



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: June 11, 2008

APPLICATION: **Site and Architectural Review No. SZ2007-14, McCarthy Blvd. Offices**

**APPLICATION
SUMMARY:**

A request to allow modifications to a previously approved office complex. The changes include the addition of 32,297 square feet for a total of 238,392 square feet, proposing three separate buildings rather than one building, modifications to landscaping plans and parking arrangements.

LOCATION: 751 McCarthy Blvd. (APN: 086-02-038)
APPLICANT: Hui-Wen Hsiao, 1900 Embaradero Road, Ste. 200, Palo Alto, CA 94303
OWNER: Richard T. Peery & John Arrillaga, 2560 Mission College Blvd. #101, Santa Clara, CA 95054

RECOMMENDATION: **Staff recommends that the Planning Commission:**

- 1. Close the public hearing; and**
- 2. Adopt Resolution No. 08-017 approving the project subject to conditions of approval.**

PROJECT DATA:

General Plan/
Zoning Designation: Industrial Park (MP)/Industrial Park (MP)
Overlay District: Site and Architectural (-S)

Site Area: 12.25 acres
FAR: .41

CEQA Determination: An addendum to the 1997 Subsequent EIR has been prepared and included as Exhibit 2 of the Resolution.

PLANNER: Sheldon S. Ah Sing, Senior Planner

PJ: 3219

ATTACHMENTS:

- A. Resolution No. 08-017
- B. Photos of other buildings in the vicinity
- C. Project building perspective
- D. Previously approved site layout (1997)

LOCATION MAP



No scale

BACKGROUND

On July 23, 1997, the Planning Commission approved a Site and Architectural Review application for two industrial buildings totaling 395,230 square feet on vacant parcels at 601 and 751 McCarthy Boulevard within the Milpitas Business Park. Each building was to be located on separate legal parcels and operated as a single campus by Quantum. Only one of the parcels (601 McCarthy) was developed and constructed, leaving approximately 208,096 square feet of development entitled. On November 18, 1997, the City and Peery/Arrillaga (“owners”) of the Business Park entered into a Development Agreement since it was anticipated that the full build out of the Business Park would occur in the long-term and the Development Agreement injects some degree of certainty to justify the substantial investment associated with future projects.

On August 16, 2007, Hoover Associates submitted an application to allow the modification of the previously approved project, which would include construction of three, two-story office buildings totaling 238,392 square feet on 751 McCarthy Boulevard. The proposal includes 32,296 additional square feet than the original project and proposes to distribute the mass of the previously approved single building concept over multiple buildings. The application also considers changes to the parking landscaping along the northern boundary of the subject site. The application was submitted according to Title 10, Section 42, Site and Architectural Review, of the Milpitas Municipal Code, which has since been renamed “Site Development Permits”. In accordance with Section 42, amendments to previously approved projects require review by the Planning Commission.

At its May 28, 2008 hearing, the Planning Commission, at the request of the applicant continued the public hearing until June 11, 2008.

PROJECT DESCRIPTION

The subject project site encompasses a 12.29 acre partially vacant parcel bounded by Murphy Ranch Road to the west, McCarthy Boulevard to the east, and Hetch-Hetchy easement to the north. The northwest corner of the parcel contains a 72 pace space parking lot that was constructed at the same time as the existing building to the north. The site is entirely within the Milpitas Business Park and surrounded by a variety of one and two-story office structures.

The subject property is zoned Industrial Park (MP) with a Site and Architectural (-S) Overlay. Surrounding parcels are also zoned MP-S, except for a vacant parcel to the northwest along Murphy Ranch, which is zoned Multi-family Very High Density Residential (R-4-S). A vicinity map of the subject site location is included on the previous page.

Development Standards

The project’s compliance with the Zoning Code’s development standards are described in Table 1 below and notable issues regarding the project are described in sections following the table.

Table 1
Development Standards

	<i>Zoning Ordinance</i>	<i>Proposed</i>
<u>Setbacks</u> (Minimum)		

	<i>Zoning Ordinance</i>	<i>Proposed</i>
Front to Primary Structure	35 ft.	117 ft. (closest point at Building 1)
Interior Side	10 ft.	55 ft. (closest point at Building 3)
Rear (Murphy Ranch)	20 ft.	60 ft. (closest point at Building 3)
<u>Floor Area Ratio</u> (Maximum)	.50	.45
<u>Building Height</u> (Maximum)	None prescribed. But a finding by the Planning Commission that light, air and privacy are maintained if the building is over 35 ft. or three stories.	42'-4"
<u>Parking</u> (Minimum) may be discussed in T&C/P section below include additional table	1/300 s.f. = 794	901
<u>Landscaping</u> (Minimum)	Required for front yard areas	25 ft. along McCarthy Blvd. and 20 ft. along Murphy Ranch [3.8 acres provided (31% of site)]

Site Layout

The project includes three, two-story 79,464 square-foot buildings, each constructed over an underground level of parking that includes 85 spaces. The remainder of the site includes 646 surface parking stalls and 3.8 acres of landscaping. Two driveways intersecting Murphy Ranch Road and another two driveways intersecting McCarthy Boulevard provide vehicular access to the site. One of the driveways is aligned with Alder Drive providing safe and efficient movements in and around the project site.

The Hetch-Hetchy right-of-way (oriented east-west between Murphy Ranch Road and McCarthy Boulevard) separates the existing Sandisk building to the north and the subject site. The original application in 1997 contemplated the Sandisk building and the subject site as a single office campus. Improvements to the right-of-way included pedestrian pathways leading from the SanDisk building and terminating at the southern edge of the right-of-way with the intent of connecting with the subject site. In addition, driveways were constructed traversing the right-of-way with the intent of connecting with the subject site on the eastern portion of the right-of-way. Two driveways from the SanDisk site traverse the right-of-way on the western portion and connect to the existing parking lot on the project site. Staff observed that the existing parking lot was being used by what appears to be a small number of SanDisk employees or visitors. A reciprocal parking agreement was to be recorded with the SanDisk site in accordance with a conditional of approval for the original approval, however, that was never executed. Staff proposes to amend the previous condition of approval by removing the requirement to record an easement but to maintain the western most driveway connecting the two sites

to facilitate continued access between the two parcels. This would result in no change to the existing condition, aside from the elimination of one of the connections between the two parking lots. Improvements to the Hetch-Hetchy are discussed in the “landscaping” section of this report.

Architecture

The architecture is identical to the research and development campus across McCarthy Boulevard to the southwest of the project site. The façade exhibits glazed fenestration divided by aluminum mullions, accented by precast, paneled concrete that separates the floors for the majority of the building and provides a parapet to screen mechanical roof top equipment. Concrete columns support outdoor balconies at the corners of the buildings, comprised of the same precast, paneled concrete.

Landscaping and screening of ground utilities

The project provides 3.8 acres of landscaping, including a variety of trees, shrubs, groundcover and vines, representing 31% of the total site coverage. Approximately 65,345 square feet of landscaping is provided along the streets. While Section 10-35.05, Development Standards of the city’s Zoning Ordinance, requires that the required front yard setback area be landscaped, the Planning Commission may consider a reduction of this amount if there is adequate landscaping provided adjacent to the buildings. The landscaping coverage surrounding the buildings ranges between 30,485 and 36,143 square feet. That translates into an approximate 30 foot buffer around each building. The project proposes over 300 trees, providing adequate buffer of building mass, and an interesting streetscape and complements the existing surrounding development. Ground utilities on the site, including required backflow preventers are proposed to be screened by shrubs.

A roundabout feature is provided in the center of the project site, which is located in between the three buildings providing a focal point of interest. Accented concrete and turfblock provide interest and safe pedestrian passage without impeding emergency vehicle access. At the center of the roundabout is a sculpture/fountain feature.

A continuous hedge is proposed at the northern property line, separating the Hetch-Hetchy right-of-way from the subject property, which differs from the original concept approved in 1997. The existing condition of the right-of-way includes most of the improvements from the 1997 concept except for a pathway linking Murphy Ranch Road and McCarthy Boulevard. Staff is recommending a condition of approval requiring modifications to the landscaping on the Hetch-Hetchy right-of-way be developed to address the removal of the one existing parking lot connection and the two other asphalt sections that dead end on the eastern side near McCarthy Boulevard. The revised plan would be approved by staff prior to the issuance of building permits and completed with the project to ensure a cohesive vision for the right-of-way.

Building height

The height of the buildings requires the Planning Commission to make a finding that any height in excess of 35 feet will not be detrimental to the light, air or privacy of any other structure or use currently existing or proposed. The applicant provided a shadow study showing a simulation of what shadows would be cast during the winter solstice. Only a small portion of the Hetch-Hetchy easement, which is being used as a recreation area, is covered by a shadow created by Building 3.

Traffic parking and circulation

Traffic impacts were analyzed in 1997 with the certification of the Subsequent Environmental Impact Report (SEIR) for the Milpitas Business Park. As a part of the mitigation measures, 10 roadway intersections and segments were identified to be improved. At the same time, the development of the traffic mitigation impact fee for the Milpitas Business Park ensured that projects would contribute their share of the costs to improve the identified impacted intersections or roadway segments. However, since the timing of the development, the level of impacts and the timing of intersection and roadway improvements would not be the same, the impacts to the various intersections and roadway segments were deemed significant and unavoidable. It is not reasonable to partially fund or partially construct a project as development occurs. It is also infeasible to construct a project without the funding. It is typical to collect funds for an identified project and when the project is fully funded, award a bid and commence construction of the project. To date, funding has been collected and is on-going, and improvements have been completed as funding is met for identified capital improvement projects. It is anticipated upon buildout of the business park that the identified mitigation measures would be completed.

The project proposes an additional 32,297 square feet of office space. The following table is based on San Diego Association of Governments (SANDAG) trip generation ratios and depicts the amount of trips generated:

Table 2
Trip Generation

<i>Daily Trips</i>	<i>AM Trips</i>	<i>PM Trips</i>	<i>AM Trips Out</i>	<i>PM Trips Out</i>
268	41	36	7	31

The amount of trips generated is not significant to trigger additional mitigation measures for traffic.

Development Agreement

Because of the long-term development potential for the Business Park and substantial amount of financial investment involved in development of the site, the City and the owners entered into a Development Agreement. The City benefited from the 1997 Development Agreement because the owners dedicated for public use substantial portions of the Business Park for public street and utility improvements. The owners benefitted because the agreement stipulates that the owners have a two million dollar credit for traffic impact fees. The traffic fees associated with the additional square footage for this project does not exceed the amount of credit remaining for the owners, therefore no traffic fees are levied as a condition of approval for this project.

Parking

The project proposes 901 parking spaces. That includes 255 underground parking spaces and 646 surface parking spaces. According to Table 10-53.23, Parking Schedule, of the city's Zoning Ordinance, research and development uses require one parking space per 300 square feet of gross floor area. Based on the square footage of the project, the site requires 794 parking spaces, leaving the site with 107 surplus spaces.

Circulation

Circulation within the project site begins at four driveways from the streets (two from Murphy Ranch and two from McCarthy Boulevard) and leads around the perimeter of the buildings. Each two-way drive aisle provides at least 25 feet between parking spaces, which is consistent with Section 10-53.22, Parking angles and dimensions, of the city’s Zoning Ordinance and provides adequate space for movement of fire department equipment. In the center of the project site is a roundabout providing a focal point for pedestrians and vehicles alike.

Pedestrian access is gained by the existing crossings at Murphy Ranch Road and McCarthy Boulevard and a proposed crossing at Alder Drive and McCarthy Boulevard. Accent paving is provided at driveway crossings and entryways into each building, in addition to crosswalks provided onsite to sidewalks along McCarthy and Murphy Ranch. Bicycle parking is provided for each building. With the future improvement to the residential site to the northwest, an offsite trail would connect to the pedestrian pathway within the Hetch-Hetchy right-of-way discussed in the “landscape” section above, providing access from the homesites to the project site and other areas throughout the business park.

ADOPTED PLANS AND ORDINANCES CONSISTENCY

General Plan

The table below outlines the project’s consistency with applicable General Plan Guiding Principles and Implementing Policies:

Table 2
General Plan Consistency

<i>Policy</i>	<i>Consistency Finding</i>
<i>2.a-I-1. Encourage economic pursuits which will strengthen and promote development through stability and balance.</i>	Consistent. The proposed project provides additional research and development space and provides synergy with the existing research and development offices within the Milpitas Business Park.
<i>2.a-I-6. Endeavor to maintain a balanced economic base that can resist downturns in any one economic sector.</i>	Consistent. The proposed project meets the vision of the Milpitas Business Park, which includes a variety of commercial, residential and industrial uses.
<i>2.a-I-7. Provide opportunities to expand employment, participate in partnerships with local business to facilitate communication, and promote business retention.</i>	Consistent. The proposed project provides employment opportunities and expands the high tech capacity within Milpitas.

Zoning Ordinance

The project complies and is consistent with the regulations set forth in sections regarding Site Development Permits, the MP district, off street parking, utilities and other pertinent sections. Findings can be made where required regarding the development of the project.

ENVIRONMENTAL REVIEW

The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). Staff determined that the project would require an Addendum to the 1997 SEIR because of the additional square footage proposed.

The information presented in the Addendum, provided as Attachment B, indicates that the modification to the previously approved project does not represent a substantive change to the project or the circumstances in which the project will be undertaken, nor would it introduce potentially significant environmental impacts that were not previously addressed in the Final EIR. Based on these conditions staff determines that an addendum is the appropriate document for the proposed project. All of the mitigation measures adopted by the City Council previously for the project as a part of the 1997 Final EIR remain in full force and effect.

PUBLIC COMMENT/OUTREACH

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, there have been no inquiries from the public.

CONCLUSION

The project contemplates modifications to a previously approved project. The proposal complements the existing buildings within the business park with respect to building design using consistent materials and color. The mass and bulk of the buildings are consistent with those on surrounding parcels and do not impact the air and privacy of existing buildings or adjacent open areas. Landscaping is adequately provided along the streets and around the buildings with a variegated planting palette including vertical and horizontal treatments. In addition, the site layout provides for safe and inviting pedestrian access and movement. In addition, the site layout provides for safe and inviting pedestrian access and movement. Ample parking opportunities exist with the continued access between the parcels. The project provides additional employment and synergistic opportunities within the city for the research and development sector.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission adopt Resolution No. 08-017 approving SZ2007-14, McCarthy Blvd. Offices, subject to the attached Resolution and Conditions of Approval.

Attachments:

- A. Resolution No. 08-017-Exhibit 1: Conditions of Approval; Exhibit 2: Addendum to 1997 SEIR
- B. Photos of other buildings within the vicinity
- C. Project building perspective
- D. Previously approved site layout (1997)
Plans

RESOLUTION NO. 08-017

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING SITE AND ARCHITECTURAL REVIEW NO. SZ07-0014, MCCARTHY RANCH OFFICES, TO ALLOW THE MODIFICATION OF A PREVIOUSLY APPROVED PROJECT, TO INCLUDE THE CONSTRUCTION OF THREE OFFICE BUILDINGS AND ASSOCIATED SITE DEVELOPMENT, LOCATED AT 751 MCCARTHY RANCH BLVD

WHEREAS, on August 13, 2007, an application was submitted by Richard Campbell of Hoover Associates, 1900 Embarcadero Road, suite 200, Palo Alto, California, 94303, to allow modifications to a previously approved office complex. The changes include the addition of 32,297 square feet for a total of 238,392 square feet, proposing three separate buildings rather than one building, modifications to landscaping plans and parking arrangements., the property is located within the Industrial Park (MP) Zoning district, 751 McCarthy Boulevard (APN: 086-02-038); and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project would require an addendum to the 1997 Subsequent Environmental Impact Report (SEIR) in accordance with Sections 15164 and 15162 of CEQA, since no substantive changes create new environmental impacts not previously discussed.

WHEREAS, on May 28, 2008, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties and on the request of the applicant continued the hearing of the application until June 11, 2008.

WHEREAS, on June 11, 2008, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

NOW THEREFORE, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

Section 1: The recitals set forth above are true and correct and incorporated herein by reference.

Section 2: The project is subject to preparation of an Addendum to the 1997 SEIR in accordance with Sections 15164 and 15162 of CEQA in that an initial study prepared for the project attached hereto as Exhibit 2 and demonstrates that on the basis of substantial evidence in the light of the whole record:

- (1) No substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) No substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (3) No new information of substantial importance, which was not known and could not have been known with the exercise of responsible diligence at the time the previous EIR was certified as complete shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Section 3: The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development in that the buildings exhibit quality materials and design that is consistent with existing office buildings within the business park.

Section 4: The project is consistent with the Milpitas Zoning Ordinance in that the project complies and is consistent with the regulations set forth in sections regarding Site Development Permits, the MP district, off street parking, utilities and other pertinent sections.

Section 5: The project is consistent with the Milpitas General Plan in that:

- (1) The project encourages economic pursuits which will strengthen and promote development through stability and balance since the project provides additional research and development space and provides synergy with the existing research and development offices within the Milpitas Business Park.;

- (2) The project is an endeavor that maintains a balanced economic base that can resist downturns in any one economic sector since the proposed project meets the vision of the Milpitas Business Park, which includes a variety of commercial, residential and industrial uses.; and
- (3) The project provides opportunities to expand employment, participate in partnerships with local business to facilitate communication, and promotes business retention since the proposed project provides employment opportunities and expands the high tech capacity within Milpitas.

Section 6: Any height in excess of 35 feet will not be detrimental to the light, air or privacy of any other structure or use currently existing or proposed in that the project provides a shadow study showing a simulation of what shadows would be cast during the winter solstice and that only a small portion of the Hetch-Hetchy easement, which is being used as a recreation area, is covered by a shadow created by Building 3.

Section 7: The Planning Commission of the City of Milpitas hereby approves Site and Architectural Review No. SZ07-0014, McCarthy Boulevard Offices, subject to the above Findings, and Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on June 11, 2008.

Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on June 11, 2008, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	OTHER
Cliff Williams			
Gunawan Ali-Santosa			
Lawrence Ciardella			
Alexander Galang			
Sudhir Mandal			
Gurdev Sandhu			
Noella Tabladillo			
Aslam Ali			

EXHIBIT 1

**CONDITIONS OF APPROVAL
SITE AND ARCHITECTURAL REVIEW NO. SZ07-0014**

Planning Division

1. The owner or designee shall develop the approved project in conformance with the approved plans and color and materials sample boards approved by the Planning Commission on May 28, 2008, in accordance with these Conditions of Approval.

Any deviation from the approved site plan, floor plans, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance. (PLN)

2. Site and Architectural Review No. SZ07-0014 shall become null and void if the project is not commenced within 18 months from the date of approval. Pursuant to Section 64.04-2 of the Zoning Ordinance of the City of Milpitas, since the project requires the issuance of a building permit, the project shall not be deemed to have commenced until the date of the building permit is issued and a foundation is completed.

Pursuant to Section 64.04-1, the owner or designee shall have the right to request an extension of SZ07-0014 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. (PLN)

3. These conditions in this resolution stand alone, supersede and are separate from the previous conditions of approval for the subject site. (PLN)
4. The applicant shall develop a revised landscape plan for the Hetch-Hetchy right-of-way to address the existing areas of asphalt that will not be used to connect the two parcels. The revised plan shall be approved by City Planning staff prior to obtaining building permits for the project. The improvements on the revised landscape plan shall be constructing in conjunction with the project and completed prior to occupancy. The purpose of the landscape plan is to ensure a cohesive vision for the Hetch-Hetchy right-of-way between the northern and southern adjacent parcels. (PLN)
5. The existing western most driveway shall remain open to allow access to flow between the north parcel (86 02 039) and south parcel (08 02 038) via the Hetch-Hetchy right-of-way. (PLN)
6. Thirty (30) days prior to issuance of any site improvement permits for vacant land, preconstruction surveys for western burrowing owls shall be completed. The western burrowing owl survey must be performed by a qualified ornithologist. A copy of the written

report shall be supplied to the Planning Division and said report shall contain the results of the survey and include recommendations for relocating owls, if any were found on-site. If no owls are located during the survey, then no additional action would be required. If owls were found, then the developer must relocate the owls following the recommendations contained in the report. Any relocation of the owls is to occur under the supervision of a qualified ornithologist. The California Department of Fish and Game must be notified if burrowing owls are found on-site. Each burrowing owl survey shall be good for a 30 day period. (PLN)

7. Prior to issuance of any site improvement permits for vacant land, the developer shall hire a qualified (professional engineer, registered geologist, certified engineering geologist licensee) specialist to test the soils, using the EPA's 8080 method, or more current acceptable methodology. If a contaminant is found in levels above the TTLC, the developer must implement a remediation and worker safety program which has been designed by a qualified specialist and approved by city staff. Additionally, if the contaminated soils are kept on site, the developer shall record a disclosure statement with the County Recorder's Office which has been approved by city staff, which includes a map showing the final location of the soils and their level of contamination. (PLN)
8. The issuance of building permits to implement this land use development will be suspended if necessary to stay within (1) available water supplies, or (2) the safe or allocated capacity at the San Jose/Santa Clara Water Pollution Control Plant, and will remain suspended until water and sewage capacity are available. No vested right to the issuance of a Building Permit is acquired by the approval of this land development. The foregoing provisions are a material (demand/supply) condition to this approval. (ENG)
9. Prior to issuance of any building permits, developer shall obtain approval from the City Engineer of the water, sewer and storm drain studies for this development. These studies shall identify the development's effect on the City's present Master Plans and the impact of this development on the trunk lines. If the results of the study indicate that this development contributes to the over-capacity of the trunk line, it is anticipated that the developer will be required to mitigate the overflow or shortage by construction of a parallel line or pay a mitigation charge, if acceptable to the City Engineer. (ENG)
10. At the time of building permit plan check submittal, the developer shall submit a grading plan and a drainage study prepared by a registered Civil Engineer. The drainage study shall analyze the existing and ultimate conditions and facilities. The study shall be reviewed and approved by the City Engineer and the developer shall satisfy the conclusions and recommendations of the approved drainage study prior building permit occupancy issuance. (ENG)
11. Prior to building permit issuance, the developer shall obtain design approval and bond for all necessary public improvements along McCarthy Boulevard and Murphy Ranch Drive frontage, including but not limited to damaged curb, gutter and pavement replacement, new 6-foot sidewalk installation, signage and striping, McCarthy/Alder signal timing modification, median modification along McCarthy Boulevard, street lights, fire hydrants, storm drain, sewer and water services, as shown on the Engineering services exhibit "S",

dated 5/23/2008 and as shown on the submitted drawings. Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The developer shall also execute a secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. All improvements must be in accordance with the City of Milpitas standard and specification, and all public improvements shall be constructed to the City Engineer's satisfaction and accepted by the City prior to any building occupancy permit issuance. (ENG)

12. Prior to the first building permit issuance the developer shall dedicate adequate necessary easement for public sidewalk purposes. (ENG)
13. The developer shall not obstruct the noted sight distance areas as indicated on the City standard drawing #405. Overall cumulative height of the grading, landscaping & signs as determined by sight distance shall not exceed 2 feet when measured from street elevation. (ENG)
14. All existing on-site public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City easements and no trees or deep rooted shrubs are permitted within City utility easements, where the easement is located within landscape areas. (ENG)
15. Prior to occupancy permit issuance developer shall construct new trash enclosures to accommodate the required number of bins needed to serve this development. The proposed enclosures shall be designed per the Development Guidelines for Solid Waste Services and enclosure drains must discharge to sanitary sewer line. City review/approval is required prior to construction of the enclosure. (ENG)
16. Per Chapter 200, Solid Waste Management, V-200-3.10, *General Requirement*, applicant / property owner shall not keep or accumulate, or permit to be kept or accumulated, any solid waste of any kind and is responsible for proper keeping, accumulating and delivery of solid waste. In addition, according to V-200-3.20 *Owner Responsible for Solid Waste, Recyclables, and Yard Waste*, applicant / property owner shall subscribe to and pay for solid waste services rendered. If applicant or any of the future tenants has a cafeteria as part of their project (frying/cooking foods), a Tallow account must be maintained and keep the tallow bins clean. Prior to occupancy permit issuance (start of operation), the applicant shall submit evidence to the City that a minimum level of refuse service has been secured using a Service Agreement with Allied Waste Services (formally BFI) for commercial services to maintain an adequate level of service for trash and recycling collection. After the applicant has started its business, the applicant shall contact Allied Waste Services commercial representative to review the adequacy of the solid waste level of services. If services are determined to be inadequate, the applicant shall increase the service to the level determined by the evaluation. For general information, contact BFI at (408) 432-1234. (ENG)

17. Per Chapter 200, Title V of Milpitas Municipal Code (Ord. No. 48.7) solid waste enclosures shall be designed to limit the accidental discharge of any material to the storm drain system. The storm drain inlets shall be located away from the trash enclosures (a minimum of 25 feet). This is intended to prevent the discharge of pollutants from entering the storm drain system, and help with compliance with the City's existing National Pollution Discharge Elimination System (NPDES) Municipal permit. (ENG)
18. The developer shall comply with Regional Water Quality Control Board's C.3 requirements and implement the following:
 - A. At the time of building permit plan check submittal, the developer shall submit a "final" Stormwater Control Plan and Report. Site grading, drainage, landscaping and building plans shall be consistent with the approved Stormwater Control Plan. The Plan and Report shall be prepared by a licensed Civil Engineer and certified that measures specified in the report meet the C.3 requirements of the Regional Water Quality Control Board (RWQCB) Order, and shall be implemented as part of the site improvements.
 - B. Prior to building permit issuance, the developer shall submit an Operation and Maintenance (O&M) Plan for the long-term operation and maintenance of C-3 treatment facilities.
 - C. Prior to Final occupancy, the developer shall execute and record an O&M Agreement with the City for the operation, maintenance and annual inspection of the C.3 treatment facilities. (ENG)
19. Prior to building, site improvement or landscape permit issuance, the building permit application shall be consistent with the applicant's approved Stormwater Control Plan and approved special conditions, and shall include drawings and specifications necessary to implement all measures described in the approved Plan. As may be required by the City's Building, Planning or Engineering Divisions, drawings submitted with the permit application (including structural, mechanical, architectural, grading, drainage, site, landscape and other drawings) shall show the details and methods of construction for site design features, measures to limit directly connected impervious area, pervious pavements, self-retaining areas, treatment BMPs, permanent source control BMPs, and other features that control stormwater flow and potential stormwater pollutants. Any changes to the approved Stormwater Control Plan shall require Site & Architectural ("S" Zone) Amendment application review. (ENG)
20. Prior to issuance of Certificate of Occupancy, the applicant shall submit a Stormwater Control Operation and Maintenance (O&M) Plan, acceptable to the City, describing operation and maintenance procedures needed to insure that treatment BMPs and other stormwater control measures continue to work as intended and do not create a nuisance (including vector control). The treatment BMPs shall be maintained for the life of the project. The stormwater control operation and maintenance plan shall include the applicant's signed statement accepting responsibility for maintenance until the responsibility is legally transferred. (ENG)

21. The U.S. Environmental Protection Agency (EPA) has empowered the San Francisco Bay Regional Water Quality Control Board (RWQCB) to administer the National Pollution Elimination Discharge System (NPDES) permit. The NPDES permit requires all dischargers to eliminate as much as possible pollutants entering our receiving waters. Construction activities which disturb 1 acres or greater are viewed as a source of pollution, and the RWQCB requires a Notice of Intent (NOI) be filed, along with obtaining an NPDES Construction Permit prior to the start of construction. A Storm Water Pollution Prevention Plan (SWPPP) and a site monitoring plan must also be developed by the applicant, and approved by the City prior to permit issuance for site clearance or grading. Contact the RWQCB for questions regarding your specific requirements at (800) 794-2482. For general information, contact the City of Milpitas at (408) 586-3329. (ENG)

22. The U.S. Environmental Protection Agency (EPA) has empowered the San Francisco Bay Regional Water Quality Control Board (RWQCB) to administer the National Pollution Elimination Discharge System (NPDES) permit. The NPDES permit requires all dischargers to eliminate as much as possible pollutants entering our receiving waters. Industries are required to make an evaluation of their specific site activities and determine their permit requirements. If a permit is required, industries must prepare the following documents:
 - File a Notice of Intent (NOI) prior to building permit issuance.
 - Prepare and submit a Storm Water Pollution Prevention Plan with the NOI.
 - Prepare a Monitoring Plan prior to operation.

If you have questions about your specific requirements contact the RWQCB at (1-800) 794-2482. For general information contact the City of Milpitas at (408) 586-3329. (ENG)

23. The developer shall submit the following items with the building permit application and pay the related fees prior to building permit issuance:
 - A. Storm water connection fee of **\$265,148** (less any fees already paid or credits on file) based on 12.297 acres @ \$21,562 per acre. The water, sewer and treatment plant fee will be calculated at the time of building plan check submittal.
 - B. Water Service Agreement(s) for water meter(s) and detector check(s).
 - C. Sewer Needs Questionnaire and/or Industrial Waste Questionnaire.

Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain the form(s). (ENG)

24. If necessary, developer shall obtain required industrial wastewater discharge approvals from San Jose/Santa Clara Water Pollution Control Plant (WPCP) by calling WPCP at (408) 942-3233. (ENG)

25. The City makes every effort to deliver a continuous and sufficient supply of water. However, temporary interruptions may be necessary for the purpose of making repairs or improvements. If it is important to maintain uninterrupted water supply to this development (except in case of emergency), the developer is encouraged to design and install a redundant water service system. (ENG)
26. Prior to building permit issuance, developer must pay all applicable development fees, including but not limited to, connection fees (water, sewer and storm), treatment plant fee, plan check and inspection deposit, and 2.5% building permit automation fee. These fees are collected as part of the secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. (ENG)
27. In accordance with Chapter 5, Title VIII (Ord. 238) of Milpitas Municipal Code, for new landscaping 2500 square feet or larger the developer shall:
 - A. Provide separate water meters for domestic water service & irrigation service. Developer is also encouraged to provide separate domestic meters for each tenant.
 - B. Comply with all requirements of the City of Milpitas Water Efficient Ordinance (Ord No 238). Two sets of landscape documentation package shall be submitted by the developer or the landscape architect to the Building Division with the building permit plan check package. Approval from the Land Development Section of the Engineering Division is required prior to building permit issuance, and submittal of the Certificate of Substantial Completion is required prior to final occupancy inspection.

Contact the Land Development Section of the Engineering Division at (408) 586-3329 for information on the submittal requirements and approval process. (ENG)

28. Per Chapter 6, Title VIII of Milpitas Municipal Code (Ord. No. 240), the landscape irrigation system must be designed to meet the City's recycled water guidelines and connect to recycled water system (when available). The developer is encouraged to retrofit the entire landscaped area for recycled water connection. If the site is not properly retrofitted for recycled water at this time, the entire site will be required to retrofit when recycled water becomes available. Contact the Land Development Section of the Engineering Division at (408) 586-3329 for design standards to be employed. To meet the recycle water guideline the developer shall:
 - A. Design the landscape irrigation for recycled water use. Use of recycled water applies to all existing rehabilitated and/or new landscape adjacent to existing or future recycled water distribution lines (except for rehabilitated landscape less than 2500 square feet along the future alignment).
 - B. Design the irrigation system in conformance to the South Bay Water Recycling Guidelines and City of Milpitas Supplemental Guidelines. Prior to building permit

issuance the City will submit the plans to the Department of Health Services (DOHS) for approval; this approval requires additional processing time. The owner is responsible for all costs for designing and installing site improvements, connecting to the recycled water main, and processing of City and Department of Health Services approvals. Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain copies of design guidelines and standards.

- C. Protect outdoor eating areas from overspray or wind drift of irrigation water to minimize public contact with recycled water. Recycled water shall not be used for washing eating areas, walkways, pavements, and any other uncontrolled access areas. (ENG)
- 29. Prior to any work within public right of way or City easement, the developer shall obtain an encroachment permit from City of Milpitas Engineering Division. (ENG)
- 30. It is the responsibility of the developer to obtain any necessary encroachment permits and approvals from affected agencies, including but not limited to, Pacific Gas and Electric, SBC, Comcast, San Francisco Water Dept., and City of Milpitas Engineering Division. Copies of these approvals or permits must be submitted to the City of Milpitas Engineering Division. (ENG)
- 31. The developer shall call Underground Service Alert (U.S.A.) at (800) 642-2444, 48 hrs prior to construction for location of utilities. (ENG)
- 32. The Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program shows this site to be in Flood Zone "X". (ENG)
- 33. The site is located in Local Improvement District #9R and 12R. (ENG)
- 34. At the time of building plan check submittal, the developer shall incorporated the changes shown on Engineering Services Exhibit "S"(dated 5/23/2008) in the design plans and submit three sets of civil engineering drawings showing all public improvements and proposed utilities to the Land Development Engineer for plan check and approval. (ENG)

EXHIBIT 2**ADDENDUM TO 1997 SEIR (SCH: 96062067) FOR THE MILPITAS BUSINESS PARK ENVIRONMENTAL REVIEW****Introduction**

A background of the Milpitas Business Park is provided for context and understanding of the previous environmental evaluations. The discussion of the Modified Project “project” is set forth in three areas for each of the environmental review criteria. First presented is a brief discussion of the setting and existing conditions at the Project site. This is followed by a brief review of environmental impacts and mitigation measures identified in prior environmental reviews. The discussion concludes with an evaluation of the environmental effects associated with the Project, within the context of prior Project approvals and current operations at the Project site.

Original project background

The Milpitas Business Park was the subject of a prior EIR that was certified in 1981. That EIR evaluated development of the 435 acres in the site area and the issue of annexation to the City of Milpitas. The 1981 EIR discussed environmental issues and identified impacts and mitigation for the following topics: agriculture, including concerns relating to the development of prime agricultural lands and Williamson Act contracts; visual and aesthetic; wildlife and habitat; employment; housing; traffic and circulation; meteorology, odors and noise; and utilities and public services. No impacts were identified for archeological, historical and geologic conditions. All other identified significant impacts were found to be reduced to a less than significant level through implementation of appropriate mitigation measures.

Two assessment districts have since been formed to fund site and roadway improvements that were identified as mitigation measures. Additional environmental documentation related to specific building proposals have been provided through the preparation of a number of Addenda to the 1981 EIR and Negative Declarations for specific projects.

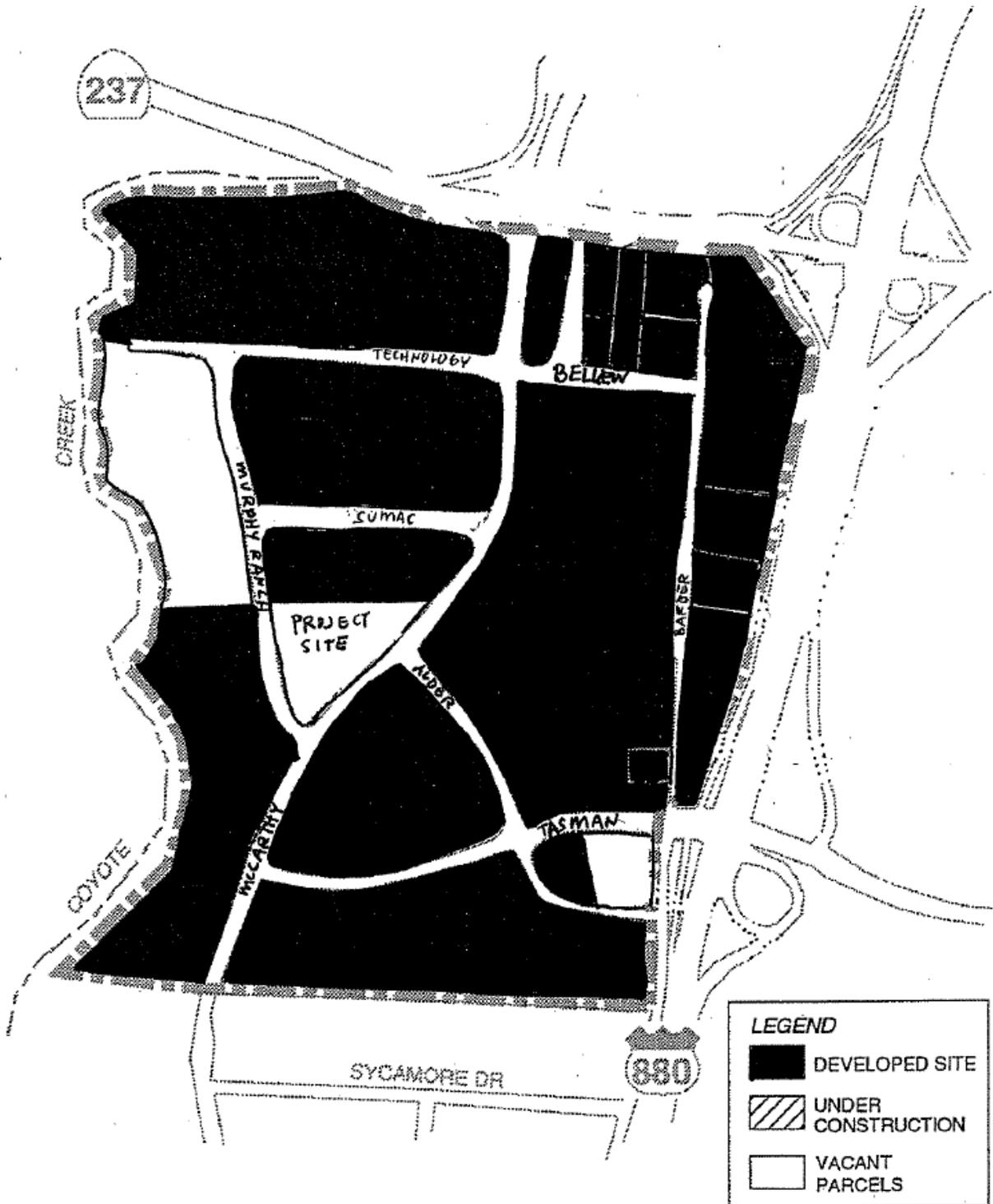
In 1997, a Recirculated Subsequent Environmental Report “1997 EIR” certified by the City Council on August 5, 1997, evaluated the potential environmental impacts associated with build out of the business park, as well as associated approvals for a General Plan Amendment and zone change to commercial use for approximately 7.2 acres, approval of a traffic impact mitigation fee for future development within the business park, and the approval of development agreements between the City of Milpitas and business park tenants.

Numerous subsequent entitlements lead to the development of commercial, lodging and office development. In addition, a parcel was subsequently rezoned to multi-family residential.

The modified project

The project site is located on a vacant triangular parcel and consists of 12.25 acres (see map on following page). The property is bounded by the Hetch-Hetchy easement to the north, McCarthy Blvd. to the east, and Murphy Ranch Road to the west. The project includes a 238,392 square feet of office and ancillary uses. The project includes three, two-story buildings with each building including an underground garage. The project proposes 901 parking spaces, with 646 of the total being surface parking.

The modified project is 32,297 square feet larger than the previous approval for the site bringing the total FAR for the proposed project to .45. The zoning for the district allows for .50 FAR.



CEQA provisions for preparation of an addendum to a final EIR

The California Environmental Quality Act [CEQA §15164(a)] states:

“(a) The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred”.

In turn §15162 states that preparation of a subsequent EIR is required where one or more of the following occurs:

“(a) When an EIR has been certified or a negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of responsible diligence at the time the previous EIR was certified as complete shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, the project proponents decline to adopt the mitigation measure or alternative; or
 - (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative”.

I. Aesthetics

Setting

The project is located within the Milpitas Business Park and surrounded by developed business park development, including offices, commercial and lodging. Streets, lighting, and other basic infrastructure development has already occurred and is fully functioning.

Prior environmental review

An initial study analysis was completed as Appendix A to the Recirculated Subsequent EIR in 1997.

Previously identified significant impacts

“The introduction of commercial and industrial lighting along portions of the riparian corridor have the potential to interrupt the activities of both diurnal and nocturnal wildlife species, and are less likely to be attractive to many terrestrial vertebrates”.

Previously identified mitigation measures

Wildlife-2: Potential impact on Coyote Creek. Development of the Milpitas Business Park may result in a reduction of the riparian habitat along Coyote Creek.

“Install lighting for pedestrian or commercial areas adjacent to the creek in such a manner that light is directed away from the riparian corridor”.

Discussion

a. Have a substantial adverse effect on a scenic vista?

No change. There would be no additional impact from the development of the project since the project contemplates an additional 32,297 square feet than the original approval. The mass and bulk increases are minimal and complement the existing office development throughout the business park.

b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

No change. The existing site has been graded and disked.

c. Substantially degrade the existing visual character or quality of the site and its surroundings?

No change. The site is surrounded by developed parcels in accordance with the assessments of the previous 1997 EIR.

d. Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?

No Change. The surrounding parcels have been developed and the 1997 EIR identified a mitigation measure for placement of lighting along the creek. The project site is not located along the creek and in accordance with the zoning ordinance lighting will be directed onsite to minimize glare. Therefore no impacts are anticipated.

II. Agricultural Resources**Setting**

The project site is located within an existing developed business park and zoned MP (Industrial Park). The 1981 EIR for the business park addressed the original setting of the agricultural lands.

Prior environmental review

Agriculture was included within the Land Use analysis of the 1997 EIR in Chapter 4.

Previously identified significant impacts

The 1981 EIR addressed the initial issue of conversion from agricultural land.

Previously identified mitigation measures

None.

Discussion

a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

No change. The project proposes an infill business park development and the land has not been used for agriculture since the early 80s.

b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?

No change. The project site is zoned MP and does not allow for agricultural uses.

c. Involve other changes in the existing environment, which, due to their location or nature, could individually or cumulatively result in loss of Farmland, to non-agricultural use?

No change. No agricultural operations exist onsite.

III. Air Quality**Setting**

The project site is located within the San Francisco Bay Area, a large, shallow air basin ringed by hills, with a number of sheltered valleys around the perimeter. Two primary sea-level gaps in the hills exist: the Golden Gate and Carquinez Straits. These two gaps are important sources of ventilation for the Bay Area.

The project site is located in the Bay Area Air Basin, which is under the jurisdiction of the Bay Area Air Quality Management District (BAAQMD). The proposed project is subject to the air pollution control thresholds established by the BAAQMD and published in the 1999 CEQA Guidelines. The BAAQMD is responsible for preparing a regional Air Quality Management Plan (AQMP) to improve air quality in the California Air Resources Board (CARB). The most updated AQMP is from 2005. The AQMP includes a variety of strategies to accommodate growth, to reduce the high levels of pollutants within the CARB, to meet state and federal air quality performance standards, and to minimize the fiscal impact that pollution control measures have on the local economy.

The previous environmental review predates the 1999 CEQA Guidelines and the most recently updated AQMD.

Prior environmental review

The 1997 EIR discusses in detail Air Quality impacts in Chapter 6, pages 6-1 through 6-10.

Previously identified significant impacts

The 1997 EIR identifies construction emissions, local carbon monoxide concentrations, and regional emissions as being significant impacts.

Previously identified mitigation measures

Air Quality-1: Construction Emissions. “Prior to any grading permits being issued for development within the Milpitas Business Park site, developers shall prepare and implement a construction dust mitigation plan to address site preparation.

Air Quality-2: Local Carbon Monoxide Concentrations. None needed.

Air Quality-3: Regional Emissions. The City shall require, as conditions of approval for future site development permits within the business park, that projects be designed to encourage maximum transit usage. While the above mitigation measures could reduce project impacts on regional quality, there is currently no practical way to reduce impacts by the amount necessary to bring impacts below BAAQMD significant thresholds.

Discussion

The project contemplates adding 32,297 square feet more office space than what was previously cleared under the 1997 EIR. It is not anticipated that this increase in square footage will elevate any impacts beyond the significance thresholds for air quality assessment.

a. Conflict with or obstruct implementation of the applicable air quality plan?

No Change. Implementation of the Project would result in no change to the previously evaluated impacts of the project, as the modifications proposed would not be in conflict with the current Air Quality Plan. The additional 32,297 square feet would generate a minimal amount of trips and not substantially change any thresholds of significance.

Daily Trips	AM Trips	PM Trips	AM Trips In	AM Trips Out	PM Trips In	PM Trips Out
268	41	36	0	7	0	31

b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?

No change. Based on the amount of trips generated, it is not anticipated to be substantially different that what was already discussed in the 1997 EIR.

c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emission which exceed quantitative thresholds for ozone precursors)?

No change. The additional square footage would not result in a cumulatively considerable net increase in any criteria pollutant for which the region is currently categorizes non-attainment.

d. Expose sensitive receptors to substantial pollutant concentrations?

No change. A proposed residential project is located within one-quarter mile, however, it is not anticipated that the additional vehicular trips will contribute to substantial pollutant concentrations in the area.

e. Create objectionable odors affecting a substantial number of people?

No change. The project through construction and its intended operation does not contemplate emitting objectionable odors.

IV. Biological Resources

Setting

The 435 acre business park site is generally level and flat. It is bounded by State Route 237 to the north, I-880 to the east, existing research and development buildings to the south and coyote creek to the west. The project site is vacant and surrounded by developed office sites, with the exception of a large vacant parcel to the northwest which is zoned multi-family residential.

The project site is vacant, level and flat with some vegetation.

Prior environmental review

The 1997 EIR discussed “wildlife habitat” in Chapter 7, pages 7-1 through 7-7.

Previously identified significant impacts

Previous significant impacts included loss of western burrowing owl habitat, and potential impact on coyote creek.

Previously identified mitigation measures

Wildlife-1: Loss of western burrowing owl habitat. Thirty (30) days prior to issuance of any site improvement permits for vacant land, preconstruction surveys for western burrowing owls shall be completed. The western burrowing owl survey must be performed by a qualified ornithologist. A copy of the written report shall be supplied to the Planning Division and said report shall contain the results of the survey and include recommendations for relocating owls, if any were found on-site. If no owls are located during the survey, then no additional action would be required. If owls were found, then the developer must relocate the owls following the recommendations contained in the report. Any relocation of the owls is to occur under the supervision of a qualified ornithologist. The California Department of Fish and Game must be notified if burrowing owls are found on-site. Each burrowing owl survey shall be good for a 30 day period.

Wildlife-2: Potential impact on coyote creek. Provide a 10 foot wide vegetated buffer adjacent to and east of the outboard side of the existing flood control levee to protect coyote creek riparian habitat.

Install lighting for pedestrian or commercial areas adjacent to the creek in such a manner that light is directed away from the riparian corridor.

Discussion

a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

No Change. The impact remains and the mitigation measure is still valid.

b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?

No change. The project site is not adjacent to Coyote Creek, however, it is a vacant site that may have potential western burrowing owl habitat. Since the certification of the 1997 EIR, the California Department of Fish and Game has updated their protocol regarding mitigation measures for the potential loss of burrowing owl habitat. The updated mitigation measure from the previous question (a) above is recommended.

c. Have a substantial adverse effect on federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) either individually or in combination with the known or probable impacts of other activities through direct removal, filling, hydrological interruption, or other means?

No change. The project site includes no wetlands.

d. Interfere substantially with the movement of any resident or migratory fish or wildlife species or with established resident or migratory wildlife corridors, or impede the use of wildlife nursery sites?

No change. The site is not located adjacent to coyote creek.

e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

No change. No protected trees as defined in the City's Municipal Code are located on site.

f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Communities Conservation Plan, or other approved local, regional, or state habitat conservation plan?

No change. The project site is not a part of any habitat conservation plan, natural communities conservation plan or any other local, regional or state habitat conservation plan.

V. Cultural Resources

Setting

The project is located within a quarter mile of coyote creek where there is a potential for conveyance of prehistoric material.

Prior environmental review

The 1981 EIR found that there was no evidence of prehistoric resources on the site.

Previously identified significant impacts

None identified.

Previously identified mitigation measures

In 1981, the mitigation measure was to retain a qualified archaeologist to investigate and provide recommendations should any prehistoric resources be discovered during construction.

Discussion

a. Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?

No change. No historical resources were identified for the site previously.

b. Cause a substantial adverse change in the significance of a unique archaeological resource pursuant to §15064.5?

No change. No archaeological resources were identified for the site previously.

c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

No Change. The potential for paleontological resources remains.

d. Disturb any human remains, including those interred outside of formal cemeteries?

No change. No evidence was discovered previously for the site.

VI. Geology and Soils**Setting**

The Milpitas Business Park site is a part of the San Jose plain located in Santa Clara Valley. Topographically, the site is flat. The surface soils throughout the area are generally quite silty and sandy in nature and their expansion potential is generally low to moderate.

Prior environmental review

The 1997 EIR discusses “soil conditions” in Chapter 8, pages 8-1 through 8-4.

Previously identified significant impacts

The 1997 EIR identified soil contamination as an impact.

Previously identified mitigation measures

The mitigation measure is as follows:

Soil-1, Soil contamination. Prior to issuance of any site improvement permits for vacant land, the developer shall hire a qualified (professional engineer, registered geologist, certified engineering geologist licensee) specialist to test the soils, using the EPA’s 8080 method, or more current acceptable methodology. If a contaminant is found in levels above the TTLC, the developer must implement a remediation and worker safety program which has been designed by a qualified specialist and approved by city staff. Additionally, if the contaminated soils are kept on site, the developer shall record a disclosure statement with the County Recorder’s Office which has been approved by city staff, which includes a map showing the final location of the soils and their level of contamination.

Soil-3. Preparation of detailed geo-technical investigations prior to new development and incorporating appropriate engineering techniques as may be identified in the investigation.

Discussion

a. The project exposes people or structures to potential adverse effects, including the risk of loss, injury or death, involving:

i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

No change. The project site is located within the vicinity of known earthquake faults.

ii) Strong seismic ground shaking?

No change. The project site is located within the bay area, known for strong seismic shaking.

iii) Seismic-related ground failure, including liquefaction?

The 1981 EIR (pages 22-27) indicated that there is a potential for seismically induced liquefaction for the area. Mitigation measures included a requirement for preparation of detailed geo-technical investigations prior to new development, and incorporating appropriate engineering techniques as may be identified in the investigation.

iv) Landslides?

No change. The project site is flat and level and not susceptible to landslides.

b. Result in substantial soil erosion or the loss of topsoil?

No change. The site is surrounded by development and the potential for soil erosion is minimal.

c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

No change. The previous mitigation measures for the project site will ensure any potential impacts are lessened to a degree of insignificance.

d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994) creating substantial risks to life or property?

No change. The previous mitigation measures for the project site will ensure any potential impacts are lessened to a degree of insignificance.

e. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of waste water?

No change. The project is adequately supported by an existing sewer system.

VII. Hazards and hazardous materials

Setting

The project site was used for agricultural purposes prior to its current land use designation. There is a potential that pesticides and other chemicals were used in the operation of the agricultural fields.

Prior environmental review

The 1997 EIR discusses hazards and hazardous materials in the initial study included in Appendix A.

Previously identified significant impacts

The 1985 Milpitas Business Park Phase III EIR noted the presence of large quantities of chlorine and sulfur dioxide at the San Jose Water Pollution Plant. Since 1985, the use of these chemicals has been strictly monitored.

While previous environmental documentation has not revealed any impacts regarding pesticides, soil tests have shown evidence of pesticides, which may expose construction workers and future users of the sites.

Previously identified mitigation measures

None have been identified. However, further tests of the soil to ensure no contamination and the safety of workers or remediation according to EPA methodology is warranted.

Discussion

a. Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

No change. The project is contemplating an office complex.

b. Would the project create a significant hazard to the public or the environment through the reasonably foreseeable upset and accident conditions involving the likely release of hazardous materials into the environment?

No change. The City's zoning ordinance provides guidance as to the development review process necessary for the improvement of the proposed project sites, and this does not identify any requirement for hazardous materials investigations. Review of the DTSC's Cortese List¹ database and the Tanner Report² did identify one former "voluntary clean up site" within the project sites location. No reasonably foreseeable release of hazardous materials will occur with the implementation of the proposed project.

c. Would the project emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

No change. No schools are located within one-quarter mile.

¹ State of California Department of Toxic Substance Control's (DTSC) Hazardous Waste and Substance Site List (Cortese List) accessed at: http://www.dtsc.ca.gov/database/Calsites/Cortese_List.cfm

² DTSC's Hazardous Waste Summary Report (Tanner Report) accessed at: http://www.dtsc.ca.gov/HazardousWaste/HW_Summary/index.cfm

d. Would the project be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

No change. The project is not located on a site that is included on the Cortese List.

e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?

No change. The closest airport to the project site is the Norman Y. Mineta San Jose International Airport, located approximately two miles southwest of the project site. Flights taking off from the airport typically bank over the City while ascending. It is not anticipated that there would be any airport-related safety hazard.

f. For a project within the vicinity of a private air strip, would the project result in a safety hazard for people residing or working in the project area?

No change. There are no private air strips within the vicinity of the project.

g. Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

No change. City review of the project would ensure that the project would not interfere with any adopted emergency response plan.

h. Would the project expose people or structures to the risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?

No change. The project site is not located adjacent to any wildlands.

VIII. Hydrology and water quality

Setting

The project site is located in a developed business park and within the vicinity of Coyote Creek (to the west). The necessary water and wastewater infrastructure was installed and functioning.

Prior environmental review

The 1981 EIR (pages 164-165) and the McCarthy Ranch GPA EIR, page 3.E-9, discuss the impacts on water quality.

Previously identified significant impacts

None.

Previously identified mitigation measures

None.

Discussion

a. Violate any water quality standards or waste discharge requirements?

No change. No wells are proposed as part of this project. Proposed operations on the subject property will require a National Pollutant Discharge Elimination Systems (NPDES) permit from the Regional Water Quality Control Board, San Francisco Bay Region (SFBRWQCB) as the site would be considered point-source for storm water runoff due to an increase in impervious surfaces. The NPDES permit regulates general construction activities. Compliance with permit conditions will ensure that there will be no violation of water quality or waste discharge requirements.

b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (i.e., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?

No change. Most of the City receives water from the San Francisco Water Department (SFWD) through the Hetch-Hetchy system by connections on two of the four local aqueducts that transport water from mountain reservoirs to San Francisco and the Peninsula.³ However, since 1993, some industrial areas in the City obtain water from Santa Clara Valley Water District (SCVWD).⁴ The site obtains its water supply from SCVWD. The additional 32,297 square feet will not result in depletion of groundwater supplies.

c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner, which would result in substantial erosion or siltation on- or off-site?

No change. The project does not contemplate a change in the drainage pattern to affect the existing storm drain system or coyote creek.

d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner, which would result in flooding on- or off-site?

No change. The project does not contemplate a change in the drainage pattern to affect the existing storm drain system or coyote creek.

e. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems to provide substantial additional sources of polluted runoff?

No change. Although the project's addition of impervious surfaces to the site could increase water runoff, the project's expected compliance with the City's Urban Runoff Management Plan and the use of BMPs would greatly reduce the impact.

f. Otherwise substantially degrade water quality?

No change. It is not anticipated that the additional square footage will substantially degrade water quality.

³ City of Milpitas General Plan, Chapter 2.5—Public Facilities and Utilities. Pg. 2-23

⁴ City of Milpitas General Plan, Chapter 2.5—Public Facilities and Utilities. Pg. 2-23

g. Place housing within a 100-year floodplain, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?

No change. The 100-year flood improvements to Coyote creek have been completed between Montague Expressway to Dixon Landing Road.

b. Place within a 100-year floodplain structures that would impede or redirect flood flows?

No Change. Because of the improvements to the coyote creek, the project area is not within a 100-year floodplain.

i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?

No change. The improvements to coyote creek were designed to withstand a 100-year flood.

j. Inundation by seiche, tsunami, or mudflow?

No change. The project site is not in a coastal area subject to seiche or tsunami conditions, and is not within or adjacent to a hillside area subject to mudflows.

IX. Land use and planning

Setting

The project is located within the Milpitas Business Park, which is designated Industrial Park within the City's General Plan and is also zoned Industrial Park (MP). This zone accommodates, in a park-line setting, a limited group of research, professional, packaging and distribution facilities, which are generally clean and quiet.

The zoning district allows for projects to have .50 Floor Area Ratio (FAR). The 1997 EIR cleared the project site for .39 FAR. The proposed project is contemplating adding 32,297 square feet which would bring the project to .45 FAR.

Prior environmental review

The 1997 EIR discusses land use in chapter 4, pages 4-1 through 4-7.

Previously identified significant impacts

None.

Previously identified mitigation measures

None.

Discussion

a. Physically divide an established community?

No change. The project is zoned consistently.

b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

No change. The project is consistent with zoning regulations.

c. Conflict with any applicable habitat conservation plan or natural communities conservation plan?

No change. The project site is not located within any habitat conservation or natural communities conservation plan.

X. Mineral resources

Setting

The Surface Mining and Reclamation Act of 1975 (recently amended in 2005) require the State Geologist to inventory and classify selected mineral resources within California. No mineral extraction activities occur within or adjacent to the project area.

Prior environmental review

The 1997 EIR discusses “Energy and Mineral Resources” in the initial study, including in Appendix A.

Previously identified significant impacts

None.

Previously identified mitigation measures

None.

Discussion

a. Result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state?

No change. There are no known mineral resources in the project area.

b. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?

No change. There are no known mineral resources in the project area.

XI. Noise

Setting

The project site is located near, but not adjacent to I-880 and State Highway 237.

Prior environmental review

The 1981 EIR discussed the impacts of noise. The 1997 EIR discussed noise in the initial study, included in Appendix A.

Previously identified significant impacts

The 1981 EIR identified that noise levels along interior roadways of the business park are expected to exceed 75 dBA 10% of the time within 90 feet of the road. Noise levels along State Route 237 and I-880 are expected to increase by 3 dBA or less.

Previously identified mitigation measures

In 1981, the EIR included site planning to maintain adequate buffer zones between noise sources and work environments, sound attenuation wall where setbacks or other noise attenuation measures are not feasible, and designing buildings to reduce the amount of exterior noise that transmits to the interior of buildings.

Discussion

a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

No change. The construction of three office buildings will be constructed to attenuate sound from the freeways and surrounding roadways.

b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?

No change. The project does not contemplate generation of excessive groundbourne vibration and noise levels.

c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?

No change. The additional square footage in the project creates 268 daily vehicular trips. It is not anticipated that the increase would lead to substantial permanent noise. The operation of the project is anticipated to be primarily offices, thus no substantial permanent noise is expected.

d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?

No change. It is anticipated that the construction would be typical and not cause a substantial or periodic increase in ambient noise.

e. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

No change. The project is not located within an airport land use plan and planes banking overhead from take offs from SJC are at an altitude that would not have excessive noise levels.

f. For a project within the vicinity of a private air strip would the project expose people residing or working in the project area to excessive noise levels?

No change. The project is not located within the vicinity of a private airstrip.

XII. Population and housing

Setting

The project is located within a developed business park. The proposed project contemplates three office buildings.

Prior environmental review

The 1997 EIR examines population and housing in the initial study within Appendix A.

Previously identified significant impacts

No significant impacts were identified.

Previously identified mitigation measures

None.

Discussion

a. Induce substantial population growth in an area, either directly (for example, by proposing new homes and business) or indirectly (for example, through extension of roads or other infrastructure)?

No change. The additional square footage will not increase population substantially or require additional infrastructure.

b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?

No change. The project does not displace housing.

c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?

No change. The project does not displace people.

XIII. Public Services

Setting

The project includes an additional 32,297 square feet of office space. It is not anticipated that additional public services is necessary to serve the project.

Prior environmental review

The 1997 EIR examines public services in the initial study within Appendix A.

Previously identified significant impacts

No significant impacts were identified.

Previously identified mitigation measures

None.

Discussion

a. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

1. Fire protection?

No change. Additional fire services is not anticipated.

2. Police protection?

No change. Additional police services is not anticipated.

3. Schools?

No change. The project does not contemplate adding school aged children.

4. Parks?

No change. The project is not subject to the city's park dedication ordinance.

5. Other public facilities?

No change. It is not anticipated that there will be a need for additional public facilities.

XIV. Recreation

Setting

The project includes an additional 32,297 square feet of office space. It is not anticipated that additional recreation is necessary to serve the project.

Prior environmental review

The 1997 EIR examines recreation in the initial study within Appendix A.

Previously identified significant impacts

No significant impacts were identified.

Previously identified mitigation measures

None.

Discussion

a. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

No change. It is not anticipated that the development of these office buildings will increase the use of neighborhood and regional recreational facilities.

b. Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

No change. No recreational facilities are included in the project.

XV. Transportation/Traffic

Setting

The project proposes an additional 32,297 square feet of office space. The following table is based on SANDAG trip generation ratios and depicts the amount of trips generated:

Table XV.1 Trip Generation

Daily Trips	AM Trips	PM Trips	AM Trips In	AM Trips Out	PM Trips In	PM Trips Out
268	41	36	0	7	0	31

Prior environmental review

The 1997 EIR discusses traffic in Chapter 5, pages 5-1 through 5-25.

Previously identified significant impacts

Traffic-2: Calaveras Blvd./Abbott Drive; Traffic-3: Tasman/Alder; Traffic-4: Montague/Zanker; Traffic-5: Montague/McCarthy; Traffic-6: Montague/Main; Traffic-7: Montague/McCandless; Traffic-8: Montague/Great Mall; Traffic-9: Alder Drive; Traffic-10: Montague Expressway.

The development of the traffic mitigation impact fee for the Milpitas Business Park ensured that projects would contribute their fair share of the costs to improve the identified impacted intersections or roadway segments. However, since the timing of the development, the level of impacts and the timing of intersection and roadway improvements would not be the same, the impacts to the various intersections and roadway segments were deemed significant and unavoidable. It is not reasonable to partially fund or partially construct a project as development occurs. It is also infeasible to construct a project without the funding. It is typical to collect funds for an identified project and when the project is fully funded, award a bid and commence construction of the project. To date, funding has been collected and is on-going, and improvements have been completed as funding is met for identified capital improvement projects. It is anticipated upon buildout of the project area that the identified mitigation measures would be completed.

Previously identified mitigation measures

Traffic-2: Calaveras Blvd./Abbott Drive. Change the signal phasing to provide more green time to the eastbound through movement. This mitigation measure has been completed.

Traffic-3: Tasman/Alder. Add an additional left turn lane in the westbound direction. This mitigation measure has been completed.

Traffic-4: Montague/Zanker. Add westbound through lane on Montague Expressway at the intersection. The City of San Jose is tasked with these improvements.

Traffic-5: Montague/McCarthy. Add a through lane to the northbound approach, an additional westbound left-turn lane, and an additional eastbound and westbound through lane on Montague Expressway. The City of San Jose is contributing to this improvement, which would include a northbound through lane.

Traffic-6: Montague/Main. Add one through lane in both the eastbound and westbound directions, and construct an additional southbound right-turn lane. This has been modified to include the completion of a second left turn lane.

Traffic-7: Montague/McCandless. Add one through lane in both the eastbound and westbound directions on Montague Expressway.

Traffic-8: Montague/Great Mall. Add one through lane in both the eastbound and westbound directions on Montague Expressway. This mitigation measure has been completed.

Traffic-9: Alder Drive. Widen Alder Drive from McCarthy Boulevard to Barber Lane from an existing two-lane arterial to a four-lane arterial with a left-turn median. This mitigation measure has been completed.

Traffic-10: Montague Expressway. Widen Montague from three lanes in each direction to four lanes in each direction from the Milpitas city limits west of McCarthy Boulevard eastward to the I-680 interchange.

Discussion

a. Cause an increase in traffic, which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?

No change. Based on Table XV.1, only 41 AM peak hour trips are projected, while only 36 PM peak hour trips are projected. These trips do not represent a substantial increase in traffic, capacity or congestion.

b. Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?

No change. The amount of trips projected per the AM/PM peak hour does not exceed the standards established.

c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?

No change. The project does not affect air traffic patterns.

d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

No change. The project will incorporate engineering standards and principles that allow for safe maneuvering to and from the site.

e. Result in inadequate emergency access?

No change. The project will incorporate the most recent emergency access planning procedures.

f. Result in inadequate parking capacity?

No change. The project exceeds the parking requirements for its type and intensity.

g. Conflict with adopted policies supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

No change. The project does not affect any alternative transportation facilities.

XVI. Utilities and Service Systems**Setting**

The project is located in a developed business park. The utilities serving the area are already in place. The project site utilizes the following utility services: Sewer services through the San Jose/Santa Clara Water Pollution Control Plan (WPCP), Solid Waste disposal through BFI, electric and gas services through Pacific Gas and Electric, and telephone services through AT&T.

Prior environmental review

The 1997 EIR analyzes utilities and service systems in the initial study within Appendix A.

Previously identified significant impacts

None.

Previously identified mitigation measures

None.

Discussion

a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

No change. The project will not exceed the wastewater treatment requirements established.

b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

No change. The project will use the existing capacity allocated to the city for water and wastewater.

c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?

No change. Any modifications to the storm water drainage facilities will not cause significant environmental effects. Current practices are likely to lead to improvement.

d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?

No change. The city has the necessary water allocation to serve the project.

e. Result in a determination by the wastewater treatment provider, which serves or may serve the project determined that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

No change. According to the 2004 Sewer Master Plan revision, the City's original capacity at WPCP of 12.5 million gallons per day (mgd) was projected to be reached around 2015, due to new development allowed under the City's General Plan. The City has amended the General Plan to allow additional growth and more applications are expected. In anticipation, the City has purchased an additional one mgd of flow capacity in 2006 from West Valley Sanitization District, increasing the limit to 13.5 mgd.

Currently, the City is discharging wastewater to the WPCP at a rate between 8 and 9 mgd. The current flow is below the City's limit of 13.5 mgd.

Potable water service contracts with SCVWD and SFPUC are assessed periodically. At this time, demand is met. However, projections through 2030 could be exceeded if drought years persist. It is anticipated that the service levels for the project can be accommodated.

f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

No change. The City of Milpitas disposes of all solid waste at the Permitted Class III, Subtitle D facility, the Newby Island Sanitary Landfill (NISL), administered by BFI. The Newby Island facility accepts solid waste, recyclables, and compostable materials. The NISL does not accept hazardous waste. The facility is 342 acres, of which waste has been placed on approximately 270 acres, and has over 30 feet of 120 feet total depth available. The City's contract with the NISL runs through 2017. The City of Milpitas currently participates in the Santa Clara County's Hazardous Waste Program, which provides a drop-off site for residents and small generators.

According to the County's Integrated Waste Management program, the landfill is slated to close in 2023. It is generally understood, that the site will accommodate the growth of the region until it closes and therefore no change is anticipated.

g. Comply with federal, state, and local statutes and regulations related to solid waste?

No change. The project would be required to comply with all applicable federal and state regulations regarding recycling of solid waste. The City of Milpitas is subject to the Assembly Bill 939 that requires for at least 50 percent of waste to be recycled or composted. Thus the project would comply with applicable statutes and regulations, and no change would occur.

h. Would the project create litter problems in the community?

No change. Neither project construction nor operation would generate litter problems in the community. The office uses will also be maintained, but these land uses are not typically high generators of litter.

XVII. Mandatory findings of significance

Prior environmental review

The 1997 EIR analyzes mandatory findings of significance in the initial study within Appendix A.

Previously identified significant impacts

The 1997 EIR identifies cumulative impacts in traffic and air quality to be significant. The project would generate traffic that, combined with other traffic in the vicinity, may result in cumulative impacts to levels of service at local intersections and highway segments. Traffic generated by the project would also generate emissions that, when combined with other vehicle emissions, may result in cumulative air quality impacts.

Previously identified mitigation measures

None.

Discussion

a. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?

No change. It is not anticipated that the project's additional 32,297 square feet in office area will have the potential to degrade the quality of the environment. The project is proposed within a developed business park where the entire infrastructure is in place. Current practices to mitigate construction and operational impacts to water quality and air quality will be used.

b. Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?

No change. The project is substantially consistent with what was discussed in the 1997 EIR.

c. Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, effects of other current projects, and the effects of probable future projects.)

No change. The additional 32,297 square feet does not substantially increase cumulative impacts.

d. Does the project have environmental effects, which will cause substantial adverse effects on human beings, either directly or indirectly?

No change. Based on the discussion in this initial study, it is not anticipated that the project will cause substantial adverse effects on human beings, either directly or indirectly.

Conclusion

CEQA sections 15164(C) through 15614(e) state that "an addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration. The decision making body shall consider the addendum with the final EIR or adopted negative declaration prior to making a decision on the project. A brief explanation of the decision not to prepare a subsequent EIR pursuant to §15162 shall be included in an addendum to an EIR, the lead agency's findings on the project or elsewhere in the record. The explanation must be supported by substantial evidence".

The information presented above indicates that the modification to the previously approved project does not represent a substantive change to the project or the circumstances in which the project will be undertaken, nor would it introduce potentially significant environmental impacts that were not previously addressed in the Final EIR. Based on these conditions the City of Milpitas determines that an addendum is the appropriate document for the proposed project. All of the mitigation measures adopted by the City Council previously for the project as a part of the 1997 final EIR remain in full force and effect.

Attachment B

Other buildings within the vicinity



View to site looking north



Office complex to the south and west

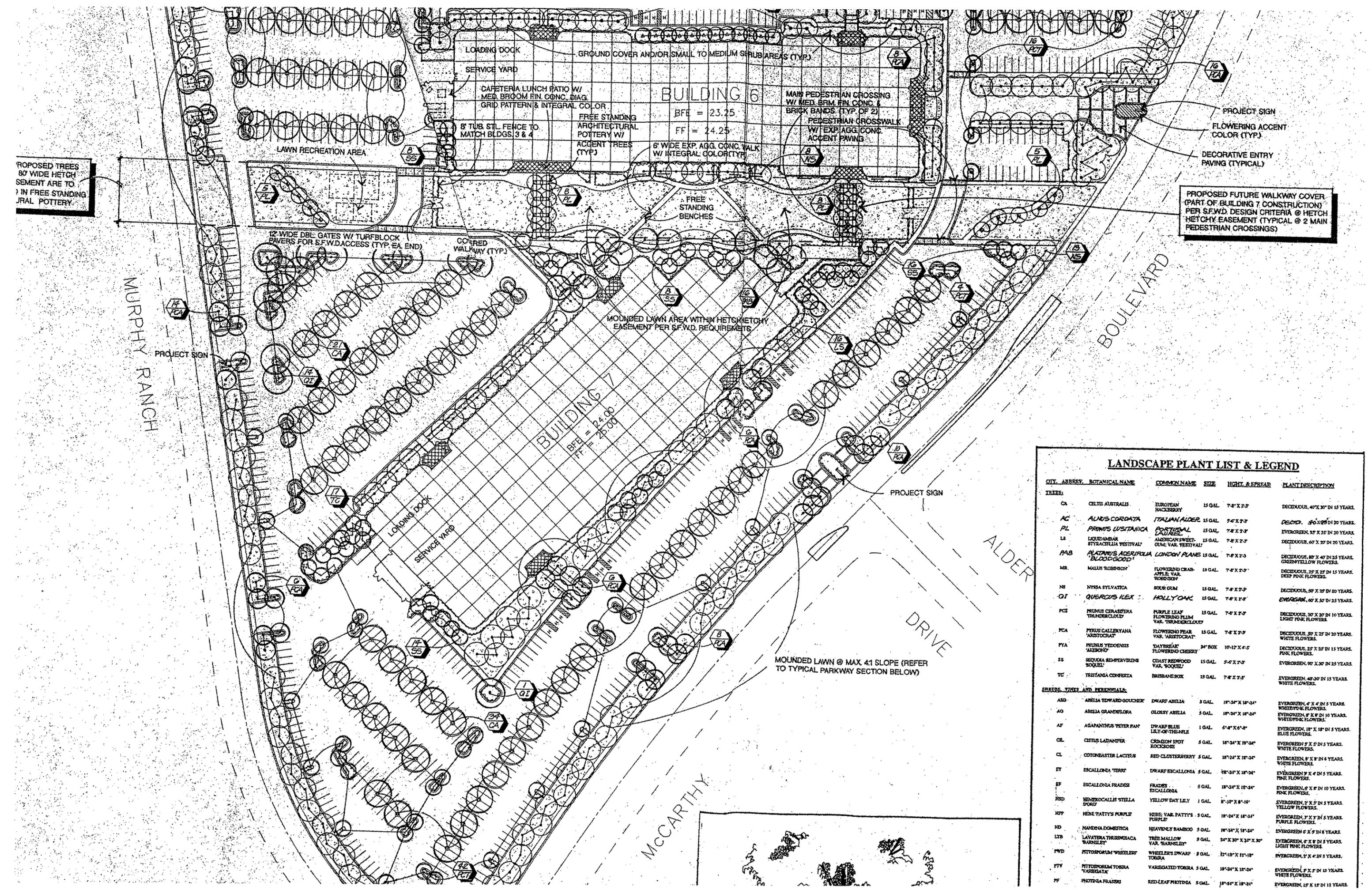


Similar design used for the 5-building complex to the east



Another Milpitas office complex nearby





PROPOSED TREES 80' WIDE HETCH HETCHY ARE TO BE IN FREE STANDING JRAL POTTERY

PROPOSED FUTURE WALKWAY COVER (PART OF BUILDING 7 CONSTRUCTION) PER S.F.W.D. DESIGN CRITERIA @ HETCH HETCHY EASEMENT (TYPICAL @ 2 MAIN PEDESTRIAN CROSSINGS)

LANDSCAPE PLANT LIST & LEGEND

CITY ABBREV.	BOTANICAL NAME	COMMON NAME	SIZE	HEIGHT & SPREAD	PLANT DESCRIPTION
TREES:					
CA	CELTIS AUSTRALIS	EUROPEAN HACKBERRY	15 GAL	7'-8" X 2'-3"	DECIDUOUS, 40' X 30' IN 15 YEARS.
AC	ALNUS CORDATA	ITALIAN ALDER	15 GAL	5'-6" X 2'-3"	DECID. 50' X 25' IN 20 YEARS.
PL	PRUNUS LUSITANICA	PORTUGAL LAUREL	15 GAL	7'-8" X 2'-3"	EVERGREEN, 35' X 35' IN 20 YEARS.
LS	LIQUIDAMBAR STYRACIJA FESTIVAL	AMERICAN SWEETGUM; VAR. FESTIVAL	15 GAL	7'-8" X 2'-3"	DECIDUOUS, 60' X 20' IN 20 YEARS.
PAB	PLATANUS ACERIFOLIA 'BLOODGOOD'	LONDON PLANE	15 GAL	7'-8" X 2'-3"	DECIDUOUS, 80' X 40' IN 25 YEARS. GREEN/YELLOW FLOWERS.
MR	MALLUS ROBINSONI	FLOWERING CRAB-APPLE, VAR. ROBINSONI	15 GAL	7'-8" X 2'-3"	DECIDUOUS, 25' X 25' IN 15 YEARS. DEEP PINK FLOWERS.
NS	NYSSA SYLVATICA	BOKUR GUM	15 GAL	7'-8" X 2'-3"	DECIDUOUS, 50' X 25' IN 20 YEARS.
QT	QUERCUS ILEX	HOLLY OAK	15 GAL	7'-8" X 2'-3"	EVERGREEN, 60' X 50' IN 25 YEARS.
PCE	PRUNUS CERASIFERA 'THUNDERCLOUD'	PURPLE LEAF FLOWERING PLUM, VAR. 'THUNDERCLOUD'	15 GAL	7'-8" X 2'-3"	DECIDUOUS, 30' X 20' IN 10 YEARS. LIGHT PINK FLOWERS.
PCA	PYRUS CALLERYANA 'ARISTOCRAT'	FLOWERING PEAR, VAR. 'ARISTOCRAT'	15 GAL	7'-8" X 2'-3"	DECIDUOUS, 30' X 25' IN 20 YEARS. WHITE FLOWERS.
PTA	PRUNUS YEDOENSIS 'AUREA'	'DAVEY'S' FLOWERING CHERRY	24" BOX	10'-12" X 4'-5"	DECIDUOUS, 25' X 25' IN 15 YEARS. PINK FLOWERS.
SS	SEQUOIA SEMPERVIRENS 'BOQUEL'	COAST REDWOOD, VAR. 'BOQUEL'	15 GAL	5'-6" X 2'-3"	EVERGREEN, 90' X 30' IN 25 YEARS.
TC	TRISTANIA CONFERTA	BRISBANE BOX	15 GAL	7'-8" X 2'-3"	EVERGREEN, 40' X 30' IN 15 YEARS. WHITE FLOWERS.
GRASSES, VINCS AND PERENNIALS:					
ASD	ARELIA EDWARD GOUCHER	DWARF ARELIA	5 GAL	18"-24" X 18"-24"	EVERGREEN, 4" X 4" IN 5 YEARS. WHITE/PINK FLOWERS.
AO	ARELIA GRANDIFLORA	GLOSSY ARELIA	5 GAL	18"-24" X 18"-24"	EVERGREEN, 8" X 8" IN 10 YEARS. WHITE/PINK FLOWERS.
AF	AGAPANthus TETER PAN	DWARF BLUE LILY-OF-THE-VALLEY	1 GAL	6"-8" X 6"-8"	EVERGREEN, 18" X 18" IN 5 YEARS. BLUE FLOWERS.
CL	CHITIS LADAMPFER	CRIMSON SPOT ROCKROSIE	5 GAL	18"-24" X 18"-24"	EVERGREEN, 8" X 8" IN 5 YEARS. WHITE FLOWERS.
CL	COTONEASTER LACTEUS	RED CLUSTERBERRY	5 GAL	18"-24" X 18"-24"	EVERGREEN, 8" X 8" IN 6 YEARS. WHITE FLOWERS.
ET	ESCALLONIA 'TERRI'	DWARF ESCALLONIA	5 GAL	18"-24" X 18"-24"	EVERGREEN, 8" X 8" IN 5 YEARS. PINK FLOWERS.
EF	ESCALLONIA FRAXES	FRAXES ESCALLONIA	5 GAL	18"-24" X 18"-24"	EVERGREEN, 8" X 8" IN 10 YEARS. PINK FLOWERS.
HSD	HEMEROCALLIS 'STELLA D'OR'	YELLOW DAY LILY	1 GAL	8"-10" X 8"-10"	EVERGREEN, 2" X 2" IN 5 YEARS. YELLOW FLOWERS.
HPP	HEBE 'PATTY'S PURPLE'	HEBE, VAR. 'PATTY'S PURPLE'	5 GAL	18"-24" X 18"-24"	EVERGREEN, 7" X 7" IN 5 YEARS. PURPLE FLOWERS.
ND	NANDINA DOMESTICA	HEAVENLY BAMBOO	5 GAL	18"-24" X 18"-24"	EVERGREEN, 6" X 5" IN 6 YEARS.
LTB	LAVATERA TRIMBICACA 'BARNLEY'	TREE MALLOW, VAR. 'BARNLEY'	5 GAL	24" X 30" X 32" X 30"	EVERGREEN, 8" X 8" IN 5 YEARS. LIGHT PINK FLOWERS.
PBD	PITISPORUM 'WHEELER'	WHEELER'S DWARF TORBRA	5 GAL	12"-18" X 12"-18"	EVERGREEN, 2" X 4" IN 5 YEARS.
PTV	PITISPORUM TORBRA 'VAREGATA'	VAREGATED TORBRA	5 GAL	18"-24" X 18"-24"	EVERGREEN, 8" X 8" IN 10 YEARS. WHITE FLOWERS.
PF	PHOTNIA FRAXES	RED LEAF PHOTNIA	5 GAL	18"-24" X 18"-24"	EVERGREEN, 15" X 15" IN 12 YEARS.