

RESPONSES TO PUBLIC COMMENTS
to the
**INITIAL STUDY/
MITIGATED NEGATIVE DECLARATION**
for
**1334 and 1348 Miller Avenue
Residential Subdivision**

File Nos. PDC21-032, PD21-017, PT21-039, & ER21-148



**CITY OF SAN JOSE
CALIFORNIA**

August 2024

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ATTACHMENT

Attachment A – Consolidated Public Comment Letter

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SECTION 1. SUMMARY OF COMMENTS

The project site consists of two contiguous lots totaling 1.07 gross acres located at 1334 and 1348 Miller Avenue, between West Wallbrook Drive to the north and Dial Way to the south. The project is located on Assessor's Parcel Numbers (APNs) 377-25-053 and 377-25-055. The project is an application for a Planned Development Zoning and Planned Development Permit to allow a proposed change in zoning from the R-1-8 Single Family Residential Zoning District to the R-1-8(PD) Planned Development Zoning District and to facilitate development on-site. The project includes the subdivision of two existing parcels into eight residential lots and construct five new single-family residences with attached Accessory Dwelling Units (ADUs), two attached single-family residences, and two deed-restricted affordable housing stacked flat condominiums, for a total of nine residential units and five ADUs. In addition, approval of a Tentative Map is required to process the proposed subdivision. The proposed structures would be two stories in height. The project would also construct a new driveway and private street system to provide access to the proposed development via Miller Avenue. The project would also remove the existing curb, gutter, and sidewalk along the project's frontage on Miller Avenue and construct a new 12-foot wide detached sidewalk with park strip per City standards.

An Initial Study supporting a Mitigated Negative Declaration (IS/MND) was prepared to evaluate the environmental effects of the project in accordance with the California Environmental Quality Act (CEQA). The IS/MND was circulated for local public review from October 27, 2023 to November 16, 2023. The City of San José received two comment letters during the public review period, as presented in the table below.

List of Comments Received on IS/MND		
Comment	Name	Date Received
A	Pacific Gas & Electric Company (Justin Newell)	11/14/2023
B	Valley Water (Andrew Quan)	11/16/2023

This document contains a list of the agencies and persons that submitted comments on the IS/MND (see above) and the City's responses to comments received on the IS/MND. This document provides the responses to comments received on the IS/MND that address the contents of the environmental analysis. The specific comments have been excerpted from the letter and are presented as "Comment" with each response directly following as "Response." Copies of the actual letters and email submitted to the City of San José are provided in Attachment A.

In summary, the comments received on the IS/MND did not raise any new issues about the project's environmental impacts or provide information indicating the project would result in new environmental impacts or impacts substantially greater in severity than disclosed in the IS/MND. CEQA does not require formal responses to comments on an IS/MND, only that the lead agency consider the comments received [CEQA Guidelines §15074(b)]. Nevertheless, responses to the comments are included in this document to provide a complete environmental record.

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SECTION 2. RESPONSES TO COMMENTS

Comment Letter A: Pacific Gas & Electric Company (Justin Newell)

Comment A-1: Thank you for giving us the opportunity to review the subject plans. The proposed 1334 and 1348 Miller Avenue Residential Project is within the same vicinity of PG&E's existing facilities that impact this property.

The applicant must contact the below resources to apply for the modification and/or relocation of existing services as needed. Any new rights of way needed for new services will be established as needed as part of the new business application submitted by the applicant.

Please contact the Building and Renovation Center (BRSC) for facility map requests by calling 1-877-743-7782 and PG&E's Service Planning department at www.pge.com/cco for any modification or relocation requests, or for any additional services you may require.

As a reminder, before any digging or excavation occurs, please contact Underground Service Alert (USA) by dialing 811 a minimum of 2 working days prior to commencing any work. This free and independent service will ensure that all existing underground utilities are identified and marked on-site.

If you have any questions regarding our response, please contact me at Justin.Newell@pge.com.

Response A-1: The commenter stated that the project is within the same vicinity of PG&E's existing facilities. The project applicant shall contact PG&E's Service Planning department for any modification or relocation requests, or for any additional services. In addition, the project contractor shall contact Underground Service Alert a minimum of 2 working days prior to commencing any digging or excavation work. This comment does not raise any issues regarding the adequacy of the IS/MND, therefore, no further response is required.

Comment Letter B: Valley Water (Matthew Sasaki)

Comment B-1: Page 62, Existing Setting: The text states that Calabazas Creek is located 0.55 miles west of the project site, and Saratoga Creek is located approximately 0.75 miles east of the site. Upon review, Calabazas Creek is located approximately 0.67 miles west of the project site. Saratoga Creek is located approximately 0.9 miles east of the site. Please revise for accuracy. Please revise for Calabazas Creek on Page 110 as well.

Response B-1: The commenter identified the accurate distances of the project site to Calabazas Creek and Saratoga Creek. The text of the IS/MND has been revised to reflect the corrected information provided in the comment, as shown in Section 3 of this document.

Comment B-2: Page 108 and 109, Regional and Local: The Regional Water Quality Control Board (RWQCB) Municipal Regional Permit (MRP) was re-issued on May 11, 2022, and became effective on July 1, 2023. Discussions in the Draft IS/ND should note consistency with the new MRP. If the project qualifies for coverage under the old MRP, the discussion should clearly note that and explain why it is covered under the old MRP.

Response B-2: The proposed project is subject to and was evaluated for consistency with the re-issued RWQCB MRP, effective July 1, 2023. Since the project is being approved after the effective date of the re-issued MRP, compliance with the re-issued MRP is required. The text of the IS/MND has been revised to clarify that the proposed project would comply with the re-issued RWQCB MRP, as presented in Section 3 of this document. This comment does not raise any CEQA issues or address the adequacy of the IS/MND. No further CEQA analysis is required.

Comment B-3: According to the Federal Emergency Management Agency's (FEMA) current Flood Insurance Rate Map (FIRM) No. 06085C0217H, effective date May 18, 2009, and Letter of Map Revision 13-09-1209P, effective date April 11, 2023, the majority of the site is located within Zone D, an area in which flood hazards are undetermined but possible; and the westernmost portion of the site is located within Shaded Zone X, which is an area of 0.2% annual chance flood hazard. The text on Pages 110 and 114 needs to be revised accordingly.

Response B-3: The commenter clarified that the westernmost portion of the project site is located within Shaded Zone X of the Federal Emergency Management Agency's (FEMA) current Flood Insurance Rate Map (FIRM). The text of the IS/MND has been revised to reflect the information provided in the comment, as shown in Section 3 of this document.

Comment B-4: At the bottom of Page 110, please include a reference to FEMA FIRM No. 06085C0217H, effective date May 18, 2009. Also, please include the Letter of Map Revision 13-09-1209P, effective date April 11, 2023, in the FEMA reference on Page 172.

Response B-4: The text of the IS/MND has been revised to reflect the information provided in the comment, as shown in Section 3 of this document. This comment does not raise any CEQA issues or address the adequacy of the IS/MND. No further CEQA analysis is required.

Comment B-5: Page 112, Impacts and Mitigation – Explanation (b) and Page 163, Groundwater: The document needs to be revised to accurately state that the project site is located in the Santa Clara Plain Recharge Area within the Santa Clara Subbasin.

Response B-5: The text of the IS/MND has been revised to reflect the information provided in the comment, as shown in Section 3 of this document. This comment does not raise any CEQA issues or address the adequacy of the IS/MND. No further CEQA analysis is required.

Comment B-6: Page 112, Footnotes, and Page 174, Bibliography: Valley Water acknowledges that the document references that the Groundwater Management Plan (GMP) was accessed in July 2021. However, Valley Water’s 2021 Groundwater Management Plan was adopted by Valley Water’s Board of Directors on November 19, 2021, after a public hearing. Please verify that the contents of this NOI reflect Valley Water’s 2021 GMP and not the 2016 GMP. Discussions in the Draft IS/MND should note consistency with the new GMP.

Additionally, please update the citation description and the link provided in the Footnotes and the Bibliography as it currently does not lead to an existing page.

Response B-6: The reference to accessing the GMP is a typographical error. The proposed project was analyzed against the 2021 GMP adopted November 19, 2021. The text of the footnote on page 112 of the Draft IS/MND has been amended to remove the “Accessed July 2021” text and the link has been updated to link to the 2021 GMP. In addition, the citation in the bibliography on page 174 of the Draft IS/MND has also been amended to remove the “Accessed July 2021” text and the link has been updated to link to the 2021 GMP. See Section 3 of this document. This comment does not raise any issues regarding the adequacy of the IS/MND, therefore, no further response is required.

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SECTION 3. TEXT CHANGES TO THE IS/MND

The following section outlines changes to the text of the Draft IS/MND based on the comments received during the circulation period. New additions to the text are shown in underline. Deleted text is shown in ~~strikethrough~~.

Page Number	Description of Change
IS/MND Page 62	<p><i>The text under “Existing Setting” is revised as follows:</i></p> <p>The nearest waterway to the site is Rodeo Creek, which is located 0.45 miles west of the project site. Other nearby waterways include Calabazas Creek, located approximately 0.6755 miles <u>northwest</u> of the site, and Saratoga Creek, located approximately 0.975 miles east of the site.</p>
IS/MND Page 108	<p><i>The text under “Municipal Regional Stormwater Permit”</i></p> <p>The San Francisco Bay RWQCB has issued a Municipal Regional Stormwater NPDES Permit (MRP) <u>(May 11, 2022, effective July 1, 2023)</u> to regulate stormwater discharges from municipalities and local agencies (co-permittees) in Alameda, Contra Costa, San Mateo, and Santa Clara Counties, and the cities of Fairfield, Suisun City, and Vallejo. The City of San José is required to operate under the MRP to discharge stormwater from the City’s storm drain system to surface waters. The MRP mandates that the City of San José use its planning and development review authority to require that stormwater management measures are included in new and redevelopment projects to minimize and properly treat stormwater runoff. Provision C.3 of the MRP regulates the following types of development projects:</p>
IS/MND Page 110	<p><i>The text under “Existing Setting” is revised as follows:</i></p> <p><u>According to the Federal Emergency Management Agency’s (FEMA) current Flood Insurance Rate Map (FIRM) No. 06085C0217H, effective date May 18, 2009, and Letter of Map Revision 13-09-1209P, effective date April 11, 2023, the majority of the site is located within Zone D, an area in which flood hazards are undetermined but possible; and the westernmost portion of the site is located within Shaded Zone X, which is an area of 0.2% annual chance flood hazard.</u></p> <p>The property is located in a Federal Emergency Management Agency (FEMA) Flood Zone D and Flood Zone X (unshaded). Flood Zone D is characterized as an area in which flood hazards are undetermined, while Flood Zone X (unshaded) is characterized as an area protected by levee from 100-year flood events and outside of the 500-year flood event area (FEMA Panel 0217H, Map Sheet 06085C0217H).</p>
IS/MND Page 110	<p><i>The text under “Existing Setting” is revised as follows:</i></p> <p>The drainage lines that serve the project site drain into Calabazas Creek, located 0.675 miles northwest of the site.</p>
IS/MND Page 112	<p><i>The text of footnote #31 is revised as follows:</i></p> <p>Santa Clara Valley Water District. <i>Sustainable Groundwater Management</i>. Accessed July 2021. https://www.valleywater.org/your-water/where-your-water-comes-from/groundwater/groundwater-management.</p>

Page Number	Description of Change
	https://www.valleywater.org/your-water/where-your-water-comes/groundwater/sustainable
IS/MND Page 112	<p><i>The text under b) is revised as follows:</i></p> <p>The project site is located within the <u>Santa Clara Plain Recharge Area within the Santa Clara Subbasin, Recharge Area of the Santa Clara Valley Basin</u> where groundwater occurs under unconfined conditions.</p>
IS/MND Page 114	<p><i>The text under civ) is revised as follows:</i></p> <p>The project site is located within Flood Zone D and X, which are considered to be outside of a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. The majority of the site is located within Zone D, an area in which flood hazards are undetermined but possible; and the westernmost portion of the site is located within Shaded Zone X, which is an area of 0.2% annual chance flood hazard. Flood Zone X is an area of moderate or minimal flood hazard. Development of the site with five new single-family residences with ADUs and four new multifamily units would not significantly impede or redirect flood flows, representing a less than significant impact.</p>
IS/MND Page 163	<p><i>The text under “Groundwater” is revised as follows:</i></p> <p>SJWC draws water from the Santa Clara <u>Plain Recharge Area within the Santa Clara Valley Subbasin</u> in the north part of Santa Clara County.</p>
IS/MND Page 172	<p><i>The FEMA reference is revised as follows:</i></p> <p>Federal Emergency Management Agency, <i>Flood Insurance Rate Map Number 06085C0217H (Panel 0217H)</i>, <u>effective May 18, 2009, and Letter of Map Revision 13-09-1209P, effective date April 11, 2023.</u></p>
IS/MND Page 174	<p><i>The Sustainable Groundwater Management reference is revised as follows:</i></p> <p>Santa Clara Valley Water District. <i>Sustainable Groundwater Management.</i> Accessed July 2021. Available at: https://www.valleywater.org/your-water/where-your-water-comes-from/groundwater/groundwater-management. https://www.valleywater.org/your-water/where-your-water-comes/groundwater/sustainable</p>

SECTION 4. CONCLUSION

The comments received during the public circulation period for the 1334 and 1348 Miller Avenue Residential Subdivision project's IS/MND did not raise any new environmental issues or provide information signifying that the project would result in additional impacts or impacts of greater severity than described in the circulated IS/MND. In conclusion, the IS/MND provides a legally adequate level of environmental review for the project, pursuant to California Public Resources Code §21080(c) and 21081.1(a), and CEQA Guidelines §15070.

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Attachment A – Consolidated Public Comment Letter

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November 14, 2023

Nhu Nguyen
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113

Re: Public Review of Draft MND: 1334 and 1348 Miller Avenue Residential Project (PDC21-032, PD21-017, PT21-039, & ER21-148)
1334 & 1348 Miller Avenue, San Jose, CA 95129

Dear Nhu:

Thank you for giving us the opportunity to review the subject plans. The proposed 1334 and 1348 Miller Avenue Residential Project is within the same vicinity of PG&E's existing facilities that impact this property.

The applicant must contact the below resources to apply for the modification and/or relocation of existing services as needed. Any new rights of way needed for new services will be established as needed as part of the new business application submitted by the applicant.

Please contact the Building and Renovation Center (BRSC) for facility map requests by calling 1-877-743-7782 and PG&E's Service Planning department at www.pge.com/cco for any modification or relocation requests, or for any additional services you may require.

As a reminder, before any digging or excavation occurs, please contact Underground Service Alert (USA) by dialing 811 a minimum of 2 working days prior to commencing any work. This free and independent service will ensure that all existing underground utilities are identified and marked on-site.

If you have any questions regarding our response, please contact me at Justin.Newell@pge.com.

Sincerely,

Justin Newell
Land Management
916-594-4068

A-1

From: [Andrew Quan](#)
To: [Nguyen, Nhu](#)
Cc: [Lisa Brancatelli](#)
Subject: Valley Water Comments on NOI - Miller Avenue Residential Project
Date: Thursday, November 16, 2023 11:14:42 AM
Attachments: [image001.png](#)

[External Email]

You don't often get email from aquan@valleywater.org. [Learn why this is important](#)

Morning Nhu Nguyen,

The Santa Clara Valley Water District (Valley Water) has received the Notice of Intent (NOI) to Adopt an Initial Study and Mitigated Negative Declaration (IS/MND) for the 1334 and 1348 Miller Avenue Residential Project located at 1334 and 1348 Miller Avenue in the City of San Jose, received by Valley Water on October 27, 2023.

Per our review, we have the following comments:

1. **Page 62, Existing Setting:** The text states that Calabazas Creek is located 0.55 miles west of the project site, and Saratoga Creek is located approximately 0.75 miles east of the site. Upon review, Calabazas Creek is located approximately 0.67 miles west of the project site. Saratoga Creek is located approximately 0.9 miles east of the site. Please revise for accuracy. Please revise for Calabazas Creek on Page 110 as well. B-1
2. **Page 108 and 109, Regional and Local:** The Regional Water Quality Control Board (RWQCB) Municipal Regional Permit (MRP) was re-issued on May 11, 2022, and became effective on July 1, 2023. Discussions in the Draft IS/ND should note consistency with the new MRP. If the project qualifies for coverage under the old MRP, the discussion should clearly note that and explain why it is covered under the old MRP. B-2
3. According to the Federal Emergency Management Agency's (FEMA) current Flood Insurance Rate Map (FIRM) No. 06085C0217H, effective date May 18, 2009, and Letter of Map Revision 13-09-1209P, effective date April 11, 2023, the majority of the site is located within Zone D, an area in which flood hazards are undetermined but possible; and the westernmost portion of the site is located within Shaded Zone X, which is an area of 0.2% annual chance flood hazard. The text on Pages 110 and 114 needs to be revised accordingly. B-3
4. At the bottom of Page 110, please include a reference to FEMA FIRM No. 06085C0217H, effective date May 18, 2009. Also, please include the Letter of Map Revision 13-09-1209P, effective date April 11, 2023, in the FEMA reference on Page 172. B-4
5. **Page 112, Impacts and Mitigation – Explanation (b) and Page 163, Groundwater:** The document needs to be revised to accurately state that the project site is located in the Santa Clara Plain Recharge Area within the Santa Clara Subbasin. B-5
6. **Page 112, Footnotes, and Page 174, Bibliography:** Valley Water acknowledges that the document references that the Groundwater Management Plan (GMP) was accessed in July 2021. However, Valley Water's 2021 Groundwater Management Plan was adopted by Valley Water's Board of Directors on November 19, 2021, after a public hearing. Please verify that the contents of this NOI reflects Valley Water's 2021 GMP and not the 2016 GMP. Discussions in the Draft IS/MND should note consistency with the new GMP. B-6

Additionally, please update the citation description and the link provided in the Footnotes



and the Bibliography as it currently does not lead to an existing page.

We appreciate the opportunity to comment on the NOI. If you have any questions, or need further information, you can reach me at (408) 630-1667, or by e-mail at AQuan@valleywater.org. Please reference Valley Water File No. 35010 on future correspondence regarding this project.

Thank you,

ANDREW QUAN

ASSISTANT ENGINEER II - CIVIL
Community Projects Review Unit
Tel. (408) 630-1667

Santa Clara Valley Water District is now known as:



Clean Water • Healthy Environment • Flood Protection

VALLEY WATER

5750 Almaden Expressway, San Jose CA 95118

www.valleywater.org

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