1210 CALIFORNIA CIRCLE RESIDENTIAL PROJECT

Prepared For:

CITY OF MILPITAS
PLANNING & NEIGHBORHOOD SERVICES DEPARTMENT
455 EAST CALAVERAS BLVD
MILPITAS, CA 95035

Prepared By:

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SEPTEMBER 2014

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CITY OF MILPITAS - INITIAL STUDY

Project Title: California Circle Residential Project

Lead Agency Name and Address:
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455 East Calaveras Boulevard
Milpitas, CA 95035

Contact Person and Phone Number:
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Planning Division
Planning & Neighborhood Services Department
455 East Calaveras Boulevard
Milpitas, CA 95035
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Project Location:
1210 California Circle
Milpitas, California
Assessor's Parcel Number (APN: 022-37-017)

Project Sponsor's Name and Address:
Erich Stiger,
iStar Financial
One Sansome Street, 30th Floor
San Francisco, CA 94104
415-391-4300

General Plan Designation: Industrial Park (INP)

Zoning: MP (Industrial Park) (PUD 31)

Description of Project

iStar Financial (Applicant) is requesting a General Plan Amendment, a zoning change, approval of a Tentative Subdivision Map and Site Design Review approval from the City of Milpitas for development of a townhouse-type of residential development of 148 units on the 9.45-acre Project site.

Setting and Surrounding Land Uses

The Project site is an approximately 9.45-acre property located along California Circle, just south of Dixon Landing Road near the I-880 exit, in the Dixon Landing Business Park (see **Figure 1**). I-880 is a 10-lane freeway running north-south to the west of the Project site. This area is characterized by a mix of commercial, industrial, and warehouse land uses, and with residential and recreational open space uses also located nearby. Building heights within the business park vary by land use from one to three stories.

The Project site comprises the southerly end of California Circle (see **Figure 2**). Immediately north of the site is an industrial building which has been converted to a large religious facility known as BAPS Shri Swaminarayan Mandir ("BAPS"). The recently-approved Waterstone mixed-use residential project is located a few hundred feet further to the north and also on California Circle. To the west, across California Circle are similar light-industrial buildings, some of which are occupied and others vacant. Continuing south along the opposite side of California Circle there are several additional office and light-industrial manufacturing buildings, and an additional religious facility. Single-family homes and small-lot townhouse type residences are located east of the site, across Lower Penitencia Creek.

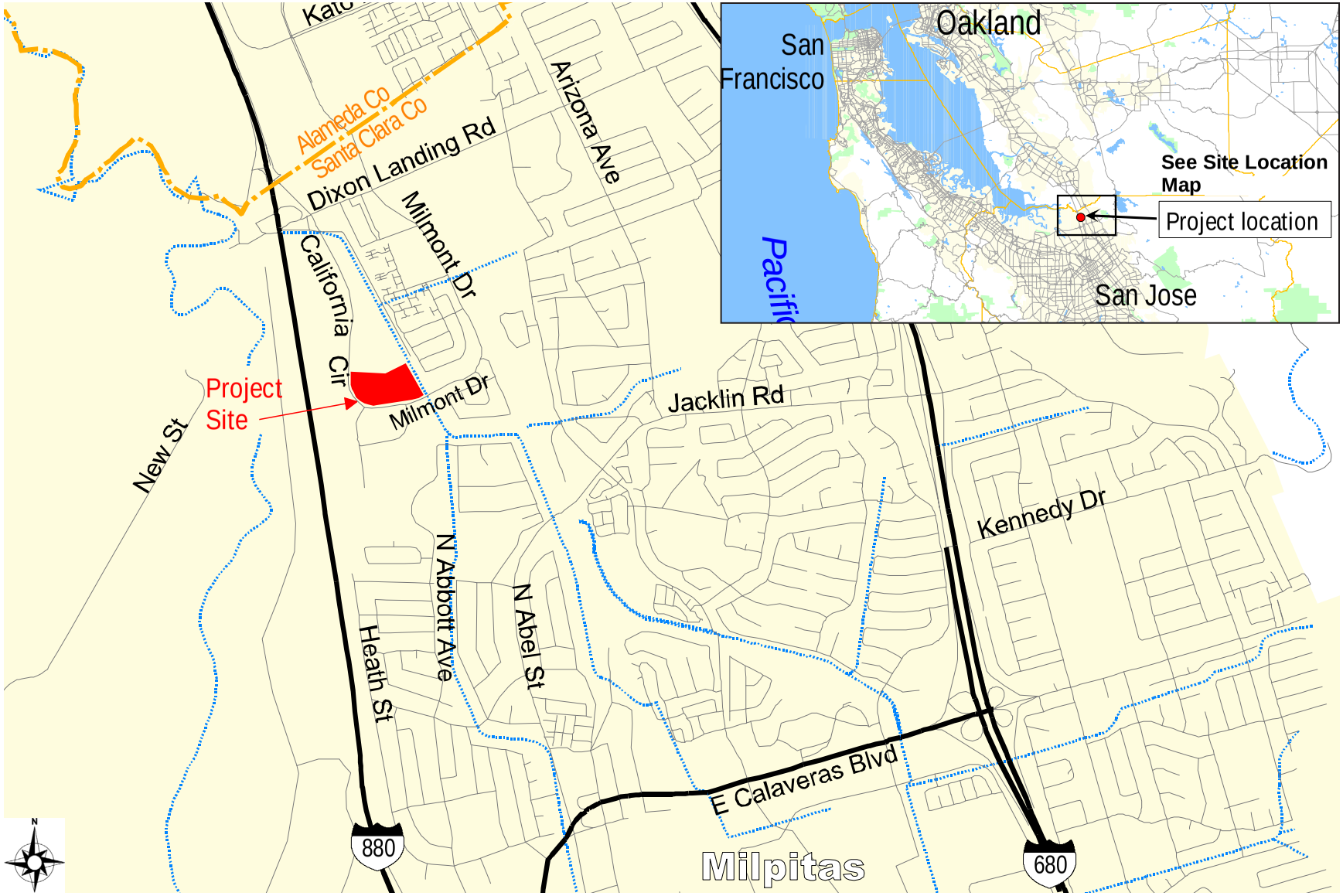

Figure 1
Project Site Location and Vicinity

Source: Live Oak Associates, Inc.

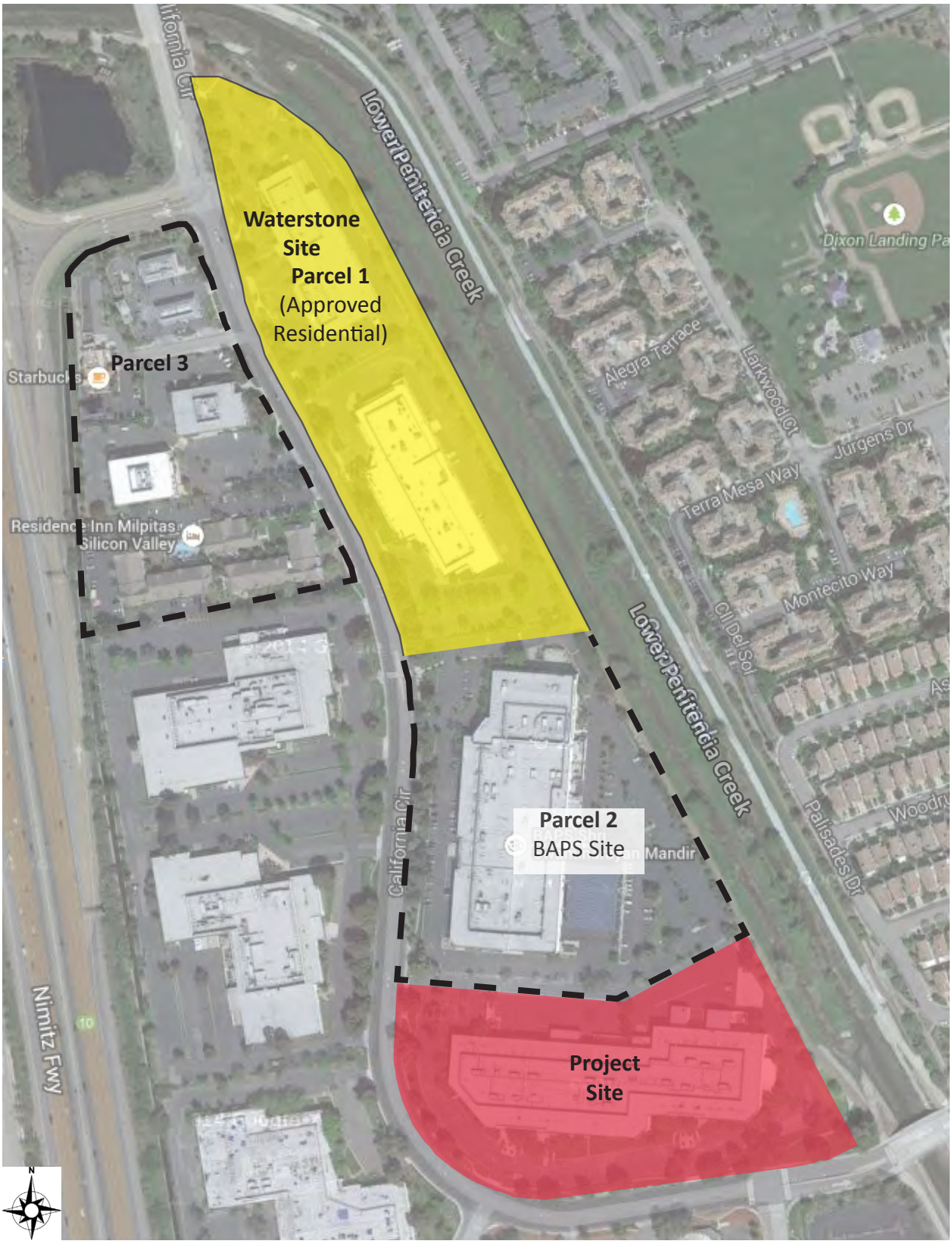

Figure 2
Project Site and Adjacent Land Uses

Source: Waterstone Residential Project DEIR,
City of Milpitas, (June 2013)

The eastern boundary of the site abuts Lower Penitencia Creek; a wide creek channel with levees on both sides and riparian and wetland vegetation throughout. A maintenance easement affecting the easternmost 80 feet of the Project site is held by the Santa Clara Valley Water District (SCVWD). The easement precludes development, resulting in the net developable portion of the Project site being approximately 8 acres. The western levee, closest to the Project site, has an unpaved dirt trail atop the levee that is accessible from the Project site and sites to the north along California Circle. A paved trail extends along the top of the eastern levee, accessible from the adjacent residential neighborhood which is comprised of multi-family residences (apartments and townhouses) and single-family residences. However, the SCVWD is commencing a floodway expansion project that will affect the location of trails and existing levee improvements. The design details of this project are unknown at this time.

Newby Island Landfill, the Zanker Road Landfill and Compost Facility and the treatment lagoons of the San José/Santa Clara Water Pollution Control Plant (WPCP) are all located on the west side of I-880, approximately 1.5 miles, 2.25 miles and 0.3 miles, respectively, from the closest edge of the Project site.

Access to the site is currently provided by three curb cuts onto California Circle that connect to an internal looped driveway and surface parking. An existing approximately 120,500 square foot, one-story building is currently located on the site, originally constructed as part of the Business Park in 1987. The building has been leased to several light manufacturing, office and technology-related firms over the years, most recently the solar firm Solyndra. The building is now vacant. Ornamental landscaping surrounds the building along the frontage of California Circle (see **Figure 3**).

Proposed Project

The Project would clear the site of existing structures, parking areas and most of the perimeter landscaping, and the existing driveways and curb cuts would be removed and replaced with curb and gutter. Soil would be imported and distributed across the site in accordance with engineering specifications to raise portions of the site by approximately 3 feet in order to raise the site above the FEMA 100-year flood water surface elevation.

New construction at the Project site would include a total of 148 attached housing units within a total of 27 separate buildings (see **Figure 4**). The townhome buildings would be placed on individual new lots. Two (2) common lots would be created; one for an on-site water quality treatment swale and another for a small on-site park that will be publicly accessible but privately maintained. An additional lot would be created that would encompass the entire approximately 1-acre, 80-foot wide SCVWD easement along the easterly portion of the site. Internal streets and sidewalks would be constructed and underground utilities for power, telephone, water, sewer, CATV and drainage would be distributed to provide services to each residential lot.

The 3-story townhouse buildings (see **Figure 5**) would be comprised of 64 two-bedroom units and 84 three-bedroom units (44 of which would also include a den), ranging in size from 1,250 to 2,016 square feet in size. The overall density of residential buildings would be approximately 15.7 dwelling units per gross acre, at 148 units across the total 9.45-acre site.

Access to the site will be limited to one primary entrance, located so as to create a 4-way intersection at the existing intersection of California Circle and Fairview Way. A second, emergency vehicle access point would be provided at the westerly edge of the site onto California Way, and the primary entrance road is designed as a hammer-head cul-de-sac that ends at the edge of the property adjacent to the BAPS site. This cul-de-sac could potentially be opened to the north through the BAPS site at a future date to meet with the southern connection approved as part of the Waterstone project, providing future residents and emergency personnel with multiple vehicular routes in and out of the Project area. Along the internal roads, the Project would provide a total of 296 resident surface parking spaces (at a ratio of 2 spaces per unit), plus an additional 63 guest surface parking spaces (4 more than required by Code), for a total of 359 parking spaces.

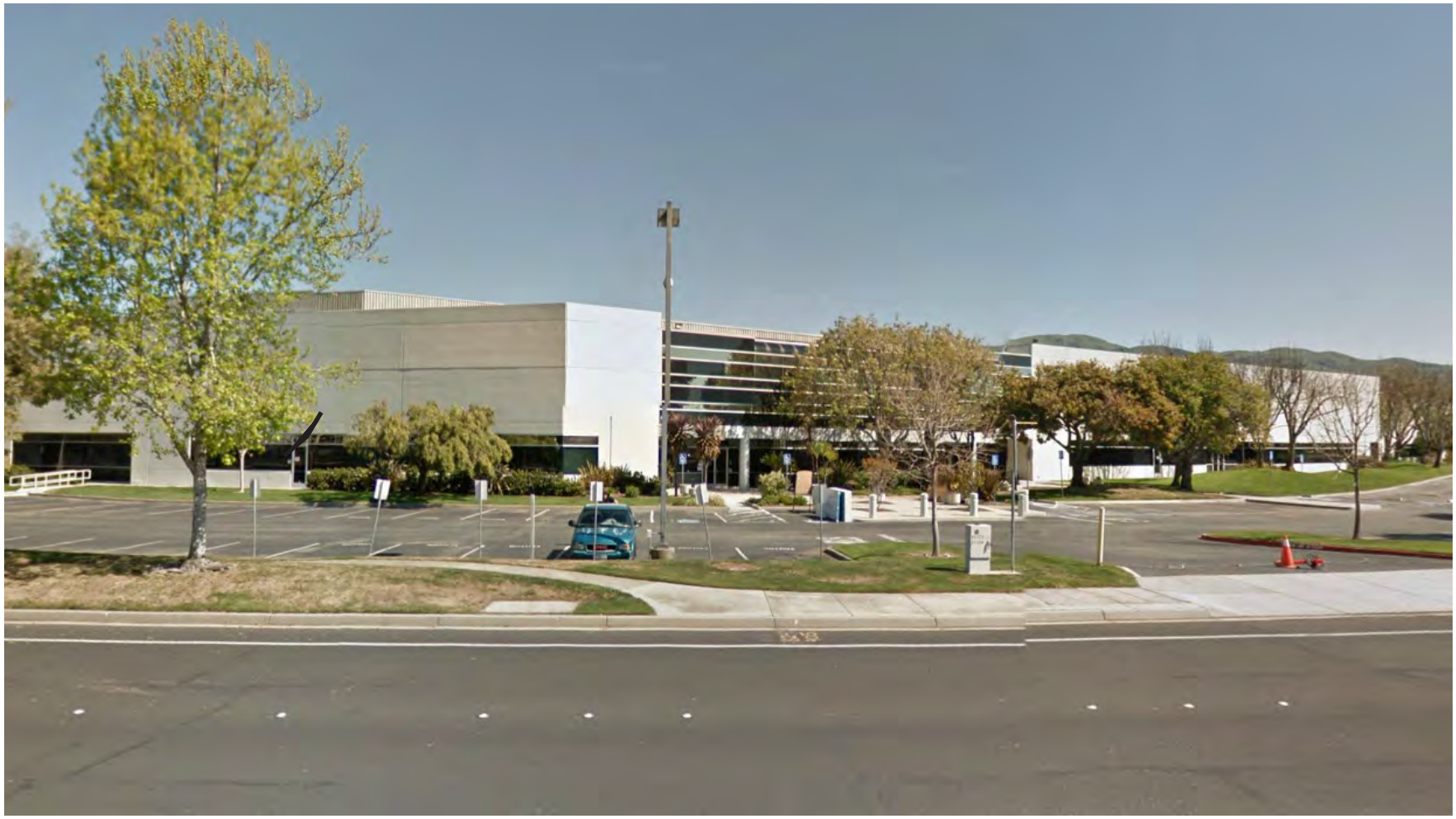

Figure 3
Existing Building on Project Site

Source: Google Maps, Streetview (August 2014)

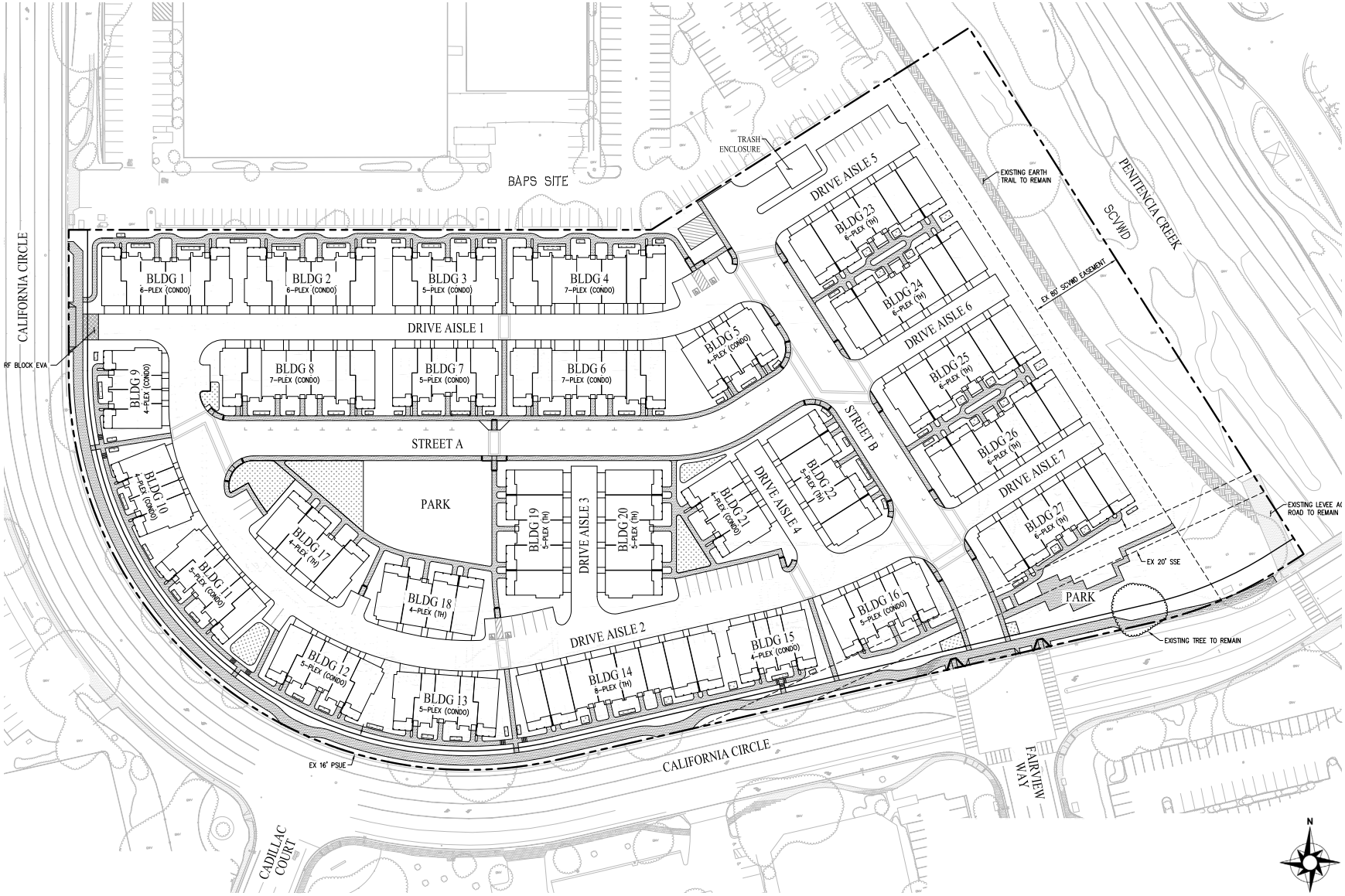

Figure 4
Site Plan

Source: Carlson, Barbee, & Gibson (September 23, 2014)

Figure 5
Elevations, Building 5 (top), Building 7 (bottom)

Source: KTGY Group, Inc. (August 14, 2014)

The Project would be required to include "green" building measures to reduce on-site energy usage necessary to meet or exceed the requirements of the City's Green Building Ordinance.

Proposed General Plan Land Use Designations and Zoning

Currently, the site has a General Plan land use designation of *Industrial Park* (INP), and the applicant proposes to amend this land use designation to *Residential – Multifamily High*.

The site is currently zoned *Industrial Park* (MP) with Site and Architectural Overlay and a PUD (#31) permit, and the applicant proposes to change the zoning to *Multi-Family High Density Residential* (R-3) with a PUD permit consistent with the Project's site plan and design. The proposed density would be consistent with that permitted under the City's R-3 classification which, at the 9.45-acre Project site could potentially allow up to 170 lots.

Public Agencies whose Approval is Required

City of Milpitas:

- General Plan Amendment,
- zoning change,
- tentative subdivision map,
- subsequent demolition, grading and construction permits

Santa Clara Valley Water District

No other public agencies are known to have jurisdiction or subsequent permit approval for any aspects of the Project that occur outside of the Santa Clara Valley Water District (District) easement. However, to the extent that property improvements for the Project may be proposed within the District right of way, a District permit would be required, consistent with the Water Resources Protection Ordinance.

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages. As indicated below, there are no environmental factors affected by this project that are identified as “potentially significant”, and thus no EIR is required.

☐	Aesthetics	☐	Agriculture and Forestry Resources	☐	Air Quality
☐	Biological Resources	☐	Cultural Resources	☐	Geology /Soils
☐	Greenhouse Gas Emissions	☐	Hazards & Hazardous Materials	☐	Hydrology / Water Quality
☐	Land Use / Planning	☐	Mineral Resources	☐	Noise
☐	Population / Housing	☐	Public Services	☐	Recreation
☐	Transportation/Traffic	☐	Utilities / Service Systems	☐	Mandatory Findings of Significance

DETERMINATION:

On the basis of this initial evaluation:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☑ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature

9/25/14

Date

SHAUN MENDOZA

Printed Name

MITIGATED NEGATIVE DECLARATION

This Mitigated Negative Declaration has been prepared for the 1210 California Circle project in the City of Milpitas (see the Introduction and Project Information section of this document for details of the Project.

POTENTIALLY SIGNIFICANT IMPACTS REQUIRING MITIGATION

The following is a list of potential Project impacts and the mitigation measures recommended to reduce these impacts to a less than significant level. Refer to the Initial Study Checklist section of this document for a more detailed discussion.

Potential Impact:	Mitigation Measures	Resulting Level of Significance
Aesthetics-4: The Project could create a new source of substantial light or glare which would adversely affect day or nighttime views in the area		
	Mitigation Aesthetics-4: Standard Lighting Design Requirements. The Project would undergo architectural and site design review by Planning staff prior to issuance of building permits to ensure that the Project would not adversely affect the visual quality of the area or create a substantial new source of light or glare for residences to the north or east. Typical design requirements include directional and/or shielded lights to minimize the brightness and or glare of the lights on light sensitive uses including the creek and nearby residences. City review would ensure that lighting would not adversely affect the visual quality of the area or create a substantial new source of light or glare for the creek, nearby residences, or for cars traveling on I-880	LTS
Air Quality-2A: The Project could result in air quality and fugitive dust-related impacts associated with grading and new construction, but these impacts would be reduced with implementation of Best Management Practices as required of all projects.		
	Mitigation Measure Air Quality-2A: Measures to Control Dust Emissions. The contractor shall implement the following Best Management Practices that are required of all projects: 1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. 2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered. 3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. 4. All vehicle speeds on unpaved roads shall be limited to 15 mph. 5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible and feasible. Building pads shall be laid as soon as possible and feasible, as well, after grading unless seeding or soil binders are used. 6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage	LTS

Potential Impact:	Mitigation Measures	Resulting Level of Significance
	shall be provided for construction workers at all access points. 7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. 8. Post a publicly visible sign with the telephone number and 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 phone number shall also be visible to ensure compliance with applicable regulations.	
Air Quality-4: During construction of the Project, construction-period diesel exhaust could pose both a potential health and nuisance impact to nearby receptors, but this effect would be reduced through implementation of recommended mitigation measures.		
	Mitigation Measure Air Quality-4: Selection of equipment during construction to minimize emissions. Such equipment selection would include the following: 1. All diesel-powered off-road equipment larger than 50 horsepower and operating at the site for more than two days continuously shall meet U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent; and 2. Minimize the number of hours that equipment will operate, including the use of idling restrictions.	LTS
Biology-1: The Project would not adversely affect special status plants, but could have a substantial adverse effect, either directly or through habitat modifications, on animal species identified as a candidate, sensitive, or special status species. These effects would be reduced through implementation of mitigation measures recommended for the Project		
	Mitigation Measure Biology-1A: The Project shall implement the following avoidance, minimization, and compensation measures prior to and during construction of the Project: 1. Prior to the start of construction, a qualified biologist should train all construction personnel regarding habitat sensitivity, identification of special status species, and required practices. 2. Pre-construction surveys should be conducted to ensure that western pond turtles (WPT) and nesting birds are absent from the construction area. If an active bird nest is observed, then an appropriate construction-free buffer will be established by a qualified biologist. If WPT are present, a qualified biologist possessing all necessary permits should relocate them. 3. Silt fencing and appropriate erosion control shall be in place separating the riparian system in Lower Penitencia Creek from the area impacted by construction prior to construction activities. This silt fencing may act as a barrier to keep WPT from entering the area of construction, and will ensure that the creek is not adversely affected by addition of silt/sediment into the creek during construction.	LTS
	Mitigation Measure Biology-1B: Pre-construction Nesting Bird Surveys. To the maximum extent practicable, any trees planned for removal should be removed during the non-breeding season (September 1	LTS

Potential Impact:	Mitigation Measures	Resulting Level of Significance
	through January 31). 1. If it is not possible to avoid tree removal or other disturbances during the breeding season (February 1 through August 31), a qualified biologist should conduct a pre-construction survey for tree-nesting raptors and other tree- or ground-nesting migratory birds in all trees or other areas of potential nesting habitat within the construction footprint and within 250 ft. of the footprint, if such disturbance will occur during the breeding season. This survey should be conducted no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August). 2. If nesting raptors or migratory birds are detected on the site during the survey, a suitable construction-free buffer should be established around all active nests. The precise dimension of the buffer (up to 250 feet) would be determined at that time and may vary depending on location and species. Buffers should remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents. 3. Pre-construction surveys during the non-breeding season are not necessary, as the birds are expected to abandon their roosts during construction activities.	
	Mitigation Measure Biology-1C. Mitigation for potential impacts to the Western Burrowing Owl shall include the following measures: 1. In order to avoid impacts to active burrowing owl nests, a qualified biologist should conduct pre-construction surveys for burrowing owls within the construction footprint and within 250 feet of the footprint no more than 30 days prior to the onset of ground disturbance. These surveys should be conducted in a manner consistent with accepted burrowing owl survey protocols. If pre-construction surveys determine that burrowing owls occupy the site during the non-breeding season (September 1 through January 31), then a passive relocation effort (e.g., blocking burrows with one-way doors and leaving them in place for a minimum of three days) may be necessary to ensure that the owls are not harmed or injured during construction. Once it has been determined that owls have vacated the site, the burrows can be collapsed, and ground disturbance can proceed. 2. If burrowing owls are detected within the construction footprint or immediately adjacent lands (i.e., within 250 feet of the footprint) during the breeding season (February 1 through August 31), a construction-free buffer of 250 feet should be established around all active owl nests. The buffer area should be enclosed with temporary fencing, and construction equipment and workers should not enter the enclosed setback areas. Buffers should remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents. After the breeding season, passive relocation of any remaining owls by a qualified biologist may take place.	LTS
Biology-5: With implementation of required compliance with City of Milpitas mitigation requirements for protected trees, the Project will not conflict with any local policies or ordinances		

Potential Impact:	Mitigation Measures	Resulting Level of Significance
protecting biological resources, such as a tree preservation policy or ordinance. Compliance with the Tree Ordinance would reduce potential impacts to a less-than-significant level.		
	Mitigation Biology-5: Tree Replacement. Any trees removed for the Project that meet the protected tree criteria of the Municipal Code shall require appropriate tree replacement compensation as determined by the City, including conditions of approval regarding number of replacement trees, species type and size.	LTS
Cultural-2: The Project is not expected to cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5 or disturb any human remains, including those interred outside of formal cemeteries, but mitigation measures would reduce impacts related to the unlikely event that subsurface artifacts are uncovered during grading activities.		
	Mitigation Measure Cultural-2A. In the event that prehistoric or historic resources are encountered during excavation and/or grading, all activity within a 50-foot radius of the find will be stopped, the Director of Planning and Neighborhood Services will be notified, and a qualified archaeologist will examine the find and make appropriate recommendations prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery during monitoring would be submitted to the Director of Planning and Neighborhood Services.	LTS
	Mitigation Measure Cultural-2B. In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find will be stopped. The Santa Clara County Coroner will be notified and shall make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) immediately. Once NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.	LTS
Geology-2: The Project, similar to other development throughout the San Francisco Bay region, could expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death related to strong ground shaking, but this effect is reduced to levels considered less than significant through implementation of standard mitigation as found in the California Building Code requirements.		
	Mitigation Geology-2: California Building Code Requirements. To mitigate ground shaking effects, all structures should be designed using sound engineering judgment and the latest California Building Code (CBC) requirements as a minimum. Seismic design provisions of current building codes generally prescribe minimum lateral forces, applied statically to the structure, combined with the gravity forces of dead and live loads. The code-prescribed lateral forces are generally substantially smaller than the expected peak forces that would be associated with a major earthquake. Therefore, structures should be able to: 1. resist minor earthquakes without damage, 2. resist moderate earthquakes without structural damage but with some nonstructural damage, and 3. resist major earthquakes without collapse but with some structural as	LTS

Potential Impact:	Mitigation Measures	Resulting Level of Significance
	well as nonstructural damage.	
Geology-3: The Project could expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death related to liquefaction, but this effect is reduced to levels considered less than significant through implementation of recommended engineering requirements for building construction.		
	Mitigation Measure Geology-3: Foundation Design. The foundation designs for new Project buildings shall conform to the foundation options and recommendations of the Project's Geotechnical Engineer, as found necessary to mitigate liquefaction hazards and reduce the risk of damage during a major earthquake. Based on preliminary recommendations (ENGEO, 2014), post-tensioned mat foundations are recommended, capable of preventing collapse or the loss of life but not fully preventing risk of structural and non-structural damage as a result of a major earthquake. If the preliminary design recommendations of ENGEO 2014 cannot be achieved by the Project's Structural Engineer, alternative recommendations and foundation options may be considered, providing such alternatives are found consistent with California Building Code requirements. Assuming post-tension mat foundations, the following technical recommendations shall be addressed in final foundation designs: 1. The foundation design should consider 1-inch total load-induced settlement subsequent to completion of surcharge operations (see Mitigation Geo-4, below). A differential value of ½ inch may be considered and should be assumed to act between adjacent column supports or over a 30-foot distance. 2. Post-tensioned mats should be designed for an average allowable soil pressure of 1,200 pounds per square foot for dead-plus-live loads, with maximum localized bearing pressures of 1,500 pounds per square foot for concentrated loads. Allowable bearing pressures can be increased by one-third when considering total loads, including wind or seismic loads. The actual thickness of the mat foundation should be determined by the project Structural Engineer based on structural calculations. 3. The subgrade material under structural mat foundations should be uniform. The pad subgrade should be moisture conditioned to a moisture content of at least 2 percentage points above optimum. The subgrade should be thoroughly soaked and approved by the Geotechnical Engineer prior to placing the reinforcement or tendons. The subgrade should not be allowed to dry prior to concrete placement. 4. A tough, water vapor retarding membrane should be installed below the slab to reduce moisture condensation under floor coverings. The vapor retarder should meet ASTM E 1745 – 97 Class A requirements for water vapor permeance, tensile strength, and puncture resistance. Vapor transmission through the mat foundations can also be reduced by using high strength concrete with a low water-cement ratio.	LTS
Geology-4: The Project is located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), potentially creating substantial risks to life or property. This effect is reduced to levels considered less than significant through implementation of recommended engineering requirements for building construction.		
	Mitigation Measure Geology-4A: Surcharge Program. To reduce post-construction consolidation settlements, a surcharge program to "pre-consolidate" the soft clay deposits prior to site development may be used. A	LTS

Potential Impact:	Mitigation Measures	Resulting Level of Significance
	surcharge program would involve the placement of temporary fills, uniformly blanketing the western portion of the site until the desired degree of consolidation in these areas has occurred, as determined by a site-specific settlement-monitoring program. Based on field exploration to date, the estimated minimum surcharge area is shown on Figure 16. 1. Surcharge fill should be uniformly placed over areas where structures or raised grades are planned to adequately drive consolidation of the highly compressible soft clay. The surcharge fill area, grades and extent, should be determined by a geotechnical engineer depending on surcharge period, building loads, and surcharge materials. It is anticipated that a surcharge program with a surcharge height of at least 6 feet (assuming average unit weight of surcharge material is 120 pounds per cubic foot) above final grade elevations. 2. Surcharge fill should remain in place for a period of time determined to be sufficient to allow the desired degree of consolidation to be achieved, so that the risk of settlement is sufficiently reduced for the planned development. Depending on the construction schedule, implementation of a surcharge program may be accelerated by installing wick drains, which allow rapid pore pressure dissipation. Variable surcharge heights and wick drain spacing combinations are possible and may be feasible depending on specifics of loads and project timelines. Foundation designs should consider up to 1 inch of residual static-settlement. 3. If desired, the use of lightweight fill may be considered to reduce surcharge height, or existing fill on the site could be excavated and used as temporary surcharge fill. 4. Following surcharge removal, residual settlement of the soft clay is estimated to be small and structures supported on shallow foundations, such as post-tensioned mat foundations, should be designed to withstand the estimated post-construction differential settlement. 5. Where utilities are installed within the soft clay layer, the weight of the utility backfill will be heavier than the soft clayey deposits removed, resulting in undesirable potential settlement of the utility pipeline. For this case, the use of special “lightweight fill” should be considered to reduce additional loading on the compressible deposits. Recommendations for underground utilities are provided in a subsequent section.	
	Mitigation Measure Geology-4B: Fill Removal and Re-compaction. Treatment of existing or undocumented fills typically includes removal and re-compaction of soil deemed suitable for reuse. Where encountered, existing fill, utility trench backfill, and existing foundation backfill are considered undocumented and should be sub-excavated to expose underlying competent native soils that are approved by the Geotechnical Engineer. If in a fill area, the base of the excavations should be processed, moisture conditioned, as needed, and compacted in accordance with the recommendations for engineered fill. 1. Depending upon cuts associated with removal of foundations or undocumented fills, differential fill thickness conditions could possibly arise. For sub-excavation activities that create a differential fill thickness across a building footprint, mitigation to achieve a similar fill thickness across the pad is beneficial for the performance of a shallow foundation system. It is recommend that a differential fill thickness of	LTS

Potential Impact:	Mitigation Measures	Resulting Level of Significance
	up to 5 feet is acceptable across the building footprint. 2. To improve foundation performance for the planned structures and to mitigate the risk of liquefaction-induced surface rupture (sand boils), we recommend near-surface soils comprise uniform fill of at least 3 feet and underlain by a woven geotextile fabric (Mirafi 500X or approved equivalent). Recommendations regarding placement depths of geotextile fabric should be re-addressed once land plans are available and may be modified during grading activities depending on groundwater levels. 3. Once a suitable firm base is exposed, the exposed non-yielding native surface should be scarified to a depth of 10 inches, moisture conditioned, and re-compacted to provide adequate bonding with the initial lift of fill. All fills should be placed in thin lifts, with the lift thickness not to exceed 10 inches or the depth of penetration of the compaction equipment used, whichever is less. 4. In general, graded slopes should be no steeper than 2:1 (horizontal: vertical). All fill slopes should be adequately keyed into firm materials unaffected by shrinkage cracks. If a cut or cut-fill transition occurs within a graded slope, it should be over-excavated and reconstructed as an engineered fill slope.	
Geology-5: The Project is located on a geologic unit or soil that is unstable or that could become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. This effect is reduced to levels considered less than significant through implementation of recommended engineering requirements for building construction.		
	Mitigation Measure Geology-5A: Lower Penitencia Creek Bank Setback. Implement the Engineering Geologist's recommendation for a minimum setback distance of 40 feet from the top of the existing creek bank for structures, and a minimum setback distance of 30 feet from the top of the existing creek bank for other development related site improvements (i.e. pavements, sidewalks, and utilities). 1. If structures or site improvements are planned within the recommended setbacks, additional remedial grading mitigation measures may be necessary (i.e. below-grade retention systems, shear keyway, etc.) that extend to adequate depths to provide adequate stability considering the adjacent creek. 2. As part of more detailed grading plan review, the remedial grading and any other recommended measures may be outlined, as necessary.	LTS
Hazards-2: The Project could create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment, but such an accident would be reduced to less than significant level with implementation of mitigation measures requiring conformance with asbestos and lead-based paint regulations.		
	Mitigation Measure Hazards-2: The Applicant shall retain Cal-OSHA certified ACBM and lead-based paint specialists to assess the structure for the presence of these hazardous materials prior to the start of demolition work. Hazard abatement or removal and disposal of hazardous materials, if any are found, shall comply with applicable regulations.	LTS
Hydrology-2: The Project could result in a violation of water quality standards or waste discharge requirements, or otherwise substantially degrade water quality, but this impact would be reduced		

Potential Impact:	Mitigation Measures	Resulting Level of Significance
through required implementation of construction-period and post construction water quality mitigation measures.		
	Mitigation Measure Hydrology-2A: NPDES General Permit for Construction. As a condition of Project approval and prior to start of grading or other construction activities, the Project applicant shall file a Notice of Intent (NOI) with the RWQCB for compliance with the NPDES General Construction Permit. Pursuant to that permit, the Project will be required to implement management practices of the RWQCB during all phases of construction, including but not limited to the following: 1. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains. 2. Earthmoving or other dust-producing activities shall be suspended during periods of high winds. 3. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary. 4. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered. 5. All trucks hauling soil, sand, and other loose materials shall be covered or shall maintain at least two feet of freeboard. 6. All paved access roads, parking areas, staging areas and streets adjacent to the construction site shall be swept daily (with water sweepers). 7. Vegetation in disturbed areas shall be replanted as quickly as possible. 8. All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed if requested by the City.	LTS
	Mitigation Measure Hydrology-2B: Compliance with SWPPP. The Project proponent shall prepare and file a draft Stormwater Pollution Prevention Plan (SWPPP) that addresses measures to minimize and control construction runoff. A copy of the draft SWPPP will be submitted to the City of Milpitas for review and approval prior to start of construction. When approved, the certified SWPPP will be posted at the Project site and will be updated to reflect current site conditions.	LTS
	Mitigation Measure Hydrology-2C: NPDES C.3 Requirements – Stormwater Control Plan. Pursuant to the San Francisco Bay RWQCB's Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP), the Project applicants shall be required to design, construct and operate stormwater treatment controls to treat post-construction stormwater runoff. These controls shall be sized, designed, implemented and operated in accordance with the Provision C.3 requirements of the regional permit, and the technical requirements of the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) C.3 Stormwater Handbook, dated April 2012.	LTS
	Mitigation Measure Hydrology-2D: NPDES Best Management Practices. The following measures, based on the RWQCB Best Management Practices (BMPs) and the City requirements, are required of the Project to ensure compliance with NPDES permit requirements for post-construction operations to reduce water quality impacts. 1. When the construction phase is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the	LTS

Potential Impact:	Mitigation Measures	Resulting Level of Significance
	RWQCB and the City of Milpitas. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction stormwater management plan is in place as described in the SWPPP for the project site. 2. All post-construction Treatment Control Measures (TCMs) will be installed, operated, and maintained by qualified personnel. On-site inlets will be cleaned out at a minimum of once per year, prior to the wet season. 3. The property owner/home owner's association will keep a maintenance and inspection schedule and record to ensure the TCMs continue to operate effectively for the life of the project. Copies of the schedule and record must be provided to the City upon request and must be made available for inspection on-site at all times. 4. The residential homeowner's association will ensure through the CC&R's that the bio-retention/treatment areas are maintained as designed for the useful life of the project and preclude homeowners from landscaping or other improvements which might diminish the functionality of the system.	
Hydrology-4: The Project site is located within a 100-year flood hazard zone and would place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map. This impact would be reduced through implementation of the Project's proposed mitigation to raise the base elevation of the site above the flood level.		
	Mitigation Measure Hydrology-4: Raising the Base Elevation. To reduce the risk of flood hazards to acceptable levels and to comply with current flood hazard regulations, the proposed Project will raise the base elevation of the Project site by approximately three feet, such that final on-site grades will be at or above 15 feet NAVD, and therefore the Project site will be at an elevation above the floodplain. Furthermore, the Project's finish floor elevations will be at minimum elevation of 16 feet NAVD or higher to meet the City of Milpitas Flood Ordinance requirements that finish floor elevations be at least one foot above the FEMA base flood elevation.	LTS
Hydrology-5: The Project site is not subject to inundation by seiche, tsunami or mudflow, but could expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam. However, this impact would be reduced through implementation of the Project's proposed mitigation to raise the base elevation of the site.		
	Mitigation Measure Hydrology-5A: Raising the Base Elevation (see detailed discussion of MM Hydro-4, above)	LTS
	Mitigation Measure Hydrology-5B: Removal of Non-Permitted Improvements on the Levee. Certain existing tees, irrigation, lighting and stairs observed on the existing levee appear to have been installed without a District permit, and shall be removed so as not to adversely affect the levee structure.	LTS
Hydrology 6: The Project would place structures and fill within a 100-year flood hazard area that could have the potential to affect the flood elevations in the area or upstream, or redirect flood flows. This impact would be reduced through implementation of mitigation pursuant to Milpitas Floodplain Management Regulations that require no increase in the base flood elevation during		

Potential Impact:	Mitigation Measures	Resulting Level of Significance
the occurrence of the base flood discharge.		
	Mitigation Measure Hydrology-6: Flood Plain Analysis. Prior to approval of a grading plan for the Project, a flood plain analysis shall be prepared to delineate the post-development flood plain depth and lateral extent. 1. The flood plain analysis shall be certified by a registered professional engineer or architect, and submitted to the City for review and approval, and the Santa Clara Valley Water District for review. 2. The analysis shall demonstrate that the Project will not increase the 100 year water surface elevation on surrounding properties, nor shall it increase the lateral extent of flooding. 3. The analysis shall also demonstrate that cumulative impacts to the base flood elevation, taking into consideration all nearby development, will be less than one foot. 4. To the extent necessary to achieve the performance standards identified above, site improvements (grades, roadways, buildings, etc.,) shall be designed to allow for the passage and storage of flood water within the site.	LTS
Noise-1: The Project could expose persons to, or generate noise levels in excess of standards established in the Milpitas General Plan or noise ordinance, but mitigation measures recommended for the Project would reduce this impact to a less than significant level.		
	Mitigation Measure Noise-1A. **Require an Acoustical Engineer to Design and Specify Appropriate Noise Attenuation Measures.** Prior to approval of building permits, a qualified acoustical consultant shall review final designs for floor plans and exterior elevations for construction to calculate expected interior noise levels as required by City policies and State noise regulations. The design must be able to assure that interior noise levels will be 45 dBA or lower. It is expected that window and door assemblies will be required to a meet sound transmission class (STC) rating of class 32 or greater for all rooms facing California Circle, and STC 28 for windows and exterior doors in all other locations to assure indoor noise levels at DNL 45 dB or lower. 1. The acoustical consultant shall identify and include on the plans and specifications for the Project the specific noise insulation treatments (i.e., sound rated windows and doors, sound rated wall construction, acoustical caulking, protected ventilation openings, etc.) that are to be applied throughout the Project. 2. The designs and specifications of the acoustical consultant shall be submitted to the City as part of the construction documents submitted for building permits and shall be reviewed and approved by the City prior to issuance of building permits. 3. All noise insulation treatments identified during review of the final plans will be incorporated into the proposed project.	LTS
	Mitigation Measure Noise-1B. Require Mechanical Ventilation. Since windows of residences will need to be closed to meet the interior DNL 45 dB criterion, all houses shall be equipped with mechanical ventilation systems. Such systems shall be designed by the project mechanical engineer and shall utilize equipment that does not compromise sound insulation of the exterior assemblies.	LTS

Potential Impact:	Mitigation Measures	Resulting Level of Significance
Noise-4: The Project's construction activity would result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project, but this impact would be reduced to less than significant levels with implementation of required construction noise mitigation measures.		
	Mitigation Measure Noise-4. The Project will be required to implement the following noise control measures and comply with Chapter 213 (Noise Abatement) of the City's Municipal Code which regulates construction noise within the City: 1. Construction and demolition activities shall be limited to the period between 7:00 AM and 6:00 PM Monday through Friday and 9:00 AM to 6:00 PM on Saturdays. No construction or demolition activities are permitted on Sundays or holidays. 2. Construction crews will be required to use available noise suppression devices and properly maintain and muffle internal combustion engine-driven construction equipment. 3. The applicant shall designate a disturbance coordinator and post the name and phone number of this person at easy reference points for the surrounding land uses. The disturbance coordinator shall respond to and address all complaints about noise.	LTS
Services-1: The Project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any public services.		
	Mitigation Measure Services-1A: School Impact Fees. The Project shall be responsible for payment of required school impact fees.	LTS
	Mitigation Measure Services-1B: To conform to the City's park and recreation ordinance (Subdivision Ordinance, section 9), the Project shall dedicate additional public parkland, or pay applicable in-lieu fees, as outlined in the Municipal Code.	LTS
Transportation-2: The Project would not conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the County Congestion Management Agency for designated roads or highways.		
	Mitigation Measure Transportation-2: Calaveras Boulevard Widening Project TIF. The Project shall pay its fair share toward the Calaveras Boulevard Widening project through payment of the City-established Calaveras Boulevard Widening project Traffic Impact Fee (TIF).	LTS
Transportation-4: The Project would not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses.		
	Recommendation Transportation-4A: Eastbound Left Turn Pocket. Install an eastbound left-turn pocket into the proposed site driveway at the intersection of California Circle and Fairview Way. This can be accomplished within the existing right-of-way, and would entail restriping and implementing minor modifications to the existing two-way center turn lane on the west leg of the intersection.	LTS

Potential Impact:	Mitigation Measures	Resulting Level of Significance
	The existing cross-section of California Circle immediately west of the intersection at Fairview Way and the Project driveway is approximately 65 feet wide with a westbound bike lane, two westbound through lanes, a two-way center turn lane, one eastbound through lane, one eastbound right-turn lane, and an eastbound bike lane. The width of California Circle is therefore sufficient to permit restriping of the existing two-way center turn lane to accommodate a left-turn pocket on eastbound California Circle into the project driveway. There is a distance of a little more than 200 feet on California Circle between Fairview Way and a driveway into a property on the southwest quadrant of the intersection. From the existing two-way center turn lane, vehicles are able to turn into that driveway. The distance of 200 feet should be sufficient to accommodate back-to-back eastbound and westbound left-turn pockets of 100 feet each (including taper) for the left-turn movements into the Project driveway and into the adjacent property's driveway, respectively. **Recommendation Transportation-4B: Centered Driveway Alignment.** The Project site driveway onto California Circle shall be centered at the intersection of California Circle and Fairview Way, with a clear definition of proper vehicle path to minimize confusion for the public. 1. The Project should provide a crosswalk and ADA-compliant ramps across its driveway, so that there are crosswalks across all four approaches of the California Circle and Fairview Way intersection. **Recommendation Transportation-4C: Provide Bike Racks.** The project should provide bike racks in accordance with VTA requirements. Bike parking spaces are not shown on the current plans. These should be placed in accessible, secure, and well-lit locations. **Recommendation Transportation-4D:** It is recommended that the City of Milpitas coordinate with VTA to explore the possibility of installing bus stops closer to the project site.	

EVALUATION OF ENVIRONMENTAL IMPACTS

A brief explanation is provided in the following Initial Study Checklist for all answers. "No Impact" answers are adequately supported if the referenced information sources show that the impact simply does not apply to the Project. "No Impact" answers are explained where Project-specific factors or general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis) are the basis of that answer.

All answers take into account the whole action involved, including off-site as well as on-site, cumulative as well as Project-level, indirect as well as direct, and construction as well as operational impacts.

If the Project may result in a particular physical impact, then the checklist answers indicate whether the impact is Potentially Significant, Less than Significant with Mitigation, or Less than Significant. One or more "Potentially Significant Impact" entries would require preparation of an EIR.

The "Less Than Significant with Mitigation" answer applies where mitigation measures have been incorporated into, or required of the Project that are capable of reducing an effect to a "Less Than

Significant Impact." The applicable mitigation measure is described, and a brief explanation provided as to how the measure reduces the effect to a less than significant level.

Prior environmental analyses has been used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration pursuant to Section 15063(c)(3)(D). In this case, a brief discussion indicated the prior source and where it is available for review; identifies which effects were within the scope of and adequately analyzed in the earlier document pursuant to applicable legal standards, and whether such effects were addressed by mitigation measures based on the earlier analysis; and describes the mitigation measures incorporated from the earlier document and the extent to which they address site-specific conditions for the Project.

ENVIRONMENTAL CHECKLIST

I. AESTHETICS

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Have a substantial adverse effect on a scenic vista?	☐	☐	☒	☐	2, 4, 16
2) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☒	2, 4, 16, D
3) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☒	☐	1, 2, 16
4) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☒	☐	☐	1, 8

Environmental Settings

The 9.45-acre site is located on the east side of California Circle, east of I-800 and south of Dixon Landing Road in the City of Milpitas. Lower Penitencia Creek runs parallel to the east side of the property. The Project site is relatively flat and is located in an area comprised of mixed land uses including light industrial, commercial, and residential buildings of one - three stories in height. The Project site currently contains a vacant light industrial building of approximately 27 feet high and comprising approximately 120,500 square feet of enclosed space; the building is surrounded by a surface parking lot and perimeter ornamental landscaping (see prior Figure 3).

Lower Penitencia Creek is a wide creek channel with levees on both sides and riparian and wetland vegetation throughout. Sitting atop the eastern levee is a paved trail that is accessible from the adjacent neighborhood. The top of the levee adjacent to the Project site has an unpaved walkway. The existing building is visible from the eastern creek trail and from the upper floors of the residences east of the creek channel. The residential neighborhood is comprised of multi - family apartments and townhouses and single-family homes. Dixon Landing Park is a well maintained 11-acre park with tennis courts, baseball diamonds, barbeque pits and picnic tables, a basketball hoop, play equipment and a parking lot; the facility serves the residential neighborhood.

Impact Analysis

Scenic Vistas

> **Aesthetics-1**: The Project would not have a substantial adverse effect on a scenic vista. (**Less than Significant**)

The City of Milpitas General Plan identifies hilltops, hillsides, and ridgelines within Ed Levin Park as scenic resources. These designated scenic areas are far to the east, but still visible from the Project site. The hillside panorama that forms the backdrop of the valley floor is very wide and high. No aspect of the proposed townhouse Project would obstruct views to the eastern hillsides and ridgelines. The Project would not block views of any designated scenic vistas or scenic resources off-site.

Scenic Resources

> **Aesthetics-2**: The Project would not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway. **(No Impact)**

There are no designated scenic resources such as trees, rock outcroppings or historic buildings on the Project site and I-880 and I-680 are not designated state scenic highways. Implementation of the Project would not damage scenic resources or historic buildings.

Visual Character and Quality

> **Aesthetics-3**: The Project would not substantially degrade the existing visual character or quality of the site and its surroundings. (**Less than Significant**)

Implementation of the proposed Project would result in the demolition of the existing 120,500 square foot light industrial building and construction of 148 three-story single-family townhouse-type residences. The height of the proposed townhouses would be comparable to the height of the existing industrial building, although the Project would raise the base elevation of the site by approximately 3 feet to bring it out of the flood plain.

In terms of architectural style, the proposed residences would be comparable to the residential neighborhoods to the east of Lower Penitencia Creek, and those homes immediately to the north of the site at the Waterstone project site. While the residential character of the proposed Project would be in contrast to the light industrial buildings immediately to the west, the change would not degrade the existing visual character or quality of the site or its surroundings and would be similar to the other recent development (see **Figures 6 and 7**).

Figure 6
Perspective, View of Proposed Project from California Circle

Source: KTGY Group, Inc. (August 18, 2014)

Figure 7
Perspective, View of Proposed Project from Penitencia Creek

Source: KTGY Group, Inc. (August 18, 2014

Light and Glare

> **Aesthetics-4**: The Project could create a new source of substantial light or glare which would adversely affect day or nighttime views in the area (**Less than Significant with Mitigation**)

The proposed Project would include outdoor lighting on the site, along walkways and interior streets. Outside lighting would be comparable in brightness to the ambient lighting in the surrounding area.

Mitigation Measures

> **Mitigation Aesthetics-4: Standard Lighting Design Requirements**. The Project would undergo architectural and site design review by Planning staff prior to issuance of building permits to ensure that the Project would not adversely affect the visual quality of the area or create a substantial new source of light or glare for residences to the north or east. Typical design requirements include directional and/or shielded lights to minimize the brightness and or glare of the lights on light sensitive uses including the creek and nearby residences. City review would ensure that lighting would not adversely affect the visual quality of the area or create a substantial new source of light or glare for the creek, nearby residences, or for cars traveling on I-880

With implementation of these standard mitigation requirements, the effect of the Project relative to new sources of light or glare would be reduced to less than significant**.**

II. AGRICULTURAL AND FOREST RESOURCES

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☒	1, 2, 4
2) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☒	1, 2, 8
3) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)) or timberland (as defined by Public Resources Code section 4526)?	☐	☐	☐	☒	1, 2, 8, 16
4) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☒	16
5) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☒	1, 2, 16

Environmental Setting

The Project site is surrounded by existing urban development including light industrial/R&D, commercial and residential buildings and land uses. There is no designated farmland adjacent to the site and the site is not subject to a Williamson Act contract. The site is not forested and no forest or agricultural resources are located on or near the Project site.

Agriculture and Forest Resources

Agriculture-1-5: The Project would not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance; would not conflict with existing zoning for agricultural use; would not conflict with existing zoning for forest land; would not result in the loss of forest land or conversion of forest land; and would not involve any changes that could result in conversion of farmland or forest land to non-agricultural use. (**No Impact**)

III. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.					
	Potentially Significant Impact (Table Heading)	**Less Than Significant With Mitigation Incorporated**	**Less Than Significant Impact**	**No Impact**	**Information Source(s)**
Would the project:					
1) Conflict with or obstruct implementation of the applicable air quality plan? (Table Text Left)	☐	☐	☒	☐	1, 10, B
2) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☒	☐	☐	1, 10, B
3) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors?	☐	☐	☒	☐	10, B
4) Expose sensitive receptors to substantial pollutant concentrations?	☐	☒	☐	☐	1, B
5) Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☒	1, B

Introduction

Information and technical conclusions presented in the following section of the Checklist are based primarily on technical reports and studies prepared for the proposed Project, supplemented with other public information sources as provided in the list of references. The following list of Project technical reports are available for public review at the City of Milpitas Planning Department:

- Illingworth & Rodkin, Inc., *1210 California Circle, Draft Air Quality and GHG Emissions Assessment*, July 24, 2014

Environmental Setting

Milpitas is located in the southern portion of the San Francisco Bay Area Air Basin. The proximity of this location to both the Pacific Ocean and San Francisco Bay has a moderating influence on the climate. Northwest and northerly winds are most common in the Project area, reflecting the orientation of the Bay

and the San Francisco Peninsula. Winds from these directions carry pollutants released by autos and factories from upwind areas of the Peninsula toward Santa Clara, particularly during the summer months.

High ozone levels are caused by the cumulative emissions of reactive organic gases (ROG) and nitrogen oxides (NOx). These precursor pollutants react under certain meteorological conditions to form high ozone levels. Controlling the emissions of these precursor pollutants is the focus of the Bay Area's attempts to reduce ozone levels. The highest ozone levels in the Bay Area occur in the eastern and southern inland valleys that are downwind of air pollutant sources. High ozone levels aggravate respiratory and cardiovascular diseases, reduced lung function, and increase coughing and chest discomfort.

Particulate matter is another problematic air pollutant of the Bay Area. Particulate matter is assessed and measured in terms of respirable particulate matter or particles that have a diameter of 10 micrometers or less (PM10) and fine particulate matter where particles have a diameter of 2.5 micrometers or less (PM2.5). Elevated concentrations of PM10 and PM2.5 are the result of both region-wide (or cumulative) emissions and localized emissions. High particulate matter levels aggravate respiratory and cardiovascular diseases, reduce lung function, increase mortality (e.g., lung cancer), and result in reduced lung function growth in children.

Toxic air contaminants (TAC) are a broad class of compounds known to cause morbidity or mortality (usually because they cause cancer) and include, but are not limited to, the criteria air pollutants listed above. TACs are found in ambient air, especially in urban areas, and are caused by industry, agriculture, fuel combustion, and commercial operations (e.g., dry cleaners). TACs are typically found in low concentrations, even near their source (e.g., diesel particulate matter near a freeway). Because chronic exposure can result in adverse health effects, TACs are regulated at the regional, state, and Federal level.

Diesel exhaust is the predominant TAC in urban air and is estimated to represent about three-quarters of the cancer risk from TACs (based on the Bay Area average). According to the California Air Resources Board (CARB), diesel exhaust is a complex mixture of gases, vapors and fine particles. This complexity makes the evaluation of health effects of diesel exhaust a complex scientific issue. Some of the chemicals in diesel exhaust, such as benzene and formaldehyde, have been previously identified as TACs by the CARB, and are listed as carcinogens either under the state's Proposition 65 or under the Federal Hazardous Air Pollutants programs.

CARB has adopted and implemented a number of regulations for stationary and mobile sources to reduce emissions of DPM. Several of these regulatory programs affect medium and heavy duty diesel trucks that represent the bulk of DPM emissions from California highways. These regulations include the solid waste collection vehicle (SWCV) rule, in-use public and utility fleets, and the heavy-duty diesel truck and bus regulations. In 2008, CARB approved a new regulation to reduce emissions of DPM and nitrogen oxides from existing on-road heavy-duty diesel fueled vehicles. The regulation requires affected vehicles to meet specific performance requirements between 2014 and 2023, with all affected diesel vehicles required to have 2010 model-year engines or equivalent by 2023. These requirements are phased in over the compliance period and depend on the model year of the vehicle.

The Bay Area Air Quality Management District (BAAQMD) is the regional agency tasked with managing air quality in the region. At the State level, CARB (a part of the California Environmental Protection Agency) oversees regional air district activities and regulates air quality at the State level. The BAAQMD has published CEQA Air Quality Guidelines that are used in this assessment to evaluate air quality impacts of projects.

Significance Thresholds

In accordance with State CEQA guidelines, in the absence of specific local government or agency thresholds, lead agencies must make significance determinations based on the substantial evidence in the record for each project. The City of Milpitas has determined that there is substantial evidence to support

BAAQMD's analysis as to the levels of pollutants that should be deemed significant, and the thresholds that the City should use in assessing whether the Project will have any health risk impact on the existing environment. Therefore, the City has determined that it will apply the thresholds of significance in the updated BAAQMD CEQA Guidelines ("City-applied BAAQMD standards"). These City-applied air quality thresholds include:

- During project construction result in average daily emissions of 54 pounds per day of ROG, NOx, or PM2.5 or 82 pounds per day of PM10.
- During project operation result in average daily emissions of 54 pounds per day of ROG, NOx, or PM2.5 or 82 pounds per day of PM10; or result in maximum annual emissions of 10 tons per year of ROG, NOx, or PM2.5 or 15 tons per year of PM10.
- During either project operation or project construction of a new source or a new receptor, expose persons to substantial levels of Toxic Air Contaminants (TACs) resulting in:
  - a cancer risk level greater than 10 in one million,
  - a non-cancer risk (chronic or acute) hazard index greater than 1.0, or
  - an increase of greater than 0.3 micrograms per cubic meter of annual average PM2.5.
- During either project operation or project construction of a new source or a new receptor, expose persons to substantial levels of TACs resulting in a cumulative cancer risk level greater than 100 in a million, a cumulative non-cancer risk (chronic or acute) hazard index greater than 10.0, or a cumulative increase of greater than 0.8 micrograms per cubic meter of annual average PM2.5.
- If a project exceeds the identified project-level significance thresholds, its emissions would also be cumulatively considerable.

Impact Analysis

Conflict with the Applicable Air Quality Plan

> **Air Quality-1:** The Project would not conflict with or obstruct implementation of the applicable air quality plan. (**Less than Significant)**

The most recent clean air plan is the Bay Area 2010 Clean Air Plan (CAP) that was adopted by BAAQMD in September 2010. This plan addresses air quality impacts with respect to obtaining ambient air quality standards for non-attainment pollutants, reducing exposure of sensitive receptors to toxic air contaminants (TACs), and reducing greenhouse gas (GHG) emissions such that the region can meet state adopted goals of reducing emissions to 1990 levels by 2020.

The Project would not conflict with the latest Clean Air planning efforts since:

- the Project would have emissions well below the BAAQMD thresholds (see Impact 2),
- development of the Project site would be considered urban infill,
- development would occur near employment centers, and
- development would be near existing transit with regional connections.

The Project, with 148 proposed units is too small to exceed any of the significance thresholds and is not required to incorporate project-specific transportation control measures listed in the latest Clean Air Plan.

Violate an Air Quality Standard

As stated in the Illingworth & Rodkin report, the Bay Area is considered a non-attainment area for ground-level ozone and fine particulate matter (PM2.5) under both the Federal Clean Air Act and the California Clean Air Act. The area is also considered non-attainment for respirable particulates or particulate matter with a diameter of less than 10 micrometers (PM10) under the California Clean Air Act, but not the Federal act. The area has attained both State and Federal ambient air quality standards for carbon monoxide. As part of an effort to attain and maintain ambient air quality standards for ozone and PM10, the BAAQMD has established thresholds of significance for these air pollutants and their precursors. These thresholds are for ozone precursor pollutants (ROG and NOx), PM10 and PM2.5 and apply to both construction period and operational period impacts.

Construction Period Emissions

> **Air Quality-2A:** The Project could result in air quality and fugitive dust-related impacts associated with grading and new construction, but these impacts would be reduced with implementation of Best Management Practices as required of all projects. (**Less than Significant with Mitigation**)

The Air Quality study for the Project used the California Emissions Estimator Model (CalEEMod) Version 2013.2.2 to prepare a quantitative estimate of construction-related emissions, including both on-site and off-site construction activities. The analysis uses inputs specific to the proposed Project, including an overly conservative assumption that, whereas the Project is proposed to have 148 dwelling units, the analysis assumes a maximum of 170 units.[1]

Based on information from the Project applicant, the modeling assumes that the Project would be built out over a period of approximately 38 months beginning in April 2015. As shown below in **Table 1**, the modeling results show that predicted emissions would not exceed BAAQMD significance thresholds.

Table 1: Construction Period Emissions

Scenario	ROG	NOx	PM10 Exhaust	PM2.5 Exhaust
Construction emissions (tons)	2.22 tons	8.46 tons	0.50 tons	0.47 tons
Avg. daily emissions (pounds)[1]	5.3 lbs.	20.2 lbs.	1.2 lbs.	1.1 lbs.
BAAQMD Thresholds (pounds per day)	54 lbs.	54 lbs.	82 lbs.	54 lbs.
Exceed Threshold?	No	No	No	No

Notes:
1 Assumes 836 workdays.
Source: Illingworth & Rodkin,

Construction activities, particularly during site preparation and grading would temporarily generate fugitive dust in the form of PM10 and PM2.5. Sources of fugitive dust would include disturbed soils at the construction site and trucks carrying uncovered loads of soils. Unless properly controlled, vehicles leaving the site would deposit mud on local streets, which could be an additional source of airborne dust after it dries. Fugitive dust emissions would vary from day to day, depending on the nature and magnitude

[1] *Attachment 1* to the Illingworth & Rodkin study presents the CalEEMod input and output values for construction emissions.

of construction activity and local weather conditions. Fugitive dust emissions would also depend on soil moisture, silt content of soil, wind speed, and the amount of equipment operating. Larger dust particles would settle near the source, while fine particles would be dispersed over greater distances from the construction site.

Mitigation Measures

The BAAQMD CEQA Guidelines consider these impacts to be less than significant if Best Management Practices are employed to reduce these emissions.

> **Mitigation Measure AQ-2A: Measures to Control Dust Emissions**. The contractor shall implement the following Best Management Practices that are required of all projects:
>
> 1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
> 2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
> 3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
> 4. All vehicle speeds on unpaved roads shall be limited to 15 mph.
> 5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible and feasible. Building pads shall be laid as soon as possible and feasible, as well, after grading unless seeding or soil binders are used.
> 6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
> 7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
> 8. Post a publicly visible sign with the telephone number and 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 phone number shall also be visible to ensure compliance with applicable regulations.

Implementation of the above mitigation measures would reduce the air quality and fugitive dust-related impacts associated with grading and new construction to a less than significant level.

<u>Operational Emissions</u>

> **Air Quality-2B:** The Project would not result in potentially significant operational air quality impacts. (**Less than Significant**)

The BAAQMD CEQA Guidelines include screening criteria to provide lead agencies and project applicants with a conservative indication of whether the proposed project could result in potentially significant operational air quality impacts. If all of the screening criteria are met by a proposed project, then the lead agency or applicant need not perform a detailed air quality assessment of the project's operational air pollutant emissions, and impacts are deemed less-than-significant. For townhome developments, those projects that include more than 451 dwelling units are deemed to have the potential to result in significant operational impacts related to criteria pollutants.[2] The Project, which consists of

[2] BAAQMD Guidelines, Table 3-1

148 residential townhome units, is below the applicable screening level size specified in the BAAQMD screening criteria. The Project does not exceed the BAAQMD screening criteria for operational impacts related to criteria pollutants, and its impacts would be less than significant.

Considerable Net Increase of any Criteria Pollutant

> **Air Quality-3:** The Project would not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is classified as non-attainment under an applicable federal or state ambient air quality standard including releasing emissions which exceed quantitative thresholds for ozone precursors. (**Less than Significant**)

The Project would be below BAAQMD screening criteria thresholds for impacts related to ozone and particulate matter. Therefore, the Project would not contribute substantially to existing or projected violations of those standards.

Carbon monoxide emissions from traffic generated by the Project would be the pollutant of greatest concern at the local level. Congested intersections with a large volume of traffic have the greatest potential to cause high-localized concentrations of carbon monoxide. There is an ambient air quality monitoring station in San Jose that measures carbon monoxide concentrations. The highest measured level over any 8-hour averaging period during the last 3 years is less than 3.0 parts per million (ppm), compared to the ambient air quality standard of 9.0 ppm. The Project would generate a relatively small amount of traffic (less than 100 trips during the busiest hour). Intersections affected by the Project would have traffic volumes less than the BAAQMD screening criteria and, thus, would not cause a violation of an ambient air quality standard or have a considerable contribution to cumulative violations of these standards.

Expose Sensitive Receptors to Substantial Pollutant Concentrations

<u>Operational Emissions</u>

As stated in the Illingworth report, operation of the Project (as a standard residential development) is not expected to cause any localized emissions that could expose sensitive receptors to unhealthy air pollutant levels.

<u>Construction Emissions</u>

> **Air Quality-4:** During construction of the Project, construction-period diesel exhaust could pose both a potential health and nuisance impact to nearby receptors, but this effect would be reduced through implementation of recommended mitigation measures. (**Less than Significant with Mitigation**)

A health risk assessment of the Project's construction activities was conducted by Illingworth & Rodkin that evaluated potential health effects on sensitive receptors at nearby residences from construction emissions of diesel particulate matter (DPM). A dispersion model was used to predict the off-site DPM concentrations resulting from Project construction so that lifetime cancer risks could be predicted.

Results of the assessment indicate that with respect to emission of DPM during construction, the incremental child cancer risk at the maximally exposed individual (MEI) receptor (see **Figure 8**) would be 10.3 in one million, and the adult incremental cancer risk would be 0.6 in one million.

While the increased cancer risk for an adult, exposure would be lower than the significance threshold of a cancer risk of 10 in one million, the child exposure would be higher than the significance threshold and would be considered a significant impact requiring mitigation.

Figure 8
Location of Maximum Exposed Receptor to a Construction Period Toxic Air Contaminant Emission

Source: Illingworth & Rodkin (July 24, 2014)

Mitigation Measures

Mitigation Measure AQ-4: Selection of equipment during construction to minimize emissions. Such equipment selection would include the following:

1. All diesel-powered off-road equipment larger than 50 horsepower and operating at the site for more than two days continuously shall meet U.S. EPA particulate matter emissions standards for Tier 2 engines or equivalent; and
2. Minimize the number of hours that equipment will operate, including the use of idling restrictions.

Implementation of Mitigation Measure AQ-2 would reduce on-site diesel exhaust emissions by approximately 50 percent and, taken together with the reduced effects of exhaust emissions as a result of Mitigation Measure AQ-1, the child cancer risk would be reduced to 5.2 in one million which is below the 10 in one million threshold. Therefore, with mitigation, the Project would have a less-than-significant impact with respect to community risk caused by construction activities

Health Effects on Future Residents of the Project

CEQA requires the analysis of potential adverse effects of a project on the environment. Potential effects of the environment on a project are legally not required to be analyzed or mitigated under CEQA. However, this EIR nevertheless analyzes the following potential effects of the environment on the Project (i.e. siting new sensitive receptors near existing TAC sources) in order to provide information to the public and decision-makers. Where a potential significant effect of the environment on the project is identified, project-specific recommendations are identified to address these issues. Thresholds used in this analysis consider the level of exposure of sensitive receptors to air pollutant levels that result in an unacceptable cancer risk or hazard. For cancer risk, which is a concern with diesel particulate matter and other mobile-source TACs, the thresholds considers an increased risk of contracting cancer that is 10 in one million chances or greater to be significant for a single source, and exposure to annual PM2.5 concentrations that exceed 0.3 micrograms per cubic meter (ug/m3) to be significant.

When the Project is fully built out and occupied, future residents will be sensitive receptors, exposed to ambient levels of toxic air contaminants (TACs) generated by vehicles travelling on the nearby I-880 freeway and other existing stationary sources. The Illingworth & Rodkin study analyzed the potential health effects (i.e., cancer risk) of age-sensitive individuals (i.e., the very old and the very young) associated with exposure to TACs and found:

- The maximum increased cancer risk was computed at 8.6 in one million for someone in a townhouse closest to I-880 (see **Figure 9**), and concluded that cancer risks at other locations within the Project site (farther from I-880), would be lower than the maximum risk. The maximum increased cancer risk was found to be below the threshold of 10 in one million.
- Potential non-cancer health effects due to chronic exposure to DPM were also evaluated and found to result in a Health Index (HI) rating of 0.004, which is much lower than the significance criteria of a HI of 1.0.
- Potential non-cancer health effects due to PM2.5 concentration were also assessed, and compared to the significance threshold of an annual average PM2.5 concentration greater than 0.3 micrograms per cubic meter (μg/m3). The modeling results indicate that the maximum average annual concentration from I-880 traffic would be 0.16 μg/m3, is below the PM2.5 concentration threshold.

Based on this analysis, the health effects on future residents associated with ambient air quality emissions would be below all applicable thresholds.

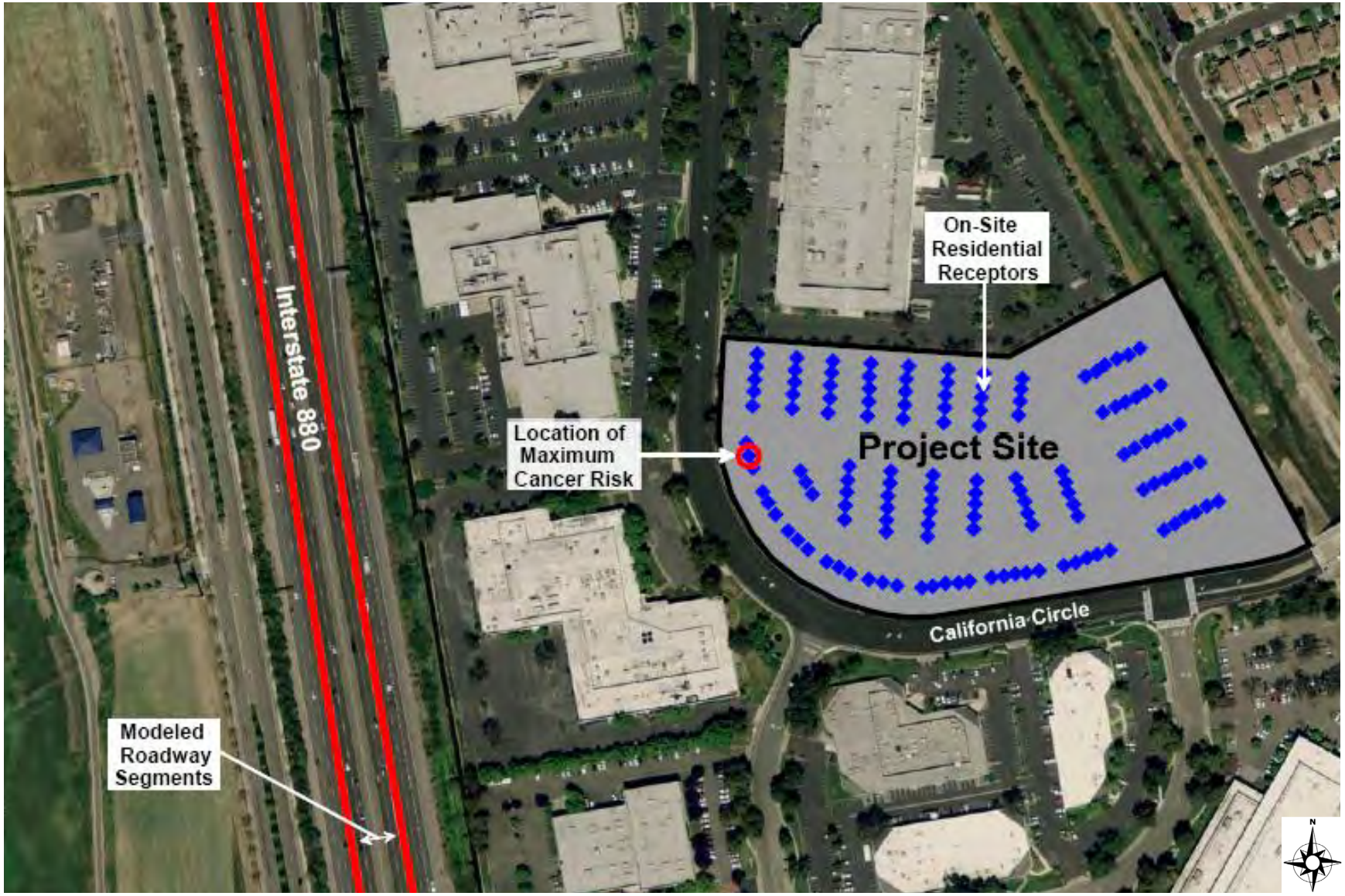

Figure 9
Maximum Exposed Onsite Receptor to Ambient
Toxic Air Contaminant Emissions

Source: Illingworth & Rodkin (July 24, 2014)

Odors

> **Air Quality-5:** The Project would not create objectionable odors affecting a substantial number of people. (**No Impact**)

Odors Generated by the Project

The Project would generate localized emissions of diesel exhaust during construction equipment operation and truck activity which would be noticeable from time to time by adjacent receptors, but would be localized and are not likely to adversely affect people off-site by resulting in confirmed odor complaints.

Exposure of Future Project Residents to Odors from Nearby Sources

CEQA requires the analysis of potential adverse effects of a project on the environment. Potential effects of the environment on a project are legally not required to be analyzed or mitigated under CEQA. However, this EIR nevertheless analyzes the following potential effects of the environment on the Project (i.e. siting new sensitive receptors near existing TAC sources) in order to provide information to the public and decision-makers. Where a potential significant effect of the environment on the Project is identified, project-specific recommendations are identified to address these issues.

Typical sources of odors that result in complaints are wastewater treatment facilities, landfills including composting operations, food processing facilities, and chemical plants. The Project site is located near several such sources of odors including the Newby Island Landfill and Compost Facility, the Zanker Road Landfill and Compost Facility, and the San Jose/Santa Clara Water Pollution Control Plant (WPCP). These land uses have been identified as the source of frequent odor complaints.

Recommendations

Although not required to mitigate a significant effect of the Project, the following recommendation is suggested to inform future occupants of the Project that nearby land uses are sources of adverse odors that some in the area consider objectionable and that have been the subject of numerous complaints.

> **Recommendation AQ-5: Notice to Future Residents.** All future residents of the Project shall be notified in writing of possible odor impacts as part of buyer disclosures or lease/rental agreements. Included shall be information pertaining to the location and distance of nearby odor sources, BAAQMD screening buffers distances, types of odor that each source may produce, and the best and most recent information about confirmed odor complaints in the Project vicinity.

With implementation of Recommendation AQ-5, future residents can exercise informed consent to either accept the potential odors or decide not to become a resident of the Project. Recommendation AQ-5 would not remove the odor sources but would likely reduce the probability that future residences would be surprised should they find odor sources present.

IV. BIOLOGICAL RESOURCES

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☒	☐	☐	1, 4, C
2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☒	☐	1, 4, C
3) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☒	☐	1, 4, C
4) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites?	☐	☐	☒	☐	1,4, C
5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☒	☐	☐	1, 4, 8, C

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project: 6) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☒	☐	1, 4, C

Introduction

Information and technical conclusions presented in the following section of the Checklist are based primarily on technical reports and studies prepared for the proposed Project, supplemented with other public information sources as provided in the list of references. The following list of Project technical reports are available for public review at the City of Milpitas Planning Department:

- Live Oak Associates, Inc., (LOA) 1210 *California Circle Biological Evaluation*, July 14, 2014

Environmental Setting

The Project site is currently developed with a light industrial/office/R&D buildings and surrounding surface parking lots and landscaping. The surrounding area is comprised of similar light industrial and/or commercial uses, in a suburban mixed-use business park setting. Existing biological resources on-site are limited to landscaping. However, the eastern edge of the Project site is adjacent to Lower Penitencia Creek which is habitat for a number of plant and wildlife species.

The LOA report states that the Project site and surrounding study area supports two biotic habitats that provide some biological habitat value for certain species. The two habitats are "Developed" and "Riparian/Wetland" (**see Figure 10**). The developed area of the site is the largest habitat type onsite and consists of two large commercial buildings and large parking lot areas which create a non-porous surface from which rainwater would flow to the margins of the asphalt. Vegetation within the developed area consists primarily of ornamental landscape groundcovers, shrubs and trees. Developed lands provide limited habitat for locally occurring wildlife species. However, species using the riparian corridor of Lower Penitencia Creek may use the developed area of the site from time to time. The density of developed lands on the site and in the vicinity reduces the value of the foraging habitat for wildlife and precludes some of the species that might otherwise occur in more natural areas in the site vicinity from utilizing these developed areas for breeding habitat.

The Riparian/Wetland habitat exists alongside Lower Penitencia Creek to the east of the Project site. A graveled walking trail and channel maintenance access road within the Santa Clara Valley Water District easement separates this habitat type from the Developed habitat type. This stretch of Lower Penitencia Creek has been altered and now flows in an engineered channel which is more than 200 feet wide, consisting of two low flow channels separated by a center raised area which likely is inundated during high flow events. No development is proposed to occur within/over this wetland/riparian habitat. During the June 2014 site visit, both low flow channels were inundated, while the elevated area in the central portion of the creek was dry.

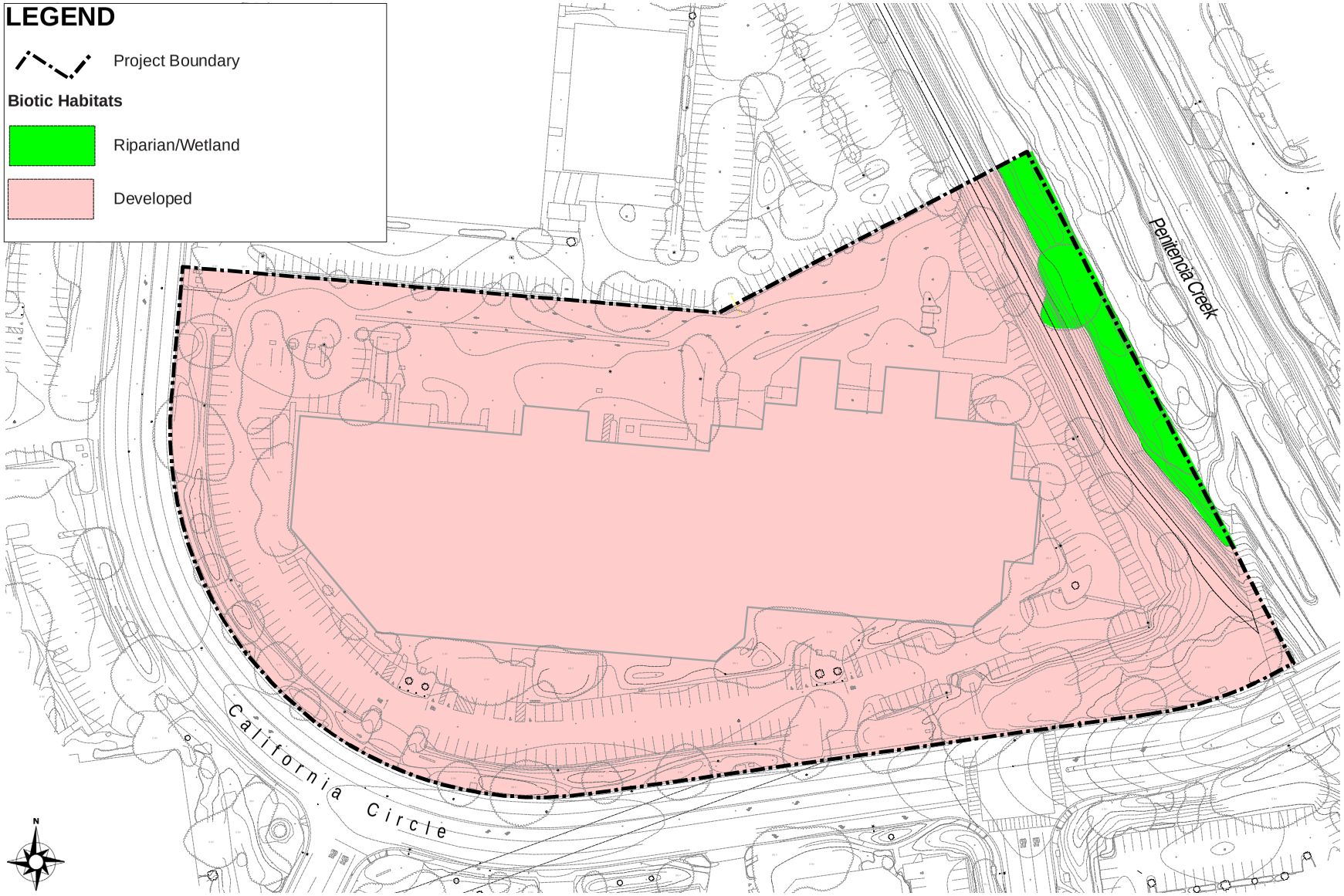

Figure 10
Biotic Habitats at Project Site

Source: Live Oak Associates (July 19, 2014)

Impact Analysis

Sensitive Plant and Animal Species

> **Bio-1**: The Project would not adversely affect special status plants, but could have a substantial adverse effect, either directly or through habitat modifications, on animal species identified as a candidate, sensitive, or special status species. These effects would be reduced through implementation of mitigation measures recommended for the Project (**Less than Significant with Mitigation**)

The LOA biological survey found that, whereas several special status vascular plant species are known to occur or to once have occurred in the vicinity of the Project site (see **Figure 11**), all of these species are now considered to be absent from the site. Site development would have no effect on regional populations of these plant species, since the site provides no habitat for special status plants.

The LOA study also found that 21 out of 28 special status animal species known to occur or to have once occurred at or near the Project site would be absent or unlikely to occur on the site due to a lack of suitable habitat. The remaining seven special status animal species potentially occur more frequently as regular foragers, transients, or may be resident to the site, but none were observed on the site during the LOA site visit in June 2014. The incremental small loss of foraging habitat for these species and loss of potential breeding habitat for bird species is considered a less than significant impact.

The LOA study identified a potentially significant impact to western pond turtles. The concern is that construction activities could result in temporary disturbance in the form of noise, erosion, construction debris inadvertently getting into the creek.

No Western Burrowing Owls or suitable breeding habitat was observed by LOA on their June 2014 site visit. However, LOA advises that there could be a shift in the present distribution of this species in the future or they may overwinter and/or breed on suitable sites in the Milpitas region. However speculative this may be, LOA points out that if a burrowing owl were to nest or overwinter in the proposed development area prior to the start of construction, construction activities could result in the abandonment of active nests or direct harm, injury or death to these birds. Construction activities that adversely affect the nesting success or result in mortality of individual owls would be considered a significant impact to individual owls.

Mitigation Measures

To address these potential effects to sensitive animal species, the following mitigation measures are recommended:

> **Mitigation Measure Bio-1A:** The Project shall implement the following avoidance, minimization, and compensation measures prior to and during construction of the Project:

1. Prior to the start of construction, a qualified biologist should train all construction personnel regarding habitat sensitivity, identification of special status species, and required practices.
2. Pre-construction surveys should be conducted to ensure that western pond turtles (WPT) and nesting birds are absent from the construction area. If an active bird nest is observed, then an appropriate construction-free buffer will be established by a qualified biologist. If WPT are present, a qualified biologist possessing all necessary permits should relocate them.
3. Silt fencing and appropriate erosion control shall be in place separating the riparian system in Lower Penitencia Creek from the area impacted by construction prior to construction activities. This silt fencing may act as a barrier to keep WPT from entering the area of construction, and will ensure that the creek is not adversely affected by addition of silt/sediment into the creek during construction.

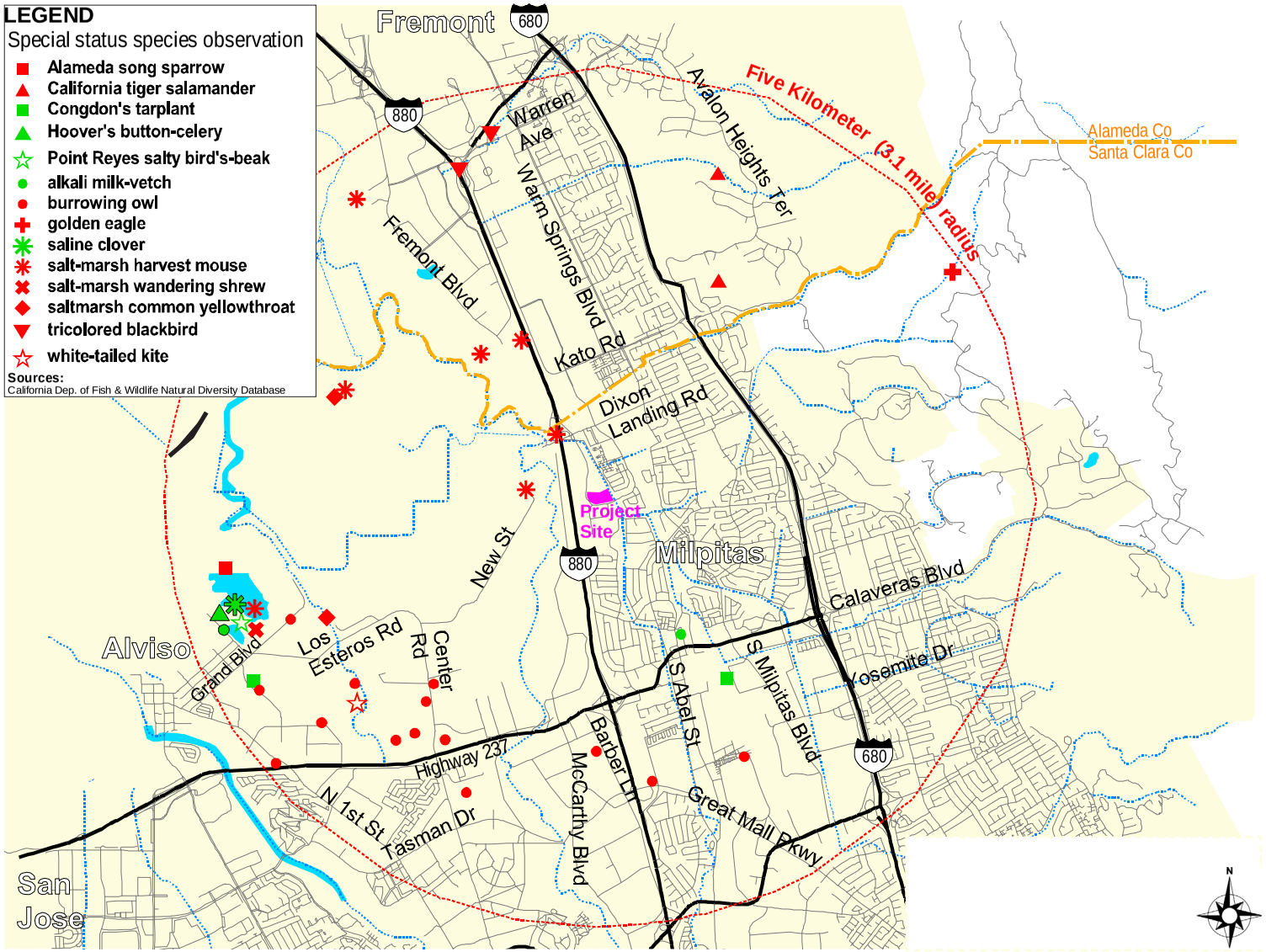

Figure 11
Special Status Species in Vicinity

Source: Live Oak Associates (July 9, 2014)

Mitigation Measure Bio-1B: Pre-construction Nesting Bird Surveys. To the maximum extent practicable, any trees planned for removal should be removed during the non-breeding season (September 1 through January 31).

1. If it is not possible to avoid tree removal or other disturbances during the breeding season (February 1 through August 31), a qualified biologist should conduct a pre-construction survey for tree-nesting raptors and other tree- or ground-nesting migratory birds in all trees or other areas of potential nesting habitat within the construction footprint and within 250 ft. of the footprint, if such disturbance will occur during the breeding season. This survey should be conducted no more than 14 days prior to the initiation of demolition/construction activities during the early part of the breeding season (February through April) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May through August).
2. If nesting raptors or migratory birds are detected on the site during the survey, a suitable construction-free buffer should be established around all active nests. The precise dimension of the buffer (up to 250 feet) would be determined at that time and may vary depending on location and species. Buffers should remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents.
3. Pre-construction surveys during the non-breeding season are not necessary, as the birds are expected to abandon their roosts during construction activities.

Implementation of the above measures would mitigate impacts to tree-nesting raptors and other migratory birds to a less-than significant level.

Mitigation Measure Bio-1C. Mitigation for potential impacts to the Western Burrowing Owl shall include the following measures:

1. In order to avoid impacts to active burrowing owl nests, a qualified biologist should conduct pre-construction surveys for burrowing owls within the construction footprint and within 250 feet of the footprint no more than 30 days prior to the onset of ground disturbance. These surveys should be conducted in a manner consistent with accepted burrowing owl survey protocols. If pre-construction surveys determine that burrowing owls occupy the site during the non-breeding season (September 1 through January 31), then a passive relocation effort (e.g., blocking burrows with one-way doors and leaving them in place for a minimum of three days) may be necessary to ensure that the owls are not harmed or injured during construction. Once it has been determined that owls have vacated the site, the burrows can be collapsed, and ground disturbance can proceed.
2. If burrowing owls are detected within the construction footprint or immediately adjacent lands (i.e., within 250 feet of the footprint) during the breeding season (February 1 through August 31), a construction-free buffer of 250 feet should be established around all active owl nests. The buffer area should be enclosed with temporary fencing, and construction equipment and workers should not enter the enclosed setback areas. Buffers should remain in place for the duration of the breeding season or until it has been confirmed by a qualified biologist that all chicks have fledged and are independent of their parents. After the breeding season, passive relocation of any remaining owls by a qualified biologist may take place.

With implementation of Mitigation Measures Bio-1A through Bio-1C, potential impacts to sensitive species would be reduced to a less than significant level.

Riparian Habitat or Other Sensitive Natural Community

> **Bio-2:** The Project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service. (**Less than Significant**)

The only onsite biotic habitat that is considered sensitive is Lower Penitencia Creek and its associated Riparian/Wetland Habitat. This habitat would not be impacted by construction of the Project, and only provides low quality habitat for most species. Therefore, any loss of this habitat resulting from the proposed Project would constitute a less-than-significant impact.

Wetlands

> **Bio-3:** The Project would not have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means. **(Less than Significant)**

The LOA report found that construction of the Project within the footprint of already developed areas of the site would not result in impacts to sensitive riparian habitats or regulated waters of the U.S. and state. Demolition of onsite buildings and construction of the proposed Project would result in a less-than-significant impact to wetlands and other jurisdictional waters. No mitigation is required.

Wildlife Movement or Nursery Sites

> **Bio-4**: The Project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, impede the use of native wildlife nursery sites. (**Less than Significant**)

The developed portion of the site does not act as a movement corridor. Lower Penitencia Creek facilitates the movement of wildlife through the region, from the San Francisco Bay, inland. However, the surrounding land uses are highly developed and the Project site does not function as an important movement corridor for native wildlife except those wildlife requiring creek or riparian habitat for movement, such as the western pond turtle. As the Project would not impact the creek, impacts to western pond turtle movement are less-than-significant. Site development is not expected to have a significant effect on home range and dispersal movements of native wildlife that may occur in the region. Therefore, the Project would result in a less-than significant impact on the movements of native wildlife.

Conflict with any Local Policies or Ordinances Protecting Biological Resource

> **Bio-5**: With implementation of required compliance with City of Milpitas mitigation requirements for protected trees, the Project will not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance. Compliance with the Tree Ordinance would reduce potential impacts to a less-than-significant level. (**Less than Significant with Mitigation**)

Based on information provided in the Arborist report, the Project site, including the portion of the site located within the SCVWD easement along Penitencia Creek, includes a total of 86 trees. Of these, 65 are "protected" trees (i.e., in this case, trees with a circumference of 37 inches or greater when measured 4 ½ feet from ground level, as specified in section X-2-7.01 of the City of Milpitas Municipal Code) . Of the 65 protected trees, 56 are located on the portion of the site proposed for development, and 9 are located within the SCVWD easement.

The Project would remove 55 of the protected trees located within the portion of the site proposed for development and 5 protected trees located within the SCVWD easement area, for a total of 60 protected trees to be removed. The 1 protected tree on the development site to be preserved is located near the intersection of California Circle and Fairview Lane in the proposed park. The 5 protected trees to be removed within the easement area are required to be removed based on the needs of the SCVWD flood protection improvement project. The Project would also remove all non-protected trees. In sum, 81 trees would be removed, 5 would be retained.

The City of Milpitas' Tree Ordinance (Milpitas Municipal Code section X-2-7.01) requires a permit issued by the Public Works Department prior to the removal of protected trees. The Public Works Department may determine that a tree authorized for removal be replaced through compensation methods.

As proposed, the Project would provide for the planting of up to 285 new trees, including 90 large shade trees, nearly 100 accent trees, plus 95 smaller accent trees within the new development (**see Figure 12**). These new trees would result in the replacement of lost protected trees at a ratio of over 4.6 new trees per removed protected tree.

Mitigation Measures

To address the tree removal impacts of the Project, the following mitigation measure is recommended:

> **Mitigation Bio-5: Tree Replacement.** Any trees removed for the Project that meet the protected tree criteria of the Municipal Code shall require appropriate tree replacement compensation as determined by the City, including conditions of approval regarding number of replacement trees, species type and size.

Compliance with the Milpitas Tree Ordinance requirements would reduce potential impacts to a less-than-significant level.

Conflict with HCP

> **Bio-6:** The Project will not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. **(Less than Significant)**

Currently there is no adopted Habitat Conservation Plan that covers the Project site. The site is outside the limits of the Santa Clara Habitat Conservation Plan (SCVHP). However, the site is within the Expanded Study Area for Burrowing Owl Conservation, where the SCVHP aims to acquire suitable habitat for burrowing owls. As indicated above, the Project site does not provide suitable breeding habitat for western burrowing owls.

Figure 12
Project's Conceptual Landscape Plan

Source: KTGY Group (August 18, 2014)

V. CULTURAL RESOURCES

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Cause a substantial adverse change in the significance of an historical resource as defined in §15064.5?	☐	☐	☐	☒	1, 4, D
2) Cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5?	☐	☒	☐	☐	1, 4, D
3) Directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature?	☐	☐	☒	☐	1, 4, 11, D
4) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☒	☐	☐	1, 4

Introduction

Information and technical conclusions presented in the following section of the Checklist are based primarily on technical reports and studies prepared for the proposed Project, supplemented with other public information sources as provided in the list of references. The following list of Project technical reports are available for public review at the City of Milpitas Planning Department:

- Northwest Information Center, California Historical Resources Information System, *Letter Re: Record Search Results for the Proposed 1210 California Circle Project*, July 28, 2014

Additional information has been obtained from the Initial Study/EIR for the adjacent *Waterstone Residential Project*, which relied on a cultural resources report prepared by Holman & Associates prepared in January 2013. The Holman report is also on file at the Milpitas Planning Department.

Environmental Setting

The City of Milpitas was once part of the territory occupied by the Ohlone Indians. Two notable Native American village sites lie within the City limits, a shellmound dating to the 18th century located near Elmwood Rehabilitation Center, and the Alviso Adobe located near the corner of Calaveras Boulevard and Piedmont Road.

During the historic period, in 1769, the City of Milpitas was included in the route of the Gaspar de Portola expedition. The area was also a stopover point on the immigrant trail between Sutter's Fort and San José during the 1800s.

Although existing conditions at the Project site do not suggest the presence of subsurface historic or prehistoric resources, the site is located in a culturally sensitive area due to known prehistoric and historic occupation of Milpitas and the site's close proximity to Penitencia Creek. Native American settlements are commonly associated with the abundant food supply in the Santa Clara Valley settlements were often established near local waterways. The eastern edge of the Project site is adjacent to Lower Penitencia Creek, which suggests the potential for subsurface artifacts to be located on the Project site. Human

remains and former villages have been found along former meanders of Penitencia Creek a mile or more to the southeast of the Project site.

An archeological literature review was completed at the Northwest Information Center (NWIC) at Sonoma State University to determine if any known resources are located on or within a quarter mile of the Project site. The July 27, 2014 letter from the NWIC states that, although there have been three prior cultural resource studies of the area that includes the Project site, none have identified archaeological resources. No archaeological materials have been found on the ground surface or during subsequent development projects. Further, a data search through the files at the State Office of Historic Preservation Historic Property Directory and a review of NWIC base maps indicates that there are no recorded buildings or structures within the proposed Project area that would be considered historic resources.[3]

Impact Analysis

Historical Resource

> **Cultural-1**: The Project will not cause a substantial adverse change in the significance of an historical resource as defined in §15064.5. **(No Impact)**

There are no historic structures on or immediately adjacent to the Project site. Therefore, implementation of the proposed Project would have no impact on any designated historic structures.

Archaeological Resource or Human Remains

> **Cultural-2**: The Project is not expected to cause a substantial adverse change in the significance of an archaeological resource as defined in §15064.5 or disturb any human remains, including those interred outside of formal cemeteries, but mitigation measures would reduce impacts related to the unlikely event that subsurface artifacts are uncovered during grading activities. (**Less than Significant with Mitigation**)

While the Project site is located near a local waterway and Milpitas was known to be occupied during the prehistoric and historic eras, previous studies and prior development on the Project site and in the surrounding business park have failed to generate reports of any archaeological finds. As a result, and consistent with the conclusion of the archaeological review by *Holman*, demolition of the existing building and construction of the Project would have no impact on subsurface prehistoric archaeological resources. Consistent with this assessment, no archaeological monitoring or pre-construction testing is required. Further, given that the site is presently occupied by a building and most of the site is paved as a surface parking lot, conducting a site survey by a qualified archaeologist is not considered practical or warranted in light of the preponderance of previous cultural resource assessments.

Mitigation Measures

In the unlikely event that subsurface artifacts are uncovered during grading activities, the following mitigation measures are recommended:

[3] NWIC Letter dated July 27, 2014

Mitigation Measure Cultural-2A. In the event that prehistoric or historic resources are encountered during excavation and/or grading, all activity within a 50-foot radius of the find will be stopped, the Director of Planning and Neighborhood Services will be notified, and a qualified archaeologist will examine the find and make appropriate recommendations prior to issuance of building permits. Recommendations could include collection, recordation, and analysis of any significant cultural materials. A report of findings documenting any data recovery during monitoring would be submitted to the Director of Planning and Neighborhood Services.

Mitigation Measure Cultural-2B. In the event that human remains are discovered during excavation and/or grading of the site, all activity within a 50-foot radius of the find will be stopped. The Santa Clara County Coroner will be notified and shall make a determination as to whether the remains are of Native American origin or whether an investigation into the cause of death is required. If the remains are determined to be Native American, the Coroner will notify the Native American Heritage Commission (NAHC) immediately. Once NAHC identifies the most likely descendants, the descendants will make recommendations regarding proper burial, which will be implemented in accordance with Section 15064.5(e) of the CEQA Guidelines.

Implementation of the Mitigation Measures Cultural-1 and -2 would adequately mitigate for any unlikely discovery of subsurface cultural resources or human remains, and the impact would be less than significant.

Paleontological Resources

Cultural-3: The Project would not directly or indirectly destroy a unique paleontological resource or site, or unique geologic feature. **(Less than Significant Impact)**

The Holman report prepared for the nearby Waterstone Project assessed the potential for encountering paleontological resources and concluded the following:

> "Paleontological resources are the fossilized remains of organisms from prehistoric environments found in geologic strata. Geologic units of Holocene age are generally not considered sensitive for paleontological resources, because biological remains younger than 10,000 years are not usually considered fossils. These sediments have low potential to yield fossil resources or to contain significant nonrenewable paleontological resources. These recent sediments, however, may overlie older Pleistocene sediments with high potential to contain paleontological resources. These older sediments, often found at depths of greater than 10 feet below the ground surface, have yielded the fossil remains of plants and extinct terrestrial Pleistocene vertebrates. Excavation on-site would not exceed 10 feet in depth and it is improbable that paleontological resources would be discovered on-site due to the distance of the site from the Bay and because no paleontological resources have been discovered in this area of Milpitas."[4]

Based on conclusions by Holman for the immediately adjacent Waterstone site, it is highly unlikely that impacts to paleontological resources would occur as a result of Project implementation.

[4] Holman and Associates, *Cultural Resources Investigation, Waterstone Residential Project*, January 2013

VI. GEOLOGY AND SOILS

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:					
a) Rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.)	☐	☐	☒	☐	1, 11, E
b) Strong seismic ground shaking?	☐	☒	☐	☐	1, 11, E
c) Seismic-related ground failure, including liquefaction?	☐	☒	☐	☐	1, 11, E
d) Landslides?	☐	☐	☐	☒	1,16,E
2) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☒	☐	1, 11, E, G
3) Be located on a geologic unit or soil that is unstable, or that will become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☒	☐	☒	1, 11, E
4) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☒	☐	☐	1, 11, E
5) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	☐	☐	☐	☒	1, 11, E

Introduction

Information and technical conclusions presented in the following section of the Checklist are based primarily on technical reports and studies prepared for the proposed Project, supplemented with other public information sources as provided in the list of references. The following list of Project technical reports are available for public review at the City of Milpitas Planning Department:

- ENGEO, Inc., *Geotechnical Exploration Report for 1210 California Circle, Milpitas, California*, August 15, 2014
- ENGEO, Inc., *Phase I Environmental Site Assessment, 1210 California Circle, Milpitas, California*, July 24, 2014

The conclusion of these reports (as discussed below) is that, from a geologic and geotechnical standpoint the Project site appears to be suitable for the proposed residential development. The main geologic/geotechnical issues at this site include potential seismic-induced settlement, potential liquefaction-induced surface rupture (sand boils), risk of lateral deformation along Penitencia Creek, presence of soft compressible clays on the western portion of site, undocumented existing fills, expansive near-surface soils, and presence of relatively shallow groundwater (see Hydrology section of this Initial Study) .

Environmental Setting

The Project site is located at the northern end of the Santa Clara Valley, a relatively flat alluvial plain, bounded by the Santa Cruz Mountains to the southwest and west, the Diablo Mountain Range to the east, and San Francisco Bay to the north. There are no unique geologic features on the Project site. The eastern edge of the site is adjacent to Lower Penitencia Creek, an unsupported creek bank with levees on both sides.

Based on regional geologic mapping, the soils underlying the Project are Holocene-age alluvial floodplain deposits (Qhfp) generally consisting of sandy to silty clay.

<u>Faulting and Seismicity</u>

The Project site is not located within a State of California Earthquake Fault Hazard Zone (1982) and no known faults cross the site. Nearby active[5] common faults include the Hayward-Rodgers Creek fault, located approximately 3.1 miles east of the site; the Calaveras fault, located approximately 5.7 miles east of the site; the Monte Vista-Shannon fault, located approximately 12.9 miles southwest of the site; the San Andreas fault, located approximately 16.2 miles west of the site; and the Greenville fault, located approximately 20.0 miles east of the site (see **Figure 13**).

An unnamed extension of the Silver Creek fault, located approximately 1.4 miles west of the site, is listed on the USGS fault database (2010) as a quaternary aged fault (evidence of movement in the past 1.6 million years), and as such is considered potentially active.

Because of the presence of nearby active faults, the Bay Area Region is considered seismically active. Numerous small earthquakes occur every year in the region, and large (>M7) earthquakes have been recorded and can be expected to occur in the future.

[5] An active fault is defined by the State Mining and Geology Board as one that has had surface displacement within Holocene time (about the last 11,000 years)

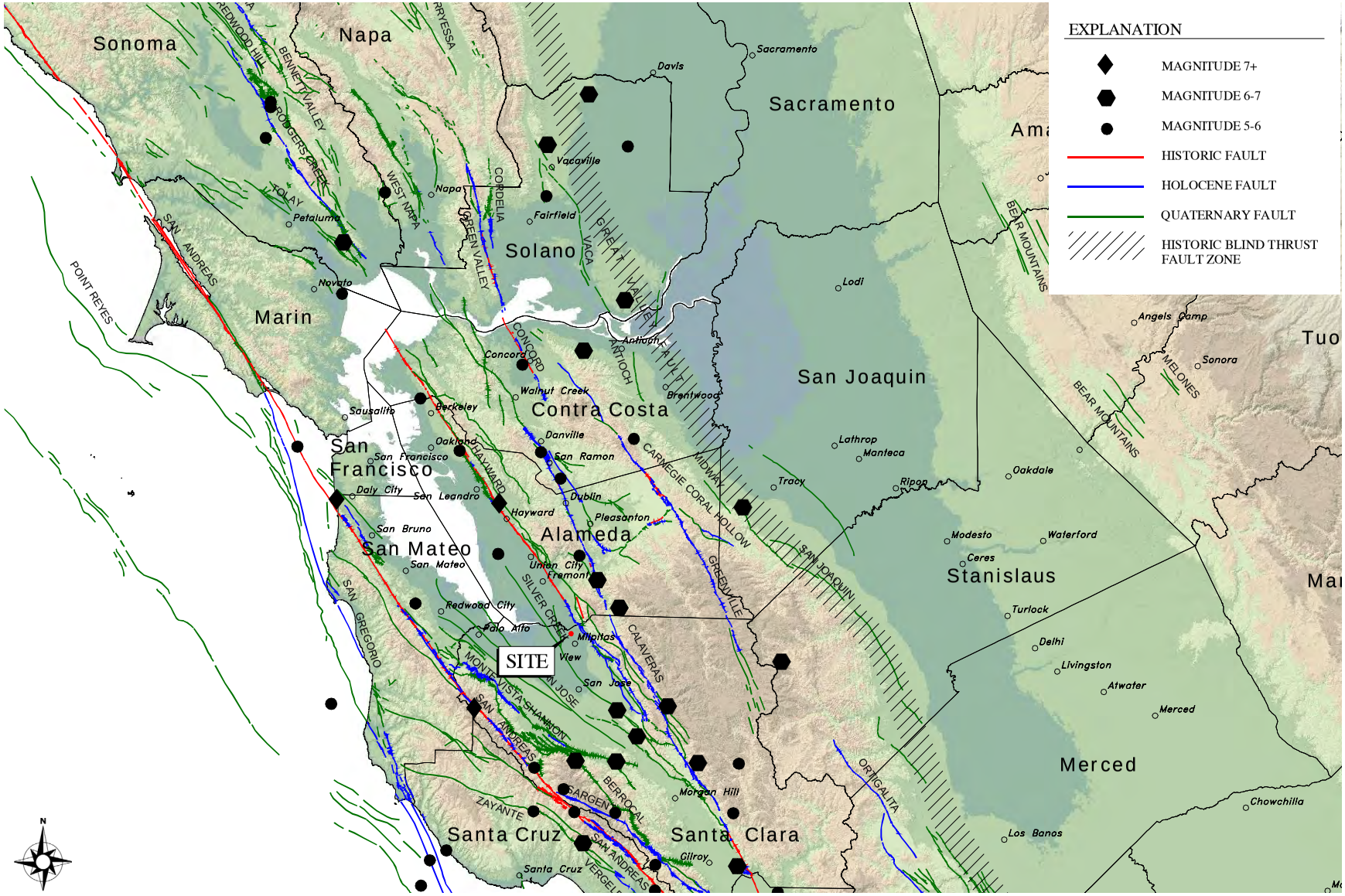

Figure 13
Regional Faults and Seismicity

Source: ENGEO (July 30, 2014)

Liquefaction

Liquefaction is the result of seismic activity and is characterized as the transformation of loose, water-saturated soils from a solid state to a liquid state during ground shaking. There are many variables that contribute to liquefaction, including the age of the soil, soil type, soil cohesion, soil density, and depth to ground water.

The Project site is mapped within a potentially liquefiable zone as identified by the State of California Seismic Hazard Zone Map (**see Figure 14**), and the site is mapped in an area susceptible to liquefaction by the Santa Clara County Geologic Hazard Zones Map.

Impact Analysis

Fault Rupture

> **Geo-1:** The Project would not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving rupture of a known earthquake fault, as described on the most recent Alquist-Priolo Earthquake Fault Zoning Map. (**Less than Significant**)

The Project site is not located within a State of California Earthquake Fault Hazard Zone and no known active faults cross the site. Therefore, the risk of ground rupture within the Project site is low.

Strong Seismic Ground Shaking

> **Geo-2:** The Project, similar to other development throughout the San Francisco Bay region, could expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death related to strong ground shaking, but this effect is reduced to levels considered less than significant through implementation of standard mitigation as found in the California Building Code requirements. (**Less than Significant with Mitigation**)

An earthquake of moderate to high magnitude generated within the San Francisco Bay Region, similar to those that have occurred in the past, could cause considerable ground shaking at the site.

Mitigation Measures

> **Mitigation Geo-2: California Building Code Requirements.** To mitigate ground shaking effects, all structures should be designed using sound engineering judgment and the latest California Building Code (CBC) requirements as a minimum. Seismic design provisions of current building codes generally prescribe minimum lateral forces, applied statically to the structure, combined with the gravity forces of dead and live loads. The code-prescribed lateral forces are generally substantially smaller than the expected peak forces that would be associated with a major earthquake. Therefore, structures should be able to:
>
> 1. resist minor earthquakes without damage,
> 2. resist moderate earthquakes without structural damage but with some nonstructural damage, and
> 3. resist major earthquakes without collapse but with some structural as well as nonstructural damage.

Conformance to the current building code recommendations does not constitute any kind of guarantee that significant structural damage would not occur in the event of a maximum magnitude earthquake; however, it is reasonable to expect that a well-designed and well-constructed structure will not collapse or cause loss of life in a major earthquake.

LIQUEFACTION

AREAS WHERE HISTORIC OCCURRENCE OF LIQUEFACTION, OR LOCAL GEOLOGICAL, GEOTECHNICAL AND GROUNDWATER CONDITIONS INDICATE A POTENTIAL FOR PERMANENT GROUND DISPLACEMENTS SUCH THAT MITIGATION AS DEFINED IN PUBLIC RESOURCES CODE SECTION 2693(c) WOULD BE REQUIRED

EARTHQUAKE-INDUCED LANDSLIDES

AREAS WHERE PREVIOUS OCCURRENCE OF LANDSLIDE MOVEMENT, OR LOCAL TOPOGRAPHIC, GEOLOGICAL, GEOTECHNICAL AND SUBSURFACE WATER CONDITIONS INDICATE A POTENTIAL FOR PERMANENT GROUND DISPLACEMENTS SUCH THAT MITIGATION AS DEFINED IN PUBLIC RESOURCES CODE SECTION 2693(c) WOULD BE REQUIRED

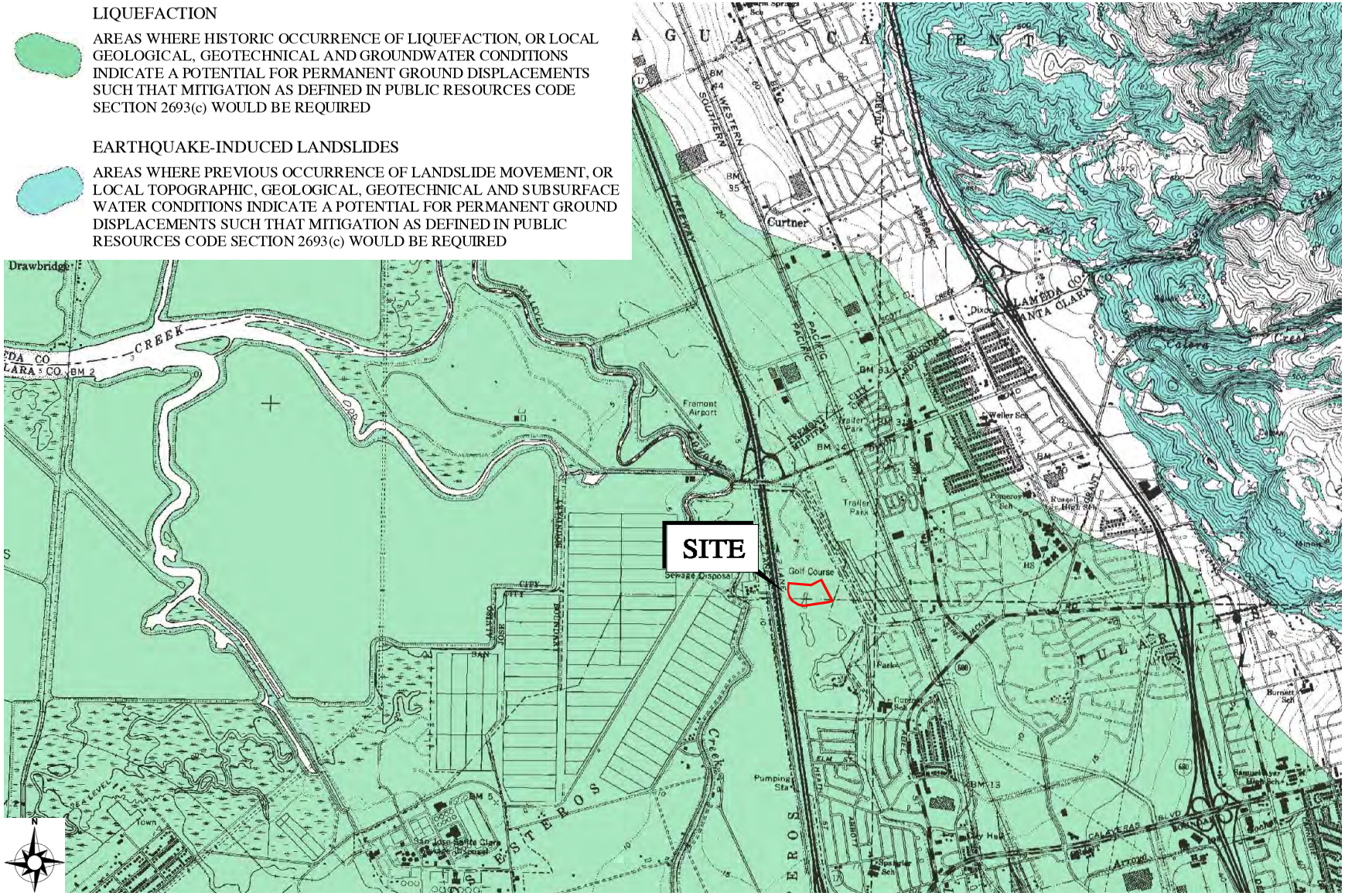

Figure 14
Seismic Hazard Zones

Source: ENGEO (July 30, 2014)

Liquefaction

> **Geo-3:** The Project could expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death related to liquefaction, but this effect is reduced to levels considered less than significant through implementation of recommended engineering requirements for building construction. (**Less than Significant with Mitigation**)

Loose to medium dense sand and silty sand layers are found at depths ranging from 5 to 34 feet at the Project site. Thicknesses range from approximately 4 feet up to 12 feet, with the thicker zones generally encountered along the eastern portion of the site, and starting at an approximate depth of 20 feet. Most of the loose to medium dense sand and silty sand layers encountered are potentially susceptible to liquefaction. Additionally, in order for liquefaction-induced ground failure to occur, the pore water pressure generated within the liquefied strata must exert a force sufficient to break through the overlying soil and vent to the surface, resulting in sand boils or fissures.

Based on the analysis, it appears the Project site does not have a thick enough cap of non-liquefiable soil to prevent venting of liquefiable soil. Assuming up to 3 feet of fill may be placed on portions of the site, soil conditions indicate a risk for liquefaction-induced surface rupture or sand boils during a strong seismic event. Assuming that up to 6 feet of fill may be placed on other portions of the site, settlement of 1.8 to 4.8 inches are possible under extreme seismic events.

Mitigation Measures

> **Mitigation Measure Geo-3: Foundation Design**. The foundation designs for new Project buildings shall conform to the foundation options and recommendations of the Project's Geotechnical Engineer, as found necessary to mitigate liquefaction hazards and reduce the risk of damage during a major earthquake. Based on preliminary recommendations (ENGEO, 2014), post-tensioned mat foundations are recommended, capable of preventing collapse or the loss of life but not fully preventing risk of structural and non-structural damage as a result of a major earthquake. If the preliminary design recommendations of ENGEO 2014 cannot be achieved by the Project's Structural Engineer, alternative recommendations and foundation options may be considered, providing such alternatives are found consistent with California Building Code requirements. Assuming post-tension mat foundations, the following technical recommendations shall be addressed in final foundation designs:
>
> 1. The foundation design should consider 1-inch total load-induced settlement subsequent to completion of surcharge operations (see Mitigation Geo-4, below). A differential value of ½ inch may be considered and should be assumed to act between adjacent column supports or over a 30-foot distance.
> 2. Post-tensioned mats should be designed for an average allowable soil pressure of 1,200 pounds per square foot for dead-plus-live loads, with maximum localized bearing pressures of 1,500 pounds per square foot for concentrated loads. Allowable bearing pressures can be increased by one-third when considering total loads, including wind or seismic loads. The actual thickness of the mat foundation should be determined by the project Structural Engineer based on structural calculations.
> 3. The subgrade material under structural mat foundations should be uniform. The pad subgrade should be moisture conditioned to a moisture content of at least 2 percentage points above optimum. The subgrade should be thoroughly soaked and approved by the Geotechnical Engineer prior to placing the reinforcement or tendons. The subgrade should not be allowed to dry prior to concrete placement.
> 4. A tough, water vapor retarding membrane should be installed below the slab to reduce moisture condensation under floor coverings. The vapor retarder should meet ASTM E 1745

– 97 Class A requirements for water vapor permeance, tensile strength, and puncture resistance. Vapor transmission through the mat foundations can also be reduced by using high strength concrete with a low water-cement ratio.

Expansive Soils

Geo-4: The Project is located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), potentially creating substantial risks to life or property. This effect is reduced to levels considered less than significant through implementation of recommended engineering requirements for building construction. (**Less than Significant with Mitigation**)

Soils Settlement

Soils are subject to settlement when a new loading scenario is introduced by structures and fill. Consolidation settlement is highly dependent on the permeability of the deposit. Consequently, sandy soils will settle almost immediately, whereas clayey soils will settle much more slowly.

The western portion of the site is underlain by soft, highly expansive fat clay up to approximately 10 feet thick at depths ranging from roughly 8 to 18 feet. Consolidation test result indicates that these clayey deposits are normally consolidated and highly compressible and that the western portion of the site may undergo total consolidation settlement of approximately 4 to 6 inches. Consolidation settlement is usually most significant within the first year after placement of new fill or addition of structural load. Based on laboratory test results, approximately 50 percent of the estimated consolidation settlement could potentially occur within the first 6 months to 1 year after placement of fill or structural loads. Settlement rates would then slow down and gradually achieve the estimated settlement. It could take 2 to 5 years to achieve 90 percent of the estimated consolidation settlement. These settlement estimates exceed the engineers' recommendations for a tolerable amount for the proposed development.

Mitigation Measures

A mitigation measure that has been successfully used for this type of development and site conditions is surcharging. Surcharge fill is placed to pre-consolidate the compressible deposits in areas subject to future increased loads.

Mitigation Measure Geo-4A: Surcharge Program. To reduce post-construction consolidation settlements, a surcharge program to "pre-consolidate" the soft clay deposits prior to site development may be used. A surcharge program would involve the placement of temporary fills, uniformly blanketing the western portion of the site until the desired degree of consolidation in these areas has occurred, as determined by a site-specific settlement-monitoring program. Based on field exploration to date, the estimated minimum surcharge area is shown on **Figure 15**.

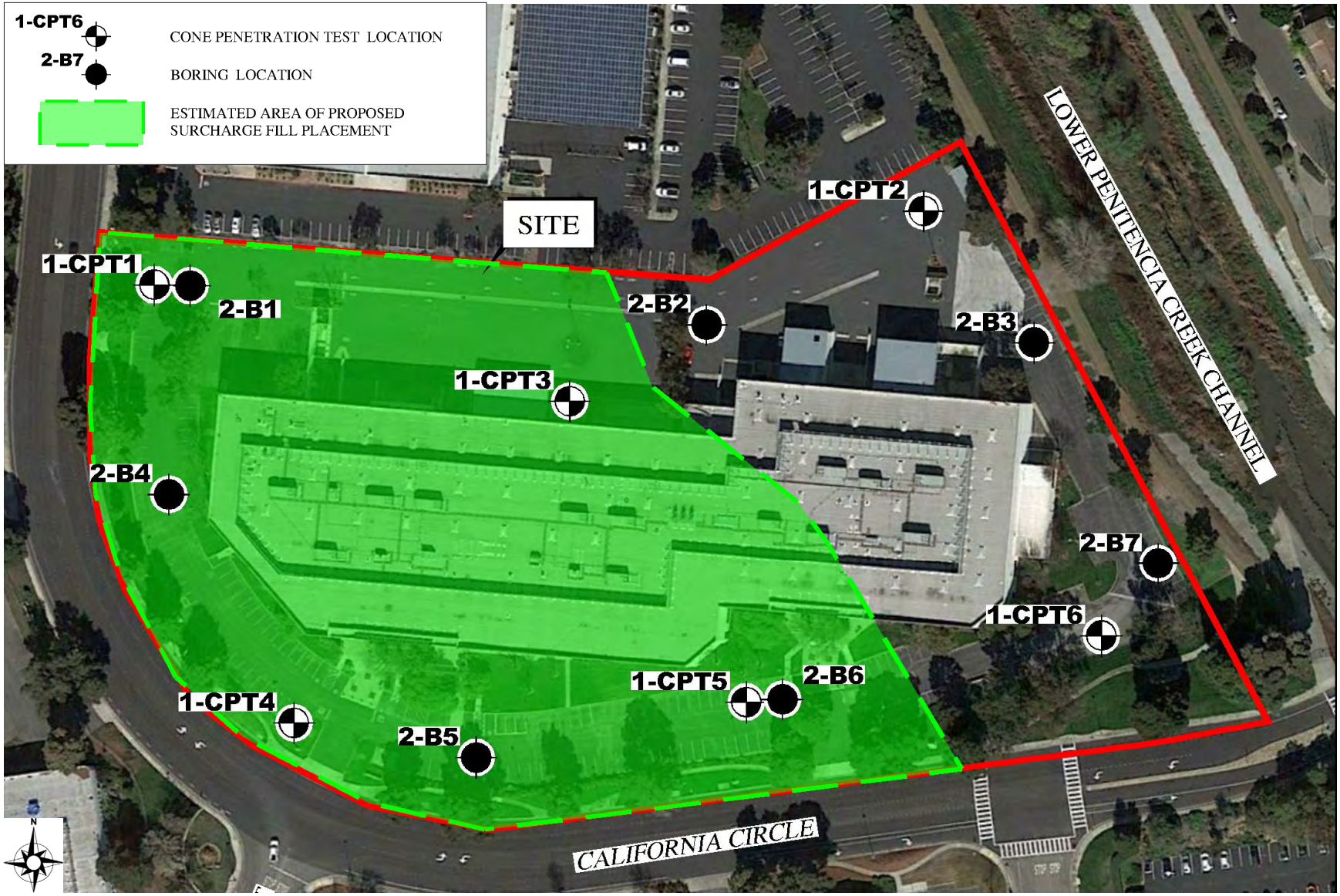

Figure 15
Geotechnical Boring Locations and
Area of Proposed Surcharge Fill

Source: ENGEO (July 30, 2014)

1. Surcharge fill should be uniformly placed over areas where structures or raised grades are planned to adequately drive consolidation of the highly compressible soft clay. The surcharge fill area, grades and extent, should be determined by a geotechnical engineer depending on surcharge period, building loads, and surcharge materials.[6] It is anticipated that a surcharge program with a surcharge height of at least 6 feet (assuming average unit weight of surcharge material is 120 pounds per cubic foot) above final grade elevations.
2. Surcharge fill should remain in place for a period of time determined to be sufficient to allow the desired degree of consolidation to be achieved, so that the risk of settlement is sufficiently reduced for the planned development. Depending on the construction schedule, implementation of a surcharge program may be accelerated by installing wick drains, which allow rapid pore pressure dissipation. Variable surcharge heights and wick drain spacing combinations are possible and may be feasible depending on specifics of loads and project timelines. Foundation designs should consider up to 1 inch of residual static-settlement.
3. If desired, the use of lightweight fill may be considered to reduce surcharge height, or existing fill on the site could be excavated and used as temporary surcharge fill.
4. Following surcharge removal, residual settlement of the soft clay is estimated to be small and structures supported on shallow foundations, such as post-tensioned mat foundations, should be designed to withstand the estimated post-construction differential settlement.
5. Where utilities are installed within the soft clay layer, the weight of the utility backfill will be heavier than the soft clayey deposits removed, resulting in undesirable potential settlement of the utility pipeline. For this case, the use of special "lightweight fill" should be considered to reduce additional loading on the compressible deposits. Recommendations for underground utilities are provided in a subsequent section.

Expansive Soils

The near-surface lean clay soils display a moderate to high expansion potential, and highly expansive fat clay was found in the upper 5 feet of some on-site boring logs. Expansive soils shrink and swell as a result of moisture changes. This can cause heaving and cracking of slabs-on-grade, pavements, and structures founded on shallow foundations. Therefore, construction of improvements will need to consider the potential impacts of expansive soils.

Mitigation Measures

Implement Mitigation Measure Geo-3: Foundation Design (see mitigation measure Geo-3, above).

Building damage due to volume changes associated with expansive soils can be reduced by supporting structures on structural mat foundations that are designed to accommodate shrinking and swelling subgrade soils. Successful construction on expansive soils requires special attention during grading. It is imperative to keep exposed soils moist by occasional sprinkling. If the soils dry, it is difficult to re-moisturize the soils (because of their clayey nature) without excavation, moisture conditioning, and re-compaction. Conventional grading operations, incorporating fill placement specifications tailored to the expansive characteristics of the soil and use of a mat foundation are common, generally cost-effective measures to address the expansive potential of the foundation soils.

Existing Fill

Based on a review historical aerial photographs, the site was previously used as a golf course before being developed into present-day conditions. The site may have received fill in order to achieve current grades

[6] For planning purposes, it is assumed up to 3 feet of engineered fill will be placed to raise site grades, and the proposed structures at the site will impose average floor loads of 400 pounds per square foot (psf) considering dead plus live loads.

from the prior use, including significant amounts of fill to raise grades from former depressions. Fill may also have been applied beneath and adjacent to the existing building foundation and within existing utility trench and landscape areas. The presence of undocumented fill can lead to pavement subgrade instability and differential foundation movement due to the unknown density of the fill and due to differences in material properties for structures that span fill to native irregularities.

Mitigation Measures

Mitigation Measure Geo-4B: Fill Removal and Re-compaction. Treatment of existing or undocumented fills typically includes removal and re-compaction of soil deemed suitable for reuse. Where encountered, existing fill, utility trench backfill, and existing foundation backfill are considered undocumented and should be sub-excavated to expose underlying competent native soils that are approved by the Geotechnical Engineer. If in a fill area, the base of the excavations should be processed, moisture conditioned, as needed, and compacted in accordance with the recommendations for engineered fill.

1. Depending upon cuts associated with removal of foundations or undocumented fills, differential fill thickness conditions could possibly arise. For sub-excavation activities that create a differential fill thickness across a building footprint, mitigation to achieve a similar fill thickness across the pad is beneficial for the performance of a shallow foundation system. It is recommend that a differential fill thickness of up to 5 feet is acceptable across the building footprint.
2. To improve foundation performance for the planned structures and to mitigate the risk of liquefaction-induced surface rupture (sand boils), we recommend near-surface soils comprise uniform fill of at least 3 feet and underlain by a woven geotextile fabric (Mirafi 500X or approved equivalent). Recommendations regarding placement depths of geotextile fabric should be re-addressed once land plans are available and may be modified during grading activities depending on groundwater levels.
3. Once a suitable firm base is exposed, the exposed non-yielding native surface should be scarified to a depth of 10 inches, moisture conditioned, and re-compacted to provide adequate bonding with the initial lift of fill. All fills should be placed in thin lifts, with the lift thickness not to exceed 10 inches or the depth of penetration of the compaction equipment used, whichever is less.
4. In general, graded slopes should be no steeper than 2:1 (horizontal: vertical). All fill slopes should be adequately keyed into firm materials unaffected by shrinkage cracks. If a cut or cut-fill transition occurs within a graded slope, it should be over-excavated and reconstructed as an engineered fill slope.

Unstable Soils/Slope Stability

Geo-5: The Project is located on a geologic unit or soil that is unstable or that could become unstable as a result of the Project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. This effect is reduced to levels considered less than significant through implementation of recommended engineering requirements for building construction. (**Less than Significant with Mitigation**)

Lateral spreading is a failure within a nearly horizontal soil zone (possibly due to liquefaction) that causes the overlying soil mass to move toward a free face or down a gentle slope. Generally, effects of lateral spreading are most significant at the free face or the crest of a slope and diminish with distance from the slope.

Lower Penitencia Creek Channel Bank

The existing earthen embankment levee with a walking trail along its crest forms the eastern boundary of the Project site within the Santa Clara Valley Water District (SCVWD) easement. The outboard slope of the embankment levee (creek side) consists of a generally uniform 1½:1 or flatter slope approximately 7 feet tall. An approximately 160 lineal foot inboard portion of the Lower Penitencia Creek channel bank is concrete lined adjacent to the southeastern site area. The northern balance of the inboard channel bank appears to consist of dry seasonal vegetation and comprised of an approximately uniform 1:1 to 1½:1 slope. The Lower Penitencia Creek channel bank is a free face that may be potentially susceptible to lateral spreading.

Based on a brief review of available documentation provided by the SCVWD, the eastern levee of the adjacent Penitencia Creek (located east of the Project site, across the creek) was re-certified in 2009. Levee accreditation of the west levee (abutting the eastern boundary of the Project site) is pending improvements of Upper Penitencia Creek, and the United States Army Corps of Engineers are in progress on plans and design for the Upper Penitencia Creek. For purposes of levee re-certification of the eastern levee (opposite side of creek channel), a geotechnical study was performed in July 2009 by AMEC Geomatrix, Inc. (AMEC). Based on that study, earthquake-induced settlement is not expected to exceed more than 1 to 4 inches due to seismic settlement, and portions of the west levee slope under seismic loading may deform "somewhat." It is assumed that similar concerns for the western levee adjacent to the Project subject site exist. Specifically, there is potential for liquefaction-induced settlement and lateral spreading/slope deformation of the levee, including deformation away from or toward the Project site as a result of strong ground shaking.

> **Mitigation Measure Geo-5A: Lower Penitencia Creek Bank Setback**. Implement the Engineering Geologist's recommendation for a minimum setback distance of 40 feet from the top of the existing creek bank for structures, and a minimum setback distance of 30 feet from the top of the existing creek bank for other development related site improvements (i.e. pavements, sidewalks, and utilities).
>
> 1. If structures or site improvements are planned within the recommended setbacks, additional remedial grading mitigation measures may be necessary (i.e. below-grade retention systems, shear keyway, etc.) that extend to adequate depths to provide adequate stability considering the adjacent creek.
> 2. As part of more detailed grading plan review, the remedial grading and any other recommended measures may be outlined, as necessary.

These recommended setbacks are suitable provided the other remedial grading recommendations provided in the Geological Report are incorporated into the final land plan and implemented during construction.

<u>Project Development Sites</u>

Lateral spreading is unlikely to significantly impact the proposed Project. The potential for lateral deformation occurring at proposed development locations is low provided the recommendations indicated below are followed. Minor ground cracking at or near the eastern site boundary may occur.

Erosion

> **Geo-6**: The Project could result in substantial soil erosion or the loss of topsoil, but mitigation measures recommended for the Project and as required pursuant to current legislation will reduce this impact to level of less than significant (**Less than Significant**)

The majority of the Project site is flat and developed and very little soil is currently exposed. Ground disturbance would be required for demolition of the existing buildings and surface parking lots, grading, and construction of the proposed residential project. Ground disturbance would expose soils and increase the potential for wind or water related erosion and sedimentation until construction is complete.

The City's NPDES Municipal Permit, urban runoff policies, and the Municipal Code are the primary means of enforcing erosion control measures through the grading and building permit process. The City will require the proposed residential project to comply with all applicable regulatory programs pertaining to construction related erosion. Because the proposed Project a will be required to comply with all applicable regulations, implementation of the Project would have a less than significant construction related soil erosion impact.

Supporting the Use of Septic Tanks or Alternative Wastewater Disposal Systems

> **Geo-7**: The Project will not have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater. (**No Impact**)

The Project will be served with municipal wastewater service, and no septic tanks or alternative wastewater systems are proposed or are necessary. This effect is not applicable to the proposed Project.

VII. GREENHOUSE GAS EMISSIONS

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☒	☐	B
2) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☐	☒	B

Introduction

Information and technical conclusions presented in the following section of the Checklist are based primarily on technical reports and studies prepared for the proposed Project, supplemented with other public information sources as provided in the list of references. The following list of Project technical reports are available for public review at the City of Milpitas Planning Department:

- Illingworth & Rodkin, Inc., *1210 California Circle, Draft Air Quality and GHG Emissions Assessment*, July 24, 2014

Environmental Setting

The Project site is currently developed with a 120,500 square foot light industrial R&D building. When the building was occupied (most recently in 2012), greenhouse gas emissions were generated by employees, customers, and delivery trips to and from the Project site and from the operation of the building. Currently the building is vacant and does not generate greenhouse gas emissions.

Regulatory Setting

As noted in the Air Quality section of this Initial Study, significance thresholds used herein are those adopted by the Bay Area Air Quality Management District (BAAQMD) in the Agency's 2011 CEQA Air Quality Guidelines. These thresholds include a "bright-line" emissions level of 1,100 metric tons per year for land-use type projects and 10,000 metric tons per year for stationary sources. Land use projects with emissions above the 1,100 metric ton per year threshold are also subject to a GHG efficiency threshold of 4.6 metric tons per year per capita. Projects with emissions above these thresholds would be considered to have a cumulatively significant impact on global climate change.

Impact Analysis

Greenhouse Gas Emissions

> **GHG-1**: The Project will not generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment. (**Less than Significant**)

Construction Emissions

GHG modeling as presented in detail in the Illingworth & Rodkin study estimated the level of construction-related GHG emissions at 1,041 metric tons of CO2 equivalent (1,041 MT CO2e) as a result of on-site operation of construction equipment, hauling truck trips, vendor truck trips, and worker trips. As noted in the report, BAAQMD does not have an adopted significance threshold for construction-related GHG emissions, though total construction period emissions would be less than the BAAQMD operational threshold of 1,100 MT CO2e per year. If these emission levels were annualized over a 40-year minimum life expectancy of the Project, these emissions would amount to an average of 26 MT CO2e/yr.

In accordance with BAAQMD recommendations, the technical analysis for this Initial Study has quantified and disclosed the level of construction related GHG emissions. The City of Milpitas will require the applicant to apply Best Management Practices to reduce GHG emissions during construction where feasible and applicable. Best management practices assumed to be incorporated into construction of the Project include, but are not limited to:

- using local building materials of at least 10 percent, and
- recycling or reusing at least 50 percent of construction waste or demolition materials.

Operational Emissions

The Illingworth & Rodkin study utilized CalEEMod model, along with the Project's vehicle trip generation rates, to predict daily GHG emissions associated with operation of the fully-developed Project. Assuming completion of the project in 2018, annual emissions resulting from the proposed Project are predicted to be 1,230 MT of CO2e. This level of emissions exceeds the BAAQMD threshold of 1,100 MT of CO2e/yr. As discussed above, land use projects with emissions above the 1,100 metric ton per year threshold are subject to a GHG efficiency threshold of 4.6 metric tons per year per capita to determine impact significance. Assuming an average of 3.45 people per unit and 148 units, the Project, would have an effective service population of approximately 510 people. The computed per capita emissions for the Project would be 2.41 MT of CO2e/year/service population, which is less than the BAAQMD threshold of 4.6 MT of CO2e/year/service population.

Conflict with Applicable Plans, Policies or Regulations

> **GHG-2**: The Project will not conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases. (**No Impact)**

The City of Milpitas published its Climate Action Plan in May 2013, with the adopted goal of reducing GHG emissions through community partnerships and implementation of GHG reduction measures. The Project would be subject to new requirements under rule making developed at the State and local level regarding greenhouse gas emissions and be subject to local policies that may affect emissions of greenhouse gases, such as the City Climate Action Plan. The Project would be consistent with the City's Climate Action Plan.

VIII. HAZARDS AND HAZARDOUS MATERIALS

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project 1) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☒	☐	1, 2, F
2) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☒	☐	☐	1, F
3) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☒	☐	1, 16, F
4) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☒	1, F
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	1
6) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☒	1
7) Impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☒	1
8) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☒	1

Introduction

Information and technical conclusions presented in the following section of the Checklist are based primarily on technical reports and studies prepared for the proposed Project, supplemented with other public information sources as provided in the list of references. The following list of Project technical reports are available for public review at the City of Milpitas Planning Department:

- ENGEO, Inc., *Phase I Environmental Site Assessment, 1210 California Circle, Milpitas, California*, July 24, 2014

Environmental Setting

The approximately 9.45-acre Project site is part of a suburban commercial and light industrial business park located between Lower Penitencia Creek and I-880. Residential developments are located nearby on the east side of the creek channel. An existing earthen embankment levee with a walking trail forms the eastern boundary of the site and is subject to use and other restrictions pursuant to an easement held by the Santa Clara Valley Water District (SCVWD).

The site was first developed as a golf course in the 1950s which is also when the Lower Penitencia Creek channel was constructed. There is no evidence of agricultural use of the property prior to construction of the golf course. The golf course was removed in the early 1980s when California Circle was constructed. The site remained vacant during the mid-1980s. The present building was constructed in about 1987 as an approximately 120,500 square foot tilt-up one-story light industrial building surrounded by a surface parking lot and ornamental landscaping. The building consists of internal office space and a rear warehouse area, with several truck docking facilities and fence-enclosures along the northern side of the building. Since it opened, the building has been occupied by various tenants including Sun Microsystems (1987 to 1995), Lam Research (1996), E-Cycle (2000 to 2006) and Solyndra (2008 to 2012); the building has been vacant since Solyndra left in 2012.

The property has been the subject of three prior Phase I ESAs: in 1995, 1996 and 2001. These prior site assessments found no evidence of asbestos containing materials (ACM) or underground storage tanks, found no leakage or other concerns with above-ground storage of potentially hazardous materials, and found refrigeration units to be in good condition.

The ENGEO 2014 Phase I ESA includes a comprehensive search of relevant environmental databases and listing of prior environmental studies conducted by prior building users. As part of the ESA, a reconnaissance level site visit was conducted, seeking evidence of hazardous materials storage, superficial staining or discoloration, debris, stressed vegetation, or other conditions that may be indicative of potential sources of soil or groundwater contamination. The site was also checked for evidence of fill/ventilation pipes, ground subsidence, or other evidence of existing or preexisting underground storage tanks.

The ENGEO Phase I also reported on prior incidences of hazardous waste clean-up and/or removal activities which included removal of several leaking 55-gallon containers in 2003. The work was done under the supervision of the Milpitas Fire Department and resulted in no environmental impact.

<u>Environmental Site Assessment Findings</u>

The ENGEO 2014 Phase I ESA did not find documentation or physical evidence of soil or groundwater impairments associated with the current or past use of the property. It found no documentation or evidence of significant hazardous materials violations or discharge on the property.

Impact Analysis

Routine Transport, Use or Disposal of Hazardous Materials

> **Hazards-1**: The Project will not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. **(Less than Significant Impact)**

Construction activities routinely utilize materials and fuels considered hazardous. Compliance with applicable regulations would ensure the Project will not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

Project construction activities may involve the use, transport and disposal of hazardous materials such as gasoline, diesel fuel, lubricating oil, hydraulic oil, lubricating grease, automatic transmission fluid, paints, solvents, glues, and other substances used during construction. Construction of the Project would also require the use of gasoline and diesel-powered heavy equipment, such as bulldozers, backhoes, water pumps and air compressors.

Residential occupation and management of the proposed residential townhouse development would not involve the use, transport and disposal of hazardous materials except for incidental use of household chemicals and vehicle fuels by residents on the site.

Release of Hazardous Materials

> **Hazards-2**: The Project could create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment, but such an accident would be reduced to less than significant level with implementation of mitigation measures requiring conformance with asbestos and lead-based paint regulations. (**Less than Significant with Mitigation**)

Mitigation Measures

Although the 1995 Phase I ESA did not identify any asbestos containing building materials (ACBMs), the ENGEO 2014 Phase I ESA recommends the following mitigation measure to address the potential for asbestos:

> **Mitigation Measure Haz-2**: The Applicant shall retain Cal-OSHA certified ACBM and lead-based paint specialists to assess the structure for the presence of these hazardous materials prior to the start of demolition work. Hazard abatement or removal and disposal of hazardous materials, if any are found, shall comply with applicable regulations.

With implementation of Mitigation Measure Haz-2, potential environmental impacts would be less than significant.

Hazardous Emissions near a School

> **Hazards-3**: The Project will not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. (**Less than Significant**)

The closest school to the Project site is Curtner Elementary School, located at 275 Redwood Avenue, approximately .35 miles away. Potential impacts related to the emission of hazardous materials, substances of wastes would be less than significant.

Cortese List

> **Hazard-4**: The Project site is not located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment. (**No Impact**)

Information provided by Environmental Data Resources and included in the ENGEO 2014 Phase I ESA indicates that no Recognized Environmental Conditions (RECs), no historical RECs, and no controlled RECs were identified for the Project site, and thus the site is not included on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5 that would create a significant hazard to the public or the environment.

Airport Hazards

> **Hazard-5**: The Project is not located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, and the Project would not result in an airport safety hazard for people residing or working in the area. (**No Impact**)

The Project site is not located in proximity to any public airport or private airstrip, and is not located within an Airport Influence Area (AIA) (a composite of the areas surrounding an airport that are affected by noise, height, and safety considerations).

Emergency Response, Evacuation or Wildland Fire Hazards

> **Hazard-6:** The Project would not impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan. It would not expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands. (**No Impact**)

The Project site is in a developed urban area and it is not adjacent to any wildland areas that would be susceptible to fire. The Project would not interfere with any adopted emergency response plan or emergency evacuation plan.

IX. HYDROLOGY AND WATER QUALITY

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Violate any water quality standards or waste discharge requirements?	☐	☒	☐	☐	1,2
2) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☒	☐	1,2
3) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	☐	☐	☒	☐	1,2
4) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	☐	☐	☒	☐	1,2
5) Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☒	☐	1,2
6) Otherwise substantially degrade water quality?	☐	☒	☐	☐	1,2
7) Place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☒	☐	☐	1,2, 14

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
8) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☒	☐	☐	1, 2, 14
9) Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☒	☐	☐	1,2
10) Be subject to inundation by seiche, tsunami, or mudflow?	☐	☒	☐	☐	1,2

Introduction

Information and technical conclusions presented in the following section of the Checklist are based primarily on technical reports and studies prepared for the proposed Project, supplemented with other public information sources as provided in the list of references. The following list of Project technical reports are available for public review at the City of Milpitas Planning Department:

- Schaaf & Wheeler, *Memo Re: Preliminary 100-Year Flood Study*, August 4, 2014
- Carlson, Barbee & Gibson, Inc., *Stormwater Control Plan for Stormwater C.3 Guideline Compliance with California Circle Vesting Tentative Map*, August 15, 2014
- ENGEO, Inc., *Geotechnical Exploration for 1210 California Circle, Milpitas, California*, August 15, 2014

Environmental Setting

Following are factual statements about the Project site as gleaned from authoritative sources as indicated.

Flood Hazard

The Project site is located within Special Flood Hazard Area zone AH which is a flood hazard category of the Federal Emergency Management Agency (FEMA) as having a one percent annual chance of flood with average depths of one to three feet (see **Figure 16**).[7]

Dam Failure

According to the applicable dam failure inundation hazard map, the Project site is not subject to flooding in the event of a dam failure.[8]

[7] FEMA https://msc.fema.gov/portal/search?AddressQuery=1210%20California%20Circle%2C%20Milpitas%20, accessed 8/13, 2014. FEMA Map Number is CA 06085C0058J, effective on02/18/2014

[8] Association of Bay Area Governments. *Dam Failure Inundation Hazard Map for NW San José/Milpitas/Santa Clara.* 1995. <http://www.abag.ca.gov/cgi-bin/pickdamx.pl> Accessed August 13, 2014

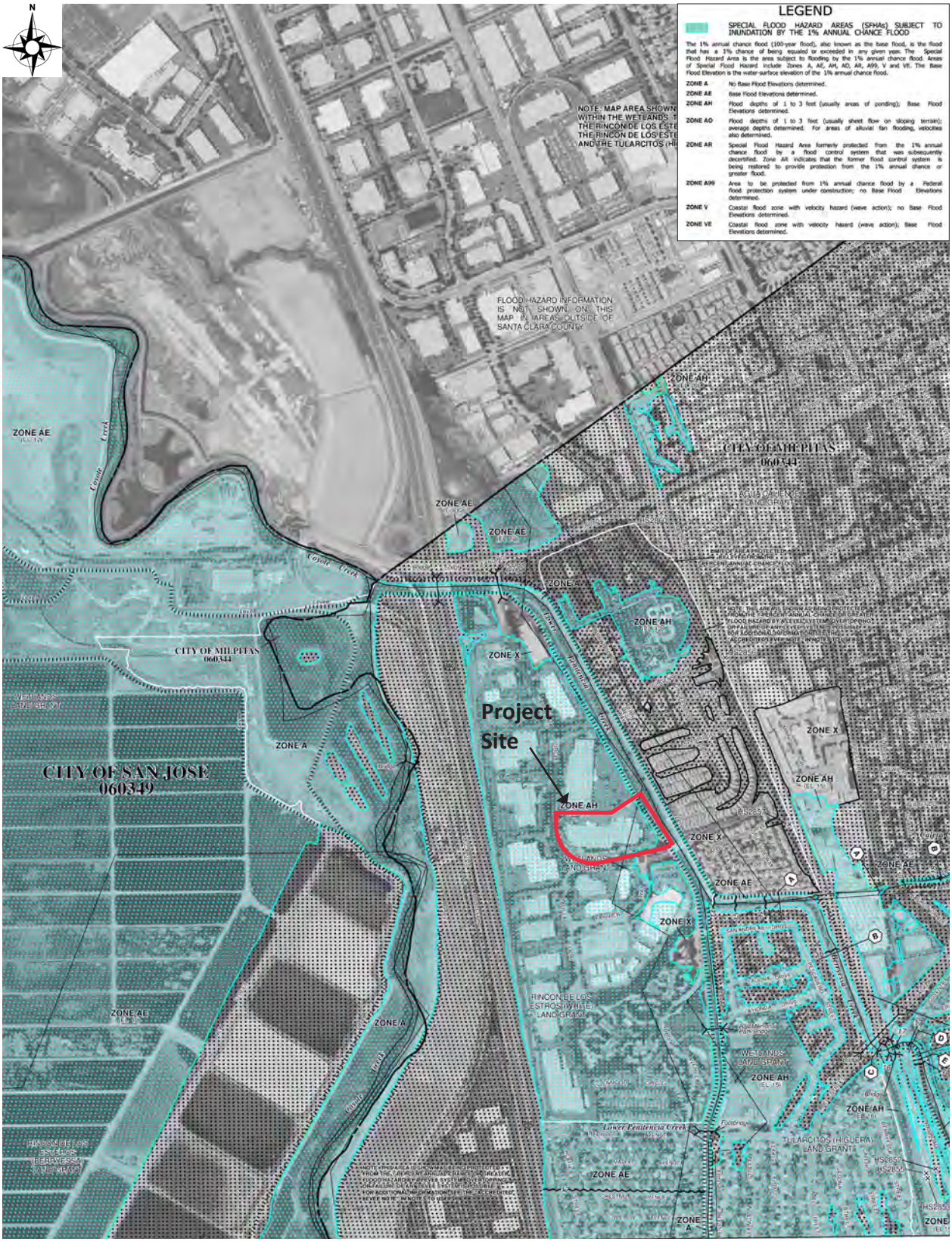

Figure 16
FEMA Flood Insurance Rate Map

Source: Department of Homeland Security, Federal Emergency Management Agency

Tsunami, Seiche and Mudflows

There are no landlocked bodies of water near the Project site that would affect the site in the event of a seiche. There are no bodies of water near the Project site that would affect the site in the event of a tsunami.

The project area is flat and there are no mountains nearby that would affect the site in the event of a mudflow.

Sea Level Rise

The degree to which sea level might rise as a result of climate change is uncertain but is being studied so that the risks can be taken into consideration in planning for new projects located on potentially affected sites. The San Francisco Bay Conservation and Development Commission (BCDC) is the leading agency in the Bay Area to have addressed the issue. BCDC's studies have taken data from the United States Geological Survey (USGS) to produce a series of sea level rise maps showing areas vulnerable to 16 inches of sea level rise at mid-century and 55 inches at the end of the century. The BCDC maps show the Project site as being vulnerable to sea level rise of 55 inches by the end of the century.[9]

As indicated in the Waterstone Initial Study/EIR, the increase in global mean sea level may have a range of impacts to developed areas of Milpitas and in tidally influenced reaches of streams and creeks. For instance, discharge pipes, both for storm and treated wastewaters, will operate differently under higher average tide cycles. Streams, creeks and rivers that flow to the Bay will also have higher water surface elevations for their respective downstream conditions, which may increase water levels throughout a system during extreme events. Rising sea levels may also affect the protection level for bay and riverine levee systems (such as Penitencia Creek).

In addition to sea level rise, global warming may affect other flood related factors such as storm surge, wave height and run-up, and rainfall intensity. Generally more intense but less frequent precipitation is predicted, with storm patterns shifting to earlier in the fall and winter months. More intense storms may cause increased storm surge and wave heights in the Bay, although how these conditions would impact this area of Milpitas is unknown since the relatively shallow marshes of the South Bay may dampen this potential impact.

Storm Drain

The City of Milpitas owns and maintains the municipal storm drainage system which serves the Project site. The lines that serve the Project site drain into Penitencia Creek. Penitencia Creek flows north, carrying the flows from the storm drains into San Francisco Bay. There is no overland release of stormwater directly into any water body from the Project site due to the intervening levee.

Hydromodification

The Municipal Regional Stormwater NPDES permit (see additional discussion, below) requires all new projects and redevelopment projects that create or replace one acre or more of impervious surface to manage development-related increases in peak runoff flow, volume, and duration, where such hydromodification is likely to cause increased erosion, silt pollutant generation or other impacts to beneficial uses of local rivers, streams, and creeks. Projects may be deemed exempt from the permit requirements if they do not meet the size threshold, drain into tidally influenced areas or directly into the Bay, drain into hardened channels, or are infill projects in sub-watersheds or catchments areas that are greater than or equal to 65 percent impervious (per the Santa Clara Permittees Hydromodification Management Applicability Map).

[9] San Francisco Bay Conservation and Development Commission. *Shoreline Areas Vulnerable to Sea Level Rise: South Bay.* Map. 2008 http://www.bcdc.ca.gov/planning/climate_change/maps/16_55/south_bay.pdf Accessed August 13, 2014

Based on the SCVUPPP Watershed Map for the City of Milpitas, the project site is within a sub-watershed that drains into a hardened channel and/or tidal area. As a result, the project is not required to comply with the NPDES hydromodification requirements

Groundwater

The ENGEO geotechnical report prepared for the project site determined that groundwater beneath the Project site is at a depth of approximately 7 to 20 feet below ground surface (bgs).

Water Quality

Stormwater from the Project site drains into Penitencia Creek. The water quality of Penitencia Creek is directly affected by pollutants contained in stormwater runoff from a variety of urban and non-urban uses. Stormwater from urban uses contains metals, pesticides, herbicides, and other contaminants, including oil, grease, asbestos, lead, and animal wastes. Based on data from the Environmental Protection Agency (EPA)[10], Penitencia Creek is not currently listed on the California 303(d) list,[11] or the Total Maximum Daily Load (TMDL) high priority schedule.[12]

Nonpoint Source Pollution Program

The Federal Clean Water Act and California's Porter-Cologne Water Quality Control Act are the primary laws related to water quality. Regulations set forth by the U.S. Environmental Protection Agency (EPA) and the State Water Resources Control Board (SWRCB) have been developed to fulfill the requirements of this legislation. EPA's regulations include the National Pollutant Discharge Elimination System (NPDES) permit program, which controls sources that discharge pollutants into the waters of the United States (e.g., streams, lakes, bays, etc.). These regulations are implemented at the regional level by the water quality control boards, which for the Milpitas area is the San Francisco Regional Water Quality Control Board (RWQCB).

Statewide Construction General Permit

The SWRCB has implemented a NPDES General Construction Permit for the State of California. For projects disturbing one acre or more of soil, a Notice of Intent (NOI) and Storm Water Pollution Prevention Plan (SWPPP) must be prepared prior to commencement of construction.

Municipal Regional Stormwater NPDES Permit (MRP)/C.3 Requirement

The San Francisco Bay RWQCB also has issued a Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP). In an effort to standardize stormwater management requirements throughout the region, this permit replaces the formerly separate countywide municipal stormwater permits with a regional permit for 77 Bay Area municipalities, including the City of Milpitas. Under provisions of the NPDES Municipal Permit, redevelopment projects that disturb more than 10,000 sf are required to design and construct stormwater treatment controls to treat post-construction stormwater runoff. Amendments to the MRP require all of the post-construction runoff to be treated by using Low Impact Development (LID) treatment controls, such as biotreatment facilities. The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) assists co-permitees, such as the City of Milpitas, to implement the provisions of the Municipal NPDES Permit.

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10 U.S. Environmental Protection Agency. *California* 303(d) Listed Waters. http://ofmpub.epa.gov/tmdl_waters10/attains_waterbody.control?p_list_id=CAR2053002119990218112824&p_state=CA&p_cycle=2010

11 The Clean Water Act, section 303, establishes water quality standards and TMDL programs. The 303(d) list is a list of impaired water bodies

12 A TMDL is a calculation of the maximum amount of a pollutant that a water body can receive and still meet water quality standards.

Impact Analysis

Alteration of Drainage Patterns

> **Hydrology-1**: The Project will not substantially alter the existing drainage pattern of the site or area (in particular it will not alter the course of a stream or river) in a manner which would result in substantial erosion or siltation, or substantially increase the rate or amount of surface runoff in a manner which would exceed the capacity of existing or planned storm water drainage systems or result in flooding on-or off-site, or which would or provide substantial additional sources of polluted runoff. (**Less than Significant**)

Hydromodification

Existing buildings, paving, concrete, and other impervious surfaces account for approximately 75% (7.0 ac) of the site. The remaining 25% of the site is covered by pervious surfaces consisting of landscaped areas along the California Circle frontage and the Penitencia Creek levee.

All existing surface improvements west of the levee will be demolished as part of the Project, and following construction of the proposed improvements, approximately 5.9 acres (63%) of the site will be covered by impervious surface and about 3.5 acres (37%) will be covered by landscaped areas including lawns, shrubs, and trees. All walkways within these areas will be sloped to drain onto the surrounding landscaping. Of the 9.4 acre total Project area, approximately 8.7 acres will be disturbed by new development. No construction will occur over the approximately 0.7 acres of Penitencia Creek within the Project boundary. The Project will reduce the impervious surface of the site as compared to existing conditions, thereby reducing the total volume of surface runoff from the site. The Project site is also within an area defined as "draining to a hardened channel or tidal area" in the SCVURPPP Handbook. Projects meeting either of these criteria are exempt from Hydromodification Management Plan requirements.

On-Site Drainage

The proposed on-site storm drain system improvements for the site will tie into several existing storm drain stubs, and the existing drainage patterns will not be substantially altered.

The existing storm drainage system has sufficient capacity to support the existing development. Since there is sufficient capacity to serve the existing development and the proposed Project will reduce impermeable surfaces (thereby reducing the overall volume of runoff), implementation of the Project would not exceed the capacity of the storm drain system that serves the Project site.

Water Quality

> **Hydrology-2**: The Project could result in a violation of water quality standards or waste discharge requirements, or otherwise substantially degrade water quality, but this impact would be reduced through required implementation of construction-period and post construction water quality mitigation measures. (**Less than Significant with Mitigation**)

Construction Impacts

Construction will involve demolition, excavation and grading activities. These construction activities could degrade water quality in Penitencia Creek because the existing on-site storm drainage systems discharge into this waterway. Construction activities would generate dust, sediment, litter, oil, paint, and other pollutants that could temporarily contaminate runoff from the site.

Mitigation Measures

Mitigation Measure Hydrology-2A: NPDES General Permit for Construction. As a condition of Project approval and prior to start of grading or other construction activities, the Project applicant shall file a Notice of Intent (NOI) with the RWQCB for compliance with the NPDES General Construction Permit. Pursuant to that permit, the Project will be required to implement management practices of the RWQCB during all phases of construction, including but not limited to the following:

1. Burlap bags filled with drain rock shall be installed around storm drains to route sediment and other debris away from the drains.
2. Earthmoving or other dust-producing activities shall be suspended during periods of high winds.
3. All exposed or disturbed soil surfaces shall be watered at least twice daily to control dust as necessary.
4. Stockpiles of soil or other materials that can be blown by the wind shall be watered or covered.
5. All trucks hauling soil, sand, and other loose materials shall be covered or shall maintain at least two feet of freeboard.
6. All paved access roads, parking areas, staging areas and streets adjacent to the construction site shall be swept daily (with water sweepers).
7. Vegetation in disturbed areas shall be replanted as quickly as possible.
8. All unpaved entrances to the site shall be filled with rock to knock mud from truck tires prior to entering City streets. A tire wash system may also be employed if requested by the City.

Mitigation Measure Hydrology-2B: Compliance with SWPPP. The Project proponent shall prepare and file a draft Stormwater Pollution Prevention Plan (SWPPP) that addresses measures to minimize and control construction runoff. A copy of the draft SWPPP will be submitted to the City of Milpitas for review and approval prior to start of construction. When approved, the certified SWPPP will be posted at the Project site and will be updated to reflect current site conditions.

Compliance with the SWPPP and with implementation of NPDES General Construction permit's Best Management Practices during construction, the Project would not violate any adopted water quality standards or waste discharge requirements. Runoff will be routed directly from the on-site treatment facilities to the storm drainage system and would not flow off-site.

<u>Operational Impacts</u>

After development, the Project will contribute generally the same types of stormwater runoff pollutants as did the prior use of the site as well as the surrounding residential development. Runoff from streets and parking areas often carries grease, oil, and trace amounts of heavy metals into natural drainages. Runoff from landscaping can carry pesticides, herbicides, and fertilizers. Although the amounts of these pollutants ultimately discharged into the waterways are unknown, over time they could accumulate and be substantial.

The Project incorporates numerous water quality protection elements as part of its design, including:

- The site incorporates 148 residential units into 27 multi-story buildings with two car garages for each unit. This limits the amount of impervious area that may otherwise be associated with on-street

parking spaces. Surface parking is provided as necessary to meet the City's requirements without providing excess impervious surface.

- Sidewalks designed to the minimal permissible width provide pedestrian access while maximizing pervious landscape areas.
- Penitencia Creek and the associated levee will be maintained in their existing natural state by offsetting the development away from the eastern edge of the site.

Mitigation Measures

Because the Project has more than 10,000 square feet of total replaced impervious surfaces, and the total replaced impervious area (257,500 square feet) is more than 50% of the existing impervious area, the NPDES C.3 provisions for source control site design and water treatment requirements will apply to the Project.

> **Mitigation Measure Hydro-2C: NPDES C.3 Requirements – Stormwater Control Plan.** Pursuant to the San Francisco Bay RWQCB's Municipal Regional Stormwater NPDES Permit (Permit Number CAS612008) (MRP), the Project applicants shall be required to design, construct and operate stormwater treatment controls to treat post-construction stormwater runoff. These controls shall be sized, designed, implemented and operated in accordance with the Provision C.3 requirements of the regional permit, and the technical requirements of the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) C.3 Stormwater Handbook, dated April 2012.

Proposed Stormwater Control Plan

A Stormwater Control Plan (SWCP) for the proposed Project has been submitted to the Engineering Department of the City of Milpitas as an accompaniment to the Project's Vesting Tentative Map application.[13] The SWCP includes recommendations on the use of permanent Best Management Practices (BMP) for the Project. Probable design storm flows and permanent BMP selections are presented in this report, intended to meet the technical requirements of the SCVURPPP C.3 Stormwater Handbook.

Key elements of the Project's proposed SWCP are discussed below.

- The Project's proposed site layout and building locations offer the possibility of directing stormwater runoff to proposed landscape areas. Approximately 3.5 acres (37%) of the site will be covered by landscaped or pervious surfaces which include lawn, shrubs, and trees. The Project will be designed to direct runoff from impervious surfaces into landscape areas or drainage treatment features, such as bio-retention areas, where possible. Additionally, pedestrian pathways within the landscape areas will be sloped to drain towards adjacent landscape areas.
- Although conventional concrete and asphalt have been selected for use throughout the majority of the Project site, pervious pavement will be used in several of the private drive aisles which will reduce the total imperviousness of the site.
- Bio-retention treatment areas are designed into the Project to filter pollutants from stormwater runoff from adjacent roofs, streets and landscape areas using a combination of vegetation, ponding, permeable planting soil, and a sub-drain system. Bio-retention treatment areas, which will receive runoff through curb cuts, disconnected downspouts, and the local area drain system, will be located throughout the Project site and will ultimately discharge into the public storm drain system.
- The local area drain system will collect runoff from building downspouts and pathways prior to discharging into the bio-retention areas. Street runoff will discharge directly into the bio-retention

[13] Carlson, Barbee & Gibson, Inc., Stormwater Control Plan for Stormwater C.3 Guideline Compliance with California Circle Vesting Tentative Map, August 15, 2014

areas via curb cuts. One of the larger storm drain mains through the Project site will have a pump installed to discharge the water quality treatment flows into a central bio-retention area in the middle of the Project.

- Bio-retention treatment areas will be sized to maximize treatment for tributary areas. Runoff that is directed into the bio-retention areas will infiltrate through a minimum of 18" of bio-treatment soil. The treatment soil and the planting material to be used within the bio-retention treatment areas will have an infiltration rate of 5 inches per hour to meet the minimum infiltration criteria as described in the SCVURPPP bio-retention design and sizing guidelines.
- Each bio-retention area will be equipped with a bypass pipe that will direct excess water directly into the drainage system. In all cases, the rim of the overflow pipe will be set to meet the minimum ponding depth requirements for each individual bio-retention area.
- The size of the bio-retention areas has been calculated using the Uniform Intensity Method. Bio-retention areas will be sized to have a surface area equivalent to 4% of the contributing impervious area.

Based on these key elements of the proposed SWCP, each drainage sub-area within the Project (see **Figure 17**) is proposed to include measures to adequately treat and filter runoff prior to discharge into the storm drain system. The proposed sub-area drainage plan would include the following:

- Project Drainage Area 'A' includes approximately 4.8 acres of roadways, roofs, sidewalk and landscaping. Building downspouts will direct runoff to bio-retention areas, and curb cuts will allow water to enter street-side bio-retention areas. A pump will be installed to direct runoff conveyed by the proposed storm drain system into a large bio-retention area at the center of the site. This drainage area will be treated by a combination of pervious pavement and bio-retention areas, as well as self-treating and self-retaining landscape areas.
- Project Drainage Area 'B' includes approximately 0.3 acres of roofs, paseos, and landscaping. This drainage area will be treated by bio-retention areas and self-treating and self-retaining landscape areas.
- Project Drainage Area 'C' includes approximately 0.9 acres of roadway, roofs, sidewalk, and landscaping. This drainage area will be treated by bio-retention areas and self-treating and self-retaining landscape areas.
- Project Drainage Area 'D' includes approximately 2.3 acres of roadway, roofs, sidewalk, and landscaping. This drainage area will be treated by a combination of bio-retention areas, pervious pavement and self-treating and self-retaining landscape areas.
- Project Drainage Area 'E' includes approximately 0.5 acres of sidewalk and landscaping. This drainage area will be treated by self-retaining landscape strips adjacent to the sidewalk.
- Project Drainage Area 'F' includes approximately 0.7 acres of open space along Penitencia Creek. This drainage area will not be disturbed through Project construction, and will continue to act as a self-treating area.

The proposed SWCP also includes permanent source control BMP recommendations and operational source control BMPs, as well as recommended BMP maintenance requirements.

Through implementation of Mitigation Measure Hydro-2C, the Project's SWCP will be reviewed by the City Engineering Department for consistency with the requirements of the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) C.3 Stormwater Handbook. Once approved, the SWCP will provide mitigation for water quality impacts associated with Project implementation, and the potential impact will be reduced to a less than significant level.

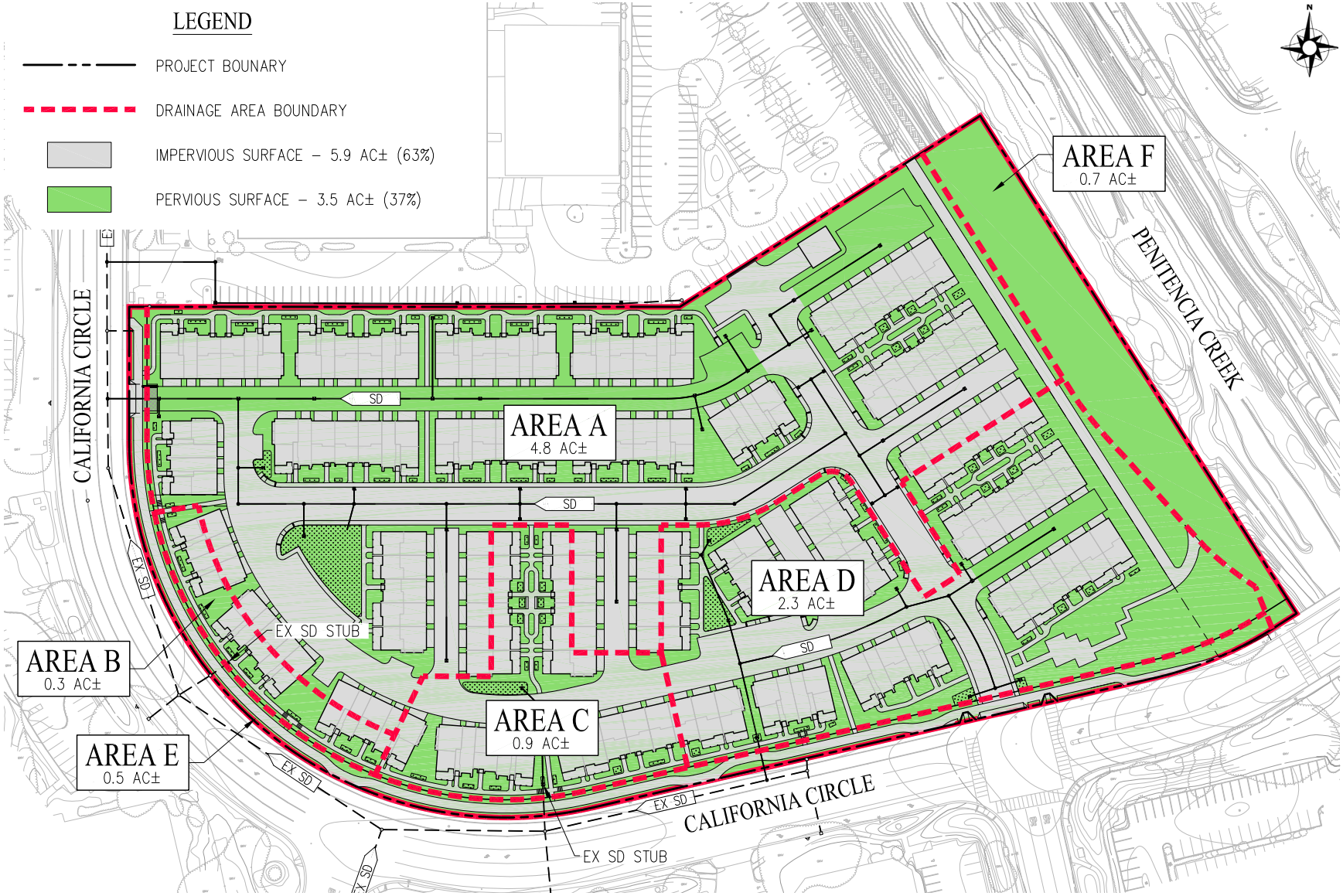

Figure 17
Proposed Storm Water Control Plan, by Drainage Areas

Source: Carlson, Barbee, & Gibson Inc. (August 15, 2014)

Operations and Maintenance

Once constructed, on-going operations and maintenance of all water quality elements of the Project will be required. The following mitigation measure assures appropriate implementation of BMPs throughout the Project lifetime.

Mitigation Measures

> **Mitigation Measure Hydrology-2D: NPDES Best Management Practices**. The following measures, based on the RWQCB Best Management Practices (BMPs) and the City requirements, are required of the Project to ensure compliance with NPDES permit requirements for post-construction operations to reduce water quality impacts.

1. When the construction phase is complete, a Notice of Termination (NOT) for the General Permit for Construction will be filed with the RWQCB and the City of Milpitas. The NOT will document that all elements of the SWPPP have been executed, construction materials and waste have been properly disposed of, and a post-construction stormwater management plan is in place as described in the SWPPP for the project site.
2. All post-construction Treatment Control Measures (TCMs) will be installed, operated, and maintained by qualified personnel. On-site inlets will be cleaned out at a minimum of once per year, prior to the wet season.
3. The property owner/home owner's association will keep a maintenance and inspection schedule and record to ensure the TCMs continue to operate effectively for the life of the project. Copies of the schedule and record must be provided to the City upon request and must be made available for inspection on-site at all times.
4. The residential homeowner's association will ensure through the CC&R's that the bio-retention/treatment areas are maintained as designed for the useful life of the project and preclude homeowners from landscaping or other improvements which might diminish the functionality of the system.

With implementation of the proposed Stormwater Control Plan and compliance with the SWPPP and its associated Best Management Practices during Project operations, the Project would not violate any adopted water quality standards or waste discharge requirements. On-going operations and maintenance of the proposed stormwater treatment systems will result in a less than significant impact on water quality.

Groundwater Supplies and Recharge

> **Hydrology-3**: The Project would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted). **(Less than Significant)**

Potable water will be provided to the Project by the City of Milpitas, based on supplies provided by the San Francisco Public Utilities Commission. No groundwater would be used by the Project. In terms of groundwater recharge, the Project site is currently approximately 75 percent paved and stormwater on the Project site does not contribute to recharging of the groundwater aquifers, but drains to the site's stormwater system and into Penitencia Creek. Implementation of the Project would not impede groundwater recharge or lessen groundwater supplies.

100-Year Flood Hazards

Hydrology-4: The Project site is located within a 100-year flood hazard zone and would place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map. This impact would be reduced through implementation of the Project's proposed mitigation to raise the base elevation of the site above the flood level. (**Less than Significant with Mitigation**)

Lower Penitencia Creek Improvement Project

The Project site is located adjacent to Lower Penitencia Creek. The Santa Clara Valley Water District is currently planning a Lower Penitencia Creek Improvements Project that would affect the Creek within the City of Milpitas, particularly from approximately its confluence with Coyote Creek to its confluence with Berryessa Creek to the south.[14] This area of creek receives some of its water from Berryessa Creek, and current improvements that have been planned and designed, and soon to be constructed on Berryessa Creek will bring more flows into Lower Penitencia Creek that is currently conveys. Lower Penitencia Creek must be able to carry this increased flow, but in its current condition Lower Penitencia Creek does not have the capacity to convey the 100 year flood event flows. The Santa Clara Valley Water Districts' planned project is necessary to provide continued flood protection to the homes and businesses currently protected along the one mile study limit of Lower Penitencia Creek, including the Project site. At completion of improvements for both the Lower Penitencia and Berryessa Creek projects, the Santa Clara Valley Water District will update the Federal Emergency Management Agency flood insurance maps accordingly. However, given that this flood control project has not been implemented as yet, it is not part of the existing baseline conditions, and is not accounted for in the following analysis. If implemented, the SCVWD's Lower Penitencia Creek would improve flooding conditions as compared to the existing conditions described below.

Current FEMA Flood Elevation at the Project Site

The entire Project site is indicated as being inundated by the Special Flood Hazard Area Zone AH.[15] FEMA has established the Base Flood Elevation at the Project site as being at 15.0 feet North American Vertical Datum (NAVD). The Project site lies adjacent to Lower Penitencia Creek. The FEMA Flood Insurance profile indicates that the effective 100-year flood water surface elevation adjacent to Lower Penitencia Creek at the Project site is 13.0 feet NAVD. Therefore, the Zone AH base flood elevation is the more conservative of the two measurements.

Schaaf & Wheeler Updated Hydrology Study

Schaaf & Wheeler has recently completed a detailed flood analysis for the Berryessa Creek and Upper Penitencia Creek systems, based on a combined HEC-RAS and FLO2D model. This model was submitted to the City of Milpitas in the summer of 2013 and has been released by the City for use by developers. It represents the best available floodplain information, but may not be the same as the effective FEMA Flood Insurance Rate Maps in the area which, while dated February 19, 2014, relies on data from the 1970s. The updated hydrology and hydraulics that form the basis for the FLO2D model have not yet been approved or adopted by FEMA.

The Schaaf & Wheeler Hydrology Memorandum prepared for this Project using the updated hydrology model indicates that, during a 100-year storm event, water approaches the Project site from the south as a result of spills from Upper Penitencia Creek upstream of Highway 680 and spills from both Lower Penitencia Creek and Berryessa Creek. Flood flow reaching the site backs up along I-880 and the levee

[14] Santa Clara Valley Water District, Lower Penitencia Creek Improvement Project, accessed at http://www.valleywater.org/Project/LowerPenitenciaCreek.aspx

[15] AH – High flood risk. Base flood elevations have been determined. Flood insurance is mandatory and local floodplain development codes apply. These properties have a 1 percent annual chance of shallow flooding, usually in the form of a pond, with an average depth of one to three feet.

along the left bank of Lower Penitencia Creek just before its confluence with Coyote Creek. This flow restriction results in a fairly level water surface elevation along California Circle, with water depths of approximately 2 feet at the Project site, corresponding to a water surface elevation ranging from 13.9 to 14.5 feet NAVD. Flow is impeded through the Project site by the presence of the large existing building positioned perpendicular to the direction of the floodwaters. Water flows through the site via the parking lot to the south and west of the structure before continuing down California Circle and backing up behind the onsite building.

Mitigation Measures

> **Mitigation Measure Hydrology-4: Raising the Base Elevation.** To reduce the risk of flood hazards to acceptable levels and to comply with current flood hazard regulations, the proposed Project will raise the base elevation of the Project site by approximately three feet, such that final on-site grades will be at or above 15 feet NAVD, and therefore the Project site will be at an elevation above the floodplain. Furthermore, the Project's finish floor elevations will be at minimum elevation of 16 feet NAVD or higher to meet the City of Milpitas Flood Ordinance requirements that finish floor elevations be at least one foot above the FEMA base flood elevation.

With implementation of Mitigation Measure Hydrology-5, the Project site will be raised to an elevation which is above the most conservative FEMA-designated floodplain, and finish floor elevations will be raised such that they meet or exceed the City of Milpitas' Flood Ordinance requirements. This mitigation will reduce on-site flooding impacts to a less than significant level such that the Project will not result in people or structures being exposed to significant flood risks.

Dam Failure, Seiche, Tsunami or Mudflow

> **Hydrology-5**: The Project site is not subject to inundation by seiche, tsunami or mudflow, but could expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam. However, this impact would be reduced through implementation of the Project's proposed mitigation to raise the base elevation of the site. (**Less than Significant with Mitigation**)

Based on the Association of Bay Area Governments (ABAG) dam failure inundation hazard maps, large portions of the Santa Clara Valley are located in the Lexington Reservoir dam failure inundation hazard zone. The Project site is outside of this inundation hazard zone. There are no landlocked bodies of water near the Project site that will affect the site in the event of a seiche. There are no bodies of water near the Project site that will affect the site in the event of a tsunami. The project area is flat and there are no mountains near the site that will affect the site in the event of a mudflow. These impacts would be less than significant.

Levee Failure

The earthen levee adjacent to the Project site and along westerly bank of Lower Penitencia Creek is within the Santa Clara Valley Water District easement and has not been accredited by FEMA. However, this levee was built to approximately the same elevation as the levee on the easterly bank of Lower Penitencia Creek downstream of the confluence with Berryessa Creek, which has been accredited by FEMA. The levee adjacent to the Project site is not the only unaccredited levee within the Lower Penitencia and Berryessa Creek network.

The detailed flood study prepared by Schaaf & Wheeler for the Project used a combined HEC-RAS and FLO2D model (which represents the best available floodplain information, but not yet been approved or adopted by FEMA), and accounts for the potential failure of the levee adjacent to the Project site as part of its base flood elevation estimate. As such, it represents the worst case scenario for flooding at the

Project site based on levee failure and overtopping, and results in a water surface elevation ranging from 13.9 to 14.5 feet NAVD at the Project site. Existing on-site elevations range from approximately 25 feet at the southeastern corner of the Project site to approximately 11 feet along the northern boundary, and flooding resulting from levee failure would inundate portions of the site by as much as nearly 4 feet.

Mitigation Measures

> **Mitigation Measure Hydrology-5A: Raising the Base Elevation** (see detailed discussion of MM Hydro-4, above)
>
> **Mitigation Measure Hydro-5B: Removal of Non-Permitted Improvements on the Levee.** Certain existing tees, irrigation, lighting and stairs observed on the existing levee appear to have been installed without a District permit, and shall be removed so as not to adversely affect the levee structure.

With implementation of Mitigation Measure Hydrology-5A, the base elevations of the Project site will be raised to a minimum of 15 feet, higher than the most conservative water surface elevation under a levee failure condition. This mitigation, together with MM Hydro-5B, will reduce on-site flooding impacts resulting from levee failure to a less than significant level such that the Project will not result in people or structures being exposed to significant flood risks.

Additionally, the Project has been designed to provide a 15 foot setback from the existing levee toe to facilitate the District's future flood protection project along Lower Penitencia Creek, future maintenance, flood fighting activities, and protection of the floodwall.

Redirecting of Flood Flows

> **Hydrology 6**: The Project would place structures and fill within a 100-year flood hazard area that could have the potential to affect the flood elevations in the area or upstream, or redirect flood flows. This impact would be reduced through implementation of mitigation pursuant to Milpitas Floodplain Management Regulations that require no increase in the base flood elevation during the occurrence of the base flood discharge. (**Less than Significant with Mitigation**)

As proposed, the ground surface of much of the Project site will be raised to remove the finished floor elevations of future residences a minimum of 1 foot above the base flood elevation, consistent with City of Milpitas Flood Ordinance requirements. However, Milpitas Municipal Code requirements (section XI-15-5.6 of the Floodplain Management Regulations) prohibit encroachments (including fill, new construction, substantial improvement, and other new development) unless certification by a registered professional engineer or architect is provided, demonstrating that encroachments shall not result in any increase in the base flood elevation during the occurrence of the base flood discharge.

Mitigation Measure

Since significant changes are proposed to be made to existing grade and development is planned within the floodplain, the following mitigation measure (required by the Municipal Code) shall be implemented:

> **Mitigation Measure Hydro-6: Flood Plain Analysis**. Prior to approval of a grading plan for the Project, a flood plain analysis shall be prepared to delineate the post-development flood plain depth and lateral extent.
>
> 1. The flood plain analysis shall be certified by a registered professional engineer or architect, and submitted to the City for review and approval, and the Santa Clara Valley Water District for review.

2. The analysis shall demonstrate that the Project will not increase the 100 year water surface elevation on surrounding properties, nor shall it increase the lateral extent of flooding.
3. The analysis shall also demonstrate that cumulative impacts to the base flood elevation, taking into consideration all nearby development, will be less than one foot.
4. To the extent necessary to achieve the performance standards identified above, site improvements (grades, roadways, buildings, etc.,) shall be designed to allow for the passage and storage of flood water within the site.

With required implementation of City of Milpitas Floodplain Management Regulations as described in Mitigation Measure Hydro-6, the Project will not affect the flood elevations in the area or upstream, or redirect flood flows.

X. LAND USE

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Physically divide an established community?	☐	☐	☐	☒	1, 2,
2) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☒	☐	1, 2, 12
3) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☒	1, 2, 4

Environmental Setting

The approximately 9.45acre Project site at 1210 California Circle is comprised of one legal parcel, (APN 22-37-017) located on the east side of California Circle, south of Dixon Landing Road in the City of Milpitas. The Project site is relatively flat and is located in a mixed-use area of industrial, commercial, and residential land uses. The Project site is currently developed with an approximately 120,500 square foot light industrial/office/warehouse building, surrounded by a surface parking lot and perimeter landscaping. The building has been vacant since 2012. The east edge of the site borders Lower Penitencia Creek with earthen levees on both sides. Land uses and the physical condition of the easternmost 80 feet of the Project site are subject to restrictions and limitations imposed pursuant to an easement held by the Santa Clara Valley Water District. A residential community of small lot mid-density condominiums and townhouses occupies the area east of the creek.

<u>Existing General Plan Land Use Designations and Zoning</u>

The Project site is currently designated *Industrial Park* in the General Plan (see **Figure 18**), and zoned *Industrial Park* with Site and Architectural Overlay and a PUD permit (PUD 31). The *Industrial Park (INP)* General Plan designation is intended for research, professional, packaging and distribution facilities in a park-like setting, free from noise, odor and other such nuisances.

The *MP – Industrial Park zoning* (Section 7.0 of the Zoning Code) is intended to accommodate a limited group of research, professional, packaging and distribution facilities and uses which may have unusual requirements for space, light, and air, and the operation of which are clean and quiet. The current zoning has a maximum floor area ratio (FAR) of 0.50. The existing PUD on the site, PUD-31, was approved for the business park when it was originally developed.

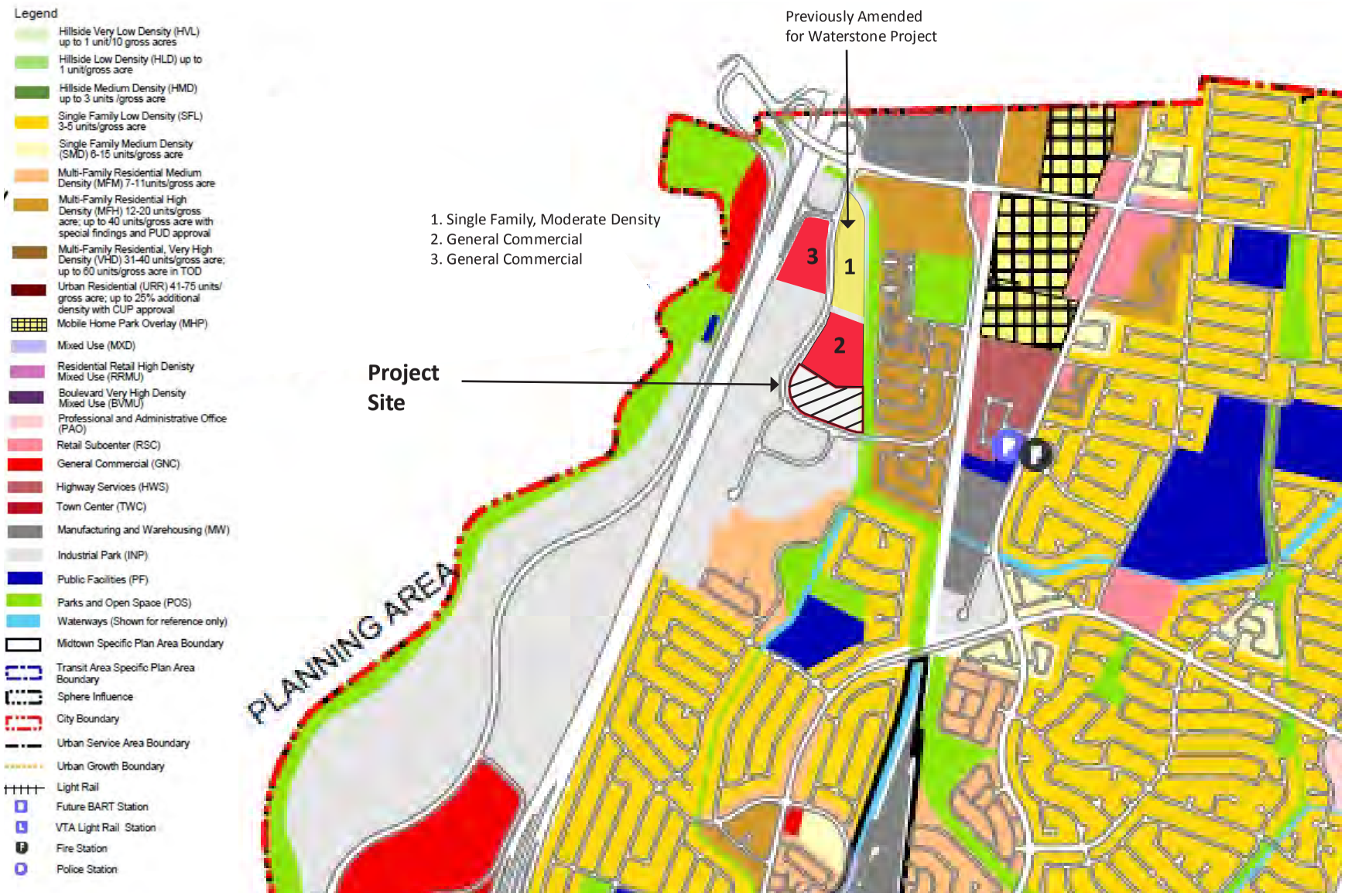

Figure 18
Existing General Plan Land Use Diagram

Source: City of Milpitas General Plan

Proposed General Plan Land Use Designations and Zoning

The Project proposes to change the General Plan land use designation of the Project site from *Industrial Park* (INP) to *Residential – Multifamily High*, and to change the zoning from *MP* (Industrial Park) with Site and Architectural Overlay to an *R-3* residential classification with a new *Planned Unit Development* permit consistent with the Project's proposed subdivision and design.

The definition and description of the proposed Multi-Family High Density General Plan land use designation would accommodate a variety of housing types, ranging from row houses to triplexes and four-plexes, stacked townhouses and walk-up garden apartments. Densities of 12 to 20 units per gross acre are permitted, and densities of up to 40 units per gross acre may be permitted for proposals designed as Planned Unit Developments (PUDs) provided that the following criteria are met:

- Sewer and water service is sufficient to accommodate the proposal as well as other developments permitted by the General Plan. Any improvements to the sewer or water system that would be required to accommodate any such higher density proposals would be made conditions of project approval;
- Cumulative traffic, from the increased density and other existing or future projects, must not cause any street intersection to operate below Level of Service (LOS) E; and
- The design of such higher density projects will not have adverse shadow, view obstruction or loss of privacy impacts that are not mitigated to acceptable levels.

The R-3 zoning classification permits multi-family dwellings of three or more units at densities of 12 to 20 units per gross acre. Given the size of the Project site (at 8.5 gross acres, not including the approximately 1-acre SCVWD easement), the Project site could potentially allow up to 170 lots. The Project is proposed at 148 dwelling units (or approximately 17.4 units per gross acre), within the densities permitted in both the R-3 zoning and the Multi-Family High Density General Plan land use designation.

General Plan Policies

The Land Use Element of the City's General Plan includes "Guiding Principles" and "Implementing Policies" in four major policy areas:

a. Land Use
b. Jobs/Housing Relationship
c. Schools
d. Public Facilities and Utilities

The Implementing Policies within Section (a) Land Use address 13 topical or geographical areas, listed below:

- Development Intensity
- Growth and Expansion
- Economic Development
- Land Use Compatibility
- Fiscally Beneficial Land Use
- Community Identity
- Residential Development
- Hillside Development
- Town Center

- Midtown
- Transit Area
- Childcare
- Land Use Element Revision

Discussion of the proposed Project's consistency or inconsistency with relevant policies in the General Plan is presented below.

Impact Analysis

Physically Divide an Established Community

> **Land Use-1**: The Project would not physically divide an established community (**No Impact**)

New development or other physical structures, such as a freeway or very large vertical structure (e.g., a hospital or a school) may adversely divide an established community if it results in a street closure, obstructs other established patterns of travel (e.g., foot, bicycle, etc.) or is especially inconsistent with its surroundings. The Project involves a 9.5-acre site previously developed for a light industrial/R&D land use with surface parking, site landscaping, with excellent access from California Circle and other higher-volume streets. The Project site is within an existing light industrial business park, well integrated within the City. Converting the light industrial site to residential use, as proposed, would not physically divide an established community.

Conflict with any Applicable Land Use Plan, Policy or Regulation

> **Land Use-2**: The Project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect. (**Less than Significant**)

The main focus of this significance criterion in identifying the existence and severity of potentially significant impacts is to consider whether and to what extent a project would be consistent or inconsistent with an applicable land use plan, policy or regulation. In accordance with this language, where an inconsistency with a plan, policy or regulation is identified, it is considered to be a potentially significant *environmental* impact only when the plan, policy or regulation was adopted "…for the purpose of avoiding or mitigating an environmental effect."

The discussion below evaluates the Project's consistency with applicable policies of the Milpitas General Plan *that have been adopted for the purpose of avoiding or mitigating an environmental effect.* The following assessment provides substantial evidence related to environmental impacts associated with aspects of the Project that are inconsistent with the General Plan.

As stated above, the Land Use Element of the General Plan includes four "Guiding Principles" and 13 "Implementing Policies." Of the Implementing Policies within the Land Use section, only the four categories shown in ***bold Italic font*** below plus one policy from the Public Facilities and Utilities section appear to possibly have been adopted for the purpose of avoiding or mitigating environmental effects:

- **Development Intensity**
- Growth and Expansion
- Economic Development
- **Land Use Compatibility**

- Fiscally Beneficial Land Use
- **Community Identity**
- **Residential Development**
- Hillside Development
- Town Center
- Midtown
- Transit Area
- Childcare
- Land Use Element Revision

Table 2 below provides a framework for distinguishing principles and policies of the General Plan that appear to have been adopted for the purpose of avoiding or mitigating environmental effects from principles or policies that address other aspects of land use such as fiscal, economic or other concerns.

Table 2. General Plan Consistency			
Identifier	**Text**	**Adopted to Avoid or Mitigate Environmental Effects? Y/N**	**Consistent or Inconsistent?**
Land Use – Guiding Principles			
2.a-G-1	Maintain a land use program that balances Milpitas' regional and local roles by providing for a highly amenable community environment and a thriving regional industrial center.	**No;** concerned with maintaining the City's role in the region as a desirable industrial center.	**Inconsistent**. While the Project would reduce industrial land use, the inconsistency would not involve an environmental effect.
2.a-G-2	Maintain a relatively compact urban form. Emphasize mixed-use development to the extent feasible, to achieve service efficiencies from compact development patterns and to maximize job development and commercial opportunities near residential development.	**No;** concerned with economic efficiencies that result from compact and mixed-use development and the economic value of locating industrial & commercial uses near residential.	**Consistent.** The project's proposed density and its proximity to industrial & commercial uses are consistent with this principle.
2.a-G-3	Provide for a variety of housing types and densities that meet the needs of individuals and families.	**No;** concerned with the social value and benefit of matching housing types and sizes with the demographic profile of Milpitas residents.	**Consistent:** The Project proposes a range of unit sizes appropriate for families: 2, 3 and 3+ bedroom units.
2.a-G-4	The Town Center will be the "heart" of Milpitas' civic, cultural, business, and professional life.	**No.** Concern is with community identity.	**N/A:** neither consistent nor inconsistent.
2.a-G-5	A park-like setting will be created by a series of local parks, school sites, trails, and a greenway system	**Indirectly Yes.** Concern is with the arrangement of land uses near each other for aesthetic	**Consistent:** The Project site is located near parks and schools

Table 2. General Plan Consistency			
Identifier	**Text**	**Adopted to Avoid or Mitigate Environmental Effects? Y/N**	**Consistent or Inconsistent?**
	laced throughout all living areas.	benefits and meeting everyday social needs. The indirect environ-mental benefits include reducing auto trips, air pollution, GHG emissions and energy consumption.	and would have significant open space internally and would be adjacent to Lower Penitencia Creek greenway open space and recreational amenity.
2.a-G-6	Implement the Midtown Specific Plan goals, policies and development standards and guidelines to create a mixed-use community that includes high-density, transit-oriented housing and a central community 'gathering place' while maintaining needed industrial, service and commercial uses.	**No.** Concern is with the economic and social success of the Midtown Specific Plan	**N/A:** neither consistent nor inconsistent.
2.a-G-7	When considering development proposals, seek "community benefit", such as upgrading infrastructure facilities, constructing new infrastructure facilities, and funding.	**No.** Concern is that new development 'pay its way' and not burden existing residents of Milpitas with the cost of expanding or upgrading infrastructure needed by the new development.	**Consistent:** the Project would pay school and other impact fees to offset infrastructure and other 'off site' costs of the proposed Project.
Land Use - Development Intensity			
2.a-I-1	New developments should not exceed the building intensity limits established in the General Plan.	**Yes.** Density limits in the General Plan aim to avoid environmental impacts that could result from excessive density or intensity of use.	**Consistent:** The Project would be consistent with density limits under the Multi-Family High land use category and R-3 zoning.
2.a-l-2	Land use conversions from employment/sales tax generation properties to residential shall only be considered once there is 80% build-out in the Midtown and Transit Area Specific Plans.	**No.** The intent of this policy is to focus residential development in the two specific plan areas for fiscal and economic reasons, not environmental.	**Inconsistent.** Midtown and TASP are only 47 and 19 percent built-out, respectively. This is not an environmental impact.
Land Use Compatibility			
2.a-l-11	Encourage supportive and compatible commercial and office uses in industrial areas designated for those uses. In areas reserved for industrial uses, only limited ancillary and incidental commercial uses, such as small	**Indirectly, Yes.** The apparent intent of this policy is to preserve the primacy of industrial uses over commercial or office uses for economic and fiscal reasons. Indirect environmental benefits include	**Consistent.** The project would bring residential uses into close proximity to existing industrial & commercial uses.

Table 2. General Plan Consistency			
Identifier	**Text**	**Adopted to Avoid or Mitigate Environmental Effects? Y/N**	**Consistent or Inconsistent?**
	eating establishments, may be permitted when such are of a scale and design providing support only to the needs of businesses and their employees in the immediate industrial area.	reduced auto trips, air pollution, GHG emissions and energy consumption.	
2.a-l-12	Consider conversion from one employment land use to another, where the conversion would retain or expand employment capacity and revenue generation, particular for intensification on-site if the proposed conversion would result in a net increase in revenue generation.	**No.** The apparent **c**oncern of this policy is to protect and enhance the employment base and fiscal health of the City.	**Inconsistent.** The Project would convert employment land to residential use, resulting in a likely reduction in revenue generation. This is not an environmental impact.
2.a-l-13	When considering land use conversions from commercial or industrial lands to residential, the City should contemplate substantial economic benefit through negotiable development agreements with contributions towards the Economic Development Corporation to spur economic development.	**No.** The apparent **c**oncern is protecting and enhancing the fiscal and economic benefits to the City and the City's population.	**N/A: Neither consistent nor inconsistent**. The details of negotiations between the City and the Project proponent are outside the bounds of the CEQA process and would not result in an environmental impact.
2.a-l-14	When new uses are proposed in proximity to existing industrial uses, incorporate conditions upon the new use to minimize its negative impacts on existing nearby land uses and to promote the health and safety of individuals at the new development site. Prohibit social organization uses within industrial areas. Consider these uses in other areas in the City.	**Yes.** The proposed new residential development would be adjacent to existing light industrial land uses, potentially resulting in adverse environmental effects.	Consistent. Mitigation measures included in this Initial Study would reduce potential impacts to less than significant levels.
Land Use - Residential Development			
2.a-l-18	Create a park-like quality for all residential areas through the PUD process and the judicious siting of parks, schools and greenways throughout those areas.	**Indirectly Yes:** This policy is **c**oncerned with the arrangement of land uses near each other for aesthetic benefits and for meeting everyday social needs. The indirect environmental benefits include reducing auto trips, air pollution, GHG emissions and energy	**Consistent:** The Project site is located near parks and schools and would have significant open space internally and would be adjacent to Lower Penitencia Creek which is an open space greenway and

Table 2. General Plan Consistency			
Identifier	**Text**	**Adopted to Avoid or Mitigate Environmental Effects? Y/N**	**Consistent or Inconsistent?**
		consumption.	recreational amenity.
2.a-l-19	Use zoning for new residential developments to encourage a variety and mix in housing types and costs.	**No;** This policy is concerned with the social value and benefit of matching housing types and sizes with the demographic profile of Milpitas residents.	**Consistent:** The Project proposes a range of unit sizes appropriate for families: 2, 3 and 3+ bedroom units.
2.a-l-20	Geographically disperse similar development types throughout the community so that denser districts are not concentrated within a single area of the City.	**Yes:** The apparent concern is avoid over-concentration of the same development types in one area and, instead, to disperse residential uses evenly throughout the City with associated reductions in auto trips, air pollution, GHG emissions and reduced use of energy.	**Consistent.** The Project would place residential uses in close proximity to existing light industrial / office / R&D uses.
Public Facilities and Utilities			
2.d-I-3	When reviewing major land use or policy changes, consider the availability of police and fire protection, parks and recreation and library services to the affected area as well as the potential impacts of the project on existing service levels.	**Yes:** The apparent concern is to avoid allowing new development to over burden public services and facilities or reduce service levels. This policy helps avoid or mitigate environmental as well as fiscal and economic impacts.	**Consistent.** The Project's effects on public services and utilities are less than significant (See Sections XIV and XVII in this Initial Study).

As noted above in **Table 2**, the Project would be inconsistent with Policy 2.a-I-2 cited above because the Midtown and Transit Area Specific Plan areas are only 42 and 19 percent built out, respectively, at this time.[16] However, this policy is concerned with fiscal and economic considerations and not with avoiding or mitigating environmental effects. As indicated in the other sections of this Initial Study, all potentially significant environmental effects of the Project would be less than significant, either outright or after mitigation and the Project would not displace existing businesses or industrial uses. Several of the surrounding light industrial buildings are either vacant or have been re-purposed to accommodate religious or educational uses, not light manufacturing or R&D or office uses. Further, the City of Milpitas has recently approved the conversion of other nearby sites on California Circle from the same Industrial/Business Park General Plan designations to Residential use, similar to what is proposed for the Project. Thus, while the Project would be inconsistent with Policy 2.a-1-2, the inconsistency does not result in a potentially significant impact.

The project site is located in an existing industrial area that is adjacent to and in close proximity to existing residential land uses. As a result, these uses have already been deemed compatible with the industrial land uses in the area. Conversion of industrial lands to residential on the proposed site would

[16] From an Excel file maintained by City of Milpitas Planning Department entitled *Unit Counts for Midtown and TASP*, as of August 14, 2014.

not result in incompatible land uses or operational restrictions on existing or new industrial businesses to any greater extent than the existing housing to the south and quasi-public uses within the business park. The project could, however, make the remaining industrial buildings and the Dixon Landing Business Park less desirable for new or existing businesses by placing housing on California Circle, which is now currently a non-residential street.

As indicated in Table 2, the Project would be consistent with all General Plan policies intended to avoid or mitigate environmental effects. Where inconsistencies exist between the proposed Project and General Plan policies, the inconsistencies are not with policies adopted for the purpose of avoiding or mitigating environmental effects.

Conflict with an HCP

> **Land Use-3:** The Project would not conflict with any applicable habitat conservation plan or natural community conservation plan. (**No Impact**)

The project site is in a developed urban area and is not subject to any adopted Habitat Conservation Plan (HCP) or Natural Community Conservation Plan (NCCP).

XI. MINERAL RESOURCES

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☒	1, 4
2) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☒	1, 4

Environmental Setting

The Santa Clara Valley was formed when sediments derived from the Santa Cruz Mountains and the Mount Hamilton-Diablo Range were exposed by continued tectonic uplift and regression of the inland sea that had previously inundated this area. As a result of this process, the topography of the City is relatively flat and there are no significant mineral resources in the low-lying areas. All known mineral resources (aggregate materials) are located in the foothills east of Highway 680.[17]

Impact Analysis

Mineral Resources

> **Minerals-1**: The Project would not result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state, nor would it result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan. (**No Impact**)

The proposed Project is within a developed urban area and does not contain any known or designated mineral resources. Implementation of the Project would not result in the loss of availability of any known resources.

[17] City of Milpitas General Plan. Figure 4-5.

XII. NOISE

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project result in:					
1) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☒	☐	☐	1, 6, H
2) Exposure of persons to, or generation of, excessive groundborne vibration or groundborne noise levels?	☐	☐	☒	☐	1, 6, H
3) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☒	☐	1, 6, H, I
4) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☒	☐	☐	1, 6, H
5) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	1, 6, 16
For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☒	1, 6, 16

Introduction

Information and technical conclusions presented in the following section of the Checklist are based primarily on technical reports and studies prepared for the proposed Project, supplemented with other public information sources as provided in the list of references. The following list of Project technical reports are available for public review at the City of Milpitas Planning Department:

- Charles M. Salter Associates, Inc., *Draft Environmental Noise Assessment 1210 California Circle*, August 7, 2014

Environmental Setting

The most widespread and continual source of noise in Milpitas is transportation and transportation-related facilities. Freeways, local arterials, railroads, and light rail transit are all major contributors to noise in Milpitas. The major noise source affecting the Project site is traffic noise from I-880 and California Circle.

To quantify the existing noise environment, three long-term monitors continuously measured noise levels between July 15 and 17 2014. In addition, two short-term "spot" measurements were conducted and compared with corresponding time periods of the long-term monitors to determine how noise levels vary at different elevations (see **Figure 19**). The average “day - night sound level” (DNL) long term exterior noise levels ranged from a low of 59 dB at the northeast corner of the site to 63 dB at the southeast corner to a high of 67 dB at the northwest corner, closest to the I-880 freeway. Under the Noise Element of the City of Milpitas General Plan and the City’s Noise ordinance, exterior noise levels averaging 65 dB or below are considered acceptable for residential development; average noise levels between 60 and 70 dB are considered “conditionally acceptable.”

Based on the traffic analysis prepared for this Initial Study, peak hour traffic volumes along Dixon Landing Road are projected to increase by approximately 4 percent per year to the year 2035. This increased traffic is projected to increase traffic noise by approximately 2 decibels over the next ten years. The estimated future noise levels across the site range form are also shown on Figure 19.

Thresholds of Significance

The CEQA Guidelines state that a project will normally be considered to have a significant impact if noise levels conflict with adopted environmental standards or plans, or if noise levels generated by the project will substantially increase existing noise levels at noise-sensitive receivers on a permanent or temporary basis. CEQA does not define what noise level increase would be substantial. A three dBA noise level increase is considered the minimum increase that is perceptible to the human ear. Typically, project generated noise level increases of three dBA Ldn or greater are considered significant where resulting exterior noise levels will exceed the normally acceptable noise level standard. Where noise levels will remain at or below the normally acceptable noise level standard with the project, a noise level increase of five dBA Ldn or greater is considered significant.

The Noise Section of the Milpitas General Plan contains land use compatibility guidelines for environmental noise. The guidelines for multi-family residential land uses are as follows:

- Normally acceptable exterior noise levels are those in the range of 65 dB (DNL) or less
- Conditionally acceptable noise levels range from 60 to 70 dB)DNL), and
- Normally unacceptable noise levels exceed 70 dB (DNL).

The policies of the City of Milpitas General Plan have been adopted for the purpose of avoiding or mitigating environmental effects resulting from planned development within the City. General Plan policies related to acceptable noise levels as provided in the General Plan would apply to the Project. These include:

Policy 6-I-2: Require an acoustical analysis for projects located within a “conditionally acceptable” or “normally unacceptable” exterior noise exposure area. Require mitigation measures to reduce noise to acceptable levels.

Policy 6-I-4: Where actual or projected rear yard and exterior common open space noise exposure exceeds the “normally acceptable” levels for new single-family and multifamily residential projects, use mitigation measures to reduce sound levels in those areas to acceptable levels.

Figure 19
Noise Measurement Locations and Modeled Future Noise Conditions

Source: Charles M. Salter Associates, August 4, 2014

Policy 6-I-5: All new residential development (single family and multifamily) and lodging facilities must have interior noise levels of 45 dB DNL or less. Mechanical ventilation will be required where use of windows for ventilation will result in higher than 45 dB DNL interior noise levels.

Impact Analysis

Noise Levels in Excess Of Standards

Noise-1: The Project could expose persons to, or generate noise levels in excess of standards established in the Milpitas General Plan or noise ordinance, but mitigation measures recommended for the Project would reduce this impact to a less than significant level. (**Less than Significant with Mitigation**)

As indicated in the Salter Noise Assessment, estimated exterior future noise levels range from DNL 61 dB along the eastern edge of the site to DNL 69 dB at the westernmost residences along California Circle. These noise levels fall into the *normally acceptable* and *conditionally acceptable* categories for land use compatibility.

Exterior Noise Exposure

Noise levels in outdoor spaces will vary, depending on the location and orientation on site. The Creek parkway along the eastern border of the site, the community park in the southeastern corner of the site, and the interior courtyards and paseos adjacent to the buildings will have a noise exposure of between 61 and 65 dB, with the shielding provided from the future residential buildings. This falls within the City's normally acceptable category for residences, and no additional mitigation is required.

Interior Noise Exposure

Exterior noise levels above 65 dB can expose future residents to interior noise levels above 45 dB, which would be above acceptable levels required by the City's noise ordinance.

Mitigation Measures

To address these noise levels at the Project site, the following mitigation measures are recommended:

Mitigation Measure Noise-1A. **Require an Acoustical Engineer to Design and Specify Appropriate Noise Attenuation Measures.** Prior to approval of building permits, a qualified acoustical consultant shall review final designs for floor plans and exterior elevations for construction to calculate expected interior noise levels as required by City policies and State noise regulations. The design must be able to assure that interior noise levels will be 45 dBA or lower. It is expected that window and door assemblies will be required to a meet sound transmission class (STC) rating of class 32 or greater for all rooms facing California Circle, and STC 28 for windows and exterior doors in all other locations to assure indoor noise levels at DNL 45 dB or lower.

1. The acoustical consultant shall identify and include on the plans and specifications for the Project the specific noise insulation treatments (i.e., sound rated windows and doors, sound rated wall construction, acoustical caulking, protected ventilation openings, etc.) that are to be applied throughout the Project.
2. The designs and specifications of the acoustical consultant shall be submitted to the City as part of the construction documents submitted for building permits and shall be reviewed and approved by the City prior to issuance of building permits.

3. All noise insulation treatments identified during review of the final plans will be incorporated into the proposed project.

Mitigation Measure Noise-1B. **Require Mechanical Ventilation.** Since windows of residences will need to be closed to meet the interior DNL 45 dB criterion, all houses shall be equipped with mechanical ventilation systems. Such systems shall be designed by the project mechanical engineer and shall utilize equipment that does not compromise sound insulation of the exterior assemblies.

Implementation of Mitigation Measures Noise-1A and Noise-1B would assure that interior noise levels in the future residences would be at or below 45 dB, consistent with the standards adopted for the City of Milpitas, and would reduce the impact to level of less than significant.

Groundborne Vibration

Noise-2: The Project would not expose persons to, or generate excessive groundborne vibration or groundborne noise levels. (**Less than Significant**)

There is no reason to anticipate that the Project would generate excessive groundborne vibration or that future residents of the Project would be exposed to excessive groundborne vibration from other sources. Potential impacts related to groundborne vibration would be less than significant.

Permanent Increase in Ambient Noise Levels

Noise-3: The Project would not result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project. (**Less than Significant**)

Changes in average exterior noise levels would most likely result from cumulative increases in traffic on nearby roadways and the I-880 freeway. The Hexagon Traffic Impact Analysis provides existing peak hour volumes for vehicles along California Circle and both existing and projected future volumes for Dixon Landing Road. Along Dixon Landing Road, peak hour traffic volumes are projected to increase by approximately 4 percent per year to the year 2030. The Salter Noise Assessment states that this level of increased traffic would translate to a less than 2-decibel increase in traffic noise over the next ten years. The Salter study also assumes a similar rate of future traffic on California Circle and I-880 and that increases in noise levels from those roadways would likewise not exceed a 2 dB increase, cumulatively. It is generally accepted that an increase of 3 dB or more on a permanent or temporary basis at noise sensitive receptors (e.g., future residents of the Project) would be perceptible and would be considered a significant impact. Since the projected effect of increased traffic on a cumulative basis is not expected to raise ambient noise levels greater than 2 dB, the environmental impact of increased traffic noise would be less than significant.

Temporary or Periodic Increase in Ambient Noise Levels

Noise-4: The Project's construction activity would result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project, but this impact would be reduced to less than significant levels with implementation of required construction noise mitigation measures. (**Less than Significant with Mitigation**)

Changes in ambient noise levels in the vicinity of the Project could occur under two sets of conditions: construction related noise while the project is being built and operational noise generated by future Project residents.

Construction Noise Impacts

Construction activities associated with implementation of the Project would temporarily increase noise levels in the Project vicinity. Construction activities generate considerable amounts of noise, especially during demolition and the construction of project infrastructure when heavy equipment is used. Typical average construction-generated noise levels are about 81 to 89 dB measured at a distance of 50 feet from the center of the site during busy construction periods (e.g., earth moving equipment, impact tools, etc.) Construction generated noise levels drop off at a rate of about 6 dB per doubling of distance between the source and receptor.

Construction of the proposed Project would temporarily increase noise levels in the immediate vicinity of the Project site and would likely be audible at the existing nearby residences.

Mitigation Measures

The following mitigation measure is a required condition of the approval for construction projects in the City of Milpitas:

> **Mitigation Measure Noise-4**. The Project will be required to implement the following noise control measures and comply with Chapter 213 (Noise Abatement) of the City's Municipal Code which regulates construction noise within the City:
>
> 1. Construction and demolition activities shall be limited to the period between 7:00 AM and 6:00 PM Monday through Friday and 9:00 AM to 6:00 PM on Saturdays. No construction or demolition activities are permitted on Sundays or holidays.
> 2. Construction crews will be required to use available noise suppression devices and properly maintain and muffle internal combustion engine-driven construction equipment.
> 3. The applicant shall designate a disturbance coordinator and post the name and phone number of this person at easy reference points for the surrounding land uses. The disturbance coordinator shall respond to and address all complaints about noise.

Compliance with the City's noise ordinance is deemed to reduce construction noise impacts to less than significant levels.

Operational Noise Impacts

The most likely source of potentially significant operational noise from the Project is traffic noise from car trips by future residents of the Project. The Hexagon Traffic Impact Analysis includes an analysis of cumulative traffic and an estimate of how much of future traffic levels would be attributable to a conservatively assumed170-unit residential development. The Hexagon TIA projects that the Project's contribution to future levels of traffic would be less than one percent for each roadway segment evaluated. Translated to potential increases in noise levels, it is generally accepted that traffic levels need to double to cause an increase in ambient (average) noise levels by 3 dB, which is the accepted threshold for a significant noise impact. Since the Project is expected to increase traffic by less than 1 percent, it follows that increases in noise levels would not exceed three dB or more. Therefore, the Project's operations would have a less than significant long-term noise impact on nearby sensitive receptors.

Airport Noise

> **Noise-5**: The Project is not located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport, public use airport or the vicinity of a private airstrip, and would not expose people residing or working in the project area to excessive noise levels. (**No Impact**)

The Project site is not located within an airport land use plan, is not located within two miles of a public airport and is not in the vicinity of a private airstrip. Noise from nearby air strips or airports would have no impact on the future residents of the Project.

XIII. POPULATION AND HOUSING

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☒	☐	1, 2, 8
2) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	1, 16
Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☒	1, 16

Environmental Setting

According to California Department of Finance the population for the City of Milpitas as of January 1, 2014 was 70,092. The population in the 2010 US Census was 66,790 and the average household size was 3.54 persons.[18] The Association of Bay Area Governments (ABAG) projects the population for Milpitas to be 98,100 in 2030.[19] It is estimated that in 2010 the City had approximately 49,900 jobs and an active labor force of approximately 31,480 people.

The jobs/housing balance is the relationship between the number of housing units required as a result of local jobs and the number of residential units available in the City. This relationship is quantified by the jobs/employed resident ratio. When the ratio reaches 1.0, a balance is struck between the supply of local housing and the supply of local jobs. The jobs/employed resident ratio is determined by dividing the number of local jobs by the number of employed residents that can be housed in local housing.

Milpitas currently has a higher number of jobs than employed residents (approximately 1.59 jobs per employed resident) and is projected to continue to have a higher number of jobs than employed residents with full build out under the current General Plan.

Impact Analysis

Induce Population Growth

Population-1: The Project would not induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure). (**Less than Significant**)

[18] http://www.dof.ca.gov/research/demographic/state_census_data_center/census_2010/#DP, accessed July 30, 2014.
[19] http://www.abag.ca.gov/planning/currentfcst/, accessed July 30, 2014.

The Project site has been used since approximately 1987 for light industrial, R&D and office uses. Redevelopment of the site as proposed would replace the existing building and its light industrial/R&D and office space in exchange for an increase in residential units and resident population. As a percentage of the City's population, the increase from the Project would not be substantial (i.e., 0.7 percent). The change in land use would not, by itself, induce substantial population growth (less than significant),

Displacement of People or Housing

> **Polulation-2**: The Project would not displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere, nor would it displace substantial numbers of people, necessitating the construction of replacement housing elsewhere. (**No Impact**)

The Project site has not been used for residential purposes in the past and the existing building is vacant; therefore, implementation of the Project would not displace existing housing or people. Implementation of the Project would have no impact related to displacement of housing or people.

XIV. PUBLIC SERVICES

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project: 1) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:					
Fire Protection?	☐	☐	☒	☐	1
Police Protection?	☐	☐	☒	☐	1
Schools?	☐	☒	☐	☐	1
Parks?	☐	☒	☐	☐	1, A
Other Public Facilities?	☐	☐	☒	☐	1

Environmental Setting

Fire Protection

Fire protection services are provided by the City of Milpitas Fire Department (MFD). The MFD has four fire stations and an administration facility. The closest fire station to the site is Station No. 3, located at 45 Midwick Drive, approximately 0.40 miles east northeast of the Project site. Station No. 3 is staffed with one engine company comprised of three firefighters including a paramedic and three pieces of fire-fighting equipment: a primary engine (equipped as an ALS unit with emergency medical capabilities), a reserve engine and a wildland unit for use in wildland/urban interface fires.[20]

Police Services

Police services are provided by the City of Milpitas Police Department (MPD). Services are provided from one central station located at 1275 North Milpitas Boulevard. The department currently is authorized to have 85 sworn officers but five of the positions are currently vacant. At current staffing level, the City's police force reflects a ratio of 1.2 sworn officers per 1,000 population.

Schools

The Project site is located within the Milpitas Unified School District (MUSD) which has nine elementary schools, two middle schools, and two high schools. The District serves a student population of approximately 10,250. Students generated by the Project would be served by Marshal Pomeroy

[20] Personal conversation, Richard Frawley, Operations Battalion Chief, Milpitas Fire Department, August 6, 2014.

Elementary School (located approximately 0.80 miles east of the site), Russell Middle School (located approximately 1.00 mile east of the site), and Milpitas High School (located approximately 0.75 miles east of the site).

Libraries

The Santa Clara County Library System consists of eight libraries and two bookmobiles. The Santa Clara County libraries are governed by the Joint Powers Authority, which is comprised of one City Council member from each of the eight member City jurisdictions and two members of the Santa Clara County Board of Supervisors. The Project site is served by the Milpitas Library, located at 160 North Main Street.

Parks

The City of Milpitas owns more than 200 acres of park and recreation facilities. In addition, Ed Levin County Park is partially within the City boundary and provides 1,544 acres of regional parkland. The nearest park to the Project site is Dixon Landing Park, located approximately 0.25 miles northeast of the Project site. Dixon Landing Park is an 11-acre park with four baseball/softball fields, three tennis courts, a basketball court plus barbeques, picnic tables, play equipment and restrooms. In addition, the both levees along Lower Penitencia Creek levee have walking trails.

Impact Analysis

Public Services

> **Services-1**: The Project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any public services. (**Less than Significant with Mitigation)**

Fire Protection and Medical Emergency Services

The proposed residential development would increase the permanent population of Milpitas and incrementally increase the demand for fire protection and emergency medical services on the Project site. The Project site is located within the urbanized area of Milpitas, which is already served by the Milpitas Fire Department. The Project would be built to applicable Fire Code standards in use when building permits are issued, including sprinklers and smoke detectors. Access to the site for emergency vehicles would be provided from California Circle.

Although the residential Project would incrementally increase demand for fire and related emergency services, it would not require the development of new or expanded fire service facilities, and therefore, would not result in a significant physical impact on the environment.

Police Protection

Assuming a Project of 148 residential units, the Project would increase the population of Milpitas by approximately 524 people and incrementally increase the demand for police protection services. The Project site is located within the urbanized area of Milpitas, which is served by the Milpitas Police Department (MPD). The Project would be constructed in conformance with current codes and the Project design would be reviewed by the MPD to ensure that it incorporates appropriate safety features to minimize criminal activity.

New or expanded police facilities would not be required to provide adequate police services to serve the proposed Project.

Schools

The proposed residential development would increase the permanent population of the City and would, therefore, increase demand on local schools. Using a student generation rate of 0.30 students for each of the 148 new dwelling units, the Project would be expected to generate approximately forty-four (44) students at full build-out, of which thirty-one (31) would be elementary school students (grades K-5), six (6) would be middle schools students (grades 6-8), and seven (7) would be high school students.

The closest elementary school to the Project site is Pomeroy Elementary School located at 1505 Escuela Parkway, approximately 0.5 miles from the Project site. Pomeroy is approaching its capacity limit and by the time students from the Project need school placement the School District may need to modify elementary school catchment or school assignment areas in order to accommodate new students who otherwise would be assigned to Pomeroy. Within the District as a whole, there would be sufficient capacity to accommodate new students generated by the proposed residential Project.

The Leroy F. Greene School Facilities Act of 1998, or Senate Bill 50 (SB 50), codified as California Government Code Sections 65995, 65996(a) and 65996(b), authorizes school districts to levy developer fees to finance the construction or reconstruction of school facilities needed to serve new development. The State Allocation Board (SAB) sets fees based on an amount per square foot for residential development, and periodically approves increases in response to inflation. In January 2014, the SAB approved an adjustment in the school impact fee schedule for the MUSD, approving a current rate of $3.36 per square foot of residential development, effective February 12, 2014.

Mitigation Measures

> **Mitigation Measure Services-1A: School Impact Fees**. The Project shall be responsible for payment of required school impact fees.

The California State Legislature has determined that school impact fees shall be the exclusive method of mitigating the school facilities impacts of a project, has set limits on school impact fees, and has determined that payment of school impact fees shall be deemed to provide full and complete school facilities mitigation. The courts have held that increased classroom enrollment resulting in school overcrowding is considered a "social" rather than a physical "environmental" impact and is not, in itself, a significant environmental impact requiring mitigation under CEQA (Goleta Union School District vs. Regents of University of California [2d Dist. 1995]). The duty of a lead agency to mitigate school impacts beyond the state-mandated fees arises only where there is a physical environmental impact involved beyond the mere addition of students to a school. Therefore, under current statutes and case law, payment of the required school impact fees would address the impact of the Project on school facilities to the furthest extent permitted by law, and the Project would have a less than significant impact related to school facilities.

Library Facilities

The proposed residential development would increase the permanent population of the City and would, therefore, increase demand on local library facilities. Based on 2010 U.S. Census data, the average household size for the City of Milpitas is 3.54 persons and on this basis, the Project would generate up to approximately 524 new residents. The number of additional residents to the City would not generate a substantial increase in the use of the public library such that a new or expanded library would be required to adequately serve the resident population.

Parks

Based on a Project of 148 townhouse-type residential units and assuming an average household size of 2.86 persons per dwelling, the Project would accommodate a total of 424 new people, which would result in demand for approximately 2.12 acres of parkland, at the City’s ratio of 5-acres per 1,000 population.

The City's Subdivision Ordinance, section 9 (Improvements: Dedication of Land or Payment of Fee or Both, for Recreational Purposes) requires residential developers to dedicate public parkland or to pay in-lieu fees, or both, to offset the demand for neighborhood parks created by the development. At least 60 percent of the parkland dedication/fees must be provided as public parklands.

The proposed Usable Open Space Plan for the Project (**Figure 20**) shows that a total of approximately 1.34 acres of usable open space and 0.48 acres of private open space would be provided on the Project site. The small (0.23-acre) on-site park along California Circle and between Fairview Way and Penitencia Creek would lessen the impact of the Project on public park facilities in Milpitas, but would not satisfy the required amount of public parkland. Public parkland requirements are calculated as 60% of the 2.12-acre park requirement, or 1.27 acres. Furthermore, the location of this park is immediately adjacent to the major roadway and is within an existing storm drainage easement. It location and design may not be accepted as a dedicated public park by the City.

Mitigation Measure

To address the parkland shortfall, the following mitigation measure, consistent with city standards and requirements, is recommended:

> **Mitigation Measure Services-1B:** To conform to the City's park and recreation ordinance (Subdivision Ordinance, section 9), the Project shall dedicate additional public parkland, or pay applicable in-lieu fees, as outlined in the Municipal Code.

Satisfactory dedication of additional land for public parkland and/or payment of the City's in-lieu fees would be considered adequate to avoid or reduce potential impacts to the City's park facilities to a less than significant level.

Figure 20
Project Open Space Plan

0Source: KTGY Group (June 27, 2014)

XV. RECREATION

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☒	☐	1, 4, 8
2) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☒	☐	1, 4, 8, A

Environmental Setting

The City of Milpitas owns more than 200 acres of park and recreation facilities28. In addition, Ed Levin County Park is partially within the City boundary and provides 1,544 acres of regional parkland. The nearest park to the Project site is Dixon Landing Park, located approximately 0.25 miles northeast of the Project site. Dixon Landing Park is an 11-acre park with four baseball/softball fields, three tennis courts, a basketball court plus barbeques, picnic tables, play equipment and restrooms. In addition, the both levees along Lower Penitencia Creek levee have walking trails.

In addition to parkland, Milpitas has a 24,000 square foot community center located adjacent to City Hall. The community center offers preschool and after school programs as well as youth and adult classes and sports programs.

Impact Analysis

Physical Deterioration of an Existing Park

> **Recreation-1:** The project would not increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated, and the Project does not include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment. (**Less than Significant**)

The Project proposes construction of 148 single-family townhouse-type residential units on the 9.45-acre Project site. Using the City's parkland standard of five acres of parkland per 1,000 residents, the proposed development would generate demand for 2.12 acres of parkland. Public parkland requirements are calculated as 60% of the 2.12-acre park requirement, or 1.27 acres. The Project would provide a 0.23 acre open space park (see **Figure 21**).

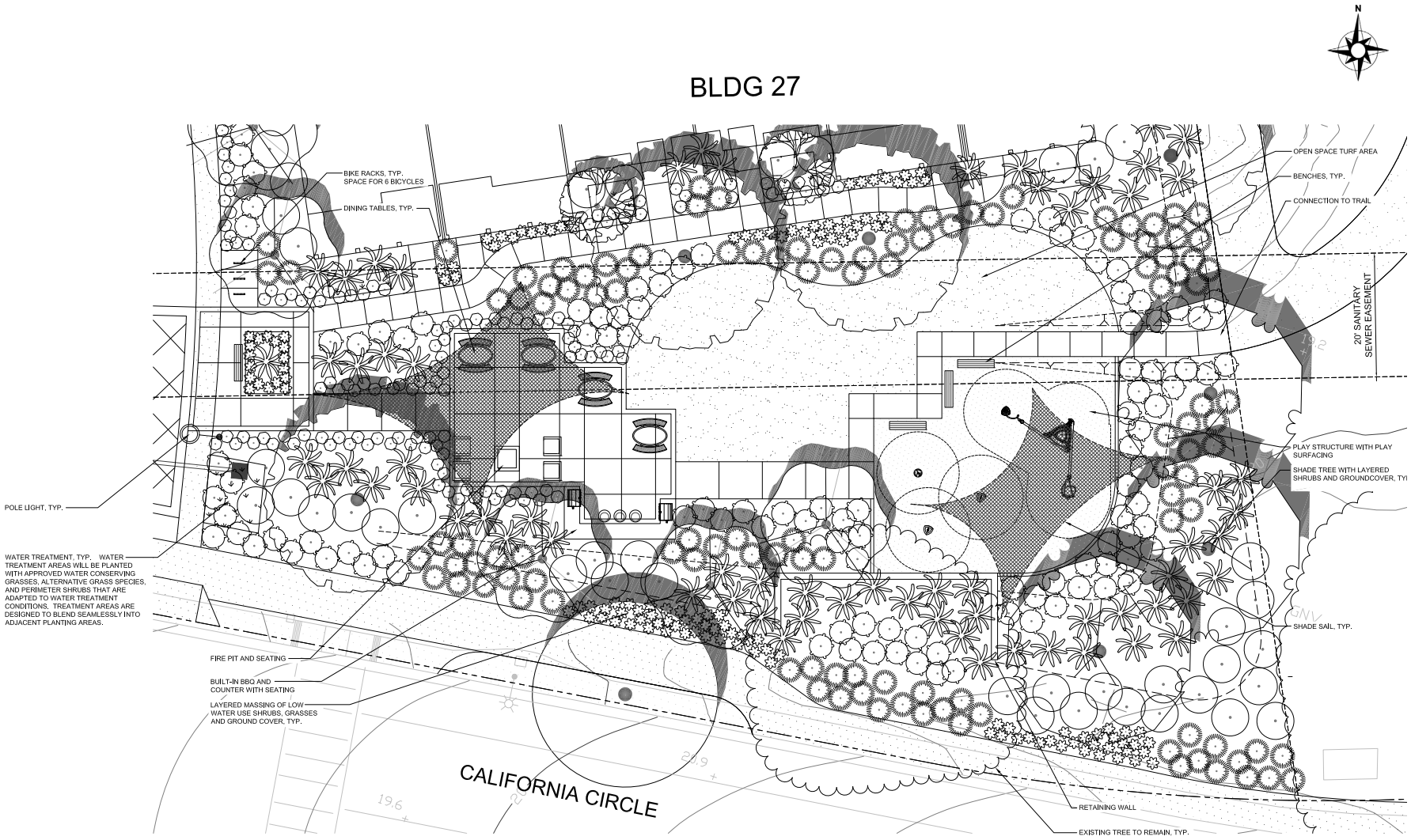

Figure 21
Proposed Park

Source: KTGY Group (August 18, 2014)

Mitigation Measure

Per Mitigation Measure Services-1B, the satisfactory dedication of additional land for public parkland and/or payment of the City's in-lieu fees would be considered adequate to avoid or reduce potential impacts on recreational facilities to a less than significant level.

XVI. TRANSPORTATION/TRAFFIC

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Exceed the capacity of the existing circulation system, based on an applicable measure of effectiveness (as designated in a general plan policy, ordinance, etc.), taking into account all relevant components of the circulation system, including but limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☒	☐	1, 3, I
2) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☒	☐	☐	1, 3, I
3) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☒	1, I
4) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses (e.g., farm equipment)?	☐	☒	☐	☐	1, I
5) Result in inadequate emergency access?	☐	☐	☒	☐	1, I
6) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	☐	☐	☒	☐	1, I

Introduction

Information and technical conclusions presented in the following section of the Checklist are based primarily on technical reports and studies prepared for the proposed Project, supplemented with other

public information sources as provided in the list of references. The following list of Project technical reports are available for public review at the City of Milpitas Planning Department:

- Hexagon Transportation Consultants, Inc., *Traffic Impact Analysis 1210 California Circle*, July 22, 2014

Environmental Setting

Roadway Network

The Project site is situated in the northwest corner of Milpitas, with regional access provided by Interstate 680 (I-680), Interstate 880 (I-880), and State Route 237. Direct access to the site is provided via California Circle. Other major roadways providing access include Milmont Drive, Dixon Landing Road, Milpitas Boulevard, and McCarthy Boulevard.

Pedestrian and Bicycle Facilities

Existing pedestrian access to the proposed site is provided by a series of existing sidewalks, and crosswalks on California Circle, Milmont Drive, and Dixon Landing Road. All signalized intersections have pedestrian crosswalks and Americans with Disabilities Act (ADA) compliant curb ramps. Adjacent to the Project site, there is a crosswalk at the unsignalized intersection of California Circle and Fairview Way. Bike lanes provide direct access to the Project site on California Circle and Milmont Drive. Bike lanes are also present on Dixon Landing Road on the I-880 overcrossing. A bicycle and pedestrian trail also runs along Lower Penitencia Creek from Dixon Landing Road south to North Abbott Avenue. This trail passes the eastern border of the Project site. **Figure 22** shows the existing bikeways in the Project vicinity.

Transit Service

Both the Santa Clara Valley Transportation Authority (VTA) and Alameda-Contra Costa Transit District (AC Transit) offer transit service in the area. The two bus routes closest to the Project site are VTA route 66 and AC Transit route 217. These stops are approximately 3,500 feet east of the Project site located at Dixon Landing Road and Milpitas Boulevard/Warm Springs Boulevard.

Impact Analysis:

Capacity of the Circulation System

> **Transportation-1**: The Project would not exceed the capacity of the existing circulation system, based on an applicable measure of effectiveness (as designated in a general plan policy, ordinance, etc.), taking into account all relevant components of the circulation system, including but limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit. (**Less than Significant Impact**)

The Hexagon TIA analyzed traffic impacts based on a ‘worst case” conservative scenario that assumed a Project of as many as 170 residential units, as opposed to the 148 units as currently proposed. At that level of development, the analysis calculated the Project would generate 1,021 daily vehicle trips, with 79 trips occurring during the AM peak hour and 93 trips occurring during the PM peak hour.

At that level of daily and peak hour trips, the TIA found that the study intersections (see **Figure 23**) would continue to operate at acceptable levels of service (LOS D or better) during both the AM and PM peak hours. The TIA identified only the intersection of McCarthy Boulevard/Dixon Landing Road as operating at an unacceptable LOS E conditions under “background” conditions (i.e., without the Project); the additional traffic from the Project was found to not make that intersection substantially worse. Consequently, traffic from the Project would not exceed the capacity of the existing circulation system based on criteria of the City of Milpitas as documented in the Hexagon TIA.

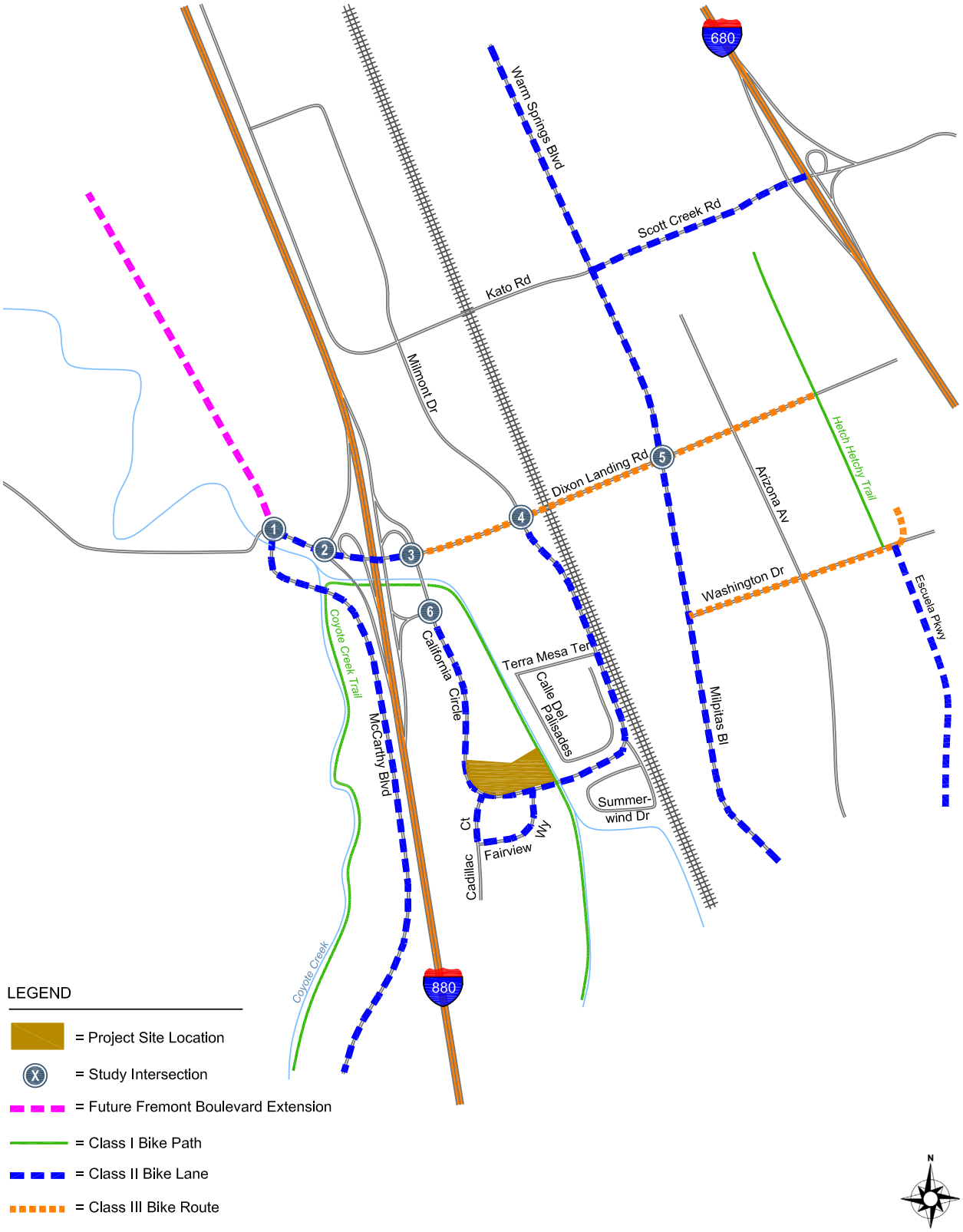

Figure 22
Existing Bikeways

Source: Hexagon (July 22, 2014)

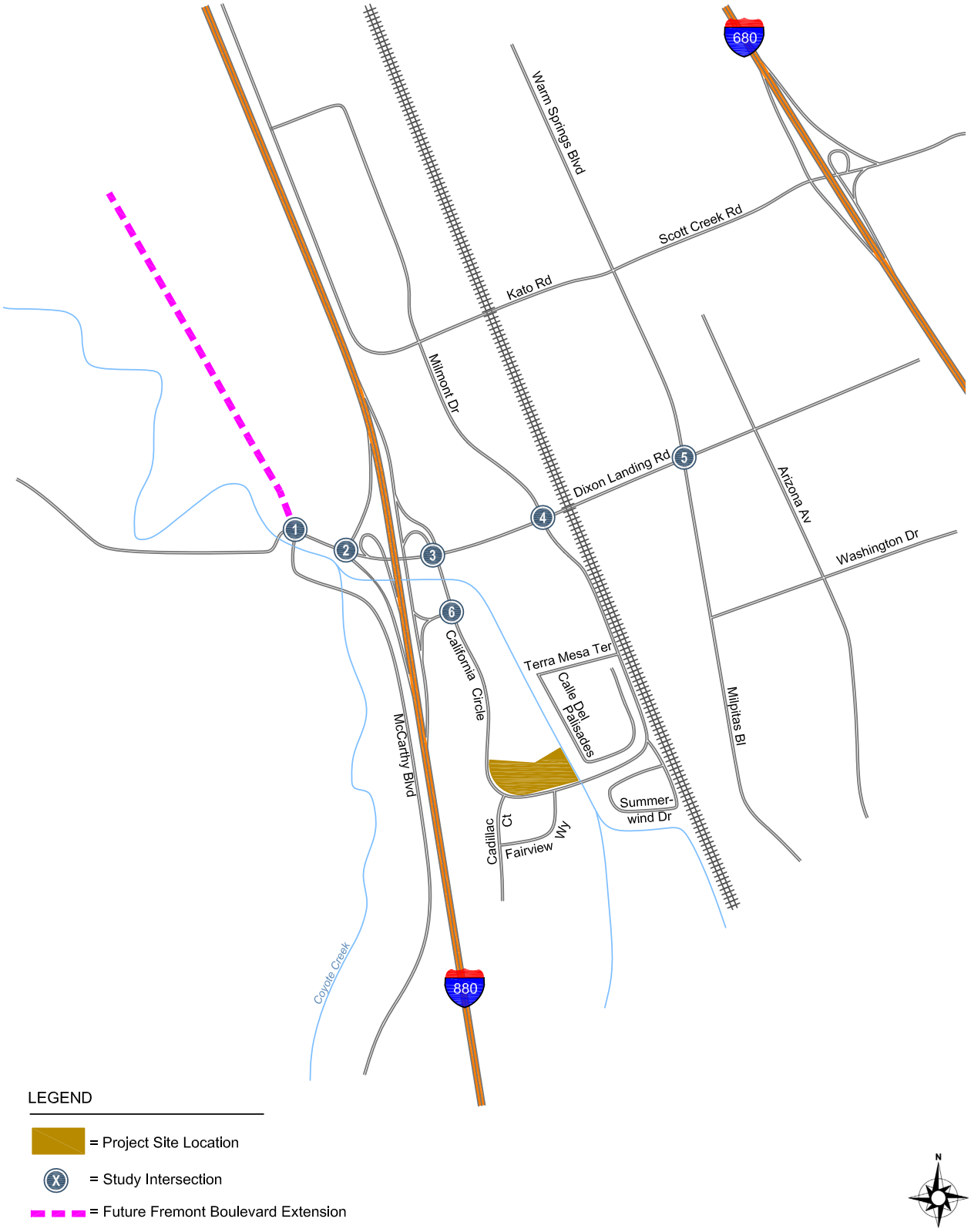

Figure 23
Study Intersections

Source: Hexagon (July 22, 2014)

Conflict with CMP

> **Transportation-2**: The Project would not conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the County Congestion Management Agency for designated roads or highways. (**Less than Significant with Mitigation)**

The Hexagon TIA conducted an analysis of signalized intersection level of service for Existing-plus-Project and Background-plus-Project scenarios and found that the proposed Project would not result in any significant impacts pursuant to City of Milpitas or County Congestion Management Program (CMP) guidelines. Only the intersection of McCarthy Boulevard and Dixon Landing Road, which currently operates at LOS E during the AM peak hour, would continue to operate at that same LOS E condition with traffic generated by the Project. The addition of Project trips at this intersection would not result in a significant impact.

The TIA included an analysis of traffic conditions relative to year 2030 conditions with the existing industrial land use and with the proposed residential land use so that the cumulative contribution to future traffic levels of the two different land uses could be compared. Although many of the study segments are projected to operate at LOS E or F during the AM and PM peak hours by year 2030, according to the City of Milpitas roadway segment impact criteria, the proposed land use change to residential would not result in any significant impacts to roadway segments. The net addition of Project traffic would be less than 1 percent for each roadway segment that would operate below its LOS standard.

<u>Calaveras Boulevard Widening Project</u>

The City of Milpitas' Calaveras Boulevard Widening project will widen Calaveras Boulevard from four (4) lanes to six (6) lanes between Town Center Drive and Abel Street within City limits, with pedestrian and bicycle access in each direction, and includes the reconstruction of two bridge structures over North Main Street and two bridge structures over the existing Union Pacific Railroad tracks/future BART alignment.

The Calaveras Boulevard Widening project is included in the Santa Clara Valley Transportation Authority's 2030 Valley Transportation Plan for Local Streets and County Roads Programs, and is listed as the number one priority project necessitated, in part, by future anticipated growth in the Milpitas area. The Project will contribute a share of traffic to this roadway segment.

Mitigation Measures

> **Mitigation Measure Trans-2: Calaveras Boulevard Widening Project TIF.** The Project shall pay its fair share toward the Calaveras Boulevard Widening project through payment of the City established Calaveras Boulevard Widening project Traffic Impact Fee (TIF).

Air Traffic

> **Transportation-3**: The Project would not result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks. (**No impact**)

As a proposed 148-unit residential development project located more than five miles from the closest airport, the Project would have no impact on air traffic patterns.

Transportation Safety Hazards

> **Transportation-4**: The Project would not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible land uses. **(Less than Significant)**

The Hexagon TIA included a review of the proposed onsite circulation and found it to be in accordance with generally accepted traffic engineering standards. The report stated that: "…the proposed plan would provide adequate connectivity through the site for vehicles, bicycles, and pedestrians;" no hazards were identified.

<u>Site Access</u>

The proposed site plan shows one full-access driveway on California Circle, located at the intersection of Fairview Way. In addition, there is an emergency vehicle access (EVA) proposed on California Circle on the western portion of the Project site. The intersection of California Circle and Fairview Way is currently a three-legged intersection with one-way stop control on Fairview Way. After the construction of the proposed driveway, this would become a 4-legged intersection with two-way stop control. The site plan shows that an additional driveway leading to the property to the north of the project site is also proposed. The property to the north will likely be required to connect up to the northern Project site driveway, which will provide an additional access point to the Project site. However, given that it is not yet known when access to enter and drive through the adjacent property would be obtained, this analysis assumes that all traffic would use the California Circle driveway. When additional access to the Project site is provided in the future via the adjacent property to the north and that property's access onto California Circle, that additional access would further benefit access and circulation at the Project site. However, based on the Project's projected trips, the California Circle driveway is adequate to serve the Project site on its own (with the second EVA).

The queuing storage space on the Project's driveway at California Circle would be approximately 100 feet (accommodating approximately 4 vehicles), beyond which vehicles would queue up in the cross aisle on-site. Because traffic volumes on California Circle are fairly low, vehicles exiting and entering the site would typically not need to wait long for a gap in traffic on California Circle, and the driveway would operate with little delay. Inbound left turn queues and outbound driveway queues during the AM and PM peak hours would rarely exceed one or two vehicles.

There is currently a two-way center turn lane on California Circle that ends its intersection with Fairview Way. The existing lane striping on the west leg includes both a receiving lane for vehicles turning left onto California Circle from northbound Fairview Way and, adjacent to that, a receiving lane for westbound through traffic on California Circle. The intersection design would need to provide for eastbound left turns into the project driveway.

Mitigation Measures

None needed.

The Hexagon recommendations, below, are not required as mitigation measures associated with a potentially significant impact, but are recommendations based on professional judgment in accordance with the standards and methods employed by the traffic engineering community.

> **Recommendation Traf-4A: Eastbound Left Turn Pocket.** Install an eastbound left-turn pocket into the proposed site driveway at the intersection of California Circle and Fairview Way. This can be accomplished within the existing right-of-way, and would entail restriping and implementing minor modifications to the existing two-way center turn lane on the west leg of the intersection.

1. The existing cross-section of California Circle immediately west of the intersection at Fairview Way and the Project driveway is approximately 65 feet wide with a westbound bike

lane, two westbound through lanes, a two-way center turn lane, one eastbound through lane, one eastbound right-turn lane, and an eastbound bike lane. The width of California Circle is therefore sufficient to permit restriping of the existing two-way center turn lane to accommodate a left-turn pocket on eastbound California Circle into the project driveway.

2. There is a distance of a little more than 200 feet on California Circle between Fairview Way and a driveway into a property on the southwest quadrant of the intersection. From the existing two-way center turn lane, vehicles are able to turn into that driveway. The distance of 200 feet should be sufficient to accommodate back-to-back eastbound and westbound left-turn pockets of 100 feet each (including taper) for the left-turn movements into the Project driveway and into the adjacent property's driveway, respectively.

Recommendation Traf-4B: Centered Driveway Alignment. The Project site driveway onto California Circle shall be centered at the intersection of California Circle and Fairview Way, with a clear definition of proper vehicle path to minimize confusion for the public.

1. The Project should provide a crosswalk and ADA-compliant ramps across its driveway, so that there are crosswalks across all four approaches of the California Circle and Fairview Way intersection.

Emergency Access

Transportation-5: The Project would not result in inadequate emergency access. **(Less than significant Impact)**

The one full-access driveway on California Circle at the intersection of Fairview Way, and the emergency vehicle access (EVA) proposed on California Circle on the western portion of the Project site is considered adequate for all purposes, including emergency access. (**Figure 24**)

When and if a second point of access is created in the future, through the property to the north, emergency access would be improved.

Alternative Transportation

Transportation-6: The Project would not conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks). **(Less than significant Impact)**

Bicycle lanes are provided on California Circle and Dixon Landing Road in the Project vicinity. The proposed Project would not alter existing bicycle facilities and would not conflict with existing or planned bicycle facilities.

The Project site is not well served by public transit at this time. Current transit service in the Project vicinity consists of one bus route operated by VTA and one by AC Transit. The closest bus stops are located at the intersection of Dixon Landing Road and Milpitas Boulevard, approximately one mile away from the Project site.

In compliance with applicable bike parking guidelines of the Santa Clara Valley Transportation Agency (VTA), each of the residential units would have a garage, which would meet the requirement for Class I bicycle parking (lockers or guarded parking).

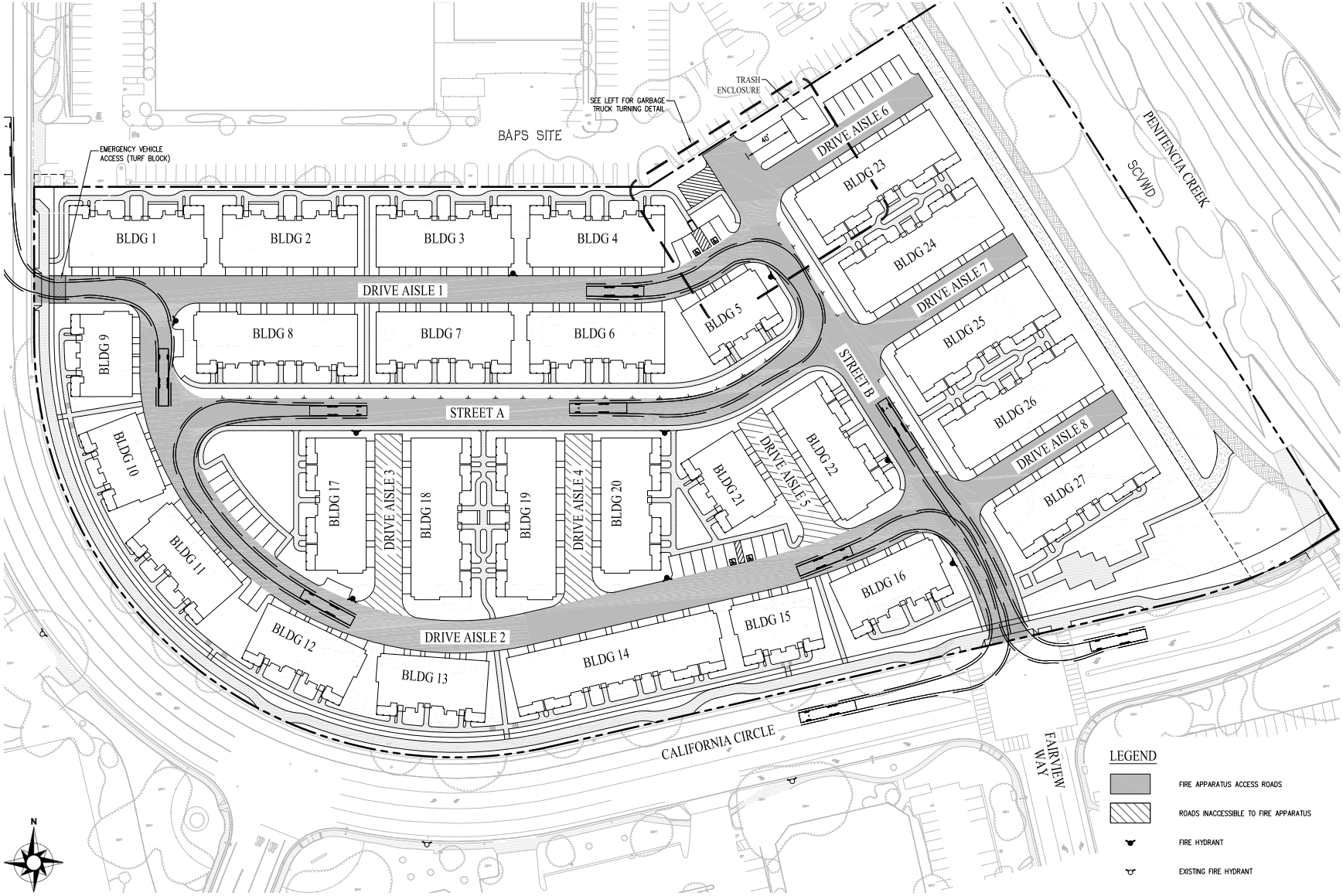

Figure 24
Emergency Equipment Access

Source: KTGY Group (August 18, 2014)

Mitigation Measures

None needed. The Hexagon TIA concluded that the Project would not result in any adverse impacts to pedestrian, bicycle, or transit facilities. The Hexagon recommendations (below) are not required as mitigation measures associated with a potentially significant impact, but as suggestions for encouraging greater bicycle use and improving reliance on transit:

> **Recommendation Traf-4C: Provide Bike Racks.** The project should provide bike racks in accordance with VTA requirements. Bike parking spaces are not shown on the current plans. These should be placed in accessible, secure, and well-lit locations.
>
> **Recommendation Traf-4D:** It is recommended that the City of Milpitas coordinate with VTA to explore the possibility of installing bus stops closer to the project site.

XVII. UTILITIES AND SERVICE SYSTEMS

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
Would the project:					
1) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☒	☐	1, 2, 11, 15
2) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☒	☐	1, 2, 11, 13, 15
3) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☒	☐	1, 2, 11
4) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☒	☐	1,2, 11, 13
5) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☒	☐	1, 2, 15
6) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☒	☐	1, 11
7) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☒	☐	1

Environmental Setting

The following discussion is based in part on the City's 2010 Urban Water Management Plan and 2009 Sewer Master Plan Update and in part on the Initial Study/EIR prepared for the adjacent Waterstone Project.[21]

[21] City of Milpitas, Initial Study Waterstone Residential Project June 2013

Water Service

The City owns, operates and maintains a potable water distribution system which consists of approximately 200 miles of water mains and serves more than 16,000 water service connections. The City's two potable water wholesalers are the San Francisco Public Utilities Commission (SFPUC) and the Santa Clara Valley Water District (SCVWD). The Project site is within the SFPUC wholesale distribution area and thus the Project would be served with water from the SFPUC Hetch Hetchy system. With minor exceptions, SFPUC water is the source of supply for residential areas of the City, whereas SCVWD water is used to supply industrial areas. The City's water supply contract with SFPUC expires in 2034.Water demand city-wide is approximately 10.2 million gallons per day (mgd). This demand is met in part with SFPUC water (which provides a maximum of 9.23 mgd) and in part by water from the SCVWD.

Recycled Water

The City of Milpitas purchases water from the South Bay Water Recycling Program (SBWR) which has developed a reclaimed water system to utilize recycled water from the San José/Santa Clara Water Pollution Control Plant (WPCP) for irrigation, industrial, and other non-potable purposes. Based on the 2010 Urban Water Master Plan, the Project site is not currently serviced by the SBWR program and is not proposed to be served in the future.

Sewer System and Wastewater Treatment

The Milpitas Sanitary Sewer Collection System is owned and maintained by the City of Milpitas. Wastewater from the City of Milpitas is treated at the San Jose/Santa Clara Water Pollution Control Plant, located near Alviso. The City of Milpitas is contractually allowed a sanitary sewer flow of 14.25 mgd. WPCP is one of the largest advanced wastewater treatment facilities in California, treating wastewater from over 1.5 million people that live and work in the 300-square mile area encompassing the cities of San Jose, Santa Clara, Milpitas, Campbell, Cupertino, Los Gatos, Saratoga, and Monte Sereno. The WPCP has the capacity to treat 167 mgd and is located in San Jose, at the southernmost tip of the San Francisco Bay. Originally constructed in 1956, its wastewater treatment process was upgraded to an advanced, tertiary system in 1979. Most of the final treated water is discharged as fresh water through Artesian Slough into South San Francisco Bay. About 10% is recycled through South Bay Water Recycling (SBWR) pipelines for landscaping, agricultural irrigation, and industrial needs throughout the South Bay.

Storm Drain System

The City of Milpitas owns and maintains the municipal storm drainage system which serves the Project site. The lines that serve the Project site drain into Penitencia Creek. Penitencia Creek flows north, carrying stormwater through underground storm water pipes and the open creek channel, ultimately discharging flows into San Francisco Bay. There is no overland release of stormwater directly into any water body from the Project site due to the adjacent levees.

Solid Waste

Republic Services provides solid waste and recycling collection services for residences in the City of Milpitas. The City's solid waste is disposed of at the Newby Island Landfill and recycling facility which is located west of I-880 on Dixon Landing Road.

Impact Analysis

Wastewater Treatment

Utilities-1: The Project would not exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board. The Project would not require or result in the construction of new wastewater treatment facilities or expansion of existing facilities, the

construction of which could cause significant environmental effects. (**Less Than Significant Impact**)

Currently, the vacant building on the Project site does not generate any wastewater. The proposed residential Project would generate approximately 47,152 gpd of wastewater.

The City is contractually allowed a sanitary sewer flow of 14.25 million gallons per day (mgd) and still has available treatment capacity at the WPCP. The estimated wastewater flows from the proposed Project would not cause the City to exceed its allocated capacity or require expansion of the WPTP. Therefore, implementation of the proposed Project would have a less than significant impact on the WPCP.

Water Supply

Utilities-2: There is sufficient water supplies available to serve the project from existing entitlements and resources, and no new or expanded entitlements are needed. The Project would not require or result in the construction of new water treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects. (**Less than Significant**)

The building on the Project site is currently vacant and there is no use of or demand for potable water at this time other than what may be needed for landscape irrigation. Water demand for a Multi-Family High density land use, as proposed, assumes 245 gallons per day per dwelling, or 36,260 gpd for the proposed 148-unit Project.

While development of the proposed residential Project would result in an increase in water usage on-site, the increase represents approximately 0.2 percent of the City's annual demand and the maximum contract supply from the SFPUC. This level of increased water demand is considered less than significant because existing water supply entitlements are sufficient to support proposed and future development and no additional water supply entitlements would be necessary. The existing water system infrastructure has adequate capacity to serve the proposed Project.

New Stormwater Facilities

Utilities-3: The Project would not require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects (**Less Than Significant)**

The existing vacant building together with surrounding paved parking areas result in impervious surfaces covering approximately 307,000 square feet (or approximately 75 percent) of the 9.45-acre Project site. The proposed residential Project would result in approximately 257,000 square feet (or approximately 63 percent of the site) being covered with impervious surfaces such as drive aisles, buildings, and other hardscape. The remaining 37 percent of the Project site would be covered by landscaping and other pervious surfaces, thus lowering on-site surface runoff potential from existing conditions. The Project would implement required stormwater treatment in compliance with the City's Stormwater C.3 Guidebook (see the Hydrology section of this Initial Study for a complete discussion of the proposed C.3 Stormwater Control Plan for this Project).

The existing storm drainage system has sufficient capacity to support the existing land uses. Therefore, with a reduction in impervious surfaces and implementation of the City's C.3 stormwater treatment requirements, the proposed Project reduce the volume of storm water runoff and would not exceed the capacity of the existing storm drainage system.

Solid Waste Capacity

> **Utilities-5**: The Project will be served by a landfill with sufficient permitted capacity to accommodate the Project's solid waste disposal needs, and the Project would comply with federal, state, and local statutes and regulations related to solid waste. (**Less than Significant**)

At buildout of the proposed 148-unit residential Project, it would generate approximately 865 lbs of solid waste per day, based on a solid waste generation factor of 5.85 pounds per day per unit for residential development.[22] The existing landfill has capacity to handle the higher level of daily waste that would be produced from the proposed Project.

The City of Milpitas is currently operating residential and business recycling programs that comply with state-mandated waste reduction goals specified in the Public Resources Code Section 40500. The Project would participate in the City's solid waste program and in the City's recycling programs as applicable which would reduce the total amount of garbage taken to the landfill. With implementation of the City's recycling programs and solid waste programs, the proposed Project would have a less than significant impact on solid waste facilities serving the City of Milpitas.

The residential development would comply with all applicable federal, state and local statutes and regulations related to solid waste.

[22] Waterstone Initial Study, Op. Cit., p. 74.

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact	Information Source(s)
1) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☒	☐	☐	1-15, A
2) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☒	☐	1-15, A
3) Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?	☐	☐	☒	☐	1-15, A
4) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☒	☐	1-15, A

Impact Analysis

Degrade the Quality of the Environment

Findings-1: The Project does have the potential to degrade the quality of the environment, but mitigation measures incorporated into the Project or required of the Project would reduce these impacts to a less than significant level. The Project would not substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a

rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory.

As discussed in the respective sections of this Initial Study, the proposed Project would have no impact, a less than significant impact, or an impact that can be mitigated to less than significant levels through implementation of mitigation measures incorporated into the Project or required of the Project on aesthetics, agriculture and forest lands, cultural resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, population and housing, public services, recreation, transportation and utilities and service systems.

Air Quality

During construction, implementation of standard dust control measures recommended by the BAAQMD would reduce construction-period air quality impacts to a less than significant level.

Biology

Prior to the start of construction, a qualified biologist will train construction personnel regarding habitat sensitivity and how to identify special status species and will conduct pre-construction surveys for western pond turtles (WPT), Western Burrowing Owls and nesting birds and will ensure that, if found, WPT are appropriately relocated and that appropriate avoidance measures are implemented with regard to Western Burrowing Owls and nesting birds. These measures would ensure that potential impacts to biological resources potentially occurring on site would be reduced to a less than significant level.

Water Quality

Compliance with the SWPPP and with implementation of NPDES General Construction permit's Best Management Practices during construction (mitigation measures required of the Project), the Project would not violate any adopted water quality standards or waste discharge requirements. Runoff will be routed directly from the on-site treatment facilities to the storm drainage system and would not flow off-site.

With implementation of Mitigation Measure Hydro-2C, the Project's SWCP will be reviewed by the City Engineering Department for consistency with the requirements of the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) C.3 Stormwater Handbook. Once approved, the SWCP will provide mitigation for water quality impacts associated with Project implementation, and the potential impact will be reduced to a less than significant level.

With implementation of the proposed Stormwater Control Plan and compliance with the SWPPP and its associated Best Management Practices during Project operations, the Project would not violate any adopted water quality standards or waste discharge requirements. On-going operations and maintenance of the proposed stormwater treatment systems will result in a less than significant impact on water quality.

Noise

The Project would locate residential land uses in an area where the ambient noise levels exceed the conditionally acceptable noise levels for these land uses. With implementation of the proposed design measures and mitigation measures, and compliance with General Plan policies, the identified noise impacts would be mitigated to less than significant. Because traffic noise impacts affecting the Project site would be mitigated, and because cumulative traffic impacts are less than significant, the Project would also not have a cumulatively considerable impact on noise in the Project area.

Cumulative Effects

Findings-2: The Project would not have impacts that are individually limited, but cumulatively considerable. The incremental effects of the Project, when viewed in connection with the effects

of past projects, the effects of other current projects, and the effects of probable future projects, would not result in cumulatively considerable effects.

Implementation of the Project would not cumulatively impact the environment provided all policies, rules and regulations of all relevant governing bodies are adhered to, and the mitigation measures contained within this Initial Study are implemented. No Project impacts have been identified that are individually limited but cumulatively considerable.

Short-term vs. Long-term Environmental Goals

Findings-3: The Project does not have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.

Adjacent to the Project site, the Santa Clara Valley Water District is currently planning a Lower Penitencia Creek Improvements Project that would provide continued flood protection to the homes and businesses currently protected along the one mile study limit of Lower Penitencia Creek. At completion of improvements for both the Lower Penitencia and Berryessa Creek projects, the Santa Clara Valley Water District will update the Federal Emergency Management Agency Flood Insurance Maps accordingly. The Project would not interfere with this long-term environmental improvement project, and would maintain Penitencia Creek and its associated levee in their existing natural state by offsetting the development away from the eastern edge of the site.

Substantial Adverse Effects on Human Beings

Findings-4: The Project would not have environmental effects that would cause substantial adverse effects on human beings, either directly or indirectly.

SOURCES

General Sources

CEQA Guidelines - Environmental Thresholds (Professional judgment and expertise and review of project plans)

City of Milpitas General Plan (Land Use Chapter)

City of Milpitas General Plan (Circulation Chapter)

City of Milpitas General Plan (Open Space & Environmental Conservation Chapter)

City of Milpitas General Plan (Seismic and Safety Chapter)

City of Milpitas General Plan (Noise Chapter)

City of Milpitas General Plan (Housing Chapter)

City of Milpitas Zoning (Title XI)

California Department of Conservation, *Santa Clara County Important Farmland 2006*, Map. June 2005

Bay Area Air Quality Management District, CEQA Guidelines, May 2011

City of Milpitas, *Waterstone Residential Project, CEQA Initial Study*, June 2013

City of Milpitas, *Waterstone Residential Project, Draft Environmental Impact Report*, June 2013.

City of Milpitas, *2010 Urban Water Management Plan*, adopted June 7, 2011.

Federal Emergency Management Agency, *Flood Insurance Rate Map, Community Panel Nos. 06085CIND0A, 06085C0058H, 06085C0059H, 06085C0066H, 06085C0067H, 06085C0068H, 06085C0069H.06085C0080H, 06085C0086H, and 06085C0087H*

City of Milpitas, *Sewer Master Plan Update*, December 2009

Field/Site Visit/ Personal Observation

Project Specific Technical Studies

Carlson, Barbee & Gibson, Inc., *Stormwater Control Plan for Stormwater C.3 Guideline Compliance with California Circle Vesting Tentative Map*, August 15, 2014

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Hexagon Transportation Consultants, Inc., *1210 California Circle Residential Development Draft Traffic Impact Analysis*, July 22, 2013.

Illingworth & Rodkin, Inc., 1210 *California Circle Draft Air Quality and GHG Emissions Assessment, Milpitas, California*, July 24, 2014.

iStar Financial and KTGY Group, Inc., *California Circle Pre-Application Submittal*, June 27, 2014.

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Schaaf & Wheeler, Consulting Civil Engineers, *Draft Memo: Preliminary 100-year Flood Study Basis to Guide CEQA Document Development for 1210 California Circle*, August 4, 2014.