained. The applicant will also need to place a conservation easement or deed restriction over the property and establish an endowment for the long-term maintenance of the mitigation feature.

Without a description of a viable mitigation project, the DEIR does not demonstrate that the Project's impacts to waters of the State can be mitigated to a less than significant level. In a CEQA document, a project's potential impacts and proposed mitigation measures should be presented in sufficient detail for readers of the CEQA document to evaluate the likelihood that the proposed remedy will actually reduce impacts to a less than significant level. CEQA requires that mitigation measures for each significant environmental effect be adequate, timely, and resolved by the lead agency. In an adequate CEQA document, mitigation measures must be feasible and fully enforceable through permit conditions, agreements, or other legally binding instruments (CEQA Guidelines Section 15126.4). Mitigation measures to be identified at some future time are not acceptable. It has been determined by court ruling that such mitigation measures would be improperly exempted from the process of public and governmental scrutiny which is required under the California Environmental Quality Act. The current text of the DEIR does not demonstrate that it is feasible to mitigate all potentially significant impacts to waters of the State that may result from project implementation to a less than significant level. Impacts to the jurisdictional waters at the project site, as well as proposed mitigation measures for such impacts, will require review under CEQA before the Water Board can issue permits for those proposed impacts.

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**Comment 4, Hydrology and Water Quality, Mitigation Measure MM Hydro 2: NPDES Permit (pg. 118) and MM Hydro 3-3 (page 122).**

Section 3.9.3 of the DEIR acknowledges that the Project must comply with the C.3 Provisions of the Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit (MRP) (Water Board Order No. R2-2022-001874; NPDES Permit No. CAS612008). The MRP requires that stormwater treatment be provided through Low Impact Development (LID) measures. At the Project site, LID measures will consist of bioretention areas. Properly-sized bioretention areas require that sufficient surface area at the Project site be reserved for bioretention areas. The information provided in the DEIR is insufficient to determine if sufficient surface area has been set aside for MRP compliance. At sites that require WDRs from the Water Board, review of proposed stormwater treatment infrastructure is a component of preparing the WDRs for the Project. We encourage early coordination with the Water Board in the development of stormwater treatment measures to ensure that the proposed treatment is consistent with the requirements of the MRP.

6

**Conclusion**

The DEIR does not provide sufficient detail to establish the jurisdictional status of the storm channel at the Project site. If the storm channel is determined to be a water of the State, the DEIR should be revised to provide specific mitigation measures for all impacts to waters of the State. These mitigation measures should be in-kind and on-site

7

Santa Clara County

- 5 -

NOP for Stevens Creek Quarry Reclamation Plan

mitigation measures to the maximum extent possible. The amount of proposed mitigation should include mitigation for temporal losses of any impacted waters of the State. If mitigation is out-of-kind and/or off-site, then the amount of the proposed mitigation should be increased. Proposed mitigation measures should include designs with sufficient detail to show that any created waters will have sufficient hydrology to sustain hydrology and vegetation without human intervention. A proposed program for monitoring the success of the mitigation features should also be included with the mitigation proposal(s). In addition, before the Water Board issues a permit that authorizes the fill of waters of the State, we must be provided with an alternatives analysis that demonstrates that avoidance of some or all of the waters of the State at the Project site is infeasible.

7

If the DEIR is adopted without providing concrete mitigation proposals for impacts to waters of the State, it is likely that the DEIR will not be adequate to support the issuance of Waste Discharge Requirements for the Project.

If you have any questions about this comment, please contact me at (510) 622-5680, or via e-mail at [brian.wines@waterboards.ca.gov](mailto:brian.wines@waterboards.ca.gov).

Sincerely,



Brian Wines  
Water Resources Control Engineer  
South and East Bay Watershed Section

cc: State Clearinghouse ([state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov))

**Letter 2**      **San Francisco Bay Regional Water Quality Control Board**  
**Jimmy Kim, Water Resources Control Engineer, South and East Bay Watershed Section**  
**1515 Clay Street, Suite 1400**  
**Oakland, CA 94612**  
**July 14, 2023**

**Response 2-1**

The comment provides an introduction to the San Francisco Bay Regional Water Quality Control Board's (SFBRWQCB) detailed comments, which are addressed below. This comment also provides an overview of the Project. This comment is noted. No further response is required.

**Response 2-2**

The comment provides a summary of SFBWQCB's detailed comments, which are addressed below. This comment is noted. No further response is required.

**Response 2-3**

The commenter notes that the existing storm channel may be a jurisdictional water that is regulated as Waters of the State. See **Chapter 2.0, Corrections and Additions**, for this revision made to **Section 3.3, Biological Resources**, of the DEIR and **Appendix 3.9, Stormwater and Water Quality Analysis**, that has been added to the DEIR. The existing storm channel is labeled as "Maintenance 1" in Stormwater Control Narrative under **Appendix 3.9**. Accordingly, these corrections would change the analysis of **Impact BIO-3**, and its determined impacts under this threshold would be revised from no impact to less than significant. However, these revisions would not result in additional mitigation measures, nor would the Project result in any additional significant and unavoidable impacts that were not already discussed in the DEIR.

**Response 2-4**

The commenter requires an alternative analysis of the Project's environmental impacts to the existing storm channel, if the channel is a Water of the State. See **Chapter 2.0 Corrections and Additions**, for revisions made to **Section 3.3, Biological Resources**, and **Section 3.9, Hydrology and Water Quality**, of the DEIR and **Appendix 3.9, Stormwater and Water Quality Analysis**, that has been added to the DEIR. **Appendix 3.9** analyzes the construction and operational activities associated with the Project, and the potential impacts to the existing channel. As summarized in **Appendix 3.9**, the existing channel would be preserved and protected throughout the duration of the Project construction and operation. Therefore, Project activities would not impact the existing storm channel. No further alternative analysis is necessary.

**Response 2-5**

The commenter states that, if the existing storm channel is determined to be a Waters of the State, the DEIR must be revised to provide mitigation for any impacts to the storm channel. The commenter details

potential mitigation measures that are recommended for the Project. See **Chapter 2.0, Corrections and Additions**, for this revision made to **Section 3.3, Biological Resources**, of the DEIR and **Appendix 3.9, Stormwater and Water Quality Analysis**, that has been added to the DEIR. As summarized in **Appendix 3.9**, the Project would not disturb the existing storm channel. The Project's Drainage Plan and compliance with the National Pollutant Discharge Elimination System permit requirements will ensure that the channel would not be disturbed by the Project construction or operation activities. Therefore, additional mitigation measures regarding the storm channel protection are not necessary.

**Response 2-6**

The commenter states that the DEIR provides insufficient information to determine if sufficient surface area under the Project has been set aside to determine if the Project would meet MRP compliance. The commenter also recommends early coordination with the SFBRWQCB in the development of stormwater treatment measures. Corrections have been included to provide the calculated impervious surface area, pervious surface area, and bio-treatment area under the Project. See **Chapter 2.0, Corrections and Additions**, for the revisions made to **Section 3.9, Hydrology and Water Quality**. The revisions do not raise new environmental information or directly challenge information provided in the DEIR. The City of Milpitas decision makers will consider all comments on the Project. For the purposes of CEQA, no further response is necessary.

**Response 2-7**

The commenter concludes that DEIR does not provide sufficient detail to establish the jurisdictional status of the storm channel at the Project Site, and that additional mitigation measures are needed to address the concerns outlined in this comment letter. While revisions have been made to **Section 3.9, Hydrology and Water Quality**, the revisions do not raise new environmental information or directly challenge information provided in the DEIR. The City of Milpitas decision makers will consider all comments on the Project. For the purposes of CEQA, no further response is necessary.

## Letter 3

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**From:** Lillian VanHua <[lvanhua@milpitas.gov](mailto:lvanhua@milpitas.gov)>

**Date:** Wednesday, July 19, 2023 at 2:39 PM

**To:** Leah Beniston <[lbeniston@thetruelifecompanies.com](mailto:lbeniston@thetruelifecompanies.com)>, Kristina Phung <[kphung@milpitas.gov](mailto:kphung@milpitas.gov)>

**Subject:** RE: Pulte EIR for 1355 Cal Circle

Hi Leah,

Residential is allowed under the NCMU general plan land use designation. When the project was originally proposed, it was thought that the only instance where a 100% residential project would be permitted is if it were made 100% affordable (per the general plan language). After further consideration of the proposed density and the project area, MXD Mixed Use Zoning District is one of the possible zoning districts under the NCMU general plan land use designation. Moreover, a zoning designation of MXD allows a 100% multifamily project without any additional stipulation of affordable units (outside of the City's AHO). The project application is now proposing a zone change to MXD, with a PUD overlay, to allow for its unique development standards. The PUD is basically the tentative map.

I'll have to get back to you on the application, as we haven't shared the initial application package in recent years. It's worth noting that the initial proposal is different than what is being considered now so I'm not sure if you want the original application.

Best,

Lillian

---

**From:** Leah Beniston <[lbeniston@thetruelifecompanies.com](mailto:lbeniston@thetruelifecompanies.com)>

**Sent:** Wednesday, July 19, 2023 1:24 PM

**To:** Lillian VanHua <[lvanhua@milpitas.gov](mailto:lvanhua@milpitas.gov)>; Kristina Phung <[kphung@milpitas.gov](mailto:kphung@milpitas.gov)>

**Subject:** Pulte EIR for 1355 Cal Circle

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Hi Ladies,

I have reviewed the Pulte EIR and signed up for the community meeting Aug. 3. I have a few questions that I hope one of you can answer.

1. The GPA looks to be a text amendment to remove the Specific Plan requirement and not a land use designation changing the NCMU. Curious why the NCMU isn't being changed to any GP specific residential designation? \_\_\_\_\_
2. The zoning is changing from Industrial to PUD. How does the PUD intertwine with the NCMU? I would assume that by now the application is public record. Can I get a copy of the application? \_\_\_\_\_

1

2

3

Thanks,

Leah

**Leah Beniston**  
*Senior Vice President*



## Letter 3

*We create attainable housing so that our children, and grandchildren, can live and prosper where we do.*

12647 Alcosta Boulevard, Suite 470  
San Ramon, CA 94583  
**D** 925.380.1699 **C** 925.785.3254  
[lbeniston@thetruelifecompanies.com](mailto:lbeniston@thetruelifecompanies.com)

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**From:** [Lillian VanHua](#)  
**To:** [Michael Fossati](#)  
**Subject:** FW: Pulte EIR for 1355 Cal Circle  
**Date:** Wednesday, July 19, 2023 5:12:01 PM  
**Attachments:** [image004.png](#)

---

For when you come back. FYI. Let's discuss because I think my brain keeps going in circles.

---

**From:** Leah Beniston <lbeniston@thetruelifecompanies.com>  
**Sent:** Wednesday, July 19, 2023 3:04 PM  
**To:** Lillian VanHua <lvanhua@milpitas.gov>; Kristina Phung <kphung@milpitas.gov>  
**Subject:** Re: Pulte EIR for 1355 Cal Circle

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Hi Lillian,

Thank you for the explanation. Will there be a separate action in regards to the 1 unit/1500 SF commercial threshold in the NCMU? Per the project description, I only see the text amendment for removal of the Specific Plan language. Per the Land Use section there is a statement that the 1 unit/1500SF of commercial has been found to be infeasible. If that language isn't in the Project Description when and how will that amendment to the NCMU take place? The screen shot below states that the " NCMU requirements are currently being revised", is that per this Pulte application or via a City initiated action prior to the Pulte application being heard?

4

**A close up of a document**  **Description automatically generated**



**Leah Beniston**  
*Senior Vice President*



**We create attainable housing so that our children, and grandchildren, can live and prosper where we do.**

**12647 Alcosta Boulevard, Suite 470**  
San Ramon, CA 94583  
**D 925.380.1699 C 925.785.3254**  
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**Letter 3**      **True Life Companies**  
**Leah Beniston**  
**12647 Alcosta Boulevard, Suite 470**  
**San Ramon, CA 94583**  
**July 19, 2023**

**Response 3-1**

The comment provides an introduction to the True Life Companies comments, which are addressed below. This comment is noted. No further response is required.

**Response 3-2**

The commenter provides an inquiry regarding the use of a General Plan Text Amendment instead of redesignating the site to a specific residential designation. The comment is not related to significant environmental issues associated with the Project. Responses are not provided for comments that do not relate to significant environmental issues. *State CEQA Guidelines* Section 15088 provides guidance on the preparation of response to comments and indicates that while lead agencies must evaluate all comments received on a DEIR, they need only respond to comments related to significant environmental issues. Therefore, no further response is required.

**Response 3-3**

The commenter provides an inquiry regarding Planned Unit Development application. The comment is not related to significant environmental issues associated with the Project. Responses are not provided for comments that do not relate to significant environmental issues. *State CEQA Guidelines* Section 15088 provides guidance on the preparation of response to comments and indicates that while lead agencies must evaluate all comments received on a DEIR, they need only respond to comments related to significant environmental issues. Therefore, no further response is required.

**Response 3-4**

The commenter provides an inquiry regarding the commercial requirements under the Neighborhood Commercial Mixed use designation. The comment is not related to significant environmental issues associated with the Project. Responses are not provided for comments that do not relate to significant environmental issues. *State CEQA Guidelines* Section 15088 provides guidance on the preparation of response to comments and indicates that while lead agencies must evaluate all comments received on a DEIR, they need only respond to comments related to significant environmental issues. Therefore, no further response is required.

## California Department of Transportation

DISTRICT 4  
OFFICE OF REGIONAL AND COMMUNITY PLANNING  
P.O. BOX 23660, MS-10D | OAKLAND, CA 94623-0660  
[www.dot.ca.gov](http://www.dot.ca.gov)



September 12, 2023

SCH #: 2022110251  
GTS #: 04-SCL-2022-01215  
GTS ID: 28215  
Co/Rt/Pm: SCL/880/10.006

Lillian VanHua, Senior Planner  
City of Milpitas  
455 E. Calaveras Boulevard  
Milpitas, CA 95035

### **Supplemental letter for Pulte Homes Residential Development at 1355 California Circle – Draft Environmental Impact Report (DEIR)**

Dear Lillian VanHua:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Pulte Homes Residential Development at 1355 California Circle. This letter is supplemental to the original one previously submitted on August 18, 2023. Please see the comments below for the DEIR Appendix 3.14 – Transportation Analysis.

#### **Highway Operations**

Page 1 of 26, Scop of Study and Intersection #1 & #2 in Appendix-B:

- "California Circle and I-880 NB Ramps" should be revised as ""California Circle and I-880 NB Ramps (South of Dixon Landing Road)" as this is a T-intersection connecting to the freeway.
- "California Circle and Dixon Landing Road" should be revised as "California Circle, Dixon Landing Road and NB Ramps (North of Dixon Landing Road) as this is a four-leg intersection connecting to the freeway.

Page 1 of 26, Scope of Study. Regarding the AM and PM peak hours, please consider extending the AM and PM peak periods between 06:30 AM and 9:30 AM, and 03:00 PM and 6:00 PM as the subject ramps are within a highly congested segment of I-880.

*Page 14 of 26, Signalized Intersection Level of Service Analysis.* The signalized intersections have been established. An Intersection Control Evaluation (ICE) should be done in accordance with the Traffic Operations Policy Directive #13-02 ([link](#)).

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Marley Mathews, Transportation Planner, via [LDR-D4@dot.ca.gov](mailto:LDR-D4@dot.ca.gov).

For future early coordination opportunities or project referrals, please contact [LDR-D4@dot.ca.gov](mailto:LDR-D4@dot.ca.gov).

Sincerely,



YUNSHENG LUO  
Acting District Branch Chief  
Local Development Review

c: State Clearinghouse

**Letter 4**      **California Department of Transportation**  
**Yunsheng, Luo, Acting District Branch Chief**  
**P.O. BOX 23660, MS-10D**  
**Oakland, CA 94623-0660**  
**September 12, 2023**

**Comment 4-1**

The commenter provides recommendations to modify the description of the study intersections included in **Appendix 3.14, Transportation Analysis**. See **Chapter 2.0, Corrections and Additions**, for this revision made to **Appendix 3.14**, that has been added to the DEIR.

The commenter also recommends expanding the AM and PM peak hours. However, as **Appendix 3.14** states, the AM peak hour of traffic is typically between 7:00 AM and 9:00 AM and the PM peak hour is typically between 4:00 PM and 6:00 PM. The comment is not related to significant environmental issues associated with the Project. Responses are not provided for comments that do not relate to significant environmental issues. *State CEQA Guidelines* Section 15088 provides guidance on the preparation of response to comments and indicates that while lead agencies must evaluate all comments received on a DEIR, they need only respond to comments related to significant environmental issues. Therefore, no further response is required.

The commenter also recommends the completion of an Intersection Control Evaluation (ICE). However, the ICE is required to justify the installation of traffic signal systems, yield-control (roundabouts), and multi-way stop control at state highway intersections and interchanges. The proposed signals are not located at a state highway intersection or interchange. The comment is not related to significant environmental issues associated with the Project. Responses are not provided for comments that do not relate to significant environmental issues. *State CEQA Guidelines* Section 15088 provides guidance on the preparation of response to comments and indicates that while lead agencies must evaluate all comments received on a DEIR, they need only respond to comments related to significant environmental issues. Therefore, no further response is required.

---

**From:** Jason Miguel <[JMiguel@valleywater.org](mailto:JMiguel@valleywater.org)>  
**Sent:** Monday, September 11, 2023 1:42 PM  
**To:** Planning Department <[planningdepartment@milpitas.gov](mailto:planningdepartment@milpitas.gov)>  
**Cc:** Kevin Thai <[KThai@valleywater.org](mailto:KThai@valleywater.org)>; Brian Mendenhall <[BMendenhall@valleywater.org](mailto:BMendenhall@valleywater.org)>;  
Vanessa De La Piedra <[vdelapiedra@valleywater.org](mailto:vdelapiedra@valleywater.org)>; Michael Martin  
<[MichaelMartin@valleywater.org](mailto:MichaelMartin@valleywater.org)>  
**Subject:** Pulte Homes Residential Project DEIR

**CAUTION: EXTERNAL SENDER**

This email originated from outside the organization. Do NOT click links or open attachments unless you recognize the sender and know the content is safe. [Report suspicious messages to the IT Helpdesk](#).

Hi Lillian,

The Santa Clara Valley Water District (Valley Water) has reviewed the Draft Environmental Impact Report (DEIR), received on July 19, 2023 for the proposed Pulte Home Residential Project. Valley Water has the following comments:

Specific Comments

1. Section 3.8.5 Environmental Impacts construction Activities (Page 3.8-20)

Regarding an Underground Storage Tank (UST) presumably removed from the site, the DEIR notes that: "Prior to initiation of construction activities, the Project Applicant would be required to coordinate with the City and Milpitas Fire Department (MFD) in determining if appropriate site remediation as a condition of approval is required." This coordination should also include the Santa Clara County Department of

Environmental Health, who serves as the local oversight agency for investigations and cleanup of UST releases for all areas within the County of Santa Clara. The following paragraph includes the statement: "As discussed, it is unlikely that certain hazardous substances, such as ACMs and PCBs, are likely present on the Project Site." which is unclear and should be revised.

2. Section 3.9.2.3 Region *Santa Clara Valley Water District Comprehensive Water Resources Management Plan* (Page 3.9-14)

The following sub-section describing the Comprehensive Water Resources Management Plan should be removed and replaced with Valley Water's One Water Plan.

Valley Water recommends relabeling the sub-section to: **Valley Water's One Water Plan**, with the following description:

"Valley Water's One Water Plan is a long range integrated water resources master plan that includes goals for Water Supply, Natural Flood Protection, and Environmental Stewardship. This planning effort acts as Valley Water's flood management plan and stream stewardship plan, while also providing a nexus to water supply planning. Each One Water goal is described in terms of measurable objectives and priority actions on a per watershed basis. One Water's five watershed plans (1 complete, 2 pending, 2 to be developed) will identify those actions needed to improve watershed health and water resources management throughout Santa Clara County. Much of the work needed can only be accomplished through partnerships with local government and non-profit organizations."

3. Section 3.9.2.3 Regional *Santa Clara Valley 2016 Groundwater Management Plan* (Page 3.9-14)

Please note the 2016 Groundwater Management Plan was approved by the Department of Water Resources (DWR) as an Alternative to a Groundwater Sustainability Plan in 2019. As required by the Sustainable Groundwater Management

(SGMA), Valley Water prepared a five-year (the 2021 Groundwater Management Plan) so the DEIR reference should be updated accordingly. The 2021 Groundwater Management Plan is available at: <https://www.valleywater.org/your-water/where-your-water-comes/groundwater/sustainable>.

#### 4. Section 3.9.5 Environmental Impacts (Page 3.9-21)

The following statement under "Impact HYD-2" is inaccurate and Valley Water recommends it being removed: "Groundwater levels are managed by the California Department of Water Resources to maintain a safe operating yield of groundwater, which includes a sustainable pumping rate that does not exceed the total recharge into the basin." DWR has regulatory oversight in assessing groundwater sustainability plans (and alternatives) developed by local groundwater sustainability agencies but does not manage groundwater directly. As the groundwater sustainability agency for the Santa Clara Subbasin, Valley Water manages groundwater through managed aquifer recharge and other activities to achieve outcome measures described in the 2021 Groundwater Management Plan.

#### 5. Section 3.9.1.2 Floodplain Mapping Hydraulic Modeling (Page 3.9-3)

Valley Water's comments on the NOP regarding Flood Zone AG has not been included in the DEIR and should be reflected as:

"Current Federal Emergency Management Agency (FEMA) Federal Insurance Rate Map (FIRM) Panel 06085C0058J, effective February 19, 2014, shows the Pulte Homes Residential Development site is located within a Special Flood Hazard Area (SFHA) Zone AH, which would be subject to a base flood elevation (BFE) of 15 feet (NAVD 88). The EIR should assess flooding impacts at the Pulte Homes Residential Development and ensure that it does not adversely impact flooding, both in terms of depth and lateral extent."

#### General Comment

#### 6. The EIR concludes that the project is consistent with planned growth for Milpitas. The project of future water supply and availability assumes increases in water conservation

and demand management measures (City of Milpitas Urban Water Management Plan). For the proposed project to meet its fair share to these water conservation assumptions, Valley Water suggests that all available water conservations measures be required of the project including all multi-family residential units be required to install a submeter to encourage efficient water use. Studies have shown that adding submeters can reduce water use 15 to 30 percent.

Valley Water appreciates your consideration for the review of the DEIR. Please send a copy of the Final EIR at your earliest convenience.

If you have any questions, or need further information, you can reach me at (408) 630-2976, or by email at [JMiguel@valleywater.org](mailto:JMiguel@valleywater.org).

Please reference Valley Water File No. 34818 on future correspondence regarding this project.

Thanks,

**JASON MIGUEL**

ASSISTANT ENGINEER I - CIVIL  
Community Projects Review Unit  
Tel. (408) 630-2976 / Cell. (408) 761-5789

Santa Clara Valley Water District is now known as:



Clean Water • Healthy Environment • Flood Protection

5750 Almaden Expressway, San Jose CA 95118  
[www.valleywater.org](http://www.valleywater.org)

**Letter 5**      **Santa Clara Valley Water District**  
**Jason Miguel, Assistant Engineer I – Civil**  
**5750 Almaden Expressway**  
**San Jose, CA 95118**  
**September 11, 2023**

**Comment 5-1**

The commenter requests clarification regarding the site remediation and coordination with the Milpitas Fire Department for the previous underground storage tank, and the connection to the presence of ACM and PCBs. ACM and PCBs are not related to the site remediation and coordination with the Milpitas Fire Department. Further, given the date of construction of the existing building on-site, building materials and infrastructure are unlikely to contain ACM and/or PCBs. The presence of these hazardous materials will be subject to testing by the demolition contractor and if they are found to be present, appropriate health & safety will be required as a prior to the issuance of the NTP for demolition and these measures will be undertaken and enforced during demolition activities.

The commenter recommends replacing the description of the Santa Clara Valley Water District Comprehensive Water Resources Management Plan. See **Chapter 2.0, Corrections and Additions**, for this revision made to **Section 3.9, Hydrology and Water Quality**, that has been added to the DEIR.

The commenter recommends updating the reference to the 2016 Groundwater Management Plan to the 2021 Groundwater Management Plan. See **Chapter 2.0, Corrections and Additions**, for this revision made to **Section 3.9, Hydrology and Water Quality**, that has been added to the DEIR.

The commenter recommends removal of the following statement: "Groundwater levels are managed by the California Department of Water Resources to maintain a safe operating yield of groundwater, which includes a sustainable pumping rate that does not exceed the total recharge into the basin." See **Chapter 2.0, Corrections and Additions**, for this revision made to **Section 3.9, Hydrology and Water Quality**, that has been added to the DEIR.

The commenter requests that the Project evaluate flooding impacts at the Project Site. As discussed under **Impact HYD-4**, the Project is located within a Special Flood Hazard Areas and would be required to comply with applicable regulations relating to the floodplain management regulations which would reduce potential impacts to a less than significant level.

The commenter recommends that all available water conservation measures be required of the project, including submeters. The comment is not related to significant environmental issues associated with the Project. Responses are not provided for comments that do not relate to significant environmental issues.

### ***3.0 Responses to Comments***

*State CEQA Guidelines* Section 15088 provides guidance on the preparation of response to comments and indicates that while lead agencies must evaluate all comments received on a DEIR, they need only respond to comments related to significant environmental issues. Therefore, no further response is required.

## 4.0 MITIGATION MONITORING PROGRAM

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### 4.1 INTRODUCTION

The Mitigation Monitoring Program (MMP) has been prepared in conformance with Section 21081.6 of the California Environmental Quality Act (CEQA). It is the intent of this program to: (1) verify satisfaction of the required mitigation measures of the EIR (EIR); (2) provide a methodology to document implementation of the required mitigation measures; (3) provide a record of the Monitoring Program; (4) identify monitoring responsibility; (5) establish administrative procedures for the clearance of mitigation measures; (6) establish the frequency and duration of monitoring; and (7) use existing review processes wherever feasible.

This MMP describes the procedures for the implementation of the mitigation measures adopted for the Project. The City of Milpitas Planning Department and staff of other City Departments shall be responsible for administering the MMP activities or delegating them to consultants, or contractors. The Monitoring or Enforcing Agencies identified herein, at their discretion, may require a project applicant or operator to pay for one or more independent environmental monitor(s) to be responsible for monitoring implementation of mitigation measures (e.g., City building inspector, project contractor, certified professionals, etc., depending on the requirements of the mitigation measures) required of project applicants or operators. Monitors would be hired by the City or by the applicant or operator at the City's discretion.

Each mitigation measure is identified in **Table 4.0-1, Mitigation Monitoring Program Matrix**, and is categorized by environmental topic and corresponding number with identification of:

- The Implementing Party or Agency – this is in most cases, the applicant for individual projects who will be required to implement most of the measures.
- The Enforcement and Monitoring Entity – this is the entity or entities that will monitor each measure and ensure that it is implemented in accordance with this MMP.
- Monitoring Phase and Monitoring Actions – this is the timeframe that monitoring would occur and the criteria that would determine when the measure has been accomplished and/or the monitoring actions to be undertaken to ensure the measure is implemented.

**Table 4.0-1**  
**Mitigation Monitoring Program Matrix**

Mitigation Measure	Monitoring Phase and Monitoring Actions	Implementing Party	Enforcement and Monitoring Entity
<b>Impact – Air Quality</b>			
<b>MM AQ-1:</b> The following BAAQMD Basic Best Management Practices for Construction-Related Fugitive Dust Emissions shall be implemented: <ul style="list-style-type: none"> <li>• All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.</li> <li>• All haul trucks transporting soil, sand, or other loose material off-site shall be covered.</li> <li>• All visible mud or dirt track-out onto adjacent roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.</li> <li>• All vehicle speeds on unpaved roads shall be limited to 15 mph.</li> <li>• All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.</li> <li>• All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph.</li> <li>• All trucks and equipment, including their tires, shall be washed off prior to leaving the site.</li> <li>• Unpaved roads providing access to sites located 100 feet or further from a paved road shall be treated with a 6- to 12-inch layer of compacted layer of wood chips, mulch, or gravel.</li> <li>• Publicly visible signs shall be posted with the telephone number and name of the person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's General Air Pollution Complaints number shall also be visible to ensure compliance with applicable regulations.</li> </ul>	Prior to issuance of grading permits	Project Applicant	City of Milpitas Building Safety and Housing Department.
<b>Impact - Biological Resources</b>			
<b>MM BIO-1:</b> In the event that ground-disturbing activities or removal of any trees, shrubs, or any other potential nesting habitat that are associated with the Project are scheduled to occur within the avian nesting season (from January 1 through August 31), a qualified biologist retained by the Applicant shall conduct a pre-construction clearance survey for nesting birds within three days prior to any ground disturbing activities.  The biologist conducting the clearance survey shall document the negative results if no	Prior to issuance of grading or building permits	Project Applicant	City of Milpitas Planning Department.

Mitigation Measure	Monitoring Phase and Monitoring Actions	Implementing Party	Enforcement and Monitoring Entity
<p>active bird nests are observed on the Project Site during the clearance survey with a brief letter report indicating that no impacts to active bird nests would occur before construction can proceed. If an active bird nest is discovered during the pre-construction clearance survey, construction activities shall stay outside of a 100-foot buffer around the active nest. Encroachment into the buffer shall occur only at the discretion of the qualified biologist. Any activities requiring the removal of a tree with an active bird nest shall halt until nesting activity seasons, which would be determined by the qualified biologist.</p> <p>The biologist shall be present to delineate the boundaries of the buffer area and to monitor the active nest to ensure that nesting behavior is not adversely affected by the construction activity. Results of the pre-construction survey and any subsequent monitoring shall be provided to the City of Milpitas, California Department of Fish and Wildlife, and other appropriate agencies. This requirement shall be indicated on the site improvement plan and specifications for verification by the City of Milpitas prior to the initiation of construction activities</p>			
<b>Impact – Cultural Resources</b>			
MM CR-1: The Project Applicant shall retain a qualified archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards for archaeology to conduct Worker's Environmental Awareness Program (WEAP) training for archaeological sensitivity for all construction personnel prior to the commencement of any ground disturbing activities. If archaeological resources are encountered during ground-disturbing activities, work in the immediate area shall be halted and the archaeologist shall evaluate the find. If the resources are Native American human remains, the County Coroner and the Native American Heritage Commission shall be contacted as mandated by law. If necessary, the evaluation may require preparation of archaeological testing for California Register of Historical Resources (CRHR) eligibility. Results of the archaeological testing shall be reviewed and approved by the qualified archaeologist. If the discovery proves to be significant under CEQA and cannot be avoided by the Project, additional work may be warranted, such as data recovery excavation, and, if so, shall be identified by the archaeologist to mitigate any such significant impacts to cultural resources, if identified.	Prior to project approval.	Project Applicant	City of Milpitas Planning Department.
<b>Impact – Geology and Soils</b>			
MM GEO-1: In the event a potentially significant paleontological resource is encountered during ground-disturbing activities, work within 100 feet of the discovery shall halt and a professional paleontologist who meets the qualification standards of the Society of Vertebrate Paleontology shall be retained by the Project Applicant immediately to evaluate the significance of the discovery. The City of Milpitas Planning Department shall be notified immediately. If the resource is found to be significant, the professional paleontologist shall systematically remove it from the site for laboratory preparation. Following laboratory preparation, the resource would be identified, cataloged, and inventoried in anticipation of curation. All collected and prepared resources would be curated and stored in an accredited repository.	Prior to project approval.	Project Applicant	City of Milpitas Planning Department.

Mitigation Measure	Monitoring Phase and Monitoring Actions	Implementing Party	Enforcement and Monitoring Entity
<b>Impact – Greenhouse Gases</b>			
<p><b>MM GHG-1:</b> Prior to the issuance of a building permit, the Project Applicant shall demonstrate compliance with relevant and applicable measures of the CAP Update by preparing and implementing a project-specific consistency review checklist. The City shall review this consistency review checklist as part of the Project plan review.</p> <p>The consistency review checklist shall outline feasible, effective and applicable measures that will be required for the Project. Applicable and effective measures in reducing Project GHG emissions include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>• Utilize the latest energy-efficient construction equipment, when feasible;</li> <li>• Install Energy Star appliances;</li> <li>• Install on-site renewable energy, such as solar panels;</li> <li>• Provide on-site electric vehicle charging stations and associated infrastructure; and</li> <li>• Install water-efficient irrigation systems capable of using reclaimed water, when available.</li> </ul>	Prior to issuance of grading and building permits	City of Milpitas	City of Milpitas Planning Department
<b>Impact - Hazards and Hazardous Material</b>			
<p><b>MM HAZ-1:</b> Prior to issuance of a grading permit, a Soil Management Plan (SMP) and Health and Safety Plan (HSP) shall be prepared by a qualified environmental professional with Phase II/Site Characterization experience to establish appropriate management practices for handling impacted soil, soil vapor and ground water if encountered during construction activities. These documents shall include the following:</p> <ul style="list-style-type: none"> <li>• Site control procedures to control the flow of personnel, vehicles and materials in and out of the Site.</li> <li>• Measures to minimize dust generation, storm water runoff and tracking of soil off-Site.</li> <li>• If excavation de-watering is required, protocols to evaluate water quality and discharge/disposal alternatives shall be described.</li> <li>• Protocols for soil removal and subsequent subsurface soil sampling and evaluation.</li> <li>• Protocols for conducting earthwork activities in areas where impacted soil, soil vapor and/or ground water are present or suspected. Worker training requirements, health and safety measures and soil handing procedures should be described.</li> <li>• Protocols to be implemented if buried structures, wells, debris, or unidentified areas of impacted soil are encountered during construction activities.</li> <li>• Protocols to evaluate the quality of soil suspected of being contaminated so that appropriate mitigation, disposal or reuse alternatives, if necessary, can be determined.</li> <li>• Procedures to evaluate and document the quality of any soil imported to the Site.</li> </ul>	Prior to issuance of grading and building permits.	Project Applicant	City of Milpitas Building Safety Department

Mitigation Measure	Monitoring Phase and Monitoring Actions	Implementing Party	Enforcement and Monitoring Entity
<ul style="list-style-type: none"> <li>Soil containing chemicals exceeding residential (unrestricted use) screening levels or typical background concentrations of metals should not be accepted.</li> <li>Methods to monitor excavations for the potential presence of volatile chemical vapors.</li> </ul>			
<b>Impact - Transportation</b>			
<b>MM TRA-1:</b> Prior to project construction initiation, the respective Applicants shall prepare a Traffic Management Plan (TMP) for approval by the City Traffic Engineer. The TMP shall specify that one direction of travel in each direction on adjacent roadways must always be maintained during project construction activities. If full lane closures are required and one direction of travel in each direction cannot be maintained, the TMP shall identify planned detours. The TMP shall include measures such as construction signage, limitations on timing for lane closures to avoid peak hours, temporary striping plans, and use of construction flag person(s) to direct traffic during heavy equipment use. The TMP shall include signage, lane closures, flag persons, etc., and shall specify that one lane of travel in each direction shall be maintained along City rights-of-way. Bicycle lanes and pedestrian sidewalks shall remain open and accessible, to the greatest extent feasible, during construction or shall be re-routed to ensure continued connectivity. Lastly the TMP shall detail plans that the Applicant would take to ensure that the Project Site would provide adequate emergency access. The TMP shall be incorporated into project specifications for verification prior to final plan approval.	Prior to grading and building permit issuance.	Project Applicant	City of Milpitas Building Safety Department  City of Milpitas Engineering Department

## **5.0 LIST OF PREPARERS AND PERSONS CONSULTED**

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This Environmental Impact Report was prepared by the City of Milpitas with the assistance of environmental staff listed below from Impact Sciences, PreVision Design, Albion Environmental, and Hexagon Transportation Consultants.

### **5.1 LEAD AGENCY**

#### **City of Milpitas Department of Planning**

##### **Milpitas Planning Team:**

Ned P. Thomas, AICP, Planning Director  
Lillian VanHua, AICP, Senior Planner  
Michael Fossati, AICP, Senior Planner  
Kristina Phung, Associate Planner

### **5.2 EIR PREPARERS**

#### **Impact Sciences, Inc.**

811 W. 7th Street, Suite 200  
Los Angeles, California 90017

John R. Anderson, Principal-in-Charge  
Brett Pomeroy, Associate Principal  
Margaret Lin, Senior Project Manager  
Eleni Getachew, ENV SP, Planner  
Annalie Sarrieddine, Associate Planner  
Kara Yates Hines, Director of Operations & Publications Manager

#### **PreVision Design (Aesthetics)**

Adam Phillips, LEED AP, Principal & Founder

#### **Albion Environmental (Cultural Resources)**

Sarah Peelo, Ph.D., RPA, Lead Investigator

#### **Hexagon Transportation Consultants (Transportation/VMT Analysis)**

Eric Tse, T.E., Lead Transportation Engineer

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**APPENDIX 3.9**  
**Stormwater and Water Quality Analysis**



# Civil Engineering Associates

28 Railway Ave  
Campbell, CA 95008  
Phone: (408) 453-1066  
Fax: (408) 453-1060  
Web: [www.ceainc.net](http://www.ceainc.net)

June 2, 2023  
20-158

## **CITY OF MILPITAS**

Engineering Department  
455 E. Calaveras Boulevard  
Milpitas, CA 95035

**SUBJECT: STORMWATER CONTROL NARRATIVE  
1355 CALIFORNIA CIRCLE  
MILPITAS, CA**

Dear City of Milpitas,

This project, located at 1355 California Circle, is approximately 6.7 acres and comprises 13 condominium buildings and 1 six-story apartment building. The site is divided into 38 drainage management areas (DMA); see sheets C6 & C7 in the Planned Development set. These 38 drainage management areas include DMA 1-36, Maintenance 1, and Maintenance 2.

### LID Design Measures

DMA 1-16 and 18-36 will be LID treated using bio-treatment basins. These basins were sized using the 4% rule of thumb method described in the Santa Clara Valley Urban Runoff Pollution Prevention Plan (SCVURPPP) handbook. DMA 17 does not exceed a 2:1 ratio of impervious to receiving pervious area and is considered self-retaining, as described in the SCVURPPP handbook.

Maintenance 1 encompasses an existing channel that will be preserved and protected throughout the duration of the project. Maintenance 1 will not be disturbed, and treatment will not be required or provided. Maintenance 2 encompasses a 16'-wide Public Service & Utility Easement PSUE that will include a public sidewalk. This public walk will slope toward California Circle, and untreated runoff from this area will flow to the downstream public catch basin and be collected by the City of Milpitas storm collection system.

### Site Design Measures & Source Control Measures

The project will implement several site design and source control measures outlined in the City of Milpitas Stormwater Requirements C.3 Data Form. The site design and source control measures being implemented include the reduction of impervious surfaces, buildings with disconnected downspouts, self-retaining areas, beneficial landscaping, inlets with flows-to-bay labels, pavement sweeping, catch basin cleaning, and good housekeeping.



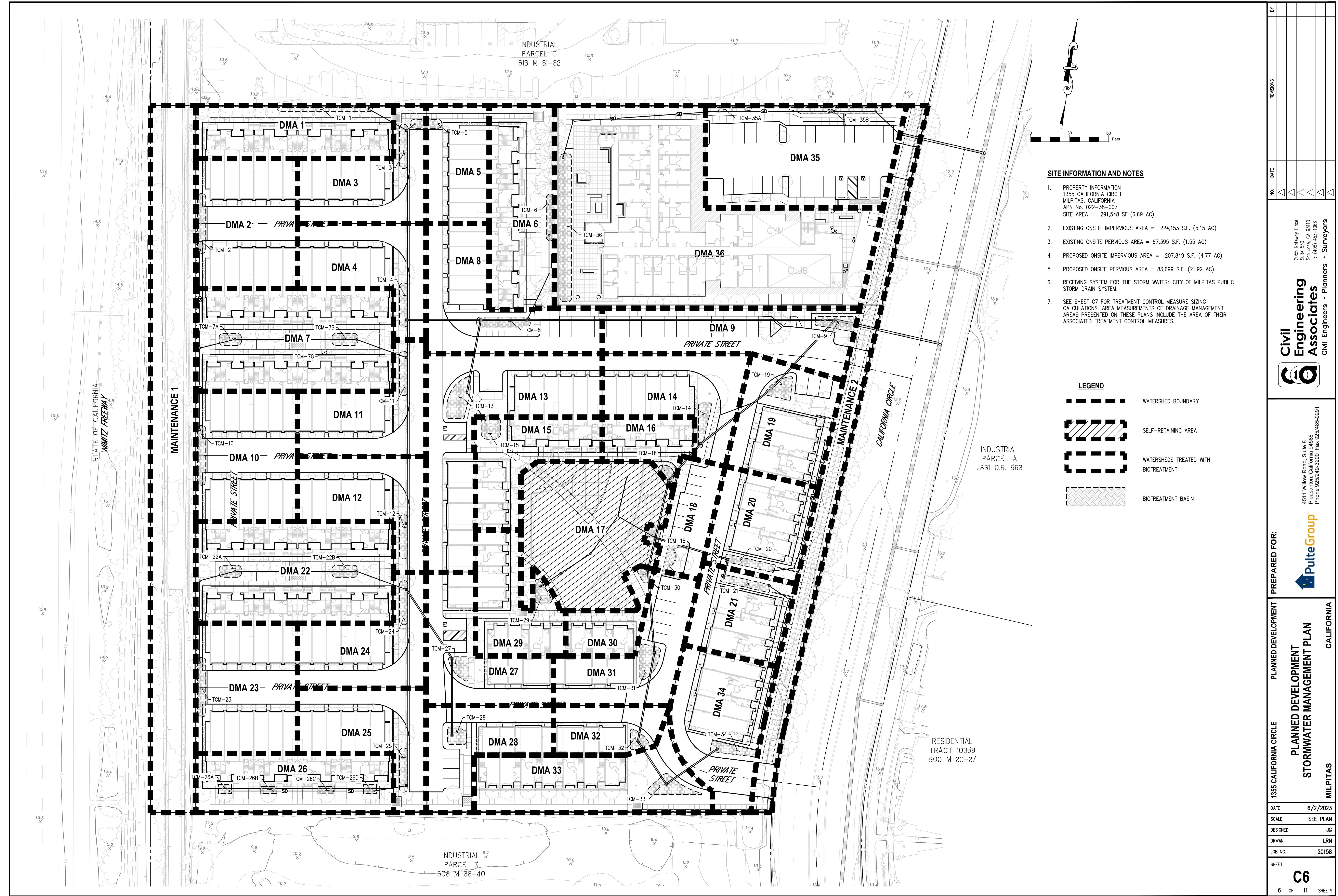
**Stormwater Facility Maintenance Requirements**

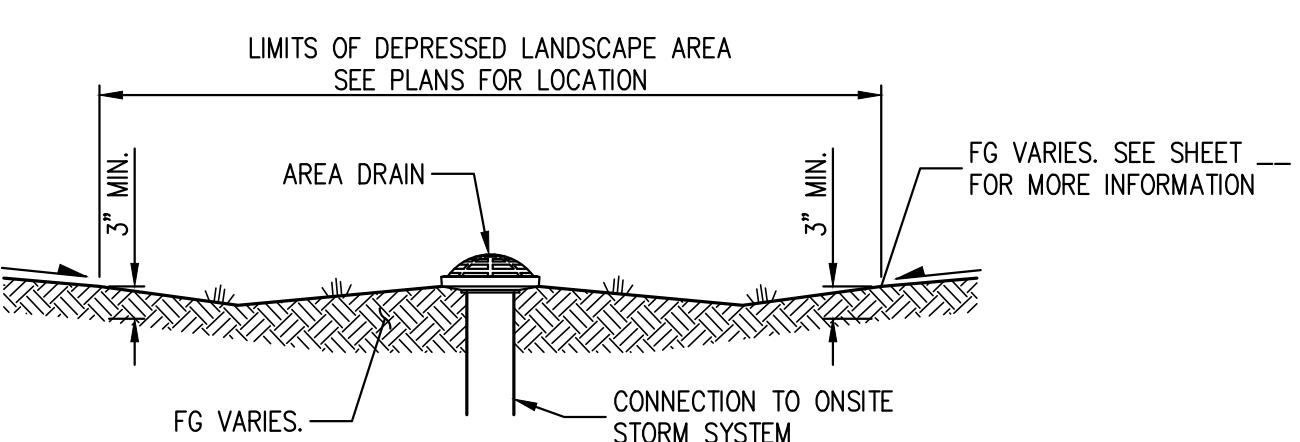
The proposed bio-treatment basins will require routine maintenance, and the developer, Pulte Homes, is the responsible entity for all private stormwater treatment/hydromodification control operations and maintenance. A detailed maintenance plan and inspection checklists will be provided in the Operation & Maintenance Agreement, not part of this narrative.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Gaylord".

John Gaylord  
Principal Engineer  
Civil Engineering Associates





#### DEPRESSED LANDSCAPE AREAS DETAIL

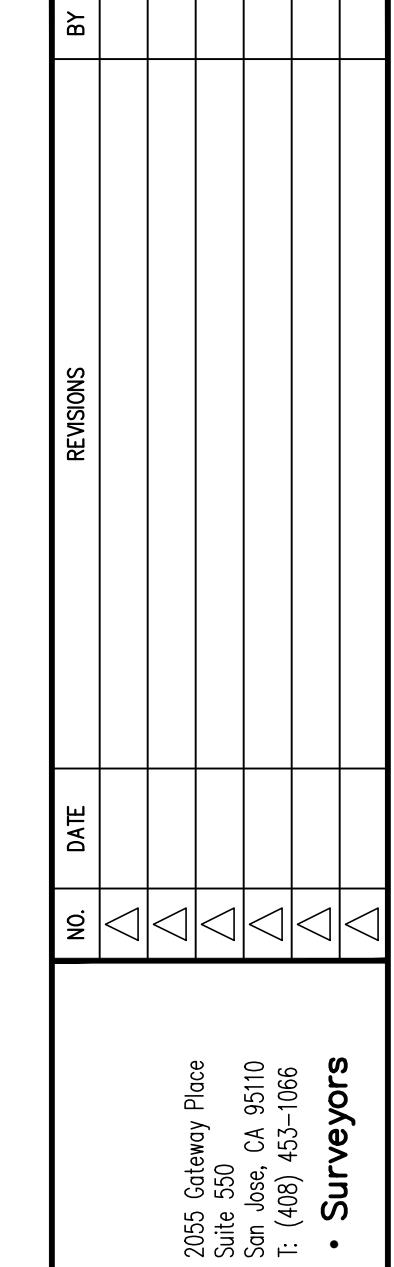
NOT TO SCALE

##### NOTES

1. THE DEPRESSED LANDSCAPE AREAS ARE INCORPORATED INTO THE SITE DESIGN TO PROVIDE STORMWATER RETENTION TO MEET THE SELF-RETAINING DESIGN CRITERIA FOR SPECIFIC WATERSHEDS.
2. THE DEPRESSED LANDSCAPE AREAS AND THEIR ASSOCIATED SELF-RETAINING AREAS SHALL COMPLY WITH SECTION 4.2 OF THE LATEST SCVURPP C3 HANDBOOK.

STORMWATER TREATMENT SUMMARY TABLE

WATERSHED ID	TOTAL WATERSHED AREA (SF)	IMPERVIOUS SURFACES					PERVIOUS SURFACES				TREATMENT MEASURES					
		STREETS (SF)	SIDEWALKS (SF)	PARKING LOTS (SF)	DRIVeways / Hardscape (SF)	BUILDINGS (SF)	TOTAL (SF)	STREETS (SF)	SIDEWALKS (SF)	PARKING LOTS (SF)	LANDSCAPE (SF)	TOTAL (SF)	PROVIDED TREATMENT	REQUIRED TREATMENT	CALCULATION METHOD	TREATMENT METHOD
1	6,182		749			3,166	3,915	-	-	-	2,267	2,267	217	157	4%	Biotreatment
2	7,830	1,812	-		717	4,301	6,830			-	1,000	1,000	284	273	4%	Biotreatment
3	5,973	2,231	354		354	2,205	5,144			-	829	829	213	206	4%	Biotreatment
4	5,948	2,451	305		354	2,205	5,315			-	633	633	213	213	4%	Biotreatment
5	4,399	940	194		316	2,318	3,768			-	631	631	158	151	4%	Biotreatment
6	7,857		1,343			3,235	4,578			-	3,279	3,279	208	183	4%	Biotreatment
7	12,031		1,807			6,338	8,145			-	3,886	3,886	327	326	4%	Biotreatment
8	7,868	3,785	669		275	1,970	6,699			-	1,169	1,169	312	268	4%	Biotreatment
9	7,578	5,546	1,360			6,906				-	672	672	288	276	4%	Biotreatment
10	7,828	1,806	-		717	4,292	6,815			-	1,013	1,013	284	273	4%	Biotreatment
11	5,949	2,521	277		354	2,204	5,356			-	593	593	215	214	4%	Biotreatment
12	5,939	2,376	283		354	2,203	5,216			-	723	723	213	209	4%	Biotreatment
13	11,132	4,660	458		581	4,015	9,714			-	1,418	1,418	429	389	4%	Biotreatment
14	6,325	2,716	217		278	2,207	5,418			-	907	907	224	217	4%	Biotreatment
15	5,260		923			2,794	3,717			-	1,543	1,543	249	149	4%	Biotreatment
16	2,633		381			1,582	1,963			-	670	670	108	79	4%	Biotreatment
17	11,104		1,878			3,134				-	9,226	9,226		2:1 MAX		Self-retaining
18	3,316	2,036	1,098			3,134				-	182	182	146	125	4%	Biotreatment
19	6,380	1,954	113		182	2,469	4,718			-	1,662	1,662	251	189	4%	Biotreatment
20	5,581	987	266		238	2,955	4,446			-	1,135	1,135	229	178	4%	Biotreatment
21	4,803	850	262		195	2,434	3,741			-	1,062	1,062	229	150	4%	Biotreatment
22	11,911		1,761			6,350	8,111			-	3,800	3,800	327	324	4%	Biotreatment
23	7,831	1,806	-		717	4,354	6,877			-	954	954	284	275	4%	Biotreatment
24	5,940	2,518	308		354	2,201	5,381			-	559	559	216	215	4%	Biotreatment
25	6,105	2,252	384		355	2,267	5,258			-	847	847	213	210	4%	Biotreatment
26	6,948		1,143			3,045	4,188			-	2,760	2,760	223	168	4%	Biotreatment
27	6,191	3,075	365		189	1,755	5,384			-	807	807	217	215	4%	Biotreatment
28	5,385	2,371	505		129	1,302	4,307			-	1,078	1,078	185	172	4%	Biotreatment
29	5,022		696			2,804	3,500			-	1,522	1,522	161	140	4%	Biotreatment
30	2,465		595			1,220	1,815			-	650	650	103	73	4%	Biotreatment
31	5,841	3,221	395		149	1,405	5,170			-	671	671	337	207	4%	Biotreatment
32	3,092	1,329	-		134	1,277	2,740			-	352	352	177	110	4%	Biotreatment
33	8,103	637	1,051			2,746	4,434			-	3,669	3,669	349	177	4%	Biotreatment
34	7,374	2,369	262		224	2,990	5,845			-	1,529	1,529	246	234	4%	Biotreatment
35	11,470	3,777	1,936	3,731		9,444				-	2,026	2,026	449	378	4%	Biotreatment
36	27,987		1,595			20,933	22,528			-	5,459	5,459	1,018	901	4%	Biotreatment
MAINTENANCE 1	19,047		-			-	-			-	19,047	19,047	-	-	-	Maintenance
MAINTENANCE 2	8,920	1,248	4,203			5,451				-	3,469	3,469	-	-	-	Maintenance
SUBTOTAL (SF)	291,548	61,274	28,136	3,731	7,166	107,542	207,849	-	-	-	83,699	83,699	9,302	8,021		
EXISTING SITE	291,548	-	2,861	129,747		91,545	224,153	-	-	-	67,395	67,395				

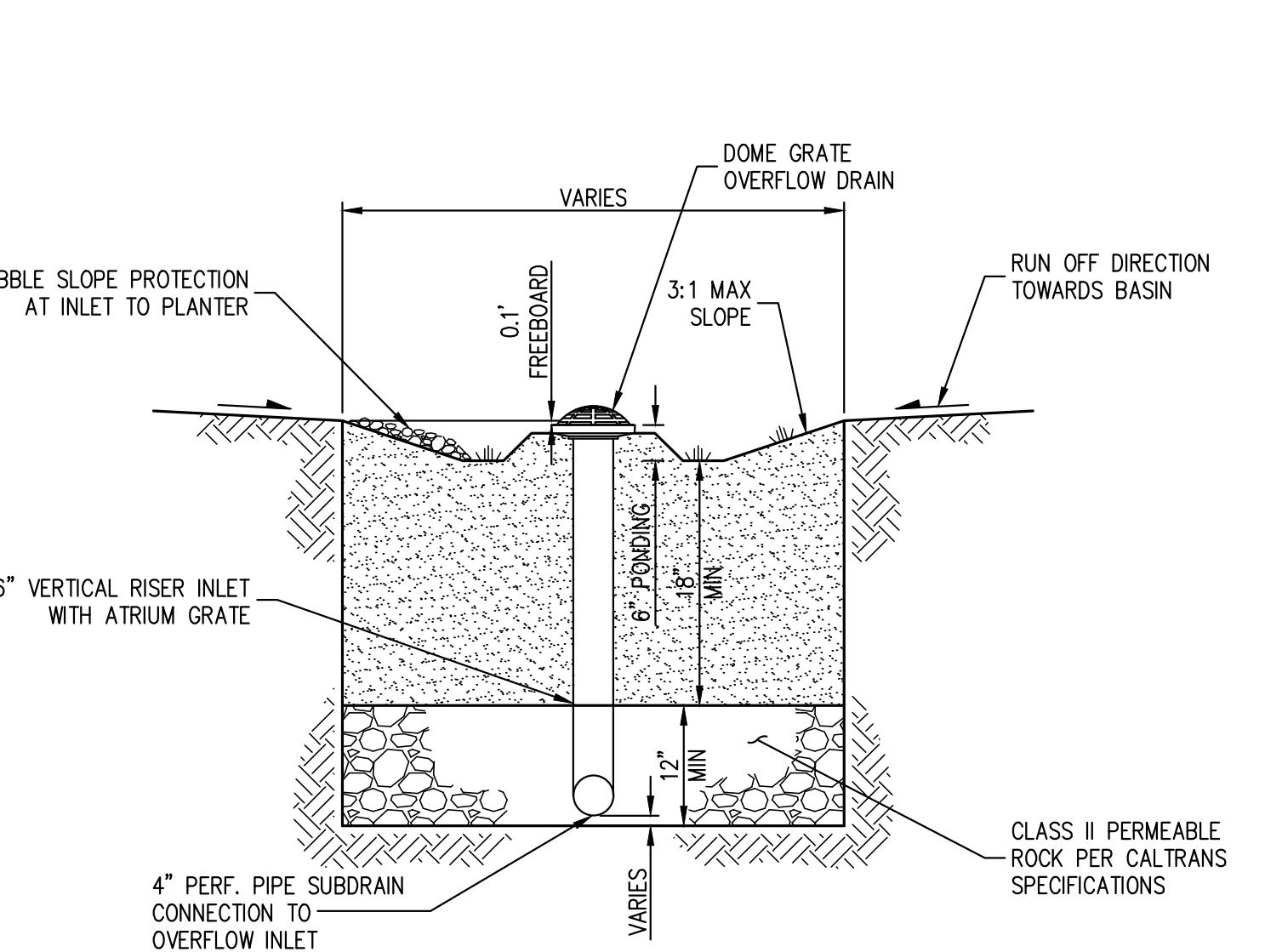


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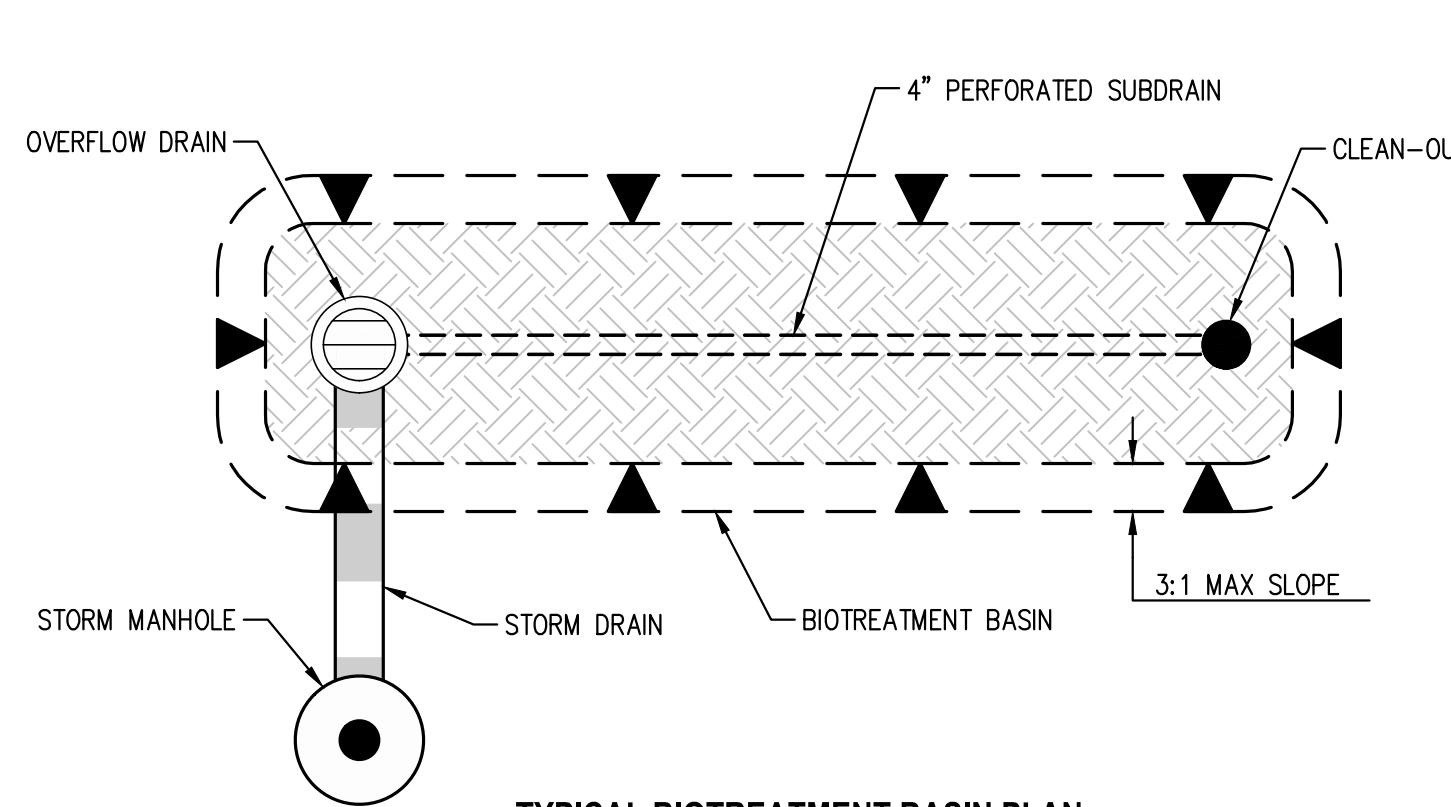
PulteGroup<sup>®</sup>  
1355 California Circle  
PLANNED DEVELOPMENT  
STORMWATER MANAGEMENT DETAILS  
CALIFORNIA  
MILPITAS

DATE 6/2/2023  
SCALE SEE PLAN  
DESIGNED JG  
DRAWN LRN  
JOB NO. 20158  
SHEET C7  
7 OF 11 SHEETS



#### BIOTREATMENT BASIN DETAIL

NOT TO SCALE



#### TYPICAL BIOTREATMENT BASIN PLAN

NOT TO SCALE