

APPENDIX A

Notice of Preparation (NOP) and NOP Comment Letters

**NOTICE OF PREPARATION
UC VILLAGES ENVIRONMENTAL IMPACT REPORT**



Date: March 29, 2024

To: State Clearinghouse
Responsible Agencies
Trustee Agencies
Merced County Clerk

Subject: Notice of Preparation of a Draft Environmental Impact Report (EIR) for the UC Villages Project

Lead Agency: City of Merced Planning Division
678 West 18th Street
Merced, CA 95340
Contact: Kim Espinosa, Temporary Director of Development Services

Project Title: UC Villages

Project Applicant: Sid Lakireddy, UC Villages LLC

NOTICE IS HEREBY GIVEN that the City of Merced (City), as the Lead Agency, has determined that the UC Villages project (proposed project) will require preparation of an Environmental Impact Report (EIR) in compliance with the California Environmental Quality Act (CEQA). This Notice of Preparation (NOP) is being distributed to applicable responsible agencies, trustee agencies, interested agencies, parties, and organizations as required by CEQA. Interested agencies and parties are requested to comment on the scope and content of the significant environmental issues, mitigation measures, and reasonable alternatives to be explored in the Draft EIR. Information regarding the project description, project location, public outreach process, and topics to be addressed in the Draft EIR is provided below.

Notice of Preparation 30-Day Comment Period

The City is soliciting comments from public agencies, organizations, and members of the public regarding the scope and content of the EIR, and the environmental issues and alternatives to be addressed in the EIR. Public agencies (responsible agencies and trustee agencies) may need to use the EIR when considering permitting or other approvals that are germane to the agencies' responsibilities in connection with the proposed project. Comments as to the appropriate scope of analysis in the EIR are invited from all interested parties.

The City requests that responsible agencies, trustee agencies, interested parties, 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 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 (CEQA Guidelines section 15082(b)(2)). In accordance with the time limits established by CEQA, the NOP public review period will begin on March 29, 2024 and end on April 29, 2024.

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Written comments or questions concerning the EIR for the proposed project should be directed to Kim Espinosa, Temporary Director of Development Services (address below). Due to time limits mandated by state law, public agencies and other interested parties must submit any written comments in response to this notice at the earliest possible date, but not later than **5:00 p.m., April 29, 2024**, to the address shown below (postmarks are acceptable). If you wish to be placed on the notification list for this project, or if you have any questions or need additional information, please contact Ms. Espinosa.

City of Merced Planning Division
Attn: Kim Espinosa, Temporary Director of Development Services
678 West 18th Street, Merced, CA 95340
Phone: (209) 385-6858
Email: espinosak@cityofmerced.org

Public Scoping Meeting

In accordance with Public Resources Code section 21083.9 and section 15083 of the CEQA Guidelines, The City will hold an in-person scoping meeting to: (1) inform the public and interested agencies about the proposed project, and (2) solicit public comment on the scope of the environmental issues to be addressed in the Draft EIR, as well as the range of alternatives to be evaluated. No action will be taken on the project at the scoping meeting. The sole purpose of the scoping meeting is for interested parties to be introduced to the project, to ask questions about the project, and to provide feedback regarding the scope of what CEQA topics should be assessed in the Draft EIR. The scoping meeting is not an appropriate time to provide comments on the merits of the project or provide testimony to support or oppose the project. Interested parties are strongly encouraged to submit written comments via email or letter. The date, time, and address of the scoping meeting is as follows:

Tuesday, April 9, 2024
6:00 pm
Merced Civic Center – Samuel Pipes Room (1st Floor)
678 West 18th Street
Merced, CA 95340

Project Location

The City is located in the Central Valley region of Northern California, along the Highway 99 freeway corridor in Merced County, with the cities of Atwater located approximately nine miles to the north and Chowchilla located approximately 20 miles to the south, as shown on **Figure 1**.

The UC Villages project site is located in unincorporated Merced County, to the northeast of the City of Merced's city limits. The site is at the southwestern corner of the Bellevue Road and Lake Road intersection, as shown on **Figure 2**. The project site is surrounded by rural residential and agricultural uses to the north, west, and south. The University of California, Merced (UC Merced) campus lies to the northeast of the project site, and agricultural uses are farther to the east. The project site is bordered by Bellevue Road to the north, Lake Road to the east, lands designated Mixed Use and Low Density to the south and Los Olivos Road and the Yosemite Lateral canal to the west.

The project site is 37.23 acres and is comprised of APNs 060-590-016, -017, -019, -025, -026, and 060-020-016. These six parcels would be annexed to the City of Merced. Development of the UC Villages urban uses would occur only on five of those parcels (excludes APN 060-590-026) and comprises 35.6 acres.

The project site is within the Bellevue Community Plan area, as shown on **Figure 3**. The plan describes a flexible vision for how unincorporated lands with county agricultural zoning can be provided with an urban zone when annexed, and includes a policy framework for future master planning efforts.

Annexation

Assembly Bill 3312 (AB 3312) allows the City to annex the main UC Merced campus through a “road strip” (Bellevue Road) and places certain restrictions on future annexations along the “road strip”. Following annexation of the UC Merced campus, other properties either along Bellevue Road or adjacent to UC Merced will be eligible for annexation, including the UC Villages project site. As noted above the proposed Annexation includes approximately 37.23 acres of land and includes logical boundaries, contiguous with the UC Merced campus annexation area, as shown on **Figure 4**.

Proposed Project

The UC Villages Planned Development Master Plan (UC Villages or proposed project) proposes an approximately 35-acre development of mixed-use commercial and housing located across from the UC Merced campus. The proposed project would include up to 700 multi-family and/or student housing residential units with approximately 18,000 square feet (sf) of amenity buildings (recreational center), approximately 30,000 sf of commercial/retail, and an approximately 75,000-sf hotel with up to 200 guest rooms.

Land Uses and Pre-zoning

The project site is designated in the Merced County General Plan as “Merced Rural Residential Center” No. 1 Rural-Residential (R-R) (see **Figure 5**) and zoned in the County as Rural Residential/Single Family Residential (see **Figure 6**).

The project site is designated in the City of Merced’s General Plan as “Community Plan,” which has been established in the form of the Bellevue Community Plan. The Bellevue Community Plan designates the project site as “Mixed-Use TOD Character,” which is characterized by a mix of uses ranging from multi-family residential to community retail to office. Although the project site has not been zoned by the City of Merced, it is proposed to be pre-zoned Planned Development (P-D), as shown in **Figure 7**. P-D zoning allows for a variety of development types that carry out the objectives of the General Plan. Chapter 20.20.020 of the City’s Municipal Code provides the framework for development within the P-D zone.

If approved and annexed, the proposed project would be governed by the City of Merced General Plan, P-D Zoning and Pre-Annexation Development Agreement (described below), and not the County’s R-R designation or zoning. Moreover, the Merced County Local Area Formation Commission’s (LAFCo) decision would be based upon the proposed project’s pre-zoning and not the County’s land use regulations.

The UC Villages project proposes the development of two types of land uses – Commercial and Residential – as shown on the Conceptual Site Plan (see **Figure 8**). The Commercial area is located in the northeast corner of the site and west of Lake Road. The vision for this area is to include approximately 105,000 sf of retail and commercial uses, including a potential 75,000-sf hotel with 200 guest rooms. Also included in this area is a landmark artistic feature, such as a water tower-style feature, at or near the northwest corner, showcasing a pedestrian-friendly entrance into the retail/commercial center that will be inviting to pedestrian and bicycle traffic from the UC Merced campus in particular. It is anticipated that the Commercial area would include neighborhood retail serving commercial, such as restaurants, retail stores, bank, personal services, a hotel and other commercial uses typically associated with a mixed-use retail/commercial center.

The Residential area is located west of Lake Road and east of the Merced Irrigation District (MID) Yosemite Lateral and Los Olivos Road. The vision for this area is to take advantage of the project's close proximity to the UC Merced campus and develop high-quality off-campus housing. The housing component would be complemented with a social hub and recreational amenity space, potentially one associated with each phase, or shared by multiple phases. The recreational space may include a variety of amenities including, but not limited to, work/study areas, a fitness center, areas of recreational activities such as cornhole, bocce ball, pickleball, bike repair stations and a recreational pool.

Site Development and Phasing

The project site is anticipated to be a walkable neighborhood, with buildings oriented toward the street, as shown on Figure 8. The proposed project will develop a mix of uses over six phases of development; each phase may occur over 2-3 years, depending on market conditions. **Figure 9** and **Table 1** identify the phases of development and the proposed land uses.

TABLE 1: UC VILLAGES CONCEPTUAL MASTER PLAN PROGRAM

PHASE/ BUILDING	PROGRAM USE	AREA (GSF)	HOTEL KEYS	UNITS	PARKING RATIO¹	PARKING REQUIRED	PARKING PROVIDED
PHASE 1							
R1	Retail/Commercial	5,845			4/1,000 sf	23	
R2	Retail/Commercial	4,835			4/1,000 sf	19	
R3	Retail/Commercial	4,400			4/1,000 sf	18	
R4	Retail/Commercial	3,685			4/1,000 sf	15	
R5	Retail/Commercial	7,495			4/1,000 sf	30	
R6	Retail/Commercial	3,060			4/1,000 sf	12	
<i>Totals</i>		<i>29,320</i>				<i>117</i>	<i>120</i>
PHASE 2							
A	Amenity	4,000					
B	Residential	82,200		43	1 per unit	43	
C	Residential	112,600		59	1 per unit	59	
D	Residential	96,000		51	1 per unit	51	
E	Residential	76,150		40	1 per unit	40	
<i>Totals</i>		<i>370,950</i>		<i>193</i>		<i>193</i>	<i>195</i>

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<i>PHASE/ BUILDING</i>	<i>PROGRAM USE</i>	<i>AREA (GSF)</i>	<i>HOTEL KEYS</i>	<i>UNITS</i>	<i>PARKING RATIO¹</i>	<i>PARKING REQUIRED</i>	<i>PARKING PROVIDED</i>
PHASE 3							
G	Residential	48,000		25	1 per unit	25	
H	Residential	60,000		32	1 per unit	32	
I	Residential	63,300		33	1 per unit	33	
J	Residential	73,000		38	1 per unit	38	
K	Amenity	4,250					
<i>Totals</i>		<i>248,550</i>		<i>128</i>		<i>128</i>	<i>138</i>
PHASE 4							
L	Amenity	4,250					
M	Residential	79,500		42	1 per unit	42	
N	Residential	79,500		42	1 per unit	42	
O	Residential	79,500		42	1 per unit	42	
<i>Totals</i>		<i>242,750</i>		<i>126</i>		<i>126</i>	<i>126</i>
PHASE 5							
P	Residential	102,375		54	1 per unit	54	
Q	Residential	86,000		45	1 per unit	45	
R	Residential	102,200		54	1 per unit	54	
S	Residential	102,200		54	1 per unit	54	
T	Amenity	4,860					
<i>Totals</i>		<i>397,635</i>		<i>207</i>		<i>207</i>	<i>216</i>
PHASE 6							
F	Hotel Retail/Commercial	75,000	200		0.75 per key	150	
<i>Totals</i>		<i>75,000</i>	<i>200</i>			<i>150</i>	<i>150</i>
DEVELOPMENT TOTALS		1,364,205	200	654		921	945

1. PARKING RATIO FOR RESIDENTIAL PHASES BASED ON STUDENT HOUSING REQUIREMENTS.

SOURCE: UC VILLAGES, LLC 2023.

Phase 0 – Site Activation

“Phase 0” interim commercial/retail uses may be implemented to quickly bring people to the UC Villages site at the corner of Bellevue Road and Lake Road by offering informal food and beverage options, retail vendors, and/or community events. The focus will be to offer interim, temporary uses that support the long-term vision of UC Villages, build community, and create an immediate draw prior to the development of permanent site uses. Phase 0 interim uses may include, but shall not be limited to: pop-up retail, food and beverage trucks/vendors, artisan fairs, farmers markets, holiday or seasonal events, outdoor movie series, live music, and local community events.

Phase 1 – Commercial

The Commercial area is located in the northeast corner of the Master Plan area and serves as the key entryway into the UC Villages project site from the UC Merced campus, located northeast of the project area. It is anticipated that approximately 30,000 sf of commercial/retail land uses will be developed as part of this phase. Each building may include multiple tenants and a variety of commercial/retail uses.

Phases 2 through 5 – Residential

The Residential area is located west of Lake Road and east of the MID Yosemite Lateral and Los Olivos Road. The Residential area is comprised of five-story residential buildings including up to 700 units at full build-out, which will be built in phases based on market demand. The Residential area will support development of multi-family residential units and student housing, with the mix of residential units dependent on market demand. Student housing units are each anticipated to be, on average, approximately 1,500 sf and include four beds with a common area. The housing component may be complemented by an approximately 4,000-sf, on-site amenity building for each phase of residential development. The recreational space may include a variety of amenities including, but not limited to, work/study areas, a fitness center, areas of recreational activities such as cornhole, bocce ball, pickleball, bike repair stations, and/or a recreational pool.

Phase 6 – Commercial

The Commercial area is located west of Lake Road and south of Phase 1. An approximately 75,000-sf hotel with up to 200 guest rooms is anticipated to be developed during this phase of development. The vision for the hotel is to house visiting dignitaries and families of students. Based on market demand, this area may be developed as Commercial/Retail or other allowed uses.

Transportation

The UC Villages Master Plan provides for internal circulation areas and points of access to surrounding roadways, such as Bellevue Road, Lake Road, Mandeville Lane, and Los Olivos Road, as shown in **Figure 10**.

Bellevue Road is a major east-west arterial that is currently within the County of Merced. However, as noted above, the UC Merced annexation will include Bellevue Road as the “Road Strip” under AB 3312 into the City of Merced. According to the Bellevue Community Plan, Bellevue Road is classified as a Major Arterial with a right-of-way of 150 feet to 200 feet dependent on side access roads and will have signalized intersections at 1/4-mile intervals. Although the BCP indicates that Bellevue Road is planned for six (6) lanes with one- or two-way frontage roads, Bellevue Road will be built as a four (4) lane arterial with one- or two-way frontage roads based upon a current agreement between the Regents of the University of California and the City.

Lake Road is a north-south collector roadway within the County of Merced that begins at the E. Yosemite Avenue to the south and extends north towards Yosemite Lake, northwest of the UC Merced Campus. Lake Road is adjacent to the eastern boundary of the project site. Lake Road will eventually be part of Campus Parkway, a major expressway within the County that currently begins at State Route 99 (SR 99) and ends at E. Yosemite Avenue. The University is responsible for the design and funding the

improvements of Campus Parkway to Bellevue Road. The proposed project's circulation system will tie into the intersection of Bellevue Road and Lake Road, which is currently being designed by UC Merced.

Mandeville Lane will be developed in accordance with the BCP as a two-lane collector road that will connect from Lake Road to Los Olivos Road. According to the BCP, Mandeville Lane is classified as a "Transit Avenue," which is a recommended transit route that will accommodate one lane of traffic in each direction, bicycle lanes and a potential dedicated bus guideway. Los Olivos Road is located along the western boundary of the project site and will be improved to City of Merced Standards.

Los Olivos Road is currently a collector roadway servicing single-family dwellings to the west of the Master Plan area. In the future, Los Olivos Road will be a collector road connecting Bellevue Road with Mandeville Lane. There are no direct entries or egress points for private vehicles to/from Los Olivos Road.

An internal private roadway will be developed to allow access from Bellevue Road through the project site to an intersection at Mandeville Lane. Surface off-street parking facilities will be provided via each phase pursuant to the off-street parking requirements detailed in the proposed UC Villages Master Plan.

Proposed access to the project site would be provided via a driveway along Bellevue Road, two intersections along Lake Road, and Los Olivos Road. The two driveways along Lake Road would be located between the Commercial/Retail and Hotel uses (Phases 1 and 6) and at the intersection of Mandeville Lane and Lake Road. At Los Olivos Road, two driveways would be located at the northwest corner of the project site. As noted above, Mandeville Lane bisects the project site between Phases 3, 4 and 5.

The UC Villages project would also provide a bike-friendly community, consistent with the standards set forth in the City's General Plan. A Class I off-roadway bikeway is already anticipated along Bellevue Road, while project would construct a Class I bikeway on the new Mandeville Lane that would run east-west through the project site, as shown on **Figure 10**. The project would also construct Class II, on-roadway, separated (striped) bike lane along the internal private roadway connecting Bellevue Road through the project site to an intersection at Mandeville Lane. Bike racks would be strategically located onsite near amenity buildings, the hotel, and the Commercial area.

Utilities

Water Supply

The City of Merced currently depends on groundwater supplied from various wells throughout the water service area. Currently a 16-inch water main exists in Bellevue Road and is supplied by Well No. 17 lying within the UC Merced campus, as shown on **Figure 11**. The proposed project would be served by the above referenced 16-inch water main in Bellevue Road and a future 16-inch water main in Lake Road as part of the 2030 water pipelines identified in the City of Merced Water Master Plan. Twelve-inch water mains would be installed in Mandeville Lane and Los Olivos Road. On-site development would be served by looped 10-inch backbone water lines.

Wastewater

The project site is within the area served by the City of Merced's North Merced Sewer Master Plan. Currently a 21-inch sewer main exists in Bellevue Road servicing UC Merced which is tributary to the G Street sewer trunk line, as shown in **Figure 12**. A recent flow analysis was performed for the City of Merced and determined there was excess capacity in the G Street trunk line which would service the UC Villages project.

Stormwater

Due to the hydrologic soil group rating for the project site, only moderate percolation of stormwater occurs onsite. This will limit the ability to capture stormwater on site, and a pump station will be necessary to remove excess water from the site.

All stormwater generated by development of the site would be handled by a "cascading" basin system, which would interconnect the proposed basins throughout the site (see **Figure 13**). Prior to entering the basin system, the stormwater will be treated through a combination of treatment devices including, but not limited to drainage swales, small bioretention basins, inlet filters, interception trees, permeable concrete pavers, stormwater planters, and rain gardens. If necessary, underground storage and treatment can be utilized to assist with any additional treatment or storage.

There are four planned detention basins located throughout the site, with the lowest basin being located at the natural low point of the project site in the southeast corner. These basins will be designed as detention basins with a non-interruptible outlet draining to the nearby Yosemite Lateral, owned, and maintained by the Merced Irrigation District. An agreement with the Merced Irrigation District to discharge into the lateral will be necessary.

Signage

Signage on the UC Villages project site will seek to provide a cohesive character and identity. Proposed signage will include monument signs, building signage for the commercial/retail and hotel land uses (e.g., shopping center signage), wayfinding and directional signs. Unique signage will be installed for the phases of housing (e.g., monument signs indicating the residential building/name/area and wayfinding signs within each housing phase).

Entitlements and Actions

The UC Villages project includes the following proposed entitlement applications to the City, requiring Planning Commission review with final action by the City Council:

- Annexation approval and the annexation of the subject parcels by the City of Merced and Merced Local Agency Formation Commission;
- Pre-zoning of the project site to Planned Development (P-D);
- Vesting Tentative Parcel Map; and
- Pre-Annexation Development Agreement.

Following approval of the project, the City would submit an application to the Merced County Local Area Formation Commission (LAFCo) to annex the project site from Merced County to the City of Merced.

Draft EIR Analysis

The City will prepare an EIR for the UC Villages project. 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 Draft EIR for the project will incorporate by reference applicable portions of the certified Merced Vision 2030 General Plan Draft EIR.

The project level EIR will analyze potentially significant impacts associated with adoption and implementation of the UC Villages project. In particular, the EIR will focus on the project's increased development potential. The EIR will evaluate the full range of environmental issues contemplated under CEQA and the CEQA Guidelines as set forth in CEQA Guidelines Appendix G, except for specific topics identified below as having no impact. Where potentially significant or significant impacts are identified, the EIR will discuss mitigation measures to address the impact. At this time, the City anticipates that EIR sections will be organized in the following topical areas:

- Aesthetics and Visual Resources
- Agricultural Resources
- Air Quality
- Biological Resources
- Cultural and Tribal Cultural Resources
- Energy
- Geology, Soils, and Seismicity
- Greenhouse Gases and Climate Change
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise
- Population and Housing
- Public Services and Recreation
- Transportation and Circulation
- Utilities and Service Systems
- Wildfire

In addition to the potential environmental impacts noted above, the Draft EIR will evaluate potential cumulative impacts and potential growth-inducing effects associated with project implementation. The Draft EIR will also compare the impacts of the project to a range of reasonable alternatives, including a No Project alternative, and will identify an environmentally superior alternative.

Environmental documentation for this project will be available for review at the City's website:
<https://www.cityofmerced.org/>.

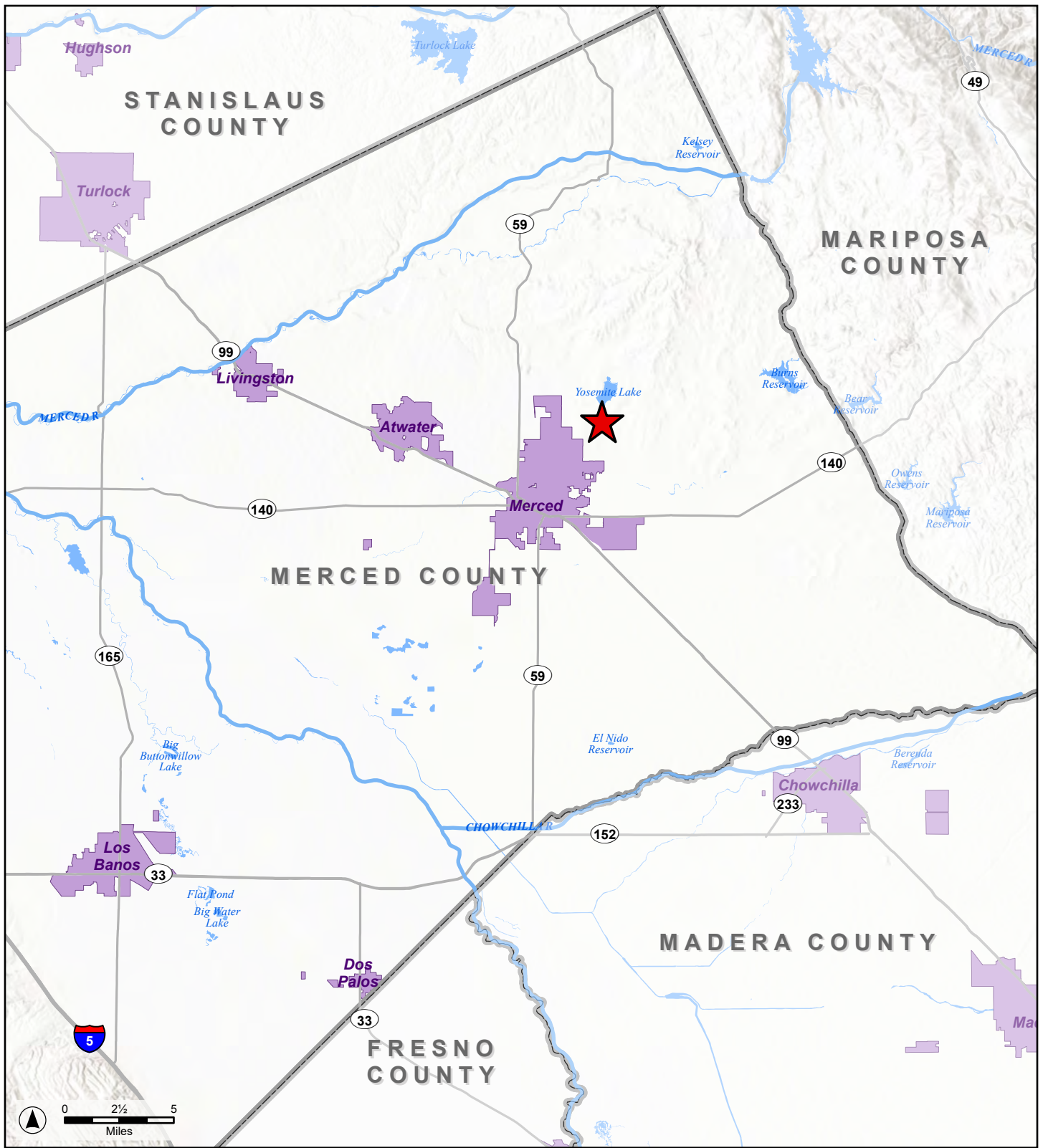
Environmental Topics Scoped from Further Analysis

Forestry Resources




The EIR certified for the Merced Vision 2030 General Plan in 2012 concluded there would be no impacts to forestry resources. No land zoned or used as forestry resources or timberland are in the city. Therefore, no forestry impacts would occur as a result of implementing the project and this issue will not be discussed in the EIR.

Mineral Resources

The EIR certified for the Merced Vision 2030 General Plan in 2012 concluded that the City of Merced does not contain any mineral resources that require managed production, and minor aggregate production occurs west and north of the city. As there are no mineral resources identified in the city, no potential impacts on this type of resource could occur. Therefore, there would be no impact on mineral resources, and this impact will not be discussed in the EIR.



Legend

-  Project Location
-  Incorporated Area
-  County Boundary

UC VILLAGES

Figure 1. Regional Location

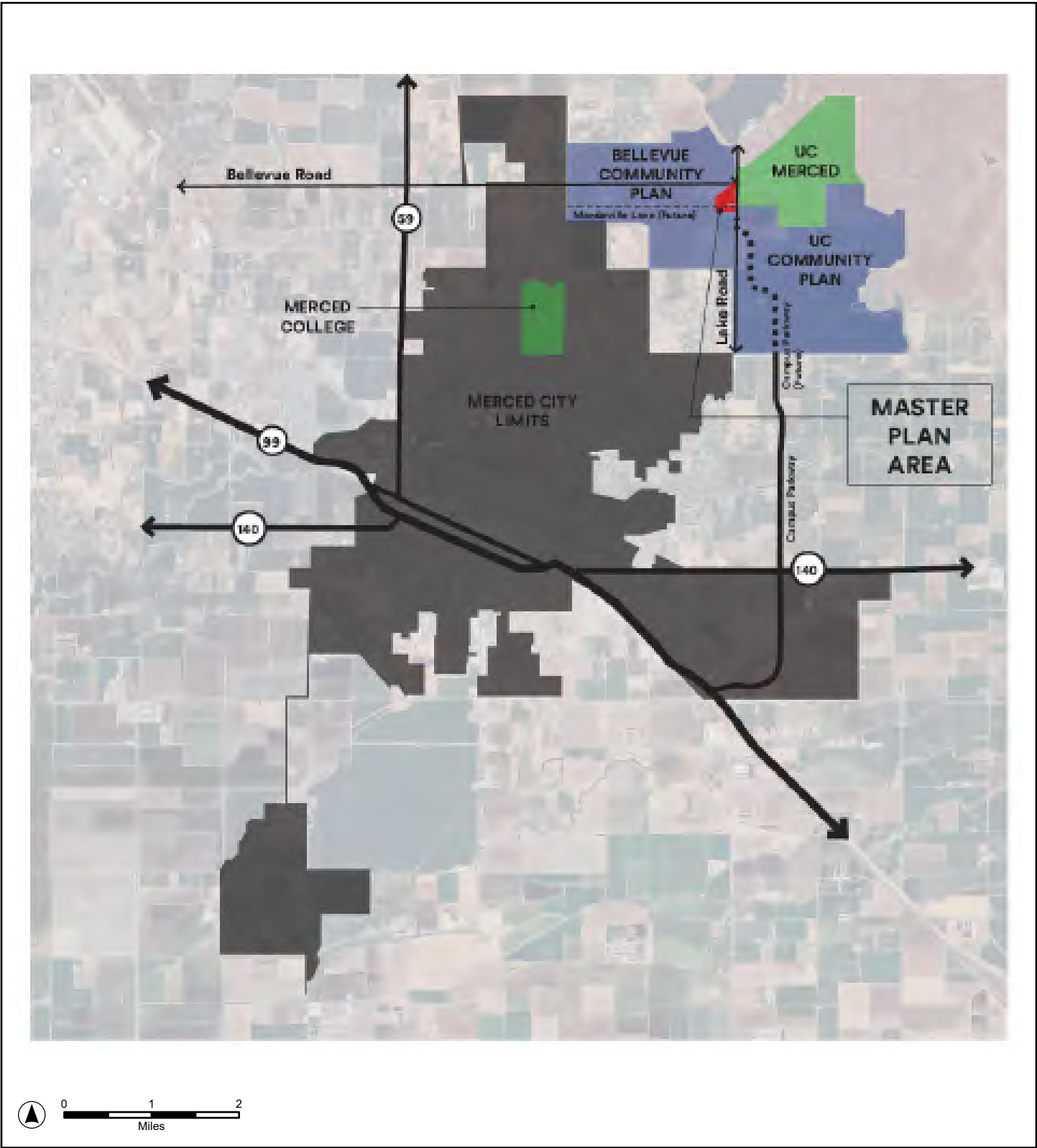


Legend

- Project Boundary
- City of Merced

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Figure 2. Proposed Project Site

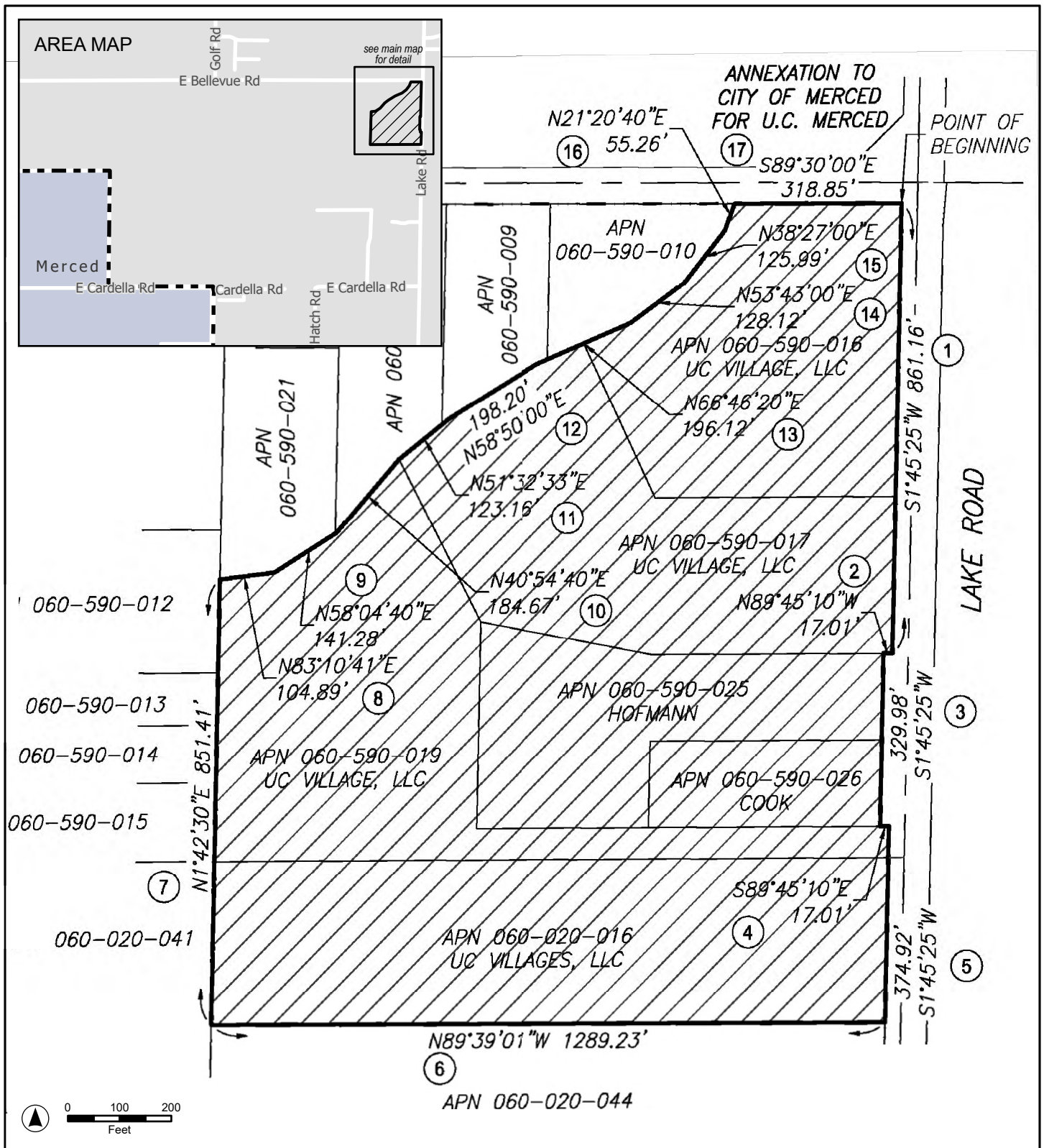


Legend

- Community Plan
- College/University
- Merced City Limits
- Master Plan Area

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Figure 3. Community Plan Areas

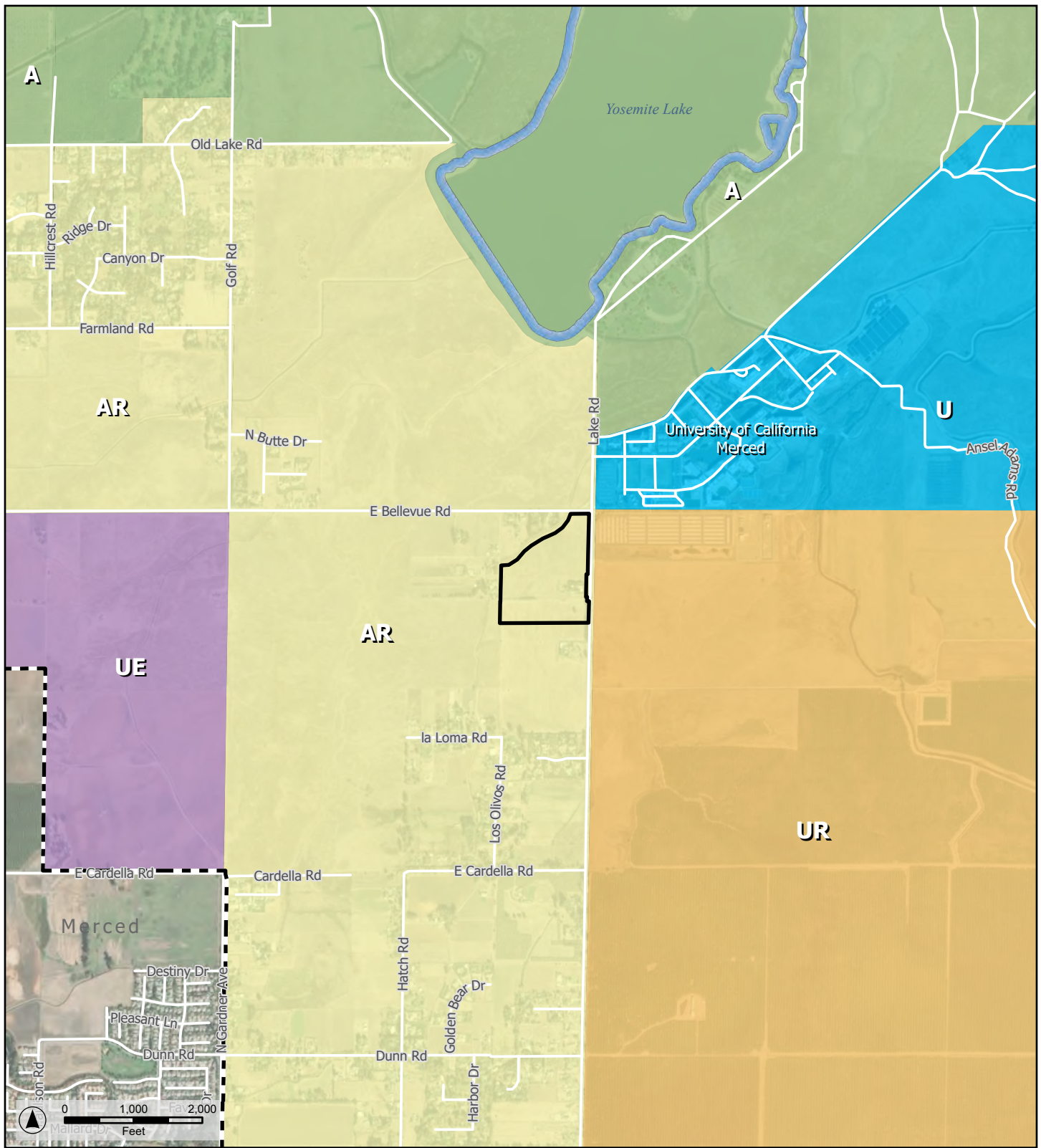


Legend

- Existing Property Line
- Annexation Boundary
- Area to be Annexed to City of Merced
- City of Merced
- Course Number

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Figure 4. Proposed Annexation

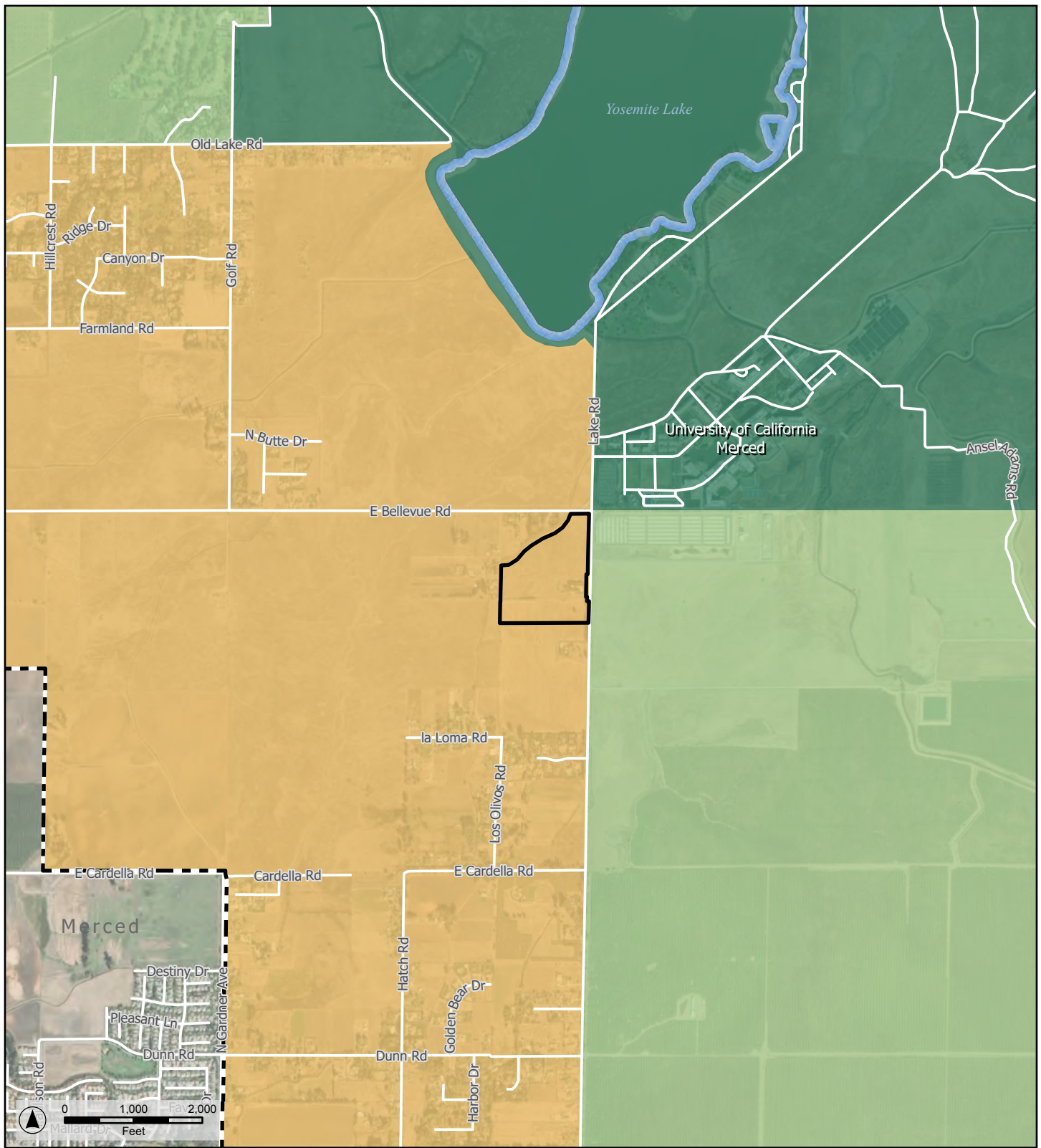


Legend

- Project Boundary
- City of Merced
- A: Agricultural
- AR: Agricultural-Residential
- U: University
- UE: Urban Expansion Area
- UR: Urban Reserve

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Figure 5. Land Use Designations



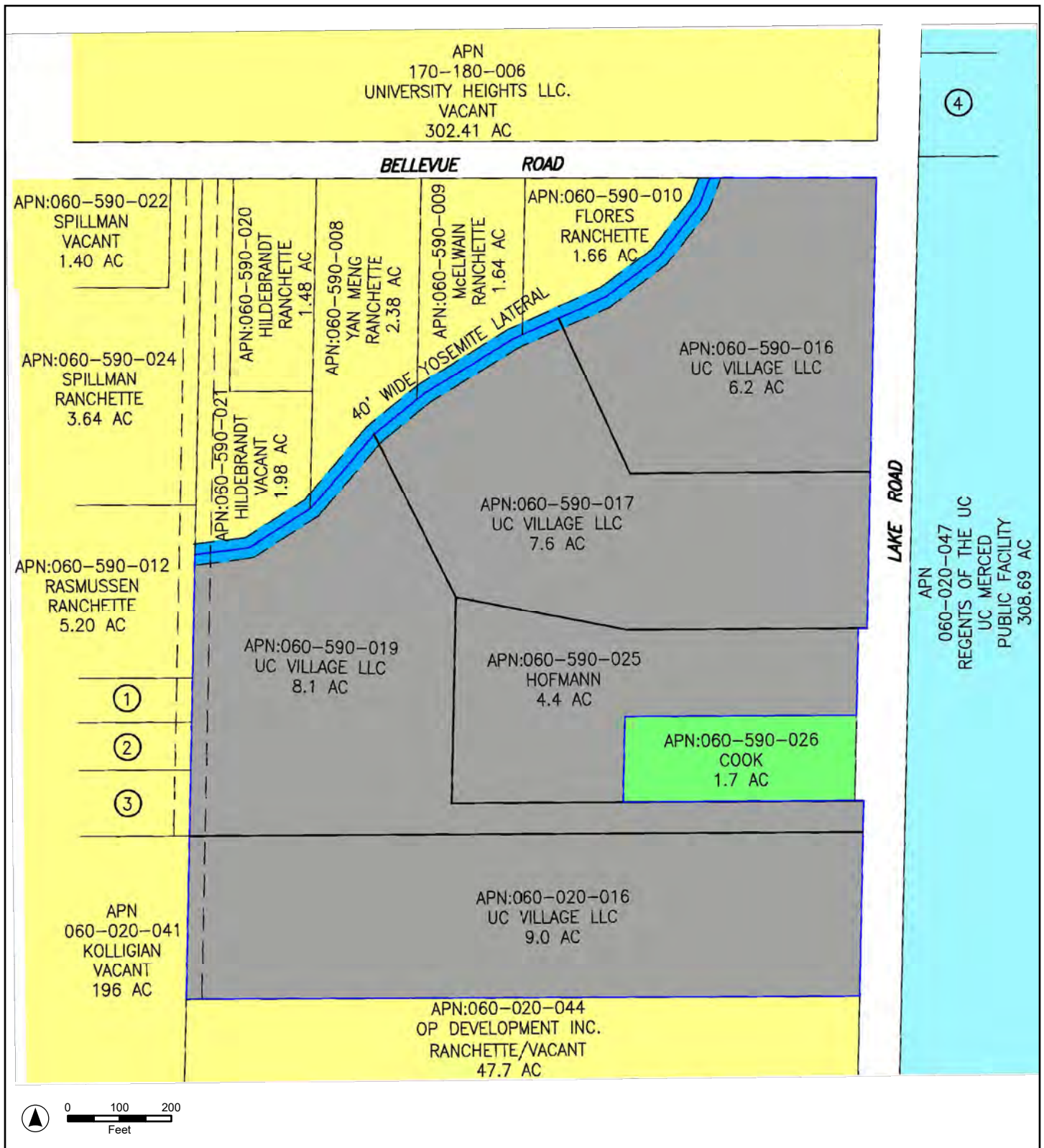
Legend

- Project Boundary
- City of Merced

- A-1: General Agriculture
- A-2: Exclusive Agriculture
- R-R: Rural Residential

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Figure 6. Existing Zoning



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Figure 7. Pre-Zoning

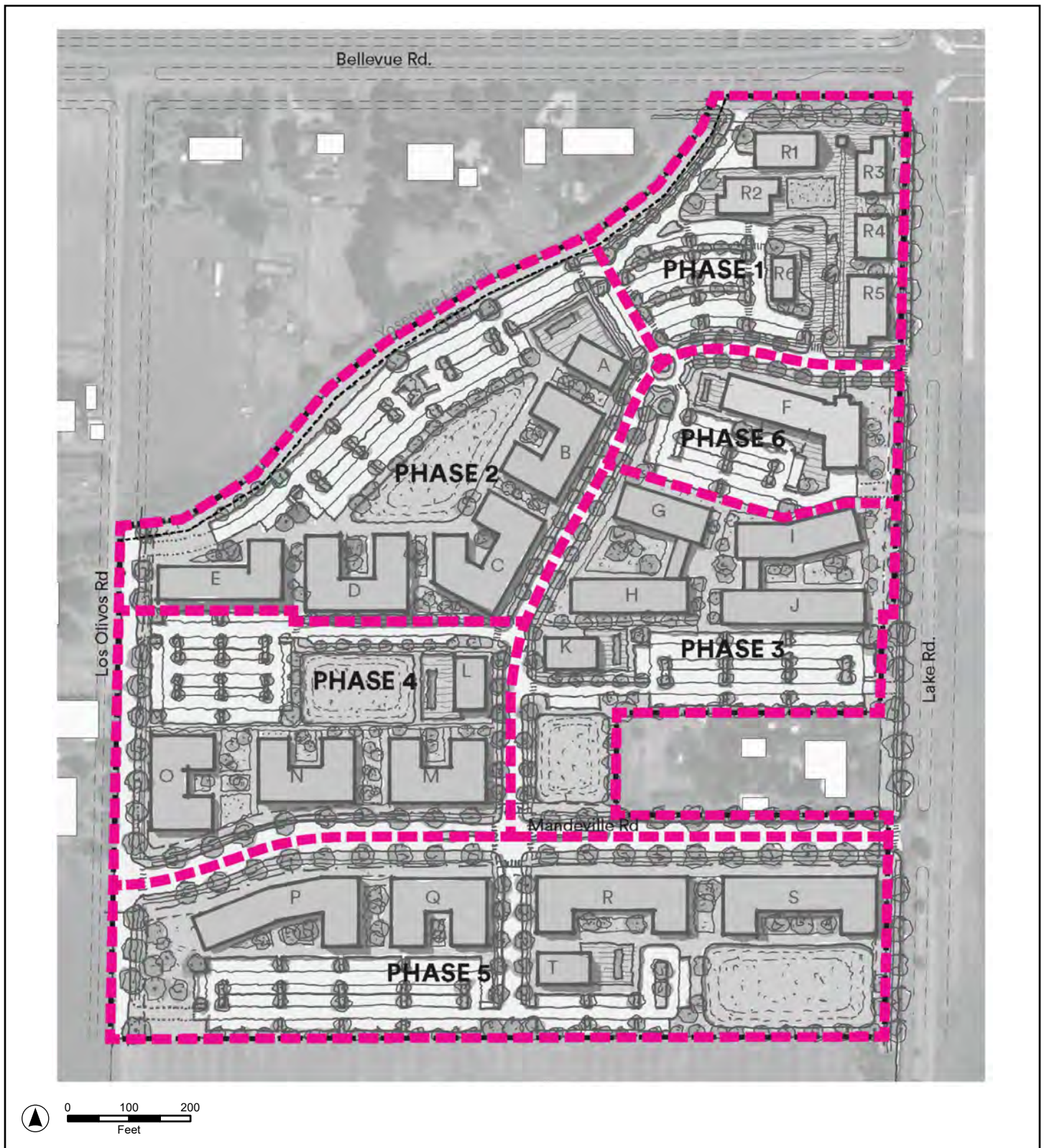


Legend

- Residential
- Hotel/Commercial
- Retail/Commercial
- Amenity
- Parking

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Figure 8. Conceptual Site Plan

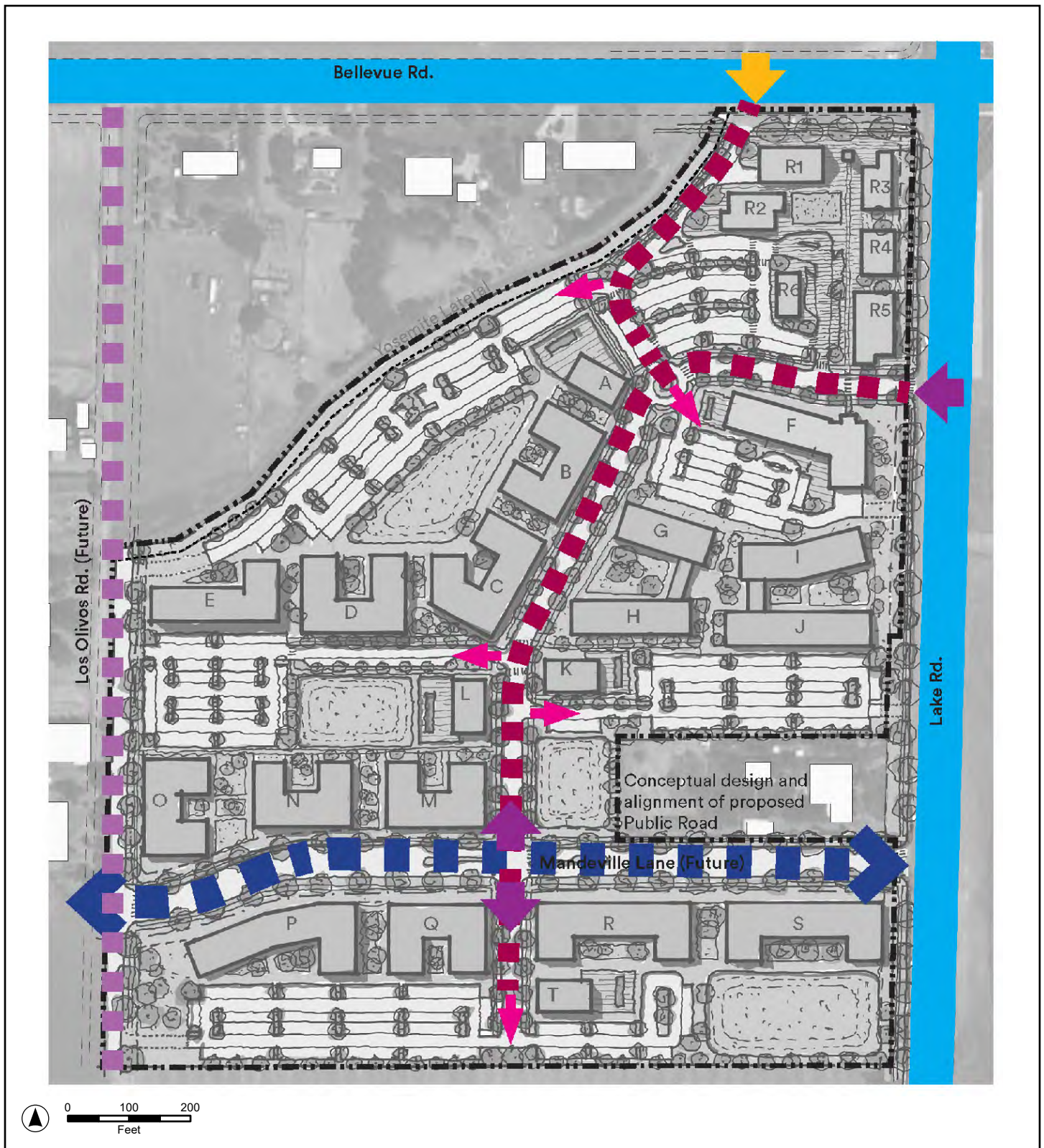


Legend

Phase Boundary

UC VILLAGES

Figure 9. Conceptual Phasing Plan



Legend

- | | | | |
|--|-------------------------------|--|---------------------------|
| | Divided Arterial | | Access |
| | Proposed Public Arterial Road | | Right-In-Right-Out Access |
| | Proposed Local Road | | Phase Access |
| | Proposed Onsite Road | | |

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Figure 10. Conceptual Circulation Plan

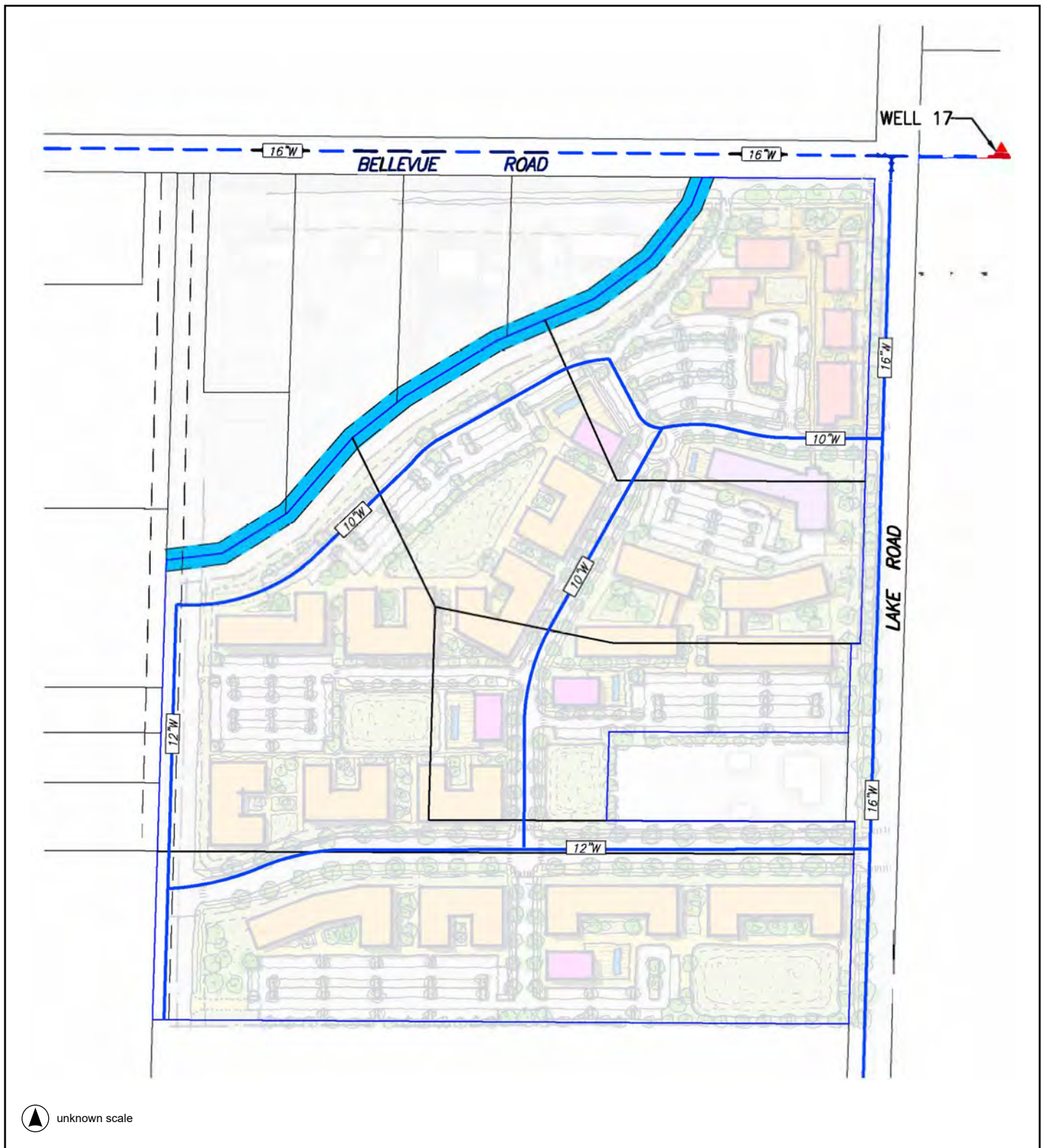


Legend

- Proposed Class I
- Existing Class I Relocation (Road Widening)
- Proposed Class II
- ✱ Proposed Bike Rack Location

UC VILLAGES

Figure 11. Conceptual Bikeway Plan

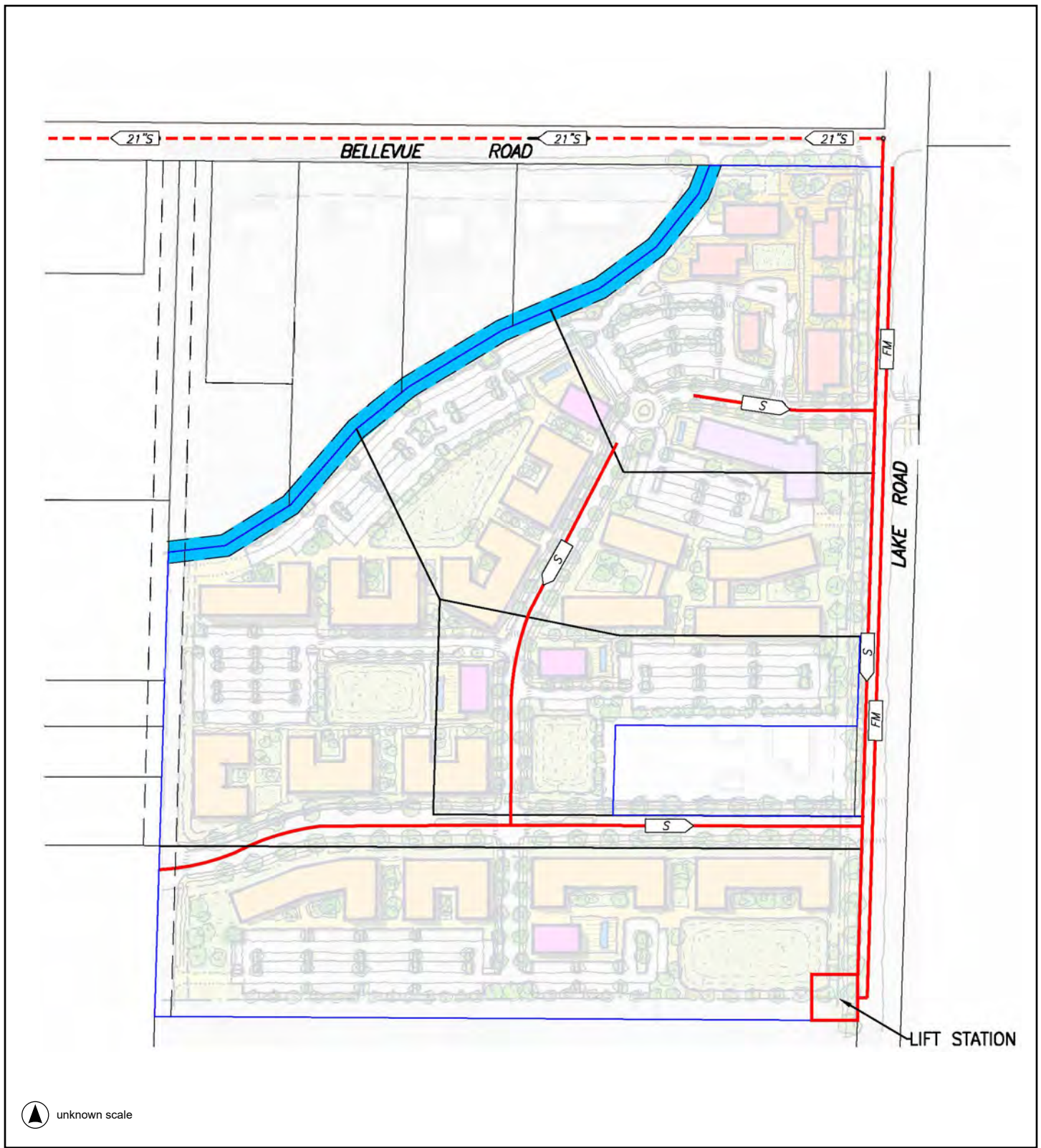


Legend

- Existing Water
- Proposed Water

UC VILLAGES

Figure 12. Existing and Proposed Water Facilities



Legend

- Existing Water
- Proposed Water

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Figure 13. Existing and Proposed Sewer Facilities



Legend

- ① Potential Storm Treatment
- ② Detention Basin

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Figure 14. Proposed Storm Drainage Facilities

NATIVE AMERICAN HERITAGE COMMISSION

April 02, 2024

Governor's Office of Planning & Research

Kim Espinosa
City of Merced
678 West 18th Street
Merced CA 95340

April 5 2024

STATE CLEARINGHOUSE

Re: 2024031198, UC Villages Project, Merced County

Dear Ms. Espinosa:

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.



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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

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.

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 (https://ohp.parks.ca.gov/?page_id=30331) 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: Pricilla.Torres-Fuentes@NAHC.ca.gov.

Sincerely,

Pricilla Torres-Fuentes

Pricilla Torres-Fuentes
Cultural Resources Analyst

cc: State Clearinghouse

From: [Kevin Malone](#)
To: [Espinosa, Kim](#)
Cc: [ElectricPlanning](#); [Nelson, Julie](#); [Espinosa, Kim](#); [Lan, Jonnie](#); [Christina Erwin](#)
Subject: Notice of Preparation of an EIR - UC Villages project
Date: Friday, April 5, 2024 9:31:13 AM
Attachments: [image001.png](#)
[UC Villages NOP 3.29.24.pdf](#)

Hello Kim,
Regarding the UC Villages project, If this should be addressed within the EIR please do so, MID Energy Resources has been approached by the developer regarding electric service. The proposed development is within the MID boundary, it could be served by MID. If the developer choses to use MID, MID would anticipate installing facilities from the site, west to G Street within the Bellevue Road ROW or in Public Utility Easements adjacent to the ROW and the site southeasterly to the intersection of Campus Parkway and Yosemite Avenue through the proposed developments by others within the road ROW or adjacent to the ROW within Public Utility Easements. If you have any questions, please feel free to ask.

Thank you,

Kevin L. Malone

Senior Distribution Planner

Energy Resources

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April 29, 2024

Kim Espinosa
City of Merced
Planning Division
678 West 18th Street
Merced, CA 95340

Project: Notice of Preparation of a Draft Environmental Impact Report for the UC Villages Project

District CEQA Reference No: 20240431

Dear Ms. Espinosa:

The San Joaquin Valley Air Pollution Control District (District) has reviewed the Notice of Preparation (NOP) from the City of Merced (City) for the UC Villages project. Per the NOP, the project consists of an approximately 35-acre development of mixed-use commercial and housing that includes up to 700 multi-family and/or student housing residential units, approximately 18,000 square feet of amenity buildings, approximately 30,000 square feet of commercial/retail, and an approximately 75,000 square foot hotel with up to 200 guest rooms (Project). The Project is located at the southwestern corner of the Bellevue Road and Lake Road intersection in unincorporated Merced County, CA.

The District offers the following comments at this time regarding the Project:

1) Project Related Emissions

At the federal level under the National Ambient Air Quality Standards (NAAQS), the District is designated as extreme nonattainment for the 8-hour ozone standards and serious nonattainment for the particulate matter less than 2.5 microns in size (PM_{2.5}) standards. At the state level under California Ambient Air Quality Standards (CAAQS), the District is designated as nonattainment for the 8-hour ozone, PM₁₀, and PM_{2.5} standards.

Samir Sheikh
Executive Director/Air Pollution Control Officer

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The District's initial review of the Project concludes that emissions resulting from construction and/or operation of the Project may exceed any of the following significance thresholds as identified in the District's Guidance for Assessing and Mitigating Air Quality Impacts: <https://ww2.valleyair.org/media/g4nl3p0g/gamaqi.pdf>. The District recommends that a more detailed preliminary review of the Project be conducted for the Project's construction and operational emissions.

1a) Construction Emissions

The District recommends, to reduce impacts from construction-related diesel exhaust emissions, the Project should utilize the cleanest available off-road construction equipment.

1b) Operational Emissions

Operational (ongoing) air emissions from mobile sources and stationary sources should be analyzed separately. For reference, the District's significance thresholds are identified in the District's Guidance for Assessing and Mitigating Air Quality Impacts: <https://ww2.valleyair.org/media/g4nl3p0g/gamaqi.pdf>.

Recommended Mitigation Measure: At a minimum, project related impacts on air quality should be reduced to levels below the District's significance thresholds through incorporation of design elements such as the use of cleaner Heavy Heavy-Duty (HHD) trucks and vehicles, measures that reduce Vehicle Miles Traveled (VMTs), and measures that increase energy efficiency. More information on transportation mitigation measures can be found at: <https://ww2.valleyair.org/media/ob0pweru/clean-air-measures.pdf>

1c) Recommended Model for Quantifying Air Emissions

Project-related criteria pollutant emissions from construction and operational sources should be identified and quantified. Emissions analysis should be performed using the California Emission Estimator Model (CalEEMod), which uses the most recent CARB-approved version of relevant emissions models and emission factors. CalEEMod is available to the public and can be downloaded from the CalEEMod website at: www.caleemod.com.

2) Health Risk Screening/Assessment

The City should evaluate the risk associated with the Project for sensitive receptors (residences, businesses, hospitals, day-care facilities, health care facilities, etc.) in the area and mitigate any potentially significant risk to help limit exposure of sensitive receptors to emissions.

To determine potential health impacts on surrounding receptors (residences, businesses, hospitals, day-care facilities, health care facilities, etc.) a Prioritization and/or a Health Risk Assessment (HRA) should be performed for the Project. These health risk determinations should quantify and characterize potential Toxic Air Contaminants (TACs) identified by the Office of Environmental Health Hazard Assessment/California Air Resources Board (OEHHA/CARB) that pose a present or potential hazard to human health.

Health risk analyses should include all potential air emissions from the project, which include emissions from construction of the project, including multi-year construction, as well as ongoing operational activities of the project. Note, two common sources of TACs can be attributed to diesel exhaust emitted from heavy-duty off-road earth moving equipment during construction, and from ongoing operation of heavy-duty on-road trucks.

Prioritization (Screening Health Risk Assessment):

A "Prioritization" is the recommended method for a conservative screening-level health risk assessment. The Prioritization should be performed using the California Air Pollution Control Officers Association's (CAPCOA) methodology. Please contact the District for assistance with performing a Prioritization analysis.

The District recommends that a more refined analysis, in the form of an HRA, be performed for any project resulting in a Prioritization score of 10 or greater. This is because the prioritization results are a conservative health risk representation, while the detailed HRA provides a more accurate health risk evaluation.

Health Risk Assessment:

Prior to performing an HRA, it is strongly recommended that land use agencies/project proponents develop and submit for District review a health risk modeling protocol that outlines the sources and methodologies that will be used to perform the HRA.

A development project would be considered to have a potentially significant health risk if the HRA demonstrates that the health impacts would exceed the District's established risk thresholds, which can be found here:

<https://ww2.valleyair.org/permitting/ceqa/>.

A project with a significant health risk would trigger all feasible mitigation measures. The District strongly recommends that development projects that result in a significant health risk not be approved by the land use agency.

The District is available to review HRA protocols and analyses. For HRA submittals please provide the following information electronically to the District for review:

- HRA (AERMOD) modeling files
- HARP2 files
- Summary of emissions source locations, emissions rates, and emission factor calculations and methodologies.

For assistance, please contact the District's Technical Services Department by:

- E-Mailing inquiries to: hramodeler@valleyair.org
- Calling (559) 230-5900

Recommended Measure: Development projects resulting in TAC emissions should be located an adequate distance from residential areas and other sensitive receptors to prevent the creation of a significant health risk in accordance to CARB's Air Quality and Land Use Handbook: A Community Health Perspective located at <https://ww2.arb.ca.gov/our-work/programs/resource-center/strategy-development/land-use-resources>.

3) Ambient Air Quality Analysis

An Ambient Air Quality Analysis (AAQA) uses air dispersion modeling to determine if emissions increases from a project will cause or contribute to a violation of State or National Ambient Air Quality Standards. The District recommends an AAQA be performed for the Project if emissions exceed 100 pounds per day of any pollutant.

An AAQA uses air dispersion modeling to determine if emission increase from a project will cause or contribute to a violation of State or National Ambient Air Quality Standards. An acceptable analysis would include emissions from both project-specific permitted and non-permitted equipment and activities. The District recommends consultation with District staff to determine the appropriate model and input data to use in the analysis.

Specific information for assessing significance, including screening tools and modeling guidance, is available online at the District's website: <https://ww2.valleyair.org/permitting/ceqa/>.

4) Voluntary Emission Reduction Agreement

Criteria pollutant emissions may result in emissions exceeding the District's significance thresholds, potentially resulting in a significant impact on air quality. When a project is expected to have a significant impact, the District recommends the DEIR also include a discussion on the feasibility of implementing a Voluntary Emission Reduction Agreement (VERA) for this Project.

A VERA is a mitigation measure by which the project proponent provides pound-for-pound mitigation of emissions increases through a process that develops, funds, and implements emission reduction projects, with the District serving a role of administrator of the emissions reduction projects and verifier of the successful mitigation effort. To implement a VERA, the project proponent and the District enter into a contractual agreement in which the project proponent agrees to mitigate project specific emissions by providing funds for the District's incentives programs. The funds are disbursed by the District in the form of grants for projects that achieve emission reductions. Thus, project-related impacts on air quality can be mitigated. Types of emission reduction projects that have been funded in the past include electrification of stationary internal combustion engines (such as agricultural irrigation pumps), replacing old heavy-duty trucks with new, cleaner, more efficient heavy-duty trucks, and replacement of agricultural equipment with the latest generation technologies.

In implementing a VERA, the District verifies the actual emission reductions that have been achieved as a result of completed grant contracts, monitors the emission reduction projects, and ensures the enforceability of achieved reductions. After the project is mitigated, the District certifies to the Lead Agency that the mitigation is completed, providing the Lead Agency with an enforceable mitigation measure demonstrating that project-related emissions have been mitigated. To assist the Lead Agency and project proponent in ensuring that the environmental document is compliant with CEQA, the District recommends the environmental document includes an assessment of the feasibility of implementing a VERA.

5) Truck Routing

Truck routing involves the assessment of which roads Heavy Heavy-Duty (HHD) trucks take to and from their destination, and the emissions impact that the HHD trucks may have on residential communities and sensitive receptors.

Since the Project includes commercial development, there is potential for an increase in truck trips in the area. The District recommends the City evaluate HHD truck routing patterns for the Project, with the aim of limiting exposure of residential communities and sensitive receptors to emissions. This evaluation would consider the current truck routes, the quantity and type of each truck (e.g., Medium Heavy-Duty, HHD, etc.), the destination and origin of each trip, traffic volume correlation with the time of day or the day of the week, overall Vehicle Miles Traveled (VMT), and associated exhaust emissions. The truck routing evaluation would also identify alternative truck routes and their impacts on VMT and air quality.

6) Reduce Idling of Heavy-Duty Trucks

The goal of this strategy is to limit the potential for localized PM_{2.5} and toxic air contaminant impacts associated with the idling of Heavy-Duty trucks. The diesel

exhaust from idling has the potential to impose significant adverse health and environmental impacts.

Since the Project is expected to result in HHD truck trips, the District recommends the DEIR include measures to ensure compliance of the state anti-idling regulation (13 CCR § 2485 and 13 CCR § 2480) and discuss the importance of limiting the amount of idling, especially near sensitive receptors.

7) Under-fired Charbroilers

The Project may have restaurants with under-fired charbroilers. Such charbroilers may pose the potential for immediate health risk, particularly when located in densely populated areas or near sensitive receptors.

Since the cooking of meat can release carcinogenic PM_{2.5} species, such as polycyclic aromatic hydrocarbons, controlling emissions from new under-fired charbroilers will have a substantial positive impact on public health. The air quality impacts on neighborhoods near restaurants with under-fired charbroilers can be significant on days when meteorological conditions are stable, when dispersion is limited and emissions are trapped near the surface within the surrounding neighborhoods. This potential for neighborhood-level concentration of emissions during evening or multi-day stagnation events raises air quality concerns.

Furthermore, reducing commercial charbroiling emissions is essential to achieving attainment of multiple federal PM_{2.5} standards. Therefore, the District recommends that the DEIR include a measure requiring the assessment and potential installation, as technologically feasible, of particulate matter emission control systems for new large restaurants operating under-fired charbroilers.

The District is available to assist the City and project proponents with this assessment. Additionally, the District is currently offering substantial incentive funding that covers the full cost of purchasing, installing, and maintaining the system during a demonstration period covering two years of operation. Please contact the District at (559) 230-5800 or technology@valleyair.org for more information, or visit: <https://ww2.valleyair.org/grants/restaurant-charbroiler-technology-partnership/>

8) Vegetative Barriers and Urban Greening

There are residential units located north of the Project. The District suggests the City consider the feasibility of incorporating vegetative barriers and urban greening as a measure to further reduce air pollution exposure on sensitive receptors (e.g., residential units).

While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, vegetative barriers have been shown

to be an additional measure to potentially reduce a population's exposure to air pollution through the interception of airborne particles and the update of gaseous pollutants. Examples of vegetative barriers include, but are not limited to the following: trees, bushes, shrubs, or a mix of these. Generally, a higher and thicker vegetative barrier with full coverage will result in greater reductions in downwind pollutant concentrations. In the same manner, urban greening is also a way to help improve air quality and public health in addition to enhancing the overall beautification of a community with drought tolerant, low-maintenance greenery.

9) Clean Lawn and Garden Equipment in the Community

Since the Project consists of residential and commercial development, gas-powered lawn and garden equipment have the potential to result in an increase of NO_x and PM_{2.5} emissions. Utilizing electric lawn care equipment can provide residents with immediate economic, environmental, and health benefits. The District recommends the Project proponent consider the District's Clean Green Yard Machines (CGYM) program which provides incentive funding for replacement of existing gas powered lawn and garden equipment. More information on the District CGYM program and funding can be found at: <https://ww2.valleyair.org/grants/clean-green-yard-machines-residential/> and <https://ww2.valleyair.org/grants/zero-emission-landscaping-equipment-voucher-program/>.

10) On-Site Solar Deployment

It is the policy of the State of California that renewable energy resources and zero-carbon resources supply 100% of retail sales of electricity to California end-use customers by December 31, 2045. While various emission control techniques and programs exist to reduce air quality emissions from mobile and stationary sources, the production of solar energy is contributing to improving air quality and public health. The District suggests that the City consider incorporating solar power systems as an emission reduction strategy for the Project.

11) Electric Infrastructure

To support and accelerate the installation of electric vehicle charging equipment and development of required infrastructure, the District offers incentives to public agencies, businesses, and property owners of multi-unit dwellings to install electric charging infrastructure (Level 2 and 3 chargers). The purpose of the District's Charge Up! Incentive program is to promote clean air alternative-fuel technologies and the use of low or zero-emission vehicles. The District recommends that the City and project proponents install electric vehicle chargers at project sites, and at strategic locations.

Please visit <https://ww2.valleyair.org/grants/charge-up> for more information.

12) District Rules and Regulations

The District issues permits for many types of air pollution sources, and regulates some activities that do not require permits. A project subject to District rules and regulations would reduce its impacts on air quality through compliance with the District's regulatory framework. In general, a regulation is a collection of individual rules, each of which deals with a specific topic. As an example, Regulation II (Permits) includes District Rule 2010 (Permits Required), Rule 2201 (New and Modified Stationary Source Review), Rule 2520 (Federally Mandated Operating Permits), and several other rules pertaining to District permitting requirements and processes.

The list of rules below is neither exhaustive nor exclusive. Current District rules can be found online at: <https://ww2.valleyair.org/rules-and-planning/current-district-rules-and-regulations>. To identify other District rules or regulations that apply to future projects, or to obtain information about District permit requirements, the project proponents are strongly encouraged to contact the District's Small Business Assistance (SBA) Office at (209) 557-6446.

12a) District Rules 2010 and 2201 - Air Quality Permitting for Stationary Sources

Stationary Source emissions include any building, structure, facility, or installation which emits or may emit any affected pollutant directly or as a fugitive emission. District Rule 2010 (Permits Required) requires operators of emission sources to obtain an Authority to Construct (ATC) and Permit to Operate (PTO) from the District. District Rule 2201 (New and Modified Stationary Source Review) requires that new and modified stationary sources of emissions mitigate their emissions using Best Available Control Technology (BACT).

This Project may be subject to District Rule 2010 (Permits Required) and Rule 2201 (New and Modified Stationary Source Review) and may require District permits. Prior to construction, the Project proponent should submit to the District an application for an ATC. For further information or assistance, the project proponent may contact the District's SBA Office at (209) 557-6446.

12b) District Rule 9510 - Indirect Source Review (ISR)

The Project is subject to District Rule 9510 because it will receive a project-level discretionary approval from a public agency and will equal or exceed 9,000 square feet of space.

The purpose of District Rule 9510 is to reduce the growth in both NO_x and PM emissions associated with development and transportation projects from mobile

and area sources; specifically, the emissions associated with the construction and subsequent operation of development projects. The ISR Rule requires developers to mitigate their NO_x and PM emissions by incorporating clean air design elements into their projects. Should the proposed development project clean air design elements be insufficient to meet the required emission reductions, developers must pay a fee that ultimately funds incentive projects to achieve off-site emissions reductions.

Per Section 5.0 of the ISR Rule, an Air Impact Assessment (AIA) application is required to be submitted no later than applying for project-level approval from a public agency. As of the date of this letter, the District has not received an AIA application for this Project. Please inform the project proponent to immediately submit an AIA application to the District to comply with District Rule 9510 so that proper mitigation and clean air design under ISR can be incorporated into the Project's design.

Information about how to comply with District Rule 9510 can be found online at: <https://ww2.valleyair.org/permitting/indirect-source-review-rule-overview>

The AIA application form can be found online at: <https://ww2.valleyair.org/permitting/indirect-source-review-rule-overview/forms-and-applications/>

District staff is available to provide assistance and can be reached by phone at (559) 230-5900 or by email at ISR@valleyair.org.

12c) District Rule 9410 (Employer Based Trip Reduction)

The Project may be subject to District Rule 9410 (Employer Based Trip Reduction) if the project would result in employment of 100 or more "eligible" employees. District Rule 9410 requires employers with 100 or more "eligible" employees at a worksite to establish an Employer Trip Reduction Implementation Plan (eTRIP) that encourages employees to reduce single-occupancy vehicle trips, thus reducing pollutant emissions associated with work commutes. Under an eTRIP plan, employers have the flexibility to select the options that work best for their worksites and their employees.

Information about District Rule 9410 can be found online at: <https://ww2.valleyair.org/compliance/rule-9410-employer-based-trip-reduction/>.

For additional information, you can contact the District by phone at 559-230-6000 or by e-mail at etrip@valleyair.org

12d) District Rule 4002 (National Emissions Standards for Hazardous Air Pollutants)

In the event an existing building will be renovated, partially demolished or removed, the Project may be subject to District Rule 4002. This rule requires a thorough inspection for asbestos to be conducted before any regulated facility is demolished or renovated. Information on how to comply with District Rule 4002 can be found online at: <https://ww2.valleyair.org/compliance/demolition-renovation/>

12e) District Rule 4601 (Architectural Coatings)

The Project will be subject to District Rule 4601 since it is expected to utilize architectural coatings. Architectural coatings are paints, varnishes, sealers, or stains that are applied to structures, portable buildings, pavements or curbs. The purpose of this rule is to limit VOC emissions from architectural coatings. In addition, this rule specifies architectural coatings storage, cleanup and labeling requirements. Additional information on how to comply with District Rule 4601 requirements can be found online at: <https://ww2.valleyair.org/media/tkgjeusd/rule-4601.pdf>

12f) District Regulation VIII (Fugitive PM10 Prohibitions)

The project proponent may be required to submit a Construction Notification Form or submit and receive approval of a Dust Control Plan prior to commencing any earthmoving activities as described in Regulation VIII, specifically Rule 8021 – *Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities*.

Should the project result in at least 1-acre in size, the project proponent shall provide written notification to the District at least 48 hours prior to the project proponents intent to commence any earthmoving activities pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). Also, should the project result in the disturbance of 5-acres or more, or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials, the project proponent shall submit to the District a Dust Control Plan pursuant to District Rule 8021 (Construction, Demolition, Excavation, Extraction, and Other Earthmoving Activities). For additional information regarding the written notification or Dust Control Plan requirements, please contact District Compliance staff at (559) 230-5950.

The application for both the Construction Notification and Dust Control Plan can be found online at: <https://ww2.valleyair.org/media/fm3jrbsq/dcp-form.docx>

Information about District Regulation VIII can be found online at:
<https://ww2.valleyair.org/dustcontrol>

12g) District Rule 4901 - Wood Burning Fireplaces and Heaters

The purpose of this rule is to limit emissions of carbon monoxide and particulate matter from wood burning fireplaces, wood burning heaters, and outdoor wood burning devices. This rule establishes limitations on the installation of new wood burning fireplaces and wood burning heaters. Specifically, at elevations below 3,000 feet in areas with natural gas service, no person shall install a wood burning fireplace, low mass fireplace, masonry heater, or wood burning heater.

Information about District Rule 4901 can be found online at:
<https://ww2.valleyair.org/compliance/residential-wood-smoke-reduction-program/>

12h) Other District Rules and Regulations

The Project may also be subject to the following District rules: Rule 4102 (Nuisance) and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations).

13) District Comment Letter

The District recommends that a copy of the District's comments be provided to the Project proponent.

If you have any questions or require further information, please contact Matt Crow by e-mail at Matt.Crow@valleyair.org or by phone at (559) 230-5931.

Sincerely,

Tom Jordan
Director of Policy and Government Affairs



For: Mark Montelongo
Program Manager



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



May 06, 2024

Kim Espinosa, Temporary Director of Development Services
City of Merced Planning Division
678 West 18th Street
Merced, California 95340
(209) 385-6858
espinosak@cityofmerced.org

Subject: **UC Villages Project (Project)**
Notice of Preparation (NOP)
SCH: 2024031198

Dear Kim Espinosa:

The California Department of Fish and Wildlife (CDFW) received a Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR) from the City of Merced Planning Division (City of Merced) for the UC Villages Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, CDFW appreciates 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. While the comment period may have ended, CDFW respectfully requests that the City of Merced still consider our comments.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (*Id.*, § 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public

¹ 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.

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agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the project proponent may seek related take authorization as provided by the Fish and Game Code.

Fully Protected Species: CDFW has jurisdiction over fully protected species of birds, mammals, amphibians and reptiles, and fish, pursuant to Fish and Game Code sections 3511, 4700, 5050, and 5515. Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

- Take is for necessary scientific research,
- Efforts to recover a fully protected, endangered, or threatened species, live capture, and relocation of a bird species for the protection of livestock, or
- They are a covered species whose conservation and management are provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

Additionally, specified types of infrastructure projects may be eligible for an Incidental Take Permit (ITP) for unavoidable impacts to fully protected species if certain conditions are met (see Fish & G. Code §2081.15). Project proponents should consult with CDFW early in the project planning process if an ITP may be pursued for the Project.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include sections 3503 (regarding unlawful take, possession, or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession, or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

Federally Listed Species: CDFW recommends consulting with the USFWS on potential impacts to Federally listed species. Take under the Federal Endangered Species Act (FESA) is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding,

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foraging, or nesting. Consultation with the USFWS to comply with FESA is advised well in advance of any ground disturbing activities.

Unlisted Species: Species of plants and animals need not be officially listed as Endangered, Rare, or Threatened (E, R, or T) on any State or Federal list to be considered E, R, or T under CEQA. If a species can be shown to meet the criteria for E, R, or T, as specified in the CEQA Guidelines section 15380, CDFW recommends it be fully considered in the environmental analysis for the Project.

PROJECT DESCRIPTION SUMMARY

Proponent: Sid Lakireddy, UC Villages LLC

Objective: The proposed Project includes an approximately 35-acre development of mixed-use commercial and housing located across from the UC Merced campus.

Location: The Project is located in unincorporated Merced County, to the northeast of the City of Merced's limits. The site is at the southwestern corner of the Bellevue Road and Lake Road intersection. The Project site is 37.23 acres and is comprised of Assessor's Parcel Numbers (APNs) 060-590-016, -017, -019, -025, -026, and 060-020-016.

Timeframe: N/A

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist City of Merced in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct, and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the DEIR prepared for this Project.

The Project site is located approximately ½-mile south of Yosemite Lake, 1-mile east of Fairfield Canal and directly southwest from the UC Merced Campus and is comprised of annual grassland, disturbed annual grassland, and a portion with previous agricultural use. The Project site is bordered by agriculture fields, a few rural residences, and annual grassland and vernal pool habitats. Based on a review of the Project description, California Natural Diversity Database (CNDDDB) records, the surrounding habitat, as well as our familiarity with the resources previously in the UC Merced footprint prior to construction, as well that on the adjacent Campus Natural reserve lands owned by the UC and The Nature Conservancy, several special-status species could potentially be impacted by Project activities.

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The Project area is within the geographic range of several special status animals species, including but not limited to, the State endangered and fully protected bald eagle (*Haliaeetus leucocephalus*), the State and federally threatened California tiger salamander (*Ambystoma californiense*), the State candidate endangered Crotch's bumble bee (*Bombus crotchii*), the State fully protected golden eagle (*Aquila chrysaetos*), the State threatened Swainson's hawk (*Buteo swainsoni*), the State threatened tricolored blackbird (*Agelaius tricolor*), the State species of special concern and federally proposed threatened western spadefoot (*Spea hammondi*), and the State species of special concern burrowing owl (*Athene cunicularia*). The Project area is also within geographic range of several special-status plant species including, but not limited to, the federally endangered and California Rare Plant Rank (CRPR) 1B.1 Keck's checkerbloom (*Sidalcea keckii*), the State endangered, CRPR 1B.1, and federally threatened San Joaquin Valley Orcutt grass (*Orcuttia inaequalis*) and Colusa grass (*Neostapfia colusana*), the State endangered, CRPR 1B.2, and federally threatened succulent owls-clover (*Castilleja campestris* var. *succulenta*). The Project area also has potential habitat for migratory and non-migratory nesting bird species.

In order to adequately assess potential impacts to biological resources, CDFW recommends a qualified biologist review the Project area and conduct habitat assessments and/or focused biological surveys during the appropriate survey period(s) in order to determine whether any special-status species may be present within the Project site. This information should be used to inform the need for additional protocol surveys, assist with the development of avoidance, minimization, and/or mitigation measures, and when developing project alternatives to avoid and minimize potentially significant biological impacts. We also recommend reviewing UC Merced documents such as *the Final Conservation Strategy for the UC Merced Project* (October 2008) and *the University of California, Merced Campus and Community North Project Environmental Impact Report (EIR) (State Clearinghouse Number 2008041009)* dated November 7, 2008.

Fully Protected Raptors

The Project site is within the known geographic range of bald eagle (BAEA) and golden eagle (GOEA), and a BAEA historical occurrence was documented at Lake Yosemite, ½-mile north of the Project site (CDFW 2024). BAEA require large bodies of water with hunting perches of large limbed trees to pounce on fish or small mammals and GOEA are known to inhabit open areas with large trees and cliffs for nesting. These habitat features are present within the Project vicinity, and as such, CDFW recommends that a qualified biologist conduct focused BAEA and GOEA surveys as part of the biological studies conducted in support of the Draft EIR. To avoid Project related impacts to these species, CDFW recommends incorporating survey methods outlined in the Protocol for

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Evaluating Bald Eagle Habitat and Populations in California (Jackman and Jenkins 2004) and the Interim Golden Eagle Inventory and Monitoring Protocols; and Other Recommendations guidelines (USFWS 2010). If surveys indicate the presence or potential presence of BAEA or GOEA, consultation with the CDFW is recommended for guidance on the development of take avoidance measures.

California Tiger Salamander

The Project site is within the known geographic range of California tiger salamander (CTS) and a historical occurrence was documented ¼-mile north of the Project site (CDFW 2024). In addition, CDFW issued an Incidental Take Permit (2081-2009-010-04) for the construction of UC Merced for the take of several listed species known to occur in the UC Merced footprint, including CTS. CTS breed and develop in vernal and seasonal pools and stock ponds in grassland, woodland, and scrub habitat types and have been determined to be physiologically capable of dispersing up to approximately 1 ½-miles from seasonally flooded wetlands (Searcy and Shaffer 2011). These habitat features are present within the Project vicinity, and, as such, CDFW recommends a qualified biologist conduct protocol-level surveys in accordance with the USFWS “Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander” (USFWS CTS Protocol) (USFWS 2003) as part of the biological technical studies conducted in support of the Draft EIR.

In addition to conducting CTS surveys, CDFW recommends the following:

Recommended Mitigation Measure 1: CTS Surveys

Depending on the time between the initial survey efforts conducted in support of the Draft EIR and project construction, CDFW recommends that additional protocol-level surveys be conducted following the USFWS CTS Protocol. It should be noted that the protocol requires that surveys be conducted during at least two seasons, with sufficient precipitation, to be considered complete.

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Recommended Mitigation Measure 2: CTS Avoidance Buffer

If CTS protocol-level surveys as described in Recommended Mitigation Measure 1 are not conducted, CDFW advises that a minimum 50-foot no-disturbance buffer be delineated around all small mammal burrows in suitable upland refugia habitat within and/or adjacent to the Project site. Further, CDFW recommends potential or known breeding habitat within and/or adjacent to the Project site be delineated with a minimum 250-foot no-disturbance buffer. Both upland burrow and wetland breeding no-disturbance buffers are intended to minimize impacts to CTS habitat and avoid take of individuals.

Recommended Mitigation Measure 3: CTS Take Authorization

If through surveys it is determined that CTS are occupying or have the potential to occupy the Project site, consultation with CDFW is warranted to discuss how to implement the project and avoid take. If take cannot be avoided, take authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Crotch's Bumble Bee

The Project site is within the known geographic range of Crotch's bumble bee (CBB) (CDFW 2024). CBB are known to inhabit areas of grasslands and scrub that contain requisite habitat elements for nesting, such as small mammal burrows and bunch/thatched grasses. CBB was once common throughout most of central and southern California. However, it now appears to be absent from most of their range, especially in the central portion of its historic range within California's Central Valley (Hatfield et al. 2015). Analyses by the Xerces Society et al. (2018) suggest there have been sharp declines in relative abundance by 98% and persistence by 80% over the last ten years.

CDFW recommends a qualified biologist conduct a habitat assessment as part of the biological technical studies conducted in support of the Draft EIR to determine if the Project site or its immediate vicinity contain habitat suitable to support CBB. Potential nesting sites, which include all small mammal burrows, perennial bunch grasses, thatched annual grasses, brush piles, old bird nests, dead trees, and hollow logs would need to be documented as part of the assessment. If potentially suitable habitat is identified, CDFW recommends that a qualified biologist conduct focused surveys for CBB, and their requisite habitat features following the methodology outlined in the Survey Considerations for California Endangered Species Act Candidate Bumble Bee Species (CDFW 2023) as part of the biological technical studies conducted in support of the Draft EIR. If surveys indicate the presence or potential presence of CBB, consultation with the CDFW is recommended for guidance on the development of mitigation measures such as take avoidance, minimization, and mitigation.

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Swainson's hawk

The Project site is within the known geographic range of Swainson's hawk (SWHA) and there are historical occurrences documented within 1 mile of the Project site (CDFW 2024). In addition, CDFW issued an Incidental Take Permit (2081-2009-010-04) for the construction of UC Merced for the take of several listed species known to occur in the UC Merced footprint, including SWHA. SWHA are known to breed within the Central Valley of California and prefer to nest and forage in alfalfa, fallow fields, field crops, and grassland habitats with a sufficient source of small mammals (CDFG 1994). Based on aerial imagery, most of the Project site contains suitable habitat for SWHA foraging. In addition, there are trees and structures located within the vicinity of the Project area that may provide suitable nesting habitat. Therefore, CDFW recommends that a qualified biologist conduct surveys for nesting SWHA following the entire survey methodology developed by the SWHA Technical Advisory Committee (SWHA TAC 2000) as part of the biological technical studies conducted in support of the Draft EIR.

In addition to conducting SWHA surveys, CDFW recommends the Draft EIR include the following measures:

Recommended Mitigation Measure 4: SWHA Surveys Prior to Construction

Depending on the time between the initial survey efforts conducted in support of the Draft EIR and project construction, CDFW recommends that additional surveys, following the survey methodology developed by the SWHA Technical Advisory Committee, be repeated the survey season immediately prior to construction.

Recommended Mitigation Measure 5: SWHA Avoidance Buffer

If Project-specific activities will take place during the SWHA nesting season (i.e., March 1 through September 15), and active SWHA nests are present, CDFW recommends a minimum ½-mile no-disturbance buffer be delineated and maintained around each nest, regardless of whether it was detected by surveys or observed incidentally. These buffers would remain in place until the breeding season has ended or until a qualified biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival, to prevent nest abandonment and other take of SWHA as a result of Project activities.

Recommended Mitigation Measure 6: SWHA Take Authorization

CDFW also recommends that in the event an active SWHA nest is detected, and a ½-mile no-disturbance buffer is not feasible, consultation with CDFW is warranted to discuss how to implement the project and avoid take. If take cannot be avoided, take

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authorization through the acquisition of an ITP, pursuant to Fish and Game Code section 2081 subdivision (b) is necessary to comply with CESA.

Recommended Mitigation Measure 7: SWHA Foraging Habitat Mitigation

Finally, CDFW recommends compensation for the loss of SWHA foraging habitat as described in CDFW's "Staff Report Regarding Mitigation for Impacts to Swainson's Hawks" (CDFG 1994) to reduce impacts to foraging habitat to less than significant. The Staff Report recommends that mitigation for habitat loss occur within a minimum distance of 10 miles from known nest sites. CDFW has the following recommendations based on the Staff Report:

- For projects within 1 mile of an active nest tree, a minimum of 1 acre of habitat management (HM) land for each acre of development is advised.
- For projects within 5 miles of an active nest but greater than 1 mile, a minimum of $\frac{3}{4}$ acre of HM land for each acre of development is advised.
- For projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree, a minimum of $\frac{1}{2}$ acre of HM land for each acre of development is advised.

Tricolored blackbird

The Project site is within the known geographic range of tricolored blackbird (TRBL) and there are historical occurrences documented within $1\frac{1}{4}$ miles of the Project site (CDFW 2024). TRBL breed within the vicinity of fresh water and are known to breed in alfalfa, wheat, and other low agricultural crop fields, and these fields are becoming an increasingly important nesting habitat type, particularly in the San Joaquin Valley (Beedy et al. 2023). Based on aerial imagery, it appears the Project site and vicinity may contain suitable habitat for TRBL foraging and nesting. In 2017, approximately 30,000 TRBL were distributed among 16 colonies in Merced County (Meese 2017). Nesting can occur synchronously, with all eggs laid within one week (Orians 1961). For these reasons, depending on timing, disturbance to nesting colonies can cause abandonment, significantly impacting TRBL populations (Beedy et al. 2020).

As the Project site is within the known geographic range of TRBL and suitable foraging and nesting habitat may be present, CDFW recommends that a qualified biologist conduct a habitat assessment as part of the biological technical studies conducted in support of the Draft EIR. If potentially suitable habitat is identified, consultation with CDFW is recommended for guidance on focused survey methods and mitigation measures such as avoidance, take authorization, and mitigation.

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Western Spadefoot

The Project site is within the known geographic range of western spadefoot (WESP) and there is a documented historical occurrence 4 miles from the Project site. WESP occurs primarily in grasslands and seasonal wetlands with appropriate upland habitat. These habitat features may be present within the Project site and Project vicinity and, as such, CDFW recommends that a general habitat assessment be conducted as part of the biological technical studies conducted in support of the Draft EIR. If the habitat assessment indicates the presence or potential presence of WESP, consultation with the CDFW is recommended for guidance on surveys and mitigation measures such as avoidance, minimization, and mitigation.

Burrowing Owl

The Project site is within the known geographic range of burrowing owl (BUOW) and there is a documented historical occurrence ¼-mile from the Project site. BUOW inhabit open grasslands containing small mammal burrows, a requisite habitat feature used for nesting and cover. These habitat features are present within the Project site and Project vicinity, and as such, CDFW recommends assessing presence/absence of BUOW by having a qualified biologist conduct surveys following the California Burrowing Owl Consortium's (CBOC) "Burrowing Owl Survey Protocol and Mitigation Guidelines" (CBOC 1993) and CDFW's "Staff Report on Burrowing Owl Mitigation" (CDFG 2012) as part of the biological studies conducted in support of the Draft EIR. If surveys indicate the presence or potential presence of BUOW, consultation with the CDFW is recommended for guidance on mitigation measures such as avoidance, minimization, and mitigation.

Special-Status Plants

The Project site is within the known geographic range of several special status plant species and several species have been documented directly within or adjacent to the Project. In addition, CDFW issued an Incidental Take Permit (2081-2009-010-04) for the construction of UC Merced for the take of several listed species known to occur in the UC Merced footprint, including succulent owl's clover, Colusa grass, and San Joaquin orcutt grass. Special-status plant species are threatened with habitat loss and habitat fragmentation resulting from development, vehicle and foot traffic, and introduction of non-native plant species (California Native Plant Society 2018), all of which may be unintended impacts of the Project. Therefore, CDFW recommends that the Project site(s) be surveyed for special status plants by a qualified botanist following the "Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Natural Communities" (CDFW 2018) as part of the biological technical studies conducted in support of the Draft EIR. This protocol, which is intended to maximize detectability, includes the identification of reference populations to facilitate

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the likelihood of field investigations occurring during the appropriate floristic period. If surveys indicate the presence or potential presence of special status plants, consultation with CDFW is recommended for guidance on mitigation measures such as avoidance, minimization, and mitigation. Please note, if State-listed plant species are identified during botanical surveys, consultation with CDFW is warranted to determine if the Project can avoid take of that species. If take cannot be avoided, take authorization would need to occur through issuance of a State ITP to comply with CESA and/or Fish and Game Code section 1900 and California Code of Regulations, title 14, section 786.9, subdivision (b).

Nesting birds

The Project site is within the known geographic range of several species of migratory and non-migratory birds and may contain suitable habitat for an abundance of nesting bird species. To evaluate Project-related impacts on migratory and non-migratory birds, CDFW recommends that a general habitat assessment for nesting and foraging birds be conducted as part of the biological technical studies conducted in support of the Draft EIR.

Editorial Comments and/or Suggestions

Federally Listed Species

CDFW recommends consulting with USFWS regarding potential impacts to federally listed species including, but not limited to, California tiger salamander, Colusa grass, Keck's checkerbloom, San Joaquin Valley Orcutt grass, succulent owls-clover, vernal pool fairy shrimp (*Branchinecta lynchi*), and western spadefoot. FESA is more broadly defined than CESA; take under FESA also includes significant habitat modification or degradation that could result in death or injury to a listed species by interfering with essential behavioral patterns such as breeding, foraging, or nesting. Consultation with the USFWS in order to comply with FESA is advised well in advance of any Project activities.

California Natural Diversity Database

Please note that the CNDDDB is populated by voluntary submissions of species detections. As a result, species may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record, or lack of recent occurrence records, in the CNDDDB does not mean that a species is not present. In order to adequately assess any potential Project-related impacts to biological resources, surveys conducted by a qualified biologist during the appropriate survey period(s) and using the appropriate protocol survey

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methodology are warranted in order to determine whether or not any special status species are present.

Project Alternatives Analysis

CDFW recommends that the information and results obtained from the biological technical surveys, studies, and analysis conducted in support of the Project's Draft EIR be used to develop and modify the Project's alternatives to avoid and minimize impacts to biological resources to the maximum extent possible. When efforts to avoid and minimize have been exhausted, CDFW advises that remaining impacts to sensitive biological resources be mitigated to reduce impacts to a less than significant level, if feasible.

Cumulative Impacts

CDFW recommends that a cumulative impact analysis be conducted for all biological resources that will either be significantly or potentially significantly impacted by implementation of the Project, including those whose impacts are determined to be less than significant with mitigation incorporated or for those resources that are rare or in poor or declining health and will be impacted by the Project, even if those impacts are relatively small (i.e., less than significant). Cumulative impacts are recommended to be analyzed using an acceptable methodology to evaluate the impacts of past, present, and reasonably foreseeable future projects on resources and be focused specifically on the resource, not the Project. An appropriate resource study area should also be identified and mapped for each resource being analyzed and utilized for this analysis. CDFW recommends closely evaluating the need for a cumulative impacts analysis for the following species as part of the Draft EIR due to these species being in poor or declining health or at risk: bald eagle, burrowing owl, California tiger salamander, Colusa grass, Keck's checkerbloom, San Joaquin Valley Orcutt grass, succulent owls-clover, tricolored blackbird, vernal pool fairy shrimp, western spadefoot, and any impacted migratory or non-migratory nesting bird species. CDFW staff is available for consultation in support of cumulative impacts analyses as a trustee and responsible agency under CEQA.

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ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, section 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 filled out and submitted online at the following link: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

FILING FEES

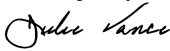
The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, section 753.5; Fish & G. Code, section 711.4; Pub. Resources Code, section 21089).

CONCLUSION

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

More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Please see the enclosed Mitigation Monitoring and Reporting Program (MMRP) table which corresponds with recommended mitigation measures in this comment letter. Questions regarding this letter or further coordination should be directed to John Riedel, Environmental Scientist, at (559) 807-1453 or john.riedel@wildlife.ca.gov.

Sincerely,

DocuSigned by:

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Julie A. Vance
Regional Manager

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ec: State Clearinghouse
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Attachment 1
CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
(MMRP)
PROJECT: UC Villages Project
SCH No.: 2024031198

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
California tiger salamander	
Recommended Mitigation Measure 1: CTS Surveys	
Recommended Mitigation Measure 3: CTS Take Authorization	
Swainson's hawk	
Recommended Mitigation Measure 4: SWHA surveys prior to construction	
Recommended Mitigation Measure 6: SWHA take authorization	
Recommended Mitigation Measure 7: SWHA foraging habitat mitigation	
<i>During construction</i>	
California tiger salamander	
Recommended Mitigation Measure 2: CTS Avoidance Buffer	
Swainson's hawk	
Recommended Mitigation Measure 5: SWHA avoidance buffer	