



# APPENDICES

FOR THE

## MILPITAS GENERAL PLAN UPDATE DRAFT ENVIRONMENTAL IMPACT REPORT

NOVEMBER 2, 2020

*Prepared for:*

City of Milpitas  
Planning Department  
455 East Calaveras Boulevard  
Milpitas, CA 95035

*Prepared by:*

De Novo Planning Group  
1020 Suncoast Lane, Suite 106  
El Dorado Hills, CA 95762  
(916) 580-9818

D e N o v o P l a n n i n g G r o u p

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A Land Use Planning, Design, and Environmental Firm





# APPENDICES

FOR THE

## DRAFT ENVIRONMENTAL IMPACT REPORT MILPITAS GENERAL PLAN UPDATE

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## Appendix A – Notice of Preparation and NOP Comments



# MILPITAS

## *General Plan Update*

### **Notice of Preparation and Scoping Meeting Milpitas General Plan Update Environmental Impact Report**

**Date:** July 17, 2020

**To:** State Clearinghouse, Agencies, Organizations and Interested Parties

**Subject:** Notice of Preparation and Scoping Meeting for the Milpitas General Plan Update Environmental Impact Report

**Scoping Meeting:** **August 11, 2020, 11 a.m.**

**Comment Period:** **July 17, 2020 to August 17, 2020.**

The City of Milpitas (City) will serve as Lead Agency in the preparation of a programmatic Environmental Impact Report (EIR) for the City of Milpitas General Plan Update (Plan).

The purpose of this notice is (1) to serve as a Notice of Preparation (NOP) of an EIR pursuant to the State CEQA Guidelines Section 15082, (2) to advise and solicit comments and suggestions regarding the scope and content of the EIR to be prepared for the proposed project, and (3) to notice the public scoping meeting. The proposed project is a long-term General Plan consisting of policies that will guide future development activities and City actions. No specific development projects are proposed as part of the Plan. Information regarding the project description, project location, and topics to be addressed in the Draft EIR is provided below. Additional project documents and information are available at the City of Milpitas, Planning Department located at City Hall 455 E. Calaveras Blvd. Milpitas, CA 95035, and on-line at: [milpitas.generalplan.org](http://milpitas.generalplan.org)

For questions regarding this notice, please contact Jessica Garner, Planning Manager at (408) 586-3284, or by email: [jgarner@ci.milpitas.ca.gov](mailto:jgarner@ci.milpitas.ca.gov)

#### **Notice of Preparation 30-Day Comment Period**

The City, as Lead Agency, requests that responsible and trustee agencies, and the Office of Planning and Research, respond in a manner consistent with Section 15082(b) of the CEQA Guidelines. Pursuant to Public Resources Code Section 21080.4, responsible agencies, trustee agencies and the Office of Planning and Research must submit any comments in response to this notice no later than 30 days after receipt. In accordance with the time limits established by CEQA, the NOP public review period will begin on July 17, 2020 and end on August 17, 2020.

In the event that the City does not receive a response from any Responsible or Trustee Agency by the end of the review period, the City may presume that the Responsible Agency or Trustee Agency has no response to make (State CEQA Guidelines Section 15082(b)(2)). All Comments in response to this notice must be submitted in writing at the address below, or via email, by the close of the 30-day NOP review period, which is 5:00 PM on August 17, 2020:

Jessica Garner, Planning Manager | City of Milpitas  
455 East Calaveras Boulevard, Milpitas CA 95035  
Email: [jgarner@ci.milpitas.ca.gov](mailto:jgarner@ci.milpitas.ca.gov)

*\*It is noted that additional opportunities for public comment on the Milpitas General Plan Update and pending Draft EIR will be provided. These documents are anticipated to be available for public review in the fall of 2020.*

### **Scoping Meeting**

The City will hold a virtual online scoping meeting to provide an opportunity for agency representatives and the public to assist the City in determining the scope and content of the EIR.

The scoping meeting will be held on **Tuesday, August 11, at 11:00 a.m.**

The scoping meeting can be accessed at:

Facebook: <https://www.facebook.com/CityofMilpitas/>  
YouTube: <https://www.ci.milpitas.ca.gov/youtube>  
Web Streaming: <https://www.ci.milpitas.ca.gov/webstreaming>

Please submit comments during the meeting by email to [planningmeeting@ci.milpitas.ca.gov](mailto:planningmeeting@ci.milpitas.ca.gov). For comments before or after the meeting or additional information, please contact Jessica Garner, Planning Manager at (408) 586-3284, or by email: [jgarner@ci.milpitas.ca.gov](mailto:jgarner@ci.milpitas.ca.gov)

### **Project Location and Setting**

The City of Milpitas is located in the northern portion of Santa Clara County. Most land within the city is situated between two major freeways (I-880 and I-680) that run north/south and bisect the city. Additionally, the city may be accessed by State Route 237 which runs east/west from Milpitas to Mountain View, and a County expressway (Montague Expy) that generally runs along the city's southern border. The City is served by Valley Transportation Authority (VTA) light rail and a planned BART extension is scheduled to begin service to Milpitas in 2020.

The Planning Area is the geographic area for which the Plan provides a framework for long-term plans for growth, resource conservation, and the provision of public services. State law requires the Plan to include all territory within Milpitas's incorporated area as well as "any land outside its boundaries which in the planning agency's judgment bears relation to its planning" (California Government Code Section 65300). For the purposes of the Milpitas General Plan Update, the Planning Area is defined as the entire area within the Sphere of Influence (SOI), which includes the City Limits and the Urban Growth Boundary (UGB) and Urban Service Area Boundary (USA) that is included in the analysis and planning for the approximate 20-year horizon of the City's General Plan Update.

The General Plan boundary (Planning Area) is shown in Figure 1 (Proposed General Plan Land Use Map).

### **Project Description**

The City of Milpitas is preparing a comprehensive update to its existing General Plan. The updated Milpitas General Plan is expected to be adopted in late 2020 and will guide the City's development and conservation through land use objectives and policy guidance. The Plan is intended to be an expression of the community's vision for the City and Planning Area and constitutes the policy and regulatory framework by which future development projects will be reviewed and public improvements will be implemented. The City will implement the Plan by requiring development, infrastructure improvements, and other projects to be consistent with its policies and by implementing the actions included in the Plan, including subsequent project-level environmental review, as required under CEQA.

State law requires the City to adopt a comprehensive, long-term general plan for the physical development of its planning area. The Plan must include land use, circulation, housing, conservation, open space, noise, and safety elements, as specified in Government Code Section 65302, to the extent that the issues identified by State law exist in the City's planning area.

The Milpitas General Plan includes a comprehensive set of goals, policies, and actions (implementation measures), as well as a revised Land Use Map (Figure 1).

A **goal** in the Plan is the broadest statement of community values. It is a generalized ideal which provides a sense of direction for action. Goals are overall statements of desired future conditions.

**Policies and Implementation:** The essence of the Plan is contained within its **policies**. Policies are statements which further refine the goals, and guide the course of action the City must take to achieve the goals in the plan. It is important to note that policies are guides for decision makers, not decisions themselves.

**Action items** are steps or actions the City should take to implement the Plan. The Implementation element identifies the responsible entity and timing for each Action item.

Additional elements that relate to the physical development of the city may also be addressed in the Plan. The degree of specificity and level of detail of the discussion of each Plan Element need only reflect local conditions and circumstances. The Milpitas General Plan includes all of the State-mandated elements, as well as several optional elements and issue areas, including Community Design, Utilities and Community Services, Economic Development, and Community Health and Wellness.

The Plan has been prepared to address the requirements of State law and the relevant items addressed in Government Code Section 65300 et seq. The Milpitas General Plan is intended to reflect the desires and vision of Milpitas residents, businesses, the General Plan Advisory Committee, and City Council.



The following objectives have been identified for the General Plan Update:

- Protect and enhance Milpitas’s community character, and sense of community;
- Provide a range of high-quality housing options;
- Attract and retain businesses and industries that provide high-quality and high-paying jobs;
- Expand and improve neighborhood serving shopping areas to provide better local services near neighborhoods, and increased sales tax revenues;
- Continue to maintain and improve multimodal transportation opportunities;
- Maintain strong fiscal sustainability and continue to provide efficient and adequate public services;
- Address new requirements of State law; and
- Address emerging transportation, housing, and employment trends.

### **Growth Projections**

While no specific development projects are proposed as part of the Milpitas Plan Update, the General Plan will accommodate future growth in Milpitas, including new businesses, expansion of existing businesses, and new residential uses. The buildout analysis assumes a 20-year horizon, and 2040 is assumed to be the buildout year of the General Plan.

Anticipated growth accommodated by the Plan within the Planning Area includes new and expanded businesses, new and expanded governmental and educational uses, and new residential development. The table below summarizes the range of net growth, including residential units (single family and multifamily) and non-residential square footage that could occur. Growth is projected for the area within the Planning Area identified for the General Plan Update.

Consistent with the Proposed General Plan Land Use Map, future growth would largely be focused in 14 areas identified by the community, GPAC, and by the City Council. As shown in Table 1, buildout of the General Plan could yield a total of up to 33,401 housing units, a population of 113,530 people, 47,737,536 square feet of non-residential building square footage, and 84,333 jobs within the Planning Area. As shown in Table 1, this represents development growth over existing conditions of up to 11,186 new housing units, 37,473 new people, 19,729,648 square feet of new non-residential building square footage and 36,795 new jobs.

New development and growth is largely dictated by existing development conditions, market conditions, and land turnover rates. Very few communities in California actually develop to the full potential allowed in their respective General Plans during the planning horizon.

**Table 1: Growth Projections - Proposed Land Use Map**

	Population	Dwelling Units	Nonresidential Square Footage	Jobs	Jobs per Housing Unit
<b>Existing Conditions</b>					
	76,057	22,215	28,007,888	47,538	2.14
<b>New Growth Potential</b>					
Proposed General Plan	37,473	11,186	19,729,648	36,795	3.29
<b>Total Growth: Existing Plus New Growth Potential</b>					
Proposed General Plan	113,530	33,401	47,737,536	84,333	2.52

**Program EIR Analysis**

The City, as the Lead Agency under the California Environmental Quality Act (CEQA), will prepare a Program EIR for the Milpitas General Plan Update. The EIR will be prepared in accordance with CEQA, the CEQA Guidelines (Guidelines), relevant case law, and City procedures. No Initial Study will be prepared pursuant to Section 15063(a) of the CEQA Guidelines.

The EIR will analyze potentially significant impacts associated with adoption and implementation of the General Plan. In particular, the EIR will focus on areas that have development potential. The EIR will evaluate the full range of environmental issues contemplated under CEQA and the CEQA Guideline. At this time, the City anticipates that EIR sections will be organized in the following topical areas:

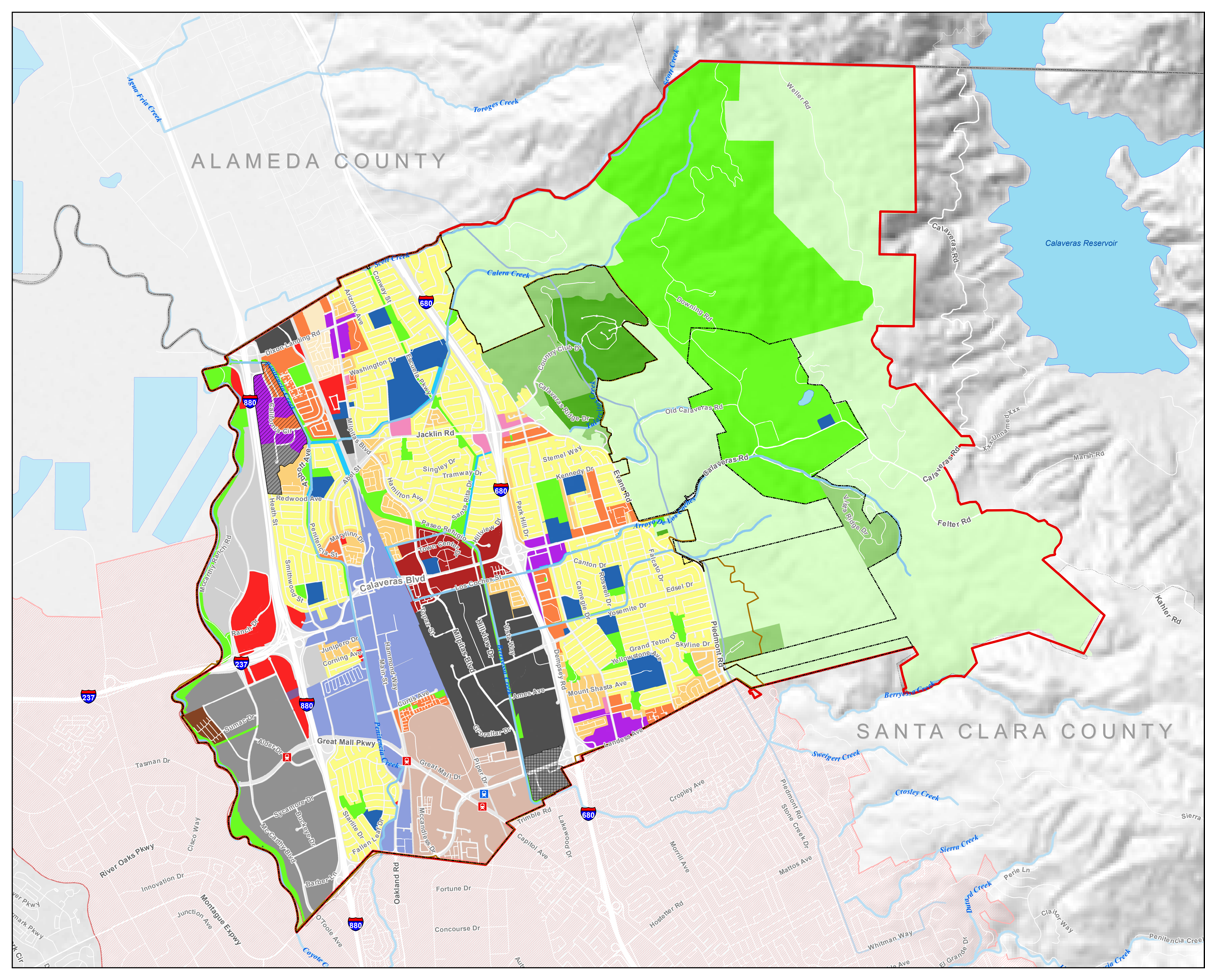
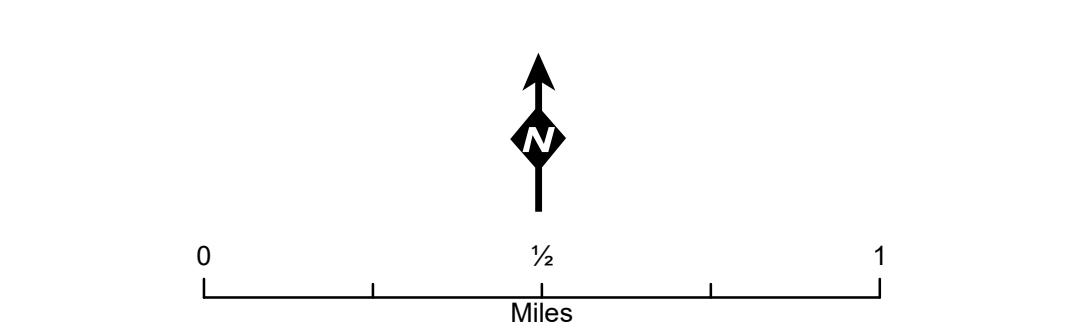
- Aesthetic Resources
- Agriculture and Forestry Resources
- Air Quality
- Biological Resources
- Cultural and Tribal Cultural Resources
- Geology, Soils, and Mineral Resources
- Greenhouse Gases, Climate Change, and Energy
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise
- Population and Housing
- Public Services and Recreation
- Transportation
- Utilities/Service Systems
- Wildfire
- Mandatory Findings of Significance/Cumulative Impacts
- Alternatives

FIGURE 1

Proposed  
General Plan Land Use Map

Legend

- HVL - Hillside Very Low Density
- HLD - Hillside Low Density
- HMD - Hillside Medium Density
- LDR - Low Density Residential
- MDR - Medium Density Residential
- HDR - High Density Residential
- VHDR - Very High Density Residential
- MHP - Mobile Home Park
- VHDMU - Very High Density Mixed Use
- NCMU - Neighborhood Commercial Mixed Use
- GNC - General Commercial
- NC - Neighborhood Commercial
- TWC - Town Center
- INP - Industrial Park
- BPRD - Business Park/Research & Development
- MFG - Manufacturing
- PF - Public Facilities
- POS - Permanent Open Space
- MMSP - Milpitas Metro Specific Plan
- MGSP - Milpitas Gateway Specific Plan
- WW - Waterway
- Future Specific Plan Overlay
- Innovation District Overlay
- Planning Areas**
- City of Milpitas
- Milpitas Sphere of Influence
- Milpitas Urban Service Area
- San Jose Planning Limits of Urban Growth
- County Boundary
- Transit Stations**
- BART Station
- VTA Station





State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Bay Delta Region  
2825 Cordelia Road, Suite 100  
Fairfield, CA 94534  
(707) 428-2002  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



August 17, 2020

Ms. Jessica Garner, Planning Manager  
City of Milpitas  
455 East Calaveras Boulevard  
Milpitas, CA 95035  
[jgarner@ci.milpitas.ca.gov](mailto:jgarner@ci.milpitas.ca.gov)

Subject: Milpitas General Plan Update, Notice of Preparation of a Programmatic Draft Environmental Impact Report, SCH No. 2020070348, City of Milpitas, Santa Clara County

Dear Ms. Garner:

The California Department of Fish and Wildlife (CDFW) received the Notice of Preparation (NOP) of a Programmatic Draft Environmental Impact Report (PDEIR) from the City of Milpitas (City) for the Milpitas General Plan Update (Project, General Plan) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.<sup>1</sup>

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife resources. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

## **CDFW ROLE**

CDFW is a Trustee Agency with responsibility under CEQA §15386 for commenting on projects that could impact fish, plant and wildlife resources. CDFW is also considered a Responsible Agency if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA), the Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program and other provisions of the Fish and Game Code that afford protection to the State's fish and wildlife trust resources. Pursuant to our jurisdiction, CDFW has the following concerns, comments, and recommendations regarding the Project.

## **PROJECT DESCRIPTION SUMMARY**

**Proponent:** City of Milpitas

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<sup>1</sup> CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

Ms. Jessica Garner  
City of Milpitas  
August 17, 2020  
Page 2

**Objective:** The General Plan will be a framework for development, resource conservation, and provision of public services through a comprehensive set of goals, policies, and actions (implementation measures) over an approximate 20-year period. The Plan will include, at minimum, land use, circulation, housing, conservation, open space, noise, and safety elements.

**Location:** City of Milpitas and related Urban Service Area and Sphere of Influence, Santa Clara County.

## COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

### Impacts to Special-Status Species and Nesting Birds

CDFW is concerned regarding potential impacts to special-status species that may be present within the Project location, including, but not limited to, those listed below (CDFW 2020).

- Mountain lion (*Felis concolor*) - Central Coast North Evolutionarily Significant Unit - State Candidate Threatened
- Salt-marsh harvest mouse (*Reithrodontomys raviventris*) - State Endangered and Fully Protected, Federal Endangered
- California Ridgway's rail (*Rallus obsoletus obsoletus*) - State Endangered and Fully Protected, Federal Endangered
- California black rail (*Laterallus jamaicensis coturniculus*) - State Threatened and Fully Protected
- Golden eagle (*Aquila chrysaetos*) - State Fully Protected
- White-tailed kite (*Elanus leucurus*) - State Fully Protected
- Alameda whipsnake (*Masticophis lateralis euryxanthus*) - State Threatened and Federal Threatened
- California tiger salamander (*Ambystoma californiense*) – State Threatened and Federal Threatened
- Longfin smelt (*Spirinchus thaleichthys*) - State Threatened, Federally Candidate for Endangered or Threatened
- Tricolored blackbird (*Agelaius tricolor*) - State Threatened
- Most beautiful jewelflower (*Streptanthus albidus* ssp. *peramoenus*) - California Rare Plant Rank 1B.2
- Salt-marsh wandering shrew (shrew) (*Sorex vagrans halicoetes*) - State Species of Special Concern

Ms. Jessica Garner  
City of Milpitas  
August 17, 2020  
Page 3

- Townsend's big-eared bat (*Corynorhinus townsendii*) - State Species of Special Concern
- Saltmarsh common yellowthroat (*Geothlypis trichas sinuosa*) - State Species of Special Concern
- San Francisco common yellowthroat (*Geothlypis trichas sinuosa*) - State Species of Special Concern
- Alameda song sparrow (*Melospiza melodia pusillula*) - State Species of Special Concern
- Western burrowing owl (*Athene cunicularia*) - State Species of Special Concern
- Western pond turtle (*Emmys marmorata*) - State Species of Special Concern
- California red-legged frog (*Rana draytonii*) - Federally Threatened, State Species of Special Concern

Due to the limited information provided in the NOP, CDFW is providing the general comments below with regards to potential impacts of the Project to special-status species and mitigation measures to offset any unavoidable impacts.

**State Fully Protected Species and Nesting Birds:**

*Issue:* State fully protected small mammals and nesting birds may occur within the Project area. Without appropriate mitigation measures, the Project could potentially have a significant impact on these species.

*Specific Impacts:* Without appropriate avoidance measures for nesting birds, potentially significant impacts associated with Project activities may include reduced reproductive success, reduced health and vigor, nest abandonment, loss of nest trees, and/or loss of foraging habitat that would reduce nesting success (loss or reduced health or vigor of eggs or young), and direct mortality.

*Evidence impact would be significant:* The Project will or may include impacts such as noise, groundwork, and movement of workers that may occur in or directly adjacent to habitat and thus have the potential to significantly impact nesting birds.

*Recommended Potentially Feasible Mitigation Measures:*

1. Habitat Assessment: A qualified biologist should conduct a habitat assessment in advance of Project implementation, to determine if the Project site or its vicinity contains suitable habitat for special-status small mammals and nesting bird species.
2. Small Mammal and Bird Nest Surveys: A focused survey using appropriate protocols should be conducted by qualified biologists at Project locations prior to Project implementation. If Project activities are to take place during the avian

Ms. Jessica Garner  
City of Milpitas  
August 17, 2020  
Page 4

nesting season, an additional pre-Project activity survey for active nests should be conducted by a qualified biologist no more than seven days prior to the start of Project activity.

3. Avoidance: If special-status small mammals are found, work activities should stop and the individual should be allowed to leave the site through it's own volition. If an active nest is found within or adjacent to the Project site, a no-disturbance buffer should be established and monitoring of the active nest should be conducted by a qualified biologist during all Project-related construction activities. The qualified biologist should increase the buffer if the birds are showing signs of unusual or distressed behavior such as defensive flights/vocalizations, standing up from a brooding position, or flying away from the nest. Buffers should be maintained until the eggs have hatched and young have fledged.

### **State Threatened or Endangered Wildlife Species:**

*Issue:* State threatened or endangered wildlife species may occur within the Project area. Without appropriate mitigation measures, the Project could potentially have a significant impact on these species.

*Specific impact:* Potential impacts to State-listed wildlife species include the inability to reproduce, capture, burrow/den collapse, crushing as a result of burrow collapse, inadvertent entrapment or entrainment, impingement, reduced reproductive success, reduction in health and vigor of young, nest abandonment, loss of nesting habitat, loss or fragmentation of foraging habitat that would reduce nesting or breeding success (loss or reduced health or vigor of eggs or young), and direct mortality. Unauthorized take of species listed as threatened or endangered pursuant to CESA is a violation of Fish and Game Code.

*Evidence impact would be significant:* The Project will or may include impacts such as noise, groundwork, and movement of workers that may occur in or directly adjacent to habitat and thus have the potential to significantly impact State-listed wildlife species. Roads, housing, and other urban development may fragment wildlife corridors or prevent passage along movement or migratory routes.

### *Recommended Potentially Feasible Mitigation Measures:*

1. Habitat Assessment and Appropriate Project Design: A qualified biologist should conduct a habitat assessment in advance of Project implementation, to determine if the Project site or its vicinity contains suitable habitat for CESA-listed or candidate species. For species in which habitat corridors are crucial, such as for the mountain lion, the habitat assessment should include review of habitat available within the specific Project location and adjacent habitats. If the Project may result in fragmentation of habitat, Project design should be altered to prevent

Ms. Jessica Garner  
City of Milpitas  
August 17, 2020  
Page 5

this fragmentation. If fragmentation cannot be avoided, structures, such as roads, should be designed to allow wildlife movement.

2. State-listed Wildlife Species Focused Surveys: The Project location should be surveyed for State-listed wildlife species by a qualified biologist following protocol-level surveys. Protocol-level surveys are intended to maximize detectability. In the absence of protocol-level surveys being performed, additional surveys may be necessary.
3. State-listed Species Take Authorization: If State-listed wildlife species are identified during surveys and full avoidance of take is not feasible, the project proponents should apply to CDFW for take authorization through issuance of an Incidental Take Permit (ITP).

### **Rare Plant Species**

*Issue:* Rare plant species may occur within the Project location. Without appropriate mitigation measures, the Project could potentially have a significant impact on these species.

*Specific impact:* Potential impacts to special-status plants include inability to reproduce and direct mortality. Unauthorized take of plant species listed as threatened, endangered, or rare pursuant to CESA or the Native Plant Protection Act is a violation of Fish and Game Code.

*Evidence impact would be significant:* Special-status plants are typically narrowly distributed endemic species. These species are susceptible to habitat loss and habitat fragmentation resulting from development, vehicle and foot traffic, and introduction of non-native plant species. There is a potential for the Project have significant impacts to these species and their populations.

#### *Recommended Potentially Feasible Mitigation Measures:*

1. Special-Status Plant Focused Surveys: The Project location should be surveyed for State-listed plant species by a qualified biologist following protocol-level surveys. Protocol-level surveys, which are intended to maximize detectability, may include identification of reference populations to facilitate the likelihood of field investigations occurring during the appropriate floristic period.
2. Special-Status Plant Avoidance: For activities that will not be covered by the Santa Clara Valley Habitat Plan, special-status plant species should be avoided through delineation and establishment of a no-disturbance buffer of at least 50 feet from the outer edge of the plant population or specific habitat type required by special-status plant species.



Ms. Jessica Garner  
City of Milpitas  
August 17, 2020  
Page 6

3. Special-Status Plant Take Authorization: If State-listed plant species are identified during surveys and full avoidance of take is not feasible, take authorization through CDFW issuance of an ITP would be required.

### **State Species of Special Concern**

*Issue:* Wildlife Species of Special Concern may occur within the Project area. Without appropriate mitigation measures, the Project could potentially have a significant impact on these species.

*Specific impact:* Potential impacts to Species of Special Concern wildlife species include inability to reproduce, capture, burrow/den collapse, crushing as a result of burrow collapse, inadvertent entrapment, reduced reproductive success, reduction in health and vigor of young, nest abandonment, loss of nest/breeding/roosting habitat, or loss of foraging habitat that would reduce breeding success (loss or reduced health or vigor of eggs or young), and direct mortality.

*Evidence impact would be significant:* The Project will or may include impacts such as noise, groundwork, and movement of workers that may occur in or directly adjacent to habitat and thus have the potential to significantly impact State-listed wildlife species.

#### *Recommended Potentially Feasible Mitigation Measures:*

1. State Species of Special Concern Focused Surveys: The Project location should be surveyed for Species of Special Concern by a qualified biologist following protocol-level surveys. Protocol-level surveys are intended to maximize detectability. In the absence of protocol-level surveys being performed, focused surveys for Species of Special Concern presence, nests, or indicators of presence (e.g. bat guano and acoustic surveys) should be conducted.
2. State Species of Special Concern Avoidance: If Species of Special Concern wildlife species are found within or adjacent to the Project site, the qualified biologist should establish a no-disturbance buffer appropriate for the species and conduct on-site monitoring during all Project-related activities. The PDEIR should include additional minimization and mitigation measures for each Species of Special Concern wildlife species that could be potentially impacted by Project activities.

### **Impacts to Lake and Riparian Habitat**

CDFW is concerned regarding potential impacts to lakes and streams within the Project location. Due to the limited information provided in the NOP, CDFW is providing comments below with regards to potential impacts and mitigation measures for lakes and streams.

Ms. Jessica Garner  
City of Milpitas  
August 17, 2020  
Page 7

*Issue:* The Project area has the potential to contain water features subject to CDFW's lake and streambed alteration authority, pursuant Fish and Game Code § 1600 et seq. There may be a potential for Project implementation to have temporary and permanent impacts to these features.

*Specific impact:* Work within freshwater marsh, wetland, and riparian features has the potential to result in substantial diversion or obstruction of natural flows; substantial change or use of material from the bed, bank, or channel (including removal of riparian vegetation); and deposition of debris, waste, sediment, or other materials into water feature causing water pollution that is deleterious to fish and wildlife.

*Evidence impact is potentially significant:* The Project area has the potential to include features subject to CDFW's lake and streambed alteration regulatory authority. Construction activities within these features has the potential to impact downstream waters and to significantly impact the remaining acreage of freshwater marsh, wetland, and riparian communities.

*Recommended Potentially Feasible Mitigation Measures:*

1. **Habitat Assessment:** A qualified biologist should conduct a habitat assessment in advance of Project implementation, to determine if the Project area or its immediate vicinity supports freshwater marsh, wetland, and/or riparian communities. This survey should include, but not be limited to ponds, Coyote Creek, Lower Penitencia Creek, Berryessa Creek, Arroyo de los Coches Creek, Calera Creek, other creeks or streams, and drainages.
2. **Wetland Delineation:** CDFW recommends a formal wetland delineation be conducted by a qualified biologist prior to project construction to determine the location and extent of wetlands and riparian habitat present. Please note that, while there is overlap, State and Federal definitions of wetlands, as well as which activities require Notification pursuant to Fish and Game Code § 1602, differ. Therefore, CDFW further recommends that the delineation identify both State and Federal wetlands as well as which activities may require LSA Notification to comply with Fish and Game Code.
3. **Notification of Lake and Streambed Alteration:** Fish and Game Code §1602 requires an entity to notify CDFW prior to commencing any activity that may (a) substantially divert or obstruct the natural flow of any river, stream, or lake; (b) substantially change or use any material from the bed, bank, or channel of any river, stream, or lake; (c) deposit debris, waste or other materials that could pass into any river, stream, or lake. CDFW is required to comply with CEQA in the issuance of an LSA Agreement. For additional information, please see <https://www.wildlife.ca.gov/Conservation/LSA>.

Ms. Jessica Garner  
City of Milpitas  
August 17, 2020  
Page 8

CDFW recommends consulting with the U.S. Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS) on potential impacts to federally listed species. Consultation with the USFWS and NMFS in order to comply with FESA is advised well in advance of Project implementation.

## ENVIRONMENTAL DATA

CEQA requires that information developed in draft environmental impact reports be incorporated into a data base which may be used to make subsequent or supplemental environmental determinations. [Pub. Resources Code, § 21003, subd. (e)]. Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link:

<https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data#44524420-pdf-field-survey-form>.

The completed form can be mailed electronically to CNDDDB at the following email address: [CNDDDB@wildlife.ca.gov](mailto:CNDDDB@wildlife.ca.gov). The types of information reported to CNDDDB can be found at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

## FILING FEES

CDFW anticipates that the Project will have an impact on fish and/or wildlife, and assessment of filing fees is necessary (Fish and Game Code, § 711.4; Pub. Resources Code, § 21089). Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW.

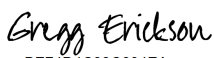
## CONCLUSION

CDFW appreciates the opportunity to comment on the NOP to assist the City of Milpitas in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Ms. Kristin Garrison, Environmental Scientist, at (707) 944-5534 or by email at [Kristin.Garrison@wildlife.ca.gov](mailto:Kristin.Garrison@wildlife.ca.gov); or Ms. Brenda Blinn, Senior Environmental Scientist (Supervisory), at (707) 944-5541 or by email at [Brenda.Blinn@wildlife.ca.gov](mailto:Brenda.Blinn@wildlife.ca.gov).

Sincerely,

DocuSigned by:

  
BE74D4C93C604EA...  
Gregg Erickson  
Regional Manager  
Bay Delta Region

cc: Office of Planning and Research, State Clearinghouse, Sacramento

Ms. Jessica Garner  
City of Milpitas  
August 17, 2020  
Page 9

## **LITERATURE CITED**

California Department of Fish and Wildlife (CDFW). 2020. Biogeographic Information and Observation System (BIOS). <https://www.wildlife.ca.gov/Data/BIOS>. Accessed August 6, 2020.

## Liz Medina

---

**From:** Frank Bush <frankinmilpitas@hotmail.com>  
**Sent:** Tuesday, August 11, 2020 11:20 AM  
**To:** Planning Meeting  
**Subject:** Please make the Hetch Hetchy trail a scenic trail/vista

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links.

Hello,

1. (Previously submitted) Designate the Hetch Hetchy trail as an official scenic resource to preserve and protect the views from the trail. What is the current status and what is required to establish this designation?
2. Put height restrictions on structures near residential neighborhoods in addition to F.A.R. limits.
3. The City should closely scrutinize and limit Conditional Use Permits and enforce adequate parking requirements for large projects near residential neighborhoods.
4. Use stringent criteria to decide which potential components of an EIR will actually be required in the EIR for a given project. Include community input in those decisions.
5. When setting requirements, consider current and projected future needs. For example, when evaluating parking requirements and traffic impacts, account for local usage patterns rather than using industry boilerplate/standards; a "gateway" city like Milpitas in the Bay Area is very different from a small town elsewhere in the country or the world.
6. Obtain timely and broad community input by informing residents about proposed projects that affect them as soon as possible, in proactive ways such as email and NextDoor.

Thank you,  
Frank Bush  
892 La Palma Pl, Milpitas CA 95035

## Liz Medina

---

**From:** Barbara Jo Navarro <navarro\_4@sbcglobal.net>  
**Sent:** Tuesday, August 11, 2020 11:21 AM  
**To:** Planning Meeting  
**Subject:** Please Respond

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links.

Thank you for your clear presentation:

Would it be possible to see the Issues and Opportunities Identification report. I believe this report was completed back in 2018 or earlier, please confirm.

How many residents participated in the online surveys that were conducted?

When looking at traffic, how did you perform your analysis? Did you look at actual traffic patterns?

Where can I find the market analysis?

Can you tell me when the EIR Public Review will begin, approximately?

How can we make comments on the issues if we don't know what they entail. Can you point me to a website that defines the elements you listed that will be in the EIR?

Barbara Navarro  
915 N. Hillview Drive

## MEMORANDUM

DATE: August 14, 2020

FROM: Mr. Joseph P. Leung, P.E., Property Manager  
Fiesta Plaza, 72 -112 Dempsey Road, Milpitas, 95035

TO: Ms. Jessica Garner, AICP  
Planning Manager, City of Milpitas  
Via email  
[planningmeeting@ci.milpitas.ca.gov](mailto:planningmeeting@ci.milpitas.ca.gov)

c.c.: Hon. Richard Tran, Mayor  
Via email

SUBJECT: Comments on Land Use Alternatives Report, (Report)  
Opportunity Area 9, Calaveras/Dempsey/Park Victoria

---

Please accept my appreciation of your leadership on Planning Department's diligent efforts sustaining Milpitas to prosperity as well as maintaining a safe and peaceful environment. As a decades-long stakeholder in Milpitas, I also thank you for the opportunity to comment on and place input to the Land Use Alternatives Report on Opportunity Area 9 where Firsta Plaza property interest dwells.

The comments and input as outlined in this memorandum are based on the findings from the Report's "Growth Potential findings", Table 2-18, Opportunity Area 9 Existing and New Development Potential, Exhibit I. My Comments/input are listed as follows -

- 1) **Deliverability of Development Potentials** – Challenge on Report for Opportunity Area 9 is to increase the number of dwelling units from 1 to 436 DU and non-residential square footage from 238,527 sf (square feet) to 416,836 sf an increase of 178,309 sf, 43% by changing the existing zoning of RSC, PAO, and GNC totaling 28.28 acres to Neighborhood Commercial, Mixed-Use, NCMU zoning. Based on this estimate of development potential, City will achieve targeted increase in employment, population growth, and tax revenue.

As the existing fully developed acreage of PAO and GNC zones totals to 11.12 Ac, development potential acreage will have to come from the remaining RSC zone areas of 17.15 Ac. Owners of the fully developed properties will find it feasible to re-developed their properties when they are fully depreciated and functionally obsolescent.

The non-residential development potential increase of 178,309 sf is unrealistic, given the existing PAO (6.12 acres) and GNC (5.02 acres) and the majority RSC (10.52 acres) zones are fully developed and/or undevelopable properties, such as public easements and miscellaneous zoning restrictions on non-residential developments.

The residential development potential increase of 436 DU would require 15.01 NCMU zoned acres at 1/1500 DU, a 53% conversion from existing RSC, PAO, and GNC zones of 28.28 acres does not appear to be "realistic" in the post Covid-19 era.

Continued.....

Please note that the number of residential units under the recommended NCMU change in Opp Area 9 can only come from a mere 5.25 acres (152 DU) as “shovel-ready” in the up coming three to five years. Please see Exhibit II, Potential RSC Acreage in Opportunity Area 9 for Development to NCMU. The report is prepared by me as part of my comment.

**2) Numbers of Residential vs. Nonresidential Targets Incompatible –**

The targeted 436 DU with 1461 population increase will provide the new 416,836 sf non-residential “neighborhood commercial” growth as it’s evident from the decade long business decay in some of the commercial zoned areas. Please note that various area-development programs in the past decades had failed to succeed as there was practically no adequate population/residential numbers to support the “neighborhood commercial” as indicated in Exhibit I, Growth potential findings, Table 2-18, Opportunity Area 9 Existing and New Development Potential.

**3) Summary –**

- a) The development potentials are not practical and not deliverable in today’s business and social-economical settings; more specifically, not in Opportunity Area 9.
- b) Though some targets could be achieved, it is not sustainable;
- c) Solution (1) - Consider changing the subject Opp Area 9 zoning of NCMU to BVMU, Boulevard Very High Density Mixed Use, zoning, or RRMU, Residential Retail High Density Mixed Use, due to the its location at Calaveras and Highway 680. This will attract large-scale development participation.
- d) Solution (2) - Planning shall take aggressive roles to consult the City with proactive policies to balance density, business growth, State and Federal’s mandates, and entitlement needs by updating its Planning Policies to keeping up with competitive neighboring Cities. These policies may include, but not limited to, higher FAR and density ratios, as well as new technologies implementation such as high pile parking structures, etc.



**Exhibit I - OPPORTUNITY AREA 9: CALAVERAS & NORTH PARK NEIGHBORHOOD  
 NODE/COMMERCIAL CENTER, CITY OF MILPITAS DOCUMENT**

**OPPORTUNITY AREA 9: CALAVERAS & NORTH PARK NEIGHBORHOOD  
 NODE/COMMERCIAL CENTER**

Setting: The Calaveras & North Park Neighborhood Node/ Commercial Center provides commercial services to residents living in the surrounding neighborhoods. The area is currently designated Retail Sub-Center (RSC 17.15 acres), Professional & Administrative Office (PAO 6.12 acres), and General Commercial (GNC 5.02 acres). Existing assessed non-residential development in this area totals approximately 238,527 square feet, including approximately 194,000 square feet of service retail and commercial service uses –including grocery, restaurant and service retail, and approximately 44,000 square feet of office uses. Structures within this area were constructed between 1963 to 1989 with 1982 being the median year of construction.

Vision: Under the Opportunity Area 9 Alternative, the center would change from the Retail Subcenter, (RSC) Professional & Administrative Office (PAO), and General Commercial (GNC) designations to the Neighborhood Center Mixed Use (NCMU) designation. The NCMU designation is intended to accommodate a mix of commercial and residential uses with an emphasis on commercial activity as the primary use, and residential and office uses allowed on a limited basis. Specifically, the designation supports retail, personal services, and offices that primarily serve the adjacent neighborhoods. This potential change is envisioned to encourage the center’s revitalization by providing opportunities for increased development intensities, while creating a more vibrant center through a land use mix that supports a pedestrian-oriented mixed-use environment. The NCMU designation allows for FAR’s up to 0.75, and up to 1 dwelling unit per 1,500 square feet of non-residential square footage (1DU/1500 Sq. Ft.).

Growth Potential: Table 2-18 below presents growth potential for this area under the Existing General Plan Alternative, and the Opportunity Area 9 Alternative. As shown in Table 2-18 under the Existing General Plan Alternative, the area could include an additional 93,258 square feet of office, and commercial retail development. Under the intensified land uses allowed by the Opportunity Area 9 Alternatives’ NCMU designation the area could include approximately 436 additional dwelling units and an additional 416,836 square feet of retail/service/commercial mixed-use development.

Table 20-18 – Opportunity Area 9 Existing and New Development Potential

Table 2-18: Opportunity Area 9 Existing and New Development Potential					
Land Use	Acres	Dwelling Units	Nonresidential Sq. Ft.	Population Increase <sup>2</sup>	Job Growth
Existing Assessed Conditions					
RSC, PAO, GNC	28.28	1	238,527	-	-
New Development Potential: Existing General Plan Alternative <sup>1</sup>					
RSC, PAO, GNC	28.28	-	93,258	-	241
New Development Potential: opportunity Area 9 Alternative 1					
NCMU	28.28	436	416,836	1,461	691
<sup>1</sup> Represent Net Potential Additional Units and Non-Residential Sq. Ft. <sup>2</sup> Assumes 3.35 Persons per Household. Note Multi-Family Mixed-Use Units may reduce HH size over time, and thus reduce this population projection					

**Exhibit 2 - Potential RSC Acreage in Opp Area 9 for Redevelopment to NCMU**

RSC ZONED, NCMU REDEVELOPMENT POTENTIAL in OPP AREA 9					
CURRENT ZONE	Acreage, appr.	Potential NCMU Development	Current Use	Redevelopment to NCMU Likelihood in Near Term	Remarks
AREA 9	GNC	5.02	General commercial	U	Developed properties
	PAO	6.12	Professional & Admin Office	U	Developed Properties
	RSC	17.15	Retail subcenter		
1	88-4- 56	1.28	Under longterm lease	U	Valani
2	88-4- 01	1.96	Strip mall	L	FiestaPlaza
3	88-4- 60	1.20	Vacant Land	L	Church
4	88-4- 76	0.29	Vacant Land	L	Church
5	88-4- 62	0.27	Vacant Land	L	Church
6	88-4- 61	0.67	Utility easement	U	S.C.V.W.D. (Govt Owned)
7	88-4-	0.08	Utility easement	U	S.C.V.W.D. (Govt Owned)
8	88-4- 77	1.53	Church	L	Church
9	88-4- 75	0.62	Strip mall	U	Tong
10	88-4 48	0.62	Strip Mall	U	Tong
11		8.64	Outside APN 88-4	U	Developed non-residential and govt-owned properties
		<b>Likely Redevelopment Potential</b>	<b>5.25</b>	<b>U - Unlikely</b> <b>L - Likely available for NCMU development</b>	

Disclaimer: - Data contained herein are prepared by Joseph Leung and obtained from public sources for comments to City of Milpitas, and not for any other unintended consumption nor communication.

**DEPARTMENT OF TRANSPORTATION**

DISTRICT 4  
OFFICE OF TRANSIT AND COMMUNITY PLANNING  
P.O. BOX 23660, MS-10D  
OAKLAND, CA 94623-0660  
PHONE (510) 286-5528  
TTY 711  
www.dot.ca.gov



*Making Conservation  
a California Way of Life.*

August 13, 2020

SCH # 2020070348  
GTS # 04-SCL-2020-00775  
GTS ID: 20124  
Co/Rt/Pm: SCL/VAR/VAR

Jessica Garner, Planning Manager  
City of Milpitas  
455 E. Calaveras Blvd.  
Milpitas, CA 95035

**Milpitas General Plan Update – Notice of Preparation (NOP)**

Dear Jessica Garner:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the Milpitas General Plan Update. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system. The following comments are based on our review of the July 2020 NOP.

***Project Understanding***

The City of Milpitas is preparing a comprehensive update to its existing General Plan, which includes a comprehensive set of goals, policies and actions, as well as a revised land use map. The updated Milpitas General Plan will guide the City's development and conservation through land use objectives and policy guidance. With 2040 assumed to be the buildout year, the General Plan will accommodate future growth in Milpitas, including new business, expansion of existing businesses, and new residential uses. The buildout of the General Plan could yield a total of up to 33,401 housing units, a population of 113,530 people, 47,737,536 square feet (s.f.) of non-residential building square footage, and 84,333 jobs within the Planning Area.

The City of Milpitas is located in the northern portion of Santa Clara County. Most land within the city is situated between I-880 and I-680 that run north/south and bisect the city. State Route (SR)-237 runs east/west through the city.

Jessica Garner, Planning manager

August 13, 2020

Page 2

### **Highway Operations**

The traffic operations analysis shall include intersections, ramps, and freeway segments of State facilities. Impacts due to the added trips from the General Plan on freeways and State Routes, including I-880, I-680, and SR-237, shall be analyzed in the DEIR. If there are potential impacts on these facilities, mitigation measures should be identified in the report.

### **Travel Demand Analysis**

With the enactment of Senate Bill (SB) 743, Caltrans is focusing on transportation infrastructure that supports smart growth and efficient development to ensure alignment with State policies using efficient development patterns, innovative travel demand reduction strategies, multimodal improvements, and VMT as the primary transportation impact metric. When available, Caltrans encourages the City of Milpitas to share the VMT policies and thresholds.

### **Lead Agency**

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

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Yunsheng Luo at [Yunsheng.Luo@dot.ca.gov](mailto:Yunsheng.Luo@dot.ca.gov). Additionally, for future notifications and requests for review of new projects, please contact [LDIGR-D4@dot.ca.gov](mailto:LDIGR-D4@dot.ca.gov).

Sincerely,



Mark Leong  
District Branch Chief  
Local Development - Intergovernmental Review

cc: State Clearinghouse



## NATIVE AMERICAN HERITAGE COMMISSION

July 20, 2020

Jessica Garner, Planning Manager  
City of Milpitas  
455 East Calaveras Boulevard  
Milpitas, CA 95035

**Re: 2020070348, Milpitas General Plan Update Project, Santa Clara County**

Dear Ms. Garner:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, § 15064.5 (b) (CEQA Guidelines § 15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines § 15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

**Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.**

CHAIRPERSON  
**Laura Miranda**  
Luiseño

VICE CHAIRPERSON  
**Reginald Pagaling**  
Chumash

SECRETARY  
**Merri Lopez-Keifer**  
Luiseño

PARLIAMENTARIAN  
**Russell Attebery**  
Karuk

COMMISSIONER  
**Marshall McKay**  
Wintun

COMMISSIONER  
**William Mungary**  
Paiute/White Mountain  
Apache

COMMISSIONER  
**Julie Tumamait-  
Stenslie**  
Chumash

COMMISSIONER  
**[Vacant]**

COMMISSIONER  
**[Vacant]**

EXECUTIVE SECRETARY  
**Christina Snider**  
Pomo

**NAHC HEADQUARTERS**  
1550 Harbor Boulevard  
Suite 100  
West Sacramento,  
California 95691  
(916) 373-3710  
[nahc@nahc.ca.gov](mailto:nahc@nahc.ca.gov)  
NAHC.ca.gov

## AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

**1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project:**

Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:

- a. A brief description of the project.
- b. The lead agency contact information.
- c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
- d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).

**2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report:**

A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).

- a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).

**3. Mandatory Topics of Consultation If Requested by a Tribe:** The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:

- a. Alternatives to the project.
- b. Recommended mitigation measures.
- c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).

**4. Discretionary Topics of Consultation:** The following topics are discretionary topics of consultation:

- a. Type of environmental review necessary.
- b. Significance of the tribal cultural resources.
- c. Significance of the project's impacts on tribal cultural resources.
- d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).

**5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process:** With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).

**6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document:** If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:

- a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
- b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

- 7. Conclusion of Consultation:** Consultation with a tribe shall be considered concluded when either of the following occurs:
- a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
  - b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
- 8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document:** Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
- 9. Required Consideration of Feasible Mitigation:** If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
- 10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:**
- a. Avoidance and preservation of the resources in place, including, but not limited to:
    - i. Planning and construction to avoid the resources and protect the cultural and natural context.
    - ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
  - b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
    - i. Protecting the cultural character and integrity of the resource.
    - ii. Protecting the traditional use of the resource.
    - iii. Protecting the confidentiality of the resource.
  - c. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
  - d. Protecting the resource. (Pub. Resource Code §21084.3 (b)).
  - e. Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
  - f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
- 11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource:** An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
- a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
  - b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
  - c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: [http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation\\_CalEPAPDF.pdf](http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf)

## SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: [https://www.opr.ca.gov/docs/09\\_14\\_05\\_Updated\\_Guidelines\\_922.pdf](https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf).

Some of SB 18's provisions include:

1. **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation.** There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation:** Consultation should be concluded at the point in which:
  - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
  - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>.

### NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center ([http://ohp.parks.ca.gov/?page\\_id=1068](http://ohp.parks.ca.gov/?page_id=1068)) for an archaeological records search. The records search will determine:
  - a. If part or all of the APE has been previously surveyed for cultural resources.
  - b. If any known cultural resources have already been recorded on or adjacent to the APE.
  - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
  - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
  - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.



3. Contact the NAHC for:
  - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
  - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
  
4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
  - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
  - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
  - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email address: [Nancy.Gonzalez-Lopez@nahc.ca.gov](mailto:Nancy.Gonzalez-Lopez@nahc.ca.gov).

Sincerely,



Nancy Gonzalez-Lopez  
Cultural Resources Analyst

cc: State Clearinghouse



## Appendix B – Noise Report

## Appendix A: Acoustical Terminology

<b>Acoustics</b>	The science of sound.
<b>Ambient Noise</b>	The distinctive acoustical characteristics of a given space consisting of all noise sources audible at that location. In many cases, the term ambient is used to describe an existing or pre-project condition such as the setting in an environmental noise study.
<b>ASTC</b>	Apparent Sound Transmission Class. Similar to STC but includes sound from flanking paths and correct for room reverberation. A larger number means more attenuation. The scale, like the decibel scale for sound, is logarithmic.
<b>Attenuation</b>	The reduction of an acoustic signal.
<b>A-Weighting</b>	A frequency-response adjustment of a sound level meter that conditions the output signal to approximate human response.
<b>Decibel or dB</b>	Fundamental unit of sound, A Bell is defined as the logarithm of the ratio of the sound pressure squared over the reference pressure squared. A Decibel is one-tenth of a Bell.
<b>CNEL</b>	Community Noise Equivalent Level. Defined as the 24-hour average noise level with noise occurring during evening hours (7 - 10 p.m.) weighted by +5 dBA and nighttime hours weighted by +10 dBA.
<b>DNL</b>	See definition of Ldn.
<b>IIC</b>	Impact Insulation Class. An integer-number rating of how well a building floor attenuates impact sounds, such as footsteps. A larger number means more attenuation. The scale, like the decibel scale for sound, is logarithmic.
<b>Frequency</b>	The measure of the rapidity of alterations of a periodic signal, expressed in cycles per second or hertz (Hz).
<b>Ldn</b>	Day/Night Average Sound Level. Similar to CNEL but with no evening weighting.
<b>Leq</b>	Equivalent or energy-averaged sound level.
<b>Lmax</b>	The highest root-mean-square (RMS) sound level measured over a given period of time.
<b>L(n)</b>	The sound level exceeded a described percentile over a measurement period. For instance, an hourly L50 is the sound level exceeded 50% of the time during the one-hour period.
<b>Loudness</b>	A subjective term for the sensation of the magnitude of sound.
<b>NIC</b>	Noise Isolation Class. A rating of the noise reduction between two spaces. Similar to STC but includes sound from flanking paths and no correction for room reverberation.
<b>NNIC</b>	Normalized Noise Isolation Class. Similar to NIC but includes a correction for room reverberation.
<b>Noise</b>	Unwanted sound.
<b>NRC</b>	Noise Reduction Coefficient. NRC is a single-number rating of the sound-absorption of a material equal to the arithmetic mean of the sound-absorption coefficients in the 250, 500, 1000, and 2,000 Hz octave frequency bands rounded to the nearest multiple of 0.05. It is a representation of the amount of sound energy absorbed upon striking a particular surface. An NRC of 0 indicates perfect reflection; an NRC of 1 indicates perfect absorption.
<b>RT60</b>	The time it takes reverberant sound to decay by 60 dB once the source has been removed.
<b>Sabin</b>	The unit of sound absorption. One square foot of material absorbing 100% of incident sound has an absorption of 1 Sabin.
<b>SEL</b>	Sound Exposure Level. SEL is a rating, in decibels, of a discrete event, such as an aircraft flyover or train pass by, that compresses the total sound energy into a one-second event.
<b>SPC</b>	Speech Privacy Class. SPC is a method of rating speech privacy in buildings. It is designed to measure the degree of speech privacy provided by a closed room, indicating the degree to which conversations occurring within are kept private from listeners outside the room.
<b>STC</b>	Sound Transmission Class. STC is an integer rating of how well a building partition attenuates airborne sound. It is widely used to rate interior partitions, ceilings/floors, doors, windows and exterior wall configurations. The STC rating is typically used to rate the sound transmission of a specific building element when tested in laboratory conditions where flanking paths around the assembly don't exist. A larger number means more attenuation. The scale, like the decibel scale for sound, is logarithmic.
<b>Threshold of Hearing</b>	The lowest sound that can be perceived by the human auditory system, generally considered to be 0 dB for persons with perfect hearing.
<b>Threshold of Pain</b>	Approximately 120 dB above the threshold of hearing.
<b>Impulsive</b>	Sound of short duration, usually less than one second, with an abrupt onset and rapid decay.
<b>Simple Tone</b>	Any sound which can be judged as audible as a single pitch or set of single pitches.



## Appendix B: Traffic Noise Calculation Inputs and Results



**Appendix B-1**

**FHWA-RD-77-108 Highway Traffic Noise Prediction Model**

Project #: 200702

Description Milpitas General Plan Update - Existing



Segment	Roadway	Segment	ADT	Day %	Eve %	Night %	% Med. Trucks	% Hvy. Trucks	Speed	Distance	Offset (dB)	Contours (ft.) - No			Level, dBA
												Offset			
												60 dBA	65 dBA	70 dBA	
1	Dixon Landing Rd.	E. of I-880	26,220	83	0	17	2.0%	1.0%	40	70	0	251	116	54	68.3
2	Dixon Landing Rd.	W. of N. Milpitas Blvd.	16,690	83	0	17	2.0%	1.0%	40	55	0	186	86	40	67.9
3	Dixon Landing Rd.	E. of N. Milpitas Blvd.	8,160	83	0	17	2.0%	1.0%	45	55	0	139	65	30	66.1
4	N. Milpitas Blvd.	N. of Dixon Landing Rd.	18,310	83	0	17	2.0%	1.0%	45	75	0	239	111	51	67.5
5	N. Milpitas Blvd.	Dixon Landing to Jacklin	15,380	83	0	17	2.0%	1.0%	45	65	0	213	99	46	67.7
6	N. Milpitas Blvd.	Jacklin to Calveras	9,870	83	0	17	2.0%	1.0%	45	60	0	158	73	34	66.3
7	S. Milpitas Blvd.	Calaveras to Montague	12,720	83	0	17	2.0%	1.0%	45	60	0	187	87	40	67.4
8	North Abel Str.	W. of N. Milpitas Blvd.	17,550	83	0	17	2.0%	1.0%	35	70	0	156	72	34	65.2
9	Jacklin Rd.	E. of N. Milpitas Blvd.	13,630	83	0	17	2.0%	1.0%	35	75	0	132	61	28	63.7
10	Jacklin Rd./Evans Rd.	E. of N. Park Victoria Dr.	16,500	83	0	17	2.0%	1.0%	35	55	0	150	69	32	66.5
11	W. Calaveras Blvd.	W. of S. Abbott Ave.	47,750	83	0	17	2.0%	1.0%	45	130	0	453	210	97	68.1
12	W. Calaveras Blvd.	E. of S. Abbott Ave.	42,550	83	0	17	2.0%	1.0%	45	75	0	419	195	90	71.2
13	W. Calaveras Blvd.	W. of S. Abel St.	35,050	83	0	17	2.0%	1.0%	45	60	0	368	171	79	71.8
14	E. Calaveras Blvd.	W. of S. Milpitas Blvd.	33,070	83	0	17	2.0%	1.0%	40	130	0	293	136	63	65.3
15	E. Calaveras Blvd.	E. of S. Milpitas Blvd.	30,530	83	0	17	2.0%	1.0%	40	105	0	278	129	60	66.3
16	E. Calaveras Blvd.	E. of S. Park Victoria Dr.	16,920	83	0	17	2.0%	1.0%	40	65	0	187	87	40	66.9
17	E. Tasman Dr.	W. of McCarthy Blvd.	26,530	83	0	17	2.0%	1.0%	45	150	0	306	142	66	64.6
18	E. Tasman Dr.	E. of McCarthy Blvd	18,970	83	0	17	2.0%	1.0%	45	140	0	245	114	53	63.6
19	E. Tasman Dr.	Alder Dr. to I-880	38,414	83	0	17	2.0%	1.0%	45	240	0	391	182	84	63.2
20	Great Mall Pkwy	I-880 to S. Abel St.	37,058	83	0	17	2.0%	1.0%	40	120	0	316	147	68	66.3
21	Great Mall Pkwy	S. Abel St. to S. Main St.	32,507	83	0	17	2.0%	1.0%	40	115	0	290	134	62	66.0
22	Great Mall Pkwy	S. Main St. to McCandless Dr.	34,273	83	0	17	2.0%	1.0%	40	205	0	300	139	65	62.5
23	Great Mall Pkwy	E. of McCandless Dr.	24,370	83	0	17	2.0%	1.0%	40	140	0	239	111	51	63.5
24	Great Mall Pkwy	W. of Montague Expy	27,530	83	0	17	2.0%	1.0%	40	140	0	259	120	56	64.0
25	E. Capitol Ave	E. of Montague Expy	36,530	83	0	17	2.0%	1.0%	40	90	0	313	145	67	68.1
26	Montague Expy	E. Capitol Ave. to S. Milpitas Blvd.	27,810	83	0	17	2.0%	1.0%	40	125	0	261	121	56	64.8
27	Montague Expy	E. Capitol Ave. to Trade Zone Blvd.	21,270	83	0	17	2.0%	1.0%	45	110	0	264	123	57	65.7
28	Montague Expy	S. Milpitas to I-680	24,790	83	0	17	2.0%	1.0%	40	275	0	242	112	52	59.2
29	Landess Ave.	East of 680	26,480	83	0	17	2.0%	1.0%	35	120	0	205	95	44	63.5
30	Montague Expy	W. of O'Toole Ave.	57,850	83	0	17	2.0%	1.0%	45	140	0	514	239	111	68.5
31	Montague Expy	O'Toole Ave. to I-880	56,560	83	0	17	2.0%	1.0%	45	140	0	507	235	109	68.4
32	Montague Expy	I-880 to S. Main St.	50,150	83	0	17	2.0%	1.0%	45	150	0	468	217	101	67.4
33	Montague Expy	S. Main St. to McCandless Dr.	50,820	83	0	17	2.0%	1.0%	45	100	0	472	219	102	70.1
34	SR 237	Citywide	160,415	77	0	23	3.0%	3.0%	65	300	0	2395	1112	516	73.5
35	SR 680	Citywide	169,131	82	0	18	2.0%	3.0%	65	150	0	2197	1020	473	77.5
36	SR 880	Citywide	288,327	77	0	23	2.0%	2.0%	65	150	0	3339	1550	719	80.2

**Appendix B-2**

**FHWA-RD-77-108 Highway Traffic Noise Prediction Model**

Project #: 200702

Description Milpitas General Plan Update - 2040 PLUP



Segment	Roadway	Segment	ADT	Day %	Eve %	Night %	% Med. Trucks	% Hvy. Trucks	Speed	Distance	Offset (dB)	Contours (ft.) - No Offset			Level, dBA
												60 dBA	65 dBA	70 dBA	
1	Dixon Landing Rd.	E. of I-880	38,670	83	0	17	2.0%	1.0%	40	70	0	325	151	70	70.0
2	Dixon Landing Rd.	W. of N. Milpitas Blvd.	33,118	83	0	17	2.0%	1.0%	40	55	0	293	136	63	70.9
3	Dixon Landing Rd.	E. of N. Milpitas Blvd.	12,465	83	0	17	2.0%	1.0%	45	55	0	185	86	40	67.9
4	N. Milpitas Blvd.	N. of Dixon Landing Rd.	28,898	83	0	17	2.0%	1.0%	45	75	0	324	150	70	69.5
5	N. Milpitas Blvd.	Dixon Landing to Jacklin	29,778	83	0	17	2.0%	1.0%	45	65	0	330	153	71	70.6
6	N. Milpitas Blvd.	Jacklin to Calveras	15,493	83	0	17	2.0%	1.0%	45	60	0	214	99	46	68.3
7	S. Milpitas Blvd.	Calaveras to Montague	19,691	83	0	17	2.0%	1.0%	45	60	0	251	116	54	69.3
8	North Abel Str.	W. of N. Milpitas Blvd.	28,340	83	0	17	2.0%	1.0%	35	70	0	214	100	46	67.3
9	Jacklin Rd.	E. of N. Milpitas Blvd.	15,394	83	0	17	2.0%	1.0%	35	75	0	143	66	31	64.2
10	Jacklin Rd./Evans Rd.	E. of N. Park Victoria Dr.	18,782	83	0	17	2.0%	1.0%	35	55	0	163	76	35	67.1
11	W. Calaveras Blvd.	W. of S. Abbott Ave.	75,457	83	0	17	2.0%	1.0%	45	130	0	614	285	132	70.1
12	W. Calaveras Blvd.	E. of S. Abbott Ave.	70,050	83	0	17	2.0%	1.0%	45	75	0	584	271	126	73.4
13	W. Calaveras Blvd.	W. of S. Abel St.	59,087	83	0	17	2.0%	1.0%	45	60	0	522	242	112	74.1
14	E. Calaveras Blvd.	W. of S. Milpitas Blvd.	60,849	83	0	17	2.0%	1.0%	40	130	0	440	204	95	67.9
15	E. Calaveras Blvd.	E. of S. Milpitas Blvd.	53,319	83	0	17	2.0%	1.0%	40	105	0	403	187	87	68.8
16	E. Calaveras Blvd.	E. of S. Park Victoria Dr.	37,487	83	0	17	2.0%	1.0%	40	65	0	318	148	69	70.4
17	E. Tasman Dr.	W. of McCarthy Blvd.	30,979	83	0	17	2.0%	1.0%	45	150	0	339	157	73	65.3
18	E. Tasman Dr.	E. of McCarthy Blvd	24,011	83	0	17	2.0%	1.0%	45	140	0	286	133	62	64.7
19	E. Tasman Dr.	Alder Dr. to I-880	38,414	83	0	17	2.0%	1.0%	45	240	0	391	182	84	63.2
20	Great Mall Pkwy	I-880 to S. Abel St.	52,475	83	0	17	2.0%	1.0%	40	120	0	398	185	86	67.8
21	Great Mall Pkwy	S. Abel St. to S. Main St.	42,504	83	0	17	2.0%	1.0%	40	115	0	346	161	75	67.2
22	Great Mall Pkwy	S. Main St. to McCandless Dr.	50,964	83	0	17	2.0%	1.0%	40	205	0	391	181	84	64.2
23	Great Mall Pkwy	E. of McCandless Dr.	36,378	83	0	17	2.0%	1.0%	40	140	0	312	145	67	65.2
24	Great Mall Pkwy	W. of Montague Expy	45,442	83	0	17	2.0%	1.0%	40	140	0	362	168	78	66.2
25	E. Capitol Ave	E. of Montague Expy	47,370	83	0	17	2.0%	1.0%	40	90	0	372	173	80	69.2
26	Montague Expy	E. Capitol Ave. to S. Milpitas Blvd.	46,209	83	0	17	2.0%	1.0%	40	125	0	366	170	79	67.0
27	Montague Expy	E. Capitol Ave. to Trade Zone Blvd.	47,222	83	0	17	2.0%	1.0%	45	110	0	449	208	97	69.2
28	Montague Expy	S. Milpitas to I-680	42,758	83	0	17	2.0%	1.0%	40	275	0	348	161	75	61.5
29	Landess Ave.	East of 680	36,613	83	0	17	2.0%	1.0%	35	120	0	254	118	55	64.9
30	Montague Expy	W. of O'Toole Ave.	98,465	83	0	17	2.0%	1.0%	45	140	0	733	340	158	70.8
31	Montague Expy	O'Toole Ave. to I-880	71,441	83	0	17	2.0%	1.0%	45	140	0	592	275	128	69.4
32	Montague Expy	I-880 to S. Main St.	80,241	83	0	17	2.0%	1.0%	45	150	0	640	297	138	69.4
33	Montague Expy	S. Main St. to McCandless Dr.	84,006	83	0	17	2.0%	1.0%	45	100	0	660	306	142	72.3
34	SR 237	Citywide	197,378	77	0	23	3.0%	3.0%	65	300	0	2750	1276	592	74.4
35	SR 680	Citywide	234,033	82	0	18	2.0%	3.0%	65	150	0	2729	1267	588	78.9
36	SR 880	Citywide	349,587	77	0	23	2.0%	2.0%	65	150	0	3796	1762	818	81.0





# Appendix C – Buildout Water Demands and Wastewater Flows Technical Memorandum



## TECHNICAL MEMORANDUM

DATE: August 10, 2020 Project No.: 487-10-16-08  
SENT VIA: EMAIL

TO: Ben Ritchie, De Novo Planning Group

FROM: Doug Moore, PE, RCE #58122

REVIEWED BY: Elizabeth Drayer, PE, RCE #46872

SUBJECT: City of Milpitas General Plan Update  
Buildout Water Demands and Wastewater Flows

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This Technical Memorandum (TM) presents buildout land use information, water demands, and wastewater flows to support the City of Milpitas's (City) General Plan Update Environmental Impact Report (EIR). In addition to data from De Novo Planning Group (De Novo), this TM relies on information from the City's 2020 Water Master Plan Update (2020 WMPU) (currently in progress) and 2009 Sewer Master Plan Update (2009 SMPU). West Yost Associates (West Yost) is preparing the 2020 WMPU. RMC Water and Environment (RMC) prepared the 2009 SMPU. Also, HydroScience Engineers, Inc. (HydroScience) is preparing a 2020 Wastewater Master Plan Update (2020 WWMPU). Although the 2020 WMPU has not yet been completed, data from the 2020 WMPU was available for inclusion in this TM. However, data from the 2020 WWMPU was not available for inclusion in this TM.

This TM includes the following sections:

- Future Land Use
- Potable Water Demands
- Wastewater Flows

### FUTURE LAND USE

Future buildout utility demands can be estimated using two methods. Both methods are used for evaluating the buildout water demand. The buildout wastewater flow was estimated using only Method 1.

1. Method 1 – Using the General Plan Update (GPU) Buildout Land Use Table. The GPU identifies the City-wide buildout land uses, designating a future land use for all parcels

within the City’s limits and Sphere of Influence (SOI). This information is presented in Table 1 and is used to estimate the total City-wide water demands and wastewater flows. The water demands and wastewater flow estimates presented in this TM are for the City Limits only and do not include demands and flows for the SOI land uses.

Category	General Plan Land Use	Abbreviation	Acres – City Limits	Acres – SOI	Total Acres
Residential	Hillside Very Low Density	HVL	607.63	3,690.18	4,297.81
	Hillside Low Density	HLD	391.04		391.04
	Hillside Medium Density	HMD	239.00		239.00
	Low Density Residential	LDR	1,491.12	0.85	1,491.96
	Medium Density Residential	MDR	305.14		305.14
	High Density Residential	HDR	229.74		229.74
	Very High Density Residential	VHDR	21.79		21.79
	Mobile Home Park	MHP	53.11		53.11
Mixed Use	Neighborhood Commercial Mixed Use	NCMU	140.34		140.34
	Town Center	TWC	133.58		133.58
	Very High Density Mixed Use	VHDMU	3.00		3.00
Commercial	General Commercial	GNC	155.35		155.35
	Neighborhood Commercial	NC	27.28		27.28
Industrial	Industrial Park	INP	224.82		224.82
	Manufacturing	MFG	505.74		505.74
	Business Park/Research & Development	BPRD	630.88		630.88
Specific Plan	Midtown Specific Plan	MSP	496.64		496.64
	Transit Area Specific Plan	TASP	366.20		366.20
Public	Public Facilities	PF	229.60		229.60
	Permanent Open Space	POS	963.38	1,322.07	2,285.45
	ROW	ROW	56.30	4.54	60.83
	Waterway	WW	37.82		37.82
<b>Total</b>			<b>7,309.50</b>	<b>5,017.64</b>	<b>12,327.14</b>

- Method 2 – Using Growth Areas. Because the GPU is not yet complete, the on-going 2020 WMPU and 2020 WWMPU are evaluating future growth areas as identified by the City Planning Department. In the 2020 WMPU and the 2020 WWMPU, the water demands and wastewater flows for these growth areas will be added to the 2019 City-wide actual water demands and estimated wastewater flows to estimate the buildout demands and flows. With specific direction from the City and information from De Novo, the Master

Plans specifically include anticipated development in smaller projects (Opportunity Areas) throughout the City, in addition to two large planning areas (Midtown and Transit Area). A key outcome of this coordination with the City Planning Department was developing a range of potential future dwelling units (DU) and non-residential square footage for each growth area. The Master Plans then assigned a land use designation based on the housing density and floor area ratio ranges. To be conservative, the high end of each range is being used in the Master Plan buildout water demand and wastewater flow estimates. This second approach is used for estimating the buildout water demand, but because the wastewater flow factors are not yet finalized, this method cannot be used for the wastewater buildout flow estimate.

## POTABLE WATER DEMANDS

In this section, the City-wide water demands are estimated based on the GPU buildout land uses (Method 1). This estimated City-wide water demand is then compared with the City-wide water demand estimated in the 2020 WMPU (Method 2) and projected water supplies.

### General Plan Update Land Use Based Water Demand (Method 1)

Buildout potable water demands were estimated based on water use factors (WUFs) recommended in the 2020 WMPU. These WUFs represent typical water use for each General Plan Land Use (GPLU) designation and were developed from actual consumption data for calendar year 2019. Table 2 presents the WUFs, which are in units of gallons per day per acre (gpd/ac) and organized by land use category. Table 2 includes existing land uses that have been renamed or combined with other land uses in the GPU.

As shown in Table 3, applying the recommended WUFs to the acreages in Table 1 yields a total water demand of approximately 13.1 million gallons per day (mgd) (14,700 acre-feet per year (af/yr)). This includes an 8 percent adjustment for unaccounted-for water (UAFW), which is consistent with the 2020 WMPU. Table 3 summarizes the demand calculation process for each GPLU.

Because the Midtown and Transit Area are unique mixed-use planning areas, no applicable WUF could be developed from existing consumption data. Instead, Table 3 uses estimated demands directly from the 2020 WMPU. These demands were estimated by splitting each planning area into land use-specific components and then applying the corresponding WUF to that component area. As described above, this process was coordinated closely with the City and HydroScience to ensure consistency for the Master Plan updates.

Large water users, defined in the 2020 WMPU as customers using at least 30,000 gpd, were also separately accounted for in Table 3. Table 3 includes the calendar year 2019 demand for these large water users (as identified in the 2020 WMPU) when projecting buildout potable water demands.

**Table 2. Recommended Water Use Factors from 2020 Water Master Plan Update**

Category	General Plan Land Use	Abbreviation	Recommended WUF, gpd/ac
Residential	Hillside Very Low Density	HVL	300
	Hillside Low Density	HLD	300
	Hillside Medium Density	HMD	600
	Low Density Residential	LDR	1,300
	Single Family Medium Density	SMD	2,400
	Medium Density Residential	MDR	2,300
	High Density Residential	HDR	4,500
	Very High Density Residential	VHDR	9,000
	Urban Residential	URR	4,500
	Mobile Home Park	MHP	825
Mixed Use	Mixed Use	MXD	10,890
	Residential Retail High Density Mixed Use	RRMU	10,890
	Very High Density Mixed Use	VHDMU	10,890
	Neighborhood Commercial Mixed Use	NCMU	2,100
	Town Center	TWC	2,100
Commercial	Professional & Administrative Office	PAO	3,200
	Retail Subcenter	RSC	2,800
	General Commercial	GNC	1,400
	Highway Service	HWS	2,000
	Neighborhood Commercial	NC	1,400
Industrial	Manufacturing	MFG	2,000
	Industrial Park	INP	400
	Business Park/Research & Development	BPRD	400
Public	Public Facilities	PF	600
	Permanent Open Space	POS	1,300
	ROW <sup>(a)</sup>	ROW	0
	Waterway	WW	1,300

(a) A WUF for ROW was not developed in the 2020 WMPU. It is assumed to be zero.

**Table 3. Buildout Potable Water Demand Projection Based on General Plan**

Category	General Plan Land Use	Proposed Buildout Acreage	Recommended WUF, gpd/ac	Demand, gpd	UAFW <sup>(a)</sup> , gpd	Total Demand, gpd	Total Demand, af/yr
Residential	Hillside Very Low Density	607.63	300	182,289	15,851	198,140	222
	Hillside Low Density	391.04	300	117,312	10,201	127,513	143
	Hillside Medium Density	239.00	600	143,400	12,470	155,870	175
	Low Density Residential	1,491.12	1,300	1,938,456	168,561	2,107,017	2,360
	Medium Density Residential	305.14	2,300	701,822	61,028	762,850	855
	High Density Residential	229.74	4,500	1,033,830	89,898	1,123,728	1,259
	Very High Density Residential	21.79	9,000	196,110	17,053	213,163	239
	Mobile Home Park	53.11	825	43,816	3,810	47,626	53
Mixed Use	Neighborhood Commercial Mixed Use	140.34	2,100	294,714	25,627	320,341	359
	Town Center	133.58	2,100	280,518	24,393	304,911	342
	Very High Density Mixed Use	3.00	10,890	32,670	2,841	35,511	40
Commercial	General Commercial	155.35	1,400	217,490	18,912	236,402	265
	Neighborhood Commercial	27.28	1,400	38,192	3,321	41,513	47
Manufacturing and Industrial Business Park	Industrial Park	224.82	400	89,928	7,820	97,748	109
	Manufacturing	505.74	2,000	1,011,480	87,955	1,099,435	1,232
	Business Park/Research & Development	630.88	400	252,352	21,944	274,296	307
Specific Plan	Midtown Specific Plan	496.64	-- <sup>(b)</sup>	1,297,910	112,862	1,410,772	1,580
	Transit Area Specific Plan	366.20	-- <sup>(b)</sup>	1,487,557	129,353	1,616,910	1,811
Public	Public Facilities	229.60	600	137,760	11,979	149,739	168
	Permanent Open Space	963.38	1,300	1,252,394	108,904	1,361,298	1,525
	ROW	56.30	0	0	0	0	0
	Waterway	37.82	1,300	49,166	4,275	53,441	60
Large Water Users <sup>(c)</sup>		--	--	1,248,376	108,554	1,356,930	1,520
<b>Total</b>		<b>7,309.50</b>	<b>--</b>	<b>12,047,542</b>	<b>1,047,612</b>	<b>13,095,154</b>	<b>14,668</b>

(a) Consistent with the 2020 WMPU, UAFW is assumed to be 8 percent.

(b) Midtown and Transit Area consist of multiple land use types. Demands for these areas are from Table 4.

(c) Per the 2020 WMPU, large water users are customers using at least 30,000 gpd. Demand for large water users is based on actual 2019 billed consumption.



## **Comparison with 2020 Water Master Plan Update (Method 2)**

The 2020 WMPU projects buildout potable water demands to be approximately 13.7 mgd. As summarized in Table 4, the 2020 WMPU demand was estimated by starting with the 2019 water demand and adding the water demand estimated for the future growth areas. This “Growth Area” estimate compares very closely (within 4.4 percent) with the GPU land use-based water demand of 13.1 mgd.

## **Comparison with Projected Water Supply**

The City will have adequate water supply to serve the buildout GPU land uses. Per the 2015 Urban Water Management Plan (UWMP), the City projects combined supplies from the San Francisco Public Utilities Commission (SFPUC) and Valley Water (VW) to be approximately 14.5 mgd in 2025. By 2040, the buildout time horizon in the 2020 WMPU, combined SFPUC and VW supplies are projected to be over 17.5 mgd. Thus, the available water supply of 17.5 mgd exceeds the estimated buildout water demands (13.1 mgd per the land use-based method and 13.7 mgd per the 2020 WMPU).

**Table 4. Buildout Potable Water Demand Projection Based on Growth Areas<sup>(a)</sup>**

Development	Total Acres	GPLU Designation	WUF, gpd/ac	Demand, gpd	Demand, mgd
<b>Opportunity Areas - Residential</b>					
Sunny Hills Neighborhood Node/Commercial Center	19.92	NCMU	2,100	41,832	0.04
California Circle	54.10	NCMU	2,100	113,610	0.11
California Circle	18.26	HDR	4,500	82,170	0.08
Landess Neighborhood Node/Commercial Center	38.03	NCMU	2,100	79,863	0.08
Calaveras & North Park Neighborhood Node/Commercial Center	28.28	NCMU	2,100	59,388	0.06
Milpitas Town Center	38.07	HDR	4,500	171,315	0.17
<b>Subtotal</b>				<b>548,178</b>	<b>0.55</b>
<b>Opportunity Areas - Non-Residential</b>					
McCarthy Ranch Industrial Area	192.29	INP	400	76,916	0.08
Southwestern Employment Area	488.26	BPRD	400	195,304	0.20
Central Manufacturing Area - South	26.49	VHDMU	10,890	288,476	0.29
Central Manufacturing Area - North	492.14	MFG	2,000	984,280	0.98
Jacklin & 680 Neighborhood Node/Commercial Center - East	7.95	NC	1,400	11,130	0.01
Jacklin & 680 Neighborhood Node/Commercial Center - West	6.42	NC	1,400	8,988	0.01
Jacklin Neighborhood Node/Commercial Center	9.79	NC	1,400	13,706	0.01
<b>Subtotal</b>				<b>1,578,800</b>	<b>1.58</b>
<b>Midtown Specific Plan (MSP)</b>					
HDR Subset of Midtown	42.48	HDR	4,500	191,160	0.19
VHDR Subset of Midtown	25.48	VHDR	9,000	229,320	0.23
MDR Subset of Midtown	64.50	MDR	2,300	148,350	0.15
Non-Residential Subset of Midtown	364.54	MFG	2,000	729,080	0.73
<b>Subtotal</b>				<b>1,297,910</b>	<b>1.30</b>
<b>Transit Area Specific Plan (TASP)</b>					
VHDR Subset of Transit Area	99.02	VHDR	9,000	891,180	0.89
HDR Subset of Transit Area	105.67	HDR	4,500	475,515	0.48
NC Subset of Transit Area	86.33	NC	1,400	120,862	0.12
<b>Subtotal</b>				<b>1,487,557</b>	<b>1.49</b>
<b>Total New Demand</b>				<b>4,912,445</b>	<b>4.91</b>
<b>UAFW (8%)</b>				<b>427,169</b>	<b>0.43</b>
<b>New Water Production Required</b>				<b>5,339,614</b>	<b>5.34</b>
<b>Existing (2019) Water Production<sup>(b)</sup></b>				<b>8,327,766</b>	<b>8.33</b>
<b>Buildout Water Production Required</b>				<b>13,667,380</b>	<b>13.7</b>

(a) Growth areas, acreages, and land use designations were developed in coordination with the City and HydroScience for the 2020 WMPU and WWMPU. Acreages and land use information is based on data received in July 2020.

(b) Source: 2020 WMPU.



## **WASTEWATER FLOWS**

In this section, City-wide wastewater flows are estimated based on the GPU buildout land uses (Method 1). These estimated buildout wastewater flows are compared with the City's available treatment capacity at the San José-Santa Clara Regional Wastewater Facility (RWF).

However, because data is not yet available, Method 2 cannot be performed for the buildout wastewater flows.

### **General Plan Update Land Use Based Wastewater Flows (Method 1)**

Buildout wastewater flows were estimated using unit flow (UF) factors from the 2009 SMPU. Some land uses in the 2009 SMPU table did not match with GPLU designations, so West Yost filled in any gaps based on similar designations. For POS, ROW, and WW, it was assumed the UF factor is zero. Lastly, residential UF factors were in units of gpd/person. These were converted to gpd/ac assuming 3.35 people per household and using the maximum allowable density for each land use, per De Novo's Draft EIR. UF factors are summarized in Table 5.

As shown in Table 6, applying UF factors to the buildout GPLU yields a buildout average dry weather flow (ADWF) of approximately 11.8 mgd. This includes approximately 1.90 mgd from groundwater infiltration (GWI), as assumed in the 2009 SMPU for buildout.

UF factors were unavailable for the Midtown and Transit Area, so Table 6 uses demands estimated by splitting each planning area into land use-specific components and then applying the corresponding UF factor to that component area.

### **Comparison with Projected Wastewater Treatment Capacity**

Using the GPLU buildout ADWF (11.8 mgd), the City has excess treatment capacity at the RWF. Per the 2014 Sewer System Management Plan, the City's existing total available wastewater treatment capacity is 14.25 mgd.

<b>Table 5. Unit Flow Factors from 2009 Sewer Master Plan Update</b>				
<b>Category</b>	<b>General Plan Land Use</b>	<b>GPLU Abbreviation</b>	<b>2009 SMPU LU Designation<sup>(a)</sup></b>	<b>UF Factor, gpd/ac</b>
Residential	Hillside Very Low Density	HVL	HVL	30 <sup>(b)</sup>
	Hillside Low Density	HLD	HL	302 <sup>(b)</sup>
	Hillside Medium Density	HMD	HM	905 <sup>(b)</sup>
	Low Density Residential	LDR	SFL	1,173 <sup>(b)</sup>
	Medium Density Residential	MDR	SFM	3,518 <sup>(b)</sup>
	High Density Residential	HDR	MFH	6,030 <sup>(b)</sup>
	Very High Density Residential	VHDR	MFVH	12,060 <sup>(b)</sup>
	Mobile Home Park	MHP	MHP	1,642 <sup>(b)</sup>
Mixed Use	Neighborhood Commercial Mixed Use	NCMU	Blvd VH MXD	2,000
	Town Center	TWC	TC	1,700
	Very High Density Mixed Use	VHDMU	Blvd VH MXD	2,000
Commercial	General Commercial	GNC	CMRL	1,000
	Neighborhood Commercial	NC	CMRL	1,000
Industrial	Industrial Park	INP	INDP	400
	Manufacturing	MFG	IND	600
	Business Park/Research & Development	BPRD	IND	600
Public	Public Facilities	PF	CVC	500
	Permanent Open Space	POS	--	0 <sup>(c)</sup>
	ROW	ROW	--	0 <sup>(c)</sup>
	Waterway	WW	--	0 <sup>(c)</sup>

(a) West Yost matched GPLU designations with land uses in Tables 3-1 and 3-2 of the 2009 SMPU (RMC, 2009).  
 (b) Unit flow factors were converted to gpd/ac assuming 3.35 people per dwelling unit (consistent with the Draft EIR) and using maximum density as defined in the Draft EIR (De Novo, 2020).  
 (c) No unit flow factor was available. It is assumed the unit flow factor for these land uses is zero.

**Table 6. Buildout Wastewater Flow Projection Based on General Plan**

Category	General Plan Land Use	Proposed Buildout Acreage	UF Factor, gpd/ac	ADWF, gpd	ADWF, mgd
Residential	Hillside Very Low Density	607.63	30	18,229	0.02
	Hillside Low Density	391.04	302	118,094	0.12
	Hillside Medium Density	239.00	905	216,295	0.22
	Low Density Residential	1,491.12	1,173	1,749,084	1.75
	Medium Density Residential	305.14	3,518	1,073,483	1.07
	High Density Residential	229.74	6,030	1,385,332	1.39
	Very High Density Residential	21.79	12,060	262,787	0.26
	Mobile Home Park	53.11	1,642	87,207	0.09
Mixed Use	Neighborhood Commercial Mixed Use	140.34	2,000	280,680	0.28
	Town Center	133.58	1,700	227,086	0.23
	Very High Density Mixed Use	3.00	2,000	6,000	0.01
Commercial	General Commercial	155.35	1,000	155,350	0.16
	Neighborhood Commercial	27.28	1,000	27,280	0.03
Manufacturing and Industrial Business Park	Industrial Park	224.82	400	89,928	0.09
	Manufacturing	505.74	600	303,444	0.30
	Business Park/Research & Development	630.88	600	378,528	0.38
Specific Plan	Midtown Specific Plan	496.64	-- <sup>(a)</sup>	1,009,046	1.01
	Transit Area Specific Plan	366.20	-- <sup>(a,b)</sup>	2,413,106	2.41
Public	Public Facilities	229.60	500	114,800	0.11
	Permanent Open Space	963.38	0	0	0.00
	ROW	56.30	0	0	0.00
	Waterway	37.82	0	0	0.00
Groundwater Infiltration (GWI) <sup>(c)</sup>		--	--	1,900,000	1.90
<b>Total</b>		<b>7,309.50</b>	<b>--</b>	<b>11,815,759</b>	<b>11.8</b>

(a) Midtown and Transit Area consist of multiple land use types. Unit flow factors are applied to each land use-specific subset area (e.g., MDR Subset of Midtown), and the total ADWF for an area equals the sum of ADWFs for its subset areas.

(b) The GPU TASP acreage is greater than the Growth Area TASP acreage. The TASP ADWF was initially calculated using Growth Area TASP acreage and has been scaled up accordingly.

(c) Source: 2009 SMPU, Table 3-6.

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